



UNIVERSITY OF
BIRMINGHAM

**COMPLIANCE WITH CODES OF CORPORATE GOVERNANCE IN
DEVELOPING ECONOMIES: THE CASE OF BANGLADESH**

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Dedication

To my parents Monirul Hoque Chowdhury and Azizun Nessa, my husband Masud Mushfiq Zaman, my daughter Subah Samara and my sisters and brothers. Thank you all for your love and support.

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Abbreviations

ADB	Asian Development Bank
AGM	Annual General Meeting
BAS	Bangladesh Standards for Auditing
BB	The Bangladesh Bank
BBS	Bangladesh Bureau of Statistics
BDT	Bangladesh Taka
BEI	Bangladesh Enterprise Institute
BFRS	Bangladesh Financial Reporting Standards
BGMEA	Bangladesh Garments Manufacturer and Exporters' Association
BSE	Bombay Stock Exchange
CA	Chartered Accountant
CAB	Consumers Association of Bangladesh
CEO	Chief Executive Officer
CGI	Corporate Governance Index
CIB	Credit Information Bureau
CRAB	Credit Rating Agency of Bangladesh Ltd.
CSE	Chittagong Stock Exchange

CSR	Corporate Social Responsibility
DFID	Department for International Development
DGEN	Dhaka Stock Exchange General Index
DSE	Dhaka Stock Exchange
ECGI	European Corporate Governance Institute
FDI	Foreign Direct Investment
FI	Financial Institutions
FY	Fiscal Year
GCGF	Global Corporate Governance Forum
GDP	Gross Domestic Product
GNI	Gross National Income
HSC	Higher Secondary School Certificate
IACC	Independent Anti-Corruption Commission
IAS	International Accounting Standards
ICAB	The Institute of Chartered Accountants of Bangladesh
ICMA	The Institute of Cost and Management Accountants of Bangladesh
ICMAB	The Institute of Cost and Accounting Management Bangladesh.
ID	Independent Director
IFA	International Financial Agencies

IFAC	International Federation of Accountants
IMF	International Monetary Fund
IPO	Initial Public Offering
ISA	International Standards on Auditing
J/V	Joint Venture
K-W Test	Kruskal Wallis Test
LRA	Lending Risk Analysis
MCCI	Metropolitan Chamber of Commerce & Industry
MD	Managing Director
MNC	Multinational Corporation
MoE	Ministry of Education
MoPME	Ministry of Primary and Mass Education
M-W Test	Mann-Whitney Test
NAF	Non-Audit Fees
NBFI	Non-Banking Financial Institution
NED	Non-Executive Director
NFI	Non Financial Institution
NGO	Non-Governmental organization
NSE	National Stock Exchange

OECD	Organisation for Economic Co-operation and Development
OLS	Ordinary Least Squares
RJSC	Registrar of Joint Stock Companies and Firms
RMG	Ready Made Garments
ROA	Return on Asset
ROE	Return on Equity
SEC	Securities and Exchange Commission of Bangladesh
SEC Guidelines	Corporate Governance Guidelines of the SEC
SME	Small and Medium Enterprise
SOE	State Owned Enterprise
SPSS	Statistical Package for the Social Sciences
SSC	Secondary School Certificate
The Code	The Code of Corporate Governance for Bangladesh
UGC	University Grants Commission
WB	The World Bank

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Corporate Governance in Bangladesh: Empirical Evidence of the Level of Compliance with the Code of Corporate Governance (with C. A. Mallin). Paper presented at the the Global Accounting and Organizational Change Conference, Malaysia, July 2012

Barriers to Good Governance in Developing Countries: The Case of Bangladesh (with C. A. Mallin). Paper presented at the 10th International Conference on Corporate Governance, Birmingham, June 2012

Barriers to Good Governance in Developing Countries: The Case of Bangladesh (with C. A. Mallin). Paper accepted for presentation at the 35th European Accounting Association Congress, Ljubljana, May 2012. Paper available in the conference proceedings

Barriers to Good Governance in Developing Countries: The Case of Bangladesh (with C. A. Mallin). Paper reviewed by The International Centre for Financial Regulation (ICFR) and available On their website. www.icffr.org

Abstract

COMPLIANCE WITH CODES OF CORPORATE GOVERNANCE IN DEVELOPING ECONOMIES: THE CASE OF BANGLADESH

This thesis investigates the overall acceptance of the Code of Corporate Governance for Bangladesh (hereafter “the Code”) by examining the level of compliance and the factors influencing compliance. In order to facilitate an in depth understanding of the acceptance of the Code, the study identifies the Code provisions which are most and least complied with and examines the perceptions of different stakeholder groups relating to the barriers of corporate governance, the causes of non-compliance with the Code and the appropriate model of governance for Bangladesh.

The study uses a questionnaire survey for the listed companies in Bangladesh and the semi-structured interview method with the stakeholder groups. The shareholder and the stakeholder theoretical perspectives are adopted to interpret the results.

The findings suggest that the level of compliance amongst the sample companies is at a moderate level. Company age, size, industry type and type of company make a significant difference in the level of compliance. However when the most and least complied with provisions of the Code are compared with the regulatory provisions, the study indicates that the companies are actually following the regulatory provisions and the Code is yet to be widely accepted by the companies.

Interviewees’ opinions suggest that the corporate infrastructure of Bangladesh is dysfunctional in most, if not all, aspects. Although some initiatives have been taken in recent years to improve corporate governance practices, according to the interviewees many of these

are inadequate. Whilst the legal system emerged as weak (particularly in terms of its provisions and enforcement), a lack of knowledge and competence amongst company managers and its stakeholder groups, political and some other socio-economic factors are also working as major barriers to the improvement of the corporate governance standards in Bangladesh. Findings from the survey are further supported by the interviewees who opined that in the absence of a functional corporate governance framework and the lack of awareness about good governance among companies, companies are not yet ready to adopt a voluntary code.

The findings also suggest that the polarization of the shareholder and stakeholder perspectives is somewhat redundant in the case of Bangladesh; rather an appropriate model of governance is considered to be the one that best address the needs of the country.

Overall, the study argues that if meaningful compliance with the Code is to be ensured in developing countries like Bangladesh, then such codes need to address the country specific issues appropriately, whilst attention must be given to communicate it appropriately to companies and making them well aware about the benefits of compliance.

CHAPTER 1

INTRODUCTION

Chapter 1

1.0 INTRODUCTION

1.1 INTRODUCTION

This research investigates the overall acceptance of the Code of Corporate Governance for Bangladesh 2004, and identifies the existing challenges for ensuring better governance standards. It also addresses the debate over the appropriateness of the Anglo-American model of governance in developing countries and draws conclusions from the Bangladeshi perspective. This introductory chapter is organized as follows. In the next section, the background of the study is discussed to indicate the motivation for this research. Following this, in section 1.3 the research objectives are explained. In section 1.4 the scope of research is identified. Finally this chapter concludes by outlining the framework of the overall study.

1.2 BACKGROUND

Over the last two decades, the economy of Bangladesh has made commendable progress¹. Some companies which once started as small businesses have become large with an international presence. Foreign direct investment has increased over time and in recent years the country has been identified as one of the largest exporters in the world (ADB, 2009). Whilst this progression is overwhelming, it is undeniable that despite the recent robust growth rate, Bangladesh remains one of the poorest countries in the world. Scholars (e.g. Azmat and Coghill, 2010; Salman, 2009; Sarker, 2011) believe the country is going to face a

¹see details in Chapter 3.

lot more hurdles to ensure that its economy continues to grow to make it a middle income country².

The challenges have become critical, because over the last decade the country has witnessed some significant company scandals (e.g. Oriental Bank, Modern Food Ltd) along with two massive capital market crashes (Sobhan and Werner, 2003). Whilst the impact of the first stock market failure in 1996 took a long time to recover from, in 2011 it collapsed again. An investigative committee was formed which found various irregularities including the existence of omnibus accounts that allowed some market players to make exorbitant profits at the expense of the investors. The alarming fact was that the accused individuals held enough power to manipulate the investigation report and the punishment afterwards. If these things continue, scholars like Belal and Owen (2007) opine that in the absence of transparency, accountability and stakeholder pressure for good governance the days may not be far away when the country might experience some more massive failures which will certainly undermine the overall economic development process.

Therefore, policy makers and scholars of the country have raised concerns about protecting the corporate sector which is one of key economic drivers for Bangladesh. On top of everything else when the recent financial crisis is found to have made its impact on the export earnings of the country³, scholars believe it will be very expensive for the country to overlook its corporate governance standard. Hence, the policy makers and scholars (e.g. Ahmed, 2010;

²Countries with nominal GDP level of US\$1500 or less per head are considered to be a low income country. In the case of Bangladesh the nominal GDP per head is only US\$ 1,483 and 36% of its population is living below the poverty line of US\$ 1 per day (Source; World Bank Group, July 2011).

³ The estimation shows that although the impact of recession was not as severe as was estimated but some adverse impacts were noted in certain areas like remittance and export earnings. The economy is estimated to have grown at a rate of 5.74 per cent in 2008-09, slightly below the growth rate (6.19 per cent) of 2007-08 (Bangladesh Bureau of Statistics, 2010)

Mahmud et al., 2008; Sobhan et al., 2003; Uddin and Choudhury, 2008) have called for an urgent investigation to identify the standard the country is reflecting and to understand what, why and how things are going wrong in companies in Bangladesh.

Globalization has created further pressure on countries like Bangladesh to ensure a governance standard compatible internationally. Globalization offers developing and less developed countries an opportunity to increase private investment, modernize technologies, raise productivity, raise employment and accelerate economic growth (Vaughn and Ryan, 2006); and that is why scholars like Rwegasira (2000) believe the pressure of globalization is perhaps a blessing for developing countries - hence they should be more careful about their governance standards to take advantage of the globalization of their financial markets. The ability of Bangladesh to take these advantages will depend on how quickly and effectively it can resolve the socio-economic issues, strengthen its capital market, establish ethical and overall governance standards. Hence, like many other developing countries, understanding corporate practices and improving its standard is considered as indispensable and high on the agenda for Bangladesh.

Understanding corporate governance practices by measuring compliance with codes or best practice recommendations is very popular amongst developed and developing countries. Studies have empirically proved that disclosure of compliance with best practice recommendations not only has a positive impact on the stock market (e.g. Fernández-Rodríguez et al., 2004; Igor et al., 2006) or improves performance (Bauwhede, 2009; Mallin and Ow-Yong, 2012), but also helps the country to remain abreast (e.g. Akkermans et al., 2007). Findings of non-compliance further allow countries to trace the gap between the

standards and reality following an appropriate action for code improvement (e.g. MacNeil and Li, 2006; Parsa et al., 2007).

Moreover, a very recent study (Claessens and Yurtoglu, 2012) on the corporate governance practices in emerging markets stated that understanding corporate governance practices against best practices is vital particularly for the developing countries, because it helps to improve the governance standard, which in turn benefits companies through greater access to financing, lower cost of capital, better performance and more favourable treatment of all stakeholders; and all of these benefits are imperative for Bangladesh in attaining and sustaining its development goals.

It is good to note that since the early 1990s Bangladesh has taken some major initiatives to reform its corporate governance policies, capital market and financial system. Prioritizing the global need of aligning corporate governance standards according to best practice recommendations, the first voluntary code, namely the Code of Corporate Governance for Bangladesh (hereafter “the Code”) was developed in 2004. Later, in 2006, to institutionalize the corporate practice of corporate governance in Bangladesh, the Securities and Exchange Commission (SEC) issued a notification on Corporate Governance Guidelines (hereafter “SEC Guidelines”) for the publicly listed companies of Bangladesh. Corporate governance codes are generally voluntary sets of principles, standards or best practices that are proved to be of value over time (Davies, 2008). However to date, there is no study investigating the corporate governance practices in Bangladesh by measuring compliance against the Code.

Although a few studies have considered understanding the status of governance in Bangladesh against some mandatory or regulatory provisions (for example Ahmed and Yusuf, 2005; Belal, 1999; 2001; 2002; Belal and Owen, 2007; Imam and Malik, 2007; Reaz, 2006;

Siddiqui, 2010; Sobhani et al., 2009; Uddin and Choudhury, 2008), whilst a few others identified accounting and audit related issues (e.g. Imam et al., 2001, Uddin and Hopper, 2003), none has considered understanding the extent to which companies in Bangladesh reflect an international standard of governance by systematically measuring compliance against the voluntary Code for Bangladesh. Most of these studies have explored different mechanisms of corporate governance, and mostly concentrated on a particular sector, and lack a holistic view of the overall corporate governance standard in Bangladesh. An understanding of the overall corporate governance issues covering the major industrial sectors (if not all) is yet to be explored. For policy makers such broad industrial analysis would be more useful than a single sector specific study.

Moreover, in the recent years Bangladesh has taken some major initiatives in reforming its corporate governance practices⁴. These initiatives are supposed to have an impact on the overall governance structure, thus an understanding is also needed as to why these initiatives could not safeguard the massive collapse of the capital market of Bangladesh in 2011. Overall, a thorough evaluation of the overall corporate governance structure is needed to explore the reasons behind governance failure in Bangladesh which will guide it towards appropriate solutions.

Other than the reasons discussed above, the Code of Corporate Governance for Bangladesh has also provided further motivation for this study to investigate its effectiveness in ensuring improved governance standards in Bangladesh. For instance, the Code stated that if it is fully implemented, the reputation for Bangladesh as a destination for investment and aid will be

⁴For example, the Central Bank has made several policies for regulating Banks, the Securities and Exchange Commission (SEC) has introduced Corporate Governance Guidelines (here after “the SEC Guidelines”) as a listing regulation for its member companies and so on.

greatly enhanced and thus the economy will be rewarded with more investment and higher quality investors (BEI, 2004, pg.6). Therefore it would be interesting to examine the extent to which the companies in Bangladesh are complying with the Code provisions to obtain the benefit of the Code compliance.

Secondly, researchers like Wanyama et al (2009) argued that the development of codes is the right starting point for reforming corporate practices, but in developing countries which are characterised by pervasive corruption, and a weak legal system, the mere development of a code will not guarantee that de facto, practice will improve; it needs change in the overall framework. A great deal of studies have also indicated that the development of codes should be followed by regular monitoring over compliance, reviewing their effectiveness and understanding the possible scope for their improvement (e.g. Aboagye and Otieku, 2010; Campbell et al., 2009; Dartey-Baah and Amponsah-Tawiah, 2011; Green et al., 2003; Ibrahim, 2006; Kota and Tomar, 2010; Manosa et al., 2007; Ogbuozobe, 2009; Singh and Newberry, 2008; Tsamenyi et al., 2007). Perhaps that is one reason why the literature on corporate governance has been experiencing an increasing number of studies exploring the governance practices in developing countries. Surprisingly in this rich vein of literature there is a lack of research that investigates the challenges companies in Bangladesh are facing in ensuring full compliance, or investigating the solutions for ensuring full compliance. Moreover, the Code has not been reviewed since its development.

Last but not the least, the recent heated debate over the appropriateness of the Western model of corporate governance in developing countries has further motivated this study to focus on the Code. Finding a series of non-compliance issues across developing countries (Adu-Amoah et al., 2008; Black et al., 2010; Ogbechie et al., 2009; Ogbuozobe, 2009; Rwegasira,

2000; Sejjaaka, 2007; Silveira and Saito, 2009; Wanyama et al., 2009), critics argue that the theoretical propositions of the Anglo-American model are in conflict with the traditional cultures, values, corporate and legal infrastructures of developing countries. Rather, they believe the stakeholder model of governance which views companies from a much wider perspective is more appropriate for developing countries. Nonetheless, developing countries are adopting the Anglo-American model out of institutional pressure and therefore non-compliance seems to be an obvious consequence. Although Siddiqui (2010) reports that the Code also reflects the Western model, but unlike other developing countries, no studies have measured the extent to which it has been complied with in Bangladesh. Every country is unique with its own socio-economic structure. Thus before making any comment on the Code, studies should be carried out to understand the extent to which the Code has been complied with. Moreover going back to the claim of the corporate governance scholars (e.g Mallin, 2010; Shleifer and Vishny, 1997; Solomon, 2007; Turnbull, 1997a) that a code should reflect country specific needs and address international expectations, the present study argues that instead of debating the appropriate model for the country, it is better to focus on the needs of the country and the international standards - which will systematically suggest if the model suggested by the Code is appropriate for Bangladesh. Nevertheless, none of the studies so far has combined all of these issues and explored possible solutions.

1.3 RESEARCH AIM AND OBJECTIVES

In light of the issues raised above, this research aims to systematically evaluate the overall acceptance of the Code in Bangladesh. It also aims to develop some policy recommendations to ensure governance guidelines guide the companies in the best possible way to ensure good governance in Bangladesh. For the purpose of the study, the research statement above is broken down into six specific objectives as outlined below:

1. To identify the overall level of compliance of the Bangladeshi listed companies with the Code.
2. To examine whether the compliance level varies depending on different company attributes.
3. To identify and discuss the Code provisions which are the most, and the least, complied with.
4. To investigate and discuss the major barriers to good corporate governance practices in Bangladesh.
5. To identify and discuss the causes of non-compliance with the Code.
6. To identify and discuss the appropriate model of governance for Bangladesh.

The study also intends to offer proposals for improving or reforming the Code both in the light of the research findings and recent corporate governance challenges.

1.4 SCOPE OF THE STUDY

The scope of the study will be limited in terms of three parameters: (i) location, (ii) unit of analysis, and (iii) the measurement of compliance. First, the research will be conducted solely in Bangladesh. As a result, the study population for both qualitative and quantitative phase of the study will focus only on companies in Bangladesh, and thus there is no intention to produce a cross cultural metric of compliance measurement.

Second, the unit of analysis in this research is the companies listed with the SEC of Bangladesh. Over the last few years, regulators have paid attention to the corporate governance practices of the listed companies, thus it is expected that their regulatory attention will have had a certain level of impact on the governance standards. However the listed companies are a mixture of family-owned, state-owned, and foreign owned companies. Also,

they represent almost all of the industrial sectors of Bangladesh. Thus, the recommendations of this study may also be useful for non-listed companies.

Third, by following previous studies' method, this research has measured by constructing a corporate governance index (CGI). This CGI is used to calculate the degree of compliance for each of the sample companies. In doing that, a survey that covers both publicly disclosed data as well as the data which are not usually publicly disclosed was conducted. In addition, in-depth interviews were also undertaken with a wide range of stakeholders consisting of board members, employees, shareholders, legal bodies and so on to uncover compliance as it is practiced

For measuring compliance, the Code has been emphasized more than the SEC Guidelines for two particular reasons: i) the Code is more comprehensive than the SEC Guidelines (however, while emphasizing the Code the study does cover all of the provisions of the SEC Guidelines); ii) Bangladesh faces similar socio-economic challenges to other developing countries such as India, which are encouraging companies towards voluntary compliance, as they argue that unless companies are voluntarily complying, compliance with provisions are more likely to be a mock compliance. Hence the study explores the extent to which the companies of Bangladesh are complying of their own accord with the Code which is a voluntary requirement.

1.5 ORGANIZATION OF THE STUDY

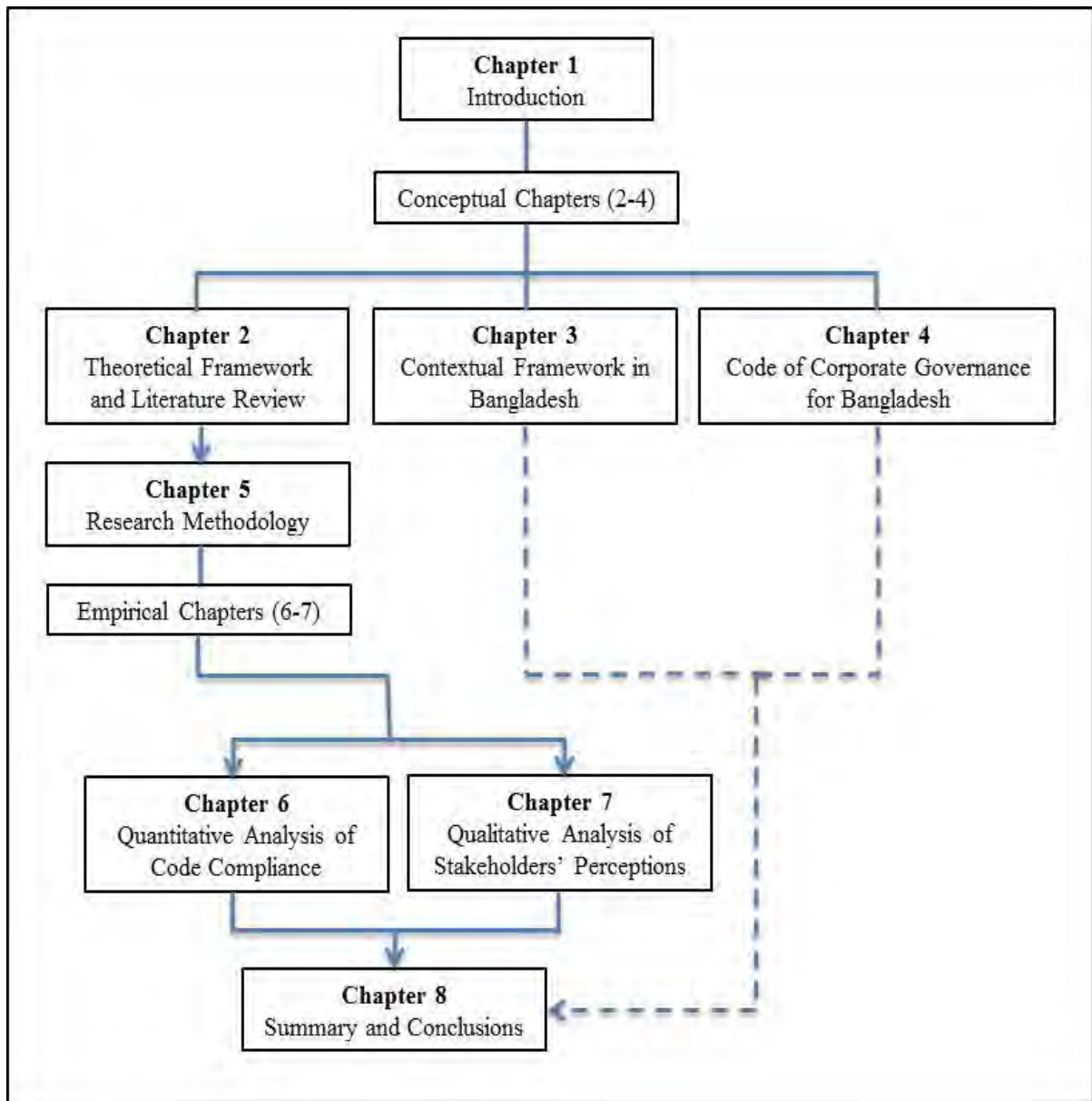
The study has been organised into eight chapters. A diagrammatic framework of this study is presented in Figure 1.1 below. This figure shows how the rest of the seven chapters are organized, their purpose linkage to the following chapters and to the conclusion of the thesis as a whole. As the figure indicates, the introductory chapter (1) is followed by three

conceptual chapters (2-4). Chapter 2 briefly explores the theoretical background of corporate governance and its models. It also briefly explores the historical development of codes of corporate governance and trends of compliance in both developed and developing economies. This chapter highlights the controversy regarding code appropriateness in developing countries. The main focus of this chapter is to identify gaps in literature and to explain how the findings of this study will contribute towards filling those gaps and also to develop the hypotheses for the study.

The contextual framework of Bangladesh is presented in Chapter 3. Using a stakeholder approach, this chapter mainly explores the social, political, economic, legal, cultural and infrastructural background in Bangladesh. It will be particularly useful in understanding the socio-economic context of Bangladesh, and most importantly to help in interpreting the findings of this study from the Bangladesh's perspective.

Chapter 4 briefly discusses the Code of Corporate Governance for Bangladesh to have a better insight into the Code. This chapter compares the Code contents with SEC regulations of corporate governance to understand the difference between the level of compliance with regulatory and voluntary code provisions. The Code contents are compared with the OECD Principles (2004) to understand the extent to which they meet international recommendations and to identify divergence (if any) to validate the claim of the Code that while following the international standards the Code contents are conditioned according to domestic needs. Finally, the Code contents are compared with neighbouring country Codes (India and Pakistan) to facilitate understanding the ways in which others are addressing different corporate governance issues which are unique to developing countries.

Figure 1.1 Framework of the Thesis



Chapter 5 discusses the research methodology. To address the research questions a mixed methods approach based on pragmatic philosophy has been adopted to interpret the results. In particular, a survey method has been adopted to answer the research questions (1-3) relating to the degree of compliance; whilst a semi-structured interview method is adopted to answer the last three questions which needed to elicit stakeholders' opinions to address corporate governance challenges in Bangladesh and the appropriate solutions. The justifications for

using these research tools are provided in the relevant chapter together with detailed descriptions of the research procedures used in collecting the data.

Chapter 6 reports the results of the quantitative analysis covering the degree of compliance with the Code. Using statistical tools and SPSS data analysis tool this chapter analyses the extent to which listed companies in Bangladesh comply with the Code; identifies the contents which have the most and least compliance; and the industries which have more or less compliance. The compliance analysis in this chapter did not answer how far compliance on paper reflects every day practice. For this purpose interviews have been undertaken to explore the perceptions of a sample of corporate managers who are closely associated with such disclosure and the actual compliance status at firm level.

The results of the interviews with corporate managers and other stakeholders exploring perceptions relating to problems of governance practices, the causes of non-compliance, the appropriate model and solutions for better governance are analysed in chapter 7. Finally, Chapter 8 summarizes the empirical findings and draws conclusions. The dotted arrows in Figure 1.1 indicate that research findings have been summarized and interpreted in the light of the Bangladeshi context of corporate governance and issues emerging from Chapters 3 and 4. The chapter also discusses the limitations of the study and potential areas for future research.

CHAPTER 2

**THEORETICAL FRAMEWORK AND
LITERATURE REVIEW**

Chapter 2

2.0 THEORETICAL FRAMEWORK AND REVIEW OF LITERATURE

2.1 INTRODUCTION

The main purpose of this chapter is to provide the theoretical framework for this study and to review the literature on code compliance for identifying the significance of the present study within the prior literature. This chapter is organized in three sections. Section 2.2 discusses different theoretical approaches, mainly agency theory, stakeholder theory and institutional theory which have significant influence over the interpretation of research findings. Agency theory is considered as the underlying theory of this research primarily because the corporate framework of Bangladesh reflects shareholder model of governance, which is based on agency theory. Moreover, this theory has a significant influence on the corporate governance reform (Berle and Means, 1932; Roberts et al., 2005) and thus on the governance literature in general. However to address the debate over the appropriate model of governance for Bangladesh, stakeholder theory and institutional theory has also been used to construct the theoretical framework in this study. Section 2.3 describes a brief history of codes, and prior literature on code compliance both in developed and developing economies including Bangladesh. Finally, in section 2.4 the discussion is summarized and important implications for this study are drawn.

2.2 CORPORATE GOVERNANCE: THEORETICAL FRAMEWORK

Corporate governance has been viewed from different perspectives using different theoretical lens. For instance, Sir Adrian Cadbury viewed corporate governance from a control

perspective and defines it “as a system by which companies are directed and controlled” (Cadbury, 1992, p.15); whilst Shleifer and Vishny (1997, p.737) emphasized more on the relationship perspectives and considered it as a means to “deal with the ways in which suppliers of finance to corporations assure themselves of getting a return on their investment”. Some other scholars (e.g. Letza et al., 2004a; Mallin, 2010; Morck et al., 2005; Solomon, 2007) rather preferred to view corporate governance from a wider perspective to incorporate various stakeholder groups into the company’s objectives. They argued that it is not only for shareholders, rather as a social entity, a company should be accountable to its various stakeholder groups who have a long term relationship with the company and who have the potential to impact firm performance. The OECD (2004) for example define corporate governance as:

“a set of relationships between a company’s management, its 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 monitoring performance are determined” (OECD, 2004, p.11).

Although most of these definitions emphasize on the structure of rights and responsibilities of different stakeholders in a company (Aoki, 2000), they differ due to the diversity of corporate practices around the world (Aguilera and Jackson, 2003; Chizema and Kim, 2010). In addition, as Mallin (2010) suggested, many disciplines (like law, economics, finance etc.) have influenced the development of corporate governance and thus theories that have fed into it are quite varied. Thus being driven from different theoretical perspectives, corporate governance has been defined in different ways and stylized in different formats for identifying the purpose of the corporation, deciding who should have the control, identifying

the problems or finding an optimal solution (Letza et al., 2008; Letza et al., 2004a). However, literature indicates that despite this wide diversity, most of the current perspectives on corporate governance can be categorized into two contrasting paradigms: shareholder and stakeholder (Friedman and Miles, 2002; Kakabadse and Kakabadse, 2001; Letza et al., 2004a). Whilst from the camp of shareholding, corporate governance is seen as a mechanism to deal with these issues by narrowing its vision to satisfy the needs of only shareholders, the opposite camp advocates having much wider vision to satisfy the needs of stakeholders (Letza et al., 2008; Letza et al., 2004a).

The following sections briefly discuss these two theoretical perspectives of governance with the aim to understand the way they have influenced the present study and other studies on code compliance. The arguments in the following sections are greatly influenced by some scholarly papers (especially the work of Letza et al., 2004a) which have critically reviewed major theories on corporate governance.

2.2.1 Agency theory and Shareholder Perspective of Corporate Governance

Agency theory is the most dominant theory of corporate governance (Dalton et al., 1998; Ermongkonchai, 2010; Hendry, 2005; Krambia-Kapardis and Psaros, 2006; Roberts, 2004) which argues that in the modern corporation, in which share ownership is widely held and management roles are separated from ownership functions, managerial actions may depart from those required to maximize shareholder returns (Berle and Means, 1932). Jensen and Meckling (1976) introduce the ‘principal-agent’ framework and state that “agency theory identifies the agency relationship⁵ where one party, the principal, delegates work to another

⁵In the context of a corporation, in the agency relationship, the shareholder is indicated by the term ‘principal’ and the managers by ‘agent’ (Singh and Ahuja, 1983)

party, the agent” (Mallin, 2004, p.12); the agency relationship is thus seen as a contractual link between the principals and the agents who are appointed by the principals and delegate some decision making authorities (Shankman, 1999).

According to this dominant theory, universal agency problems arise because individuals are opportunistic and individuals in an agency relationship have different goals and interests. Thus it is very unlikely that agents will always act in the best interests of the principal (Jensen and Meckling, 1976). Due to this constant temptation for agents to maximize their own interests, the agency relationship is the potential for losses to occur to shareholders (Fama, 1980; Fama and Jensen, 1983; Hendry, 2005; La Porta et al., 1998). Agency theory thus suggests that managers/agents must be monitored and institutional arrangements must provide some check and balances to make sure they do not abuse the power (Blair, 1995; Hart, 1995; Mallin, 2010; Shleifer and Vishny, 1997). Agency cost arise from managers’ misuse of their position, and also from the costs of monitoring them to prevent abuse(Mallin, 2004, p.13).

The traditional shareholder perspective has its origin in agency theory and regards the corporation as a legal instrument for shareholders to maximise their own interests in the form of investment returns (Aguilera and Jackson, 2003; Gamble and Kelly, 2001; Letza et al., 2008). It strongly emphasizes that shareholders are the primary stakeholders of a company, and any act for social purposes beyond the shareholders’ interests will create scope for managers to abuse their power and for government to intervene in corporate decisions and thus there is a possibility that corporate resources will be allocated in an inefficient way (Letza et al., 2004a). Hence, taking an extreme position against the stakeholder view, the shareholder perspective of corporate governance argues that maximizing shareholders return

should be the only social responsibility of business, and any other social responsibilities activities may be dangerous for the company (Friedman, 1962; Letza et al., 2004a).

The shareholder approach is logically most compatible with Anglo-American model of corporate governance (Reed, 2002). Being predominant in the commonlaw countries (e.g. US, UK, Canada, Australia, New Zealand), shareholding views of corporate governance are also known as the Anglo-American model of governance (Aguilera and Jackson, 2003; Cohen and Boyd, 2000; La Porta et al., 1998)⁶. Reed (2002, p.230) characterized this Anglo-American model or the shareholder perspective of governance by: “1) a single tiered board structure which gives almost exclusive primacy to shareholder interests; 2) a dominant role for financial markets (both as the major source for investment funds and as a disciplinary mechanism to address the agency problem); 3) a correspondingly weak role for banks and; 4) little or no industrial policy involving firms cooperating with government agencies (and labor bodies)”.

The Shareholding camp of governance argues that the best solution to the agency problem “is to determine the most efficient contract governing the principal-agent relationship and an optimal incentive scheme to align the behaviour of the managers with the interest of owners” (Letza et al., 2004a, p.248). In addition, to secure shareholders’ interests and to ensure a better governance standard in companies, a three tier hierarchical governance mechanism (shareholders’ general meeting, the board of directors and executive managers) is designed as a checks and balances mechanism in the corporate structure (Jensen and Meckling, 1976; Keasey et al., 1997; Letza et al., 2004a). The shareholder perspective of governance also

⁶ “The Anglo-American model is also labelled the outsider, common law, market-oriented, shareholder-centred, or liberal model, and the Continental model the insider, civil law, blockholder, bank-oriented, stakeholder-centred, coordinated, or “Rhineland” model” (Aguilera and Jackson, 2003, p.447)

considers that hostile takeovers, mergers and acquisitions are some of the most effective mechanisms through which the market can control under-performing corporations and thus protect the rights of its investors (Rwegasira, 2000).

The effectiveness of Anglo-American model is dependent on several assumptions. It assumes that there is a low degree of concentration of ownership and limited bank shareholdings (Berle and Means, 1932; Krambia-Kapardis and Psaros, 2006; La Porta et al., 1999; Rwegasira, 2000); discipline of the market (product, financial, managerial talent), maintaining a competitive international market (Reed, 2002); accurate, reliable and timely information flows to the capital market (Fama, 1980; Krambia-Kapardis and Psaros, 2006; Long, 2004); the securities market is highly liquid and sophisticated; and last but not the least, there is a well-developed legal infrastructure to protect against wealth transfer and insider trading (Krambia-Kapardis and Psaros, 2006). Mallin (2010) further highlights the importance of the legal system by stating that the propositions of agency theory is largely applicable to the US and the UK, where the legal system provides good protection of minority shareholders; and that may not be the situation in many other countries.

