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CONCEPTUALIZATION OF THE IMPACT OF INSTITUTIONAL SHAREHOLDERS IN THE CORPORATE GOVERNANCE: CASE STUDY OF PAKISTAN

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ABSTRACT.

By actively participating in the business of the investee company, institutional investors can play an active role in promoting the excellent corporate governance activities of Pakistani listed companies. Institutional investors like the United Kingdom and the United States have been told and done a lot about the effectiveness of institutional investors. However, in Pakistan, equity ownership is concentrated in the hands of individual investors, so little research or work has been done on this point. Their role can be very effective and vital even in Pakistan by improving the basic corporate structure and nature of business which will be discussed here.

Keywords: *Institutional Investors; Corporate Board; Hample Report; Greenbury Report; Pakistan.*

1.Introduction

According to Monks and Minow, shareholders are often described as the owner of a company (*Monks: International governance - Google Scholar*, n.d.). This means that owning a company's stock is the same as owning any other asset. Shareholders who own a company can regulate and restraint the system. Shareholders can be individual investors or institutional investors. As per the findings of Mehmood and Sharif, “Institutional investors can serve as the actors of change towards improving companies that improve corporate governance" (Sharif et al., n.d.). Institutional investors have a larger share of the investee company than individual investors, so they have tangible impact in the same business. Those shareholders who have a petty share in the company got a very trivial impact in the company.

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The issue of shareholder activists has been thoroughly addressed in developed countries, especially the United States and the United Kingdom, after large corporate scandals such as Adelfia, WorldCom and Enron (Sciences & 2012, 2012). These major corporate scandals were the driving force behind the promulgation of the 2002 Sarbanes Oxley Act. The law is the most radical corporate governance regulation in the last 70 years and is believed to strengthen long-standing band wagons to empower shareholders(Sciences & 2012, 2012). Corporate scandals in strong economies such as the United States and the United Kingdom have also raised doubts and doubts about the corporate environment in developing countries. In the context of USA and UK, the corporate authorities in Pakistan also endeavored to codify such codes and rules of business which enforce the rights of shareholders. Consequently in 2002, the Corporate Governance Code was crafted for creating a mechanism of upright supremacy in the corporate governance (F. Khan et al., 2019). After its promulgation the commission had apprised all the listed companies to comply the rules of this code. However subsequent codes were also drafted for further refining the corporate governance.

2.The term institutional investor or shareholder.

An institutional investor is an institution that collects funds from individuals and businesses and invests on their behalf having the peculiar qualities, skills and expertise in financial and corporate issues by having massive shareholdings and confidence of their clients, in the supervision and monitoring of their interests in the company (Sciences & 2012, 2012).

3.Overview Corporate Governance

Corporate governance in the broadest sense is the most common canons of monitering and efficiency, for the preservation and protection of the owners of the companies who are the true shareholders (Wang et al., n.d.). It is an irrefutable presumption that investors have the power and impact to influence the corporate governance by implementing the rules of business (Dharmapala et al., 2017). According to the Cadbury Commission (1992), Corporate Governance is a system by which companies are controlled and managed (Sheridan et al., 2006). Further as per the definition of the World Bank, CG is a mechanism through which power is exercised for controlling the management of the companies (Yoshikawa et al., 2009). There are essential elements of the corporate governance such as Accountability, Transparency, Responsiveness and Equity (F. Khan et al., 2019).

4. Role of Institutional investors in USA.

In the USA, the origin of Corporate Governance can be traced from the Water Gate Scandal in 1972 (Vinten, 2001). Subsequently there was a very pivotal enactment Foreign Corrupt Practices Act 1977 (FCPA). This land mark statute had two main objectives such as internal audit and penalize anti-bribery practices. After this there was another landmark statutory breakthrough in USA in the shape of SARBANS-OXLY Act 2002 in the wake of mega financial scandals such as ENRONE. The writ behind the institutional investors in USA was the 2002 Survey Oxley Act. The goal of Services Oxley Act was to establish a stronger standard of corporate accountability. The legal environment of USA had a stupendous influence on the range of institutional investor movement. The principle of Comply or else prevail in USA after the promulgation of Sarbanse-Oxly Act, 2002 (Hochberg et al., 2009).This endeavor has given mandatory and severe legal sanction behind their corporate law for the effective and efficient working of the corporate governance. The reason is this; the USA corporate culture condemns the malpractices prevalent at corporations and corporate societies (Sciences & 2012, 2012) .

