

EUROPEAN CORPORATE GOVERNANCE SYSTEMS: A SURVEY OF LITERATURE

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ABSTRACT

This paper examined the corporate governance systems of selected European countries, based on the German's stakeholder model to see if it offers shareholders better deal particularly after the Enron and WorldCom affairs in 2001 and the Global banking and financial meltdown of 2009-2011. The Anglo-American system of corporate governance is based on profit maximisation which claims to protect the interests of shareholders who are the owners of the corporation through share ownership. Whereas, the German model which is seen as the stakeholder's system considers that corporations are run for the benefits of its stakeholders who contribute to the achievements of the corporation. There are persuasive arguments for and against each model. An assessment of the corporate governance systems of four European countries found that there is no "one-size-fits-all" regarding corporate governance practices of these countries. As each country's corporate governance system is underpinned by some factors relevant to that country such as law, regulation, types of business organisations and ownership structures. The study further shows that the increased globalisation of business has so far not resulted in global corporate governance systems. If corporate governance regulation is to comb or limit unethical practices of some of the global businesses, then there is a good argument for global corporate governance system

Keywords: Corporate Governance, Shareholder Theory, Stakeholder Theory, Regulation, Anglo-American corporate governance system, The European Corporate governance System.

INTRODUCTION

Is the European Corporate Governance System more favourable than the Anglo-American corporate governance system in the light of the Enron and WorldCom corporate collapsed in 2001 and the global banking and financial meltdown of 2009-2011? In protecting shareholders' long-term interest or has the Higgs Reports in the (UK) and the Sarbanes-Oxley SOX Act in (US) saved the day until another corporate failure. Following the collapse of Enron and WorldCom both the UK and US corporate governance regulators acted immediately by updating the Combined Code with the Higgs Report (2003) and Smith Report (2003) both in the UK and introduction of Sarbanes-Oxley Act (2002) in the US to restore confidence in the Anglo-American Corporate Governance System. However, as the Global Banking and Financial meltdown of 2009-2011 indicted there are still limitations of Anglo-American Corporate Governance System of the Shareholdership model in combing unethical practices of big International Corporations and Global Financial Institutions. So will the German corporate governance system of Stakeholdership model offer or restore investors confident in the World business and financial market?

The Stakeholdership Model claims that corporate governance is about directors and managements managing for stakeholders which involved attention to more than merely maximising shareholders' wealth. Phillips (2003) argued that Stakeholdership involve a theory of organisational management and ethics, which was distinct because it addressed morals and values as specific central features of organisational management. He also pointed out that: "Managing for stakeholders involved attention to more than simply maximising shareholder wealth. Attention to the interests and well-being of those who can assist or hinder the achievements of organisation's objectives is the central admonition of the theory" (ibid, p. 16). Freeman (1984: 25) stated, "a stakeholder in an organisation is any group or individual who can affect or is affected by the achievement of the organisation's objectives".

Whereas the *Shareholdership Model* claims that corporate governance is about two things - accountability and communication - Accountability is about how those entrusted with the day-to-day management of company's affairs are held to account to shareholders and other providers of finance. The second aspect is how the company communicates that accountability to the broader world: to shareholders; to potential investors; to

employees; to regulators; and to other groups with a legitimate interest in its affairs. (PricewaterhouseCoopers 2002).

CONCEPTUAL LITERATURE

Corporate Governance is an area that has been growing steadily in importance in the last decade. The Cadbury Report of 1992 in the UK laid the foundations of corporate governance not just in the UK, but also in countries all over the world and some of them have incorporated its main principles into their corporate governance codes. Corporate governance aims to ensure that the boards of directors do their jobs correctly. It is a guideline that directs the boards and management through the best way of utilising the assets of the company to increase the returns on shareholders wealth. The Cadbury Reports (1992) defined corporate governance as

“The system by which companies are directed and controlled, boards of directors are responsible for the governance of their companies, the shareholders’ role in governance is to appoint the directors and the auditors and to satisfy themselves that an appropriate governance structure is in place in the organisation. The responsibilities of the board include setting the company’s strategic aims, providing leadership to put them into effect, supervising the management of the business and reporting to shareholders on their stewardship. The board’s actions are subject to laws, regulations and the shareholders in general meetings,” (p. 5).

The responsibilities of the Board of Directors include setting company's strategic aims, providing the leadership to put them into effect, supervising the management of the business and reporting to the shareholders on their stewardship. The boards’ actions are subject to laws, regulations and shareholders in general meetings. The idea of shareholder theory took off from the Nobel Prize Economist Friedman (1970) with his view, (which is the classical view of the corporation) when he said that:

“There is one and only one social responsibility of business - to use its resources to engage in activities designed to increase its profits as long as it stays within the rule of the game, which is to say, engages in open and free competition, without deception or fraud” (p. 7).

