Corporate Goverance

Unit-V

The term 'Corporate Goverance' is not precisely defined any where. There seems to be no single definition that nealtly ties up the term because Corporate Goverance means different things to different people. It is an inter disciplinary subject & interest to people as diverse as law-makers, business people, accountants, economists and even historians.

→ Corporate Goverance is the set of processes, customs, polices, laws and institutions affecting the way a corporation (or company) is directed, administered or controlled.

→ Corporate goverance also includes the relationships among the many stakeholders involved and the goals for which the corporation is governed. The principal stake holders are the stakeholders, the board of directors, employees customers, creditors suppliers and the community at large.

→ Corporate Goverance is not just corporate management it is something much broader to include a fair efficient and transparent administration to meet certain well-defined objectives.

According to Cadbury Committee: " corporate governance is defined as the system by which companies are directed and controlled".

→ Corporate Governance is concerned with holding the balance between economic and social goals and between individual and communal goals.

→ The corporate governance ~~is concerned~~ framework is there to encourage the efficient use of resources and equally for accountability for the stewardship of the resources. The aim is to align as nearly as possible the interest of individuals, corporations and society.

Benefits of Corporate Governance

1. Good corporate governance creates transparent rules and controls, provides guidance to leadership and aligns the interest of shareholders, directors, management and employees.
2. It helps build trust with investors, the community, and public officials.
3. Corporate governance can provide investors and stakeholders with a clear idea of company's direction and business integrity.

3. It promotes long-term financial viability, opportunity and returns.

4. It can facilitate the raising capital

5. Good corporate can translate to rising share price

6. It can lessen the potential for financial loss, waste, risks, and corruption.

7. It is a game plan for resilience and long term capacity success.

In India, a few of the well-governed companies are - Infosys, Housing Development Finance Corporation (HDFC) Hindustan unilever, Wipro, Tata power, Dr. Reddy

Principles of Corporate Governance

The basic objective of corporate goverence is to maximize long-term shareholder value. Therefore, good goverance should address all issues that lead to a value addition for the organisation and service the interest of all stakeholders.

Principles

- Fairness
- Transparency and Disclosure
- Accountability
- Responsibility
- Risk Management
- Independ...

<u>Fairness</u>:- It refers to the <u>manner</u> in which the business conducted without any detriment to the interest of the stakeholders, shareholders, employees and the public as whole. This principle deals with the protection of shareholders' rights, treating all shareholders equally without any personal favouritism and granting redressal for any violations of rights.

<u>Transparency and Disclosure</u>: providing clear information about company's policies, and practices and the decision that affect the rights of the shareholders represents transparency.

→ Corporate Governance ensures timely and accurate disclosure on all material matters. It ensures accurate and full disclosure timely on material matters like financial condition, performance, ownership

→ Transparency means accurate, adequate and timely disclosure of relevant information to the stakeholders. Transparency is access to information by users/ stakeholders / shareholders / public which by way of disclosure should include the following.

1. financial and operating results of the Company.
2. Company's objectives
3. members of the Board
4. Material foreseeable risk factors and
5. Information regarding employees and stakeholders.

3. <u>Accountability</u> :- It is monitoring managerial performance and achieving adequate return for the shareholders by true and fair means by the management body (Board of Directors). It is also a responsibility to implement system designed to ensure that the Corporation obeys laws. It is acting in good faith, with due diligence and care, and in the best interest of the company and its constituents.

4. <u>Responsibility</u>:- Responsibility and accountability go hand in hand, corporate is expected to be a responsible citizen and serve not only the interest of stake holders but also in the best interest of the society.

5. Risk Management :- The board and management must determine risks of all kinds and how best to control them. They must act on those recommendations to manage them.

6. Independence :- Independence means the ability to make decision freely without being unduly influenced. Decisions should be made freely without having any personal interest in the company.

→ Corporate governance suggests the appointment of independent directors and advisors so that decision are taken responsibly without influence.

7. Risk management :-

(1) Topic - III Topic - III Unit - V

Corporate social Responsibility (CSR)

Corporate social Responsibility (CSR) also known as corporate responsibility, corporate citizenship, responsible business, sustainable Responsible Business (SRB) or corporate social performance, is a form of corporate self-regulation integrated into a business model.

→ CSR policy would function as a built-in self-regulating mechanism whereby business would monitor and ensure its support to law, ethical standards and international norms.

Scope of corporate social Responsibility:

The scope of social responsibility is wide and could be considered in terms of different view points some of which are given.

(1) Protecting and promoting shareholders' Interests: Some consider social responsibility in terms of services rendered to claimants or stakeholders, who could be both insider and outsiders. The insiders are employees and shareholders while outsiders include consumers, suppliers, creditors, competitors, government and the general public.