5.Role of Institutional investors in UK

There were certain maga financial scandals in UK such as BCCI and barring bank failure which caught the attention of the top elite of UK to create such institutions which can have a constant check on the management of big companies in order to avoid maga scandals and corporate failures (Sheridan et al., 2006). After the Cadbury report there was a memorable step in the development of Institutional Investors which is the establishment of ISC in UK. It was the most decisive step in the context of the activism of institutional investors for making their ample role in the corporate governance (Jones & Pollitt, 2004). It provided a platform for the shareholders and institutional investors so that they repose their confidence in them and make them their representatives in the management of the company. In UK; Hampal report, Higgs Report, Greenbury Report alongwith Cadburry Report; constitute the Combined Code of Corporate Governance (Sciences & 2012, 2012).

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ISSN Print : 2709-4022
Vol 5 No.4 2021

6.Role of Institutional investors in Pakistan

The situation in Pakistan is, though, dissimilar. In the centrally oriented and active proprietorship charter in Pakistan, in which most of the bid families owns the companies or Sate owned enterprises (SOE's). The role of the investors is very dormant and passive due this monopoly and hegemony of the few vested groups (Javaid Lone et al., 2016). Institutional investors are reluctant because the situation of the evolution of the activism of institutional activists are stagnantly emerging. They don't feel security to actively play their part due to the monopoly of few families hegemony in the corporate sector. The 2002 Corporate Governance Code sets out recommendations and guidance for Pakistani listed companies to follow. However, all of these laws have specific issues that need to be met for influencing the impact of investors. The Corporate Governance Code (CCG), 2002 sets out recommendations and guidance for Pakistani listed companies to follow. However, all of these laws have specific issues that need to be met to enhance the role of institutional investors in corporate governance (Rev. & 2006, 2006).

Shareholders must have the same percentage of ownership in order to seek a court declaration of invalidation of minutes of the general meeting. This matter is not talked by the Company Ordinance, chiefly for the undesirable motives of minority shareholders. Shareholders of institutional investors can only be appraised and attended to by the board of directors if they abandon this passiveness and actively participate in the company's operations to protect their rights. A major corporate scandal in developed countries was the result of this passiveness on the part of shareholders (F. Khan et al., 2019).

The reason of the paucity of the activism on the part of institutional shareholders in Pakistan is the non-availability of forums like ISC in UK. Institutional Shareholders are prone to momentary benefits so as to escalation profligate yields, while on the other hand the institutional investors in unconventional states desire lasting investments (J. Khan & Rehman, 2020).

7.Challeges Faced by Institutional Shareholders.

The investors can perform a substantial part in defending the stakes of individual shareholders (Law et al., n.d.). But there are some serious impediments and problems which they have to face by performing their part.

7.1. Free Rider Problem.

The free-rider problem, which is due to the fact that a person may be able to profit on a product without contributing to cost, is discussed in many different contexts (Shleifer & Vishny, 1986). In the case of "public goods" which cannot be excluded by the provider, the goods supplied by others are also delivered to the free rider. For example, in the public perception of charities, each donor has the incentive to curb their contributions and be free to redistribute from other members of the non-poor group (Yoshikawa et al., 2009). Therefore, in the case of charities and other public goods, free riders are usually employed to form a basis for government intervention. A similar situation exists for shared real estate resources. For example, oil is pumped from a pool under multiple owners. It is in the interest of all producers to control production, but it is in the interest of a single producer to increase production if other producers control it. The resulting tragedy from the public sector is an example of "market failure" and as a result is the basis for government intervention. In the case of cartels, "free riding problem" also occurs (Admati et al., 1994). For example, a group of competitive producers may be able to make money by cooperating by limiting production and raising prices. However, the ability to collide with each other's flea or free ride incentives is impaired. Therefore, in the case of cartels in agriculture, trade unions, transport, business licenses and other areas, public sanctions are required to restrict the activities of free riders.

7.2 Conflict of Interest.

This concept is the one of the chief reasons of the passive and dormant role of investors. Separation of ownership and control can raise agencies. In short, the shareholders (owners) delegate the authority to take the company to the directors (Reform & 2014, n.d.). Mostly the directors try to adopt short term policies foe achieving their limited interest at the altar of the individual shareholders. This is the high time for the them to manifest their existence by intervening in this situation and supervise the internal affairs of the company by surveillance (LJ & 2018, n.d.). The extensive time, pecuniary value and the price of this monitoring are very expensive and costly which cannot be endured by them alone since they are not the real owners. It has to be shared by the beneficiaries as well who are the exact owners. These beneficiaries cannot cheerily pick at this point of time. Now here comes the issue of the interest paradox. Further if the investors become more vocal and loud it will also cast a negative impact on their

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Vol 5 No.4 2021

future prospects with other prospective ventures (Ajmal et al., n.d.). So due to their vested interest, they are bound to be invert, passive and dormant for safeguarding their own interest.

