REFLECTING ON THE US AND UK CORPORATE GOVERANACE

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Introduction

Transnational parallels and variances of important political and economic institutions have been studied through comparative research on corporate governance. This article used a summary, an explanation and a discussion to compare the major features of corporate governance systems in the US and the UK based on laws, agency and fiduciary responsibility, board, and auditing as variables and features. In essence, corporate governance is a set of agreed principles on how firms operate in a specific country. Corporate governance establishes and distributes stakeholder rights and duties, resulting in more stable financial flows. The practice ensures good corporate governance and sustainability, allowing corporate governance models to promote ethical principles like responsibility and honesty. Inspiring confidence and good faith among stakeholders like employees and shareholders is the importance of such ideals.

Summary of Similarities and Differences

i) Laws

The purpose of researching corporation laws was to understand the critical elements of corporate governance in both countries. Notably, the logic employed by each entity dictates the degree to which the corporate governance model is adopted (Tricker and Tricker 2015, p. 15). Both countries' Companies Acts define corporations as legal entities with the exceptions specified by the statute. The Act establishes the procedures for addressing corporate governance violations such as insider trading, resolving conflicts of interest within publicly traded corporations, and regulating securities markets, antitrust, labour, and the environment.

ii) Agency and Fiduciary Responsibility

Since the board of directors is the fundamental governing body of a business and the primary custodian of corporate governance, establishing its agency was critical for the study.

According to agency theory, an agent represents other stakeholders or certain groups of individuals on a company's board of directors. There are individuals accountable for fiduciary responsibility, and in some situations, the board is mandated or entrusted with ensuring that the company's finances are in order. It was established that the board of directors in both countries is bound by fiduciary obligations such as obedience, loyalty, care, good faith, and fair dealings and disclosure.

iii) Board

As the top decision-making organ of a business, the Board of Directors has a variety of models and duties. Additionally, there are functions that a board can perform and others that it cannot. To this goal, this review established the functions of the board of directors and the regulatory bodies' authority over corporate boards in the United States and the United Kingdom, as specified by the corporate. In both nations, the board of directors is comprised of both executive and non-executive directors, with CEOs in the US serving as both chair and CEO, a practice that is frowned upon in the UK.

iv) Auditing and Control

Furthermore, various control measures, such as audits, determine if businesses operate under applicable standards and corporate governance regulations. Internal and external audits were implemented after high-profile scandals that rocked both countries' major businesses to establish checks and balances. Additionally, the report notes instances when auditing may demand intervention, such as when bribery allegations develop, as evidenced by the UK's Bribery Act's passage in 2010 and the US's Foreign Corrupt Practices Act's passage in 1977.

Explanation of the Similarities and Differences

The choice of comparison on corporate governance models in the US and the UK is based on the global convergence of practices which has led to greater interest in the US and UK as they are peer leaders in the global corporate governance. There are several triggers to evaluate the efficiency of the UK and US corporate governance elements, like being affected by the performances of their corporate sector during and after the Great Recession of 2008.

i) Laws

The literature has shown that many investors believe that the system is opaque because it lacks energy and is dominated by top management. However, some corporate frauds go unpunished. Evron and MCI Inc. in the US and Carillion in the UK have all been liquidated due to corporate governance difficulties. There's been a great deal of discussion about the SEC, IRS, and Federal Reserve developing business norms in the US. In contrast, the UK's plan has been changed due to negative evaluations. The UK's corporate governance is presently being reviewed to conform with OECD global corporate governance norms (Michelon and Parbonetti, 2012, p. 485).

ii) Agency and Fiduciary Responsibility

The study also revealed that the US directors' agency on shareholder primacy shows a limit on managerial discretion. In the US, executives have a fiduciary duty to their shareholders. However, in the UK, directors are accountable to all stakeholders rather than just shareholders. The US board of directors has a fiduciary responsibility to the shareholders, but the UK board has no responsibility. Often, the company's interests trump shareholder interests. The US utilizes MOA for limited corporations alone, while the UK uses Articles of Association for public limited firms.

iii) Board

The review paper has found out that the US and the UK corporations share a single board which contains all types of directors, from executive directors to supervisors and non-executives. Unlike in the US, where the CEO also chairs the board, the UK CEO has limited authority. The SEC can fire directors in the US, and the UK can do so under the 1984 Company Directors Disqualification Act. Their goals are comparable. They manage important functions and set the corporation's strategic direction. The US thinks that protecting the shareholder benefits all stakeholders (Ayuso et al., 2014, p. 417), whereas, in the UK, directors must balance and preserve the interests of all stakeholders. That's because socialists believe in family enterprises whereby people, employees, and investors gain in a socialist system. Employes are also granted representation on the UK's regulating body.