It may be argued that this view is centred on '*Capitalist*' system, which can be defined as an economic system combining the private ownership of productive enterprises with competition between them in the pursuit of profit. The advantage of this formulation is that it picks out the three aspects which are accepted as defining features of the system. These are *private ownership, competition and the profit motive*. In theory, in a capitalist system, there is minimal government intervention in the running of the economy. This was so during the 1980s when capitalist countries such as UK, US, and some European countries started selling their states' owned organisations to private business which created millions of shareholders then and most developing countries followed suit. However, as to what presently goes on in capitalist countries in practice there is often a great deal of government intervention in the running of the economy, and it is probably always more than any possible minimum. Most importantly, there is macroeconomic management through government manipulation of interest rates, tax rates, public expenditure, and public borrowing. Also, there is frequently a more direct kind of government economic intervention through the offering of tax incentives, subsidies, state aids for ailing industries, government rescue packages for bankrupt businesses, and in many cases, a degree of state ownership of companies. In the 1980s, we saw a decline in this kind of direct intervention with a strong trend towards policies of *deregulation* and *privatisation* in many capitalist countries - most notably in the UK and US. Nonetheless, direct intervention by governments remains a consideration feature of capitalist economies. In any case, the kind of indirect intervention represented by government macroeconomic management remains substantially intact and seems to be a permanent part of any modern capitalist economy (Chryssides and Kaler, 1999).

The alternative stakeholder model of corporate governance has not been able to provide the answers to the short-comings of the shareholder theory. There are many reasons why this is so some of which are that companies are being run and managed by the same systems based on shareholder theory which claims that shareholders who contributed the capital (shares) own the organisation in which they invested their money. They share all the profits when the organisation is doing well and bear the losses in times of severe business. This is done after all the other stakeholders groups of the company have taken their rewards, employees, paid by wages, suppliers paid by cash or credits, top management by

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remuneration, - including cash, and share options, and the government by taxes, leaving the shareholders to pick up whatever is left, which may be profits or losses. Since this system is right, in practice there are the problems that it does not benefit everyone, which include the stakeholders listed above, and add the shareholders as well. In these modern business environments, the role of companies should not be based on shareholders' wealth alone. It is argued that companies should take the interests of the entire stakeholders within them into consideration when setting their business objectives. Corporate governance also refers to the procedures and instruments that the owners and interest groups of a company use to influence and monitor management decisions and processes. There are several models as to how corporate governance can be implemented. It is widely regarded as the evaluation of the performance of the executive directors of the company by, or for the company's stakeholders' groups.

CORPORATE GOVERNANCE SYSTEM IN UK

Corporate governance in the UK is regulated by Company Law and by codes of corporate governance such as The Combined Code (CC) and The OECD Principles. The UK is seen internationally as the birthplace and frontrunner of modern corporate governance. In the UK, although compliance with company law is obligatory, accordance with best practice codes of corporate governance such as the Combined Code is voluntary, and companies listed on the London Stock Exchange must either comply with the code or else, explain any instance of non-compliance in their Annual Report. The rationale for this self-regulatory process is that good corporate governance brings benefits to companies regarding engendering the trust of investors and improving organisational performance. Firms will, therefore, find it in their own best interests to comply with the code unless there is a good reason not to do so which can be explained to shareholders in the company's statement of compliance. Since the Combined Code was first introduced in 1998, the degree of compliance as measured by the proportion of companies adopting best practice has increased tremendously and represented an improvement in governance standards. (Miche and Oughton, 2005). A company that has not complied with the Code provisions or complied with only some of the Code provisions or (in the case of regulations whose requirements are of a continuing nature) complied for only part of an accounting period must specify the Code provisions with which it has not complied. The company was also required where relevant to state what period such non-

compliance continued and gave reasons for any non-compliance. The statement required in paragraph (i) is referred to as the "*appliance*" statement while the statement required in paragraph (ii) is termed the "*compliance*" statement. The Listing Rules require not just disclosure that has or has not been complied with, but a reasoned explanation of non-compliance in respect of each instance of non-compliance. This approach forms the basis of the "*comply or explain*" principle because without adequate explanation in the event of non-compliance there can be no possibility of the market evaluating whether it is justified. However, it can be asked why disclosure should be regarded as the best way to pursue this objective particularly when there is already a well-developed body of law (in the form of fiduciary duty) that has as one of its primary objectives controlling the (inevitable) "principal-agent" conflicts that arise in companies. One answer that can be given to this is that fiduciary duty while appearing reported cases to be a strictly formulated duty, is essentially an *ex-post* standard. This is applied by courts to assess the conduct of directors and others who may find themselves in circumstances in which their interest conflicts with that of their company (Hansmann and Kraakman, 2004). According to the authors:

