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Legal Implication in Management (Corporate Governance)

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Abstract:

In accounting and organizational theory, Internal control is defined as a process, effected by an organization's people and information technology (IT) systems, designed to help the organization accomplish specific goals or objectives. It is a means by which an organization's resources are directed, monitored, and measured. It plays an important role in preventing and detecting fraud and protecting the organization's resources, both physical (e.g., machinery and property) and intangible (e.g., reputation or intellectual property such as trademarks). At the organizational level, internal control objectives relate to the reliability of financial reporting, timely feedback on the achievement of operational or strategic goals, and compliance with laws and regulations. Internal control procedures reduce process variation, leading to more predictable outcomes. Internal control is a key element of the Foreign Corrupt Practices Act (FCPA) of 1977 and the Sarbanes-Oxley Act of 2002, which required improvements in internal control in United States public corporations.

Under the COSO Internal Control-Integrated Framework, a widely-used framework in the United States, internal control is broadly defined as a process, effected by an entity's board of directors, management, and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories: a) Effectiveness and efficiency of operations; b) Reliability of financial reporting; and c) Compliance with laws and regulations.

Legal Implication

Recent research has argued that political and regulatory environments have a significant impact on corporate governance systems. In particular, countries with poor investor protection laws and weak law enforcement have low levels of corporate governance that manifests itself in substandard financial performance, management entrenchment, and the expropriation of minority shareholders. One implication of this research is that China will have poor corporate governance and entrenched managers, as its legal system is relatively underdeveloped and inefficient. However, using data on top management turnover in China's many firms, our results refute the prediction of entrenched management. Turnover-performance sensitivity is higher if legal entities are major shareholders but the proportion of non-executive directors perversely affects it.

Corporate governance is the set of processes, customs, policies, laws and institutions affecting the way in which a corporation is directed, administered or controlled. Corporate governance also includes the relationships among the many players involved (the stakeholders) and the goals for which the corporation is governed. The principal players are the shareholders, management and the board of directors. Corporate governance is a multi-faceted subject. An important theme of corporate governance deals with issues of accountability and fiduciary duty, essentially advocating the implementation of policies and mechanisms to ensure good behavior and protect shareholders. Another key focus is the economic efficiency view, through which the corporate governance system should aim to optimize economic results, with a strong emphasis on shareholders

welfare. Recently there has been considerable interest in the corporate governance practices of modern corporations, particularly since the high-profile collapses of a number of large U.S. firms such as Enron Corporation and WorldCom. Board members and those with a responsibility for corporate governance are increasingly using the services of external providers to conduct anti-corruption auditing, due diligence and training.

Definition

The term corporate governance has come to mean two things. It is the process by which all companies are directed and controlled. Relevant rules include applicable laws of the land as well as internal rules of a corporation. The corporate governance structure specifies the rules and procedures for making decisions on corporate affairs. Corporate governance is the mechanism by which individuals are motivated to align their actual behaviors with the overall participants. In *A Board Culture of Corporate Governance* business author Gabrielle O'Donovan defines corporate governance as 'an internal system encompassing policies, processes and people, which serves the needs of shareholders and other stakeholders, by directing and controlling management activities with good business savvy, objectivity and integrity. Sound corporate governance is reliant on external marketplace commitment and legislation, plus a healthy board culture, which safeguards policies and processes'.

O'Donovan goes on to say that 'the perceived quality of a company's corporate governance can influence its share price as well as the cost of raising capital. External forces are, to a large extent, outside the circle of control of any board. The internal environment is quite a different matter, and offers companies the opportunity to differentiate from competitors through their board culture. To date, too much of corporate governance debate has centered on legislative policy, to deter fraudulent activities and transparency policy which misleads executives to treat the symptoms and not the cause.'