→ consumers expect quality goods and services at fair prices, workers expect fair wages without being exploited, shareholders expect reasonable dividends

and fair return on investments and managers expect challeng[ing]
jobs with attractive salary. Government and the general public
expect them to add to the wealth and welfare of the country
without polluting the environment.

(2) Social Concern and promotion of common welfare programs

social concern and promotion of common welfare
programs for the benefit of the poor and the indigent public.
Companies have highlighted social issues and brought them
to the notice of the public through ~~bo~~ hoarding and other means of
drawing the attention of people to the issue in question and
generate public awareness.

(3) As An Act of philanthropy:- Doing to good to all.

There are others who have ~~view~~ view have social responsibility
as philanthropy. J.R.D Tata in his keynote address at the
~~fron~~ inauguration of the Tata Foundation for Business Ethics some
ten years ago outlined this equation thus "The Tata Industrial
ethos inherited from the ~~general~~ great J. Mshedji himself, tried
to combine high standards and quality production with
sincere concern for ethical values such as fair and
honest management, product quality, human relations in
industry and industrial philanthropy.

(4) Good corporate Goverance itself is a social Responsibility

Some social thinkers even view, in the indian context
that good corporate governance itself is an ingredient of
Corporate social responsibility

(3)

) Corporate in the being & Rendering social service:- Some industrial houses have been promoting activities that supplement the efforts of public authorities in certain areas that are important for all-round human development.

→ The Birlas have been building and Maintaining beautiful and monumental places of worship in several cities in addition to popularizing science through planetoriums.

Eg. Construction of hospitals, schools, Colleges, temples etc.

) Sponsoring social and charitable Causes:- Some entreprene[urs] had not only built industrial empires, but also contributed individually to certain social and Charitable Causes. J.R.D's Contribution to the growth of the indian airlines industry, population-related research, education of the under-privileged etc.

(7) Corporations should supplement State efforts:- There are several areas where corporate can supplement effectively the ever growing welfare activities that the states expected to undertake but do not have the resorces to carry on.

(8) Social Responsibility of Corporate also lies in Abiding by Rules and Regulations:- This view is widely accepted since it facilitates a smooth functioning of business.

(9) Ensuring Ecological Balance:- Several Corporations such as Tata steel, ITC, Srinivasan services Trust of the TVS group have been helping people to harmonize with nature by reducing pollution.

(10) By Focusing on Human Elements:- Social responsibility also a[pp]lies in improving quality of work life, reducing hazard in the workplace

(4)

CSR - Focused business would proactively promote the public interest by encouraging community growth and development, and voluntarily, eliminating practices that harm the public sphere regardless of legality. Essentially CSR is the deliberate inclusion of public interest into corporate decision-making and the honoring of a triple bottom line - people, planet and profit.

→ The practice of CSR is subject to much debate and criticism proponents argue that there is a strong business case for CSR.

Corporate Social Accountability

Accountability today is related to empowerment, participation and control of power.

(1) Assistance ~~to~~ for all handicapped and other advantaged persons
(2) Support to air and water pollution control
3) Service responsibility for products sold to local consumers
(4) Support to artistic and ~~advancement~~ cultural activities
(5) Employment and advancement for the weaker sections of society
(6) Encouraging and advancement for the weaker sections of society.

(5)

Criticism and concerns of CSR

Critics of CSR as well as proponents debate a number of Concerns related to it.

(1) CSR and the Nature of Business:- Some people perceive CSR as incongrument with the very nature and purpose of business, and indeed a hindrance to free trade.

(2) CSR and Questionable motives:- Some critics believe that CSR programs are undertaken by companies such as British American Tobacco (BAT) the petroleum giant BP (well known for its high-profile advertising campaigns on environmental aspects of operations.

(3) Ethical Consumerism:- The rise in popularity of ethical consumerism over the last two decades Can be linked to the rise of CSR. As global population Increases, so does the pressure on limited natural resources required to meet raising consumer demand.

(4) Globalization and Market forces:- As corporations pursue growth through globalization they have encountered new challenges that impose limits to their growth and potential profits.

(5) Social Awarness and Education:- The role among corporate stakeholders is to work collectively to pressure Corporations that are changing.

(6)

(6) Ethics Training:- The rise of ethics training inside corporations, some of it required by government regulation, is another driver credited with changing the behavior and culture of corporations.

7) Laws and Regulations:- Another driver of CSR is the role of independent mediators, particularly the government, in ensuring that corporation are prevented from harming the broader social good, including people and the environment.

(8) Crises and their Consequences:- It takes a crisis to precipitate attentions to CSR one of the most active stands against environmental management.

(9) Stakeholder priorities:- Increasingly, corporations are motivated to become more socially responsible because their most important shareholders expect them to understand and address the social and community issues that are relevant to them.