"The essence of any ex-post standard is that its precise content in any given circumstances remains subject to some uncertainty until there has been an adjudication. By way of contrast, the relatively precise requirements of the Combined Code can be considered an example of ex-ante rules. They attempt to control "principal-agent" issues ex-ante by creating board structures and procedures that will minimise the likelihood of any question of breach of fiduciary duty arising. Like rules, they are more precise than the more broadly formulated standard of fiduciary duty (albeit narrower in scope), with the result that they direct companies and directors more clearly towards compliant conduct." (p. 22-29)

The role of Capital Market in assessing the adequacy of a company's corporate governance practices is where "comply or explain" principle is based. On the assumption that the market will monitor compliance with a code and will either (a) Penalise non-compliance through lowering share prices (Easterbrook and Fischel 1967) or (b) Accept (for whatever reason) that non-compliance is justified in the circumstances (Anand, 2005). Companies have an incentive to comply because the code (at least

in the United Kingdom) represents the view of institutional investors as to best practice and therefore the onus is on a non-compliant company to justify its position. A decision to comply is likely to carry benefits for a company's share price (Mallin, 2000 and Jelic). A decision not to comply will reflect both the cost (in the broad sense) associated with compliance as well as the credibility of the sanctions that are likely to be imposed. A high cost of compliance may well create an expectation within a company that investors may not be happy.

THE OECD PRINCIPLES OF CORPORATE GOVERNANCE

The Organisation for Economic Co-operation and Development (OECD 1999) developed its principles of corporate governance along the line of the Cadbury Report (1992). The OECD principle defined corporate governance as; “That structure of relationships and corresponding responsibilities among a core group consisting of shareholders, board members and managers designed to best foster the competitive performance required to achieve the corporation’s primary objective” (IMF, 2001:10). The OECD definition attempted to describe corporate governance in the broadest terms to embrace as many different forms of corporate governance systems as possible. The principles and code of impact have been substantial, and many countries have used them as a reference point for self-assessment and for developing their codes of best practice on corporate governance. In 1999, ministers representing the 29 countries in the OECD voted unanimously to endorse the OECD principles (Monks and Minow, 2001). The World Bank has researched many countries around the world to assess the extent to which they have complied with the OECD principles and found that over 90% of the countries incorporated the OECD principles into their corporate governance codes. (Nwanji and Howell, 2007).

Both the traditional Anglo-American model of corporate governance and the OECD principle of corporate governance are based on the shareholder's theory and the *price mechanism*. It claims that the shareholder is the owners of the company because they contributed the capital of the business (owning the company’s shares) and bore all the risks. It is a set of relationships between a company’s board, its shareholders and other stakeholders. It also provides the structure through which the objectives of the company are set, and the means of attaining those objectives, and for monitoring performances of the company (OECD, 1999 and 2004). However, the shareholder model of

corporate governance is not the only model that could be adopted by organisations. Following the Enron and WorldCom affairs in 2001 in the US, corporate governance has gained a much higher profile and is now a frequent topic in the financial press and academic research. The corporate governance debates have been about the workings and management of corporate affairs by directors as heads of their corporations and the reporting and accountability of their stewardship to the owners of the corporation, (the shareholders).

CORPORATE GOVERNANCE SYSTEM IN GERMANY

In continental Europe different methods to the *unitary approach* to governance flourish. In Germany companies have a multi-structured board system:

- a) An *executive board* which is appointed by the *shareholders* to run the company.
- b) The *Supervisory Board* includes employees, bankers, creditors and
- c) *The Advisory Board* which consists of independent experts brought in to provide technical expertise.