Agency theory has been a great interest to researchers of corporate governance (e.g. Arnold and de Lange, 2004; Bezemer et al., 2012; Elston and Goldberg, 2003; Fama, 1980; Hendry, 2005; King and Wenb, 2011; Phan and Yoshikawa, 2000; Renders and Gaeremynck, 2012; Warda and Filatotchev, 2010). The works of Berle and Means (1932), Jenson and Meckling (1976), and, Fama and Jensen (1983) are some of the pioneers who brought the potential of agency theory to light, and since then researchers have been using its assumptions, models, and arguments to understand ownership structure, board practices, agency conflicts, corporate governance reform, capital structure and debt (Manosa et al., 2007) and many more. In

developing countries several other authors including, Manosa et al., (2007), Imam and Malik (2007), Mukherjee-Reed (2002), Farooque et al (2007a; 2007b) have used agency theory to examine corporate governance structures, and issues and to predict possible solutions for ensuring better governance.

Despite its dominance, an increasing literature (e.g. Aguilera and Jackson, 2003; Burton, 2000; Davis et al., 1997; Henrekson and Jakobsson, 2012; Roberts, 2004) casts doubt on the ability of agency theory to understand the corporate governance issues around the world. For instance, Donaldson and Davis (1994), Jones (1995) and Daily et al. (2003b) disagreed with the proposition of the self-interest nature of the agents and argued that managers are trustworthy and should be fully empowered, whilst Charkham (1994), Sykes (1994) and Moreland (1995) opined that the fundamental shortcomings of agency theory and the shareholder perspective of governance is its excessive short term market orientation, whilst it ignores certain long-term expenditures and capital-investment which are fundamental for the long term sustainability of an organization. Thus, based on the agency theory another theoretical model emerged which is known as ‘myopic market model’ that argues short-sighted markets forces diligent managers to overemphasize the short-term return (e.g. current share price) and or take decision against the threat of hostile takeover at the expense of shareholders’ interest (Letza et al., 2004a). Hence, according to the myopic market model, corporate governance can be improved by ensuring an environment in which long-term performance⁷ is prioritized by shareholders and also managers.

⁷ “Long term performance such as increasing shareholders’ loyalty and voice, reducing the shareholders’ exit, encouraging relationship investing and empowering other groups (employees, suppliers etc.) to have long term relationship with them” (Letza et al., 2004a, p.245).

Advocates of agency theory claim that CEO duality is more likely to create conflict of interest and may have a negative impact on shareholders' interest, however, scholars like Donaldson and Davis (1994) refute such claims by arguing that vigilant boards favour CEO duality because it "contributes to a unity of command at the top of a corporation that helps ensure the existence, or the illusion, of strong leadership"; and CEO duality allows companies to serve the shareholders even better. Considering these arguments, some recent studies are suggesting that corporate governance practices which are based on agency theory must be modified according to the context of the new economy (Chancharat et al., 2012; Lin and Chuang, 2011; Tangpong et al., 2010).

While these criticisms have their own theoretical grounds, it cannot be ignored that the theory itself is sound, and thus a corporate governance model, like the Anglo-American model, has have a certain weight in dealing with real life issues of good governance.

2.2.2 Stakeholder Theory and Stakeholder Perspective of Corporate Governance

In sharp contrast to the traditional wisdom of the shareholder approach, the stakeholder perspective of governance emerged in late 20th century (Gamble and Kelly, 2001; Letza et al., 2004a). "Stakeholder theory views the corporation as a locus in relation to wider external stakeholders' interests rather than merely shareholders' wealth" (Letza et al., 2004a, p.243). In its basic form the theory states that the successful management of stakeholder relationship is the key for firms' success (Donaldson and Preston, 1995; Jansson, 2005; Letza et al., 2004a; Sternberg, 1997). The concept 'stakeholder' first appeared in the management literature in 1963 and was indicated to generalize the notion of stockholder "to those groups without whose support the organization would not exist" (Freeman and Reed, 1983). However, nowadays the concept is more specific as it is clearly been referred to as those groups or

individuals who can affect, or are affected by, the achievement of the organization's objectives (Freeman, 1984; Sternberg, 1997); and thus it includes different interest groups such as employees, customers, suppliers, government, and society at large.

Stakeholder views of governance has been popularized after the publication of Freeman's *Strategic Management: A Stakeholder Approach*(1984). Since Freeman's (1984) study, literature on corporate governance witnessed an overwhelming increase in attention from scholars (e.g. Belal, 2004; Bonnafous-Boucher and Porcher, 2010; Chen and Roberts, 2010; Donaldson and Preston, 1995; Ehrigott et al., 2011; Freeman, 2009; Jansson, 2005; Kaler, 2009; Letza et al., 2004a; Sternberg, 1997; Stieb, 2009; Tipuric, 2011; Tse, 2011; Turnbull, 1997a; Vitezic, 2010) who are either arguing in favour, or going against, this wider perspective of governance; and the existing categorization of the two contrasting paradigms: shareholder and stakeholder is its obvious consequence.

Jones and Wicks (1999) have summarized four major propositions of stakeholder theory,

“i) the firm has relationships with many constituent groups (stakeholders) that affect and are affected by its decisions; ii) the theory is concerned with the nature of these relationships in terms of both processes and outcomes for the firm and its stakeholders; iii) the interests of all (legitimate) stakeholders have intrinsic value and no set of interests is assumed to dominate the others; and finally, iv) the theory focuses on managerial decision making” (Jones and Wicks, 1999, p.207).

Donaldson and Preston (1997) extend this understanding by identifying that the stakeholder approach of governance can be categorized into two groups: normative and instrumental. Whilst “the [normative approach] emphasizes ‘intrinsic value’ in stakeholder and views stakeholders as ‘ends’, [the instrumental approach] is only interested in how stakeholders’

value can be used for improving corporate performance and efficiency and regards stakeholders as ‘means’.” (Letza et al., 2004a, p.250)

In stylizing the governance model, the normative approach argues that corporations are granted as social entities for general community needs (Sullivan and Conlon, 1997), thus executives are representatives and guardians of all corporate stakeholders’ interest (Letza et al., 2008; Letza et al., 2004a). Letza et al. in their paper stated that the most popular perspective, the instrumental approach legitimizes “stakeholder value on the grounds of stakeholder as an effective means to improve efficiency profitability, competition and economic success” (2004a, p.251). Following these assumptions, a good number of studies(e.g. Greenwood, 2007; Jones et al., 2007; Kaptein, 2008; Plaza-Ubeda et al., 2010; Rueda-Manzanares et al., 2008; Tangpong et al., 2010; Tipuric, 2011; Vazquez-Brust et al., 2010)have emerged stating that stakeholders’ involvement in company’s strategic decision making is indispensable for ensuring successful business strategy; and to do so, asGreenwood suggests,“stakeholder engagement⁸[should be] understood as a practice the organization undertakes to involve stakeholders in a positive manner in organizational activities” (2007, p.315).

⁸Being rooted in both normative and instrumental perspectives of stakeholder theory, the concept of ‘stakeholder engagement’ has also been termed as ‘stakeholder integration’ and ‘stakeholder management’ by different scholars; but these terms are very similar concepts(Plaza-Ubeda et al., 2010). For instance, almost in the similar manner ‘stakeholder engagement’, ‘stakeholder management’ views firms “having moral motivation based on the legitimate consideration of stakeholders in corporate decision making, and implies changes in corporate philosophy” (Plaza-Ubeda et al., 2010, p.419), in order to integrate stakeholder groups in theory management process (Post et al., 2002a); and ‘stakeholder integration’, as a strategic capability integration has been defined as “the firm’s ability to establish positive collaborative relationships with a wide variety of stakeholders”(Rueda-Manzanares et al., 2008). They all in fact stress the same message of involving a wide group of stakeholders in organizational activities.

However, previous studies indicate that, the recommended process of stakeholder integration/ stakeholder management varies among researchers. For example, Gray(2002) and Van-Buren-III (2001) have viewed the integration process from accountability and responsibility theories and consider that stakeholder integration is a process of attaining organizational accountability and responsibility towards stakeholders; whilst based on managerial theories some other researchers like Owen et al. (2000), and Deegan (2002) prefer stakeholder engagement as a process for managing risk, managerial control etc. Some more recent works rather viewed it from environmental disclosure (Belal, 1997; 2004; Choi et al., 2008; Choi and Kwak, 2010a); knowledge transfer (Kamoché, 2006) or even from stakeholders' satisfaction perspectives (Livesey and Kearins, 2002; Swift, 2001).

Scholars like Letza et al., (2004a) state that 'the abuse of executive power model' also takes a stakeholder perspective of governance because this model also emphasizes stakeholder welfare. According to this model, as stated by Letza et al., the major governance problem emerges when companies "allow excessive power to executive managers who may abuse their power in pursuit of their own interests" (2004a, p. 245). It claims that good governance can be established when the companies can protect themselves well from such abuse. Hence this model recommends statutory changes in corporate governance, such as a "fixed four-year term for chief executive officers, independent nomination of NEDs and more powers for NEDs" (2004a, p. 245).

Overall, stakeholder perspective of governance argues that corporate governance issues can be better resolved through encouraging stakeholders' participation and by establishing an environment where business ethics, employees' participation, inter-firm co-operation, trust and long term relationships are encouraged (Blair, 1995; Keasey et al., 1997). If implemented

properly, the advocates of the stakeholder model believe this wide approach of governance is able to offer a certain competitive edge to companies. For instance, Kelly et al. (1997) claimed that “companies which draw on the experience of all of their stakeholders will be more effective and this social cohesion is a fundamental requirement for being internationally competitive” (1997, p. 244). Turnbull (1997a; 1997b) viewed stakeholder theory from a cybernetic perspective, and claimed that governance efficiency can be improved through authentic information as generated through the stakeholders’ participation. He also claimed that “appropriate stakeholder governance could improve equity and self-governance in the private sector, the quality of democracy in the public sector, and the efficiency of both sectors” (Turnbull, 1997b, p.11). Hillman and Keim (2001) opine that stakeholder relationships are distinctive to individual firms, thus making any kind of imitation difficult for rivals. Choi and Wang (2009) further added to such claim and stated that stakeholder engagement has influence over stakeholders’ satisfaction and thus improves their commitment towards company.

Nevertheless, stakeholder theory has cast some criticisms as well. Criticizing the stakeholder model of governance, a large number of studies (for instance Antonacopoulou and Meric, 2005; Jansson, 2005; Lepineux, 2005; Plaza-Ubeda et al., 2010; Sternberg, 1997; Tse, 2011) stated that unlike shareholder or agency theory, stakeholder theory is incomplete in terms of under-specification of the corporate purpose or setting specific mechanisms for sound governance. For instance, Sternberg (1997, p.5) claimed that, “an organization accountable to everyone is actually accountable to no one”. Similar arguments were given by some other researchers (like Jenson, 2000; Letza et al., 2004a; Orts and Strudler, 2009; Sundaram and Inkpen, 2004) who argued that stakeholders’ interest varies from group to group and even within members of a single group; which may often create conflict of interest. The theory

does not guide managers in handling these issues; neither has it provided any idea of how to make the trade-offs among stakeholders. This situation gets further complicated when managers are left without clear ideas for individualizing, addressing and prioritizing stakeholders' claims (Tse, 2011).

Some earlier studies like Gioia(1995), Kochan and Rubenstein (2000), and Kaler (2006)identified that the stakeholder framework would be difficult to implement as it does not show managers how they can make it operational, whilst some other work (Tipuric, 2011; Tse, 2011; Waddock and Graves, 1997) extends such criticism by stating that stakeholder theory leaves managers without identifying an adequate, consistent and reliable measure to identify the effect of stakeholder management on firm performance; and researchers like Phillips (1997) and others(De Bakker et al., 2005; Frederick, 1994; Griffin, 2000) argued that the overall findings on this remained inconclusive which will take its toll in convincing a manager to implement the stakeholder model of governance.

Scholars (like Jenson, 2000; Kaler, 2006; Orts and Strudler, 2009) further argued that the stakeholder framework places managers at the centre of the nexus contract, but sets no criteria for controlling them. They argued what if the concept of 'Management Trusteeship' does not work at any certain point in the future (Jenson, 2000; Kaler, 2006; Orts and Strudler, 2009) or what if the managers become arrogant and unresponsive; if so then the free rein as given by the theory will permit extravagance in respect of salaries perks and premises, and the pursuit of empire-building acquisition that makes little business sense (Sternberg, 1997). The theory has also been criticized because it does not specify who shall have the property rights, or how to distribute the residual claims (Hansmann, 1996; Jansson, 2005; Letza et al., 2004a).

Last but not the least, the theory does not specify what to do if the status of a stakeholder changes. While there is no unified method for identifying who is a stakeholder, scholars (Antonacopoulou and Meric, 2005; Jansson, 2005; Lepineux, 2005; Plaza-Ubeda et al., 2010; Sternberg, 1997; Wood and Jones, 1995) opine, it would be challenging for a manager to decide an optimal method for deciding whose interest should they prioritize and to what extent; what to do if the stakeholders status changes, for example, what to do if suppliers becomes competitors and thus their participation become a threat for company's competitiveness.

2.2.3 Corporate Governance: A New Mode of Thinking

A new mode of thinking is emerging these days which strongly criticizes the polarized approach of viewing corporate governance from two extreme positions. Critics (e.g. Cuervo, 2002; Fligstein and Freeland, 1995; Gamble and Kelly, 2001; Letza et al., 2008; Letza et al., 2004a; Mueller, 1995; Vinten, 2001) are of a strong opinion that these polarized conceptualizations assume a rigid notion of social reality as ideal/optimum and unchangeable; whereas "reality itself does not have such a fixed nature" (Letza et al., 2004a, p.252), rather it is continuously changing depending on the needs of the time. With reference to the claim of Zingales et al. (2000), Letza et al., argued that the traditional mode of thinking "could be valuable in a society where intensive assets are far more significant for the exploitation of economies of scales, but business reality is not fixed and the nature of the firm is changing" (2004a, p.254); therefore they believe, due to this changing nature, that at one time a company may find it best to prioritize shareholders' interest and at another time it may need to emphasis stakeholders' interest; therefore preoccupation towards one static model is unrealistic and lacks efficacy to ensure a better governance standard. More recently, the study of Aguilera and Cuervo-Cazurra (2009) and Argandona and Hoivik (2009) also placed

similar arguments and stated – any single model cannot work as the most appropriate one or work as an effective system best for all firms at all times and ‘the one rule that fits all’ is flawed.

This new mode of corporate governance stresses on the fact that corporate governance is changeable, transformable, and dynamic enough to adopt innovation to better address the uncertain needs of the corporate world. Filatotchev et al.(2006) added to these arguments and suggested that corporate governance parameters may be linked to the firm’s strategic thresholds in the firm’s life cycle; and firm’s life-cycle may go hand-in-hand with dramatic shifts in its governance system. All of these arguments indicate that the model of corporate governance should vary by country and sector and even for the same company over time (Cuervo, 2002). Hence, without empirical evidence it is not logical to decide any particular model in advance nor it is wise to consider a model as a ‘once-and-for-ever’ option (Letza et al., 2004a). Moving out from this conventional dichotomised and static theoretical approach, these studies have invited future studies to identify an innovative approach of governance that understands corporate reality, and considers today’s civilized society (Allen, 1992; 2001; Gamble and Kelly, 2001; Letza et al., 2004a).

Some recent studies (e.g. Aguilera and Cuervo-Cazurra, 2009; Balgobin, 2008; Cuervo, 2002; Okike, 2007; Reaz-M. and Hossain, 2007; Tse, 2011) indicated the possibility of constructing a new model consisting of features (which meet country needs and global issues) extracted from the existing models of governance. They argued that features of existing models have their own merits and have been developed on the basis of the needs of a particular time and history. They may not be purely applicable but can be conditioned according to need, and understanding of these approaches will provide a better insight of the governance system

which may in turn help to develop a better way of solving the existing situation (Letza et al., 2004a), and a combination of features of different models may offset the limitations of one another. In summary, this newly emerged argument on the appropriateness of a governance model believes, for a theoretical model to be workable, research should be carried on which identifies a dynamic and pluralistic approach that better explains the “idiosyncratic workings of local corporate governance, rather than try to force-fit reality into the abstracted templates” (Letza et al., 2004a, p.256).

2.2.4 The Institutional Theory and the Code Adoption Process

One of the major limitations of existing studies of governance is its excessive dependence on agency theory to outline the rationale of the governance model (Seal, 2006). While some authors(e.g. Daily et al., 2003a) argue that social aspects of evolution of governance have received scant attention in agency theory, some others (e.g. Enrione et al., 2006; Paredes, 2005; Siddiqui, 2010; Yoshikawa et al., 2007) opine that it is ineffective to explain major corporate governance issues in developing countries. These limitations have forced researchers (e.g. Enrione et al., 2006; Greenwood et al., 2002; Mir and Rahaman, 2005; Siddiqui, 2010) to explore alternative theoretical frameworks, and amongst them institutional theory has been a very popular choice.

According to Chua and Rahman (2011) institutional theory explains “why so many businesses have similar organizational structures and cultural elements even though they are separate entities, and how organizations as institutions shape the behavior of individual members” (p.320). In simple words, it explains why different organizations structure themselves in a similar manner (Siddiqui, 2010; Suchman, 1995). Institutional theory emphasizes the fact that many dynamics in the corporate environment may stem from cultural

norms, values and rituals. Thus the social and cultural environment should also be taken into account in understanding corporate governance practices (Chua and Rahman, 2011; Scott, 1995). Consistent with such propositions, this chapter of the study explores these dynamics of the corporate environment to support a systematic analysis of the research findings.

The concept of organization legitimacy lies at the heart of institutional theory and makes it different from the early management theories (Scott, 1995). Suchman (1995) explains legitimacy as the “the generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate [within a social system]” (1995, p.574). Whilst, Scott (1995) states that institutional theory explores the role of extra-organizational institutions⁹ in developing organizational structures, policies; and the ways firms respond to such external, macro pressures for receiving support and legitimacy. However, companies may also seek legitimacy to ensure persistence, credibility and validity (DiMaggio and Powell, 1983; Meyer and Rowan, 1977).

The literature (e.g. Carroll and Hannan, 1989; Meyer and Rowan, 1977) indicates that legitimacy has been measured in different terms of acceptance, reasonableness, appropriateness, and congruence (Deephouse and Carter, 2005). However, to be more specific, this study views legitimacy as the social acceptance resulting from adherence to regulative, normative and cognitive norms and expectations.

Isomorphism is a central and multifaceted concept of institutional theory (Chua and Rahman, 2011; DiMaggio and Powell, 1983; Yoshikawa et al., 2007). Hawley (1968) defined

⁹Such as the State, professionals and public opinion

isomorphism as a constraining process that forces one unit in a population to resemble other units that face the same set of environmental conditions (Hawley, 1968).

The increasing interest on isomorphism is fundamentally because it leads to legitimacy (DiMaggio and Powell, 1983; Meyer and Rowan, 1977). According to Westphal et al.(1997) institutional isomorphism is manifested empirically as increased conformity, and Deephouse and Carter opined that “organizations conforming to commonly used strategies, structures, and practices appear rational and prudent to the social system and, therefore, are generally considered acceptable”(2005, p.333). Consistent with their opinions, while working on Bangladeshi corporate governance, Siddiqui (2010, p.263)opined that “companies prefer legitimacy as stakeholders are likely to provide resources to organizations that appear desirable, proper and appropriate”. Chua and Rahman (2011) argued that isomorphism, or compliance with expectations, is an integral part for organizational success. They also highlighted on “the choices organizations have to make in response to, or in compliance with, their institutional environment, which comprises: (1) powerful institutional constituents such as influential stakeholder groups, and (2) the rules and requirements with which they must comply to gain the desired rewards of support and legitimacy” (Chua and Rahman, 2011, p.320). Thus, the theory is of particular help in the present study to explain why organizations incur costs or allocate resources to increase their legitimacy to obtain favourable institutional resources.

According to DiMaggio and Powell (1983) institutional isomorphic change occurs through three different mechanisms - coercive, mimetic and normative isomorphism. They stated that the “coercive isomorphism results from both formal and informal pressures exerted on organizations by other organizations upon which they are dependent and by cultural

expectations in the society within which organizations function. Such pressures may be felt as force, as persuasion or as invitations to join in collusion and in some cases organizational change is a direct response to government mandate”, whilst “mimetic isomorphism results from standard responses to uncertainty”(DiMaggio and Powell, 1983, p.150), and this uncertain environment is the case when organisational goals are not clearly defined or when organisational technology is poorly understood (DiMaggio and Powell, 1983). Normative isomorphism on the other hand emerges from professionalism. DiMaggio and Powell (1983) further stated that three aspects of professionalization are important sources of isomorphism: resulting from formal education and of legitimation in a cognitive base generated by university specialists; the growth and elaboration of professional networks; and professional and trade associations.

These three mechanisms are of great interest amongst researchers. In the case of Bangladesh a few studies (e.g. Belal and Owen, 2007; Mir and Rahaman, 2005; Siddiqui, 2010) have also adopted an institutional approach to understand corporate governance developments in the country. For instance, Siddiqui (2010) investigated the development of corporate governance standards in Bangladesh and reported that “the major actors of governance are exposed to different levels of legitimacy and threat, and behave accordingly” (p. 270). The paper concluded by claiming that “despite having a socio economic structure that does not support the shareholder model, Bangladesh has adopted the shareholder model of corporate governance” (Siddiqui, 2010, p.270). Siddiqui (2010) thus raised concerns arguing that on the basis of agency-based notions of market efficiency, the model will not be entirely suitable for Bangladesh. Similar findings emerge from the study of Mir and Rahman (2005) who investigated the International Accounting Standards (IAS) adoption process in Bangladesh and report that isomorphic pressure forced the country to ‘carbon copy’ most of the IAS and

labelled them as ‘Bangladesh Accounting Standards’, which are less likely to ensure efficiency for companies. While these findings provide an important beginning of the understanding of the Code/standard development process in Bangladesh, this study intends to extend the understanding through the examination of the Code implementation process at the firm level. Drawing on the same institutional framework this study therefore explores whether, after the introduction of the Code, firms are behaving similarly in the Code adoption process and why. While the earlier two theories are adopted to address the research questions, institutional theory is adopted to support the analysis and to have better understanding of the questions and solution development.

2.3 CODES OF CORPORATE GOVERNANCE: CONCEPT, HISTORY AND DEBATE OVER APPROPRIATENESS – REVIEW OF PREVIOUS LITERATURE

“A nation’s corporate governance code is generally a voluntary set of principles, recommendations, standards, or best practices, issued by a collective body, and relating to the internal governance of corporations within a country” (Chizema, 2008, p.360). In general codes of best practice are designed to fill up the deficiencies in the legal system (Aguilera and Cuervo-Cazurra, 2004). Alves and Mendes(2004)added to this definition and stated that code recommendations are valuable as they establish “clear-cut information requirements and recommend the adoption of organizational structures that are more transparent” (2004, p.290). Codes of corporate governance are designed with an aim to enhance company performance and thereby to restore investors’ confidence (Akkermans et al., 2007; Chizema, 2008;Werder et al., 2005).

Issuance of codes around the world have risen to prominence after the publication of the Cadbury Report in 1992 (e.g. Aguilera and Cuervo-Cazurra, 2004; Akkermans et al., 2007; Enrione et al., 2006; Zattoni and Cuomo, 2008). Fernández-Rodríguez et al. (2004) reports that the last decade of the 20th century witnessed the issuance of a large number of codes of best practices, and at the beginning of 2005, some 50 countries had introduced one or more corporate governance codes (Cromme, 2005). At the present time¹⁰, according to the information of the European Corporate Governance Institute (ECGI, 2012) this number has increased from 50 to 85, suggesting an increasing interest of countries in code development.

In response to the need of an international benchmark of good governance, institutions like the World Bank and the Organization for Economic Cooperation and Development (OECD) are also developing codes since 1996 (Aguilera and Cuervo-Cazurra, 2009; Awotundun et al., 2011). Following that spirit the ‘OECD Principles of Corporate Governance’ were issued in 1999 (and amended in 2004), and eventually that has “become a widely accepted global benchmark that is adaptable to varying social, legal and economic contexts in individual countries” (Krambia-Kapardis and Psaros, 2006, p. 127). Since its inception it has worked as a guide for much of the corporate governance reforms, especially in developing countries. In fact, existing literature states that in the case of developed countries too, along with other external factors¹¹, these best practice recommendations set by international organizations are one of the major reasons behind the similarities in code contents around the world (e.g. Aguilera and Cuervo-Cazurra, 2009; Aguilera and Jackson, 2003).

¹⁰At the beginning of 2012.

¹¹such as globalization, liberalization of market, demands of foreign investors.

At the same time, existing literature (e.g. Aguilera and Cuervo-Cazurra, 2004) also suggests that domestic forces have significant influences over code development. However, unlike external forces, the domestic pressures are causing divergence among code contents. Cuervo(2002) identifies that local political interest, differences in relevant legislations, differences in perception regarding stakeholders' role in corporate governance and countries level of development are some of the major factors which cause the existing divergence among code contents. Some comparative studies (e.g. Gregory and Simmelkjaer, 2002; Hermes et al., 2006;Hermes et al., 2007) thus find that while having many similarities, the European Codes are actually rather different as compared to the best practices. More recently Wanyama et al. (2009) also reported the same and stated that

“Several nations, including the UK, have stressed the shareholder view and adopted a voluntary approach to [compliance] with codes of best practice (e.g., Combined Code, 2006) while others, such as the US, have opted for the legal approach to corporate governance rule enforcement (e.g., the Sarbanes-Oxley Act, 2002 in the US). Much of mainland Europe and Japan have instead opted for a broader [stakeholder]approach that reflects the social traditions prevailing in each nation” (Wanyama et al., 2009, p.161)

Scholars (e.g. Aguilera and Cuervo-Cazurra, 2004; 2009; Doble, 1997; Erwin, 2011; Judge, 2012; Mallin, 2010; Rahman, 2010; Zingales, 2000) have strongly emphasized that codes should be developed setting the best practice recommendations as a benchmark which should be conditioned according to a country's infrastructural features and unique demands.

However, code development is just a beginning, not the end. Researchers (like Aspelund and Moen, 2012; Gamble and Kelly, 2001; Letza et al., 2008; Wanyama et al., 2009) have been arguing for a long time that code development only cannot ensure better governance standards; nor can even a best model serve as the best solution for ever. For a code to be effective, it is vitally important that its implementation and level of compliance is monitored;

measured to identify gaps between standard and reality; and amended to accommodate changes needed. That is why research on measuring code compliance is encouraged throughout the world. In fact, measuring compliance with standard practices has gained momentum when the McKinsey Report (2002) published that 80% of the institutional investors were of the opinion that they would prefer to pay a premium for well-governed companies. Since then, over the last three decades, a huge number of studies have emerged on code compliance and the number is overwhelmingly increasing over time. Surprisingly, in this rich stream, a systematic evaluation of the corporate governance standard in Bangladesh is absent - and as explained in Chapter 1 also, that this gap in understanding has particularly motivated this study to investigate the compliance status from Bangladeshi perspective. To facilitate such analysis, the following sections of this chapter briefly discuss some of the previous studies on compliance in developed and developing countries.

2.3.1 Compliance with Codes of Corporate Governance and Debates on Appropriateness

A rich vein of literature exists where the scholars stressed that corporate governance practices are an integral part of the overall success of a company (Awotundun et al., 2011; Brockman et al., 2010; Burton et al., 2004; Doble, 1997; Ehikioya, 2009; Erwin, 2011; Gebhardt and Zoltannovotony-Farkas, 2011; Helliard and Dunne, 2004; Leventis et al., 2005; Mallin, 2000; Murinde et al., 2004; Turnbull, 1997a). Perhaps that is the reason in the literature of corporate governance, there is an increasing trend of understanding, measuring and evaluating companies' corporate standard against an accepted standard of practices in developed and developing countries. This section discusses some of those studies by focusing on their methods and overall findings.

2.3.1.1 Compliance with Codes: Review of Literature on Developed Countries

The studies measuring compliance are predominantly based on developed countries' code. Interestingly, most of these studies reflect optimistic findings (e.g. Akkermans et al., 2007; Brenman and McCafferty, 1997; Conyon and Mallin, 1997; Dahya et al., 2002; Pass, 2006; Werder et al., 2005). For instance, Conyon and Mallin (1997) is one of the pioneering studies which investigated the extent UK listed companies implemented the recommendations of the Cadbury Code of Best Practices. The study confirms that there has been a very high level of compliance with the Code. Full compliance was reported in the case of both audit and remuneration committees. According to the authors, the London Stock Exchange rule requiring listed companies to disclose their level of compliance has worked as an important factor behind this high compliance standard. Some latter studies (e.g. Dedman, 2002; Weir and Laing, 2000) also claimed the same i.e. the Cadbury Code is well accepted by the sample companies. A more recent study on companies on the UK's Alternative Investment Market (AIM)(Mallin and Ow-Yong, 2012) examined the relationship between the level of compliance with Quoted Companies Alliance (QCA) corporate governance recommendations and the company, and ownership characteristics. The study found clear evidence that compliance in sample companies increases with company size, board size, the proportion of independent NEDs, the presence of turnover revenue, and being formerly listed on the Main Market.

The German Code also seems to have received a high level of acceptance. For instance, Werder et al., (2005) investigated the overall acceptance of the German Code based on the compliance declaration of 408 firms listed at the Frankfurt Stock Exchange. Using content analysis technique the study reports that there is a high degree of acceptance of the Code which has potential to increase over time. Some other studies on the German Code (Drobetz

et al., 2004; Rosen, 2007) also support such a claim and inspired companies for adherence. Similarly, Bebenroth (2005) and Akkerman et al., (2007) examined the Dutch Code; Brenman and McCafferty (1997) on the Irish Code; Del Brio et al.(2006) and Fernández-Rodríguez (2004)the Spanish Code – and the findings of these studies show a high degree of compliance, albeit at different levels.

Consistent with the higher degree of compliance, developed countries codes seem to yield positive impact on firm performance too. For instance, the most prominent example could be La Porta et al. (1999) who analyzed the differences in governance standards in 27 countries and claim that firms with better governance standards were likely to have higher valuation. Gompers et al. (2003) is another popular study investigating the impact of compliance on firm value. They used 24 distinct provisions relating shareholders' rights for a sample of around 1500 firms per year from the US market during 1990s. The study constructed a 'Governance Index' to proxy for the shareholders rights and the data was derived from secondary sources. Compliance was measured in a straightforward way – by adding 1 point to each firm's score in case of compliance with every provision. This particular method of measuring compliance is found to be common across studies on code compliance. However, consistent with the findings of Millstein and MacAvoy (1998) their empirical findings indicate that good-governed companies performs better than the poorly governed firms from the market since the equity return of good-governed companies is much higher than the poorly-governed companies. Some other studies on the US market (Brockman et al., 2010; Gornik-Tomaszewski and Jermakowicz, 2010; Hodgdon et al., 2009; Holder-Webb et al., 2008; Myring and Shortridge, 2010) also indicate that there has been a notable improvement in corporate practices, and in many aspects compliance yields a positive impact on firm

performance; but reinforces the fact that it is the degree of compliance with the Codes, rather than the mere disclosure of compliance, which has significant impact on firm value.

The effectiveness of European countries' Codes has also been reported by some other studies. For instance, Fernández-Rodríguez et al. (2004), Del Brio et al. (2006) and Reverte (2009) have investigated the impact of the Spanish Code; Igor et al. (2006) and Rosen (2007) for Germany; Alves and Mendes (2004) for Portugal; whilst, the Cadbury Code has been studied by a number of studies (e.g. Apostolides, 2010; Dahya et al., 2002; Dedman, 2002; Doble, 1997; Mallin and Ow-Yong, 2010; Weir and Laing, 2000). These studies generally find a positive impact on firm performance upon compliance.

Nevertheless, some studies have also emerged which cast doubt on the effectiveness of codes. For instance, Bauer et al.(2004) investigated if good governance leads to higher common stock returns and firm values in Europe and placed doubt on the Anglo-Saxon orientation of the Code. Although the study found a positive relationship between corporate governance standards and share price, but surprisingly contrary to other studies (e.g Gompers et al., 2003), Bauer et al.(2004) found a negative relation between governance standards and operating performance. However, Bauwhede (2009, p.511)reexamined Bauer et al.'s(2004) claim and defended the effectiveness of European codes by reporting that “greater compliance with international best practices concerning board structure and functioning is positively related with operating level performance”. Using theoretical support and a sample of European countries in 2000-2001, Bauwhede argues that despite considerable variation in corporate governance practices during the study period, “return on assets (ROA) increases in the extent of compliance with international best practices concerning board structure and

functioning”¹²(2009, p.498). The study thus claimed that, the negative evidence as reported by Bauer et al. (2004) was not because of the Anglo-Saxon orientation of Code or any other reason, but due to the fact “that poorly governed companies[were] using the available discretion over the timing of asset sales to cover up their inherently lower operating performance” (2009, p.498).

However, there are a few studies (e.g. MacNeil and Li, 2006; Pass, 2006) which reports non-compliance in developed countries. For instance, some studies (Doble, 1997; Mallin and Ow-Yong, 1998; Parsa et al., 2007) have paid attention to small and medium firms (SME). Their findings show generally less compliance than larger firms. Doble (1997) thus argued that Codes are made for larger firms and less attention has been paid to the compliance of SMEs which are causing non-compliance. Some recent studies (Plant et al., 2011; Spanos et al., 2008) have found non-compliance in family-owned companies and claim that development of code alone is not sufficient to ensure better governance, compliance processes in family owned companies need more attention. Moreover, some scholars (Akkermans et al., 2007; Bebenroth, 2005) have further argued that non-compliance is inevitable if the code itself increases the possibility for camouflage and symbolic compliance if it is ambiguous and lacks theoretical rationale.

Overall discussion on the studies on developed countries finds that most of the studies are predominantly quantitative and report a high or significantly high degree of compliance with the codes. Despite a few negative findings, most of the studies also indicate that Codes are effective in improving firm performance. In essence, researchers are continuously paying

¹²Moreover the study of Bauwhede (2009) also found a positive relation between the extent of compliance with recommendations on disclosure (and some other areas like takeover defence) and firm operating performance.

attention to Codes, measuring them, evaluating them and amending them according to feedback. Special attention is being paid to identifying flaws and taking corrective actions by amendment of Code contents. Perhaps these are the major reasons why the Codes of developed countries are increasingly well-accepted by companies.