7.3 Absence of Collective Action.

The main reason for institutional investors' reluctance is the lack of collective action (Rev. & 2006, 2006). Institutional investors are fund managers, not owners, and cannot proceed on their own without collective efforts. Monitoring corporate board strategies, accessing inside information and intervening can incur massive costs. Due to the lack of collective action, investors prefer to be silent for these reasons (Reform & 2014, n.d.). The extensive time, pecuniary value and the price of this monitoring are very expensive and costly which cannot be endured by them alone since they are not the real owners. It has to be shared by the beneficiaries as well who are the exact owners. These beneficiaries cannot cheerily pick at this point of time. Now here comes the issue of the interest paradox. Further if the investors become more vocal and loud it will also cast a negative impact on their future prospects with other prospective ventures (in & 2013, n.d.). There has to a collective and accumulative manifestation of responsibility in terms of pecuniary value on the part of shareholders too if it is desired that investor play their potential role.

7.4 Cost of Monitoring and Intervention

This factor can increase the management costs of fund managers and improve the efficiency of funds matched by non-independent indices. As a result, external managers face higher costs, while other index-matched funds face higher costs (Almazan et al., 2005). In this case, it is not possible to switch to a cheaper manager because there is no risk of transferring higher costs to real owners. This brings us to the heart of the problem - fund managers are not beneficiaries, and the cost of participation reduces the fund manager's profits, unless all fund managers are involved. Instead of leaving the organization, factors that affected the willingness and capacity to intervene to correct speech barriers were assessed (Sciences & 2012, 2012). In particular, this section discusses agency issues at all levels of fund management relationships; the impact of the size of the company's shares on the company's incentive to intervene in the public nature of active observation and related free travel issues and ultimately the conflict of interest that organizations face when considering whether it is beneficial.

ISSN Online : 2709-4030
ISSN Print : 2709-4022
Vol 5 No.4 2021

8.. INCENTIVES OF INSTITUTIONAL SHAREHOLDERS

Some of the stress in the Cadbury Report on Institutional Investors as a resource to Improve Corporate Governance was grounded on the principle that it is so big that it has the aptitude to influence corporate behavior. Investors are accountable for the owners of the funds they invest in. Institutional investment preparations that occur in the UK mean that funds are generally invested by investors rather than beneficiaries of those funds, except that insurance companies invest their own insurance funds (Sciences & 2012, 2012). For example, pension fund trustees have a trustee relationship with pension fund beneficiaries and must act in their best interests. Similarly, listed insurers such as prudential are responsible to their shareholders. In this regard, institutional investors are gratified to exploit their return on investment.

8.1 The strategic Alignment Hypothesis.

According to Pound, the strategic alignment hypothesis proposes that mutual agreements in private meetings are mandatory for both institutional shareholders and the board advantageous to collaborate on positive matters (Review & 1995, n.d.). Due to this the confidence will be restored between them to cop up with the longstanding partnerships and liason. In this way they can be advantageous for each other.

8.2 Efficient Monitoring Hypothesis.

The second incentive suggests that investors are additionally skilled, accomplished and bear the volume to screen and supervise surveillance management of their company in which they invest at a condensed expense as compared to marginal or separate shareholders (Almazan et al., 2005). But collection action is needed for that in order to reduce the cost and expense required for this monitoring.

8.3 Conflict of Interest Hypothesis

The incentive promotes the idea that that the investors may possess a current and future corporate linking with the corporation owing to this cannot afford to vigorously shorten managerial policymaking. So, by doing this they can have a better relation with the company in future. This could be achieved by the confidentially in private meetings and negotiations.

9.Methods to Expand Institutional Shareholders Activism in Pakistan.

There are certain tactics and steps which the institutions may take for the solitification of their indelible impact and role for ensuring the protection of the interests of the true owners of the companies in which they invest.

9.1 Social Sanctions.

Institutions can place societal prohibitions to those corporations which are not performimg well by criticizing them amenably in civic community which eventually will result to fiscal punishments, because it may damage the goodwill and integrity of the investee in the canvas of the market and corporate sector as well (Sciences & 2012, 2012). Though, such reaction can hamper the repute and worth of the institutional investors themselves. But nevertheless, their role will be very decisive and meaningful in the process of activism.