1. COMPANY'S PHILOSOPHY ON CORPORATE GOVERNANCE

Five-Star Business Finance Limited's (Five Star) philosophy on corporate governance envisages adherence to the highest levels of commitment, integrity, transparency, accountability and fairness, in all areas of its business and in all interactions with its stakeholders. These Guidelines on Corporate Governance are framed in accordance with the requirements laid down in Chapter - XI (Corporate Governance) of Master Direction - Non-Banking Financial Company - Systemically Important Non-Deposit taking Company and Deposit taking Company (Reserve Bank) Directions, 2016 ("RBI Master Directions NBFC, 2016"), the Companies Act, 2013 and the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("SEBI LODR"), to the extent applicable to Five Star.

The Internal Guidelines set the framework to achieve the corporate objectives with utmost transparency and sound disclosure practices.

2. BOARD OF DIRECTORS

The Board of Directors along with its Committees shall provide leadership and guidance to the Company's management and direct, supervise and review the affairs and performance of the Company. As per the Company's Articles of Association, the Board of Directors will comprise of a minimum of 6 (six) Directors and a maximum of 15 (fifteen) Directors. The Board of Directors of the Company shall have at least One-half of the total directors as independent directors including atleast one Woman Director. All the Directors shall make the necessary annual disclosures regarding their directorships and shall intimate changes as and when they take place. The independent directors shall make necessary annual disclosures regarding their independence. The Directors shall abide by the duties prescribed under Section 166 of the Companies Act, 2013.

The Board shall play a key role in ensuring that the Company adopts good corporate governance practices. The Board shall have a formal schedule of matters reserved for its consideration and decision. The Board shall review periodically the Company's compliance with various statutory and regulatory requirements.

The day-to-day operations of the Company shall be looked after by the Managing Director under the guidance of the Board. He will be assisted by KMP with well-defined responsibilities.

Board Meetings

Meetings of the Board of Directors shall be held as per the requirements prescribed under the Secretarial Standards -1 (SS-1) issued by the Institute of Company Secretaries of India and those prescribed under the Companies Act, 2013. The minimum information to be statutorily made available to the Board shall be furnished to the Directors for each meeting of the Board.

3. CODE OF CONDUCT

The Company shall adopt a Code of Conduct for its senior management including the Managing Director and also for its Non-Executive Directors.

4. COMMITTEES OF THE BOARD

To focus effectively on the issues and to ensure expedient resolution of diverse matters, the Board shall constitute a set of Committees with specific terms of reference / scope. The Committees shall operate as empowered agents of the Board as per their terms of reference / scope. The minutes of the meetings of all Committees of the Board shall be placed before the Board for review / noting.

The following committees have been set up with specific terms of reference as approved by the Board:

- **Audit Committee**
  The Audit Committee shall have the same powers, functions and duties as laid down in section 177 of the Companies Act, 2013. The composition of the Audit Committee shall be as prescribed under the Companies Act, 2013 and the SEBI LODR (to the extent applicable) and the Committee shall function as per the terms of reference laid down by the Board of Directors.

- **Nomination & Remuneration Committee**
  The Nomination & Remuneration Committee shall have the same powers, functions and duties as laid down in section 178 of the Companies Act, 2013 to ensure 'fit and proper' status of proposed/ existing directors. The composition of the Nomination & Remuneration Committee shall be as prescribed under the Companies Act, 2013 and the SEBI LODR (to the extent applicable) and the Committee shall function as per the terms of reference laid down by the Board of Directors.

- **Corporate Social Responsibility Committee**
  The composition of the Corporate Social Responsibility Committee shall be as prescribed under the Companies Act, 2013 and the Committee shall function as per the terms of reference laid down by the Board of Directors.

- **Business & Resource Committee**
  The Business & Resource Committee shall function as per the terms of reference laid down by the Board of Directors.

- **Asset Liability Committee**
  The Asset Liability Committee shall be as prescribed under RBI Master Directions NBFC, 2016 and function as per the terms of reference laid down by the Board of Directors.

- **Risk Management Committee**
  The Risk Management Committee shall be as prescribed under RBI Master Directions NBFC, 2016 and SEBI LODR (to the extent applicable) to manage the integrated risk and function as per the terms of reference laid down by the Board of Directors.

- **IT Strategy Committee**
  The IT Strategy Committee shall be as prescribed under RBI Master Direction – Information Technology Framework and function as per the terms of reference laid down by the Board of Directors.

- **Stakeholders Relationship Committee**
  The Stakeholders Relationship Committee shall be as prescribed under the Companies Act, 2013 and SEBI LODR (to the extent applicable) and function as per the terms of reference laid down by the Board of Directors.

Board may from time to time formulate, terminate, the constitution of committees, modify the terms of reference, as per the requirements of rules, regulations applicable to the Company and in accordance with changes to the internal processes adopted by the Company.

5. INDEPENDENT DIRECTORS

The Company shall appoint Independent Directors as per the provisions of the Companies Act, 2013 and in compliance with the SEBI LODR. Independent Directors shall be required to comply with criteria for independence prescribed under Companies Act 2013 & SEBI LODR.