2.3.1.2 Compliance with Codes: Review of Literature on Developing Countries

The compliance status in developing economies is in sharp contrast with that of the developed countries. While developed countries are showing high degree of compliance, developing countries are far behind and most of the studies reflect non-compliance. Klapper and Love (2004) is one of the earliest studies considering a group of emerging countries to understand their governance practices and the impact on firm performance. Following the same methodology of Gompers et al. (2003), the study has used data from 14 emerging markets and finds that the level of compliance is a major issue for emerging markets. The study also indicates that there is wide variation in firm-level governance among sample companies and that the average firm level governance is lower in countries with weaker legal systems (Klapper and Love, 2004, p.703).

Slightly different picture came out from studies on Latin-American countries. Four papers, Rabelo and Vasconcelos (2002), Leal and Carvalhal-da-Silva (2005), Silveira and Saito (2009), and Black et al. (2010) studied corporate governance practices in Brazil. Among those, both Leal and Carvalhal-da-Silva (2005) and Silveira and Saito (2009) constructed a broad corporate governance index from publicly available information and provided an indepth analysis of the voluntary adoption of Code among the listed Brazilian companies. The studies indicated that corporate governance practices were improving over time. However, they found that the level of compliance is low and the pace of improvement is very

slow. Garay and González (2008) reported the same in the case of Venezuela. Although they found a positive impact of compliance on firm-performance, but they had to raise concern with their degree of compliance¹³. The study therefore suggested that if Venezuela wants to sustain this positive impact on firm value, they need to take immediate action to improve certain areas of governance especially in the code provisions.

Compliance standard seems to be nothing better in Africa. Quite a good number of studies have emerged from this region. Such as Ogbuozobe (2009), Ogbechie (2009) and Olayiwola (2010) studied Nigerian companies; Wanyama et al.(2009) and Sejjaaka (2007) concentrated on Uganda; Adu-Amoah et al.(2008) Tsamenyi et al.(2007) studied Ghana; whilst Rwegasira (2000) considered the overall African block for understanding their corporate governance practices – but interestingly non-compliance is the general findings of all these studies. For instance, using 22 listed companies of Ghana Stock Exchange Tsamenyi et al. (2007) finds that the compliance in Ghana is generally low¹⁴. Whilst Ogbuozobe (2009) and more recently Olayiwola (2010) observed a significant divergence between corporate practices in Nigerian companies and corporate governance recommendations. Ogbechie et al. (2009) further argued that even the existing compliance standard is questionable because companies are complying due to legitimization reasons. This criticism reflects institutional theory that suggests “that when faced with externally imposed standards, organizations can sometimes respond by developing alternative standards for the same practices” (Okhmatovskiy and David, 2012,

¹³ “The study constructed an index of corporate governance practices for listed firms in [Venezuela] and found a very large variation in corporate governance practices among firms. At the firm level, the highest score was 71.67 per cent and the minimum value was 16.67 per cent. The mean CGI value was 40.34 per cent, which gives Venezuela a score below the emerging market average” (Garay and González, 2008, p.207).

¹⁴The average disclosure level is below 52%

p.1), or prefer compliance on paper that does not reflect in actual corporate practices. Hence, Olayiwola (2010) opined, Nigeria to reap benefit of compliance with best practice recommendations, some structural change is needed; or the economic reform process led by IMF and the World bank needs to understand specific governance features of these countries. Wanyama et al.(2009) added to such claim by stating that pervasive corruption and weak ineffective regulatory framework hampers the attempt of corporate governance reform in Uganda and unless corrective measures are undertaken to reform the regulatory framework, mere development of codes would not be able to improve corporate practice in this region.

Interestingly, non-compliance with codes of corporate governance has also been found from the studies on South Asian developing countries. However, this similarity is not surprising, because most of the developing countries share some commonalities in the socio-economic and governance reformulation structure, corporate governance framework and framework related problems. Shah and Butt (2009) measured the extent that Pakistani companies comply with Code provisions. Based on 114 sample listed companies, the authors analyzed the impact of quality of governance on the expected cost of equity. The authors constructed their own corporate governance index and measured quality of governance by assigning weight to the components of the index. Using simple ordinary least squares method the study indicates a positive association between the variables but, unfortunately the status of compliance is found to be the same as other developing countries- low level of compliance. A similar pattern has been found in Ibrahim's (2006) study who also focused on Pakistani companies.

Evidence from India also reveals the same result in the case of the level of code adherence. Even though authors like Agarwal (2001), Ahmed (2006), Swain (2009), Kaur and Mishra(2010) and Bhasin (2010) have studied corporate governance practices in India from

different points in time, the findings are generally the same: 'low level of compliance or to certain cases non-compliance with Code of corporate governance'. For instance, one of the most comprehensive researches on India (Hossain, 2008) investigated the financial reporting and disclosure system of the banks in India. As of 2004, out of a total of 58 the author studied 38 banks comprising of both public and private sector banks listed on the Bombay Stock Exchange (BSE), and the National Stock Exchange (NSE). Using content analysis he observed variation in the disclosure patterns between public sector and private sector banks in relation to total corporate governance disclosures and the mandatory and voluntary elements of the index prepared for his study¹⁵. The author concluded that the overall levels of disclosure were relatively low with only the best disclosers reaching at least 50% of the index; and suggested that the variation might be due to the weak regulatory supervision or poor internal compliance or control of compliance and public sector banks' compliance might be weaker due to bureaucratic inefficiencies in monitoring. The findings are similar with other studies on India (Ahmed, 2006; Kaur and Mishra, 2010; Shukla, 2009).

There are several other studies on developing countries. There are studies from Cyprus (Krambia-Kapardis and Psaros, 2006), Jordan (Al-Najjar, 2010), Lebanon (Chahine and Safieddine, 2011), and Malaysia (Haniffa, 1999) – and interestingly, almost all of these studies reported significant concern on the level of compliance. However, evidence from Kuwait (Mutawaa and Hewaidy, 2010), Poland (Campbell et al., 2009) and China (Lo et al., 2011; Lu et al., 2009) and Bahrain (Hussain and Mallin, 2002; 2003) slightly differs from this

¹⁵For total corporate governance disclosures private sector banks on average scored marginally higher than public sector banks with the latter showing lower dispersion by range of disclosure score and standard deviation. The study also found that performance by the individual sample banks on the voluntary components of corporate governance disclosure showed a range of scores of one (1) (9.09% of the eleven items in the index) to six (54.54%) with a mean score of 3.05 (27.75%); the standard deviation of absolute scores across all banks was 1.33 (of percentage scores 12.13) (Hossain, 2008).

consistent pattern of non-compliance scenario of developing countries. The authors of these papers are optimistic because they have found that the level of compliance is increasing over time in the respective countries. For instance, based on 250 publicly available compliance statements filed in 2005 by Polish companies listed on the Warsaw Stock Exchange (WSE), Campbell et al. (2009) claimed that the Polish Code of Corporate Governance Best Practices has a high level of acceptance by Polish companies. Again, based on the revised OECD Principles (2004) and China's regulatory framework, Lu et al. (2009) developed a corporate governance index to measure overall corporate governance and disclosure practices of the 100 largest listed companies and found that Chinese companies are progressing in reforming their corporate governance system and practices.

The plausible reasons behind these optimistic results may be with the fact that countries like China and Kuwait are considered as rapidly moving emerging countries with stable economic growth. Their capital markets are also well developed and strong enough to afford a Western model of corporate governance. Moreover while studying the corporate governance of Poland, Mallin and Jelic (2000) reported that since 1995, Poland has fundamental legislative changes and privatization policies which actually contributed to a strong and healthy trend in Polish economic growth – and these make them different from other developing countries reporting significant non-compliance. Mallin and Jelic, (2000) further state that the fixed income market in Poland is very dynamic with rapid growth to meet the demand of both domestic and foreign investors; whereas most of the developing countries are in a battle to gain the trust of investors due to their weak legal regulation, pervasive corruption and ineffective regulatory systems. Nonetheless, even with these progressive infrastructural features, none of these could achieve high level of compliance with OECD Principles so far.

However, the overall failure of developing countries in ensuring a high level of compliance has triggered a number of studies to explore the underlying reasons. Findings indicate that inadequate legal system and enforcement mechanism (e.g. Jun-Lin and Liu, 2009; Klapper and Love, 2004; Okike, 2007; Rathinam and Raja, 2010; Vaithilingam and Nair, 2007; Yapa, 1999), deterioration of moral values and lack of culture of compliance (Ermongkonchai, 2010; Halter et al., 2009; Kaur and Mishra, 2010; Lucey and Zhang, 2010; Ofori and Hinson, 2007; Wanyama et al., 2009); domination of family businesses (Al-Najjar, 2010; Anyansi-Archibong et al., 2010; Imam and Malik, 2007; Kempf and Ruenzi, 2008; Krambia-Kapardis and Psaros, 2006) are some of the prime factors for which developing countries are finding it challenging to ensure higher levels of compliance like developed countries.

Moreover, researchers (Aguilera and Cuervo-Cazurra, 2009; Aluchna, 2010; Krambia-Kapardis and Psaros, 2006) argue that if successful implementation and its reflection in everyday practice is one of the determinants of Codes' success – then motivation for compliance is more important than putting pressure for compliance. This motivation may come from a proper understanding of the necessity for compliance, incentives and evidence of the benefit of compliance for companies. Especially because compliance with codes is expensive. Unfortunately, developing countries seem to be facing more difficulties in this regard. On one side Codes are demanding full compliance to yield their best; on the other hand, due to lack of motivation companies are not ensuring full compliance - and thus the compliance with codes become even more challenging.

However, the recent debate is increasingly overshadowing all these plausible factors discussed above. A large number of studies (e.g. Adu-Amoah et al., 2008; Aspelund and Moen, 2012; Belal, 2001; Judge et al., 2010; Marnet, 2007; Mir and Rahaman, 2005; Morck

et al., 2005; Mukherjee-Reed, 2002; Reed, 2002; Singh and Newberry, 2008; Uddin and Choudhury, 2008) have emerged strongly arguing that the cause of non-compliance lies with code themselves. They strongly opined that non-compliance is inevitable when codes of corporate governance contain either controversial or ambiguous provisions (e.g. Bathala and Rao, 1995; Burton, 2000; Campbell et al., 2009; Dawson and Dunn, 2006) or are being imposed on companies due to institutional legitimisation (Belal, 2001; Belal and Owen, 2007; Burton, 2000; Mir and Rahaman, 2005; Reed, 2002). They stated that most of the developing countries are going through corporate governance reform and taking the shape of Anglo-American model of corporate governance (Reed, 2002; Siddiqui, 2010; West, 2006). Although theoretically, Anglo-American model of governance is supposed to offer countries some advantages like increased corporate growth and profits; facilitation of overall opportunities; faith, trust and reliability via proper disclosure in reporting instruments; benefit for society and ensure greater investor protection through its required mechanisms¹⁶(Mukherjee-Reed, 2002), critics (e.g. Mukherjee-Reed, 2002; Rwegasira, 2000; Singh and Newberry, 2008) have argued that it would be hard to realize these benefits in the vulnerable corporate infrastructure of developing countries. According to these critics, corporate infrastructure in developing economies is not compatible to support the mechanisms needed for ensuring the success of an Anglo-American Code.

In explaining these incompatibilities, Reed (2002) finds that the basic areas of reform in the Anglo-American model of governance include changes to company law (e.g., to strengthen shareholder rights), “reforms of the judicial system (to allow for more effective enforcement of contracts) and changes to financial markets (to help induce investment and discipline

¹⁶Some examples of the mechanisms of Anglo-American model are trade liberalization, sustained economic growth and improved transparency in corporate dealings and so on (Mukherjee-Reed, 2002)

management and majority owners) as well as related macro-level reforms”(2002, p.240). Consistent with other studies (like Ahmed, 2006; Hossain, 2008) Mukherjee-Reed (2002) believes countries like India will face some major challenges (especially in the case of judicial reform) in setting up the required environment for making the shareholder model a success. However, La Porta et al. (1999) suggest another important factor about the universal agency problems. The study suggests that the agency problem in developing countries is different than that of the developed countries. For instance, as they claimed, instead of arising in between agents and shareholders, in developing countries the agency problem exists between majority and minority shareholders. Hence, the theory itself is not properly applicable in a developing country context.

Taking the case of Africa, Rwegasira (2000) reports the same –the Anglo-American model of governance is more applicable to countries where company shares are generally owned by dispersed owners which is just the opposite of the developing countries’ corporate features. Paredes (2005) criticized from another dimension and claims that emerging economies lack important “second-order institutions”¹⁷ that enable markets to monitor, hence they will have a hard time in ensuring full compliance with a Code designed according to a western corporate structure. Whilst Wanyama et al.(2009) argued from a Ugandan perspective and stated that corporate governance standards in developing countries may have similarities on paper, but in reality it is quite different. They strongly argued that developing countries’ corporate “frameworks are not yet strong enough to support what might normally be considered to be “good” practice” (Wanyama et al., 2009, p.159).

¹⁷For example “experienced investment bankers, lawyers, security analysts, accountants and effective judicial systems” (Siddiqui, 2010, p.255).

An important fact is hidden behind the convergence of codes in developing countries. Some studies (Aguilera and Cuervo-Cazurra, 2004; Arslan, 2012; Enrione et al., 2006; Zattoni and Cuomo, 2008) explain this worldwide adoption of (similar) corporate governance codes by referring to arguments of efficiency and legitimacy. In summarizing these studies, Siddiqui stated that “countries with poor investor protection are prompted more by legitimization reasons”(2010, p.255). However, there are some other studies (e.g. Krambia-Kapardis and Psaros, 2006; Lin and Chuang, 2011; Mukherjee-Reed, 2002; Reed, 2002; Solomon et al., 2002) which paid particular attention in explaining why developing countries are following the shareholder model if that is in conflict with developing countries’ socio-economic infrastructure. These studies indicate that there are several possible contributing factors, e.g. for some countries (e.g., India, Nigeria) their company law is based on British company law, and thus traditionally embedded in the Anglo-American model that lead to further movement in this direction (Reed, 2002); or it might be because of the global pressure (Mukherjee-Reed, 2002).

However, the most common reason for the relative uniformity of codes in developing countries is with their need to attract foreign investment. As Reed (2002) and Krambia-Kapardis and Psaros (2006) explained, developing countries are significantly dependent on donor agencies, like the international financial institutions. Reed (2002) also stated that “as a condition of renegotiating loans, international [financial] bodies [impose] structural [adjustment] programs on developing countries. These programs included a variety of features that have induced a move to an Anglo-[American] model of governance” (2002, p.228).

Critics of the Western model in developing economies believe that the stakeholder model of governance is an optimal solution for ensuring better governance in developing economies. Since the stakeholder model of governance recognizes weak corporate control, and relies on closer contact between shareholders and agents, it is expected that the close relationship will be effective in ensuring the interest of most of the stakeholders (Rwegasira, 2000).

More than a decade ago Shleifer and Vishny (1997) and Dyball and Valcarcel (1999) claimed that corporate governance practices in developing countries has not been studied as in developed countries. However, the discussion above indicates that in recent years an increasing number of studies from developing countries have emerged. Unlike developed countries, most of these studies have reported a poor level of compliance with Codes. This has perhaps worked as a catalyst to encourage more research on understanding the underlying reason behind such non-compliance and identifying optimal solutions for good governance.

2.3.1.3 Corporate Governance Practices in Bangladesh: Previous Studies

The concept of good corporate governance is relatively new in Bangladesh; thus the area of good governance in Bangladesh has not been studied as intensively as in other developing countries. However, in recent years, several scholarly papers have emerged understanding different dimension of corporate governance in the country. Most of the research has emerged in the area of accounting and auditing practices (e.g. Habib and Islam, 2007; Imam et al., 2001; Kabir et al., 2011; Mir and Rahaman, 2005; Siddiqui and Podder, 2002; Uddin and Hopper, 2003). Siddiqui and Podder(2002) for instance, studied 14 banks of Bangladesh to examine the effectiveness of audit and found that the banking companies were misstating their profits in their financial statements and their audit firms are certifying these financial statements as ‘true and fair’. Finding that only 3 out of 7 default companies’ auditors have

placed a modified statement, the authors raised concerns about the competence and independence of auditors in Bangladesh. Similarly, by examining 115 listed companies of Dhaka Stock Exchange, Imam et al. (2001) found a lack of timeliness in most of the audit reports. Habib and Islam (2007) viewed the auditing practices of Bangladesh from a different angle. They studied the association between non-audit fees (NAF)¹⁸ and financial reporting quality to understand the independence of auditors. The authors claim that unlike developed countries the threat of litigation is completely non-existent in Bangladesh and by using 530 firm-year observations from 1996 to 1999, they found that NAF is causing auditors to sacrifice their independence in Bangladesh. The findings of Karim and Moizer (1996) perhaps link all these findings on audit practices of Bangladesh by indicating that the major problem lies with the poor audit fee in Bangladesh. The authors claim that the fee is even poorer compare to other developing countries. Infact, as the World Bank report (2003) finds, the audit profession lacks proper institutional settings to to attract quality graduates and thus in turn finds it difficult to produce quality auditors. Moreover the report also stated that the “out-of-date legal requirements, ineffective enforcement mechanism, poor quality accounting education and training, and inadequate adherence to professional ethics are also considered to have contributed to the weakness of the financial reporting regime in Bangladesh” (2003, p. 0).

Comparatively, the social reporting practices of Bangladesh have been examined more than any other areas of governance practices. The study of Belal (1999) seems to be the earliest one amongst those studies. Using a sample of 30 annual reports of companies for the year

¹⁸The idea behind using NAF is that a high level of NAF may induce auditors to allow aggressive reporting by management and such incentives may be provided by auditors' long term desire to attract and retain clients.

1996, the study investigated the corporate social reporting practices in Bangladesh. Using content analysis, this study indicated that company disclosure varies among companies and especially the ethical disclosure was found to be mostly ignored by the companies. Although the study provides a general understanding of the social disclosure practices for that particular time, it is incomplete in drawing any conclusions regarding the overall compliance standard. However, more concrete evidence emerged from a later study (Imam, 2000), which also investigated corporate social reporting but reported that the level of disclosure is poor . Eventually some more studies emerged in this area in Bangladesh, but the poor level of disclosure remained almost constant in those studies. For instance, Belal (2001) paid attention to the corporate social reporting practices of Bangladesh from a much broader aspect in the socio-economic context of Bangladesh. Using a small sample from the listed companies¹⁹ this study shows that although a number of sample companies are making social disclosures which are voluntary in nature, the quality is very low, and the disclosures are purely descriptive in nature and contain only ‘good’ news – thus they lose their credibility. Most importantly, the study indicates that 51 percent of the sample companies did not disclose some mandatory information²⁰. The author concluded by stating that the changes made by the country in the disclosure practices is appreciable, but the overall quantity and quality of disclosures are still poor. Although this study is noteworthy for understanding disclosure practices in a broader aspect, its limitation is with its sample. The study has considered only 30 annual reports which is only 15% of the total listed companies of that time. Furthermore,

¹⁹quoted on the Dhaka Stock Exchange and Dhaka Metropolitan Chamber of Commerce and Industry

²⁰like information on foreign currency transaction which are mandatory by the Companies Act 1994 and are considered as crucial in Bangladesh from a macro-economic perspectives.

the study has focused only on the industrial sector of the country; thus the findings are only tentative and cannot be generalized to non-industrial sectors.

The study of Belal (2004) is perhaps the most comprehensive research on corporate social reporting of Bangladesh that examined 87 annual reports of companies in Bangladesh²¹ to develop an exploratory understanding and explanation of CSR practices in Bangladesh. The overall conclusion of this study implies that, in their pursuit of CSR, firms are fundamentally tempted by their desire to tactically [favour] key stakeholders. The author argues that companies of Bangladesh perhaps attain this often at the cost of financially weak social stakeholders. Although the findings of this study are based on a strong theoretical argument and are consistent with many other studies (Belal, 2002; Owen et al., 2001) it seems to have a limitation in terms of the time when the study was conducted. The findings are relevant for that particular time, but it's almost a decade since the analysis was done.

Whilst the above studies focused on social disclosure, other studies on Bangladesh focused on financial disclosures. Nevertheless, the compliance status seems to remain the same, i.e. poor compliance. For instance, Akhtaruddin (2005) investigated the extent to which the listed companies in Bangladesh comply with the mandatory disclosure rules of three influential regulatory bodies²². By examining 94 annual reports published in the year 1999, the study finds that companies in general do not comply with mandatory disclosure requirements of the regulatory bodies. Islam et al.(2008)'s findings also reported the same

²¹for the year 1999/2000

²²Companies Act 1994, SEC (Securities and Exchange Rules 1987) and the Institute of Chartered Accountants of Bangladesh (ICAB) (which has adopted IAS).

concern²³. Nevertheless, both of these studies are limited to non-financial manufacturing companies whereas the financial sector still dominates the corporate sector of the country and plays a major role for financing business activities. Ignoring the financial sector thus would not complete a picture of corporate governance standards in Bangladesh. Moreover, Akhtaruddin (2005) used purposive sampling which is more prone to have a biased result; and also used annual reports as the only source of compliance disclosure. This excessive dependency actually limits the acceptability of the findings further because accounting theory states and accepts other mediums of disclosures too (e.g. media release, interim reporting, letters to shareholders, letters to employees etc.) through which a company can ensure its accountability to its shareholders and stakeholders; and thus “exclusive focus on annual reports may lead to an incomplete picture of CSR practices” (Unerman, 2000, p.667)

While the previous studies are mostly descriptive in nature, there are two studies (Belal, 2004; Belal and Owen, 2007) which adopted an engagement-based approach in understanding corporate disclosure practices of Bangladesh and viewing the practices from stakeholders’ perspectives. The study of Belal and Owen (2007) used interview method to examine the perception of corporate managers towards the prevailing social reporting practices in Bangladesh and thus to identify the factors behind the present status of, and future prospects for, social reporting in the country²⁴. Whilst earlier studies (Belal, 2001; Imam, 2000) reported that like many other developing countries, Bangladesh has also been pressurized to adopt Western developed standards and codes, the study of Belal and Owen (2007) reported

²³The authors of this study concluded by stating that companies prepare cash flow statements according to IAS and non-compliance prevails among companies (Islam et al., 2008)

²⁴In doing so, the study has basically focused on the Global Reporting Initiatives (GRI), AA1000 and SA8000

that the key impetus behind the social reporting process is also because of the pressure from external/powerful forces (mostly international customers). The study argued that such an adoption of international standards which is implemented to convince economically powerful stakeholders is most likely to create passive compliance. The study concluded with raising concerns about the effectiveness of the prevailing mock compliance on the social disclosure standards of Bangladesh.

One major limitation of the above studies is they are predominantly focused on one single element of the overall governance concept - whereas a systematic understanding of the governance situation stems from an analysis of the overall corporate dimensions. An insignificant number of studies have emerged (Haque, 2007; Reaz, 2006; Reaz and Arun, 2006; Siddiqui and Podder, 2002; Sobhan and Werner, 2003) which have attempted to fill this gap in the literature by studying all the contextual frameworks and all the major mechanisms of good governance. Nevertheless, the findings of those studies do not provide any optimistic conclusion either. Reaz (2006) for instance, comprehensively examined corporate governance of financial institutions (particularly banks) of Bangladesh. Using a mixed methodology comprising of a questionnaire survey among 35 banks and 21 interviews with top bank management officials, the study measured the state of governance against the OECD (1999) governance framework. The research findings indicate the same: poor compliance status. Reaz and Arun (2006) focused on the governance practices in banks of Bangladesh and found that owners of banks hold large shares and were misusing the bank's fund. They also report that the owners are also dominating in the audit and disclosure practices of the banks. The study concluded by stating that the major problem of bad governance relating to loan recovery in Bangladesh is rooted in political and family interferences; whilst Chowdhury (2002) claims that the situation is complicated in Bangladesh because the legal system itself

protects the criminals from being punished and halts the process of institutionalizing good governance²⁵. Although these studies have incorporated broader aspects of governance, they have made its scope limited to banks. The banking industry makes significant contribution in the overall economy of the country, but does not represent all other industrial sectors of the country. Whilst different industries face different challenges, it is important to understand what is happening in other areas as well. Moreover, the above studies have measured governance practices against OECD Principles (1999) which have been revised in the year 2004. Therefore once again applicability of the findings of these studies needs revision at the present time.

In the recent past, the World Bank (2009) study has responded to this gap of understanding and attempted to measure the extent companies of Bangladesh are complying with the SEC governance guidelines. Using a small sample of 53 listed companies the study analyzed their level of compliance through a self constructed governance index. However, the findings are an exception compared to the previous studies. Instead of those pessimistic conditions, the study suggests that the level of compliance has increased among listed companies. For example, overall the sample companies shows 83% compliance with the SEC Corporate Governance Guidelines²⁶ and the company-specific corporate governance index ranges from 100% compliant companies to 8% compliance. This high level of compliance made the

²⁵ “Even formal institutions do not matter as such unless they can induce changes in the way social agents behave...if financial sectors are liberalized without adequate prudential regulation, financial institutions are likely to be captured by powerful political and/or business interest that operate the institutions to serve their own interest rather than those of the creditors/ depositors” (Chowdhury, 2002, p.25-26)

²⁶ SEC of Bangladesh introduced Corporate Governance Guidelines (SEC Guidelines) in the year 2006, as a listing requirement for the listed companies. The provisions are discussed in Chapter 4.

authors claim that “listed companies in Bangladesh have increased their level of sophistication and Bangladesh is ready to take a step in expanding the Code coverage to the other important governance areas” (World Bank, 2009, p.41). However, the study is limited with its sample size. Moreover the data for the study was collected from annual reports for the year 2006 (mostly) which was the launch year of the SEC Guidelines against which the study measured compliance. Thus the data collection period raises question about whether the findings actually reflect the response of companies against the SEC Guidelines.

A significant gap in the literature emerges from the above discussion on the corporate governance practices in Bangladesh. Whilst, compliance or disclosure have been measured against mandatory provisions, and some voluntary provisions in the case of social reporting, untill now none of the studies has measured the extent to which companies of Bangladesh are complying with the voluntary Code of Corporate Governance for Bangladesh (The Code, 2004). This Code is more comprehensive than the SEC Guidelines (World Bank, 2009)and, as stated by the Code, the provisions of the Code are developed by incorporating the international standards and local needs, which are theoretically ideal for ensuring good governance. Moreover, developing contries like India, Malaysia, Indonesiaare encouraging companies towards for voluntary compliance arguing that regulators should provide the fundamental framework for good governance but meaningfulgood governance can be ensured in countries where the legal system is weak, when companies are stepping forward to ensure compliance. That is why, as discussed in the earlier sections, both developed and developing countries are increasingly paying attention to measure the level of compliance against voluntary Codes of corporate governance stressing that such an understanding allows companies to be aware about their standard of corporate practices, allows policy makers to take corrective decisions and most importantly allows the code to be revised and

accommodate the country specific needs. In such a vast literature, evidence from Bangladesh is absent.

Understanding compliance standard against the voluntary Code is also important because of the debate over the appropriateness of the Western model of governance in Bangladesh. A recent study (Siddiqui, 2010) has considered investigating the corporate governance regulation in Bangladesh. Adopting a stakeholder approach to review the corporate environment of the country and using efficiency and institutional theoretical arguments, this paper suggests that despite the infrastructural deficiencies, Bangladesh has adopted the Anglo-American model of governance, which is ‘entirely not suitable’ for the country. Reviewing the Bangladeshi corporate environment, Siddiqui (2010) also argued that the excessive dependence of the Bangladeshi government on the International Financial Agencies (IFAs) such as the World Bank, the IMF and the Asian Development Bank (ADB) for different development projects and the lack of self-regulation among the corporate governance players in Bangladesh, has created scope for the IFAs to intervene in policy making through private think tanks, and the reflection of the Anglo-American model of governance in the Code for Bangladesh is an obvious consequence.

The same arguments were canvassed in other areas of governance in Bangladesh too. For instance, Mir and Rahaman (2005) investigated the IAS adoption process in Bangladesh. With reference to DiMaggio and Powell’s (1983) arguments that conformity or isomorphism is a function of external dependence, the paper argued that adoption of these Western practices are questionable as it was not done out of efficiency reasons, rather it is the excessive dependence of the government on the donor agencies that forced the country to adopt donor agencies’ recommended standards. Thus very low compliance with those

standards has become inevitable for companies. Not only in these areas, scholars (e.g. Belal, 1999; Belal, 2001; 2004; Belal and Owen, 2007; Reaz-M. and Hossain, 2007) have also worked on corporate social reporting system in Bangladesh and have concluded with the same concern – the adoption of a standard based on the Western countries may not offer a better future for a country like Bangladesh; and considering the presence of representatives of banks and workers in companies in Bangladesh, Siddiqui (2010), Belal (2004; 2007) also indicated that the stakeholder model of governance may be a better option to improve governance standards in Bangladesh.

Although, Siddiqui (2010) has worked on the impetus behind this Code adoption in Bangladesh, he did not study the extent of compliance with the Code. By focusing on the arguments of scholars(e.g. Branson, 2004; Clarke, 2007; Cohen and Boyd, 2000; Mallin, 2010; Monks and Minow, 2004; Tricker, 2000; Turnbull, 1997b; Wallace-P and Zinkin, 2005)of corporate governance that countries differ with their socio-economic challenges, the present study argues that if other developing countries have found the Anglo-American model inappropriate, nonetheless that does not provide enough grounds for Bangladesh to accept or reject the model, unless it has its own evidence of non-compliance due to Code's inappropriateness.

Thus, it is important to look at the evidence to determine if the Code for Bangladesh, which reflects the Anglo-American model but claims to have customized Code provisions according to Bangladeshi needs is actually reflecting compliance or non-compliance, or in other words, to understand how far the Code has been accepted by the companies of Bangladesh. If non-compliance is the case, then it is important to identify why and where companies are non-compliant and how the Code should design its provisions to reach appropriateness according

to the corporate infrastructure of Bangladesh. Whilst critics of developing countries and even from Bangladesh (e.g. Belal, 2004; Uddin and Choudhury, 2008) believe the stakeholder model may better address the governance issues, it is imperative to identify the extent to which the country is ready comply with the theoretical assumptions of the perceived best model.

2.4 SUMMARY

This chapter has identified and discussed the theoretical framework of the study and discussed previous literature to identify the research gap and the scope of contribution of the present study. The overall discussion indicates that both of the agency theory and the stakeholder theory have their own merits and criticisms in providing an understanding of corporate governance. Arguments discussing the advocacy and shortcomings of these theories are adopted to construct the interview guidelines (as discussed in Chapter 5) and analysing the research questions relating barriers to good governance, causes of noncompliance and an appropriate model of governance for Bangladesh (as discussed in chapter 7).

The discussion on the previous literature on code compliance helps in identifying the most common method of measuring compliance, which is adopted in this study and discussed further in detail in chapter 5. The overall discussion on the prior literature also suggests developed countries are complying more than the developing countries with their particular corporate governance codes. Some studies were quite extensive and identify reasons behind non-compliance and factors influencing the level of compliance. Nevertheless, many questions regarding governance in developing countries are yet to be answered. Especially,

the triangular debate²⁷ on the appropriateness of codes in developing economies is strong enough to create confusion in deciding the best alternative for developing countries. The situation is even more critical for Bangladesh because like many other developing countries its future economic development is critically dependent on, among other things, the ability to attract investment and increase capital funds. One of the major outcomes of such ability would be to bring order in the capital market and an overall corporate structure which will be effective enough to ensure a healthy growth of business and this is one of the major reasons why an appropriate code of corporate governance is important for Bangladesh.

Although the inadequacy of the shareholder perspective of governance in explaining the corporate governance features of developing countries is apparent, that is not enough for rejecting this model in the case of Bangladesh. Whilst, earlier studies have criticized the adoption of the Western model in the developing country structure finding evidence of non-compliance, in the case of Bangladesh, no study has examined the evidence for non-compliance with the Code of Corporate Governance Bangladesh (2004). Referring back to the arguments of the scholars of corporate governance that codes should be measured regularly and continually with an aim to identify where and how they does not match with country specific needs, the present study argues that without evidence of such systematic analysis, it would not be wise to reject a code only because other developing countries have found similar codes as inappropriate. In addition, before accepting the stakeholder model, the present study argues that a systematic evaluation of its feasibility in Bangladesh should also be carried out. Especially, a comprehensive understanding is needed of: the stakeholder identity problem, problems regarding the possibility of manipulation by stakeholders,

²⁷i.e. shareholder model , stakeholder model or a new model of corporate governance.

problems in regards to stakeholder integration; issues relating to the lack of a yardstick for judging corporate performance – to understand the extent the country is ready to adopt the stakeholder paradigm; otherwise the consequence can be even more dangerous for the overall economy.

It appears that most of the studies on code compliance have taken a static position in between shareholder and stakeholder models of corporate governance as the most appropriate one. However, the present study argues that for countries like Bangladesh which are already overburdened with different socio-economic challenges, it may not be wise to wait passively for an appropriate governance model and for structures to evolve and that switching to an alternative model without proper investigation would not do any good either. Bangladesh should think independently and feel free to decide which model best suits its existing needs.

Whilst a previous study (Siddiqui, 2010) has provided the platform by identifying an isomorphic adoption of the Code that reflects the Western model, the present study intends to find the evidence as to whether this perceived ‘inappropriate model’ is resulting in non-compliance. Non-compliance with international standards in other areas of governance has led the scholars of Bangladesh (e.g. Belal, 2001; Belal, 2004; Mir and Rahaman, 2005; Uddin and Choudhury, 2008) to claim that the stakeholder framework is the best possible alternative, thorough investigation, the present study intends to investigate if Bangladesh is ready for such major reformation. By addressing all of these unsolved issues the present study intends to fill the gap in the literature on compliance in Bangladesh and aims to provide an answer to the contentious debate on the appropriate model of governance for developing countries, taking the case of Bangladesh as an example.

CHAPTER 3

**CORPORATE GOVERNANCE FRAMEWORK
IN BANGLADESH**

Chapter 3

3.0 CORPORATE GOVERNANCE FRAMEWORK IN BANGLADESH

3.1 INTRODUCTION

Previous studies indicated that corporate governance practices are significantly influenced by political, legal and other socio-economic factors and different actors (Chahine and Safieddine, 2011; Dartey-Baah and Amponsah-Tawiah, 2011; Demirguc-Kunt and Ross, 1996; La Porta et al., 1997; Mallin, 2010; Silveira and Saito, 2009). Hence, this chapter provides an understanding of the corporate governance framework in Bangladesh. Discussion of some of these contextual factors will also be helpful in understanding the empirical findings. Using a stakeholder perspective, this chapter outlines the way that the corporate governance system has been developing in Bangladesh and also identifies the actors and key institutions who have had an influence over its development.

