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Convergence of Corporate Social Responsibility and Corporate Governance in Weak Economies: The case of Bangladesh

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Abstract The convergence of corporate social responsibility (CSR) and corporate governance (CG) has changed the corporate accountability mechanism. This has developed a socially responsible 'corporate self-regulation', a synthesis of governance and responsibility in the companies of strong economies. However, unlike in the strong economies, this convergence has not been visible in the companies of weak economies, where the civil society groups are unorganised, regulatory agencies are either ineffective or corrupt and the media and non-governmental organisations do not mirror the corporate conscience. Using the case of Bangladesh, this article investigates the convergence between CSR and CG in the self-regulation of companies in a less vigilant environment.

Keywords Corporate governance · Corporate social responsibility · Corporate self-regulation · Corporate responsibility

Introduction

The convergence of corporate social responsibility (CSR) and corporate governance (CG) is an important issue in the corporate regulation landscape. The issue has somewhat decreased in significance in strong economies; however, in weak economies, it has contributed to significant reformation of the regulatory environment that guides CG. This reform is meant to transform CG from stockholder-centric governance to stakeholder-oriented governance.

Traditionally, CG denotes the rules of business decision-making and directs the internal mechanism of companies for following those rules. It includes the customs, policies, laws and institutions that impact the way a corporation is directed, administered or controlled. Yet, in the aftermath of some corporate scandals, and with the rise of civil society campaigns against the negative impact of corporate operations on the environment, CG has emphasised issues that go beyond this traditional focus. It now touches upon corporate ethics, accountability, disclosure and reporting. As companies seek to assure regulators and investors that they are fully transparent and accountable, they have increasingly pledged their commitment to honest and fair CG principles (Lerach 2002; Seligman 2002).

Simultaneously, the impact of the CSR movement on the socio-legal views of corporations also reflects the evolution of CG. Along with this movement, the notion of CG has developed as a vehicle for encouraging management to consider broader ethical considerations. CSR has drawn on the dramatic progress made by companies in recent decades in balancing shareholder goals with the need to reduce externalities that influence other stakeholders. CSR joins the regulatory endeavours to make corporations more attuned to public, environmental and social needs, by pursuing CG as a framework for boards and managers to treat employees, consumers and communities (McBarnet et al. 2007; Vogel 2005).

In view of these processes, large public companies have recently created mechanisms of CG that seek to foster investor accountability and stakeholder engagement. For example, these mechanisms include CSR board

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committees, company units dealing with business ethics, corporate codes of conduct, non-financial reporting practices, and stakeholder complaint and dialogue channels. All of these governance devices have normally been created on a voluntary basis to constitute what is referred to as 'corporate self-regulation' (Parker 2002; Gunningham and Rees 1997). Institutional investors, regulators, non-governmental organisation (NGOs) and civil society groups have generally responded by collaborating with the private sector to make this self-regulation more enforceable and effective. Pension funds, consumer coalitions, non-profit organisations and other groups have developed monitoring schemes that incorporate CG aspects into their CSR guidelines, ratings and best practices. For example, the California Public Employees' Retirement System, one of the largest institutional investors in the USA, has used its proxy power to implement its Core Principles of Accountable CG.[1]

In weak economies, however, the degree of the convergence between CG and CSR needs to be examined. Indeed, very little is known of the convergence of CG and CSR in such economies. Most scholars have highlighted this convergence only from the perspective of strong economies (Belal 2001). In labour-intensive weak economies, there is no CSR-driven social coalition; NGOs and media are not mirroring companies' conscience; and the regulatory strategies do not possess the required features to ensure corporate societies' long-term commitment to stakeholder accountability. Using Bangladesh as an example of a 'weak' economy, this article critically examines the way in which this convergence is being incorporated in corporate self-regulation in a non-vigilant environment.

In the 'CG as Social Responsibility' section of this article, CSR, CG and the synergies of their convergence are defined. Following this, the 'Social Responsibility in CG in Bangladesh' section assesses the impact of this convergence on corporate accountability in Bangladesh. For this assessment, the article narrates the liabilities of corporate directors mentioned in the Companies Act, 1994, in relation to the recent response of the leather goods and processing industry to a policy for shifting this industry to save a vital river in Bangladesh. This Act and the aforementioned case study have been used due to their significance on the Bangladesh economy and impact on the company-related policies of this country. This Act is the core regulatory tool that deals with corporate issues in Bangladesh. Other than this, there is no legislation that describes the rights, liabilities and formation of corporate bodies. The leather goods and processing industry is significant in Bangladesh as a result of its impact on the economy, its attitude and its business strategies. It is also prominent for its poor environmental management strategies and corporate attitudes. Together, approximately 150 companies from this industry are the largest water polluters in this country. Recently, its workplace environment, business strategies and pollution management have become important issues in the industrial policy and corporate regulation debates. The paper concludes that the development of social responsibility in companies should not depend mostly on private sectors; rather, the emphasis should be on the need of suitable regulations for developing internal regulations of companies where the society does not have adequate non-legal drivers.

CG as Social Responsibility

The aim of this section is to describe the convergence between CG and CSR. This article does not delve into the philosophies of CG and CSR; rather, it is concerned with the impacts of their convergence in the corporate regulation in weak economies in general and in Bangladesh in particular. Hence, it is not going to provide a thorough discussion on CG and CSR as this is believed to be a study in itself. In this article, no distinction is made amongst different terms used for defining the social responsibilities of companies. Likewise, it does not differentiate amongst the terms used for the governance of companies. Given this, this section will first briefly describe CG and CSR and lastly discuss the impact of their convergence on internal strategies of corporations.