History

In the 19th century, state corporation law enhanced the rights of corporate boards to govern without unanimous consent of shareholders in exchange for statutory benefits like appraisal rights, to make corporate governance more efficient. Since that time, and because most large publicly traded corporations in the US are incorporated under corporate administration friendly Delaware law, and because the US's wealth has been increasingly securitized into various corporate entities and institutions, the rights of individual owners and shareholders have become increasingly derivative and dissipated. The concerns of shareholders over administration pay and stock losses periodically has led to more frequent calls for corporate governance reforms. Berle and Means' monograph "The Modern Corporation and Private Property" continues to have a profound influence on the conception of corporate governance in scholarly debates today. Eugene Fama and Michael Jensen's "The Separation of

Ownership and Control" (Journal of Law and Economics) firmly established agency theory as a way of understanding corporate governance: the firm is seen as a series of contracts. According to Lorsch and MacIver "many large corporations have dominant control over business affairs without sufficient accountability or monitoring by their board of directors."

Current preoccupation

Current preoccupation with corporate governance can be pinpointed at two events: The East Asian Financial Crisis saw the economies of Thailand, Indonesia, South Korea, Malaysia and The Philippines severely affected by the exit of foreign capital after property assets collapsed. The lack of corporate governance mechanisms in these countries highlighted the weaknesses of the institutions in their economies.

Institutional Investors.

Over time, markets have become largely institutionalized: buyers and sellers are largely institutions (e.g., pension funds, insurance companies, mutual funds, hedge funds, investor groups, and banks). The Board of Directors of large corporations used to be chosen by the principal shareholders, who usually had an emotional as well as monetary investment in the company (think Ford), and the Board diligently kept an eye on the company and its principal executives (they usually hired and fired the President, or Chief executive officer- CEO). Finally, the largest pools of invested money (such as the mutual fund 'Vanguard

500', or the largest investment management firm for corporations, State Street Corp.) are designed simply to invest in a very large number of different companies with sufficient liquidity, based on the idea that this strategy will largely eliminate individual company financial or other risk and, therefore, these investors have even less interest in a particular company's governance.

Even as the purchase of individual shares in any one corporation by individual investors diminishes, the sale of derivatives (e.g., exchange-traded funds (ETFs), Stock market index options (etc.) has soared. So, the interests of most investors are now increasingly rarely tied to the fortunes of individual corporations. But, the ownership of stocks in markets around the world varies; for example, the majority of the shares in the Japanese market are held by financial companies and industrial corporations (there is a large and deliberate amount of cross-holding among Japanese keiretsu corporations and within S. Korean chaebol 'groups'), whereas stock in the USA or the UK and Europe are much more broadly owned, often still by large individual investors.

In the early 2000s, the massive bankruptcies (and criminal malfeasance) of Enron and WorldCom, as well as lesser corporate debacles, such as Adelphia Communications, AOL, Arthur Andersen, Global Crossing, Tyco, and, more recently, Fannie Mae and Freddie Mac, led to increased shareholder and governmental interest in corporate governance.

Parties to corporate governance

Parties involved in corporate governance include the regulatory body (e.g. the Chief Executive Officer, the board of directors, management and shareholders). Other stakeholders who take part include suppliers, employees, creditors, customers and the community at large. This separation of ownership from control implies a loss of effective control by shareholders over managerial decisions. Partly as a result of this separation between the two parties, a system of corporate governance controls is implemented to assist in aligning the incentives of managers with those of shareholders. A board of directors often plays a key role in corporate governance. The Company Secretary (known as a Corporate Secretary in the US and often referred to as a Chartered Secretary if qualified by the Institute of Chartered Secretaries and Administrators (ICSA) is a high ranking professional who is trained to uphold the highest standards of corporate governance, effective operations, compliance and administration.

All parties to corporate governance have an interest, whether direct or indirect, in the effective performance of the organization. Directors, workers and management receive salaries, benefits and reputation, while shareholders receive capital return.

Principles

Key elements of good corporate governance principles include honesty, trust and integrity, openness, performance orientation, responsibility and accountability, mutual respect, and commitment to the organization. Of importance is how

directors and management develop a model of governance that aligns the values of the corporate participants and then evaluate this model periodically for its effectiveness. Commonly accepted principles of corporate governance include: Rights and equitable treatment of shareholders: Organizations should respect the rights of shareholders and help shareholders to exercise those rights. They can help shareholders exercise their rights by effectively communicating information that is understandable and accessible and encouraging shareholders to participate in general meetings.