3.2 SOCIO-ECONOMIC PERSPECTIVES AND DEVELOPMENT OF CORPORATE GOVERNANCE IN BANGLADESH

3.2.1 Socio-Cultural Context

Bangladesh is a unitary and sovereign republic known as the People's Republic of Bangladesh. It is located in the South-Asian region. On its south, there is the Bay of Bengal, the largest bay in the world . One of the first trading ventures along the Bay of Bengal was the British East India Company. In 1634, the Mughal emperor provided extended facilities to the English traders to the region of Bengal, and in 1717 completely waived customs duties for the trade (Chaudhury, 1978).

However, even at present time many of the business of Bangladesh like the Chittagong²⁸ Ship Breaking Yard, which is world's second largest ship breaking yard, are based on this bay.

In 2012, the total population of Bangladesh is 161 million (approx.)²⁹, making it one of the most densely populated countries in the world. Around 75% of the total population reside in the rural areas of Bangladesh. However, most of the business activities and corporate facilities (i.e. communication infrastructure, commercial banking etc.) are concentrated on the major cities of the country.

The educational system in Bangladesh is three-tiered: primary, secondary and tertiary³⁰. There are 73 universities in Bangladesh. Out of these, 21 universities are in the public sector, while the other 52 are in the private sector. Although English is widely used both in writing and speaking in institutions, 98% of the total population speaks in Bengali (Bangladesh Bureau of Statistics, 2008). However, in most cases the official papers, disclosures and other corporate information are published both in Bengali and English these days. The education system in Bangladesh is being managed and administered by two Ministries³¹ of government in association with a number of autonomous bodies. Although the literacy rate is improving over time, it is still very low (see Figure 3.1). However, the Government of Bangladesh emphasizes education as a top priority,

²⁸ Chittagong is the second largest city of Bangladesh.

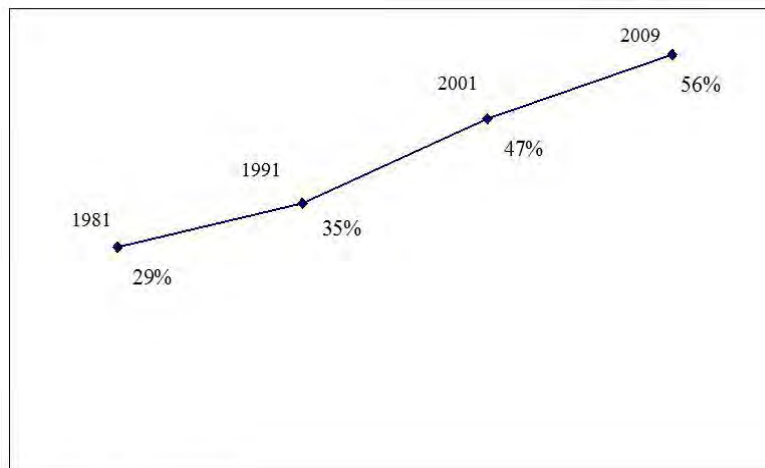
²⁹ Source: World Bank. www.worldbank.org, accessed on 6 March 2012.

³⁰“Primary (from grades 1 to 5), Secondary (from grades 6 to 10), Higher Secondary (from grades 11 to 12) and tertiary. The five years of lower secondary education concludes with a Secondary School Certificate (SSC) Examination. Students who pass this examination proceed to two years of Higher Secondary or intermediate training, which culminate in a Higher Secondary Certificate (HSC) Examination” www.wikipedia.org. accessed on 6 March 2012

³¹ Ministry of Education (MOE) and Ministry of Primary and Mass Education (MOPME)

whilst the donor agencies like the World Bank and Asian Development Bank (ADB) are also supporting the country to improve its literacy rate to support its sustainable economic development.

Figure 3.1 Literacy Rate in Bangladesh



Source: World Bank, 2011

Culturally, Bangladesh is called a hierarchical society where people are respected because of their age and position; family values are highly recognized. However, one prevalent culture of the corporate sector is corruption (Mir and Rahaman, 2005). Studies indicate that “the main reasons for such corruption are very low levels of income earned by government officers and the existence of large foreign assisted development contracts” (Belal, 2001, p.277). In recent times, the Corruption Perception Index published by Transparency International indicated Bangladesh as one of the most corrupt countries in the world. Whilst banks suffer from a loan default culture (Reaz, 2006; Reaz and Arun, 2006), bribery has become a common phenomenon in almost every sector (Islam, 2010; Transparency International, 2010). Belal (2004, p.87) opines that “in every sphere of public life, whilst corrupt politicians and public officials act as an obstacle towards running transparent and fair business, corporations also sometimes resort to unethical activities

for the short-term benefits of the owners”. The newspapers of the country frequently emphasize this issue and urge the adoption of good governance to combat endemic corruption. Although the government of Bangladesh promulgated an Anti-Corruption Act 2004 and formed an Independent Anti-Corruption Commission (IACC), the commission is yet to prosecute them.

3.2.2 Political Perspectives

The corporate governance structure of Bangladesh has evolved with the long history of the country’s political evolution. Basically the governance system of Bangladesh took its first step during the British colonial rule and since then kept on reforming. For almost 200 years (1757-1947) Bangladesh was under British rule. The corporate governance infrastructure during that period was characterized by poor industrialization with highly concentrated ownership and an authoritarian management system. In addition to the legal system, the British rule led to some practices which are dominant in the corporate culture even today. For instance, the prolonged economic exploitation and political domination ultimately resulted in the institutionalization of corruption in the bureaucracy, unfavourable environment for encouraging entrepreneurship, and halting the development strong capital market (Farooque et al., 2007a). In August 1947, India was granted independence within the British Commonwealth and was divided into the dominions of India and Pakistan. Pakistan was further divided into East and West Pakistan. West Pakistan comprised the area which is known as Pakistan today and East Pakistan was the area of today’s Bangladesh. Strict state control was the salient feature of the period during the Pakistani rule (August 1947 - December 1971).

Bangladesh emerged from its war of independence in 1971 with extreme poverty, overpopulation, and a ravaged corporate and socio-economic infrastructure. The government had to struggle with a persistent shortage of foreign exchange reserve, inefficient public sector and poor governance.

In the next three decades following independence, it was not even possible for the government to build capital market institutions or comfortably carry out institutional reform due to the chronic shortage of natural resources and human capital (Ahluwalia and Mahmud, 2004; Devarajan, 2005; World Bank, 2009). Hence, it was not surprising to find that the international community had its doubt over the potential of the country and refer it as a ‘test case of development’ (Faaland and Parkinson, 1976).

After independence, the government had the challenge of developing and diversifying its economy and attracting investment in Bangladesh. However, a visible corporate governance structure which could be termed as the ‘Governance system of Bangladesh’ started taking shape after its independence and in the last two decades in particular (e.g. Mir and Rahaman, 2005; Salman, 2009; Siddiqui, 2010). In order to overcome the economic disaster, the Government (since 1972) made some industrial reformation policies and also reviewed business and corporate level strategies. The major policies were related to: i) privatization of poorly governed public enterprises ii) encouraging public enterprises and foreign investors, while progressively discouraging the growth of the public sector iii) improving the import regime, and introducing investment and export incentives, (iv) improving the efficiency of public sector industrial enterprises through financial restructuring and v) improvements in pricing policies (Palit, 2006).

Whilst the effort of government initiatives (along with the support of different national and international associations) has been successful in changing the pessimistic opinion on the possibilities for Bangladesh, and made it one of the fastest growing economies, constant political instability seems to have posed a challenge to the country throughout its development. Manipulation of political power, erratic policy reform, undue influence over company decisions and an unpredictable business environment are some of the major consequences which seem to

be repeatedly cited by the studies on Bangladesh (Imam, 2010; Islam, 2010; Mahmud et al., 2008; Mollah, 2010; Salman, 2009). They further criticized that transparency; accountability and disclosure are some of the areas where less attention has been paid by the governments of Bangladesh, even when they take decisions to improve the situation, those decisions are often suppressed by different political agendas.

3.2.3 Economic Perspectives

Historically, public enterprises were the mainstay of the Bangladesh economy (Sarker, 2011). In the years following independence, the government followed a socialistic economic pattern where most of the industrial units were nationalized³². Moreover, some major restrictions were imposed on both domestic and foreign private investments by prohibiting foreign direct investment, large-scale industrial ownership or even international joint ventures within the private sector (Ahmed, 2000; Bhaskar and Khan, 1995). However, due to corruption, political intervention, bureaucracy, lack of management efficiency, over-staffing etc. these public sector units turned into loss-making concerns (Belal, 2004; Farooque et al., 2007a). As a result of these failures and the world-wide trend towards privatization, the successive governments in Bangladesh pursued the principles of a market economy, particularly since the 1990s³³.

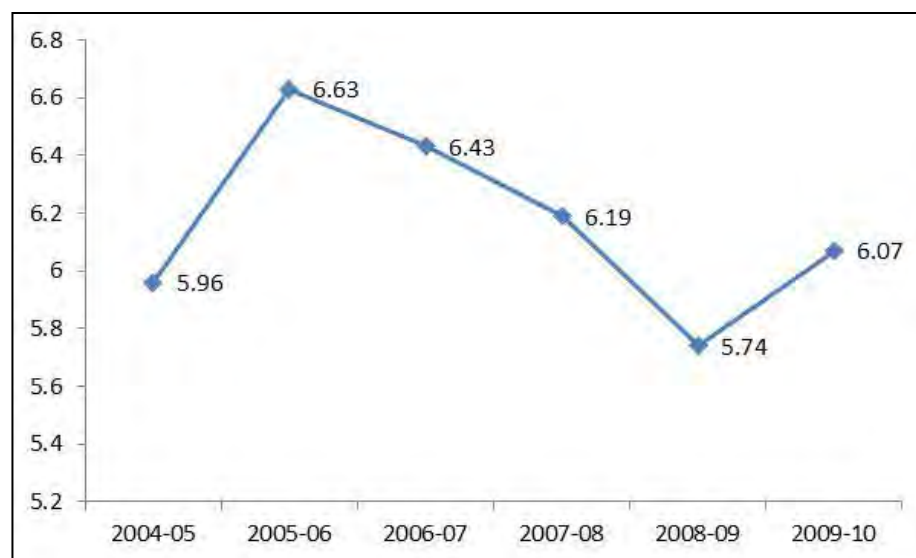
However, some earlier studies (Belal, 2004; Bhaskar and Khan, 1995; Hossain and Ming-Yu, 2002) indicate that the industrial sector in Bangladesh remained highly unproductive and

³²To restore the war ravaged economy, the government took over the management of around 305 SOESs; therefore the government ownership which was 34% in 1969-70 reached over 90% in 1972(Ahmed, 2000; World Bank, 1994).

³³In 1977, the government “initiated liberal economic policies leading to some small companies being returned to their owners” (Uddin and Hopper, 2003, p. 741)and since that time mostly till 1991 with the influence of donor agencies the successive government adopted recommendations for promoting privatization and withdrawing restriction on foreign investment(Mir and Rahaman, 2005; Uddin and Hopper, 2003).

inefficient. Thus, in recent years, more emphasis has been placed on export oriented industrial development led by the private sector. To attract local and foreign investment successive governments have been taking some major initiatives such as adopting rapid industrialization as a key strategy for achieving faster economic development (Belal and Owen, 2007); strengthening the Stock Exchange and then establishing a Securities and Exchange Commission (SEC) for developing private sector capital and controlling it; offering several incentives (such as fiscal incentives, the establishment of special industrial zones aimed at foreign investors and the provision of very cheap labor) for encouraging more investment and so on (Belal, 2004; Khan-M and Belal, 1999; Sarker, 2011). The result is well evident in the recent economic performance. From 1994 until 2010, Bangladesh's average quarterly GDP growth was 5.47%. In the Financial Year 2010-11 the GDP reached up to 6.07% (see Figure 3.2 and Table 3.1).

Figure 3.2 GDP Growth Rate at Current Market Price (Base:1995-96)



Source: Bangladesh Bureau of Statistics 2011

Table 3.1 GDP and GNI at Constant Price. (Base:1995-96)

	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
GDP						
(Mill Tk)	2,669,740	2,846,726	3,029,709	3,217,260	3,401,968	3,608,446
(In US\$)	43,488	42,438	43,890	46,899	49,447	52,160
GNI						
(Mill Tk)	2,806,055	3,033,031	3,255,910	3,502,484	3,711,298	3,944,194
(In US\$)	45,709	45,215	47,167	51,057	53,943	57,014
Population (Mill. No)	137	138.8	140.6	142.4	144.2	146.1
Exchange Rate (Tk per US\$)	61.39	67.08	69.03	68.6	68.8	69.18
Per Capita GDP						
(In Tk)	19,489	20,512	21,550	22,593	23,588	24,651
(In US\$)	317	306	312	329	343	356
Per Capita GNI						
(In Tk)	20,484	21,854	23,159	24,596	25,733	27,012
(In US\$)	334	326	335	359	374	390
GDP Growth rate	5.96	6.63	6.43	6.19	5.74	6.07

Source: Bangladesh Bureau of Statistics 2011

The ADB reported that if this pace continues , the GDP of Bangladesh will rise further and reach up to 7% in Financial Year 2011-12 (ADB, 2009). One major stimulus behind the recent economic growth is the increasing contribution of the industrial sector. Belal and Owen (2007) reported that private sector led export oriented industrial development is reflected in the increase of export earnings from \$1994 million in 1991-92 to \$ 8655 million in 2004-05, recent data indicates it has reached \$23.86 Billion (see Table 3.2) in 2011. Thus, in 2010, the World Trade Organization has declared Bangladesh as the third largest garments exporter in the world³⁴.

³⁴ For further details, see www.wto.org

Moreover, the low labor cost and government undertakings to pursue market economic policies in the country have attracted huge foreign investment since 1980³⁵. Corporate governance issues thus have become prominent in Bangladesh in recent times as its domestic economy integrates with the global economy, and firms are under pressure to maintain international competitiveness. Some progress have also been made in some other areas of economic indicators including poverty reduction, population growth, education etc. To facilitate a quick comparison of Bangladesh with other developing countries, Table 3.2 highlights some of these key indicators.

Nevertheless, studies (Bhaskar and Khan, 1995; Rahman et al., 2008; Salman, 2009; Sarker, 2011) indicate that a sustained and balanced economic growth can still be achieved by effectively utilizing the FDI; taking initiatives to attract more investment; raising domestic-savings, generating employment and ensuring higher standard technology. The studies stress that the country should pay attention to the infrastructural weaknesses, political and socio-economic barriers which pose challenges to these opportunities.

Whilst this improvement is overwhelming, studies have criticized the quality of this growth (Bayes, 2001; 2010; Hossain et al., 1994; Rahman et al., 2008). They argued that the GDP growth rate is still pale compared to the growth rate of most of its neighbouring countries (see Table 3.2). Moreover, the critics argued that economic growth that reduces poverty faster, produces less inequality and absorbs surplus labor to an acceptable level is considered to be a quality economic growth.

³⁵A report recently published by The United Nations Conference on Trade and Development shows that although “FDI to South Asia declined due to recession, inflows to Bangladesh increased by nearly 30% to \$913 million” <http://www.unctad.org>

Table 3.2 Some Socio-Economic Indicators

	Bangladesh	India	Pakistan	Sri Lanka	China
Geography					
Location	South Asia	South Asia	South Asia	South Asia	Eastern Asia
Total Area (in sq km)	143,998	3,287,263	796,095	65,610	9,596,961
World ranking	95	7	36	122	4
Total land (% of Total Area)	90%	90%	97%	99%	99%
Population					
Population, Total (July 2012 est.)	161,083,804	1,205,073,612	190,291,129	21,481,334	1,343,239,923
World ranking	8	2	6	57	1
Population growth (annual%)	1.579% (2012 est.)	1.312% (2012 est.)	1.551% (2012 est.)	0.913% (2012 est.)	0.481% (2012 est.)
Urban population (% of Total in 2010)	28%	30%	36%	14%	47%
Life expectancy at birth (in years)	70.06	67.14	66.35	75.94	74.84
Education					
Literacy rate, adult 15+ (% of total population who can read and write)	47.90%	61%	50%	90.70%	92.20%
Economy, Trade and Finance					
GDP (Purchase power parity) in 2011	\$282.5 billion	\$4.463 trillion	\$488 billion	\$115.1 billion	\$11.3 trillion
World ranking	44	4	28	67	3
GDP real growth rate (in 2011)	6.30%	7.80%	2.40%	7%	9.50%
World ranking	39	12	140	23	6
GDP Composition by Sector (2011)					
Agriculture	18.40%	18.10%	21.60%	13%	9.60%
Industry	28.60%	26.30%	25.30%	29.60%	47.10%
Service	53%	55.60%	53.10%	57.40%	43.30%
Level of Income	Low	lower middle	lower middle	lower middle	Upper middle income
Inflation rate (Consumer Price) (in 2011)	10.70%	6.80%	13.90%	7.70%	5.40%
Labor Force (in 2011)	75.42 million	487.6 million	57.89 million	8.147 million	816.2 million
Unemployment rate (in 2011)	5.10%	9.80%	5.70%	5.40%	6.50%
World ranking	46	109	56	52	67
Export (in 2011)	\$23.86 billion	\$298.2 billion	\$30.9 billion	\$10.89 billion	\$1.897 trillion
World ranking	69	21	62	89	1
Import (in 2011)	\$31.75 billion	\$451 billion	\$39.35 billion	\$16.89 billion	\$1.664 trillion
World ranking	62	13	58	79	3
Investment, Gross Fixed (% of GDP in 2011)	23.30%	30.70%	11.80%	27.30%	48.40%

Source: CIA WORLD FACT BOOK and World Bank(www.worldbank.org) Accessed on 06 March 2012

Although, the country has reduced its level of poverty, its effectiveness could be much higher than realized; and the benefit of economic growth has bypassed the major portion of the population (Bayes, 2001; 2010; Sarker, 2011). Furthermore, the critics stress that the country would need a much higher GDP (approx. 8.89% per year) which sustain for a long period of time to take its unemployment rate to a desirable level. In order to do so, as they argue, Bangladesh

should have guided its employment structure towards the manufacturing sector more instead of its existing transformation from the agricultural sector to the service sector.

3.3 REGULATORY FRAMEWORK AND KEY INSTITUTIONS FOR CORPORATE GOVERNANCE IN BANGLADESH

There are five bodies which regulate corporate governance practices – the Registrar of Joint Stock Companies and Firms (RJSC), Bangladesh Bank, the SEC, the Stock Exchanges and the ICAB. In addition there are some other key institutions which are actively involved in developing corporate governance regulations in the country. This section of the study briefly discusses these regulators and institutions which are developing the corporate governance framework for Bangladesh.

RJSC is responsible for registering companies under the Companies Act 1994. It is administered by the Ministry of Commerce. The Companies Act 1994 empowers the Company Registrar in relation to company formation, filing of statutory returns and authority to call for information and explanation. However, lack of computerization has been identified as one of the major drawbacks of the RJSC in Bangladesh. Even today, company records are kept manually which hinders the timely presentation of information which should be available for inspection by members and other authoritative bodies.

Bangladesh Bank (BB), is the Central Bank of Bangladesh, and was created in 1972 under the Bangladesh Bank Order. BB is the primary regulator of banks and non-banking financial institutions (NBFI). Board members are appointed by the government of Bangladesh.

Along with the power to regulate commercial banks and banking institutions, BB has been entrusted with all the traditional central banking functions including the sole responsibility of

issuing currency, keeping the reserves, formulating and managing the monetary policy and regulating the credit system of Bangladesh. BB operates with the overriding aim to stabilize the domestic and external monetary value of Bangladesh. Recently, BB has reformed many of its policies for improving governance standards in the financial market; such as i) provisions regarding independent director in the Bank Company Act 1991 ii) provision regarding the audit committee, and iii) rules regarding disclosure by the banks.

The Stock Exchanges are important players in shaping corporate governance framework in Bangladesh. The country has two stock exchanges: Dhaka Stock Exchange (DSE); and Chittagong Stock Exchange (CSE). DSE is registered as a Public Limited Company and its activities are regulated by its Articles of Association, along with the Securities and Exchange Ordinance 1969, Companies Act 1994 and Securities & Exchange Commission Act 1993. As a legal entity the CSE is a not-for-profit public limited company. All of CSE's members (129 in 2010) are corporate bodies. It has a separate secretariat independent of the policymaking board. The board comprises brokers and non-broker directors in equal proportion to ensure transparency. There is an independent secretariat headed by a full time CEO. CSE activities are primarily regulated by the SEC.

For ensuring transparency and rapid transactions, in 1998, being financed by the ADB, DSE introduced an automated trading system similar to the Western countries, and in 2004, launched the Central Depository System for electronic settlement of share trading. Currently both of the stock exchanges use computerized automated trading systems. Each Stock Exchange establishes listing requirements, approves, suspends or removes listing privileges of companies, monitors listed companies in compliance with legal regulatory provisions, but need to have their operating rules approved by the SEC.

Security Exchange Commission (SEC) of Bangladesh is the primary government regulator in the Bangladesh corporate governance scenario (Siddiqui, 2010). Funded by donor agencies, the SEC, was established in 1993 as an autonomous body. The Chairman and members of the SEC are appointed by the Government and it is attached to the Ministry of Finance. Soon after its establishment, the SEC went through some turmoil. Between July and mid-November 1996, both Dhaka and Chittagong Stock Exchanges experienced an unprecedented boom. During this period, market capitalization went up by 265%³⁶, which encouraged a huge number of domestic investments in the capital market. Then the bubble burst and the index went down from 3648 points to 486 points (Siddiqui, 2010). Analysts indicate the crash was primarily caused by weak regulations, failure of a number of regulatory institutions along with the SEC; and poor governance among companies which allowed some market manipulators to be involved in fraudulent activities. Following the scam, the SEC received huge criticism for its passive reaction to such market scandals and for not using their regulatory power to take strict actions against such market misbehaviour/malpractices (Ahmad, 2007; Akhtaruddin, 2005; Bepari and Mollik, 2008; Imam and Malik, 2007; Khan, 1992; Solaiman, 2006).

This incident kept investors away from the stock market for years. Later the Government undertook different initiatives to revive investors' confidence³⁷. In 1999, with the funding and technical assistance of ADB, SEC was further strengthened by restructuring its operating

³⁶“According to the official record the average daily turnover increased by over 1000%. There were about 192 securities listed with both the stock exchanges at that time; price index at Dhaka Stock Exchange increased by 281% and at Chittagong Stock Exchange increased by 258%” (Afroz, 2006).

³⁷For instance, “The SEC went through a number of major changes: it was entrusted as the final rule-making authority for capital markets; its organogram was revised to incorporate two new members; considerable staff was recruited; and a new investors' education programme was introduced” (Siddiqui, 2010, p. 267).

activities. Under the project, several training, workshops were organized to make the members efficient enough to develop a healthy capital market, and sound corporate governance practices (Siddiqui, 2010). In 2006, following the recommendation of donor agencies the SEC has issued an order relating corporate governance, Corporate Governance Guidelines (hereafter “SEC Guidelines”) on a “comply or explain” basis (Details of these provisions are discussed in Chapter 4 of this study). Publicly listed companies are supposed to comply with the provisions or explain the cause in case of failure.

The Institute of Chartered Accountants of Bangladesh (ICAB) is the only professional accountancy body in Bangladesh that certifies chartered accountants (CA)³⁸. ICAB regulates the accountancy profession and oversees professional ethics and codes of conduct of its members, provides specialized training and professional expertise, holds the right to take disciplinary action against its members for violation of regulation. Studies (e.g. Karim and Moizer, 1996; Mir and Rahaman, 2005; Siddiqui, 2010) indicate so far that the Institute has failed to discipline its members even when SEC fined some audit firms on charges of concealment. Such failures have perceived to be inviting the donor agencies to intervene in its activities and regulating the audit environment. In 1999, being funded by World Bank, ICAB took initiatives to develop audit standards in Bangladesh. Consequently, in the light of the International Accounting Standards (IAS) and International Standards on Auditing (ISA), it developed the Bangladesh Accounting Standards (BAS) and Bangladesh Standards for Auditing (BSA) respectively (World Bank, 2009). The Financial Reporting Standards prescribed by the ICAB are known as Bangladesh Financial Reporting Standards (BFRS) which is originally based on IAS. However, in more

³⁸ ICAB was created under the Bangladesh Chartered Accountants Order in 1973.

recent times³⁹, the ICAB has adopted the updated BFRS. The new BFRS is now modelled on IAS and International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board⁴⁰.

The Institute of Cost and Management Accountants of Bangladesh (ICMAB) is an autonomous professional body under the Ministry of Commerce of Bangladesh and offers professional qualification in Cost and Management Accountancy, with a focus on accounting for business.

Other than these established regulatory bodies and institutions, *Bangladesh Enterprise Institute* (BEI) a donor-funded private think-tank has emerged which is actively involved in shaping the corporate governance regulations in Bangladesh. BEI was established in 2000 as a non-profit, non-political research centre. Its Board of Governors includes business personalities, political members and bureaucrats. BEI provides training to directors of companies, conducts dialogue with policy-makers and different stakeholder groups. Being initiated by donor agencies, in 2004 BEI has made a remarkable step in corporate governance by developing the voluntary Code of Corporate Governance for Bangladesh (2004)⁴¹, which is the only voluntary code for Bangladesh and more comprehensive than the corporate governance guidelines which were introduced by the SEC of Bangladesh (SEC Guidelines). The details of these corporate governance provisions are

³⁹ In July, 2012

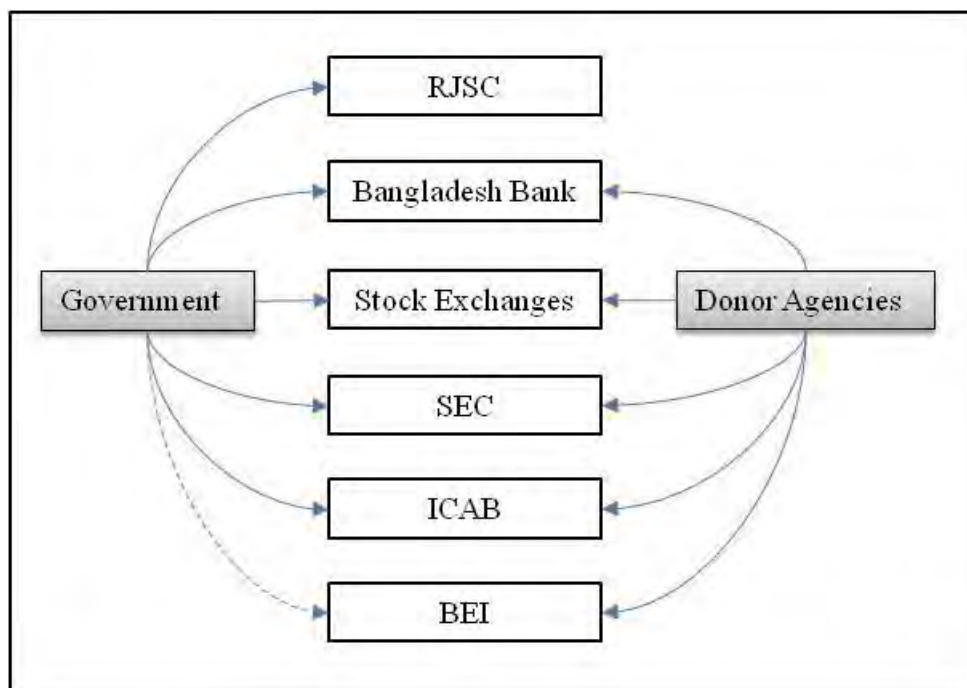
⁴⁰ The SEC of Bangladesh requires companies to comply with the BFRS, however they are not mandatory or enforceable through the ICAB laws.

⁴¹ The international donors that assisted in organizing the Taskforce on Corporate Governance and supported the development of the Code for Bangladesh: namely, the Department for International Development (DFID), the Commonwealth Secretariat and the Global Corporate Governance Forum (GCGF).

provided in Chapter 4 of this study. In addition, the country has also some credit rating agencies since 2002 which aims to contribute towards qualitative development of the money and capital markets and enhancement of transparency of financial information and credibility of the corporate sector in Bangladesh.

The discussion above suggests that in Bangladesh actors of corporate governance are directly or indirectly influenced by two prime bodies – the government and the international donor agencies (namely, World Bank and DFID). As indicated in Figure 3.3, the Government of Bangladesh exerts its influence through the Ministry of Finance, BB, and SEC; whilst donor agencies are intervening through two sources: regulatory bodies and private think-tanks. These direct influences over the actors are indicated in the Figure with the arrow lines whilst the dotted line suggest that Government has indirect influence over the BEI.

Figure 3.3 Influential Bodies of the Actors of Corporate Governance in Bangladesh



3.4 THE CORPORATE STRUCTURE OF BANGLADESH

To understand the nature of corporate governance in Bangladesh, this section analyses the basic corporate infrastructure within which the corporate sector of Bangladesh operates.

3.4.1 Legal Structure

Bangladesh is a common law country. The legal system of Bangladesh has not grown overnight; rather the present legal and judicial system has its foundation mainly to 200 years of British rule (Panday and Mollah, 2011). In describing the evolution of the judicial system in Bangladesh Panday and Mollah (2011, p.6) stated that it has “passed through various stages and the process of evolution has been partly indigenous and partly foreign and the legal system of the present day emanates from a mixed system which has structure, legal principles and concepts modelled on both Indo-Mughal and English law”. However the legal system of Bangladesh is different to the absolute form of English law from the perspectives of socio-cultural values and religious guidelines. The companies are governed by the Companies Act 1994 which is based on the British Companies Act 1844. All domestic companies of Bangladesh are incorporated under this Act. It governs the relationship between shareholders and a company, audit system, transparency, disclosure procedure and the jurisdiction of the courts in relation to companies (BEI, 2004).

In addition, there are some other principle laws influencing the corporate governance system of Bangladesh. For instance, the Securities and Exchange Ordinance 1969 deals with investors’ protection, capital issues, registration and regulation of the Stock Exchange, capital market regulation and issues in relation to securities; the Securities and Exchange Commission Act 1993 provides for the establishment of the Securities and Exchange Commission; the Bangladesh Bank Order 1972 for regulating the Central Bank of Bangladesh; the Financial Institutions Act

1993 establishes the provisions for Non Banking Financial Institutions⁴²; Income Tax Ordinance 1984 contains provision for disclosure, audit, penalties for contravention of fiscal and revenue matters; Bankruptcy Act 1997 deals with the insolvency issues; Factories Act 1965, Industrial Relations Ordinance 1969, Employment of Labor (Standing Orders) Act 1965 etc. deals with the social welfare of employees.

A recent study on the judicial system of Bangladesh (Panday and Mollah, 2011) reports that the country has a well-organized court system in which is the replica of the system introduced by British rulers. However, finding that the executive branch of Government exerts an influence over the judiciary, the paper concluded with questioning the independence of the judiciary system of the country.

3.4.2 Ownership Structure

A few researches have been conducted in analyzing the ownership structure in relation to corporate governance taking the case of Bangladesh (e.g. Farooque et al., 2007a; 2007b; Imam and Malik, 2007) which find that family control and the prevalence of kinship in the ownership structure is one of the predominant features of Bangladesh. Farooque et al. (2007a) claim that the ownership structure has evolved as a dominant mechanism of governance because under the Companies Act 1994, a maximum of 50% of the total issued share capital can be retained by sponsor directors while going public; and Imam and Malik (2007) find that on an average 32% of

⁴² "‘Financial Institution’ means such non-banking financial institutions, which- i) provide loans and advances for industries, commerce, agriculture or building construction; ii) carry out the business of underwriting, receiving, investing and reinvesting shares, stocks, bonds, debentures issued by the Government or any statutory organization or stocks or securities or other marketable securities; or iii) carry out instalment transactions including the lease of machinery and equipment; or iv) finance venture capital; and shall include merchant banks, investment companies, mutual associations, mutual companies, leasing companies or building societies"(Financial Institutions Act 1993, 27, 2 (b)).

the shares of the listed companies are held by the top three shareholders, whilst Farooque, et. al., (2007a; 2007b) and Siddiqui (2010) find that in most of the companies the Chairman also acts as a CEO (except for Financial Institutions) or has the CEO and the Chairman are from controlling family members. These controlling board members exercise extensive influence on the board decision making process and customize the governance mechanism according to their own needs (ADB, 2009). Even at the present time, the majority of companies in Bangladesh are closely held small and medium-sized firms where corporate boards are solely owner driven (Siddiqui, 2010).

In general corporate boards in Bangladesh are one-tiered without the use of any supervisory board (Rashid et al., 2010). In fact the Bangladesh Bank, the Code of Corporate Governance for Bangladesh, and the SEC Guidelines for Corporate Governance all of these corporate governance regulations suggest that the corporate board in Bangladesh should be one-tiered where the directors should be elected by shareholders (Siddiqui, 2010). In studying the board structure of Bangladesh Rashid et al., (2010) also reported that both executive and non-executive directors in Bangladesh perform duties together in one organizational layer and CEO duality exists in some listed companies in Bangladesh.

3.4.3 The Capital Market

After the liberation war in 1971, stock trading was suspended for five years which restarted in 1976 with nine listed companies with a total paid up capital of Taka 0.138 billion (Khan, 1992). Bepari and Mollik (2008), studied the stock market growth pattern of Bangladesh for the time period from 1990-91 to 2006-07. Using market capitalization and number of listed companies for understanding the growth pattern of stock market of Bangladesh they found that market

capitalization⁴³ ratio increased from 1.4 % in 1990-91 to 10.2 % in 2005-06 with a sudden increase to 29.0 % in 2006-07. It is assumed that, the monetary policy taken by Bangladesh Bank during 2005 to control pressures of inflation and to facilitate stability in the foreign exchange market has a contribution to this sudden growth (Barua and Rahman, 2008). Total market capitalization reached to Tk. 1366.53 billion in 2006-07 from Tk. 11.485 billion in 1990-91. Furthermore, this growth has accelerated in recent time. The year 2009 is considered as another milestone (after the stock market crash in 1996) in the history of Bangladesh's capital market as both institutional and individual investors injected huge funds into the market which helped the stock market to restore investors' confidence (Kazmin, 2009).