Corporate Governance

CG is an umbrella term (Shleifer and Vishny 1997; Turnbull 1997; Hart 1995; Becht et al. 2003; Daily et al. 2003; Bebchuk et al. 2009) which, in its narrower sense, describes the formal system of accountability of corporate directors to the owners of companies. In the broader sense, the concept includes the entire network of formal and informal relations involving the corporate sector and the consequences of these relations for society in general (Huse 2005; Berghe and Louche 2005; Rahim 2012). These two senses are not concurrent, but rather complementary. CG has been described as the way in which suppliers of finance to corporations assure themselves of getting a return on their investment (Shleifer and Vishny 1997). However, it could also implicate 'the whole set of legal, cultural, and institutional arrangements that determine what publicly traded corporations can do, who

[1] It is the largest public pension fund in USA with assets totalling more than US$250 billion. For details, see Welcome to CalPERS On-Line. Global Principles of Accountable Corporate Governance, available at www.calpers-governance.org/docs-sof/principles/2010-5-2-global-principles-of-accountable-corp-gov.pdf.

controls them, how that control is exercised, and how the risks and returns from the activities they undertake are allocated' (Blair 1995). Taking both of these perspectives together, CG is no longer merely about maximising stock value; rather, it concerns a company's 'interaction with internal as well as external stakeholders' (Ararat and Ugur 2003).

In the general CG framework, the roles, rights and responsibilities of corporate directors are vital. The board of directors is the most appropriate body to design policies for corporate management to fulfil responsibilities to the broader society (Mitchell 2007; Parker and Conolly 2002). In most cases, this board is the sole body that communicates corporate performance to corporate owners. Moreover, with the beginning of the modern CSR era, the board's role in CG has been vastly extended; Eisenberg (1982) described this as the 'board as manager'.

Corporate Social Responsibility

CSR is a fluid concept (Hopkins 2004; Marrewijk 2003). Its interchangeable and overlapping character is dominant in its definition. To some scholars, this concept resembles the source of competitive advantage. To others, it is 'an important response to the increasing demands of key stakeholders such as employees, investors, consumers and environmentalists' (Bagić et al. 2004). Again, the principles underpinning CSR change with each generation, and its criteria may change according to the society in question (Kakabadse et al. 2005). Given the dynamic nature of the definition of CSR, the concept is often described using a number of terms, such as corporate citizenship, the ethical corporation, CG, corporate sustainability, socially responsible investment, corporate accountability and so on, and there is no overall agreement on its definition (Blowfield and Frynas 2005; PJCCFS 2006; Matten and Moon 2008). The underlying notions of these terms are inwardly consistent and converge on some common qualities and similar elements. In a broader sense, CSR is about the impact of business on a society or, in other words, the role of business enterprises in the development of that society. In its narrower sense, it is a complex and multi-dimensional organisational phenomenon. It could therefore be defined as the extent to which an organisation is consciously responsible for its actions and non-actions and the impact of this on its stakeholders.

CSR has been recognised as a long-term business strategy (Jamali and Mirshak 2007). Its different approaches balance business enterprises' economic rights with their social and environmental obligations. It requires business enterprises to consider the social, economic and environmental consequences of their operations and suggests addressing the needs and expectations of each kind of stakeholder. Consequently, international normative standards of CSR developed so far comprise mostly social, economic and environmental issues (Rahim and Wisuttisak 2013). Different approaches of CSR also cover ethical issues, such as the protection of consumer interests, and the assurance of product quality, as well as responsibility concerning the marketplace.

Synergies Between CSR and CG

There is an evolving interplay between CG and CSR (Mitchell 2007). Both these mechanisms have economic and legal features. They could be altered through the socio-economic process within which the product market competition is the most powerful force (Shleifer and Vishny 1997). CG and CSR are complementary and are closely linked with this force. Their objectives are not disparate; they could act as tools for reaching similar goals, though their setups as corporate frameworks are different. CSR operates free form, whereas CG issues operate within well-defined and accepted structures (Mitchell 2007). Jamali et al. (2008) have concisely summarised this relationship in a chart; below is a modified version of that chart.

Links between CG and CSR

CG		CSR
Broader CG conception: entails due regard to all stakeholders and ensuring that firms are answerable to all their key stakeholders (Dunlop 1998; Kendall 1999)	⇨	Stakeholder approach to CSR: corporations are the crux of a complex web of stakeholder relationships and have an obligation or responsibility to these different stakeholders (Freeman 2010)
Narrow CG conception: ensuring accountability, compliance and transparency (Keasey et al. 1997; MacMillan et al. 2004)	⇦	Internal dimension of CSR: corporations should accord due diligence to their responsibility to internal stakeholders, addressing issues relating to skills and education, workplace safety, working conditions, human rights, equity/equal opportunity and labour rights (Grosser and Moon 2005; Jones et al. 2005)

Source Jamali et al. (2008, p. 446)

In the marketplace, CG is an old actor, whereas CSR is comparatively new. It is worth noting that the sophistication of consumers in the 1960s, the environmental movement of the 1970s and the increasing interest in the social impacts of business in the 1990s have helped CSR reach

the forefront of CG (Bagić et al. 2004). It is also worth mentioning that the list of key issues associated with this timeline is by no means comprehensive. However, it is aimed at highlighting some key initiatives over the last few decades that have contributed to its development from the margins to the mainstream of the policy agenda (Bagić et al. 2004). In nearly every instance, the events did not specifically motivate CSR initiatives; rather, these instances set the global scene for the intersection between CSR and CG.

Several events have been important drivers of this intersection. For example, global civil society's urge to include the excluded social costs of production, and the hidden costs incurred by the environment as a result of business activities within the corporate balance sheet, the lack of confidence in the institutions of the market economy (Bagić et al. 2004) and the demand for ensuring sustainable development have all had a significant impact on CG and the development of CSR (Kakabadse et al. 2005). Together with these, the growing trends in 'consumerism' and 'corporate scandals' are now the most important drivers underpinning this development. These two factors are strongly related with market competition. Therefore, they act as strong drivers in developing the required framework by which a company can demonstrate its responsibility to society through its performance.

By reconciling the tension within CG between share- and stakeholder interests, it has become attuned to constituency concerns in CG. This intersection establishes CSR as the following:

> [A] business strategy to make the ultimate goals of corporations more achievable as well as more transparent, demonstrate responsibility towards communities and the environment, and take the interests of groups such as employees and consumers into account when making long-term business decisions (Gill 2008; Franklin 2008).