Interests of other stakeholders:

Organizations should recognize that they have legal and other obligations to all legitimate stakeholders. Role and responsibilities of the board: The board needs a range of skills and understanding to be able to deal with various business issues and have the ability to review and challenge management performance. There are issues about the appropriate mix of executive and non-executive directors. Integrity and ethical behavior: Organizations should develop a code of conduct for their directors and executives that promote ethical and responsible decision-making. Disclosure and transparency: Organizations should clarify and make publicly known the roles and responsibilities of board and management to provide shareholders with a level of accountability. Issues involving corporate governance principles include: Oversight of the preparation of the entity's financial statements.

Oversight and management of risk

Dividend policy: Corporate governance mechanisms and controls are designed to reduce the inefficiencies that arise from moral hazard and adverse selection. For example, to monitor managers' behavior, an independent third party (the auditor) attests the accuracy of information provided by management to investors. *Internal corporate governance controls:* Internal corporate governance controls monitor activities and then take corrective action to accomplish organizational goals. *Monitoring by the board of directors:* The board of directors, with its legal authority to hire, fire and compensate top management, safeguards invested capital. Regular board meetings allow potential problems to be identified, discussed and avoided. Whilst non-executive directors are thought to be more independent, they may not always result in more effective corporate governance and may not increase performance. Different board structures are optimal for different firms. Moreover, the ability of the board to monitor the firm's executives is a function of its access to information. Executive directors possess superior knowledge of the decision-making process and therefore evaluate top management on the basis of the quality of its decisions that lead to financial performance outcomes. It could be argued, therefore, that executive directors look beyond the financial criteria. *Remuneration:* Performance-based remuneration is designed to relate some proportion of salary to individual performance. *External corporate governance controls:* External corporate governance controls encompass the controls external stakeholders exercise over the organization, systemic problems of corporate governance.

Supply of accounting information:

Financial accounts form a crucial link in enabling providers of finance to monitor directors. Imperfections in the financial reporting process will cause imperfections in the effectiveness of corporate governance. Demand for information: A barrier to shareholders using good information is the cost of processing it, especially to a small shareholder. The traditional answer to this problem is the efficient market hypothesis (in finance, the efficient market hypothesis (EMH) asserts that financial markets are efficient), which suggests that the shareholder will free ride on the judgments of larger professional investors. Financial reporting is a crucial element necessary for the corporate governance system to function effectively. Accountants and auditors are the primary providers of information to capital market participants. The directors of the company should be entitled to expect that management prepare the financial information in compliance with statutory and ethical obligations, and rely on auditors' competence.

The power of the corporate client to initiate and terminate management consulting services and, more fundamentally, to select and dismiss accounting firms contradicts the concept of an independent auditor. Changes enacted in the United States in the form of the Sarbanes-Oxley Act (in response to the Enron situation as noted below) prohibit accounting firms from providing both auditing and management consulting services. The Enron collapse is an example of

misleading financial reporting. *Rules versus principles*: Rules also reduce discretion on the part of individual managers or auditors.

Corporate governance models around the world

Anglo-American Model:

There are many different models of corporate governance around the world. These differ according to the variety of capitalism in which they are embedded. The liberal model that is common in Anglo-American countries tends to give priority to the interests of shareholders. In the United States, a corporation is governed by a board of directors, which has the power to choose an executive officer, usually known as the chief executive officer. Other duties of the board may include policy setting, decision-making, monitoring management's performance, or corporate control. The board of directors is nominally selected by and responsible to the shareholders, but the bylaws of many companies make it difficult for all but the largest shareholders to have any influence over the makeup of the board; normally, individual shareholders are not offered a choice of board nominees among which to choose, but are merely asked to rubberstamp the nominees of the sitting board. Perverse incentives have pervaded many corporate boards in the developed world, with board members beholden to the chief executive whose actions they are intended to oversee. The U.K. has pioneered a flexible model of regulation of corporate governance, known as the "comply or explain" code of governance. The monitoring of those explanations is left to shareholders themselves.