This growth pattern of capital market was also accompanied by some evidence of defaulters. Companies like Oriental Bank, Modern Food Products Limited and SABINCO were accused by the regulators to have some gross deficiencies in their daily business which turned into massive governance failures. For instance, at the end of 2002 a series of allegations was raised against the Oriental Bank including perpetuating poor lending practice, loan sanction without risk analysis, and non-existence of credit analysis of the borrower. Later, in June 2006 the Bangladesh Bank (BB) dissolved Oriental Bank's board of directors and took over its full control and appointed a BB executive director as the bank's administrator (Rahman, 2008). The governance failure in Modern Food Products Limited was related to the inability of the regulatory authorities to fully verify and confirm disclosures provided in the prospectus (Sobhan et al., 2003)⁴⁴. Later the SEC withheld the approval and asked the company to pay back the pre-IPO money to the investors.

⁴³“Market capitalization ratio equals the value of listed shares divided by GDP. Analysts frequently use the ratio as a measure of stock market size”(Bepari and Mollik, 2008).

⁴⁴“Modern Food Products Limited is a herbal food producer which invited public subscription for BDT 30 million with SEC approval. It was not noticed by any regulatory authority until a non-bank financial

Nonetheless, in 2011, the capital market further collapsed and the country saw the biggest share market turmoil ever, and the impact was severe on the small investors (Ahsan, 2011; Byron and Rahman, 2011b). Following this capital market crash, the Government formed a committee to investigate the reason behind the crash. The committee found evidence of manipulation in both primary and secondary markets like the earlier scam in 1996 but this time to a greater extent. Unfortunately, a number of SEC Executive officers, many policy makers, Members of Parliament, businessmen and stock exchange officials were found to be involved in manipulating the market. However, the committee held the SEC responsible for this crisis, because as a regulator it was SEC's responsibility to examine these kinds of wrong doing, non-transparency and immoral activities (Byron, 2011c; Byron and Rahman, 2011a; 2011b). SEC has promised to take action against the defaulters. It has opened a unit in 2011 which is dedicated to monitoring corporate governance and has suspended some regulatory members involved in the scam. However, the major players of the scam are yet to be prosecuted.

▪ ***Company classification and Number of listed Companies***

In order to help investors to know the qualities of securities before making investment decision, the SEC classifies its listed companies based on their governance practices and level of dividends paid to shareholders. It groups the companies according to 'A' 'B' 'G' 'N' or 'Z' categories. "A Companies' are the companies which regularly hold their annual meetings of shareholders and have declared dividend at the rate of at least 10 percent in the previous year; 'B companies' are the companies which have also regularly hold their annual meeting but have declared dividends of less than 10 percent; Companies which neither hold annual meeting nor declare dividends are called 'Z companies'"(World Bank, 2009, p1). The N category is for all other companies which

institution came up with a claim of default on a loan of over BDT 10 million due from the company" (Sobhan et al., 2003, p.37)

are not new as a company but newly enlisted, and ‘G’ represents Greenfield companies, i.e., the companies which are not only newly listed but also newly launched in the market. However, the DSE list shows that there are no G companies listed on the DSE or CSE at present.

Table 3.3 indicates that in 2010 a total of 436 securities were listed on the DSE comprising 229 companies, 35 mutual funds, 8 debentures and 164 treasury bonds. Table 3.4 indicates both the number of listing entities and market capitalization show an upward trend until 2011. Thus the stock market analysts of Bangladesh have urged for establishing governance and to increase the level of monitoring to ensure compliance to good governance provisions.

Table 3.3 Number of Listed Companies

Industry Classification			Total Listed Companies in the Industry	% Total
Financial Institutions (FIs)	Banking Institution	Bank	30	13%
	Non-Banking Financial Institution	Insurance	44	19%
		Leasing	21	9%
	Total FIs		95	41%
Non-Financial Institutions (NFIs)	Engineering		23	10%
	Food and Allied		15	7%
	Fuel and Power		11	5%
	Pharmaceuticals and Chemical		20	9%
	Textile		25	11%
	Miscell		40	17%
	Total NFIs		134	59%
Total (FIs and NFIs)			229	100%
Bonds, Debentures and Mutual Funds			207	-
Total FIs and NFIs			436	-

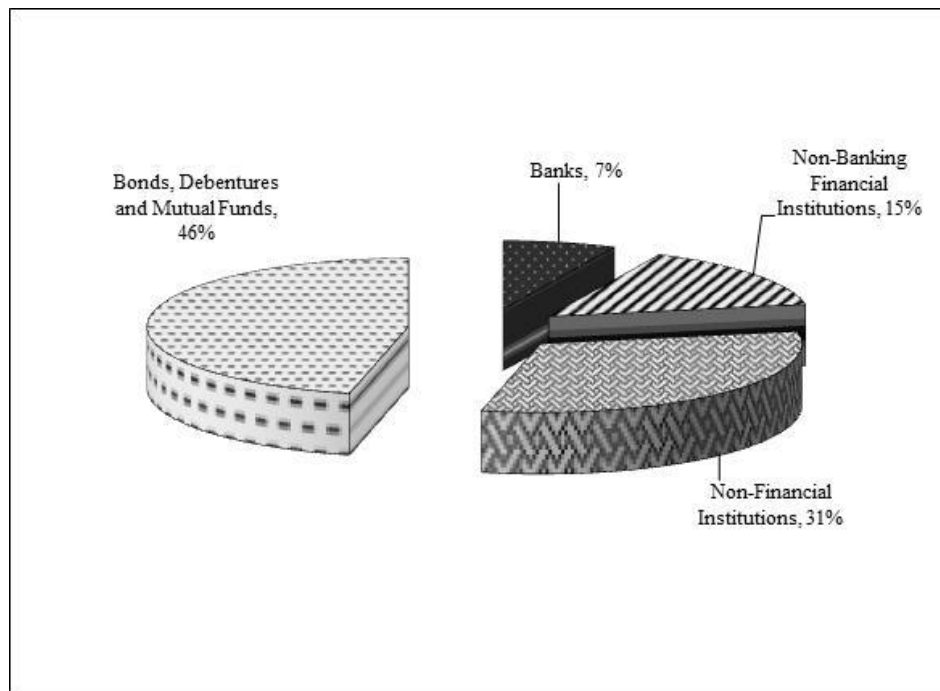
Source: Dhaka Stock Exchange (DSE). www.dsebd.org (Accessed on May 5, 2010)

Table 3.4 Market Capitalization and Annual Growth Rate of DSE

	2008	2009	2010	2011
Market Capitalization				
- TK mn	1,043,799	1,903,228.1	3,508,005.8	2,616,730.54
(Equivalent to) US\$ mn	15,171.50	27,515.22	49,667.36	32,692.79
Annual growth rate	40.64%	82.34%	84.32%	-25.41%
No of Initial Public Offering	12	18	18	14
Source: DSE Website www.dsebd.org				

For the purpose of analysis of this study all the industrial sectors have been classified into two major groups – financial institutions (FIs) and non-financial institutions (NFIs). FIs are classified further into two groups- banking, non-banking financial institutions (NBFIs). Figure 3.4 suggests that among the listed companies, NFI represents 31% and the NBFIs are the second highest (15%) position.

Figure 3.4 Size of Different Industry Groups of the Capital Market of Bangladesh



Source: Dhaka Stock Exchange (DSE). www.dsebd.org (Accessed on May 5, 2010)

The banking sector of Bangladesh is characterized by the presence of a large number of commercial banks (Siddiqui, 2010; Sobhan et al., 2003). In the absence of a strong capital market, banks and NBFIs have been the major financier of commercial activities in Bangladesh. As indicated in Table 3.5, this sector is composed of four nationalized commercial banks, twenty-nine private domestic banks, nine foreign banks, and four government-owned specialized banks (see Table 3.5). As of 2010, out of these 46 banks, 30 are listed on DSE. The Table also suggest that amongst these 30 listed banks, 29 are private local banks and 1 belongs to the nationalized commercial banks. Although the foreign banks remain active primarily in international transactions relating to foreign trade, none of them are listed. While comparing the growth of the number of banking sector, Siddiqui (2010) states that the recent deregulation in the banking sector has encouraged a significant growth in the number of private banks in Bangladesh and this rate is higher than in neighbouring countries.

Table 3.5 Total number of Banks in Bangladesh

Bank Category	Total Number in the Year 2012	Relative Size in percentage	Listing Status
State-Owned Commercial Banks (SCBs) or Nationalized Commercial Banks (NCBs)	4	9%	1 Listed
Private domestic Banks (PCBs)	29	62%	All Listed
Foreign commercial banks (FCBs)	9	20%	None
Government Owned Specialized Banks	4	9%	None
Total	46	100%	

Source: Bangladesh Bank 2012

The banks play an important role in the economic development of the country. In the year 2007-2008 the GDP of FIs was Tk. 55, 960 million, of which banks contributed 75% of it. However studies (e.g. Habib-Uz-Zaman, 2010; Haque, 2007; Reaz, 2006; Siddiqui and Podder, 2002) indicate a loan default culture is the major challenge for the banking sector of Bangladesh⁴⁵. In addition, lack of information, moral hazard, political influence, and lack of legal action against defaulters; most importantly Government's practice of debt forgiveness has been identified as some of the major reasons for non-payment of debt in Bangladesh (Siddiqui, 2010).

Nevertheless, in recent years, Bangladesh Bank has already taken a number of steps particularly to promote good governance in the banking sector. For example, it has introduced Lending Risk Analysis (LRA) and established the Credit Information Bureau (CIB) which centralizes information on borrowers, in particular their credit information to facilitate informed credit decisions by the banks. Apart from these, some other major reforms are on their way to be implemented to ensure bank performance competitiveness. Since 2001, banks have been required to comply with the International Accounting Standard 30 (IAS-30) (Hossain and Baser, 2011)⁴⁶

⁴⁵“The total default loan rate of all banks was 33.49% (of total loans) in 1997, 40.65% in 1998, 41.11% in 1999 and 34.92% in 2000. Recently, the non-performing loan came down to 17% in 2004 (Siddiqui, 2010, p. 259). According to Bangladesh Bureau of Statistics (2010): “A lack of accountability created incentives for borrowers to default willingly, which led to a culture of loan default as big borrowers treated bank loans as a windfall. As a result during the 1980s and early 1990s, the nationalized banks had to be recapitalized by the government a number of times to keep them operationally solvent. Because the nationalized banks are not subject to competitive pressure or hard-budget constraints, they keep the loan rate of interest high, intending to recover some of the losses caused by the huge "privileged" loans. The indifferent attitude of depositors (and the government) has kept otherwise insolvent banks liquid, but at the cost of financial efficiency” www.bbs.gov.bd (accessed 25 June, 2011).

⁴⁶ IAS 30 is the disclosures requirements for banks and similar financial institutions.

The NBFIs are governed by the Financial Act 1993. NBFIs are primarily classified in two groups – insurance and leasing. As of 2010, there are 44 insurance companies and 21 leasing companies listed on DSE. Many of the leasing companies of Bangladesh have diversified into other business operations. For instance: providing loans and advances, underwriting or acquisition business or the investment and re-investment in shares, stocks, bonds, debentures or debenture stock or securities issued by the Government or any local authority.

3.4.4 Audit Environment

All companies registered in Bangladesh are statutorily required⁴⁷ to be audited every year by a chartered accountant. At present four local audit firms are affiliates of Big4 auditors (see Table 3.6) although none of these international Big4 has an office in Bangladesh. Studies indicate the audit market in Bangladesh is small and intensely competitive (e.g. Habib and Islam, 2007; Imam et al., 2001; Kabir et al., 2011; Karim and Moizer, 1996; Siddiqui and Podder, 2002). The demand for audit work has grown quickly in Bangladesh due to privatization and the emergence of Ready Made Garments (RMG) sector since 1975. Moreover the huge number of NGOs which also require to be audited provided the momentum for the increasing demand of audit services in Bangladesh. However, Karim and Moizer (1996) and more recently Kabir et al. (2011) opines that companies enjoy strong bargaining power over the appointment of an auditor, thus audit firms are seen as being subservient to the wishes of company management; whereas Habib and Islam (2007) indicate one of the biggest challenges of audit environment is its poor audit fees which is even lower than many of its neighbouring countries. In absence of strong legal system,

⁴⁷For instance the Companies Act 1994, the Income Tax Act 1922, The Insurance Act 1938, the Securities and Exchange Rules 1987 – requires companies of Bangladesh to be audited by chartered accountants (Karim and Moizer, 1996).

the audit firms of Bangladesh are thus more exposed to the threat of lack of ethics (Kabir et al., 2011).

Table 3.6 International Link of Bangladeshi Audit Firms

Name of the Bangladeshi Audit Firm	Est. Year	Affiliated International Firm	Date of Affiliation
A. Qasem & Co.	1953	PwC	2003
S. F. Ahmed & Co.	1958	Ernest and Young	1975
Hoda Vasi Chowdhury and Co	1962	Deloitte Touche Tohmatsu	1998
Rahman and Rahman Haq in Co	1962	KPMG	2006

3.4.5 Shareholders' Rights

Minority shareholders' rights are largely ignored in Bangladesh and they do not have sufficient rights over related party transactions, the choice of board members or disclosure of control (BEI, 2003; Farooque et al., 2007; The World Bank, 2009). Besides, the predominance of family ownership structure rarely allows the NEDs (if any) to safeguard the interests of minority shareholders (Asian Development Bank, 2000). While researchers (i.e. Fama and Jenson, 1983; Grossman and Hart. 1980; Sheilfer and Vishney, 1997) are aware of this kind of phenomenon because they opine that ignorance of shareholders' rights leads to conflict between dominant and minority shareholders, Oman et al (2003) raise concerns finding that the key potential conflict of interest in Bangladesh may arise between controlling and minority shareholders.

However, the basic rights of the shareholders are protected by law in Bangladesh. They can elect and remove directors and can demand a variety of information and have a right to participate in shareholders meetings either in person or by proxy (Sobhan et al., 2003; World Bank, 2009). Most importantly, companies need to ask for shareholders' approval before making any changes to the company's articles, dividends and in some major transactions. Nevertheless, these rights

are not practiced by them, partly because of their lack of awareness and concern about their rights.

In addition to these problems, World Bank (2009) reports some other deficiencies in shareholders' rights in Bangladesh, like inaccessibility of information, unclear process of electing directors, no rights on approving directors' remuneration, no restrictions on informing shareholders before any related party transactions happen etc.

3.5 SUMMARY

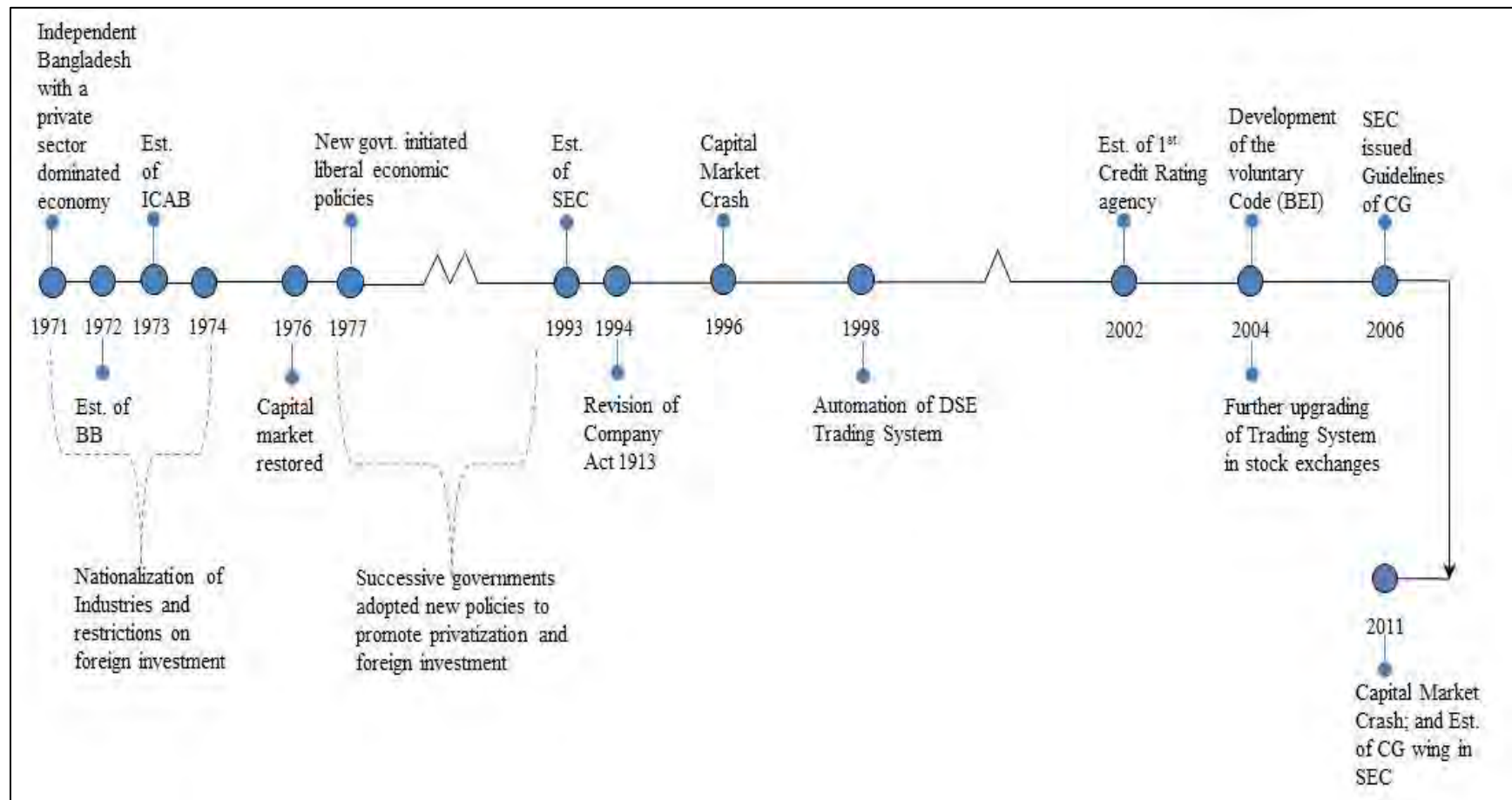
This chapter has outlined the corporate governance framework in Bangladesh from a stakeholder perspective by combining socio-economic, political, cultural, law, regulatory bodies, capital market, and some other infrastructural factors and key players influencing the development of the existing framework. From the overall discussion, Figure 3.5 highlights the key landmarks and suggests that the existing framework of governance has been developing through the influences of multifaceted socio-economic factors where the Government played a significant role. However in many instances the Government's initiatives were not successful, and scholars like Siddiqui (2010) argue that such failure has created scope for international lending agencies to intervene (through Government, Bangladesh Bank and recently through private think-tanks, namely BEI) to reform the framework of corporate governance in Bangladesh to an international standard.

Although the economy has made impressive growth, its quality has been questioned. The discussion above suggests that Bangladesh needs sustainable economic growth and to promote industrialization. Therefore creating an investment-friendly environment has become a primary agenda for the survival of the country. Issues such as kinship, corruption, weak infrastructure,

political instability amongst others challenge its sustainable economic growth. Most importantly the discussion above supports previous studies (e.g. Mir and Rahaman, 2005; Siddiqui, 2010) and indicates that although the legal and regulatory bodies are theoretically independent, due to their inefficiency they are exposed to legitimacy threats.

To facilitate understanding, Figure 3.5 indicates the key landmarks of the corporate governance framework in Bangladesh. It suggests that some major initiatives have been taken to reform the corporate governance structure since the last two decades. However, a further collapse of the capital market in 2011 certainly raised concerns and indicates some flaws still remain in the existing policies and infrastructural setting. These issues were considered while developing the interview guideline (as discussed in chapter 5) to investigate on the remaining challenges, reflect on the quality of existing reform initiatives and effectiveness of the key players of corporate framework of Bangladesh. Whilst chapter 2 has identified the theoretical assumptions for the effectiveness of shareholder and stakeholder model of governance, the findings of this chapter indicates that development of corporate governance process in Bangladesh is greatly influenced by its political and socio-economic factors; suggesting that these factors should be considered for successful implementation of any good governance initiatives. Thus the overall findings of this chapter have been largely used in Chapter 7 and 8 for analyzing and understanding the corporate environment in Bangladesh in general and its ability to comply with an international standard of corporate governance practices in particular.

Figure 3.5 Key Landmarks of the Corporate Governance Framework in Bangladesh



CHAPTER 4

THE CODE OF CORPORATE GOVERNANCE FOR BANGLADESH

Chapter 4

4.0 THE CODE OF CORPORATE GOVERNANCE FOR BANGLADESH

4.1 INTRODUCTION

The Code of Corporate Governance for Bangladesh (hereafter “the Code”) is the focus point of the present study. The research is about understanding the level of acceptance of the Code and its appropriateness for the Bangladeshi corporate structure. Whilst the earlier chapter outlined the corporate framework in Bangladesh, this chapter discusses the basic features and contents of the Code. The discussion begins by identifying the formulators and basic features of the Code which is then followed by a comparative analysis to identify the extent to which the Code varies with international standards, local regulations and other developing countries’ code provisions.

4.2 THE CODE AND ITS BASIC FEATURES

The Code is the only voluntary code of corporate governance in Bangladesh which was introduced by the Bangladesh Enterprise Institute (BEI), a donor-funded private organization in 2004. To prepare the Code, the BEI and the donor agencies⁴⁸ jointly organized a Taskforce on Corporate Governance, whilst the Working Group of BEI assisted the Taskforce in drafting the Code. This Working Group was chaired by the

⁴⁸ Donor agencies, namely, “the Department for International Development (DFID), the Commonwealth Secretariat and the Global Corporate Governance Forum (GCGF)” (BEI, 2004, p.3)

President of BEI (a former Foreign Secretary and Ambassador, and past Executive Chairman of the Board of Investment) and comprised of eight members including business and legal professionals. The Taskforce on Corporate Governance comprised of 35 members (see Table 4.1).

Table 4.1 Composition of the Members of the Taskforce on Corporate Governance

Sectors	Number of Representative	Percentage of Total Composition
Financial Institutions	8	23%
Public, Private and Multinational Companies	7	20%
Government Bodies and Ministries	5	14%
Dignitaries	4	11%
Stock Exchanges and Regulatory Bodies	3	9%
Legal Entities	1	3%
Communication/Media	1	3%
Academia	4	11%
Different Professional Bodies	2	6%
Total	35	100%
<i>Source: The Code of Corporate Governance for Bangladesh (2004)</i>		

Table 4.1 indicates that the formulators of the Code have been selected from diverse sectors of Bangladesh and not limited only to corporate sectors. Although questions have been raised about the composition of the taskforce on Corporate Governance for including members from the Bangladesh government and bureaucrats (Siddiqui, 2010), the above data suggests that only 14% of the taskforce are being represented by the government bodies. FIs represent the maximum number (23%) followed by the corporate

sector which represents 20% of the total members⁴⁹. One important aspect of the composition of the Taskforce on Corporate Governance is that, quite a few members (11%) were also been included from academia, whilst communication and media which is supposed to be most update with the recent developments and challenges of Bangladesh, were also included (3%). Nonetheless, representation of regulatory bodies is only 9% whilst legal entities are far more less than this (only 3%). 11% of the total members are dignitaries in society who are well-known individuals in their respective areas (e.g. former Ambassadors, the former Chairman of ICAB etc.).

In addition, within the professional bodies which represent 6% of the total composition of the Taskforce are included members from the Foreign Investors' Chamber of Commerce and the Institute of Chartered Secretaries and Managers of Bangladesh. By and large, the composition of the formulators indicates that attempt has been taken by the Taskforce to incorporate knowledge and expertise from different segments of the country which is theoretically ideal for developing a code for a country.

4.2.1 Aim of the Code

The Code states that its primary function “is to improve the general quality of corporate governance practices in Bangladesh”(BEI, 2004, p.4). According to the Code, its provisions are formulated by combining the indigenous needs of Bangladesh and the recommendations of different international codes and Principles on corporate

⁴⁹ Taskforce members from FIs and corporate sectors represent companies from SOEs, public, private MNC, and service companies.

governance⁵⁰. It states that the combination has been done to define corporate governance practices for Bangladesh by combining the local purposes and international standards, and thus, according to the Code, on full compliance, companies in Bangladesh will have the following advantages:

- Attract more investment and higher quality investors.
- Enhance company reputation as a destination for investment.
- Ensure greater economic growth by enabling the country to maximize its resources and by efficient allocation of capital.
- Address the pervasive corruption that hinders the economy and development as a whole. (BEI, 2004)

To achieve these objectives, the Code documented the recommended principles and describes guidelines to implement it. However, since development, the Code has not been revised and no panel was formed for discussing the applicability of the Code in Bangladeshi context.

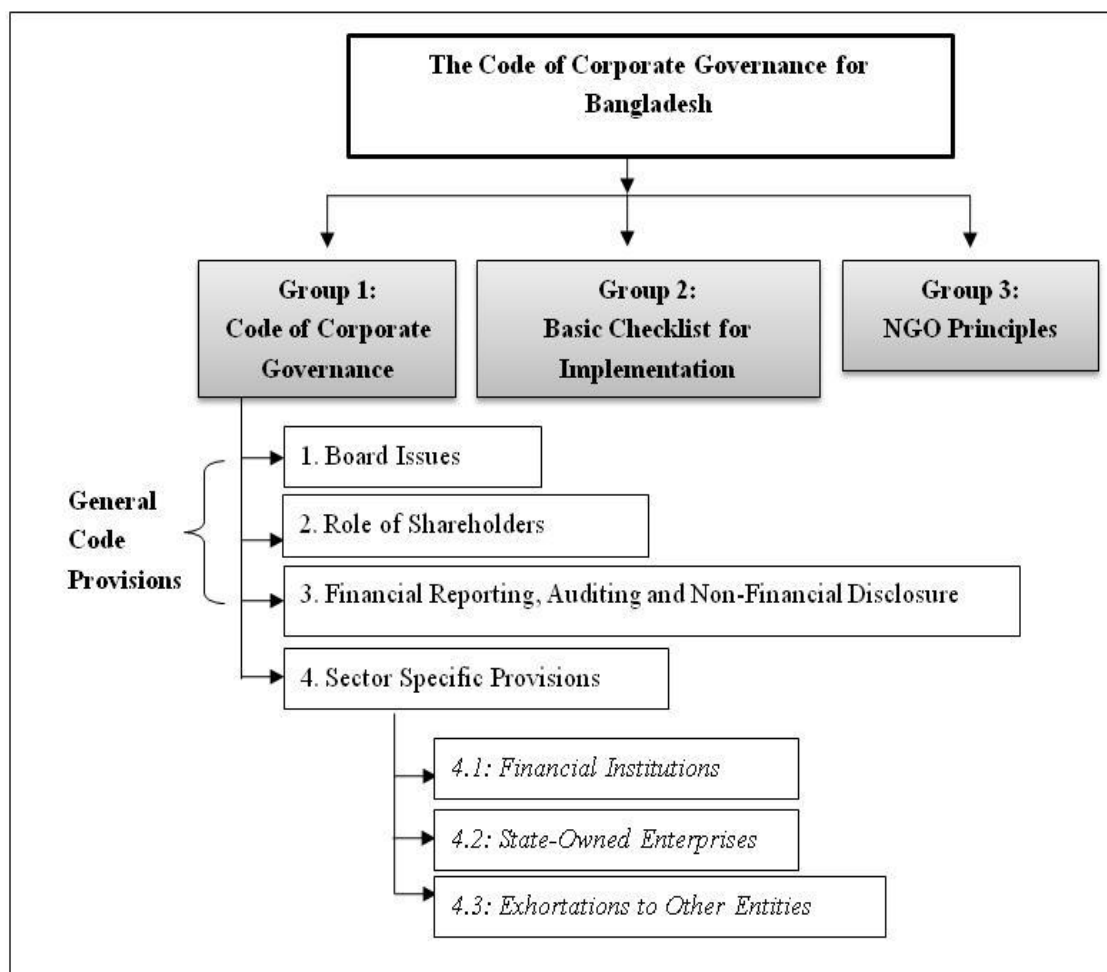
4.2.2 Organization of the Code

The Code content is extensive and covers a wide range of recommendations. Hence, for ease of analysis, following the organization of the Code, its entire contents have been divided into three groups – Group1: Code of Corporate Governance; Group 2: Basic

⁵⁰ “Other international Codes and Principles of Corporate Governance which have been consulted are: the Combined Code (2003) of UK, the OECD Corporate Governance Principles, the Commonwealth Association for Corporate Governance Guidelines, the King Report (South Africa), the Sri Lanka Central Bank Code, the CII Code of Desirable Corporate Governance India, the Pakistan Code of Corporate Governance, the Myners Report (UK), the Malaysian Code of Corporate Governance; and a variety of institutional investors code from United States” (BEI, 2004, p.7)

checklist for implementation; and finally Group 3: the NGO (Non-Government Organizations) principles (The Code is presented in Appendix IV).

Figure 4.1 Organization of the Code of Corporate Governance for Bangladesh



Source: The Code of Corporate Governance for Bangladesh, BEI (2004)

As shown in Figure 4.1, Group 1 includes the ‘code of corporate governance’ which is the most significant section of the Code as it contains almost all of the recommended provisions. The recommendations included here are further divided into four sections- 1) Board Issues –recommends different provisions for the Board of Directors; 2) Role of Shareholders – outlines responsibilities of shareholders; 3) Financial Reporting issues – recommends provisions relating to financial reporting disclosure and audit issues; and

finally, 4) some sector specific provisions – namely FIs, State Owned Enterprises (SOEs) and other entities. Code provisions included in sections 1 to 3 (‘General Code Provisions’ see Figure 4.1) are generally applicable for all types of companies, whilst the provisions of section 4 are some additional provisions for particular industries.

Group 2 of the Code outlines the basic checklist for implementation. For facilitating the implementation process, it highlights the major provisions for instance: board of directors, employees, shareholders, financial institutions and so on. Then in Group 3, the Code sets out principles for NGOs.

However, the present study is concerned with the provisions which are generally applicable for all companies (i.e. the provisions included in section 1, 2 and 3 of Group 1, see Figure 4.1). The sector specific code provisions (‘section 4 of Group 1 in Figure 4.1) and NGO principles have been excluded from the comparison because the nature of the research questions of the present study require an understanding of governance standards against the provisions which are generally applicable for all types of companies.

4.2.3 Some Distinctive Features of the Code

The Code has some salient features that make it different from many other codes of corporate governance in the world. For instance, the Code not only describes the Principles but also recommends the process through which better governance practices can be progressively implemented. Each section of the Code is thus organized into both Principles and Guidelines. The Principles explain the underlying value of corporate governance practices, whilst the Guidelines suggest specific methods for application.

The Basic Checklist for Implementation (as identified in Group 2 in Figure 4.1) is another important feature of the Code. The Code has summarized the general Code Provisions and the sector specific Code Provisions into a checklist format which makes it convenient to understand at a glance where the company needs to comply in the initial stage or to understand which Code provisions are regarded as essential for complying with national and international good governance standards.

The sector-specific code provisions as identified by the Code (Group 1.4 of Figure 2.4 of this study) are another important initiative in the Code. Moreover, it has provided an example for the Shareholders' Handbook which they believe will help companies to ensure shareholders' rights; and also an example for the annual reports which can serve as a checklist of disclosure.

4.3 COMPARATIVE ANALYSIS OF THE CODE

This section of the study intends to extend the understanding of the Code by placing its contents in a comparative matrix. To do so, focus has been placed on three main areas- the extent the Code meets international recommendations (thus it has been compared against the OECD Principles of Corporate Governance 2004); the extent it varies with the other corporate governance regulations (SEC Guidelines) of Bangladesh; and finally, to find an answer to the earlier arguments that Bangladesh is lagging behind its neighbors in corporate governance initiatives, the Code contents have been compared against the provisions of the Indian and Pakistani⁵¹ Codes with the aim of identifying countries with

⁵¹ Among other South Asian countries, India and Pakistan have been chosen because they have many similarities from socio-economic, cultural and political perspectives (see chapter 3).

similar socio-economic conditions and how they have designed their code contents and how the Code is suggesting Bangladeshi companies to respond⁵².

4.3.1 The Code Provision Relating to Board Issues

As an international benchmark for good governance the OECD Principles 2004 require boards to ensure the following key features:

- Sufficient number of board members will need to be independent to exercise objective judgment; boards must declare who they consider to be independent and why they are independent; independent members must be included in different committees created by the board.
- The role of chief executive and chairman should be separated in order to strengthen the objective judgment and to achieve an appropriate balance of power, and increase accountability.
- Codes of conduct or codes of behavior should be developed for the board in order to make the objectives of the board clear and operational; this is particularly important to establish an overall framework for ethical standards as expected by the company.
- Restrictions on the number of board positions that can be held by individual board members in order to ensure sufficient time and ability to commit themselves

⁵²The first Code for India was issued in 1998, but very recently they have issued their second voluntary code named '*Corporate Governance Voluntary Guidelines- 2009*⁵²' (hereafter the Indian Code). Unlike India, Pakistan has no voluntary guidelines on corporate governance; rather they have a mandatory guideline named '*Code of Corporate Governance*⁵²' (hereafter the Pakistani Code), which was issued in 2002 after the necessary revision on the first draft and this has been considered for comparison.

effectively to their responsibilities; number of board meetings attended by each board member must be recorded and disclosed later to shareholders.

- In addition to the other compliance requirements on internal control, companies should include the self-assessment by the board of their performance as well as the performance of the CEO/Chairman; this should also be a part of the disclosure issue.
- In order to support the roles and responsibilities of the chairman or the lead director, a company secretary option may be created.
- Companies must engage in board training to meet the needs of the individual company. Training of individual board members may also be organized in order to keep them updated with the new developments in the broader corporate world; both in-house and external training should be organized.
- Board members including the NEDs must get and have access to relevant information in a timely manner.

Table 4.2 indicates that in the case of Bangladeshi regulations, the Code is more responsive to the international requirements than the SEC Guidelines. Out of 8 OECD recommended board related provisions, the BEI code has addressed all, but the SEC Guidelines includes only 2. Identifying the board as a central entity in a functioning corporate governance system the Code recommends that boards should be accountable to its shareholders and stakeholders; however it should always ensure that the actions are taken for the best interest of its shareholders.