This convergence has notably incited arguments between the pro-regulation and the -business schools of thought, regarding the way in which a corporation ought to act in a socially responsible fashion. Pro-regulation emphasises that regulation of corporate directors' duties ought to be modified to incorporate an obligation to consider social responsibilities at the core of corporate strategies. Pro-business advocates fervently disagree with this notion and argue that burdening corporate directors with this type of liability may significantly disrupt the administration of CG. They suggest, however, that the elected legislature is responsible for ensuring that corporations act in a socially responsible manner and that directors are responsible for ensuring that companies operating for long-run profit maximisation comply with regulatory constraints. To them, the consequence of this is that the legislature is responsible to the electorate, whilst directors respond purely to competitive pressures.

The potential convergence of CSR and CG, however, fuses the arguments of these two schools. It paves the way for CG to be driven by ethical norms and the need for accountability, and it enables CSR to adapt prevailing business practices. 'Where there were once two separate sets of mechanisms, one dealing with "hard core" corporate decision-making and the other with "soft", people-friendly business strategies, scholars now point to a more hybridized, synthesized body of laws and norms regulating corporate practices' (Gill 2008). This has affected the modes of corporate regulation: ' "Hierarchical command-and-control" regulation (Lobel 2005) is being replaced by a mixture of public and private, state and market, traditional and self-regulation institutions that are based on collaboration among the state, business corporations, and NGOs' (Gill 2008).[2]

This convergence has gradually extended the narrower meaning of CG. It adds the agency focus to corporate ethics and accountability (Mitchell and Diamond 2004), and it relies on the 'business judgment' of CG to ensure this accountability. It finds 'corporate self-regulation' as its dominant expression in the field of corporate conduct. On the ground, by adding issues such as human rights, workers' rights and environmental protection with 'self-regulation', CG gained the opportunity to develop stakeholder engagement programmes that could increase their competitiveness and to launch a marketing campaign that could emphasise their humanistic, democratic values as 'corporate citizens'. Jamali et al. (2008) have examined the relationship between CG and CSR and found three bases for this relationship, namely '(1) CG as a pillar for CSR; (2) CSR as an attribute of CG and (3) CG and CSR as coexisting components of the same continuum'. In this continuum, as Bhimani and Soonawalla (2005) described, the 'poor CG and misleading financial statements are one side of the corporate coin—the other side being poor CSR'.

In strong economies, corporate regulation and corporate conscience have gradually absorbed the culture of this convergence. These economies have used different strategies and employed different actors to encourage this absorption in corporate self-regulation. Though their regulatory strategies are not identical, their goals for relating CSR to CG amplify their political affiliation for CSR practices in companies; the role of government in these economies is to facilitate the private sector. In these economies, regulations for incorporating the ethos of this convergence are not authoritative. Rather, they are

[2] For details on compliance management, financial regulation and administration at the corporate enterprise level, see Lobel (2004).

advisory and focused on bringing a broader perspective to the necessity of environmental responsibility in corporate self-regulation.

Broadly speaking, incorporation of CSR notions in corporate self-regulation in these economies appears to focus on 'process-oriented regulation'. This involves system-based strategies, enforced self-regulation, management-based strategies, meta-regulation approaches and principle-based strategies coexisting to ensure greater flexibility for the regulators where an objective needs to be incorporated in the era of deregulation (May 2005; Winter and May 2001; Nagarajan 2008). In the UK, for the past 10 years, there has been a post of CSR Minister to encourage greater social responsibility in UK companies. The UK Companies, Act of 2006 has introduced specific reporting requirements on environmental and social issues. It provides a comprehensive guideline for CG with potential implications for a variety of CSR actors. It makes a crucial triumvirate of directors' duties, business risk management and corporate reporting more explicitly long-term, relational and stakeholder sensitive in their structure, content and implementation (Horrigan 2007). The Social Label Law 2002 of Belgium is another notable instance of incorporating CSR ethos in corporate self-regulation. For this legislation, companies and the subsidiaries of foreign corporations operating in Belgium have been required to produce a report on their social performance over a 3-year period since 1996. Amongst the quasi-legal initiatives for the promotion of CSR and CG convergence in the EU region, 'Our Common Concern Campaign', initiated by the Danish Minister of Social Affairs; the Swedish 'Partnership for Global Responsibility', initiated by a group of Swedish ministers; the French government-supported organisation the French Study Centre for CSR; and the International Business Leaders Forum of the UK are prominent.

The USA emphasises developing specialised organisations to assist companies to incorporate CSR principles into their business strategies. For instance, the Occupational Safety and Health Administration, the Equal Employment Opportunity Commission, the Consumer Product Safety Commission and the Environmental Protection Agency (Gutiérrez and Jones 2007) are dedicated to maintaining standards for responsible corporate business practices that establish thresholds for CSR behaviour in daily business operations. The better-known contributions of this process are the development of industry-specific and sector-wise regulation, such as in pollution control, working conditions and consumer protection. The US Model Business Principles are voluntary guidelines for companies, and the aim of this instrument is to provide a benchmark for developing self-regulated responsibility at the company level. Amongst the organisations promoting the incorporation of CSR principles in the corporate self-regulated system in this country, the Center for Corporate Ethics, a division of the Institute for Global Ethics, and the Fair Labor Association are prominent. The Center for Corporate Ethics is focused on the ethical culture needs of businesses and the Fair Labor Association addresses labour rights standards in the USA and worldwide apparel industries.