Non Anglo-American Model:

In East Asian countries, family-owned companies dominate. A study by Claessens, Djankov and Lang (2004) investigated the top 15 families in East Asian countries and found that they dominated listed corporate assets. Family-owned companies also dominate the Latin model of corporate governance, that is companies in Mexico, Italy, Spain, France (to a certain extent), Brazil, Argentina, and other countries in South America. Europe and Asia exemplify the insider system: Shareholder and stakeholder; a small number of many companies; an illiquid capital market where ownership and control are not frequently traded; high concentration of shareholding in the hands of corporations, institutions, families or government. Corporate governance principles and codes have been developed in different countries and issued from stock exchanges, corporations, institutional investors, or associations (institutes) of directors and managers with the support of governments and international organizations. As a rule, compliance with these governance recommendations is not mandated by law, although the codes linked to stock exchange listing requirements may have a coercive effect.

American Model:

In the United States, companies are primarily regulated by the state in which they incorporate though the federal government also regulates them and, if they are public, by their stock exchange. Most states' corporate law generally follows the American Bar Association's Model Business Corporation Act. One issue that has

been raised since the Disney decision in 2005 is the degree to which companies manage their governance responsibilities; in other words, do they merely try to supersede the legal threshold, or should they create governance guidelines that ascend to the level of best practice. For example, the guidelines issued by associations of directors (see Section 3 above), corporate managers and individual companies tend to be wholly voluntary. For example, The GM Board Guidelines reflect the company's efforts to improve its own governance capacity. One of the most influential guidelines has been the 1999 OECD Principles of Corporate Governance. The OECD remains a proponent of corporate governance principles throughout the world. The World Business Council for Sustainable Development WBCSD has also done substantial work on corporate governance, particularly on accountability and reporting, and in 2004 created an Issue Management Tool: Strategic challenges for business in the use of corporate responsibility codes, standards, and frameworks. This document aims to provide general information, a "snap-shot" of the landscape and a perspective from a think-tank/professional association on a few key codes, standards and frameworks relevant to the sustainability agenda.

Corporate governance and firm performance

Other studies have linked broad perceptions of the quality of companies to superior share price performance. In a separate study Business Week enlisted institutional investors and 'experts' to assist in differentiating between boards with good and bad governance and found that companies with the highest rankings

had the highest financial returns. On the other hand, research into the relationship between specific corporate governance controls and firm performance has been mixed and often weak.

Board composition

Others have found a negative relationship between the proportion of external directors and firm performance, while others found no relationship between external board membership and performance. In a recent paper Bagahat and Black found that companies with more independent boards do not perform better than other companies. It is unlikely that board composition has a direct impact on firm performance.

Remuneration/Compensation

The results of previous research on the relationship between firm performance and executive compensation have failed to find consistent and significant relationships between executives' remuneration and firm performance. Low average levels of pay-performance alignment do not necessarily imply that this form of governance control is inefficient. Some researchers have found that the largest CEO performance incentives came from ownership of the firm's shares, while other researchers found that the relationship between share ownership and firm performance was dependent on the level of ownership. A particularly forceful and long running argument concerned the interaction of executive options with corporate stock repurchase programs. Numerous

authorities (including U.S. Federal Reserve Board economist Weisbenner) determined options might be employed in concert with stock buybacks in a manner contrary to shareholder interests. These authors argued that, in part, corporate stock buybacks for U.S. Standard & Poors 500 companies surged to a \$500 billion annual rate in late 2006 because of the impact of options. Corporate governance and developing countries.

Establishing good corporate governance practices is essential to sustaining long-term development and growth as these countries move from closed, market-unfriendly, undemocratic systems towards open, market-friendly, democratic systems. Good corporate governance systems will allow organizations to realize their maximum productivity and efficiency, minimize corruption and abuse of power, and provide a system of managerial accountability. These goals are equally important for both private corporations and government bodies. Because of the implicit relationship between private interests and the larger government, good corporate governance practices are essential to establishing good governance at the national level in developing countries. A number of ties keep the public and private sectors closely linked. On one hand, judiciary and regulatory bodies as well as legislatures play a role in corporate management and oversight. At the same time cartels and large corporate interests use their size to exert not only economic, but also political power. According to Nicolas Meisel, there are four priorities, which developing countries should concentrate on while experimenting with new forms of corporate and public governance.