The German corporate governance system is based on the Stakeholdership model which states that corporate governance is about protecting the interests of stakeholders of the company. Charkham (1994) stated that if there were a spectrum with confrontation at one end and co-operation at the other, we would confidently place German attitudes and behaviour far closer to the co-operation end than, say, those of British or Americans. This is an essential statement in the context of understanding the philosophy of the German approach to business and to companies whereby the shareholders are but one of a more comprehensive set of stakeholder interest with the employees and customers being given more emphasis. Charkham (1994, p.12) finds this approach evidenced in the industrial relations of German companies; he states “good industrial relations ... would not be prominent in works on corporate governance systems in most countries, or at best would be regarded as peripheral. In Germany, however, good industrial relations are much nearer centre stage”. This is evidenced by the Work Constitution Act (1972) which sets out the rights of the works council which broadly speaking deals with all matters about the employees’ conditions of employment. Works councils are part of the co-operative process between workers and employers, the idea being that co-

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determination (the right to be kept informed about the company's activities and to participate in decisions that may affect the workers) means that there is a basis for more trust and co-operation between workforce and employers. The business structure in Germany is detailed in Wymeersch (1998) where he identifies the most-used business types in the various Continental European States. In Germany, as far as the larger business entities are concerned, the business types tend to be either public (*Aktiengesellschaft, AG*) or private companies limited by shares (*Gesellschaft mit beschränkter Haftung, GmbH*). However, he identifies a hybrid which is also used in Germany - unincorporated *Kommanditgesellschaft* and the limited liability of *GmbH*.

In Germany, as in many Continental European countries, and the UK, there is a trend away from individual share ownership. The most influential shareholders are Financial Institutions and non-financial companies, and there are significant cross-holdings which mean that when analysing share ownership and control in Germany, one needs to look also at the links between companies. Banks, and especially a few large banks, play a central role in German corporate governance with representation on the supervisory boards of companies and links with other companies. Researchers identify some reasons as to why banks are influential in Germany. First, there is direct ownership of company shares by banks. Secondly, German shareholders lodge their shares with banks authorised to carry out their voting instructions (deposited share voting right, or DSVR). Thirdly, banks tend to lend to the long-term and hence develop a long-term relationship with the company (relationship lending); fourthly, banks offer a wide range of services that the company may find it useful to draw upon. (Charkham 1994; Howell 2004; Nwanji and Howell 2007). Given these factors, banks tend to build up a longer term deeper relationship with companies, and their expertise is welcomed on the supervisory boards. Hence the German corporate governance system could be termed an 'insider' system. A more detailed and comprehensive analysis provided in Prigge (1998).

DUAL BOARD SYSTEM

The German corporate governance system is based on a dual board system, and mostly the dual board system comprises a management board (*Vorstand*) and a supervisory board (*Aufsichtsrat*). The management board is responsible for managing the enterprise. Its members are jointly accountable for the management of the enterprise

and the chairman of the management board co-ordinates the work of the management board. On the other hand, the supervisory board appoints, supervises, and advises the members of the management board and is directly involved in decisions of fundamental importance to the enterprise. The chairman of the supervisory board co-ordinates the work of the supervisory board. The shareholders elect the members of the supervisory board in general meetings. The co-determination principle provides for compulsory employees representation. So, for firms or companies which have more than 500 or 2,000 employees in Germany, employees are also represented in the supervisory board which then comprises one-third employee representative or one-half employee representative respectively. The representatives elected by the shareholders and representatives of the employees are equally obliged to act in the enterprise's best interests.

Mallin (2004, p, 127) stated that;

The idea of employee representation on boards is not always seen as a good thing as the employee representatives on the supervisory board may hold back decisions being made that are in the best interests of the company but not necessarily in the best interests of the employees as a group. An example would be where a company wishes to rationalise its operations and close a factory but the practicalities of trying to get such a decision approved by employee representatives on the supervisory board, and the repercussions of such a decision on labour relations, prove too high for the strategy to be made a reality.

The committee on corporate governance in Germany was chaired by Dr Gerhard Cromme and is usually referred to as the *Cromme Report or Cromme Code*. The code harmonises a wide variety of laws and regulations and contains recommendations and suggestions for complying with international best practice on corporate governance. The Cromme code was published in 2002 and is split into some sections and starts with a section on shareholders and the general meeting. The Cromme code also reflects some of the latest developments in technology.

CORPORATE GOVERNANCE SYSTEM IN DENMARK

Denmark has an entirely different ownership structure to that of, say, the UK, the USA, or most of the other European Countries. The ownership

is quite concentrated, and there is the widespread existence of foundation ownership. This means that some of the most significant Danish companies are controlled by a foundation (a foundation being a legal entity without owners often created to administer a substantial ownership stake in a company). Like Germany, corporate governance in Denmark is focused on a *dual board structure*. The Danish Companies Act provides that half the members elected by the shareholders, or by other parties entitled to appoint directors, will be selected by the employees, with a minimum of two, which applies to companies with at least thirty-five employees. The Norby Committee's report was published in 2001 and makes recommendations for corporate governance in Denmark. The overview of the story is very much emphasising that this is a voluntary code and that it is up to the individual companies as to whether they follow it but that the Norby Committee believes that it is in their best interest to do so. The corporate governance report builds on the OECD fundamental values of openness, transparency, responsibility, and equality. The role of the shareholders and their interaction with the management of the company. Mallin (2004, p. 130) claimed that;

The report emphasises the importance of communication and dialogue between management and shareholders to ensure that the company's funds are appropriately utilised and that the company continues to be competitive and to create value. The report lays great importance on the role of the annual general meeting as a medium for communication and decision. The report recommends that the shareholders should be facilitated in using their rights both regarding communications and regarding voting rights.