Every Independent Director, at the first meeting of the Board in which he/she participates as a Director and thereafter at the first meeting of the Board in every financial year, shall give a declaration that he/she meets the criteria of independence as required under Section 149 of the Companies Act, 2013.

All Independent Directors shall abide by the Code prescribed in Schedule IV to the Companies Act, 2013.

The Company shall issue a letter of appointment to all Independent Directors and the independent directors should be well aware of the terms and conditions of their appointment.

A separate meeting of the Independent Directors will be held annually in accordance with Schedule IV of the Companies Act, 2013 to:

a) review the performance of non-independent directors and the Board as a whole;

b) review the performance of the Chairperson of the company, taking into account the views of executive directors and non-executive directors;

c) assess the quality, quantity and timeliness of flow of information between the company management and the Board that is necessary for the Board to effectively and reasonably perform their duties.

6. FIT AND PROPER CRITERIA

Five Star has put in place a policy laying down the Fit & Proper Criteria on the lines of the guidelines contained in the RBI Master Directions NBFC, 2016 with the approval of the Board of Directors for ascertaining the fit and proper criteria of the directors at the time of appointment and on a continuing basis.

All Directors shall adhere to the Deed of Covenant signed by them pursuant to the RBI requirements. They shall at all times comply with the "Fit & Proper" criteria prescribed by RBI.

7. DISCLOSURE AND TRANSPARENCY

a) The Board of Directors, shall be updated, as may be required under the Master Direction - Non-Banking Financial Company - Systemically Important Non-Deposit taking Company and Deposit taking Company (Reserve Bank) Directions, 2016 in regard to the following:

- The progress made in putting in place a progressive risk management system and risk management policy and strategy followed.
- Conformity with corporate governance standards viz., in composition of various committees, their role and functions, periodicity of the meetings and compliance with coverage and review functions, etc.

b) The Company shall disclose the following in its Annual Financial Statements / Annual Report:

- registration/ licence/ authorisation, by whatever name called, obtained from other financial sector regulators;
- ratings assigned by credit rating agencies and migration of ratings during the year;
- penalties, if any, levied by any regulator;
- information namely, area, country of operation and joint venture partners with regard to joint ventures and overseas subsidiaries and
- Asset-Liability profile, extent of financing of parent company products, NPAs and movement of NPAs, details of all off-balance sheet exposures, structured products issued by them as also securitization/ assignment transactions and other disclosures.

c) The Managing Director, CEO and CFO, shall make the necessary certifications regarding the Annual Financial Statements, Internal Controls, etc. to the Board as laid down under the Companies Act, 2013 & SEBI LODR (to the extent applicable).

d) A report on Corporate Governance shall be prepared and form part of the Annual Report of the Company.

e) Any other details as may be mandated by any of the statutory regulations including RBI guidelines, Companies Act, SEBI guidelines, etc

8. ROTATION OF PARTNERS OF THE STATUTORY AUDITORS AUDIT FIRM

Five Star shall ensure rotation of the partner/s of the Chartered Accountant firm conducting the audit once in every three years so that same partner does not conduct the audit of the company continuously for more than a period of three years. However, the partner so rotated may be eligible for conducting the audit of the company after an interval of three years, if Five Star so decides. Five Star shall incorporate appropriate terms in the letter of appointment of the firm of auditors and ensure its compliance. Five Star shall also ensure that the Statutory auditors are appointed in accordance with the policy for appointment of Statutory Auditors of the company.

9. COMPLIANCE OFFICER

The Company Secretary shall act as the Compliance Officer of the Company.

10. CHIEF RISK OFFICER ("CRO")

The CRO shall function independently so as to ensure highest standards of risk management with clearly specified role and responsibilities as per the instructions given in RBI Master Directions NBFC, 2016.

The CRO will directly report to the RMC / Board. The CRO shall not have any reporting relationship with the business verticals of the NBFC and shall not be given any business targets. Further, there shall not be any 'dual hatting' i.e. the CRO shall not be given any other responsibility.

The CRO shall be involved in the process of identification, measurement and mitigation of risks. All credit products shall be vetted by the CRO from the angle of inherent and control risks. The CRO's role in deciding credit proposals shall be limited to being an advisor.

11. CHIEF AUDIT OFFICER ("CAO") / HEAD – INTERNAL AUDIT

The CAO / HIA shall be designated as the Chief Audit Executive of the Company and shall be responsible for preparation / updation of the company's audit policies and procedures and ensuring that the company undertakes a risk-based audit approach. His / her roles are detailed in the Risk based Internal Audit Policy of the company.

The CAO shall directly report to the ACB / Board. The Chief Audit Officer shall not have any reporting relationship with the business verticals and shall not assume operational responsibilities and shall not be given any business targets.