Impacts of corporate governance

Firms with good corporate governance tend to conduct less earnings management. There is a size effect for earnings smoothing, that is, large size firms are prone to conduct earnings smoothing, but good corporate governance can mitigate the effect on average. Firms with higher growth (lower earnings yield) are prone to engage in earnings smoothing and earnings aggressiveness, but good corporate governance can mitigate the effect. Finally, firms in stronger anti-director rights countries tend to exhibit stronger earnings smoothing. Boards of large UK companies are devoting more time to the governance of corporate social responsibility (CSR). This is in line with the Combined Code on Corporate Governance's requirement that boards set standards and values for companies and ensure they meet their social obligations. But is board activity in this area as effective as it could be at achieving corporate compliance with CSR standards? This paper draws on the economic literature to offer an analysis of the primary causes of breaches of corporate responsibility standards. The tentative conclusion is that board activity might usefully be reoriented to do more to address the fundamental incentives problems that often cause corporate responsibility failures, namely market failure and misaligned performance management systems.

Independent directors

To evaluate the Chinese government's recent market-orientated efforts to promote good corporate governance, this paper conducts a re-examination of the working mechanics for market competition and other market-based governance mechanisms to ensure good corporate governance. On the contrary, legal sanction is fundamental to good corporate governance, because it is the only feasible way to combat such serious misbehavior and curb illegitimate enrichment. Current experience of corporate governance in China conforms to this finding and poor corporate governance in China is better explained by the lack of credible legal deterrence. The data used in the analyses are collected from the Spanish stock market in 2003. The results show the existence of a non-linear relationship between the managerial stock ownership and the activity of the audit committee. The large firms have more active committees than small firms.

Corporate governance reform

This report focuses on the corporate governance reforms in Malaysia/Asian financial crises. Drawing upon ten in-depth semi-structured interviews conducted with leading players who were highly involved in Malaysia's corporate governance development, together with a review of the literature in this area, the research offers evidence on the meaning of corporate governance in the Malaysian context, the factors behind the recent reforms and views on the appropriate corporate governance system for Malaysia. While it is shown that Malaysia's corporate governance reforms has modeled on the Anglo-American

systems to a large extent, the majority of the interviewees placed greater emphasis on the social aspect of corporate governance in contrast to the traditional notion of shareholder accountability. The main concern raised in the paper is that without changes in the previous problematic corporate culture, the intended purpose of the recent corporate governance reforms will unlikely to be achieved.

Board observation

Although “board process” has been identified as a critical element for future corporate governance research, gaining access to corporate boardrooms is extremely difficult if not virtually impossible for most researchers. This study attempts to address this important issue in the research methodology used to study boards. The study concludes with implications for future corporate governance research.

Negotiating the Minefields of Corporate Vote-Buying

Corporate vote-buying has received significant attention in the last decade, in several legal cases that illustrate the fine line between legitimate use of vote harnessing as a useful corporate strategic tool on one hand, and its negative connotations as a potential instrument of fraud that attempts to disfranchise shareholders on the other hand. Lastly we discuss key principles that a board of directors should bear in mind when engaging in corporate vote-buying, so that it can employ the practice productively and legitimately, keeping in mind

shareholders' best interests and avoiding potentially costly and destructive legal challenges.

Corporate Governance Council

The development of best practice recommendations by the Corporate Governance Council (CGC) of the Australian Stock Exchange in 2003 clearly linked corporate regulators' concerns about good governance to the concept of corporate social and environmental responsibility. This paper reports on the quantity and categories of environmental information disclosed in the corporate annual reports of 41 Australian companies across eight industry groups covering the period 1983-2003. This time period has seen the importance of good corporate governance practice in relation to environmental protection escalate, as demonstrated by the introduction of separate environmental and sustainability reports, the advent of triple bottom line reporting, changes in environmental legislation and the occurrence of major environmental incidents. The results of this study indicate that an increasing number of companies are disclosing environmental information, and the relative volume of such information in annual reports is increasing across all categories.

Value of stock options

It is often argued that Black-Scholes values overstate the subjective value of stock options granted to risk-averse and under-diversified executives. Regression analysis reveals that the equilibrium level of executive compensation

is explained by economic determinant variables such as firm size and growth opportunities, whereas the pay-for-performance sensitivity remains largely unexplained. Firms with larger boards of directors pay higher wages, indicating potentially unresolved agency conflicts.