iv) Auditing and Control

This study realized that the Public Company Accounting Oversight Board (PCAOB) audits the corporates in the US. PCAOB audits financial statements. And control systems. The Financial Review Panel is the UK's PCAOB. It began investigating company finances in 2004. It can also summon firm employees and officers. Therefore, UK authorities appear more investigative than their US counterparts. Unlike in the UK, external auditors are chosen by listed firms in the US. LIKE THE US, the UK Secretary of State can require listed firms to disclose audit and non-audit services their auditors offer. However, in the UK, audit committees are autonomous of director composition.

Discussion of the Similarities and Differences

i) Laws

It was realized that the SEC rules and regulations and the Sarbanes Oxley Act of 2002 are the cornerstones of US corporate law (Rathod, 2019). The New York Stock Exchange (NYSE) regulates US enterprises in the capital markets, promoting transparency and trust like the Nasdaq Stock Market (NASDAQ). The US corporate governance laws are "comply or explain."; an approach that has enhanced transparency and accountability in corporate governance. The UK has a different approach to SOX. Infractions of SOX laws are punishable by fines and jail. The UK and US corporate laws can only be amended through parliamentary or legislative processes. The Memorandum and Articles of Association are the internal business regulating rules in the UK as defined in the company law of 2006.

ii) The Agency and Fiduciary Responsibility

This research established that the US directors' agency on shareholder primacy shows a limit on managerial discretion. In the US, executives have a fiduciary duty to their shareholders. However, in the UK, directors are accountable to all stakeholders rather than just shareholders. The US board of directors has a fiduciary responsibility to the shareholders, but the UK board has no responsibility. Often, the company's interests trump shareholder interests. The US utilizes MOA for limited corporations alone, while the UK uses Articles of Association for public limited firms.

iii) Board

It was realized that the US and the UK have a single board in charge of the company governance. The single board consists of all types of directors, from those who carry official tasks, also known as executive directors, to those appointed to the board for oversight or representation, also known as non-executives. In the UK, the CEO's powers are limited as they serve as secretary to the board, unlike in the US, where the CEO doubles as the Board Chairperson. The directors' powers or those on the board are limited by SEC as they have the power to fire – this is in the US; in the UK, the regulators can invoke Company Directors Disqualification Act enacted in 1984 to remove a director from office.

Boards in the United States and the UK have the same fundamental goals. They are in charge of 1) overseeing, supervising, and controlling the company's management and all-important functions; and 2) determining the organisation's strategic direction. As already stated in the agency theory, the US assumes that all other stakeholders will benefit once the shareholder is protected. Conversely, in the UK, the responsibility of balancing and safeguarding the interests of all stakeholders lies in the hands of directors. The genesis of this approach is from belief in the family businesses and more of a socialist approach. The socialist approach considers what is good for all stakeholders, from employees and investors to the general public. Also, employees are guaranteed representation in the governing body in the UK, although this is not the case in the United States.

iv) Auditing and Control

This review also identified that the Public Company Accounting Oversight Board (PCAOB) is in charge of auditing to give PCAOB financial reports in the US. as part of the compliance systems. The Financial Review Panel is the UK's version of the PCAOB. It was established in 2004 to investigate corporate finances. It can also summon company personnel and officers as part of its authority. The UK authority appears to have more investigative power than the US regulator.

While listed firms are auditors in the UK, external auditors in the US are independent, albeit they cannot do audits beyond their mandate. Under the 2004 Act, the Secretary of State can order listed companies to provide more information about their auditors' audit and non-audit services. SOX requires independent directors on finance and audit committees to encourage transparency and accountability in US auditing. In the UK, however, audit committees are not director-dependent.

Conclusion

According to the report, the United States has a shareholder-driven corporate governance system, whereas the United Kingdom has a stakeholder-driven corporate governance system. The rules of the United States encourage market expansion while protecting shareholder control and striving to defend the CEO as a representative of company growth and development. The United Kingdom, on the other hand, wishes to encourage the creation of strong institutions by including all stakeholders to establish an environment in which values dictate business sustainability. To summarise, the UK system is less expensive, even if the US system is likely to attract more investors due to its stringent auditing procedures.

References

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