The Code and the SEC Guidelines both have identified the appropriate size of the board⁵³ and recommend to include different competence (as required) and to ensure effective board decisions and better transparency, emphasizes the need of including NEDs in the board. However, As the table 4.2 indicates the Code gives more emphasis to NEDs over independent directors⁵⁴ claiming that, the country is not ready to offer independent directors at this moment; whereas to ensure the independence of an Independent Director, the Indian Code has included some additional provisions (for example, their appointment, attributes, tenure and so on). All of the Codes included in the table also recommend separation between the roles of CEO and Chairman.

Although the SEC Guidelines do not specify much on the duties of the board, the Code, in the light of the OECD Principles, has recommended some key responsibilities for board. It suggests that the board should determine business plans, monitor and evaluate strategies, set performance criteria and so on. Moreover to establish ethical standards of

⁵³Companies Act 1994 requires that the board should be comprised of at least 3 members and the SEC Guidelines suggest that board should be limited from 5 to 20. Although the Code does not specify any number but referring internationally to successful companies it states 7 to 15 is an ideal size to ensure that the size of the board is large enough to include directors with diverse expertise and experience, but not too large to preclude involvement by all directors.

⁵⁴As per the SEC Guidelines on Corporate Governance, clause 1.2 (i) ““independent director” means a director who does not hold any share in the company or who holds less than one percent (1%) shares of the total paid-up shares of the company, who is not connected with the company's promoters or directors or shareholder who holds one percent (1%) or more than one percent (1%) shares of the total paid-up shares of the company on the basis of family relationship; who does not have any other relationship, whether pecuniary or otherwise, with the company or its subsidiary/associated companies, who is not a member, director or officer of any stock exchange, and who is not a shareholder, director or officer of any member of stock exchange or an intermediary of the capital market” www.dsebd.org

And according to the Code of Corporate Governance for Bangladesh, “Non-executive directors are simply directors that do not currently hold a position with the organisation for which they serve on the board. Independent or outside directors are those who do not have employment, familial, financial, or other ties to the company.” (BEI, 2004, p.13)

the company, the Code also suggest a Code of Conduct not only for the Directors but also for the Managers and Employees separately. To ensure that the board members are able to give sufficient time to add value to the company the Code has set a restriction on the board members to hold directorships in no more than six boards⁵⁵, and to attend a minimum percentage of board meetings in order that their ability to contribute to the company is given sufficient time.

However, neither the Code nor the SEC Guidelines include enough provision relating to independent directors' qualifications as has been done in case of the Indian Code. The Indian Code requires the board to put in policies for specifying attributes of independent directors, their expertise, foresight, management quality and ability to understand financial statements. It also suggests that the independent directors should provide a detailed 'Certificate of Independence' at the time of their appointment and thereafter annually (p.12). Moreover it has set of separate provision for the tenure and freedom of independent directors to ensure that they can be reasonably perceived as independent and exercise independent judgment. Moreover the provisions relating to remuneration of directors especially NEDs are also more detailed in case of India. However in detailing other provisions relating to board practices, the Code for Bangladesh is very similar to the Indian and Pakistani Code; and in some cases it is more comprehensive than the Pakistani Code.

⁵⁵“An institution or institutional investor (government, provident fund, etc.) can be represented on numerous boards, far in excess of 6. However, a single individual (as nominee of the institution) should not hold more than 6 directorships, so that they have sufficient time to devote to their individual duties as director”(BEI, 2004, p.12).

Table 4.2 Comparison among the Code Provisions on Board Issues

Different Aspects of Board	OECD Principles	Guidelines - Bangladesh		Guidelines -Developing Countries	
		Code – Bangladesh	SEC Guidelines	Code – India	Code – Pakistan
1. Existence of Independent Director	Strongly Recommended	Emphasized on NED	Yes	Yes	Yes
2. Separation between the roles of CEO & Chairman	Strongly Recommended	Yes	Yes	Yes	Not mandatory
3. Existence of Board Code of Conduct	Strongly recommended	Yes	No provision	No provision	Yes
4. Board Membership Criteria	Restrictions on -number of board position; -meetings attended	Yes	No provision	Yes	Yes
5. Evaluation of Board performance	For Board, CEO and Chairman	Yes	No provision	Yes	No provision
6. Training for Board Members	Both in-house and outside	Yes	No provision	Yes	No provision
7. Board Compensation	Compensation schemes for board members and employees	Yes	No provision	Yes	No provision
8. Timely Information for Board Members	Strongly Recommended	Yes	No provision	Yes	Yes

Table 4.3 indicates that none of the corporate governance guidelines varies much from the recommendations of the OECD Principles (2004) in developing provisions for the audit committee. The Code and SEC Guidelines, both are almost identical in defining the composition of the committee and the qualification of the Chairman of the audit committee, and both have given strong emphasis on developing an independent audit-committee to have an oversight into the internal audit functions and to ensure true and fair reflection of the financial statements. The SEC Guidelines make it mandatory for all of its listed companies to establish an audit committee as a sub-committee of the Board of Directors, whilst the Code emphasizes more on the companies with annual turnover equals to or more than BDT 300 million to have an audit committee. As the table indicates, other than the SEC Guidelines, all other codes have specified detailed provisions relating to the major tasks, independence and transparency of an audit committee.

Table 4.3 Comparison among the Code Provisions on the Audit Committee

Different Aspects of Board	OECD Principles	Guidelines - Bangladesh		Guidelines -Developing Countries	
		Code – Bangladesh	SEC Guidelines	Code – India	Code – Pakistan
1. Composition	Minimum number or entirely of independent non-executive members.	At least 3 members; majority of NED.	At least 3 members; min 1 ID.	At least 3 members; majority of ID.	At least 3 members; majority of NED.
2. Major tasks	- Monitor internal audit; - Recommend critical accounting policies	Similar	Do the duties assigned by and not covered by the board.	Similar	Similar
3. Meeting	No provision	Quarterly	No provision	No provision	Quarterly
4. Relationship with external auditors	Must oversee the overall relationship with external auditors.	Similar	No provision	Similar	Similar
5. Reporting	To the board	To board, and annually to shareholders	To Board and Commission	To board	To board

4.3.2 The Code Provision Relating to Shareholders' Participation

To allow minority shareholders to place a director on the board to represent minority shareholders, the Code has developed some recommendations relating cumulative voting as a possible alternative voting method. The Code proposes to change the hand count of voting system to a ballot procedure to ensure free and fair voting. Moreover, the Code also complements the OECD Principles by recommending detailed provisions on meeting agenda and offering the opportunity to include related agenda items by the shareholders before the meeting. However, none of the regulations of Bangladesh clearly demonstrates the nomination and election procedure or the remuneration policy disclosure to create an opportunity for the shareholders to participate in the key governance decisions, whereas the Pakistani Code is more comprehensive in this regard. Although cumulative voting⁵⁶ would not guarantee that a minority group could elect a director, the Code argues that it will allow for an organised group of shareholders to do so. Hence, in addition to this, the Code has emphasized raising awareness among shareholders' about their rights and responsibilities.

Table 4.4 shows that while each of the corporate governance guidelines have emphasized the right of shareholders' to be informed and requires detailed disclosure of company or any other information of the company that may directly or indirectly affect the interest of shareholders, the Code for Bangladesh goes further and recommends a 'Shareholders

⁵⁶ Cumulative voting system is “a method of stock voting that permits shareholders to cast all votes for one candidate. A voting system that gives minority shareholders more power, by allowing them to cast all of their board of director votes for a single candidate, as opposed to regular or statutory voting, in which shareholders must vote for a different candidate for each available seat, or distribute their votes between a number of candidates” (www.corp-gov.org).

Handbook'. It argues that a lack of concern among shareholders' about their rights is a primary concern in Bangladesh; thus whilst emphasizing their rights it is the responsibility of companies to educate and inform shareholders. It also outlines a sample Shareholder Handbook containing the rights and responsibilities of shareholders.

Table 4.3 also suggests that the Code for Bangladesh is more detailed than the SEC Guidelines and the Pakistani Code to some extent in protecting minority shareholders' rights. The Indian Code argues that it does not need additional provisions as the minority shareholders' rights are already protected by its laws. However the Indian Code recommends attaching an impact assessment statement with every single agenda in order to ensure better understanding of the impact of that particular agenda on minority shareholders. It also recommends that an independent director discusses such impact analysis and offers comments which should be suitably recorded. This is expected to help the shareholders in making informed decisions.

Table 4.4 Comparison among the Code Provisions Regarding the Rights of Shareholders

Different Aspects of Board	OECD Principles	Guidelines - Bangladesh		Guidelines -Developing Countries	
		Code – Bangladesh	SEC Guidelines	Code – India	Code – Pakistan
1.Right to be informed	Company general information; Company fundamental Changes & other relevant material information; Notice about AGM/GMS; Governing rules of AGM/GMS	Yes	No provision	Yes	Yes
2.Participation in Meetings and Decision making Process	Through: attending meeting, voting, asking questions to the board; participating in key Corporate Governance decisions,	Yes	No provision	No provision	Yes
3. Voting Rights	Elect and remove board members ; Vote in person or in proxy; Cumulative Voting	Yes	No provision	No provision	Yes
4. Annual General Meeting	Date, time & location; Agenda of the meeting must be maintained and monitored.	Yes	No provision	No provision	Yes

4.3.3 The Code Provisions Relating to Financial Reporting, Auditing and Non-Financial Disclosure Issues

Disclosure, transparency and financial reporting are one of the major challenges for ensuring good governance in Bangladesh (BEI, 2004). The Code argues that improving the quality of disclosure and audit practice in Bangladesh must be carried on as a joint undertaking of the regulators, the ICAB and organizations themselves; and has developed its provisions accordingly.

Table 4.5 indicates some of the major provisions relating to financial disclosure. The table indicates that following the OECD Principles, the Code and the SEC Guidelines both recommend companies to prepare their reports using International Financial Reporting Standards (IFRS) (as have been adopted by the ICAB, and named as BFRS; discussed in chapter 3). The Pakistani Code also expects the same from its listed companies. All of these Codes recommend provisions for better transparency and better disclosure. For instance, the Code and SEC Guidelines and the Pakistani Code echo the OECD Principles and suggest that companies should, in a timely way, disclose its financial statements, information about contingent liabilities, material events, related party transactions, ownership structure etc. However the Code has down laid some additional provisions requiring that these guidelines must be verified and signed by the CEO, CFO, and audit committee chairman.

The Indian Code has no specific recommendations on financial disclosure, maybe because they have provisions in detail in their mandatory guidelines and in other regulatory provisions⁵⁷.

⁵⁷For example the '*Report of the Kumar Mangalam Birla Committee on Corporate Governance*' develops code provisions in 2000 which are mandatory for the listed companies. This code on corporate governance outlines the accounting standards, and financial disclosure provisions in detail which are still valid for the companies of India

Table 4.5 Comparison among the Code Provisions Regarding Financial Disclosure Issues

Different Aspects of Board	OECD Principles	Guidelines - Bangladesh		Guidelines -Developing Countries	
		Code – Bangladesh	SEC Guidelines	Code – India	Code – Pakistan
Accounting Standard	High quality internationally recognized standards.	Companies need to conform to all BFRS	Companies need to conform to all BFRS	No Explicit Provision	International Accounting Standard as applicable for Pakistan
Statements of Financial Performance	Should be audited;	Should be audited	Should be audited	No Provision	Should be audited
Disseminating Information	Timely; Cost-effective for users' access	All disclosure should be available to public and shareholders	The annual report, articles are to be disclosed	No Provision	All disclosure should be publicly available for shareholders
Information about any Material Events	Requires immediate disclosure	Requires immediate disclosure	Requires immediate disclosure	No Provision	Requires immediate disclosure

Although the disclosure, accounting and auditing provisions are quite detailed in the Code and the SEC Guidelines, none has addressed the audit review process. Earlier studies (e.g. Imam, 2000; Mir and Rahaman, 2005; World Bank, 2009) have identified that in the absence of a formal audit review process, companies are skeptical of audit quality. Moreover none of the guidelines set a proper guideline for ensuring a secure environment for whistleblowers, which could be an important source of information for bad governance especially for countries like Bangladesh where people have less faith in audited reports and external auditors. On the other hand the Indian Code has separate provisions requiring companies to ensure the institution of a mechanism for employees to report concerns about unethical behavior, actual or suspected fraud, or violation of the company's Code of Conduct or ethics policy. It also suggests that companies safeguard the whistleblowers against victimization, and allow direct access to the Chairperson of the Audit Committee in exceptional cases.

Table 4.6 which highlights some of the non-financial disclosure provisions indicates that non-financial disclosure issues have been almost similarly addressed by all the Codes discussed in the table. However, as the table indicates, whilst, OECD Principles has emphasized on developing policies on business ethics and disclosing the level of compliance with it and the Indian Code recommends the same, the Code for Bangladesh emphasizes on CSR related disclosure, and the SEC Guidelines and Pakistani Code have no specific requirement in this regard. Unlike financial disclosures, the SEC guidelines are also lagging behind in meeting the requirements of OECD Principles (for instance it did not address remuneration issues, nor disclosure of ethical standards) as has been done by the Code of Bangladesh. One interesting thing to note in the table is that, none of the codes has addressed the provisions relating to the disclosure of the qualification and selection process of board members. Whilst almost all of the codes include provisions relating the qualification of BOD especially the NEDs, but none stresses on disclosing it or being transparent on the board member selection process.

Table 4.6 Comparison among the Code Provisions Regarding Non-Financial Disclosure

Different Aspects of Board	OECD Principles	Guidelines - Bangladesh		Guidelines -Developing Countries	
		Code – Bangladesh	SEC Guidelines	Code – India	Code – Pakistan
1. Some other policies, codes	Policies on Business ethics.	Policies on CSR and Business strategy	No Provision	Code of business ethics	No Provision
2. Major Share-Ownership Structure	Detail Ownership Structure;	Same	Same	No Provision	Same
3. Related Party Transactions	Material related party transactions	Same	Same	Same	Same
4. Information about Board Members	Qualification of all; Selection Process	No Provision	No Provision	No Provision	No Provision
5. Remuneration Policy	For board members and key executives	Only for board members	No Provision	Same	No Provision
6. Compliance Statement	Legal and other regulatory requirements and Corporate Governance (CG) practices	Same	Only CG practices	Same	Only CG practices

4.4 SUMMARY

The overall discussion on the Code of Corporate Governance for Bangladesh indicates that the Code is comprehensive and addresses a wide range of corporate practices. There are some general provisions which all companies are supposed to comply with in addition to other national legislation. FIs, and SOEs play a major role in the economy of Bangladesh, hence the Code has developed some additional provisions for these sectors too which the industries are supposed to comply with in addition the general Code provisions and other national/regulatory requirements.

The analysis above also indicates some distinctive features of the Code. For instance, the principles/provisions of the Code are supported by guidelines which are supposed to help companies to implement the principles. Moreover the '*The Basic Checklist for Measuring Compliance*' summarizes all the general Code provisions and the sector specific provisions into a checklist which makes it convenient to understand and monitor the Code implementation process. The example of the contents of an Annual Report is also an appreciable effort which can work as a checklist of disclosure for companies.

The comparative analysis indicates that the Code is compatible with international standards in general and the OECD Principles (2004) in particular. In fact the provisions of the Code and the SEC Guidelines both reflect the recommendations of the OECD Principles, albeit the Code does it more comprehensively than the SEC Guidelines. Analysis of the provisions of both of these guidelines supports the claim of Siddiqui (2010) that the Code and the SEC Guidelines, both are suggesting that companies adopt Anglo-American model or shareholder perspective of governance. Although the Code suggests that the board should be accountable to its shareholders and stakeholders, its provisions are actually prioritizing only shareholders.

The Code and the SEC Guidelines are also similar in terms of identifying the financial disclosure requirements setting audit committee related provisions, and recommending board provisions. However, other than these similarities both of these guidelines of Bangladesh do differ from each other. The Code is much more detailed in setting up provisions than the SEC Guidelines. Whilst the SEC Guidelines emphasize independent directors, the Code argues that the country does not have a sufficient resource pool of people to be independent directors, hence it has prioritized NEDs⁵⁸. The Code has set some provisions for protecting the minority shareholders' rights but the SEC Guidelines is almost silent on this aspect. It may be because there are other regulations in the SEC which are theoretically supposed to protect minority shareholders' rights. Moreover, the Code suggests a voluntary mechanism of compliance, whilst the SEC has a 'comply-or-explain' mechanism. Nonetheless, none of these guidelines have some mechanisms for controlling non-compliant companies nor some incentive mechanisms which could encourage companies to improve their compliance status in future.

The comparison of the Code provisions against the codes of other developing countries suggests that the provisions have many similarities, especially with the Pakistani Code. However, the Indian Code, which has been developed to support the existing mandatory

⁵⁸ As per the SEC Guidelines on Corporate Governance, clause 1.2 (i) ""independent director" means a director who does not hold any share in the company or who holds less than one percent (1%) shares of the total paid-up shares of the company, who is not connected with the company's promoters or directors or shareholder who holds one percent (1%) or more than one percent (1%) shares of the total paid-up shares of the company on the basis of family relationship; who does not have any other relationship, whether pecuniary or otherwise, with the company or its subsidiary/associated companies, who is not a member, director or officer of any stock exchange, and who is not a shareholder, director or officer of any member of stock exchange or an intermediary of the capital market" www.dsebd.org

And according to the Code of Corporate Governance for Bangladesh, "Non-executive directors are simply directors that do not currently hold a position with the organisation for which they serve on the board. Independent or outside directors are those who do not have employment, familial, financial, or other ties to the company." (BEI, 2004, p.13)

requirements and to address the recent need for governance in India, has addressed some areas (like remuneration, independent directors, and whistleblowers) where the Bangladesh Code is lagging behind. Corporate governance is in an evolving era (Mallin, 2010) which offers new challenges, demands new policies. Thus once developed codes must be reviewed regularly to pinpoint the scopes for improvement and making it effective enough to face today's issues and tomorrow's challenges and from this perspective, the Code and the SEC Guidelines both need to be revised, as has been done in case of India. Thus this comparative analysis has helped developing recommendations for the Bangladesh (as discussed in chapter 8)

Nevertheless, it is undeniable that as an initial step for developing good governance, the relatively detailed provisions of the Code are laudable and has met international standards. However, it cannot be denied that achieving compatibility with international standard is part of the spirit of code development, the rest depends on the extent its provisions meet local needs and solve governance issues; and for the Code of Bangladesh it is yet to be measured. Discussion in this chapter thus has been broadly used in chapter 6 to address the research questions relating to the level of compliance with the Code and appropriateness of the model suggested by the Code for Bangladesh. .

CHAPTER 5

RESEARCH METHODOLOGY

Chapter 5

5.0 RESEARCH METHODOLOGY

5.1 INTRODUCTION

This chapter addresses the methodology used in this study and the methods of collecting the primary research data. Section 5.2 identifies the methodological assumption about the philosophical standpoints of this study. Both qualitative and quantitative research methods of questionnaire survey and semi-structured interview employed in the study are clarified in section 5.3. Section 5.4 discusses the data analysis technique. Finally section 5.5 concludes the chapter.

5.2 RESEARCH PARADIGM

Saunders et al.(2009, p.118) have defined a research paradigm as “a way of examining social phenomena from which particular understandings of these phenomena can be gained and explanations attempted”. In more simplistic terms, “a research paradigm is a cluster of beliefs and dictates to the researchers what should be studied, how it should be studied and how research should be interpreted”(Bryman and Bell, 2007, p.25). Therefore, a researcher must identify his/ her philosophical view of the world, because such “a choice deeply reflects not only the nature and exigencies of the work to be provided but also the researchers’ view of the social world”(Pansiri, 2009, p.84).

There are many studies which presents a wide range of research paradigms. However, Pansiri (2009) stated that the task of a researcher is to decide which to select from this wide range as the most appropriate one for his/her research project. However, before deciding, the researcher must have a clear understanding of these various approaches, because, once

chosen, “the research paradigm acts as a ‘set of lenses’ for the researcher – it allows the researcher to view fieldwork within a particular set of established assumptions, thus merging the abstract usefulness of the paradigm with the practical application of conducting rigorous research” (Burke, 2007, p.477)

There are four major research paradigms of social research: positivism, realism, interpretivism and pragmatism. A comparison of those paradigms is thus summarised in Table 5.1. The table indicates that every approach has its own area of interest, scope of applicability, and each of these paradigms views the world in a specific way that dictates how to deal with research questions and data analysis. The table also indicates that these various paradigms actually differ based on methodological issues (Burrell and Morgan, 1979; Laughlin, 1995; Tashakkori and Teddlie, 1998), methods, and nature of knowledge (Pansiri, 2006).

Research reflects the philosophy of positivism if it is undertaken with an “observable social reality and that the end product of such research can be law-like generalization”(Saunders et al., 2009, p.113). In sharp contrast, as the table 5.1 indicates, the interpretivist paradigm argues that “the social world of business and management is far too complex to lend itself to theorising by definite ‘laws’ in the same way as the physical sciences”(Saunders et al., 2009, p.116). Instead, as Saunders et al.(2009, p.116)explained, interpretivism assumes that the world is different for everybody and advocates that “it is necessary for the researcher to understand the differences between humans in different roles as social actors”.

Realism is another philosophic position and stands in between these two extreme philosophies. It believes that “the natural and social sciences can and should apply the same kinds of approach to the collection of data and to explain, and a commitment to the view that

there is an external reality to which scientists direct their attention” (Bryman, 2008, p.14). In other words, as Saunders et al.(2009, p.114) stated, “what the senses show us as reality is the truth: that objects have an existence independent of human mind”.

Guba and Lincoln (1998; 2004)stated that, each element from positivism to interpretivism determines the level of extremeness in understand the reality. For instance, while positivism views that the world is real, objective and understandable and findings are true, the other extreme position, the interpretivism philosophical stance believes there can be no objective truth. Interpretivism argues that “realities are apprehendable in the form of multiple, intangible mental constructions, socially and experimentally based, local and specific in nature” (Guba and Lincoln, 1998, p.206). Therefore while, positivists uses hypothesis and conduct experimental studies to identify the real facts, interpretivists believe in being interactively linked and use methods like observations, and interviews and participants’ experiences.

While, each of these three paradigms (positivism, realism and interpretivism) offers its own logic and benefits and specific lenses to view research, each has its own limitations too. Moreover, the debate on ontology and epistemology is often framed in terms of a choice between either of the positivist and interpretivist research philosophy. Critics (Bryman and Bell, 2011; Creswell, 2009; Saunders et al., 2009) argue that in reality the researcher might find choosing between one philosophy from the other is somewhat impracticable. They believe being rigid on one single paradigm might limit the researcher to explore some areas which could enhance the understanding of the research area. Hence, they advocate a new intellectual arena to view the world which could relieve the researcher from the limitations of being rigid in philosophic standpoints and allow the researcher a freedom of choice.

Table 5.1 Comparison of Four Research Philosophies

	Positivism	Realism	Interpretivism	Pragmatism
Ontology: the researchers view of nature of reality or being	External, objective and independent of social actors	Is objective. Exists independently of human thoughts and beliefs or knowledge of their existence, but is interpreted through social conditioning (critical realist)	Socially constructed, subjective, may change, multiple	External, multiple, view chosen to best enable answering of research question
Epistemology: the researchers view of regarding what constitutes acceptable knowledge	Only observable phenomena can provide credible data, facts. Focus on causality and law like generalizations, reducing phenomena to simplest elements	Observable phenomena provide credible data, facts. Insufficient data means inaccuracies in sensations (direct realism). Alternatively, phenomena create sensations which are open to misinterpretation (critical realism). Focus on explaining within a context or contexts.	Subjective meanings and social phenomena. Focus upon the details of situation, a reality behind these details, subjective meanings motivating actions	Either or both observable phenomena and subjective meanings can provide acceptable knowledge dependent upon the research question. Focus on practical applied research, integrating different perspectives to help interpret the data.
Axiology: the researcher's view of the role of values in research	Research is undertaken in a value free way, the researcher is independent of the data and maintains an objective stance	Research is value laden; the researcher is biased by world views, cultural experiences and upbringing. These will impact on the research	Research is value bound, the researcher is part of what is being researched, cannot be separated and so will be subjective.	Values play a large role in interpreting results, the researcher adopting both objective and subjective point of view
Data collection techniques most often used	Highly structured, large samples, measurement, quantitative, but can use qualitative	Methods chosen must fit the subject matter, quantitative and qualitative	Small samples, in depth investigation, qualitative	Mixed or multiple method designs, quantitative and qualitative

Source: adapted from Saunders et al. (2009, p.119)

Researchers (like Creswell, 2009; Pansiri, 2006; Saunders et al., 2009) argue that a social science researcher should not set a boundary for themselves within one philosophical stance. Instead, to view the social world, different kind of available inquiry should be adopted sequentially depending on the demand of their research purpose. (Carson et al., 2001). They also emphasize that instead of being rigid to one particular research paradigm, or defending one research philosophy researchers should expand their visualizations and devise the research process that addresses their research objective (Neuman and Benz, 1998); and all these calls have been answered by a distinctive ‘Pragmatism’ philosophy (as shown in the last column of Table 5.1)

Pragmatism holds the view that “the most important determinant of the epistemology, ontology and axiology [that one] adopts is the research question(s)- any one [positivist/interpretivist] may be more appropriate than the other for answering particular questions” (Saunders et al., 2009, p.109). Hence in prioritizing research problems it adopts all available approaches that answer research problems. Creswell(2009, p.11)opines that “truth is what works at time. It is not based in a duality between reality independent of the mind or within the mind. Thus, in mixed methods research, investigators use both quantitative and qualitative data because they work to provide the best understanding of a research problem”.

Traditionally research in accounting and finance are predominated by positivistic research (Ryan et al., 2002), where the researchers examine the effect of a variable on some outcome variables, or used some mathematical modelling or equation to prove or disprove hypotheses. However, over the last 40 years especially, the financial disciplines have provided a new intellectual arena to view the world in interpretivist philosophical aspects (Ryan et al., 2002).

The first three research questions of the study (see page 8) demand an objective observation of the social and material world; whereas the last three research questions need subjective interpretation assuming that the world would be different to everybody. These are the situations where the research demands a mixed method to be adopted. Supporting the claims of other scholars like Tashakkori and Teddlie (1998), Pansiri(2009), Creswell(2009, p.11)also emphasized on the importance of using mixed methods in such cases and suggested that it is more appropriate for the researcher to pay attention “on the research problems and then using pluralistic approaches to derive knowledge about the problem” (p.11) and mixed methods are best employed under pragmatism (e.g. Creswell, 2009; Pansiri, 2005; Saunders et al., 2009; Tashakkori and Teddlie, 1998). Therefore, considering the need of the research questions, the present study aligns itself with the pragmatic position to see the social world. The rest of the discussion in this section unfolds further as to why and how different philosophic standpoints have been mixed to address the research questions of the present study.

“Ontology is concerned with the nature of reality” (Saunders et al., 2009, p.110). Thus, ontologically, rejecting the nominalist assumption that the social world is unreal and has no real structure (Burrell and Morgan, 1979), the study holds a realistic proposition and assumes that the business world in Bangladesh is real, and corporate governance as an aspect of the corporate environment of Bangladesh is operating in the real world, and it deals with the regulators, regulations companies and people who have an existence and independent of the human mind. Following the arguments of Guba and Lincoln (1998) and Pansiri(2009) this study also assumes that the corporate world can be comprehensible only imperfectly or probabilistically. Since the corporate environment is comprised of many different social and environmental factors, no single finding can be stated as true. Moreover, the people who are

the major players of this corporate environment are unpredictable, therefore research findings using social and other related theories, can only predict the reality of the world.

The study also holds the belief that the level of compliance that a company reflects, the problems that a company faces in establishing good governance or the issues which cause non-compliance with standards of practice are the consequences of actions by different social actors, and reflects the reality of a company which is the consequence of a process of continuing social enactment.

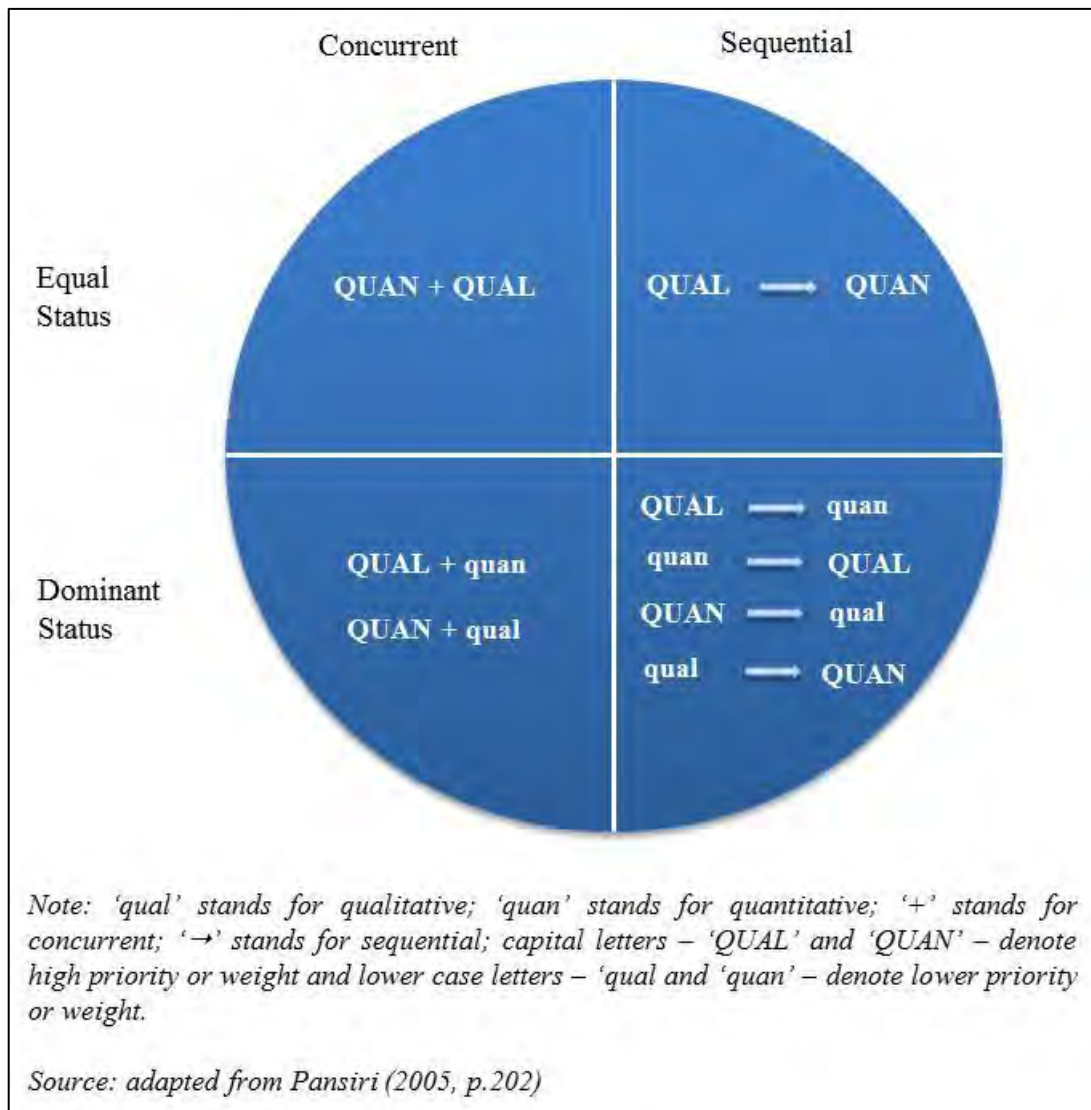
“Epistemological issues concern the question of what is (or should be) regarded as acceptable knowledge in a discipline”(Bryman and Bell, 2007, p.16). The pragmatist epistemology in fact places its arguments in contrast to the positivist and anti-positivist views of research. As Powell(2001, p.884)explained, “pragmatism, on the other hand, rejects positivism, on grounds that no theory can satisfy its demand...; and rejects anti-positivism, because virtually any theory would satisfy them. As such, the pragmatist proposes to reorient the assessment of theories around a third criteria: the theory’s capacity to solve human problems”. Thus the scholars believe to a pragmatist, it is more important to adopt a research approach to facilitate human problem-solving. Holding this epistemological position, the first three research questions of this study need the reality to be represented by objects or observable phenomena that are considered to be real and have a separate existence to that of the researcher and need to collect data that are far less open to bias to ensure objectivity.

On the other hand, the last three research questions of this study demand the researcher to be more concerned with the feelings and attitudes of the participant towards their reality. This assumes that the issues related to non-compliance are better understood by investigating the social phenomena.

The methodological aspect is generally influenced by the ontological and epistemological perspectives of a research. Hence, in line with the pragmatist paradigm discussed above and the research objectives a mixed methodological approach has been adopted for this study. and in the search for a methodological identity a number of researchers (like Creswell, 2009; Pansiri, 2009; Tashakkori and Teddlie, 1998) emphasize the fact that mixed methods are best employed under pragmatism. The research objectives suggest that quantification is necessary to understand the level of compliance among companies, industries and among Code provisions, it would not reflect the issues relating to compliance or the appropriateness of the Code in the context of Bangladesh. Rather, a qualitative approach would be preferred to have a better insight on those issues. Therefore, a mixed method study has been designed for this study. At first, a quantitative survey conducted among the companies operating in Bangladesh followed up by qualitative semi-structured interviews with stakeholders.

Researchers using pragmatism need to consider designing mixed method research. While Creswell (2009) has identified four factors (timing, weight, mixing, and theorizing) influencing the design of the procedure of mixed method study, Pansiri(2005) has further assisted by suggesting a matrix (as illustrated in Figure 5.1) that shows the different approaches available for a researcher for research inquiry. The “Concurrent” quadrant of Figure 5.1 indicates that “both qualitative and quantitative data collection techniques are used at the same time and analysis of both types of data is done simultaneously, while sequential implies that the researcher conducts either the qualitative phase of a study then a separate quantitative phase or vice-versa with a view to use the later technique to assist in explaining and interpreting the findings of the former ”(Pansiri, 2005, pp. 201-202).

Figure 5.1 Mixed Method Design Matrix



In the case of the present study, considering the time limitation and cost, both quantitative and qualitative data for this study needed to be collected concurrently during the field work in Bangladesh. With regards to the weight or priority factor, the overall aim of the study suggests that equal weight should be given to both qualitative and quantitative information. However, quantitative data will be analyzed first, because that is expected to support the analysis of qualitative data in relation to the causes of non-compliance with the Code. Otherwise both quantitative and qualitative data analysis is supposed to play the supportive

role for each other where applicable; and that is why data mixing will occur at the data interpretation phase. Finally, the study use theories as an orienting lens that has shaped the types of questions asked, identifying the participants in the study, and how data are collected. Considering all these four important factors and the research objectives the study will follow the first quadrant of Figure 5.1 ‘QUAN+ QUAL’ which is a concurrent design where equal weight is given to both quantitative and qualitative information.