Behavior of directors and institutional investors:

To understand the evolving perspectives and behavior of directors and institutional investors, field research was conducted in 2004-2005 by way of a survey with corporate directors in four countries (Australia, Canada, New Zealand and the United States; n = 658) and institutional investors in Canada (n = 34). The role of institutional investors also shifted in ways that are complementary to this new role of directors (e.g., toward increased monitoring). While most research has focused on agency concepts of the board as monitors of management, our research suggests that the board is evolving towards a more collaborative role with management, consistent with stewardship theory. Our findings also suggest that directors are seeking a balance between collaboration and their role as monitors of management, rejecting the notion of the board as primarily a monitoring body.

Evaluation of the board

Recent US corporate governance reforms introduced extensive regulations and guidelines for public corporations, particularly corporate boards. Article evaluates the extent to which empirical research on corporate boards and firm performance

supports these reforms. Where board characteristics have been studied, findings obtained limited guidance for policymakers on identifying governance practices that result in more effective firm performance. In an effort to increase the relevance of future research on boards and firm performance, we provide a framework on corporate boards.

Pivotal role of banks

Given the pivotal role of banks in modern economies, the worldwide phenomenon of a high level of bank M&A activity and the consensus view in empirical studies that bank mergers destroy value for acquiring bank shareholders, it is highly surprising that the influence of corporate governance on the outcomes of bank acquisitions has received very little academic scrutiny. The recent wave of consolidation in the financial services industry, with its generally unfavorable wealth implications for the shareholders of acquiring institutions, points to the impact of poor bank governance structures. We summarize emerging evidence from US research which points to a role for sound governance mechanisms such as managerial pay incentives and board composition that may help prevent bank executives from pursuing value-destroying acquisitions.

Information technology plays

Information technology plays a significant role enabling organizations to achieve their objectives. Accordingly, the governance mechanisms over the organizations

IT resources must be in place and operating effectively if the organization is to achieve its objectives. The concern with IT governance is not only evident in the private sector but also in the public sector. This study attempts to examine empirically the individual IT governance mechanisms that influence the overall effectiveness of IT governance in Australian public sector organizations. Using sample data from auditors who currently work in Australian public sector organizations, this study examined the influence of four proposed individual IT governance mechanisms on the overall effectiveness of IT governance. This study found significant positive relationships between the existence of an IT strategy committee and corporate (organizational) communication systems, and the overall level of effective IT governance within Australian public sector organizations.

Governance strategy

Corporate governance (CG) needs to acknowledge the intentional part of governance, where an actor of governance uses the set of corporate governance mechanisms in order to influence the agent to create a performance that will satisfy the interest of the principal. This paper offers a conception of this activity through the concept of governance strategy. It is applied to two empirical organizations seldom investigated in CG research: the organization of multinational corporations in a business group and the organization of a riding school in a democratic not-for-profit association, thereby extending the relevance of the concept from corporate governance to organizational governance. The

empirical analysis indicates the relevance of the conception and suggests further extension through hypotheses of governance strategy related to environmental influence, accessibility of governance mechanisms and momentum of mechanisms.

Analyze corporate law

Recent work in both the theory of the firm and of corporate law has called into question the appropriateness of analyzing corporate law as 'merely' a set of standard form contracts. This report develops these ideas by focusing on property law role in underpinning corporate enterprise. Rights to control assets are a significant mechanism of governance in the firm. At the same time, the legal system uses a range of strategies to minimize the costs such protection imposes on third parties. In the field of global rule setting for responsible business behavior, multi-stakeholder standards have emerged in recent years because of their potential for effective consensus-building, knowledge-sharing and interest representation. Proponents also hold that multi-stakeholder standards could address problems related to other forms of global rule setting for business. This article examines multi-stakeholder standards compared to other collaborative standards adopted in the past decade, and focuses subsequently on the peculiarities of multi-stakeholder standards regarding participation, governance and implementation.