The CAO shall be involved in the design of audit processes and procedures, finalising the audit plan for the company, arrange for periodical internal audit in accordance with the audit plan and present the audit findings to the Senior Management and ACB.

(1) Topic-IV Unit-V

Stakeholders

Introduction:- Business can succeed only if it maintains good relationships with all their stakeholders. These relationships can be strengthened if organizations fulfill their obligations towards the stakeholders. The stakeholders of an organization are all these who participate in some way in the activities of the organization.

According to Foreman and Reed stakeholders may be

(1) Any group of people who have a stake in the business.
(2) Those who are vital to the survival and success of the organization.
(3) Any group that is affected by the activities of the organization

Types of shareholders

Based on their relationship with the organization, stake can be categorized as

Stakeholders

- Internal stakeholders
  - Shareholders
  - Employees
  - Management
- External stakeholders
  - Consumers
  - Suppliers
  - Creditors
  - Competitors
  - Community.

Internal stakeholders (2): Any decision taken by the Management has a direct impact on them.

1. Shareholders :- shareholders to be the "owners" of the corporation. Most corporations owe their primary responsibility to their shareholders.

→ Most of organizations aim at maximizing shareholders value. To achieve this organisation lay more emphasis on the meaning of ownership. Ownership implies shareholders rights and responsibilities with respect to specific property.

Share holders' Responsibility :- According to the U.K Institutional shareholders Committee (ISC) shareholders are the true proprietors of a Company. As owners of the Company they have certain ~~objectives~~ obligations towards the organization which include

1) Maintaining good relationship with top management
2) Exercising their voting rights
3) Similarly, the organization must honor the trust of the shareholders. Therefore, the responsibilities towards the shareholders are;

(A) Managing the Company efficiently in order to receive a fair and competitive return on the owners investment.

(B) Disclosing relevant information to shareholders subject only to legal requirements and competitive constraints

C) Conserving, protecting, and increasing the shareholders' assets and

D) Respecting the shareholders requests, suggestions, complaints and formal solutions.

(2) Employees:- A legal contract of employment governs the relationship between the organization and the employee.

Responsibilities of Employees and Employers:-

Both business and the employees have certain responsibilities towards each other. The scope of these responsibilities is determined by the nature of employment. Usually, the permanent employees of an organization

Responsibilities of the organization towards the competent employees

1. To provide adequate compensation
2. To provide working condition that respect each employee's health and dignity
3. To be honest in communications with employees and open in sharing information
4. To listen to and, where possible act on employee suggestions, ideas, requests and complaints
5. To engage in negotiation when conflict arises
6. To avoid discriminatory practices and guarantee equal treatment and opportunity regardless of gender, age, race and religion

(7) To protect employees from avoidable injury and illness in the workplace and

(8) To encourage and assist employees in developing skills and knowledge that is required for accomplishing the task.

(3) Management :- Any decision taken by the management has an important on the stakeholders. On one hand, management's stakes are like that of employees, with some kind of explicit or implicit employment contract.

→ According to the stakeholder theory, an organization should not give preferential treatment to any stakeholder group over other. Therefore, the task of the management is to keep the relationship among stakeholders in balance. When these relationships become imbalanced the survival of the firm is in jeopardy.

External stakeholders

These are individual and group who have some claim on the company. These are as follows:

(1) Consumers (2) Suppliers (3) Creditors (4) Competitors
(5) ~~Com~~ Community.

(1) Consumers :- Consumers/Customers exchange resource for the products of the firms and in return receive the benefits of the product.

The Responsibilities of business corporation towards their consumers are to be taken up by the five 'R's.

1) Right Quality
2) Right Quantity
3) Right time
4) Right place
5) Right price

A few of these responsibilities are

1) producing goods according to the specific needs of consumers, their purchasing power
2) offering quality goods at reasonable prices.
3) providing prompt and adequate service to consumers
4) Improving the standard of living by producing goods and services of high quality.
5) Treating customers fairly in all aspects of business transactions
6) Ensuring the health and safety of customers.

Customer's satisfaction is essential for the success of a corporation. customers increase sales of a product by spreading positive 'word-of-mouth' about the company, product, or a brand.

2. Suppliers :- suppliers play a pivotal role in the success of any business since raw materials they supply will determine the final product's quality and price.

donation, educational and cultural.

A Company's relationship with suppliers and sub-contractors must be based on mutual respect. When dealing with the suppliers, organization must

1) seek fairness and truthfulness in all activities, including pricing and licensing

2) pay suppliers on time and in accordance with agreed terms of trade ~~act~~ and

3) Share information with suppliers and integrate them in the planning process.

(3) Creditors :- Creditors play an important role in organization. organization buy goods on Credit from suppliers.

→ organization often delay in repaying the Credit to the Creditors. The late payment of Creditors has become a Common problem all over the world.

(4) Competitors :- Business entities are equally obliged to other business firms as they are towards stakeholder.