5.3 RESEARCH METHODS

In light of the methodological standpoints discussed above, this research adopts a mixed methods approach to answer the research questions. It adopts a quantitative survey to collect primary data to answer the first three research question relating to the level of compliance with the Code. Whilst the survey analysis provides a quantitative explanation of the compliance level and its pattern, the last three research questions demand a further insight into the compliance issues in terms of background information, possible explanations of the empirical relationships, and so on. Hence, in relation to the qualitative research, in-depth semi-structured interviews were carried out with various stakeholders in the corporate sector. The questionnaire survey and semi-structured interviews were both conducted at a concurrent time in Bangladesh at the end of year 2010. However, by combining the merits of both quantitative and qualitative methods, the present study also takes a stand with the advocates of mixed methods who claim that a mixed methods strategy offers: (i) more comprehensive understanding from multiple perspectives and lenses; (ii) more insightful understanding from fresh and creative perspectives; (iii) greater validity; and (iv) greater value consciousness and greater diversity of values (Creswell, 2009; Greene et al., 2005; Tashakkori and Teddlie, 1998).

5.3.1 Questionnaire

As a general term, questionnaire means a list of predetermined questions, in which each person is asked to respond (Collis and Hussey, 2003; deVaus, 2009). Creswell (2009) regards a questionnaire as an effective way to understand numeric description of the trends, attitudes or opinions of the population, whilst Gill and Johnson (2002) state that survey research using questionnaire provides a stronger population validity and reliability. This method is considered to be inexpensive compared with other methods. This technique helps to ensure the anonymity of the respondents which allows them to feel free to express their opinion (Falgi, 2009). Perhaps that is the reason that survey research using a questionnaire predominates in the corporate governance research (Akkermans et al., 2007; Habib-Uz-Zaman, 2010; Hussain and Mallin, 2002; Jackling and Johl, 2009) and also in the other areas of business and management research. (Saunders et al., 2009). Since this study needs to collect some data which are not usually publicly disclosed and are sensitive in nature (for instance some board level information) a questionnaire technique is considered to be one of the appropriate techniques for data collection.

The first three research questions of the present study deals with the level of compliance with the Code which are sensitive in nature. Thus it would not be surprising for Bangladesh to end up with a very low or almost no response rate from the respondents on research queries regarding their compliance status or corporate governance practices where their identity is disclosed. Earlier researchers (Akhtaruddin, 2005; Habib-Uz-Zaman, 2010; Haque, 2007; Reaz, 2006) on Bangladesh have experienced the same. Hence, along with the reason of facilitating descriptive and explanatory analysis, anonymity is another major driving factor behind choosing this research instrument for addressing the first three research questions of the study: identifying the level of compliance, identifying the most and least complied with

code provisions and identifying the factors influencing the level of compliance in Bangladesh.

There are two major types of questionnaire: a self-administered questionnaire which is usually completed by the respondents; and an interviewer-administered questionnaire which is completed by the interviewer on the basis of each respondent's answers (Saunders et al., 2009). Although an interviewer-administered questionnaire would help to ensure responses from the right person, considering the anonymity issue and the numbers of questions the respondents need to answer, the self-administered questionnaire has been adopted. The Code is quite comprehensive, and thus there are far too many questions for a respondent to reply to within a short time. Even if they did, the responses might be less reliable as they would do it in a rush. The pilot study also reflected that the respondents preferred to complete the questionnaire according to their own convenient time. Hence, a self-administered questionnaire was considered for data collection. However, to avoid the possibility of data distortion, questions were asked using clear and simple language. Last but not least, self-administered questionnaire is relatively less time consuming and compare to the interviewer-administered questionnaire, the risk of data distortion is relatively low in a self-administered questionnaire (Babbie, 2007; Saunders et al., 2009).

One of the limitations of the self-administered questionnaire is, even if the questionnaire is sent addressed to a particular person from whom the researcher wants to get the response, it is hard to ensure that particular person will be the respondent (Bryman and Bell, 2011; Saunders et al., 2009) thus the reliability of the response becomes a question. However, this limitation has been minimized in two ways: i) in the case of the internet-mediated

questionnaire, as most users respond to their own e-mail at their personal computers⁵⁹; ii) most of the questionnaires were hand collected from the respondents. Saunders et al, (2009) stated that this method of data collection offers an opportunity to check about the respondents at collection.

▪ 5.3.1.1 *Selecting Items for the Questionnaire*

The purpose of the survey is to collect data to answer the research questions relating to compliance with the Code. Therefore the questions for the questionnaire were constructed according to the provisions of the Code. As discussed in Chapter 4, the Code for Bangladesh is quite comprehensive and includes detailed provisions⁶⁰. Whilst some of its provisions are based on objective facts, like having an audit committee, preparing a board agenda etc.; some others are more subjective. For instance, one of the provisions asks companies to serve the legitimate interest of shareholders, whilst another one asks the credit assessment and loan approval process to be separated from personal conflict and political influence. Scholars like Klapper and Love (2004), Owusu-Ansah (1998), Leal and Carvalhal-da-Silva (2005) argued that the problem with this kind of subjective provision is that the researchers cannot cross verify the response of the respondents, hence they excluded these kind of subjective provisions from their Corporate Governance Index (CGI) with further arguments that the target sample may rely on past performance to form their opinion and according to Leal et al (2005) the subjective type of provisions have the potential to lead to biased responses

⁵⁹ Once the respondents agreed to respond on the questionnaire, their personal e-mail address were collected to send the soft copy of the questionnaire. See further details on the data collection process in section 5.3.1.4.

⁶⁰Initially every single provision of the Code was considered while constructing the questionnaire. In order to avoid confusion and ambiguity, the provisions have been rephrased in most of the cases to convert them into questions while keeping the meaning of the provision intact. This resulted into total 79 questions.

especially from the companies with poor governance, seeking to present themselves in a position of good governance. Hence, following the earlier researchers the present study also excludes those subjective provisions and concentrates only on the objective ones which are based on objective facts and can be cross verified from companies' other published documents.

Wallace (1988) indicates that bias can even arise in this method of component selection if the questions selected are not sufficiently comprehensive. The problem also arises with such a method that there is no generally accepted theory or model regarding stakeholders' information needs. Therefore, researchers like Hossain (2008) and Wallace (1988) have limited their scope of selecting components for a questionnaire within the focus of their research and have developed criteria that fits with their research objective. Following this method, this study has also identified only those provisions that are:

1. based on the objective facts,
2. generally applicable for all companies
3. sufficiently comprehensive and have no/less ambiguity.
4. comparatively easy to cross-verify from the available public documents and information.
5. desirable to disclose it according to the OECD Principles of Corporate Governance (2004) (considering it as an international benchmark).

This process of selecting items from the Code provisions allowed the study to incorporate all the provisions required by the SEC Guidelines (which the sample companies are supposed to implement as their listing requirement), many of the mandatory provisions of the Companies Act 1994. The selection of items for the questionnaire thus makes the difference between this

study and many of the previous studies which have limited exposure only to one particular group or to the statutory compliance obligation.

▪ **5.3.1.2 Designing Questionnaires**

During the pilot study, the questionnaire had 79 provisions which are divided into three sub-sections: board issues (34 questions); shareholders' rights (12 questions); and financial reporting (33 questions) and designed with binary 'Yes'/'No' answers. Code provisions have been rephrased in most of the cases to convert them into questions while keeping the meaning of the provision intact. The purpose of rephrasing is to make the provisions easier for respondents to understand and also to facilitate analysis of the research.

However the feedback from the pilot study (conducted via email) with 26 companies, reflected that the questionnaires is too lengthy thus increasing the risk of low response, and the same has been argued by several scholars that lengthy questionnaires are most likely to discourage respondents to respond (e.g. Blumberg et al., 2008; Bryman and Bell, 2011; Saunders et al., 2009). So far, studies on compliance have experienced a comparatively low response rate due to the sensitivity of the information, thus the length of the questionnaire was an additional threat. Therefore, the 79 questions/provisions of the questionnaire were further scrutinized to identify the questions where the answers are generally available in annual reports. These questions were excluded from the questionnaire and used as a separate instrument to collect data from the secondary sources. In this way, out of the 79 provisions, 49 were included in the self-administered questionnaire, and the rest 30 provisions were collected from secondary sources.

To ensure respondents' awareness about the present study, the questionnaire had a cover letter explaining the purpose, process, and possible outcome of the study along with the information regarding the rights of the respondents (questionnaire is attached in Appendix I).

▪ *5.3.1.3 Secondary Sources*

As mentioned in the previous section, to increase the response rate, 30 provisions of the Code were excluded from the self-administered questionnaire and collected from secondary sources. In addition, to test the hypotheses the study also needed some additional information like company age, profitability, industry type, and so on. Most of these data were collected from the companies' annual reports for the calendar year 2010.

Selection of annual reports as a major secondary source of data is consistent with other prior studies (e.g. Singh and Ahuja, 1983). Moreover the feedback from the pilot study also revealed that some of the required data are generally available in company's annual reports and more or less companies had their full or partial annual reports on their websites, as this is one of the requirements of the SEC and Companies Act 1994. The annual reports of the sample companies' for the year 2010 were downloaded from company websites or from the website of Dhaka Stock Exchange (DSE).

In addition, companies' official websites were also used to collect required information. However, one of the sample companies did not have annual report on their company website, nor did they reply to the repeated mails. In that case, following the strategy of previous studies e.g. Akkerman (2007), the present study considered non-compliance with those provisions for that particular company.

Other than these, in order to cross-verify the responses of the respondents the present study also reviewed the compliance statement that the listed companies are required to submit to the SEC on their compliance status against the SEC Guidelines.

▪ **5.3.1.4 Data Collection and Its Challenges**

Data for this study was collected between November 2010 to January 2011. The questionnaires were sent by post to all the listed companies in accordance with the company list obtained from the DSE website (total 229). Questionnaires (which were also accompanied by a prepaid addressed envelope) were sent to companies' addressing the company secretaries. They were mailed to company secretaries because the nature of the study demanded that the respondents be either board members or someone from senior management who has the knowledge of the board practices of his/her company. However, it is less likely that the board members will have time to respond to academic queries due to their professional engagement or unavailability. On the other hand, the company secretaries are expected to respond to the questionnaires as in Bangladesh, after 2006, all the listed companies are required to appoint a company secretary who has been assigned (by SEC) certain responsibilities to deal with the corporate governance issues of companies and to be closely involved in the production of annual reports of the company (Belal, 2004). Hence, they were chosen as the first point of contact. Nonetheless, two weeks after the questionnaires were sent, not even a single response came from those 229 questionnaires, nor even from those responded during pilot study.

However, during the pilot study the researcher faced a problem in identifying contact numbers or e-mail addresses of the Directors or Company Secretaries. In almost all the cases, companies only disclosed their general non-personalized e-mail or postal address. Even

though as a supplementary effort, follow up phone calls and emails were sent to all the companies which had disclosed their contact e-mail address.

Some possible reasons might have been work at behind the non-response to this academic query. The subject matter of this research is sensitive and in Bangladesh, even today, the concept of corporate governance is considered as very sensitive and personal. Moreover, compliance with best practices is comparatively new. This might have caused companies to resist in responding to such queries, unlike developed countries, Bangladesh is not open to any sort of academic queries. Unless some strong network is used, it is hard to get access to the right person to answer the questionnaire. Moreover, the length of the questionnaire was an issue (even after a huge reduction in questions post pilot study), as was expressed by a few targeted respondents. Moreover, as November to December is the end of financial year in Bangladesh, they remain very busy for their account closing and AGM preparation during that time. In many instances during telephonic conversation, the respondents said they have gone through the questionnaire and they need time to response. Finally, the postal service is inadequate and unreliable in Bangladesh. Considering the overall system and quality of services in Bangladesh, there is a high possibility that many of the questionnaires might not have been delivered to the receivers. Since companies generally do not disclose the contact numbers of directors or company secretaries, it was not even possible to contact them randomly to know if they have received the questionnaires. However, low response rate is not unique for the present study, rather, more or less the study on corporate governance around the world have experienced the same. Especially the studies (e.g. Akhtaruddin, 2005; Haque, 2007; Reaz, 2006) on the corporate governance issues on Bangladesh had gone through a similar situation which ultimately led them to modify their initial sample frame.

Realizing the consequence of the first attempt at data collection, the snow-ball technique was adopted for collecting data. Using personal and professional network it was possible to contact with 21 board members, who then introduced the researchers to their friends from other listed companies. Although the process was lengthy, but it helped the researchers to get access in the board level in different companies and obtain data from the board level which would not be possible in other sampling techniques. While introducing the researchers to their friends the respondents emphasized on the data anonymity from their personal experience, which further helped the researcher to reduce response bias. In each case, the questionnaires were hand delivered and a soft copy was sent to them in their personal e-mail address. However, repetitive phone calls (at least 3 times in each case) were also needed later as a reminder for completing the questionnaire. When phoned, the respondents used to request for an extension of one or two weeks more to complete the questionnaire. However, once finished, they allowed the researcher to come and hand-collect the questionnaire from their offices. Only in one instance, respondent preferred to send the questionnaire back via the post, and he delivered it to the researcher's place through their office staff⁶¹.

5.3.2 Sample

The target population of the study is the companies listed on the Dhaka Stock Exchange (DSE)⁶², the largest stock exchange in Bangladesh at the end of 2010. The year 2010 was chosen because it was the last year for which annual reports of the listed companies were

⁶¹ As explained before, although the data collection process was very time consuming, but it helped in different ways. For instance, these reminder phone calls and personal visits allowed the respondents' to clarify their confusion regarding the Code provision, and gain confidence about anonymity. While handing over the questionnaire in many instances the respondents repeatedly requested for anonymity. Their cautiousness before and after response indicated that they more or less responded in a way to reflect the practical situation, instead of showing as an ideal case of good governance.

⁶² See details of the classification of the listed companies in Chapter 3, section 3.4.3.

filed and uploaded on the SEC website at the time of conducting the empirical work of the study at the end of 2010 and beginning of 2011. During that period, a total of 229 companies (including both Financial and Non-Financial Institutions) were listed at DSE⁶³. Out of 229 companies 71 companies responded to the survey (response rate 31%). Table 5.2 details the industry classes of the total 71 sample companies on the DSE.

Table 5.2 Industry Classes of Companies on the Dhaka Stock Exchange

Industry Class			Population		Sample	
			Total Listed Companies in the Industry	% of Total Population	Responding Companies (Sample)	% of Total Sample
Financial Institutions (FIs)	Banking Institution	Bank	30	13%	17	24%
	Non-Banking Financial Institution (NBFIs)	Insurance	44	19%	7	10%
		Leasing	21	9%	10	14%
	Total FIs		95	41%	34	48%
Non-Financial Institutions (NFIs)	Engineering		23	10%	4	6%
	Food and Allied		15	7%	3	4%
	Fuel and Power		11	5%	5	7%
	Pharmaceuticals and Chemical		20	9%	8	11%
	Textile		25	11%	5	7%
	Miscell		40	17%	12	17%
	Total NFIs		134	59%	37	52%
Sub Total (FIs and NFIs)			229	100%	71	100%

⁶³A complete list of the firms was collected from the Dhaka Stock Exchange (DSE) on October 2010, and the list excludes mutual funds, treasury bonds, debentures and corporate bonds.

Earlier studies (e.g. Haque 2007) indicated that understanding the compliance status in FIs is important as these institutions tend to dominate the market behaviour of the stock exchange of the country and are monitored by the Central Bank of Bangladesh; thus their governance standard is most likely to reflect a difference compared to the NFIs. It is good to find in the Table 5.2 that 48% of the sample is from the listed Financial Institutions (FIs) including Banking and Non-Banking Financial Institutions (NBFIs) and 24% is represented by banks whilst 14% belongs to leasing companies – thus it will help this study to develop ideas on corporate governance practices on the dominant industrial sector of Bangladesh.

Chapter 3 of this study has discussed that the DSE has classified its listed companies into five categories. From the sample, expect 2 companies all belong to category ‘A’ – meaning 69 companies of the sample regularly hold their AGM and have declared dividend at the rate of at least 10% in the previous year. The remaining two are in category ‘Z’ – suggesting they neither hold AGM, nor declared dividend in the previous year. Both of these companies are from NBFI.

Non-Financial Institutions (NFIs) NFI is the largest industrial sector of Bangladesh, and as the table 5.2 indicates, 52% of the sample is represented by the NFIs, which is comprised of companies from almost all of the industrial sectors (amongst NFIs) listed in DSE, includes family companies, companies in all different sizes (large, medium and small), MNCs, J/Vs. This is again a good representation in the sample because such a combination is helpful to draw a comparative analysis among different industrial categories (as have been done in chapter 6).

Earlier studies (like Haque, 2007) reported that the pharmaceuticals and chemical industry make a significant contribution to the capital market and Table 5.2 indicates that amongst

NFIs this particular industry is represented more in the sample size (11%). Overall the sample includes a good representation of the dominating and different industrial categories to draw assumptions on the corporate governance practices of the listed companies of Bangladesh.

- ***Data***

Corporate Governance Index (Dependent Variable)

Most studies on code compliance (i.e. Akkermans et al., 2007; Garay and González, 2008; Klapper and Love, 2004; Leal and Carvalhal-da-Silva, 2005; Mallin and Ow-Yong, 2012; Mutawaa and Hewaidy, 2010) have gathered compliance related information using a corporate governance index (CGI). In the same spirit, this study has also used its own CGI to rank the sample companies on the basis of their level of compliance with the Code. A total of 79 dichotomous variables (see Appendix III) were used to construct the CGI for this study.

Independent Variables

The study selected independent variables based on the existing literature (e.g. Akkermans et al., 2007; Hodgdon et al., 2009; Klapper and Love, 2004; Lo et al., 2011; Mutawaa and Hewaidy, 2010; Owusu-Ansah, 1998; Wallace and Naser, 1995; Wang et al., 2008), which suggest that several company attributes have significant influence the extent to which a company complies with Code provisions. This section discusses six popular company attributes, namely company age, profitability, size, industry type, company type, and the type of external auditors used in companies. These attributes helped in formulating the hypotheses (and constructing the independent variables) to analyze the pattern of compliance with the voluntary Code provisions in Bangladesh⁶⁴.

⁶⁴ i.e. the Code of Corporate Governance for Bangladesh (2004).

- ***Company Age***

Prior studies (such as Akhtaruddin, 2005; Mutawaa and Hewaidy, 2010; Owusu-Ansah, 1998) assumed that the degree of compliance may vary with the company's age (in years). Owusu-Ansah(1998) identifies three underlying reasons behind such assumptions. First, older companies are comparatively in a better competitive position to disclose certain information and comply with certain requirements which may not be that comfortable for younger companies. Second, compliance is expensive and thus younger companies may find it difficult to bear an additional cost. Finally, younger companies may lack a track record to rely on for public disclosure.

However, the evidence shows a mixed result. Whilst Owusu-Ansah(1998) found that company age has a statistically significant positive impact on mandatory disclosures in Hong-Kong and New Zealand, Hossain (2008) found just the opposite in India. In the case of Bangladesh, Akhtaruddin (2005) applied the age factor to understand its impact on the level of compliance with mandatory provisions and concluded that age is not a statistically significant factor for disclosure in Bangladesh. Yet, he suggested further investigation of this factor as his data collection period was not enough to measure compliance against the mandatory listing provisions. Hence, this study intended to re-examine the impact of age on the voluntary Code. This leads to the following hypothesis:

H1: *Company age is significantly associated with the level of compliance with the Code*

- ***Profitability***

Profitability is one of the most common factors which is considered by a number of studies (e.g. Hossain, 2008; Inchausti, 1997; Karim and Moizer, 1996;Owusu-Ansah, 1998). They argue that management tends to disclose more when they have 'good news' due to better

performance (Inchausti, 1997) and profit provides an incentive for better compliance. However the findings of prior studies reveal a mixed scenario. While some report a positive association (i.e. Owusu-Ansah, 1998), others (Glaum and Street, 2003; Street and Gray, 2002) find no association. An interesting finding is observed from the study of Wallace and Naser (1995) who report that these two variables are actually negatively related. However, Akhtaruddin (2005) supports the hypothesis and reports that companies having higher profitability comply more than companies with lower profitability. Hence, the present study intends to explore if the influence remains the same in case of voluntary disclosures too.

Return on Assets (ROA) is the most common ratio for measuring profitability. Hence, this study has also considered ROA for understanding the relation between profitability and the level of compliance with the Code. The following hypothesis is thus proposed:

H2: *Company profitability, as measured by ROA, is positively associated with the extent of compliance with the Code provisions.*

▪ ***Company Size***

Economic theory and a large number of empirical papers (e.g. Akkermans et al., 2007; Garay and González, 2008; Hossain, 2008; Klapper and Love, 2004; Krambia-Kapardis and Psaros, 2006; Lang and Lundholm, 1993; MacAulay et al., 2009; Mallin and Ow-Yong, 2012; Owusu-Ansah, 1998) suggest that company size is most likely be positively related to the level of compliance. In identifying the reasons behind this, Ownshu-Ansah (1998) states that large companies, especially those which operate over wider geographic areas, tend to comply more in the case of mandatory disclosure provisions because the central management of such companies might require an internal information system for their strategic decision making

(Owusu-Ansah, 1998). Whilst referring to agency theory, Jensen and Meckling(1976) states that the agency cost is likely to be greater in large companies who are expected to disclose more, but referring back to the benefit-cost theory, Mallin and Ow-Yong (2012) also argue that large companies have more resources and expertise to exhibit a greater level of voluntary disclosure. Even in the case of Bangladesh, with regard to mandatory disclosure. Akhtaruddin (2005) found that larger firms are complying more with mandatory provisions. Hence the present study intends to see if the compliance pattern remains the same in the case of voluntary provisions.

Previous studies have measured company size using different measurements including sales, total assets, number of employees, market capitalization. However the most common variable used was total assets. Hence the present study considered total assets to test the following hypothesis:

H3: *Company size, as measured by total assets of the company, is positively associated with the level of compliance with the Code.*

▪ ***Type of Industry***

Mutawaa and Hewaidy (2010, p.37) stated that “the economic sector in which the company is operating may affect management interest toward better compliance”. However, the findings of prior studies are inconclusive. While some report a significant association between compliance and the type of industry (Wallace and Naser, 1995; Wallace et al., 1994), others find no association (Glaum and Street, 2003; Owusu-Ansah, 1998). However, an understanding of the impact of industry on compliance in the case of Bangladesh is important because some of the industrial sectors (e.g. Ready Made Garments) are highly exposed to the international market, whilst some are given priority as a growth sector (e.g. Power Grid) by

the Government of Bangladesh. These industries are expected to have better compliance than others. Moreover, recently the Central Bank has changed its policies for regulating the financial sector and has taken several steps for improving corporate governance practices in the banking industry, which are supposed to bring favourable impact on the governance standard. Hence, an understanding is needed if the compliance standard of these industries is better than other industries, which do not have these additional regulations or attention. Hence, the following hypothesis is derived as:

H4: *The type of industry is significantly associated with the extent of compliance with the Code provisions.*

▪ ***Type of Company***

The extent of compliance may also be influenced on the basis of the origin and control of a company. It is argued that companies affiliated with multinational corporations (MNCs) are likely to have better compliance because of economic reasons. Since MNCs invest in emerging markets, they likely prefer companies to be more compliant. Moreover, transplantation of foreign technology that often occurs through MNCs enables companies to adopt more advanced systems to facilitate more sophisticated reporting, or disclosure mechanisms (Owusu-Ansah, 1998). For developing countries like Bangladesh, where corporate governance is at an initial stage, it is expected that the companies which are domestically owned and controlled will comply differently with governance standards than the companies which are controlled by MNCs or joint ventures (J/V) or franchise where the parent company has a certain level of influence over the company management. Hence the variable “type of company”, is divided into three groups – ‘Local’, ‘MNC’ and ‘J/Vs and Franchise’ to support the analysis of following hypothesis:

H5: *The type of company is significantly associated with the level of compliance with the Code*

▪ ***Type of Auditors***

Previous studies on developing countries have used ‘type of auditors used by the company’ as a predictor for level of compliance. For instance, Mutawaa and Hewaidy (2010) classified auditing firms into two groups: large and small firms. As they stated, “in the light of the recent events, the large audit [firms] are the four largest [international] accounting and professional services firms, normally referred to as the Big 4, while small audit firms [or non Big4] audit firms refers to those which operate domestically” (Mutawaa and Hewaidy, 2010, p.37). Bangladesh has four large audit firms which are affiliated with the international Big4 audit firms. Kabir et al., (2011) examined the association between these Big 4 affiliated auditors and accruals quality in Bangladesh. Using the sample of 382 firm-year observations covering fiscal years 2000-2003, they found that due to the lack of demand for quality audit, Big4 affiliates do not have a positive impact on accruals quality of their clients in the intensively competitive audit market of Bangladesh. However, the data for the study are in fact quite old (2000-2003). After their data collection time, SEC has taken initiatives to improve audit quality in recent years which are supposed to make a difference to the audit practices in Bangladesh.

Earlier studies which considered examining the impact of type of auditors on the compliance pattern surprisingly reflect a mixed scenario. Whilst Street and Gray (2002) who examined the financial statements and footnotes of a worldwide sample of companies referring to the use of International Accounting Standards (IAS), and Glaum and Street (2003) who examined compliance with both IAS and United States Generally Accepted Accounting Principles (US

GAAP) for companies listed in German and reported a significant positive association between type of auditor and IAS disclosure requirements; Wallace and Naser (1995) reported a negative association in the case of mandatory disclosure in the corporate annual reports of firms listed on the stock exchange of Hong Kong. Some other studies (Cooke, 1989; Mutawaa and Hewaidy, 2010; Owusu-Ansah, 1998) claim that audit quality is not a significant predictor for understanding the level of disclosure with mandatory provisions.

In the case of Bangladesh, considering the recent initiatives of the SEC and the pressure of globalization for quality audit, it is assumed that corporate governance standards will be higher in firms using large audit firms or the audit firms which are affiliated with Big 4 audit firms. To support this analysis, following previous studies (e.g Mutawaa and Hewaidy, 2010) the sample companies are coded into:

- Companies being audited by accounting firms associated with one of the Big 4.
- Companies being audited by other accounting firms.

The following hypothesis is tested:

H6: *The type of auditor (Big 4 affiliate) used by the company is significantly associated with the level of compliance with the Code.*

Table 5.3 provides a brief description of these six variables used in Chapter 6 for examining against the dependent variable (CGI) of each sample company to evaluate the extent to which the CGI varies across different company attributes.

The questionnaire survey and secondary sources elicited both numeric and categorical data. However, three variables are a continuous nature (like company age, profitability and size), and the other three independent variables (industry type, company type, and auditor type) are

categorical with a domination of dichotomous or binary variable. Hence these variables were turned into quantitative variables by taking one of the categories as a baseline (against which all other categories are compared) and defining dummy variables for the other categories⁶⁵.

Table 5.3 Descriptions of the Variables for the Empirical Framework

Variable	Definition	Proxy	Predicted Sign
Age	Number of years since the company's registration with the Registrar of Joint Stock Companies of Bangladesh.	[Log_age] Natural logarithm of the age of the company	+/-
Profitability	Return on Assets (ROA), the ratio of net income (e.g. earnings after interest and taxes) to the book value of assets.	[LogROA] Natural logarithm of the return on assets	+
Size	Size measured by total assets of company.	[Log_size] Natural logarithm of the total assets of company	+
Industry Type	Banks and Non-Banking Financial Institutions(NBFI) and Non-Financial Institutions (NFI)	[Bank] Dummy variable 1, =1 if company is Bank, = 0 otherwise; [NBFI] Dummy variable 2, =1 if company is NBFI, = 0 otherwise;	+/-
Company type	Locally controlled firms and MNCs and Joint Ventures/Franchise	[MNC] =Dummy variable1, =1 if company is a MNC = 0 otherwise;	+
		[JV and Franchise] =Dummy variable 2, =1 if company is a JV and Franchise, = 0 otherwise;	+
External auditor type	Type of external auditor used by the company: an audit firm affiliated or not affiliated with the international Big4 audit firms	[Aud] Dummy variable, =1 if company is not audited by Big 4 affiliated audit firms, = 0 otherwise;	+/-

⁶⁵For industry type, having the majority in the sample, the NFI is considered to be the baseline and against which two other dummy variables are created – Bank and NBFI. For the variable company type, companies that are not locally owned (i.e.) foreign company provides the baseline, because prior studies indicated that foreign companies have better governance than local companies. Hence, one dummy variable is created for local firms to compare against foreign firms. Finally for auditor type, companies are categorized in two groups, one is being audited by firms affiliated with one of the Big4 audit firms and the other ones whose audit firms are not affiliated with the Big4.

Once the dataset was prepared, the data were transferred into a SPSS file to facilitate data analysis.

5.3.3 Semi-Structured Interviews

After dealing with the existing status of compliance with the Code, the last three research questions (see page 8) of the present study aim to understand in depth, the problems of governance that are challenging the companies in Bangladesh to ensure good governance, the causes of non-compliance with the Code and also the appropriateness of the Code in the existing infrastructure of the country. Considering the qualitative nature of the research questions, consistent with the methodological choice and philosophic assumptions, a semi-structured interview method has been adopted to address these three research questions.

Interviews could be structured, semi-structured or unstructured/open-ended. Amongst these three, a semi structured interview method has been chosen because that allows the researcher to explore problems in depth. In the absence of adequate research on the corporate governance issues in Bangladesh, the research questions needed to allow stakeholders to talk about the different problems they are facing in real life, which would not be possible with a structured interview method. In a structured interview method, interviewees' opinions are limited within some predetermined option. On the other hand, an unstructured/open-ended interview approach is thought to be inappropriate because this approach is usually informal where the interviewees have the opportunity to talk spontaneously (Belal, 2004).

Whilst interviewees' talking freely is a positive side for the study, the issue is that the concept of corporate governance is relatively new in Bangladesh and sensitive in nature. Thus with an informal and unstructured conversation, it was very likely that the interviewees would fail to concentrate on some core issues while exploring all other possible aspects of governance

relating to the research questions. A semi-structured interview method lies in between both these methods and thus can help to capture the benefits of both. The semi-structured interview method has “a series of interview questions that are in the general form of an interview schedule but is able to vary the sequence of questions....and in addition the interviewer also has some latitude to ask further questions in response to what are seen as significant replies”(Bryman and Bell, 2007, p. 213).

Moreover, the nature of the study demanded consideration of the perceptions from different stakeholder groups indicating the interview questions set in the interview guidelines may need to be modified or omitted depending on the type of interviewees and depth of their knowledge; and Saunders et al.(2000) argue that a semi-structured interview method is an ideal case for such a situation which needs a clear direction and enough flexibility. Hence, a semi-structured interview method is thought to be an appropriate method to address the last three research questions of this study.

▪ ***Selecting Questions and Designing Semi-Structured Interview Guidelines***

An interview guideline was prepared containing questions which were theoretically developed (as has been discussed in Chapters 4 and 5). The questions in the guideline were set mainly to explore the problems of governance in Bangladesh, the possible causes of non-compliance with the Code, issues relating to the appropriateness of the model of governance suggested by the Code and possible solutions to overcome these issues to ensure better governance. The questions were designed by combining some possible answers and an invitation to express some other areas which the interviewees might think have not been covered by the interview guideline. The language of the questions was kept simple to avoid ambiguity. The questions were mostly direct, followed up by probing questions.

One of the major challenges of interview method is, the interviewees may not allow enough time to discuss all the required areas. Hence, to facilitate prioritizing questions depending on the type of interviewees and also to guide the interviewees through a sequence, the questions were divided into four sections: a) questions relating to the corporate governance issues of Bangladesh; b) the Code and its challenges; c) the recent worldwide financial crisis; and finally d) other areas, if interviewees are interested to talk on any other related issues.

The interview guideline is designed in a way so that it guides interviewees to go beyond the on-going debate on the appropriate model of governance in a developing country and to concentrate on the needs of the specific country, before they make up their mind on any particular model or suggest an appropriate solution. A sample interview guideline is attached in Appendix II.

▪ *Selection of the Respondents*

Considering the nature of the study, the last three research questions required exploring the perceptions of different stakeholder groups. The discussion in Chapter 2 indicated that there is no rule of thumb to identify or prioritize stakeholders. One company's primary stakeholder may be the secondary for others. However, considering the theoretical definition of stakeholders (as discussed in chapter 2) and the nature of the three research questions (which are related to the compliance issues of the Code or its appropriateness) the study decided to identify the groups of stakeholders who have direct influence over the Code in particular and companies in general. Following this strategy, ten stakeholder groups were identified, and these are: companies (including board members, managers, and employees), legal and regulatory bodies, Government and policy makers, academicians, corporate governance

rating agencies, consumers, exporters, donor agencies and the BEI (as they are the formulators of the Code).

Initial contact for interview was made through a personal network as was used in the case of questionnaire survey. Other than that personal network, a professional network has also been used to cover all of these ten stakeholder groups. Within the timeframe for data collection, it was possible to communicate 45 potential respondents. In each case, a letter was sent to the respondents through e-mails requesting interviews. For ethical considerations, the interview guideline was also sent with a cover page containing the general information of the research, its process and the voluntary nature of their participation. In total, 32 respondents agreed for the interview.

Table 5.4 provides the detail of these interviewees, whilst Figure 5.2 illustrates the relationship between the Code and these nine stakeholder groups. Both listed and non-listed companies were selected as they are the target users of the Code, and they are the prime stakeholders who are being affected by the Code and source of information for identifying the issues related to compliance and the quality of the Code. Theoretically, the Code and companies influence each other.

As the table 5.4 indicates, a total of 15 respondents represented the views of the companies operating in Bangladesh (amongst this 15, 12 represent listed companies and 3 represents the non-listed companies. These 15 interviewees representing companies in Bangladesh include board members, and company secretaries.

Legal and regulatory bodies are one of the major stakeholders for the Code as they frame the corporate governance rules in Bangladesh with which companies have to comply. The policy makers or code formulators need to ensure that the Code provisions are in accordance with

the fundamental legal and regulatory requirements. Moreover the regulators are also the primary monitors of the corporate governance practices amongst companies in Bangladesh. Hence, the study included the perception of the members from this stakeholder group. In total, 7 respondents are there representing the three major legal and regulatory bodies: legal, ICAB and ICMAB; and the Stock Exchanges. The interviewee from the legal bodies dealing with the Companies Act 1994 was a corporate lawyer and a legal practitioner.