This groundbreaking case merits further examination and, informed by Gramsci's notion of hegemony, reveals the underlying ideological struggle

present in the Nike crisis: a struggle for voice, power, and free corporate speech. Activist voices opposing sweatshops, Nike's defenses, and eventually, the legal decisions of the U.S. court system constituted competing voices in these ideological struggles over what is acceptable or right corporate behavior. This hegemonic struggle influenced standards for international labor, public relations efforts that misrepresent facts, and consideration of corporate public relations as free or commercial speech.

The American exceptionalism thesis holds that American political culture produces an unusually litigious society. We compare data on Christian right involvement in education, abortion, and “right to die” (euthanasia, assisted suicide or mercy killing) cases at the Supreme Court level in both countries.

Part 1 will describe the constitutional provision regarding right to privacy in Brazil.

Part 11 will make the discussion include a brief description of the legal framework the Brazilian Supreme Court has adopted for the legality of criminal electronic evidence. An analysis of the criminalization, by article 10 of Law No 9.296/03, of the interception of telecommunications follows in Part III. Objective: Use of an attorney is associated with reduced likelihood of conviction and, if convicted, in reduced likelihood of jail sentence and reduced jail time, but greater likelihood and magnitude of a fine. Likelihood of conviction and severity of sentences are both determined by extra-legal factors, resulting in inconsistent application of the law. Boycott Nike. Firms “exploiting China”: Activists expose clothing giants' mainland slave-wage sweatshops.

Internal control

According to the COSO Framework, everyone in an organization has responsibility for internal control to some extent. Virtually all employees produce information used in the internal control system or take other actions needed to effect control.

Management: The Chief Executive Officer (the top manager) of the organization has overall responsibility for designing and implementing effective internal control. More than any other individual, the chief executive sets the "tone at the top" that affects integrity and ethics and other factors of a positive control environment. Senior managers, in turn, assign responsibility for establishment of more specific internal control policies and procedures to personnel responsible for the unit's functions.

Board of Directors: Management is accountable to the board of directors, which provides governance, guidance and oversight. Effective board members are objective, capable and inquisitive.

Auditors: The internal auditors and external auditors of the organization also measure the effectiveness of internal control through their efforts. They assess whether the controls are properly designed, implemented and working effectively, and make recommendations on how to improve internal control. There are laws and regulations on internal control related to financial reporting in a number of jurisdictions. Guidance on auditing these controls is specified in PCAOB Auditing Standard No. 5 and SEC guidance, further discussed in SOX 404 top-down risk assessment. Internal control is to provide reasonable assurance that internal controls involved in the financial reporting process are effective, they are tested by the external auditor (the organization's public accountants), who is required to

opine on the internal controls of the company and the reliability of its financial reporting. Internal control can provide reasonable, not absolute, assurance that the objectives of an organization will be met. Effective internal control implies the organization generates reliable financial reporting and substantially complies with the laws and regulations that apply to it. Internal control involves human action, which introduces the possibility of errors in processing or judgment. Internal control can also be overridden by collusion among employees: I therefore, suggest that progress report should be submitted to Chief Executive Office (CEO) periodically by the head of internal control committee.

Labor law

Labor law concerns the inequality of bargaining power between employers and workers. Labor law (also known as employment or labor law) is the body of laws, administrative rulings, and precedents, which address the legal rights of, and restrictions on, working people and their organizations. First, collective labor law relates to the tripartite relationship between employee, employer and union. Second, individual labor law concerns employees' rights at work and through the contract for work. The labor movement has been instrumental in the enacting of laws protecting labor rights in the 19th and 20th centuries. Labor rights have been integral to the social and economic development since the industrial revolution. Labor law arose due to the demands of workers for better conditions, the right to organize, and the simultaneous demands of employers to restrict the powers of workers' many organizations and to keep labor costs low. Employers'

costs can increase due to workers organizing to win higher wages, or by laws imposing costly requirements, such as health and safety or equal opportunities conditions. Workers' organizations, such as trade unions, can also transcend purely industrial disputes, and gain political power - which some employers may oppose. Individual labor law deals with people's rights at work place on their contracts for work.