→ Fair economic Competition is one of the basic requirements for increasing the wealth of nations. Therefore, the responsibilities of the organization towards the Competitors are.

(1) Foster open market for trade and investment

(2) promote Competitive behaviour that is socially and environmentally beneficial and demonstrates mutual respect among competitors.

3) Refrain from either seeking or participating in questionable payments or favors to ensure competitive advantage.

4) Respect both intangible and intellectual property rights, and

5) Refuse to acquire commercial information by dishonest or unethical means such as industrial espionage.

5. Community:-

The community gives the business the right to build or rent facilities, benefit from the tax revenues raised in the form of local services, infrastructure etc.

A firm's responsibility towards the society include

1) Respecting human rights and Democratic institutions

2) Supporting public policies and practices that promote human development through harmonious relations between business and other segments of society

3) Collaborating with ~~to~~ such activities that aim at improving the standards of health, education, workplace safety, and economic well-being.

4) Promoting and stimulating sustainable development and playing a leading role in ~~of~~ preserving and enhancing the physical environment and conserving the earth's resources.

5) Supporting peace, security, diversity, and social integration. respecting and integrity of local cultures and. encouraging ~~charitable donations~~ donations, educational and cultural.

Unit - V, Topic - V Unit - II

DISASTER

A disaster is a sudden, calamitous event that seriously disrupts the functioning of a community or society and causes human, material, and economic or environmental losses that exceed the community's or society's ability to cope using its own resources. Though often caused by nature, disasters can have human origins.

Corporate Disasters In India

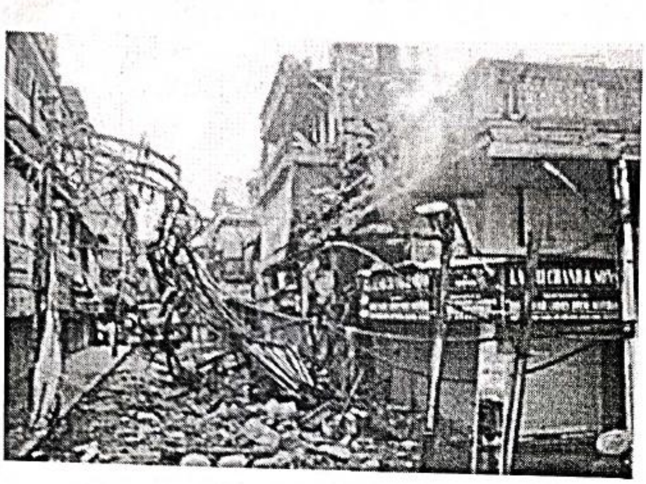
1. Union Carbide Gas Leak

The gas leak from the Union Carbide plant in 1984 is a catastrophe that has popularly (and ominously) come to be known as the Bhopal Gas Tragedy. Forty tons of toxic gas accidentally leaked from Union Carbide's Bhopal plant, which was carried by the wind to far reaching areas of Bhopal. [3] Bhopal residents awoke to clouds of suffocating gas and ran desperately through the dark streets looking for help. The few who could make it arrived in hospitals with severe breathing problems and blurry vision, while many died before they could get any help. [4] The health care system was suddenly inundated with patients, and the authorities scrambled to make sense of what had happened. The doctors in severely affected regions, predominantly low-income areas, were mostly underqualified and did not have the resources to cope with such a disaster.[5] Hospitals and clinics were terribly understaffed and unprepared for the influx of thousands of victims in the span of a few hours. By sunrise, the destruction was abundantly visible. The dead bodies of humans and animals blocked the streets, and a faint scent of the toxic fumes still lingered in the air.

Mass cremations and funerals were done over the next couple of days, and many bodies were dumped into the Narmada River, as Bhopal's disposal system was stretched to its limit.[6] Close to 200,000 people were being treated in Bhopal's hospitals, with scant food and medical resources. Thousands of animal carcasses were buried, and the surviving livestock and foliage in the vicinity became barren. [7] Estimates vary on the death toll. Approximately 3,800 people are said to have died immediately, and more than 15,000 died over time from gas-related injuries.[8] Over 500,000 people were ultimately affected by the gas leak, that caused various temporary injuries, as well as permanently damaging ones. Survivors suffered from gastro-intestinal, neurological, and reproductive disorders. The effects of the gas poisoning were seen in newborn babies of pregnant mothers at the time of the incident.[9] Thirty years later, the effects of the poisoning are still visible in the progeny of those affected directly by the gas.[10]

Union Carbide Corporation, the parent company of UCIL based in the United States, immediately tried to dissociate itself from the disaster. UCC originally claimed that since the pesticide plant in Bhopal was wholly managed by its Indian subsidiary UCIL, they were not culpable for the leak.[11] UCC even went as far as arguing that sabotage by former employees was involved – a claim that has been proven false by various independent investigators.[12] Finally, at the insistence of the Indian Supreme Court, UCC accepted responsibility and paid $