Developing economies are following these strategies for CSR and CG convergence in their companies. For instance, in Thailand, alongside the legislative initiative for labour issues, the passage of the Tambon Administration Organization (TAO) Act, 1994, the New Thai Constitution of 1997, and the National Decentralization Act, 1999, are evidenced as landmark public sector efforts to enhance power sharing between the public, private and civil society sectors and increase community–business partnership (Frank 2004). In Malaysia, the Bursa Malaysia CSR Framework provides a set of guidelines for Malaysian public-listed companies to help them in the practice of CSR. This framework focuses on the development of four areas within CG strategies: the environment, the community, the workplace and the marketplace. The framework has been accepted by the Government of Malaysia, as articulated in the Prime Minister's budget speeches in 2006 and 2007, including a directive for public-limited companies to disclose their CSR activities. The King Report on Governance for South Africa 2009 suggested that the company-related legislation should have some provisions to encourage the directors for constructive stakeholder management strategies in companies. The new Companies Act, 2008, of South Africa mandates that certain companies have to constitute 'social and ethics committees' so that they can manage their social responsibility and stakeholder issues in a better way.

Other developing economies including India, Brazil, Argentina, Mexico, Poland, Slovenia, Hungary, Indonesia, Turkey and China have advanced remarkably in their institutional frameworks and public framing for implementing the ethos of this convergence in corporate self-regulation. Indeed, the CSR and CG convergence has sought to improve relationships between companies and their stakeholders in strong economies and most of the developing economies where there are strong public interest advocacy groups to oversee this convergence (Doh and Guay 2006; Parker 2007; Winston 2002). Taking Bangladesh as an example of a weak economy, the next section addresses this convergence where the role of public interest advocacy groups is negligible and where the regulatory initiatives are not suitable to drive business corporations to have adequate social strategies.

Social Responsibility in CG in Bangladesh

Background

With an area of 147,570 sq km, Bangladesh is the least developed country in South Asia, surrounded by India, Myanmar and the Bay of Bengal. Approximately 160 million people reside in this country and roughly 75 % of them live in rural areas (Bangladesh Bureau of Statistics 2008). Urbanisation has, however, been rapid in the past few decades. In 2010, its GDP was 5.8 %, slightly higher than the previous year (Asian Development Bank, ADB 2010). In 2011, 53.5 % of its GDP came from the service sector, as compared to 28.2 % from industry and 18.3 % from agriculture (World Bank [WB] 2013). According to the ADBs' estimation, it needs to increase current investments to at least 30 % of GDP to attain the significantly higher economic growth needed to reduce its massive poverty.

The country's economy is developing: in the last decade, its GDP has averaged a 5.8 % growth rate. In 2006, it had 1,327 registered companies, of which 327 were listed in its two stock markets (Siddiqui 2010). The general corporate environment of this country is characterised by a concentrated ownership structure, a poor regulatory framework, dependence on bank financing and a lack of effective monitoring.

CG Development

CG in this country came under reform just after the first stock market debacle in 1996. The WB has been leading in this reformation, as it considers CG reforms a development goal (WB 2002; Uddin and Choudhury 2008; Singh and Zammit 2006). Along with other international financial agencies, the WB encouraged Bangladesh to adopt internationally accepted accounting and CG practices as a 'powerful tool to battle against poverty'. These tools have been created and tested in developed economies and, hence, as Uddin and Choudhury (2008) reported, they have ignored the socio-economic conditions of weak economies, such as Bangladesh.

Nonetheless, for various reasons, the corporate sector and the regulatory agencies of this country do not object to integrating CSR into corporate regulations. First, this convergence is strongly supported by civil society groups. Within these groups, consumers have the ability to impact businesses directly. Secondly, they have little recourse to deny this inclusion in their governance as they need to develop business relations with global buyers/retailers/brands of strong economies to hold their position as a supplier in the global market. Lastly, heavy dependence on external funds has left the government no option but to open up its traditional format of CG regulations. For these reasons, this reform does not face any strong opposition. However, its outputs have raised a vital question in the corporate regulation framework. In a weak economy, is corporate self-regulation able to uphold the merits of CSR and CG convergence in the absence of its associate drivers?

The CG of Bangladesh has not fully embraced the objective of the convergence. Without incorporating the core principles of CSR into their corporate conscience, the CG of this country has helped to develop a considerable number of corporate codes of conduct similar to those in strong economies (BGMEA 2011). At this stage, the corporate attitude towards social responsibility is that 'we are complying with all the rules and regulations, but we do not need to disclose' (Belal 2008). The corporate dictum conveys the message of 'trust us, and everything will be alright'.

However, this corporate outlook has not been reflected in the corporate management strategies of their business enterprises. A survey-based study conducted by the Centre for Policy Dialogue has shown the gap between corporate promises and reality. This study found that they do not even fully understand the idea of CG. The survey was conducted in 2003 and amongst the respondents, 50 were company executives, 70 were employees of different business enterprises and 32 were civil society members. It found that whilst more than 60 % of the respondent companies did have well-articulated policies to deal with workers' rights-related issues, none of the total respondent companies had a director assigned to looking after this issue (Jabed and Rahman 2003). On the issues of sustainable development and human rights, only 11.1 and 4.4 % of companies, respectively, had committed persons available at the management level (Jabed and Rahman). By reviewing the existing corporate policy and strategy related to employees, this study showed that these policies were not available for part-time or casual workers (Jabed and Rahman). To investigate this issue in detail, the study asked the corporate managers whether they audited the implementation of their labour policies, but all managers refrained from making any detailed comments on this matter. It was found that 67 % of the respondent companies had formal polices to ensure clean, healthy and safe working environments, but 26 % of them did not have procedures relating senior management with these policies (Jabed and Rahman).

Whilst CSR practices are seen as a source of making sustainable profit in business, the reason behind the lack of interest of the business society in developing social value oriented strategies is unclear. A recent survey conducted by Duarte and Rahman (2010) revealed that at the corporate managers' level, 'mind-set' is the hardest obstacle to achieving CSR practice. To them, in the absence of clear

and effective directions from CG for CSR, most of the corporate managers are not comfortable in dealing with CSR. To make this picture clearer, the following discussion will evaluate some provisions of the Companies Act that directs corporate directors to develop their companies' social responsibility performance.