Denmark has a dual voting system, in other words, some shares have multiple voting rights, but the report states that voting rights differentiation or restricting the number of votes which an individual shareholder can cast or restricting the number of shares which an individual shareholder may own in the company is not recommended. If any of these restrictions already apply, then the board should look at these and decide whether it is possible to revoke them. Shareholders should receive sufficient notice of the annual general meeting (AGM). The of the stakeholders and their importance to Danish Companies, The Norby report emphasises the importance of dialogue with stakeholders – stakeholders being anyone who is directly affected by the company's decisions and business. The

interaction is highlighted as being of great importance, and the company should have policies or guidelines in appropriate areas such as environmental and social issues (Mallin, 2004). From the discussion above the Danish corporate governance system is unusual in as much as many shares still have multiple voting rights (although there is a move away from this). Also, the Norby code does not recommend the establishment of board committees unless the board is huge or there are exceptional circumstances which warrant the establishment of such committees. As with Germany the dual board system may mean that Danish employees are at an advantage if the company's strategy requires that part of the company be close down. The closure is more likely to hit part of the company located in a country with a *unitary board structure* where employees have less influence (Mallin, 2004)

CORPORATE GOVERNANCE SYSTEM IN FRANCE

Corporate governance system in France is set in a civil law context and traditionally does not offer excellent protection to minority investors. The French government has been a critical stakeholder party because of its direct shareholders in French industry (although this has declined with privatisation in the 1990s) and because many civil servants are appointed to corporate boards.

Wymeersch (1998, p. 134) states that;

Takeovers, particularly of recently privatised firms, are prevented by the noyaux durs (hardcore) which comprise a series of holdings by financial institutions, banks, and insurance companies to help stabilise the French industrial sector. Also, control may be enhanced by multiple voting rights attaching to shares, a construct which is against generally accepted corporate governance best practice.

The two most popular forms of businesses in French are the *Societes Anonymes (SAs)* which is mostly like a public company in the UK; and the *Societe a Responsibility Limited (SARL)* which is a limited liability company like an Ltd company in the UK. The French corporate governance system places many emphases - and power - on the *president director-general (PDG)* of a company. This is in line with the French tradition of centralised leadership and authority. French has a predominantly *unitary board system* although the option to have a *dual board* exists. Similarly, there is provision for employee involvement where this is provided for by the Articles of the company. The French

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corporate governance codes, therefore, need to take account of this diversity of structure. The first French corporate governance report was the Vienot Committee Report in 1995. The Vienot Committee was established by two employers' federations (MEDEF and AFEP-AGREF) and with the support of leading private sector companies and chaired by Marc Vienot, Head of Societe Generale. The second Vienot Report (Vienot II) was issued in 1999. After Vienot II the corporate governance environment became further complicated by the introduction of 'new economic regulation' in 2001 that gave companies with a unitary board structure the choice of separating the functions of Chairman and Chief Executive Officer (CEO) (or keeping them joint). The latest corporate governance report in France is that of a working group chaired by Daniel Bouton (President of Societe Generale) issued in October 2002.

BOUTON REPORT 2002

The Bouton Report recommends incremental rather than any radical reform. The Part 1 of the report is split into six areas: the role and operation of the board of directors, the board of directors' composition, and evaluation of the board of directors, the audit committee, the compensation committee, and the nominating committee. Part 2 of the report contains some recommendations on strengthening the independence of statutory auditors (with specific reference to the importance of this area in the context of the Enron and WorldCom affairs, in 2001). Part 3 is on financial information, accounting standards and practices, and it discusses the importance of high-quality financial information and disclosures and the means to achieving them. According to Mallin (2004), France's corporate governance system gives companies the option of either the unitary or dual board structure. As in Denmark, there are still multiple voting rights in existence. A very positive move by the French government is the mandatory disclosure requirements for companies of the social and environmental impact of their activities which is very encouraging.