470 million to the Indian government which would be distributed to the victims as settlement. Ultimately, the families of the dead were compensated with approximately $ 2,200. [13]



2. Uphaar Cinema Fire

One of the country's greatest fire disasters in recent times, the Uphaar fire case is generally acknowledged as having brought radical change in civil compensation regulation in India. A fire in the cinema hall in New Delhi on June 13, 1997 resulted in 59 cinema-goers suffocating to death and more than a 100 people getting injured in the stampede that followed as they tried to escape.[14] The fire was sparked by a transformer blast in an underground parking space beneath the building housing the cinema. It spread through the parking space, which had more parked cars than the officially admissible number, and quickly spread through the building. The movie goers who tried to escape found the exit doors locked and eventually died of asphyxia. [15]

The victims' families united to form 'The Association of Victims of Uphaar Fire Tragedy' (AVUT) demanding punishment for the owners of Uphaar Cinema and filed a civil compensation suit.[16] The subsequent enquiry done by the Central Bureau of Investigation (CBI) and other independent organizations brought to light severe fire code violations in the cinema house which led to the disaster. The absence of a public announcement system, exit lights and emergency lights, and blocked passageways (due to the illegal addition of seats in the hall) and locked doors were found to be key causes of the destruction.[17] The transformer installed and maintained by the Delhi Vidyut Board (DVB) which started the fire also displayed serious code violations, including the absence of an insulator and fire extinguisher. The transformer did not undergo periodic maintenance. [18] The AVUT sought, and won the case against Sushil and Gopal Ansal – the owners of the cinema hall, and the Delhi Vidyut Board.

On November 20, 2007 the final verdict on the case was released and 12 people including the Ansal brothers and officials from the DVB were convicted of causing death by negligence.[19] Gopal and Sushil Ansal were sentenced to two years imprisonment and fined 1000 rupees ($20) each for violating Section 14 of the Cinematography Act. The DVB officials, cinema gatekeeper and former Uphaar managers were sentenced to seven years in prison and paid fines of 5000 rupees each (approximately $100).[20] In 2011 however, the Supreme Court reduced the promised compensation to the victims' families by nearly half from the original amount of 25 crore rupees (nearly $6.1 million). [21]

3. AMRI Hospital Fire

18 2011

Despite the history, fire safety is not considered of primary importance in India, and recent events prove the inattention. In the early morning of December 9, 2011, a fire in the basement of the Advanced Medical Reseach Institute (AMRI), a private hospital in Kolkata caused the deaths of 95 people including patients and staff.[22] The fire was allegedly caused by negligence, as medical waste and chemicals inappropriately stored in the basement caught fire after a short circuit in the electric system.[23] A First Information Report (FIR) was filed against the hospital and its license was revoked. The owners of the hospital RS Goenka, SK Todi and other directors were taken into police custody on the charge of culpable homicide.[24] The hospital later announced a compensation of 5 lakh rupees (approximately $8,300) for the kin of each of the deceased. [25]

Not a month after the incident, the Federation of Indian Chambers of Commerce and Industry (FICCI) came to the defense of the arrested AMRI Board members. It urged the West Bengal government to release the directors who were not responsible in "day to day operations", in order to appease investors. This FICCI action caused great public outrage.[26] The Chief Minister of West Bengal, Mamata Banerjee rejected the request. The city court followed the Chief Minister's decision with a rejection of the bail plea by the accused. The hospital was partially reopened on December 30, 2013, and became fully functional in July 2014.[27]

*Lessons not Learned: The Aftermath of **Corporate Negligence***

Corporate negligence is a term used when a company breaches legal norms and regulations resulting in damage to a third party. Moreover, the concept of vicarious liability holds liable not only the person who committed the negligent act, but the company itself and its directors. Of all the 'man-made' disasters that have occurred in India, corporate negligence has probably caused most of them – and the Bhopal Disaster, the Uphaar fire and AMRI Hospital fire are not exceptions.

In November 1984, most of the safety systems in the Union Carbide plant in Bhopal were not functioning or in poor condition. Additionally, a major issue was the tank of methyl isocyanate contained 42 tons of the chemical – more than safety rules permitted.[28] The general consensus is the disaster was caused by a combination of badly maintained facilities, an undertrained staff, and a careless attitude towards safety. This mix culminated in procedures that allowed water to enter the MIC tanks creating a reaction that led to the gas leak. According to the operators, the MIC tank pressure gauge had been malfunctioning for roughly a week and had not been repaired.[29] The faulty pressure gauge could have led to the build-up inside the tank that contributed to the intensity of the gas leak.

