

For decades they were the non-events on anyone's annual calendar; no more than chores to be mechanically gone through. Something has changed. Shareholders have found their voice. They no longer pull their punches. Some go as far as to call a spade a shovel. Meanwhile, managements seem to prefer closure (of discussions) to disclosure. The battlelines have been drawn and the first shots have been fired. Is this corporate India's #TheyToo moment?

Editor

DISCLOSURES OR CLOSURES?



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"What is truth" asked Pontius Pilate. He left without waiting for an answer. Shareholders at the Annual General Meeting (AGM) of a large private sector bank also sought to know the truth. They waited in vain and when the proceedings ended, they left with more questions than answers.

This was an AGM with a difference. The iconic leader, whose role was central to the doubts and concerns, was not on the stage. Hamlet without the Prince of Denmark, one might have legitimately observed.

The cast on the stage was relatively new. Yet to their credit, they got their lines right. To every question, the answer was a variation on the same theme – A committee is looking into the matter. Let us see what it comes up with in its report.

It takes all types to constitute the population at any AGM. Apart from the versifiers, the cheerleaders and the critics, there are also some chess players contemplating the moves ahead. What if the report finds some, if not all, of the allegations to be true? Can a Board, which, in all of 15 minutes, found nothing wrong, eat humble pie and ensure that the CEO stays at home? If that happens, will a legal challenge be far behind? The Board then gets into a safety zone. Any question will entail the time-honoured answer – "The matter is subjudice". AGMs will come and go, the questions will remain.

AGMs were always meant to be constructive conversations between the Board and the management on the one side, and the shareholders on the other. Over time, this annual family reunion has become ritualistic, and the conversation almost adversarial. Evasiveness, equivocation and the art of speaking much but saying little are the order of the day. And all the light that is shed is on the wise worthies seated on the stage, and not by them.

The searchlight has been turned on the divine right of the promoters to stay on the Boards indefinitely, and to compensate themselves as they please. One of India's top chieftains, a third generation leader to boot, has had retail and institutional investors questioning the disproportionate share of commission that has accrued to him, being recommended by a Nomination and Remuneration Committee of which he is a member. Elsewhere, minority shareholders have turned down a proposal to enhance the compensation of the Managing Director, a member of the promoter family, when the company had underperformed in relation to the preceding year. There is almost deafening silence following the AGM of a large healthcare company. What transpired therein? Don't stakeholders, other than shareholders, also have a right to know? More importantly, since nature abhors a vacuum, falsehoods and misconceptions will occupy the space that fact and truth have left vacant. Mercifully, those that attended the AGM of a beleaguered financial entity have chosen to air their views, albeit with utmost circumspection.

The message from the shareholder community is loud and clear. Do not take us for granted. We will raise questions, and if the answers are not forthcoming, we are prepared to rock the boat. Are we witnessing the first signs of shareholder democracy?

Disruption, fashionable as the concept has become, is not something that shareholders desire. What else explains their unquestioning endorsement of a management proposal to certify that five of the Independent Directors on

the Board, all aged 75 years or more, are physically and mentally fit to carry out their duties? It is a moot question whether the age prescription was intended to address the negative impact on independence of mind, that long years of being on a Board might cause, and not physical or mental fitness.

This leads one to ponder over the question - "What is fit and proper?" If a plethora of prima facie believable allegations are made against a CEO and these are interesting enough to excite the professional curiosity of more than one investigative agency, does that CEO remain fit and proper for a Board position in a subsidiary? The Chairperson of the parent company is forthcoming enough to say that since nothing has been proved, the person was considered worthy of support for a Board position. By the same logic, why should that CEO have been "persuaded" to take a break from responsibilities at the parent company? Clearly the balance of convenience lay in the parent company not taking a position one way or the other in the election of that CEO to a subsidiary Board. Wags are a dime and dozen, and one of them was heard asking whether the presence of at least four Directors with insurance background on the Board of the parent company was insurance enough for taking a bold position in extending support to the beleaguered CEO for a Board position of an insurance subsidiary.

Companies that are seen as the best and the brightest are having the chinks in their armour exposed. Reputations are taking knocks like never before. Reverence of promoters is a thing of the past, and respect is being given grudgingly. The reasons are not far to seek. Transparency is being paid lip service, as evidenced by the ground rule laid down that questions of an uncomfortable nature should not be asked. If the odd one slips through, it will be greeted with righteous indignation. The world outside will never know because the media has no rights of admission to the theatre. Meanwhile, trust will become a trait of the past.

In good times, when things are going swimmingly well, it is useful to remember Thomas Gray's immortal lines –
*"The boast of heraldry, the pomp of pow'r,
And all that beauty, all that wealth e'er gave,
Awaits alike th' inevitable hour.
The paths of glory lead but to the grave."*

Readerspeak – Shooting the messenger?

"Bharat Doshi, Member (Non-Official Director), Central Board of Directors, RBI and Former Group CFO, Mahindra and Mahindra"

"Your piece "Shooting the Messenger?", received this morning, was brilliant. Well said! Loved the line "----omniscience of God, Government and Google ----"."

"Kiran Mazumdar Shaw, Chairperson and Managing Director, Biocon"

"Very relevant and rational point of view."

"Michael Pinto, Former Secretary, Government of India"

"It's true that Indian firms must seek greater interaction with proxy firms to correct their somewhat ritualistic approach to this question. And it's also true that it's unfair to blame Proxy Firms alone for the sub-optimal decisions taken by foreign investors."

"Milind Kulkarni, Senior Advisor and Former CFO, Tech Mahindra"

"I entirely agree with a very apt issue raised - "whether outsourcing of thinking, and decision making, is healthy for the corporate sector." "

"Nawshir Mirza, Former Senior Partner of M/s S. R. Batliboi & Co"

"There is one very good reason that proxy firms do not interact with managements as institutional investors do. It is that they form their views using the same knowledge that the average, diligent shareholder can possess, without privileged access to managements...If managements have their reasons to do what they do, they should explicitly set them out."

"S Sandilya, Chairman, Eicher Motors"

"I agree with your observations that there is less application of mind and less appreciation for the local country specific situation or company specific information and invariably mechanical formula based ticking the box approach."

"Santrupt Misra, CEO, Carbon Black Business and Director, Group Human Resources, Aditya Birla Group"

"Excellent article - one of the best I have read!"

"Shankkar Aiyar, Political Economy Analyst and Visiting Fellow at IDFC Institute"

"Gets to the nub...."Recommendations are often the outcome of a mechanical application of predetermined criteria."

Do let us know of any specific issues you would like to see addressed in subsequent issues.

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