Corporate Directors' Liabilities in the Companies Act, 1994

Corporate directors are the vital actors in the Anglo-American CG model. Their role is fundamental in traditional CG in an environment where the ownership structure is highly concentrated, in the absence of a well-developed capital market, established professional bodies and a democratic institution. Their board is responsible for company leadership, effective decision-making and proper monitoring. For Bangladesh, the Companies Act, 1994 (the Act), defines the rights and liabilities of the board of corporate directors; it also defines a company's CG attributes, its ownership structure and its company characteristics.[3] It describes the provisions to initiate a business enterprise as well as the rights and liabilities of the enterprise, its shareholders, its directors and its managers. For this discussion, however, this Act will be assessed to explain its contribution to developing socially responsible internal CG and management in business enterprises. This assessment will emphasise the Act's provisions related to the roles of corporate directors and managers in developing socially responsible business strategies.

This Act does not contain any provisions regarding the social responsibilities or management strategies of directors. According to the Act, whilst company directors are liable for most of the financial operations, they are rarely personally liable for any damages to the stakeholders (other than the stockholders) caused by their irresponsible business strategies. Corporate management does not have any specific duties concerning the social responsibilities of enterprises. Whilst the Act does contain some direction that could help develop this responsibility, these are either incomplete or ambiguous. For instance, on the one hand, it imposes liabilities on corporate directors who supply incorrect, insufficient or misleading information in the company prospectus. On the other hand, the statutory defence provided by the Act has weakened these liabilities to compensate the investors (potential stockholders who are also stakeholders in a company). Furthermore, the Act does not have adequate judicial observation related with any provisions for directors' social responsibilities. The following section will explain the drawbacks of the Act, focussing in particular on its provisions relating to the liabilities of corporate directors for 'corporate disclosure'.

Although the Act requires companies to publish annual reports as an indirect initiative to place corporate strategies before the corporate constituencies, it does not suggest CG direct corporate managers to include their non-financial performances in these reports. Laws and regulatory bodies hold this 'disclosure philosophy following the path of developed markets without any commensurate amendments to the laws' pertinent to the annual reports of companies (Solaiman 2009; Belal 2008). The Act, the Securities and Exchange Ordinance of 1969 and the tort laws of Bangladesh do possess some provisions to deal with the consequences of disclosing 'untrue statements' (Companies Act, 1994).[4] But, most of these provisions are flawed in various ways and do not provide the required support for the development of a 'liability regime' for corporate mistrust.

For instance, Section 145 of the Act imposes liabilities on directors for disclosing untrue statements, but it does not mention the liabilities of other professionals, such as lawyers, auditors, issue managers and underwriters who are also involved with the preparation of the prospectus. These professional groups are supposed to be self-regulated sources of normative pressure on CG and regulators. However, despite having such power, these groups are not truly institutionalised and are ill disciplined in Bangladesh. For instance, cases of members of the Institute for Chartered Accountants of Bangladesh (ICAB) being sanctioned for violating its bylaws are rare. In the 38 years since its inception, the ICAB has suspended only one audit firm for 3 years in 2002 (Siddiqui 2010). A failure to hold all persons involved in disclosing untrue statements accountable for their actions implies that putting the professionals involved in committing the wrongs under legal imperatives is very difficult in this country. At this point in time, it may preclude the investor from seeking remedies under the Act.

The defences embedded in Section 145(2) of the Act favour corporate directors and officials who exploit the ignorance and innocence of investors (AIMS 2000).[5] According to Section 145(2)(a) of the Act, a prospective director can withdraw his or her consent given to the prospectus before its issuance and can plea his or her defence on this withdrawal in any legal suit. However, this withdrawal need not be declared by any public notice, according to the Act. For example, AIMS of Bangladesh

[3] Section 104 of Schedule 1 of the Company Act, 1994.

[4] According to Section 143(1) of the Companies Act, 1994, an 'untrue statement' includes statements misleading in the form and context in which it is included and any omission from a prospectus which is calculated to mislead.

[5] Details of this news are available at http://www.aims-bangladesh.com/2000/75WeeklyJuly-10-2000.pdfcan; Rahman (2000) in Solaiman (2005, p. 524).

Limited withdrew its commitment to underwrite the floatation of Modern Food Products Limited after the publication of the prospectus. This had a serious impact on prospective investors as many of them had prepared to invest in Modern Food Products Limited due to the commitment of AIMS Bangladesh Limited. AIMS withdrew its commitment after detecting that Modern Food Products Limited had concealed the true financial status of its issuers; where the bad loans liability and litigation against the issuers of Modern Food Products Limited was US$0.20 million, only US$0.07 million was mentioned in the prospectus (Rahman 2000). At this point, the Act could define the extent of disclosing information for developing corporate disclosure practices; it could hold that companies report the influences of CG attributes, ownership structure and characteristics on the disclosure decision. For instance, in 2005, the Centre for Corporate Governance of Kenya issued draft Corporate Governance Guidelines on Reporting and Disclosures to improve the quality of reporting and governance of business enterprises. These guidelines emphasised non-financial disclosures, such as CSR performances (Barako et al. 2006).

Section 102 of the Act prohibits a company from indemnifying its director or officer or the agent against any liability which, by virtue of any rule of law, would otherwise attach to him or her in respect of any negligence, default, breach of duty or breach of trust for which he or she may be guilty. The Act, however, does not provide a clear-cut list of these negligent acts or breaches of trust. It describes some duties of company directors and officers, but these are mostly related to the day-to-day financial management of the company, and failure to fulfil these duties does not make them liable for damages due to 'mistrust'.

In most cases, its provisions are either flexible or incomplete in the issues of due diligence and defences of the directors in any legal suit. For instance, in a legal suit for mentioning false or inadequate information in the prospectus, a director or official (the defendant) need not prove his or her enquiry about the authenticity of the information he or she publicly disclosed. Since defendants' 'due diligence' pleas need not be attached with some degree of competence, such pleas may provide escape from their legal liabilities (Solaiman 2005). Hence, the legal provisions that suggest they focus on their responsibilities become less effective as they also enjoy opportunities to avoid these legal directives by exploiting the ambiguities and incoherence within the existing legal arrangements.