CORPORATE GOVERNANCE SYSTEM IN ITALY

Bianchi et al. (2001) identify seven different company types in Italy. However, the primary business forms are the *Societa di person* or partnership which has unlimited liability and the *Societa di Capital* or limited liability companies. Furthermore, their analysis of direct ownership for both listed and unlisted companies in Italy finds that

“A major role is played by families, coalitions, the State and above all by other companies. Other non-financial or holding companies hold the largest stake in listed and unlisted companies. Contrary to other European countries, the amount held by financial institutions is limited” (p.154).

Italy has a *unitary board structure* like Denmark and the French, but a board of auditors is also required. The corporate governance situation in Italy has been subject to some revisions. In 1998 the Director-General of the Italian Treasury, Mario Draghi, introduced corporate governance rules, a series of legislative measures, which became known as the Draghi Law. These rules enhanced transparency of listed companies discussed the structure for decision-making within companies and looked at the area of internal control. Minority shareholders benefited from this legislation, and it strengthened the position of Italian companies concerning the confidence with which international investors perceived them. In 1998 the Borsa Italiana introduced a corporate governance report which became known as the Preda Report, named after its Chairman. The Preda Code introduced recommendations regarding the composition of the board, the information of keyboard committees, the roles of Chairman and CEO, and the independence of directors. However, the code was a voluntary code and companies could disclose the extent to which they had adopted or complied with the system. It must be said that the code was not as comprehensive as, for example, the UK's Combined Code. For example, it said that most of a company's remuneration committee members should be non-executive, but it did not talk about the independence of them. So, given the current climate where there is a lot of focus and emphasis on corporate governance, in 2002 there was another report issued. This was a revision of the Preda Report. This report is known as Preda 2. The Preda 2 Report deals with some areas relating to corporate governance. The role of the board of directors and the composition of the board of directors. The independent director, the chairman of the board of directors; information to be provided to the board of directors, appointment and remuneration of directors; internal control, related party transactions, relations with institutional investors and other shareholders, shareholders meeting and members of the board of auditor. (Mallin, 2004).

CASE STUDY RESEARCH ON CORPORATE GOVERNANCE

Case Studies is used for analysis of compliance or non-compliance with the Combined Code on corporate governance. Pass, (2006) also used a case study in the analysis of the non-compliance with main provisions of the Combined Codes on corporate governance from 50 companies randomly selected from the FTSE-250 companies. Sneller and Langendijk, (2007) in their paper, investigates the costs of compliance with the new Combined Code (2003) in the UK and the Sarbanes Oxley Act (2002) (SOX) in the US. The authors used the European division of a US-listed company as a case study. The divisional project approach was described, and costs of compliance for this division were presented in two categories: assessment costs, mainly hours spent by internal staff; and attestation costs, primarily audit fees. In 2002, the US Congress approved the Sarbanes Oxley Act (SOX). Section 404 requires companies to assess their internal controls and acquire an attestation of this assessment from their external auditor. Sneller and Langendijk, (2007) said that:

The case study shows that the internal hours spent on evaluation are approximately 12 times higher than the initial estimate made by the SEC in 2002 and that the realised other expenses are about 1.4 times higher than this estimate. Furthermore, a year on year increase of 50 percent of the company's audit fee in the first year of Section 404 compliance is found. Companies can reduce the costs of compliance by implementing programmed controls, using auditors from countries with lower rates, remediating material weaknesses only, focusing on the internal control system rather than on individual controls, and by encouraging the auditor to rely on the company's assessment, (p. 101).

In an industrial relations dispute, *Anderson et al. (2007)* used case study methods to examine the issue in the face of declining prominence and influence under industrial relations laws regulating Australian workplaces. Their research also considered whether union shareholder activism is merely a new strategy for pursuing common industrial aims, or whether it potentially represents a move by unions to identify themselves as "insiders" with a dual interest in the profitability and governance of the corporation as both shareholders and stakeholders. *Anderson et al. (2007, p. 102)* claim that:

Australian trade unions enjoyed a prominent role and influence in the regulation of Australian workplaces. The compulsory arbitration of industrial disputes to all intents and purposes guaranteed unions recognition by employers, access to worksites and preferential treatment for their members. The system was predicated on the legitimacy of adversarial bargaining, the direct action between the parties and the regulation of industry through a series of national and industry-based awards with which unions and employers were legally bound to comply.