International Labor Law

The basic feature of labor law in almost every country is that the rights and obligations of the worker and the employer between one another are mediated through the contract of employment between the two. Many terms and conditions of the contract are however implied by legislation or common law, in such a way as to restrict the freedom of people to agree to certain things in order to protect employees, and facilitate a fluid labor market. An employer may not legally offer a contract in which he pays his worker less than a minimum wage. An employee may not for instance agree to a contract, which allows an employer to dismiss him unfairly. There may be law stating the minimum amount that a worker can be paid per hour. Australia, Canada, China, Belgium, France, Greece, Hungary, Ireland, Japan, Korea, Luxemburg, the Netherlands, New Zealand, Portugal, Poland, Romania, Spain, Taiwan, the United Kingdom, the United States and others have laws of this kind. Each country sets its own minimum wage laws and regulations, and while a majority of industrialized countries has a minimum wage, many developing countries have not. Minimum wage laws were first introduced

nationally in the United States in 1938, France in 1950, and in the United Kingdom in 1999. In the European Union, 18 out of 25 member states currently have national minimum wages. After England, Germany was the first European country to pass labor laws, Chancellor Bismarck's main goal being to undermine the Social Democratic Party of Germany (SPD). In order to appease the working class, he enacted a variety of paternalistic social reforms, which became the first type of social security. Accident insurance was provided in 1884, whilst old age pensions and disability insurance were established in 1889. Other laws restricted the employment of women and children. In France, the first labor law was voted in 1841. However, it limited only under-age miners' hours, and it was not until the Third Republic that labor law was effectively enforced, in particular after Waldeck-Rousseau 1884 law legalizing trade unions.

OSHA

The United States Occupational Safety and Health Administration (OSHA) is an agency of the United States Department of Labor. Congress under the Occupational Safety and Health Act, signed by President Richard M. Nixon, on December 29, 1970, created it. Its mission is to prevent work-related injuries, illnesses, and deaths by issuing and enforcing rules, standards, for workplace safety and health. As of March 2006, Assistant Secretary of Labor Edwin Foulke heads the agency. Discrimination against employees is morally unacceptable and illegal, on a variety of grounds, in particular racial discrimination or sexist discrimination.

Conclusion

Corporate governance is a multi-faceted subject. The term corporate governance has come to mean two things. The corporate governance structure specifies the rules and procedures for making decisions on corporate affairs. Parties involved in corporate governance include the regulatory body (e.g. the Chief Executive Officer, the board of directors, management and shareholders). A board of directors often plays a key role in corporate governance. Internal corporate governance controls monitor activities and then take corrective action to accomplish organizational goals. While external corporate governance controls encompass the controls external stakeholders exercise over the organization, systemic problems of corporate governance. Imperfections in the financial reporting process will cause imperfections in the effectiveness of corporate governance. Financial reporting is a crucial element necessary for the corporate governance system to function effectively.

One of the most influential guidelines has been the OECD Principles of Corporate Governance. The OECD remains a proponent of corporate governance principles throughout the world. This paper studies the impacts of corporate governance on earnings management. First, firms with good corporate governance tend to conduct less earnings management. Boards of large UK companies are devoting more time to the governance of corporate social responsibility (CSR). Current experience of corporate governance in China conforms to this finding and poor corporate governance in China is better explained by the lack of credible legal deterrence. My research focuses on the

corporate governance reforms in Malaysia/ Asian financial crises. The study concludes with implications for future corporate governance research. The development of best practice recommendations by the Corporate Governance Council (CGC) of the Australian Stock Exchange in 2003 clearly linked corporate regulators' concerns about good governance to the concept of corporate social and environmental responsibility. Recent US corporate governance reforms introduced extensive regulations and guidelines for public corporations, particularly corporate boards. Corporate governance (CG) needs to acknowledge the intentional part of governance, where an actor of governance uses the set of corporate governance mechanisms in order to influence the agent to create a performance that will satisfy the interest of the principal. Management is accountable to the board of directors, which provides governance, guidance and oversight.

The United States Occupational Safety and Health Administration (OSHA) have a mission to prevent work-related injuries, illnesses, and deaths by issuing and enforcing rules, standards, for workplace safety and health. Discrimination against employees is morally unacceptable and illegal, on a variety of grounds, in particular racial discrimination or sexist discrimination. There must be equal employment opportunity regulation enforcing by labor department.

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