In addition to these flaws, these provisions do not emphasise the defendants' (the corporate directors' or managers') reasonable enquiries about the competence of the experts, whilst the defendant argues for his or her innocence on the point that he or she has represented the exact statement provided by the competent expert. This type of legal emphasis is absent, for instance, in India and Malaysia; however, in these jurisdictions, they have established the judicial view that relying on the 'due diligence' defence is dependent upon the degree of reasonable investigation carried out by the defendant. In Bangladesh, no case law is available regarding this ambiguity.

Indeed, the Act resembles the ineffective market-based CG system in Bangladesh. Although broadly categorised as a common-law country, the economic negligence during the colonial rule for more than two centuries has significantly impeded the development of an institutional corporate regulatory system in this country (Uddin and Hopper 2001). Moreover, for the last 50 years, this country has experienced different models for regulating CG with the changes in political models. Currently, the CG of this country is a hybrid of the outsider-dominated market-based system (as in the USA and UK) and the insider-dominated bank-based system (as in the control and relationship model mostly practiced in Germany and Japan) (Farooque et al. 2007).[6]

Of these two systems, the CG in this country is mostly dominated by direct measures of control. Furthermore, in the absence of a developed capital market,[7] an efficient stock market[8] and strong legal framework, the corporate ownership of Bangladesh is generally concentrated (Siddiqui 2010). For instance, the Act allows sponsor directors to retain a maximum of 50 % of total issued capital. Farooque et al. (2007) mention that on average, five shareholders hold more than 50 % of ordinary shares of a business firm in this country, and in most cases, these five big shareholders are family members (families have extensive influence in the corporate decision-making process) (Imam and Malik 2007; Welford 2007).[9] After

[6] Rwegasira provided a detailed account of this hybrid corporate governance. For details, see Rwegasira (2000); regarding corporate governance in South Africa, see West (2006), for India, see Reed (2002).

[7] The capital market of this country is still in primitive stage; in 2006, this market accumulated only 7.5 % of this country's GDP. Hence, the banking sector supplies most of the business capital; excessive liquidity and competition drive this sector to pass credit leniently. For details, visit Bangladesh Bank at http://www.bangladesh-bank.org/ and Securities and Exchange Commission of Bangladesh at http://www.secbd.org/ 5 February 2011.

[8] Bangladesh has two stock exchanges, Dhaka and Chittagong Stock Exchanges. These Stock Exchanges, though established in 1954 and 1995, have not flourished in comparison with its neighbouring exchanges. In 2006, whilst the average listed companies in four Indian stock exchanges were 1,175 and 237 in Sri Lanka, the average for the same for these two exchanges as of 5 February 2011 is 347. For details, see http://www.secbd.org/ and http://www.secbd.org/ 5 February 2011.

[9] This scenario is prevalent in Asian CG structure. For instance, 68 %, 72 %, 67 %, 62 %, 56 % and 48 % of listed companies in Hong Kong, Indonesia, Malaysia, Thailand, Singapore and South Korea, respectively, are controlled by family. For details, Welford (2007, pp. 43, 48), Farooque et al. (2007, p. 1455).

analysing 219 companies from 12 different industries listed in the Dhaka Stock Exchange, Imam and Malik (2007) revealed that the top three shareholders of these companies held an average of 32.33 % of shares of their companies.

The Act is designed to act along with other market drivers, such as strong capital markets, the stock exchange, regulatory agencies, organised civil society groups, efficient NGOs and the media. However, in the absence of these enabling market drivers for corporate regulation, CG in Bangladesh typically suits the needs of the core owners. Due to the Act's lack of features enabling direct interference into the social liability issues of corporate directors, its provisions (which could encourage the governance to incorporate the ethos of CSR into their core policies) remain ineffective. The Act, for instance, requires the listed companies to hold regular annual general meetings (AGMs), but most of them do not fulfil this statutory requirement (Uddin and Choudhury 2008; Institute 2003; Reaz and Arun 2006).[10] Moreover, '[w]hen AGM[s] are held, these are characterised by domination by small group of people, poor attendance and discussion of trivial matters' (Siddiqui 2010; Uddin and Choudhury 2008). As such, '[i]n the absence of market-based monitoring and control measures, ownership-based monitoring and control have been established in Bangladesh as a core governance mechanism' (Farooque et al. 2007). Bangladesh Enterprise Institute developed the Code of Corporate Governance for Bangladesh in an attempt to fulfil the above-mentioned drawbacks of the Act; however, none of the stock exchanges have adopted this code for their listed companies.[11]

The following case study examines the response of the leather goods and processing industry to the core of the convergence of CSR and CG in Bangladesh; it evaluates how this industry is dealing with a recent public policy goal for environmental development. This study is based on empirical evidence found in credible sources.[12]

Relocating the Leather-Processing Industry to Save the Environment: Corporate Responsibility and the Regulatory Deadlock

The leather-processing industry is one of the oldest industries of Bangladesh. It is mainly located on the banks of Buriganga—one of the main rivers of this country. Bangladesh has more than 200 leather goods and processing enterprises, and at least 178 of them are within 50 acres of land on these banks (Sarkar 2010). They process hides into finished leather using acids and chromium and produce roughly 20 million m^2 of leather and leather goods per year. This has accounted for an average of 1.5 % of the total exports of this country in the last 3 years (EPB 2011).

This industry is one of the main environment polluters in Bangladesh. None of the members of this industry have an effluent plant, and most of their 30,000 workers work in chemical-prone environments without the required safety gear and equipment. This industry is notoriously the highest water polluter—it alone pollutes 26 % of the total river water of Bangladesh (Rasul et al. 2006). It follows that people living near these tanneries are 'exposed to higher morbidity and mortality compared to people living two to three km apart' (Haque 1997). A recent report revealed that the leather goods and -processing enterprises (on the banks of Buriganga, in particular) have dumped approximately 3,000 tons of liquid waste in Buriganga. In effect, they have turned this river into a toxic dump by indiscriminately discharging their waste into it (Sharif and Mainuddin 2003).