In another case study research, Melis (2005) discusses to what extent Parmalat's failure can be considered a mainly Italian case. The main characteristics of Parmalat's corporate governance structure are compared and contrasted with those prevailing among Italian listed companies as well as with the highest corporate governance standards in Italy. The author stated that;

Empirical evidence seems to confirm the lack of a monitoring structure in making corporate insiders accountable in the presence of a corporate governance system characterised by a controlling shareholder. The role of the ownership and control structure (with particular regard to the controlling shareholder's role) and of the board of statutory auditors have Italian traits and might suggest that the Parmalat case is a mainly Italian scandal. However, Italian corporate governance standards were not entirely at fault in the Parmalat case. Parmalat's corporate governance structure failed to comply with some of the key existing Italian corporate governance standards of best practice... (p. 478).

Chen (2005) uses an in-depth Case Study in southern Jiangsu to document the last wave of privatisation of Chinese rural enterprises, showing that throughout the economic reforms, particularly at the village level, local cadres and corporate leaders dominated the publicly owned enterprises, from which they benefited disproportionately. The author claims the same local institutions, which based on village cadres' social networks that controlled the entire process of privatisation, leaving nothing to the free market or open competition. Those who positioned

themselves in the village administration and enterprises are the same group of specific families and individuals who run the private corporations today. It is understood that workers and ordinary villagers have been disenfranchised in this property rights transformation.

In a Case Study of the Combined Code on Corporate Governance, Brennan, and McDermott, (2004) examines the issue of independence of boards of directors and non-executive directors of companies NEDs listed on the Irish Stock Exchange. Based on information published in annual reports, the study found that most Irish listed companies were complying with the Combined Code's recommendations for a balanced board structure, albeit with only 60% having majority-independent boards. The study also found a lack of consistency in interpreting the definition of "independence", a lack of disclosure of information and, by applying criteria regarded as a prerequisite to the independence of NEDs, specific situations that imposed upon their autonomy. Using a case study analysis Turnbull, (1995), outlines the 38 years evolution of Mondragon structures. A stakeholder co-operative formed around the town of Mondragon in the Basque region of Spain which has had outstanding success on some measures in comparison with other forms of firms. The control architecture within and between Mondragon firms contains some innovations and lessons for developing the theory and practice of corporate governance. Turnbull, (1995, p. 167) stated that:

The control and incentive architecture of Mondragon firms was custom designed according to the nature of both their activities and their principal stakeholders. The resulting unique control arrangements and outstanding performance support the hypothesis that the structure of governance is a determinant of sustainable competitive advantages.

Britain's leading food retailers with 600 stores throughout England, Scotland and Wales and an additional 98 in France operated by Catteau. TESCO serves over ten million customers each week. In 1994 the Group sales increased by 13.8% to £9.2 billion, profit, before tax was £528 million and dividends per share, rose by 9.2% to 7.75 p. This extract from the Tesco 1994 annual report and accounts are included to illustrate the corporate governance information now being provided in the UK, following the Cadbury report recommendations. The statements were chosen at random and are not intended to show good or bad practice.

(Since 1994, then both sales and profits of the Group have been increasing year by year to the present figure profit of £7.5 billion in 2000, from sales over £20 billion).

Bonvin, (2007) claims that:

The paper assesses the impact of the rhetoric of corporate social responsibility (CSR) in the case of companies undergoing restructuring. An extensive definition of CSR is adopted here, one that encompasses the social and environmental impact of the company's practices, as well as the extent to which workers' rights and security are being guaranteed and promoted by the firm. In this view then, compliance with legal provisions or liberal use of the firm's resources are not enough to qualify a company or its managers as socially responsible. ... Firms should not be conceived only as objects of regulation, but also as partners in the regulation of the labour market, and labour law and social security provisions should be adopted as a result. (p. 36-38).

MOL (1998) published a case study analysis to provide insights into a real governance situation. The authors described the governance structure of a leading company in Eastern Europe and described the information provided by its supervisory board. The case is based on data from the public domain mainly the 1996 annual report and is presented without commentary or comment. The authors stated that:

All too easily we tend to interpret governance situations in companies around the world in the light of our own experience. We make assumptions about the underlying power base, the behaviour of management, the attitudes of directors, the perceptions of the shareholders based on our values, beliefs and expectations. In fact, they can be strikingly different. In future case studies, we intend to invite the board chairman or other key players in the case to provide commentary, (112).