9.2 Removal of Directors.

This may be a very good strategy on the part of Institutional investors to remove directors by straight and joint action (Javaid Lone et al., 2016). Nevertheless, this is tremendously infrequent method, which can only be possible if all other options are availed and there is no other option left even the private meetings went futile.

9.3 Threat of Exit Rather Voice.

It is also another strategy in the hands of the institutional shareholders to exercise the doctrine of Exit rather to raise their voice and sell their share capital and move on. This will pose a serious threat on the management to come on table and have deliberations on the issues and demand by the institutional shareholders.

9.4 Right of Voting

In the AGMs, the institutional shareholders can capitalize their right to vote to influence their writ on the management of the company and they can argue with authority on the matters of size, composition and diversity of the board. These endeavors can cast a far-reaching impact on the corporate governance as well (J. Khan & Rehman, 2020).

9.5 Strong Legal Environment

An executable and mandatory lawful system are indispensable for the insurance of the interests of the beneficiaries of corporate governance who are the shareholders. Institutional investors are active in USA due to SARBANS-OXLY Act 2002 and in the UK, due to the corporate governance norms such as the Cadbury Report, Greenbury report, Hampel report and Higgs report. Likewise, in Pakistan the penal provisions of code of corporate Governance 2019 in the form of comply and rule is a commendable endeavor in the direction of the activism of the Institutional shareholders (Ayub et al., 2019).

9.6 Legal and Accounting Experts

Legal and Accounting Professionals The 2002 Corporate Governance Code must inspire listed companies to rent legal and accounting professionals. These professionals should take legal and financial attention when assessing investee records in compliance with rules of concerned statues. The investors must advise the management to adopt world-class legal and accounting standards to improve overall efficiency (Sheikh et al., 2017).

9.7 Effective Monitoring by the Institutional Investors

Institutional investors must regularly attend meetings of investee companies and exercise their voting rights effectively. They also need to make sure that independent directors represent their true purpose. You also need to make sure that your proposal is properly presented at a company meeting and is taken into account in resolving controversial issues (Rev. & 2006, 2006). Effective monitoring of the performance of investee companies can identify disputes early on and maximize shareholder wealth.

9.8 Active Inside Controls

An active inside control system is essential for the even working of a business unit. If the company's internal control system is robust, outside control works effortlessly. In the United States, the Sarbanse Oxley Act of 2002 requires companies to publicize the efficiency of inside management in the records (Li et al., 2008). In Pakistan, companies of all sizes must be accountable for providing evidence about internal control systems in their annual reports. Specific provisions to this effect may be introduced in the Corporate Governance Code.

9.9 Council of Institutional Investors

On the analogy of the ISC in Uk, the council of Institutional Investors ought to convene consistent meetings of institutional investors to increase responsiveness of the corporate governance system and the exercise of direct action by investors(Sciences & 2012, 2012). Corporate law specialists should also join such meetings, indicating out flaws in general law and proposing measures that corporate regulators can take. The Council may award membership to all institutional investors of listed companies. The Council of investors should encourage investment by domestic and foreign institutional investors on all three domestic stock exchange. The board should convene an annual meeting to deliberate the issues tackled by investors in the corporate sector(Theory & 2010, n.d.). The council ought to empower to collect statistics on institutional investors and investee companies and forward desecrations of corporate governance norms by investment companies and investee companies to the SECP (Ayub et al., 2019).

10.Conclusion

Due to the lack of interest on the part Institutional activists, activism is not ingrained in corporate sector of Pakistan. The cause is not those financial mega scandals like Enron isn’t happening here. But it is due to the absence of keenness and interest on the part of institutional investors. Furthermore, anther pivotal reason is the non-availability of the sanctioned lawful atmosphere. The prodigious mainstream family-owned companies also perimeter the array of Pakistani institutional investor activists. It is a fact that Pakistan is under turmoil and harsh crises. Foreign investment has long been away due to awful environment of Pakistan's capital markets. Pakistan's economic growth is stagnant due to the war on terrorism, the energy crisis, debt liability and other factors. Foreign investors are reluctant to invest in Pakistan's stock exchange due to the prevalence of instability. The only way a country can use to increase its economy is to increase capital from both individual and institutional domestic investors. Companies that adhere to the principles of corporate governance can give higher dividend yields than companies that do not adhere to the principles of corporate governance. Noteworthy variations in the presentation of investee companies require important vagaries to the lawful environs along with execution apparatuses. The drive of executing a commercial control system is to supervise the market in order to benefit the country's economy. Companies that follow a comprehensive corporate philosophy always subsidize to a deep-rooted, unchanging and underwired market structure.

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