Given these circumstances, the government has decided to shift these enterprises to a 200-acre industrial zone near the capital city. Bangladesh Small and Cottage Industries Corporation (BSCIC) has developed this zone for these enterprises at the cost of US$56 million and has almost finalised the process for establishing a central effluent plant in this zone at the cost of US$51 million. Nonetheless, this relocation is at a crossroads. In 2003, the High Court Division of the Supreme Court of Bangladesh detailed a Guideline, in which it is mandatory for all residents of this country according to the constitution of Bangladesh to facilitate this shift. However, the industry owners and governmental authorities have failed to begin the shift. The court has repeatedly provided more time, but the relocation has not moved forward.

This regulatory deadlock syndrome can be traced back to the notification of 7 August 1986, wherein the Ministry of Local Government, Rural Development and Cooperatives (LGRDC) identified 903 industrial units of 14 sectors as polluters and directed the Department of Environment (DoE), the Ministry of Environment and Forests (MoEF) and the Ministry of Industries to ensure that appropriate pollution control measures were undertaken by these industries within 3 years. The notification also required these authorities to ensure that no new industry could be established without pollution-controlling devices. Paradoxically, between 1986 and 1994, the organisations responsible for regulating this industry failed to ensure that these industries undertook any suitable pollution control measures.

[10] Section 86 of the Companies Act, 1994.

[11] This code is the sole comprehensive set of guidelines for CG and resembles the Cadbury Code or the Combined Code in the UK. The Cadbury Code has been adopted by the London Exchange Commission.

[12] For this case study, we have made a qualitative analysis of the evidence. We have also analysed some facts and findings taken from authentic media sources, mainly national newspapers for this study.

In 1994, the Bangladesh Environmental Lawyers Association (BELA) filed a writ petition before the High Court Division of the Supreme Court of Bangladesh seeking relief against indiscriminate pollution of air, water, soil and the environment by 903 industrial units. These units included tanneries; paper, pulp and sugar mills; distilleries; and iron and steel, fertilizer, insecticide and pesticide, chemical, cement, pharmaceutical, textile, rubber and plastic, tyre and tube, and jute industries (*Dr. Mohiuddin Farooque v. Bangladesh and Others*, 1994).[13] It was pleaded that although the air and water of the major rivers of this country were being severely affected by the 903 units, responsible governmental organisations failed to tackle this damage to the ecological system. The petitioner, moreover, informed that the number of polluting units had risen up to 1,176 according to the list prepared by the DoE.

In the first instance, the Court issued a Rule Nisi to the respondents, including the LGRDC, MoEF, Ministry of Industries and DoE to show cause as to why they should not be directed to implement the decisions of the Government. After hearing all the parties, the Rule was made absolute. On 15 July 2001, the court directed the Director General of the DoE to mitigate the pollution by the 903 units within 6 months from the date of the judgment. The court directed to 'report to this Court after 6 months by furnishing concerned affidavit showing that compliance of this Order of this Court'. To ensure the implementation of the Court's directions, it was further held that 'it will be imperative on the part of the Director General to take penal action against such department for persons who are responsible for not implementing the letter of the Environment Conservation Act, 1995'.

This petition is still pending before the Court. According to Article 112 of the Constitution of Bangladesh, all the executive and judicial agencies are obliged to carry out the directions of the High Court Division of the Supreme Court of Bangladesh. Unfortunately, these respondents have not been sufficiently able to carry out the court's directions; they have been seeking more time from the court, and the court has been allowing them time.

According to the available environmental laws of Bangladesh, this situation is intolerable. BELA brought this issue before the High Court Division of Bangladesh and claimed directions for relocating these units from the banks of this river (*BELA v. Bangladesh and Others*, 2003).[14] The court issued a Rule Nisi on 3 March 2003, and called upon the seven government agencies and two tannery associations as respondents. Namely, the court summoned the Secretaries of the Ministries of Industries and Commerce and Environment and Forest; the Director General of DoE; a member of the Planning Commission; and the chairmen of RAJUK (capital city development authority), BSCIC and Tanners Association. They were asked to show cause as to why they should not be directed to relocate the tannery units from the city to a suitable location as contemplated in the Master Plan prepared under the Town Improvement Act, 1953 (within 18 months from the date of judgement). The Court directed them to ensure that adequate pollution-fighting devices were developed in the new location or site as required under the Environment Conservation Act, 1995, and the Factories Act, 1965. They were also directed to apprise the Court regarding the process of relocation of the tannery units and submit a report in this regard to the Court within 6 months. This petition is still pending before the court.

Failing to treat these tanneries according to the provisions mentioned in the Environmental Conservation Act, 1995, and other related laws, the government is trying to relocate them to a well-planned leather industry zone near the city (an industrial zone has been developed with adequate industrial plots for them). Many of them obtained their plots in the new industrial zone where the construction of an effluent plant is underway. Nonetheless, the tanneries are not interested in moving from the banks of Buriganga. They are arguing that they will remain disinterested so long as the government is not (a) paying them $145 million as compensation, (b) discharging them from the debt they owe to the commercial banks, (c) providing them loans at a low interest rate and (d) assuring them that the government will bear the cost for maintaining the effluent plant. In 2006, a committee, formed by the secretaries of the concerned ministries of the government, suggested the government pay $33 million to them as compensation. Regarding the other demands of the tanneries, both parties are standing their ground. At this juncture, the Buriganga is becoming increasingly polluted and the government is losing its investment in preparing a modern leather industrial zone. At this time, the respondents have extended their time to carry out the Court's directions, and it is unclear when they will be able to reach a concrete solution.

To summarise, the point emphasised by this study is that the overall corporate owners within this industry are not yet focused on developing socially responsible strategies for business enterprises. In the context of weak economies like Bangladesh, as this study further emphasised, without the backing of strong economic incentives or legal sanctions, corporate directors may not be motivated to incorporate CSR notions at the core of their internal strategies.