Faulty equipment aside, the plant's safety features were nearly non-existent. Those that did exist were in sub-par conditions. Four of the five vent gas scrubbers used to treat MIC were not operational, and the tank alarms had been out of service for over four years before the incident.[30] UCC admitted in their report that most of the available safety features were not operational on the night of the leak. Furthermore, past safety audits revealed approximately 61 hazards in the methyl isocyanate plants in Bhopal and substandard worker performance.[31] While some of the hazards were temporarily fixed in 1982, conditions had deteriorated again by 1984. Investigations also revealed the plant had no emergency action plans to deal with such disasters. UCIL and UCC were clearly guilty of knowingly disregarding potential hazards and chose to skirt legal safety measures to save money, thereby putting their workers' and nearby residents' lives in danger.

Since the incident, UCC has attempted to manipulate and withhold scientific information that can be of use to the victims. Thirty years later, the company has not released an official statement disclosing the exact composition of the gas cloud that caused so much devastation that night.[32] Moreover, UCC's withdrawal of their original statement recommending the use of sodium thiosulfate for treating victims has prompted discussion that it tried to cover up the evidence of hydrogen cyanide in the gas leak.[33] These actions on the part of the UCC display corporate negligence and deliberate malfeasance after the fact.

The fire in the Uphaar cinema hall escalated due to negligence of the cinema owners as well as the DVB officials. Had certain safety procedures been in place, and standard procedures been followed, the fire would not have caused destruction of the magnitude it did. Firstly, the DVB officials who installed the transformer that sparked the fire displayed serious negligence by not insulating the transformer from the surrounding area, and not periodically looking after its maintenance.[34] Secondly, the cinema hall had various safety breaches that led to the deaths of 59 people. The addition of unauthorized seats in the hall to make a few extra bucks caused the pathways to become very narrow, hindering safe exit. Against standard procedures, the exit doors were locked. Serious violations in the Uphaar hall had been reported 14 years prior to the incident, yet none had been corrected.[35]

The AMRI Hospital fire of 2011 again displayed a gross violation of standard safety protocols. The corporate negligence argument holds true for this case because all health-care facilities are responsible for the well-being of their patients and staff. Any hospital that fails to maintain a safe environment, hire competent employees and oversee safety procedures is liable for any damages that occur. There are strict procedures and guidelines about the safe disposal of medical and chemical waste at health care institutions. These procedures were evidently disregarded in AMRI, causing the fire to spread. Had the flammable medical waste been disposed in a safe manner, the fire would not have spread to such magnitude.

Clearly, corporate negligence is a way of life in many Indian companies. The lack of strict laws, a lackluster attitude towards safety, and perhaps most importantly, corruption and cost-cutting actions of companies increase the threat of such disasters occurring. To save money, many companies in India invariably end up compromising on safety. The mild punishments meted out to offenders do little to deter other companies from improving safety.

Punishment and Compensation: Too Little, too Late?

The judicial system rarely acts as a deterrent against crime in India as there is little punishment involved in most cases. Most companies, especially high profile ones, tend to get away with almost no punishment for breaking the law. Ironically the victims suffer the wrath of the judicial system, if unintentionally. The Bhopal Gas Tragedy is the poster child for big companies and powerful people avoiding consequences for their wrong doings in India. Although employees of UCIL were convicted in 2010 of causing death by negligence, this verdict came too late to be considered an appropriate punishment. Moreover, the guilty, including the Chairman of UCIL at the time, were sentenced to a mere two years in prison with a petty fine of $2000 each.[36] After a long wait of 16 years, such a humiliatingly small sentence does not offer justice to the victims and their families. Warren Anderson, the Chairman of the UCC, fled to the United States and refused to come back to India for the case of manslaughter pending against him. He has been free living in his three homes in New York, Connecticut and Florida since Bhopal.[37] Anderson died on September 29, 2014 in a Florida nursing home at the age of 92.

The Uphaar fire case too, is evidence of the inefficiencies of the Indian judicial system. The final verdict convicting the Ansal brothers and the other guilty parties came out 10 years later, in November 2007. The Ansal brothers both received an inadequate prison time of two years.[38]

If unsatisfactory punishments are not humiliating enough for victims, the compensation they are promised (and sometimes never even provided) more than make up for the shortfall. The victims of the Bhopal gas disaster were awarded only $2,200 each as compensation. Although the $470 million UCC paid as compensation was greater than those paid by their Indian counterparts, it was still a meagre sum compared to the $3.3 billion they were previously asked to pay but refused.[39] UCC was insured for, and worth more than US $10 billion at the time, and a payment of $472 million to be divided among more than 500,000 people was shameful.[40] The Ansal brothers and the DVB too, were originally supposed to pay the victims of the Uphaar fire close to $6.1 million collectively, which was eventually halved by the Supreme Court.[41] Obviously, the compensation that eventually reaches the aggrieved is either too little to make any difference, or too late, and sometimes both. While preventing these disasters from happening is another issue, the least that can be done to mitigate the damage and suffering is to fairly and speedily compensate victims.