According to Silberhorn and Warren, (2007), shareholders are sometimes considered to be in moral terms, the owners of a company. They are after all the carriers of the residual liabilities and bear a higher proportion of the financial risk. However, in company law, the

shareholders' responsibility is limited, and in financial terms, shareholders are only liable up to the fully paid value of the share certificate they own. Whether this gap in moral and legal perceptions can be judged to be satisfactory in business ethics terms is a moot point and will be partly explored in this case study which seeks to analyse the shareholder's responsibility towards a firm in which they own shares. In this Case Study, the company chosen as a vehicle to explore these issues is that of Turner and Newall; a company that subjected its employees, communities and customers to a significant health hazard – asbestosis. The paper used the Turner & Newall archive materials to illustrate the moral hazards that can arise for shareholders. It examined the ethical responsibilities of shareholders towards those stakeholders who were exposed to the dangers of asbestos. Silberhorn and Warren, (2007) claim that:

This case is a significant test of the veracity of the legal system of company control and exposes the ineffectiveness of that system in accountability terms. The case study also deals with specific issues that arose in the asbestos crisis, as well as with more general problems in our present system of corporate governance and shareholder responsibilities, (p. 14).

In a Case Study of the Supervisory Board of Thyssen Krupp AG and German corporate governance code commission. Cromme, (2005, p. 362) claimed that; “The term corporate governance and all that it implies, is now in everyday use in Germany.” This is due to the enormous changes Germany has experienced in recent years, in international business, international finance and German industrial structures. This contribution deals with recent changes in the German system of corporate governance. This is due to the major elements of the international context that form the background for changes in Germany. In another Case Study of compliance with governance code and declaration, value relevance of compliance. Goncharov, et al. (2006) stated that; since 2002 company law requires listed German corporations to declare their degree of conformity to the German corporate governance code. The authors examine whether there is a pricing effect connected to the declared degree of compliance for a sample of (big) publicly traded German companies listed in the DAX 30 and MDAX Stock Exchanges. The degree of compliance with the code is value-relevant after controlling for an endogenous bias. This shows that the

capital markets find the rules in the code means and that there is capital market pressure to adopt the code regulation. The authors' findings also suggest that the capital market fills a possible "control vacuum" resulting from the withdrawal of commercial banks from their (former) influential role in the German "insider control" corporate governance model. (p. 443).

SUMMARY AND CONCLUSION

This study is a literature survey of the development of corporate governance systems in four European countries namely Germany, Denmark, France, and Italy. The study shows that corporate governance practice in these countries is based on the nature of business organisations. The make-up of corporations underpinned the corporate governance systems in these countries. Germany with its unitary approach with multi-structured board system focused on the stakeholder model of corporate governance. Like Germany, corporate governance in Denmark is focused on a dual board structure due to the dual and multiple voting systems by shareholders. In France, corporate governance systems are based on the civil law because of the government ownership of most French companies. Finally, Italy also has unitary board structure which also required boards of auditors with its corporate governance systems to have both the shareholder and stakeholder model. It can be seen from this analysis that there is no one-size fit all type of corporate governance systems in these European countries, instead corporate governance practices are based on individual countries laws and regulations which is also the case with many countries around the world. There is a long way for a Global corporate governance system. Though the work of OECD with its principle of corporate governance has provided a benchmark for many countries to follow in developing their corporate governance codes.

In Shareholdership model shareholders are sometimes considered to be in moral terms, the owners of a company. They are after all the carriers of the remaining liabilities and bear a higher proportion of the financial risk. However, in company law, the shareholders' responsibility is limited and in financial terms, shareholders are only liable up to the fully paid value of the share certificate they own. Moreover, when the shares are sold, the responsibility and risk are entirely transferred to the new bearer of the shares. (Silberhorn, and Warren, 2007). The Stakeholdership model involved a theory of organisational management and ethics, which was distinct because it addressed morals and values as specific central features

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of organisational management. (Phillips 2003). Since Adam Smith wrote his famous book “The Wealth of Nations” in (1776). The study of corporate and Economic Management is a mature topic for which it is relatively easy to find papers on the theory as well as empirical studies that have attempted to test the assumptions about the phenomenon. In this paper, the phenomenon about the two-central corporate governance system - the Shareholdership model and the Stakeholdership model and which method is useful in regulating the activities of a corporation depends on which country the business is based and operating from. The case study analysis in this paper indicated that there had been corporate failures in corporate governance, but significant shortcomings that shake the global business community appear to be based on the Shareholdership model of corporate governance as the banking and financial meltdown has shown. The OECD principle is the first step for the globalisation of corporate governance system for a global-corporation that takes into consideration the contributions of its stakeholders to the success of the corporation leading to the long-term benefit for shareholders. The advantage of this paper is to enable other countries particularly in developing countries such as Africa to model their corporate governance systems based on their business environment taking into consideration the increased globalisation of business practices.

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