Most weak economies do not have an environment that enables different actors to implement CG (Braithwaite

[13] Dr. Mohiuddin Farooque v. Bangladesh and others, Writ Petition No. 891/1994 (Industrial Pollution Case).

[14] Bangladesh Environmental Lawyers Association (BELA) v. Bangladesh and others, Writ Petition No. 1430 of 2003.

2006), and their corporate laws have not yet delineated stakeholders' rights, limitations and abilities concerning influencing CG. The corporate regulation framework of Bangladesh does not have the required bearing on how corporate strategies should accommodate different stakeholders other than the government and stockholders (Ward 2004). One of the reasons for this is that the groups working on corporate regulation issues in this economy lack political motivation, the ability to effectively disseminate information and public credibility (Hutter and O'Mahony 2004; Hussain 2007).[15]

Due to the high degrees of poverty, illiteracy and ignorance, non-state actors in the civil sphere of this economy are lagging behind in corporate issues. Therefore, whilst these types of actors in strong economies are able to monitor the operation of businesses and are even able to impose sanctions against particular corporate behaviour (Hutter 2006; Bruyn 1999), equivalent actors in this economy are not in a position to garner public support for such actions. For example, the number and influence of NGOs that engage with the corporate sector in this economy is low, despite the fact that this country is home to the largest NGO in the world and one of its NGOs won the Nobel Prize for its immense impact on the socio-economic life of the people of Bangladesh.[16] Recently, when workers from the RMG industries demonstrated in Dhaka for an increase in their minimum wage, very few NGOs were involved (either for or against the cause). The impact of these NGOs on the RMG factory owners was negligible; their lack of public support, credibility and organisational skills meant that they were not even able to bring the issue to the forefront of public attention.

Whilst the corporations of strong and some developing economies are taking consumer demands and stakeholder requirements into account in developing their standards, CG in Bangladesh is not sufficiently accountable to the societies in which they operate (Warhurst 2005; Swanson 1999; Moon et al. 2005). The Bangladeshi business enterprises that are the suppliers to global buyers try to satisfy the buyers' conditions to which they have agreed, though complying with these conditions alone does not effectively contribute to the development of a socially responsible corporate culture. Most of these suppliers have confined their efforts to adopting their buyers' denoted CSR-related practices only in the furtherance of their own self-interest. Indeed, they usually comply with CSR principles only so long as they are under pressure from their buyers to do so (Baden et al. 2009; Lim and Phillips 2008; Islam and Deegan 2008). Pressure from local groups to engage in socially responsible corporate behaviour and to be held accountable to stakeholders for unethical self-regulation typically goes unheeded. This is because such enterprises will act in accordance with CSR principles only if they are externally pressured to do so or because they face legal sanctions for not complying (King and Lenox 2000; Gunningham 1995).

Consequently, it would be shortsighted to rely solely on CG to develop socially responsible corporate self-regulation in weak economies (Ward 2004; Radaelli 2007). The CG of these economies would only insist corporate management truly incorporates CSR principles in their self-regulation if they were adequately motivated, incentivised and simultaneously put under legal obligation to do so.

Conclusion

The focus of this article has been on the changing approach of CG, the role of CSR in this shift, their convergence and the impact of this convergence on corporate self-regulation in weak economies. It has explored this impact taking Bangladesh as a case study.

CSR is a strong component of new business and CG models for long-term sustainability. Its principles are being integrated into the core policy objectives of global enterprises, and they are moving beyond their individual business initiatives. Viewing this transition in retrospect, CSR notions have become more formalised and more accustomed with corporate strategies. CG has embraced these principles and it pushes the management to place these principles at the core of their strategies. CG insists that corporate management finds ways to relate various stakeholders of the business to reach the economically optimal levels of investment in firm-specific human and physical capital (OECD 2004). The convergence of CSR and CG recognises that the interests of the corporation are served by recognising the interests of stakeholders and their contribution to the long-term success of the corporation. The ethos of this convergence has settled in the development of corporate self-regulation (corporate management follows this ethos in designing their internal self-regulation).

[15] Non-state actors would be divided into two major spheres: the economic sphere and the civil sphere. The economic sphere includes, for instance, markets and a broad range of profit-motivated organisations and activities embracing finance, industry, etc. The civil sphere includes non-governmental organisations, charities, trusts, foundations, advocacy groups, groups of professionals, etc. For this article, non-state actors generally meant the non-state actors of the civil sphere. For details of non-state actors, see Hutter and O'Mahony (2004).

[16] Bangladesh Rural Advancement Committee (BRAC) is the largest NGO in the world with over 7 million microfinance group members, 37,500 non-formal primary schools and more than 70,000 health volunteers. It has over 120,000 staff members and it reaches to over 110 million people in Asia and Africa. Grameen Bank was awarded the Nobel Peace Prize in 2006. For details, visit www.grameen-info.org/index.php?option=com_contentandtask=viewandid=21andItemid=139.

In strong economies, the output of this convergence is under the continuous watch of civil society groups. Sensitive consumerism, brand reputation and fierce competition for market share amongst the enterprises help this output to 'do good' in society. However, the general CG in weak economies is reluctant to hold the ethos of this convergence at the core of their self-regulation strategies. CG in Bangladesh is not an exception to this. The evaluation of the Act and the case study show that unlike the developed economies, the convergence of CG and CSR in this economy has developed two disparate situations in corporate regulation. First, it has contributed in shifting the authoritative mode in regulation towards the corporate self-regulation mode. Secondly, corporate self-regulation in this economy has not embraced the culture of this convergence properly. Rather, CG in this economy is exploiting this convergence to evade regulations and to gain full control over business regulation only to maximise their return. In this situational flux, weak economies like Bangladesh should not rely on either corporate self-regulation or the authoritative mode of regulation only. Rather, it should base its corporate regulation on a combination of force majeure and economic incentive-based strategy, so long as its civil society, media, NGOs and consumers are able to interfere in CG issues systematically.

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