Employees and Government and policy makers were also included because for any country they are considered as prime stakeholder groups. Whilst employees' perceptions are important as they are the users of the Code and also source of information for Code revision, prior literature (e.g. Siddiqui, 2010) indicated that the Government and policy makers of Bangladesh are closely associated with the corporate sector of Bangladesh. As the table 5.4 indicates, 2 interviewees represent employee category, whilst the other 2 represent the Government bodies and policy makers of Bangladesh. The interviewee representing the Government is a former Minister of Bangladesh, and the other represented one of the state owned companies of Bangladesh who was expected to discuss the issues with SOEs and Government's intervention in the business process.

Academicians were also considered as a stakeholder for two reasons: one, they were involved in the Code development process (see details in Chapter 4), and two, they are closely related in the development of future managers, regulators and other professionals for the country. The interviewee representing academia is a research scholar and holds a top position in a department of the Business school in the leading university of Bangladesh.

Table 5.4 List of the Interviewees

No	Stakeholder Group		Interviewee Code	Designation/Institute of the Interviewees
1	Company	Listed (Financial Institutions)	A1	Independent Director
2			A2	Managing Director
3			A3	Managing Director
4			A4	Managing Director
5			A5	Company Secretary
6		Listed (Non-Financial Institutions)	B1	Financial Director and Analyst
7			B2	Human Resource Director
8			B3	Company Secretary, Legal Director
9			B4	Company Secretary
10			B5	Company Secretary
11			B6	Company Secretary
12			B7	Managing Director
13		Non Listed	C1	Head of Communication
14			C2	Managing Director
15			C3	CEO and Chairman
16	Regulator	Legal	D1	Corporate Lawyer and Legal Practitioner
17		The Security Exchange Commission and the Stock Exchanges	D2	Security and Exchange Commission
18			D3	Dhaka Stock Exchange
19		Accounting and Audit	D4	Institute of Chartered Accountants of Bangladesh (ICAB)
20			D5	
21			D6	
22	Employee		E1	General Manager
23			E2	Manager
24	Government		F1	Member of Parliament and Businessman
25			F2	Ex Minster of Education and Businessman
26	Academics		G1	Professor, Business School
27			G2	Institute of Cost and Management Accounts of Bangladesh (ICMAB)
28	Credit Rating Agencies		H1	Credit Rating Agencies (CRAB)
29	Consumers		I1	Consumers Association of Bangladesh (CAB)
30	Exporters		J1	Bangladesh Garment Manufacturer and Exporters Association (BGMEA)
31	Donor Agencies		K1	International Monetary Fund
32	The Code Formulator		L1	Bangladesh Enterprise Institute

Figure 5.2 Relationship between the Code and the Interviewees



Other than these, the researcher was also able to interview one interviewee from the Credit Rating Agencies of Bangladesh (CRAB) and one from the Consumers' Association of Bangladesh (CAB). Whilst the necessity of CRAB is easily understandable, earlier studies like the study of Belal (2004) has incorporated the perceptions of consumers arguing that the consumers' rights are being neglected by companies. And in the recent past, the CAB has taken some initiatives to raise awareness about consumers' right. Hence the study intended to explore the status of consumer group of Bangladesh.

The exporters' group is also considered to be one of the important stakeholders not only because they are also the target users of the Code, but being extremely exposed to the international market, the exporters' group is also being considered as a source of information

regarding the issues and benefits of ensuring compliance with an international standard of governance. Thus, their opinion is considered to be important for identifying the challenges and bringing the practical solutions for the companies of Bangladesh. Moreover, their opinion is also considered to be important in developing recommendations for the Code revision or amendment in future. The interviewee representing the exporters' group was a CEO of the Garments Manufacturing company which extensively exports its products to different countries including the UK and the USA. This interviewee is also a member of Bangladesh Garment Manufacturer and Exporters Association (BGMEA).

Donor agencies of Bangladesh, especially the World Bank and IMF are sponsors of the Code development process and considered as one of the pressure groups for good governance in Bangladesh. Hence their opinion is also considered to be vital to understand the appropriateness of the Code in Bangladesh and their recommendations for the Code revisions. The interviewee representing the donor agencies of Bangladesh work for the IMF and also works with different the World Bank projects in establishing the good corporate governance of Bangladesh. Finally, the researcher was able to interview one of the top executives of the BEI (the formulator of the Code) who was very closely associated with the Code development and is still working on the corporate governance issues of Bangladesh.

During the data analysis phase, some of the claims raised by the interviewees needed further clarification. Hence, for cross-verification or further clarification, follow up sessions were conducted with seven discussants. Instead of communicating with the same interviewees, the study considered the opinion of those stakeholder groups on whom allegations were made by the interviewees. For instance, interviewees claimed that shareholders are reluctant to participate in the annual general meeting, hence shareholders groups were considered as

discussants for the follow up session to reflect on this accusation. These discussants were communicated over the phones, mails and video conferencing. These follow up discussants were mainly taken from shareholder groups, academia, and corporate managers.

▪ ***Interview Procedure***

According to the preference of the interviewees, all the interviews were carried out at their offices in Bangladesh. The duration of the interviews varied from forty five minutes to more than two hours depending on the willingness of the interviewees. All the face to face interviews were completed in one visit.

Unlike the questionnaire survey, the interview experience was comfortable in all the cases. Although interviewees were initially hesitating to accept the request of interviewing, once being confident about the anonymity issue, they were comfortable enough to discuss matters openly. Since the interviewees were selected keeping in mind that they have a certain amount of knowledge to contribute in the research topic, a little clarification and probing questions might have also helped them to focus in depth. Furthermore, the interview questions were not company specific, rather it was general. Once being convinced that the interviewees do not have to talk about their own companies or any specific companies, they were found to be relaxed and enthusiastic enough for discussion⁶⁶.

All the interviews started with a brief introduction of the research emphasising its objectives, process, and possible outcomes. The semi-structured interview guideline was followed to

⁶⁶In few cases the researcher needed to wait for couple of hours due to the busy schedule of the respondents. Moreover the huge traffic issue of Dhaka city was hectic for the researcher to attend the interview sessions on time. A further challenge was to get the appointment of the interested interviewees. As in many instances the respondents expressed their willingness for interviews but could not manage to take out time within the time boundary of the researcher.

ensure the interview protocol, where questions were asked in an open-ended fashion following a conversational style (Bryman and Bell, 2011). However, depending on the category, interest, experience and depth of knowledge of the interviewees additional questions were asked. In few cases, the questions of the interview guidelines were asked in different order depending on the time barriers of the interviewees. With the permission of the interviewees, all the interviews except three were voice-recorded. And in the case of those three cases, interview discussions were hand written, and later verified by the interviewees.

All the interviews ended with a thank you note and a promise of anonymity that neither interviewees nor their respective organizations would be identified in the subsequent writing up of the interview data. However they allowed the use of their industry names.

▪ ***Limitations of Interview Methods***

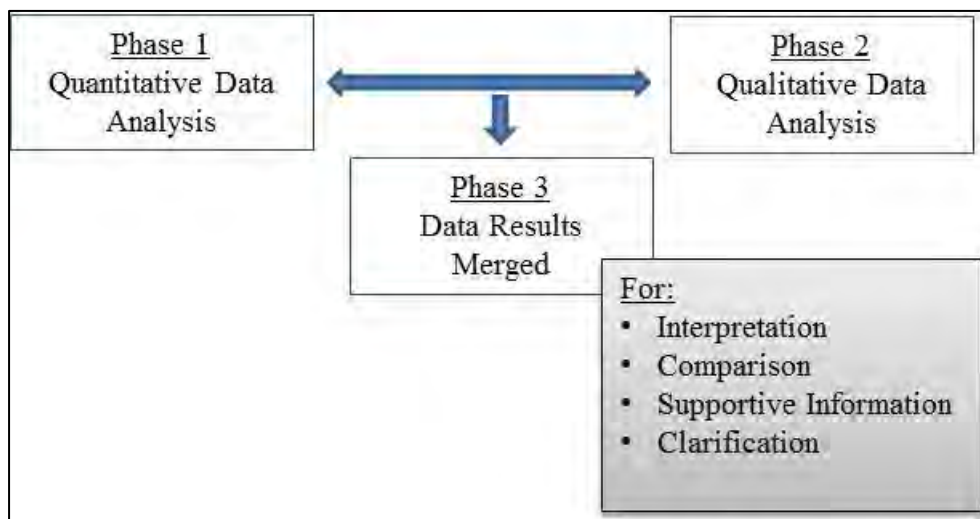
One of the major limitations of interview method is, it may cause the problems of bias, poor recall and poor or inaccurate articulation (Belal, 2004). Moreover the interviewees' opinions have also potential to be biased and influenced by the perception the interviewer. While it is difficult to avoid these limitations of the interview method, some precautions were taken to minimize these risks. For instance, developing the interview guideline, and following the protocols of sensitive interview method in all the interview sessions are considered to lessen the risk of bias. Moreover, Belal (2004) argued that the potential intrusive nature of qualitative method is circumvented by being flexible in fitting the respondents' schedule. Despite all these limitations, the interview method is considered a popular research method especially when an in-depth understanding is necessary.

5.4 DATA ANALYSIS

While identifying the methodological framework for the present study, it was indicated that the present study intends to take the concurrent triangulation strategy, where the researcher collects both quantitative and qualitative data concurrently and then compares the two database to determine if there is convergence, differences or some combination (Creswell, 2009). Following the strategy, data has been collected using different methods (questionnaire survey and semi-structured interview) and analysed using different techniques. However the findings from both qualitative and quantitative analyses have been combined for better understanding.

Figure 5.3 describes the process through which data has been used for addressing the research questions.

Figure 5.3 Data Interpretation Strategy



As indicated in Figure 5.3, in the first phase the data collected from the questionnaire survey has been analysed. Although equal weight is given to both qualitative and quantitative data, the quantitative data has been analysed first as this was expected to help in better

understanding the problems of governance and causes of non-compliance amongst the companies of Bangladesh. In phase two, the qualitative data has been analysed. However, every single method of data analysis has its own weaknesses and response biases. Scholars like Creswell (2009) thus advocate for data integration, as they think it offsets the weaknesses inherent within one method with the strength of other. Hence, for the present study, while findings from both qualitative and quantitative phases were integrated as and when necessary for supportive information, in phase three, they have been merged for drawing an overall understanding of the corporate governance situation in Bangladesh, and to develop recommendations for better corporate governance standard. However, the following sections of this chapter describe how in each phase the data has been analysed to address the research questions.

5.4.1 Phase 1: Quantitative Data Analysis

Quantitative data has been analysed (in Chapter 6) particularly to address three research questions of the study: 1) the overall level of compliance with the Code amongst the sample companies, 2) the most and least complied with the Code provisions and 3) to identify whether the level of compliance varies depending on different company attributes. Statistical Package for the Social Sciences (SPSS) has been used for all the statistical analysis through several trial and error processes.

As mentioned earlier, a CGI is formulated in measuring and comparing the level of compliance amongst sample companies. There are two approaches available for measuring the level of compliance: weighted and un-weighted approach. A weighted approach allows distinctions to be made for the relative importance of code provisions to the users, whilst an un-weighted approach assumes that all of the items of codes are equally important (e.g.

Akhtaruddin, 2005; Cooke, 1989;Wallace et al., 1988). However, previous studies (for instance Cooke, 1989; Hossain, 2008; Mallin and Ow-Yong, 2012; Wallace et al., 1994)have preferred to use the un-weighted approach arguing that all information is equally important to average users, and there is no rule of thumb in assigning weight to any particular information. Moreover, peoples' need of information changes over time. Hence, the un-weighted approach has been adopted in this study where an item of the Code scores one if complied with, and zero if not.

According to this method, each company's CGI is defined as:

$$CGI_y = \sum_{i=1}^{n_y} C_{iy}$$

Where,

n_y = number of provisions complied with by the y^{th} company

C_{iy} = 1 if the i^{th} provision of the Code is complied with; 0 otherwise.

Following prior studies (like Mutawaa and Hewaidy, 2010; Samaha and Stapleton, 2008) a compliance framework is developed for defining the level of compliance attained by the sample companies. In the framework, a distinction is made between four levels of company compliance with the Code provisions. Studies like Mutawaa and Hewaidy (2010) have considered companies to be highly compliant if the compliance score is 80% or more, to have moderate compliance between 79% and 60%, low compliance between 59% and 40% and below 40% reflects a substantial gap between company compliance with the particular provisions and what might be expected. Hence to facilitate comparison of the corporate

governance standard with other developing countries, this study has considered the same framework for identifying the level of compliance in Bangladesh.

Since the questionnaire survey data are nominal and numeric in nature, descriptive statistics (e.g. mean value, percentage, ratio) are used to measure extent to which companies are complying with the Code provisions. Descriptive statistics will facilitate the comparison of the level of compliance across different industries. Earlier studies(e.g. Bajo et al., 2009; Jackling and Johl, 2009; Khan-M and Belal, 1999; Mallin and Ow-Yong, 2012; Mutawaa and Hewaidy, 2010; Samaha and Stapleton, 2008) have also used mean values for understanding the level of compliance with code provisions. The mean differences across companies' compliance were calculated using the non-parametric test Kruskal-Wallis (K-W), as the test of normality (Kolmogorov-Smirnov)⁶⁷ suggested that the data is not normally distributed. Although the K-W test identified whether the mean compliance varies across different industries or other company attributes, it was not sufficient to identify exactly where the differences exist. Hence in the case where K-W test identified that the mean compliance score is different, another non-parametric Mann-Whitney (M-W) test⁶⁸ was adopted which did help to identify exactly where the level of compliance varies across different company attributes or between the subsections of the Code provisions. However, while mean difference is used to understand the compliance differences across industry and other company attributes, some relevant findings from the semi-structured interview analysis has been used to explain why the differences might exist or understanding why particular provisions of the Code are better complied with than others.

⁶⁷K-W test is a non-parametric test (counterpart of the independent one-way ANOVA) that identifies if the mean difference between two or several groups are the same (Field, 2009).

⁶⁸M-W test is a non-parametric test equivalent of the independent t-test and used to test difference between two conditions (Field, 2009).

To investigate the influence of company attributes over the level of compliance, the study has used inferential statistics e.g. univariate and multivariate regression.⁶⁹ This kind of investigation using regression has been used by other scholars (like Akhtaruddin, 2005; Bhuiyan and Biswas, 2007; Cooke, 1989; Hossain, 2008; Kha et al., 2009; Owusu-Ansah, 1998; Rashid et al., 2010; Wallace et al., 1988)

Whilst the univariate analysis includes the Spearman's correlation coefficients⁷⁰ to identify the statistical relationship between the dependent (CGI) and independent variables (six company attributes, see Table 5.3), the ordinary least square (OLS) regression is used to estimate parameters in the multivariate analysis. The OLS regression framework will incorporate a corporate governance index (CGI) as the dependent variable and other firm-specific characteristics as independent variables, and findings are presented in Chapter 6.

5.4.2 Phase 2: Qualitative Data Analysis

Transcripts of interviews were prepared for all the interviews which were later used in thematic analysis⁷¹. According to thematic analysis procedure, three major themes were developed for analysing the data: the problems of governance, particular causes of non-compliance with the Code and the appropriate model of corporate governance in Bangladesh.

Under each theme, different codes and sub-codes were developed according to the discussion

⁶⁹ The inferential statistics measure relationships between features, and create models to make predictions (Lewin, 2005) and regression analysis is feasible empirical statistical technique to control the variables in social science that may affect the phenomenon being studied (Ethridge, 2004)

⁷⁰ Spearman's correlation coefficient is used in this study because the data of the present study is not normally distributed. When data violates the parametric assumptions, instead of Pearson correlation coefficient, Spearman's should be used to identify the correlation between variables (Field, 2009; Acton et.al, 2009).

⁷¹ Thematic analysis is a process for encoding qualitative information. The encoding requires explicit 'codes'. This may be a list of themes, a complex model of themes (Miles and Hubberman, 1994). A theme is a pattern found in the information that at the minimum describes or organizes possible observations (Boyatzis, 1998).

of the interviewees. Finally, the analysis was carried out following these sub-codes and codes under each theme.

The findings from phase one, i.e. the findings of the quantitative analysis helped in different areas of interview analysis. Sometimes the survey findings supported the claims of the interviewees, and in other cases it clarified the reasons behind them. However, it is important to note that although the interviewees were selected from wider stakeholder groups, their opinions did not vary from each other. Rather, while analysing the data, it was realized that their opinions were complementing each other. Although in some cases interviewees were found to disagree with the claim made by another but they did not entirely reject their claims, rather they extended the understanding of the real situation. The overall findings from the semi-structured interviews are presented in Chapter 7 of the study.

5.4.3 Phase 3: Merging Quantitative and Qualitative Findings for Summary and Conclusion

As discussed in the earlier two phases, both quantitative and qualitative data facilitated each other to understand the reality of Bangladesh. However for developing an overall understanding of the corporate governance situation, its challenges and ways to improve governance standards, both the data are merged further in Chapter 8, where the findings are summarized and used as necessary to develop conclusions on each situation. However, before drawing any conclusion on the interviewees' opinion, the study reviewed other related documents, articles and newspapers. Although newspaper articles are not valued as a peer reviewed research works, in some cases where scholarly works or company documents were not available, those newspapers' published documents (published online) were considered. However, the use of newspapers is very limited in this study and used only as a tool for cross-verification and used in very few instances.

5.5 SUMMARY

This chapter outlines the philosophical assumptions and methodological choice adopted by the study. It uses a mixed methods approach combining both quantitative and qualitative research techniques depending on the needs of the research objectives. A concurrent triangulation approach has been adopted in data analysis. The results of the survey are presented in Chapter 6 whilst Chapter 7 reports the findings of the semi-structured interviews. The overall findings are further merged in Chapter 8 to provide an understanding of the overall situation and to draw recommendations for improving the corporate governance standards in Bangladesh.

CHAPTER 6

RESULTS: QUESTIONNAIRE SURVEY

Chapter 6

6.0 RESULTS: QUESTIONNAIRE SURVEY

6.1 INTRODUCTION

This chapter details the results obtained from the questionnaire survey to address the following three research objectives of the study:

1. the overall level of compliance of the Bangladeshi listed companies with the Code.
2. examining whether the compliance level varies depending on different company attributes – industry, type of company, company age, profitability, type of majority shareholder and auditor.
3. identifying the Code provisions which are most, and least, complied with.

The rest of the chapter is divided into four sections. Section 6.2 details the findings related to the total compliance score of the listed companies of Bangladesh. Section 6.3 identifies if the extent of compliance level varies with different company characteristics. Section 6.4 deals with the analysis of the level of compliance with each provision of the Code with an aim to identify the most and least complied areas of the Code. Finally, section 6.5 summarizes the overall findings and draws conclusions in the light of the findings of the survey.

6.2 THE OVERALL STATUS OF COMPLIANCE WITH THE CODE

This section reports the research findings related to the first research question that aims to identify the extent to which the listed companies of Bangladesh are complying with the Code. Following previous studies' compliance framework (like Mutawaa and Hewaidy, 2010; Samaha and Stapleton, 2008) the sample companies are considered to be highly compliant if

the compliance score is 80% or more, moderate compliance between 60% and 79%, low compliance between 40% and 59% and below 40% reflects a substantial gap between company compliance and the particular provisions.

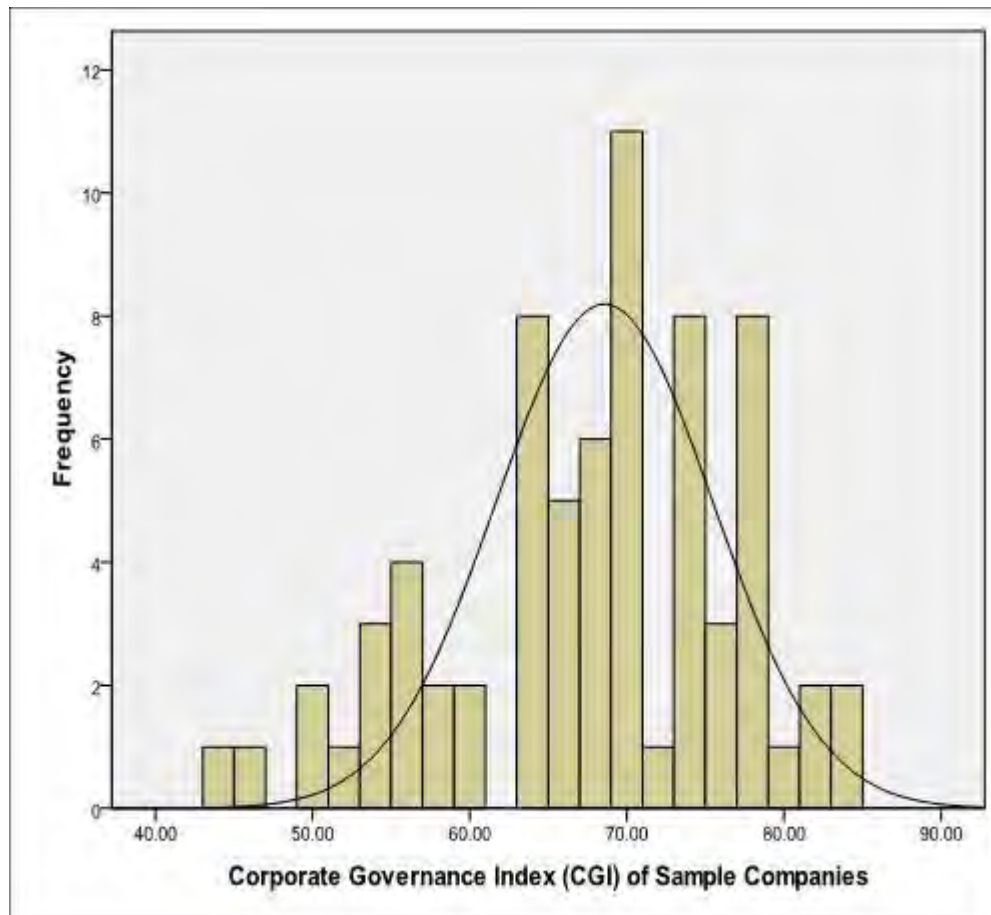
Table 6.1 presents the descriptive statistics of the percentage of the compliance level or in other words the corporate governance index (CGI)⁷² of the 71 listed companies. The mean value is 53.45 (67% of the required provisions), indicating that on an average the sample companies have a moderate level of compliance with the Code. A normal distribution curve is also shown in Figure 6.1 to illustrate that the distribution is slightly skewed to the left (skewness is -0.518). Table 6.1 also shows that the standard deviation is 7.22, indicating that the CGI of some firms are not close to the average governance index. The range 32 implies that the distribution is likely to have resulted from a widespread difference in governance qualities (e.g. maximum score is 67 (84%), whilst the minimum is 35 (44%)) among the sample companies.

Table 6.1 Descriptive Statistics for the CGI of the Sample Companies

	N	Range	Minimum	Maximum	Mean	Std. Deviation	Variance	Skewness
CGI	71	32	35.00	67.00	53.45	7.22	52.223	-.518

⁷²As mentioned in Chapter 5, Corporate Governance index (CGI) refers to the degree or level of compliance by each of the sample companies. The CGI for each company is calculated by dividing the number of items actually complied by the required items (i.e. 79 provisions that should be complied with the Code).

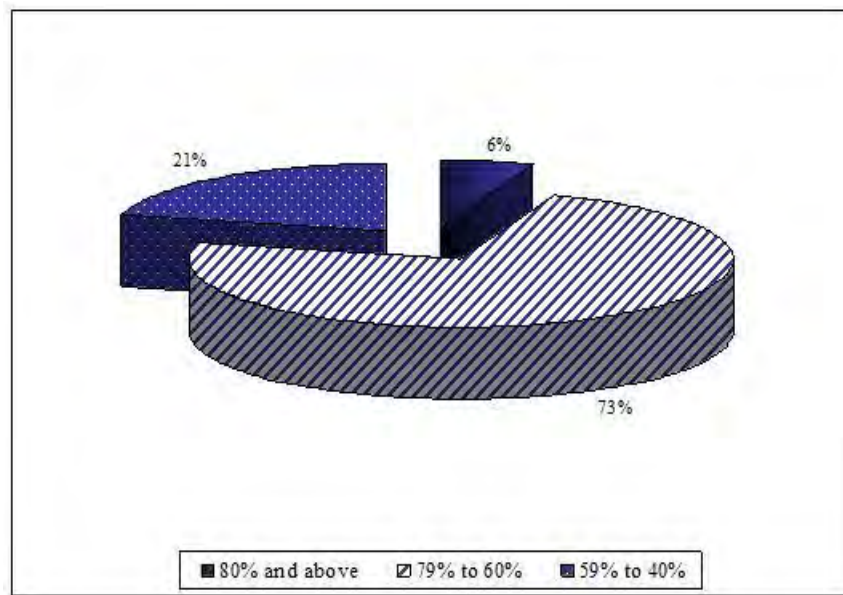
Figure 6.1 Histogram of the Level of Compliance of the Sample Companies



Even so, Figure 6.2 which presents a distribution of the sample companies according to their CGI suggests that 73% of the sample companies appear to have a CGI between and 60% to 79% thus being close to the mean score. This result is comparable to what was found in similar studies for Kuwait (Mutawaa and Hewaidy, 2010) and India (Hossain, 2008).

Given the results presented above some interesting facts emerge about the status of compliance among the sample companies. The majority of the companies' CGI (73%) is within the range of 60% to 79% indicating that the majority of the sample companies are complying with the Code at a moderate level.

Figure 6.2 **Frequencies of the CGI of the Sample Companies**



However 21% of the companies are poorly compliant with the Code as their compliance score ranges from 40% to 59%, whilst 6% of the sample companies are highly compliant with the Code, as indicated by their level of compliance (80% and above). Overall, for 94% of the sample companies in all industrial sectors, there was found to be a 50% compliance level. Therefore, this suggests that the majority of the listed companies are at least complying with half of the Code provisions.

Moreover, none of the companies have been reported as having a zero level of compliance, therefore none of the companies can be categorized as being absolutely non-compliant; whilst equally none can be claimed as being fully compliant with the Code provisions. These findings re-emphasize that the Bangladeshi listed companies moderately comply with the voluntary Code. However, the findings also reinforce the usefulness of understanding which industries have high compliance and which are falling behind; and of understanding which provisions are mostly complied with and which are not. The following sections of this study report the findings related to these questions.

6.3 THE LEVEL OF COMPLIANCE BY DIFFERENT COMPANY ATTRIBUTES

This section addresses whether the level of compliance varies with different company characteristics. The analysis begins by analysing the extent to which the level of compliance varies across different industry type. Then the results of the correlation and multiple regression models are presented to understand the extent to which six different company attributes have influence over the compliance level of companies.

6.3.1 Level of Compliance across Different Industries

Table 6.2 shows the mean distribution of the CGI among different industries. To support M-W test, the companies were divided into three major categories- namely Banking, Non-Banking Financial Institutions (NBFIs) and Non-Financial Institutions (NFIs); and the findings are reported in Panel-A. While this Table helps to understand the compliance level across industries at a glance, it is also important to understand which particular industry within these three broad categories is falling behind in ensuring compliance and which is doing well. Hence Panel-B further divided these three broad categories into nine categories in total, and Panel-C reports the p-value for the K-W (Kruskal–Wallis) and M-W (Mann–Whitney) tests to understand the differences of the mean compliance score among different industries.

Panel-A of Table 6.2 suggests that the financial sector tend to exhibit relatively higher governance quality compared with NFIs. The mean score of Banks is 57.52 (72%), which is the highest amongst all followed by the NBFIs with a mean of 55.0 (69%) and lastly the NFIs with a mean of 50.86 (63%). The Banking industry seems to be continuing in ranking the highest in ensuring compliance with governance standards, because a similar kind of study by

Haque (2007) also reported that the banks in Bangladesh are the most compliant industry. He measured the compliance score against the international standards of governance and reported that the mean score of Banks is 61.38%, and in that manner the findings of this study suggest that the level of compliance might be improving over the years.

Table 6.2 Mean values of CGI across different industries

Panel A: Comparison of the Corporate Governance Index (CGI) across industries - three major categories

Industry Classification (three major categories)	N	Mean	Range
Bank	17	57.52	41-64
NBFI	17	55.00	42-66
NFI	37	50.86	35-67
Total	71		

Panel B: Comparison of the CGI across industrial – broader category

Industry Classification			N	Mean	Range
Financial Institutions (FIs)	Banking Institutions	Bank	17	57.52	41-64
	Non-Banking Financial Institutions (NBFIs)	Insurance	7	54.28	42-66
		Leasing	10	55.50	45-61
Non-Financial Institutions (NFIs)		Engineering	4	49.25	39-55
		Food and Allied	3	52.00	43-67
		Fuel and Power	5	52.80	48-59
		Pharmaceuticals and Chemicals	8	51.37	37-56
		Textile	5	44.20	35-54
		Miscellaneous	12	52.75	44-64
		Total	71		

Panel C: Kruskal Wallis (K-W) and Mann-Whitney (M-W)

	K-W Test	M-W Test		
		B-NBFIs	B-NFIs	NBFIs-NFIs
p-value	0.001	.124	.001	.026

However, the comparatively higher quality governance of Banks is not unique to Bangladesh. For example Hossain (2008) reported that the same is the case in India, whilst Krambia-Kapardis and Psaros(2006) claimed that the banks and insurance companies are more sensitive to corporate governance than any other industries in Cyprus.

The higher ranking of the Financial Institutions (FIs) might be because these institutions are under more regulation than the NFIs. Earlier studies (like Bhuiyan and Biswas, 2007; Haque, 2007; Reaz, 2006; Reaz and Arun, 2006; Siddiqui, 2010) which found a poor governance standard and indicated that the recent activities of the Central Bank and the legal and regulatory changes which are made over the last few years in the banking sector had the potential to improve governance standard in the banking industry; and the mean values of the present study thus support their claim.

Panel-B of Table 6.2 provides a breakdown of the degree of compliance with the Code by nine major industries as classified by the SEC of Bangladesh. It reports that the leasing companies are complying slightly better than the insurance companies with mean values 55.50 and 54.28 respectively. The range values in Panel A and B indicate that although the Banks are on an average complying better than the NBFIs and NFIs, there are companies in Banks which are scoring lowest among the three and on the contrary there are companies in the Insurance sector which are complying better than the Banking industries. Moreover,

there are companies in NFIs (particularly in Food and Allied industry, compliance score 67) which are complying better than companies in any other industries. In total Banks, NBFIs and NFIs are moderately compliant (CGI between 60% to 79%) with the Code of Corporate Governance for Bangladesh.

The highest score among NFIs is obtained by Fuel and Power industry (mean =52.80; Panel-B), which perhaps reflects the claim of the government of Bangladesh that it has given top priority to the development of the power sector considering its importance in the overall development of the country. The government has set the goal of providing electricity to all citizens by 2021 (Board of Investment, 2010). Moreover the local companies in this sector are competing with the MNCs which might also have an impact on their level of compliance.

The second and third highest score among the NFIs is obtained by the Miscellaneous and Food and Allied companies, with a mean value of 52.75 and 52.00 respectively followed by Pharmaceuticals and Chemicals companies (mean=51.37). The sample of all these industries includes both MNCs and local conglomerates which are exposed to the international market. That might be the reason they have reflected a comparatively better compliance status.

In contrast, the Textile companies in the sample which are comprised of local medium sized companies have scored the lowest, with a mean value of 44.20 and the range of the compliance score is 35 (44%) to 54 (68%). The study of Sobhani et.al (2009) also found the Textile industry of Bangladesh to be the lowest scorer when compliance was measured on the Corporate Social and Environmental Disclosure issues, where the sample textile companies of Bangladesh scored only 6% .

Panel-C, the p-value of K-W indicates that the mean score differences amongst the various different industries is significant and the p-value of M-W suggests that the difference is significant between the FIs and NFIs.

6.3.2 Correlation Analysis

The Spearman's correlation matrix for the dependent variable and the independent variables is presented in Table 6.3. Other than indicating the correlation coefficient between the CGI and its explanatory variables and correlation amongst the explanatory variables, a correlation matrix also suggest if there is any potential risk of collinearity in the regression model.

The correlation matrix shows the correlation between CGI and company size is positive at the 1% significance level. Furthermore, the correlation between CGI and type of industry suggests that the CGI is positively related to the Bank variable and on the contrary, negatively related to the NBFIs, and in both the cases the correlation is significant at the 1% level.

Table 6.3 also suggests that the correlation between CGI and type of auditor (not affiliated with Big4 auditor) is significantly negative (at the 5% significance level). Other than these variables, the correlation coefficients between CGI and the other explanatory variables (age, profitability, type of company) are statistically insignificant.

Multicollinearity between explanatory variables needs to be tested before using the regression model, to ensure that the regression model is free from bias. Multicollinearity is considered as a problem if the variance inflation factor (VIF) value exceeds 10 (Field, 2009; Jackling and Johl, 2009; Mutawaa and Hewaidy, 2010). The correlation coefficient values in Table 6.3 indicated that there might be some multicollinearity risk between some variables. However, the VIF values in Table 6.3 (the last row) gave assurance that the regression model is free

from the risk of bias because all the VIF values are less than 10 for all of the independent variables. Hence it provides strong evidence that multicollinearity is not a problem for the regression model.

Table 6.3 Correlation Coefficients for Dependent and Independent Variables in the Regression Model

	Compliance index	Log Age	Log ROA	Log Size	NFI vs Bank_dummy	NFI vs NBFI_dummy	Local vs MNC_dummy	Local Vs JV and Franchise_dummy	Auditor affiliated vs not affiliated with Big 4_dummy
Compliance index	1								
Log Age	0.021	1							
Log ROA	-0.077	.406**	1						
Log Size	.501**	-0.136	-.415**	1					
NFI vs Bank_dummy	.358**	-.303*	-.570**	.607**	1				
NFI vs NBFI_dummy	-.409**	.372**	.496**	-.362**	-.585**	1			
Local vs MNC_dummy	0.159	0.222	.422**	-0.095	-0.227	.388**	1		
Local vs JV and Franchise_dummy	0.042	-0.094	0.154	-0.183	-0.096	0.163	-0.069	1	
Auditor affiliated vs not affiliated with Big 4_dummy	-.289*	.279*	0.176	-.329**	-.321**	0.153	-.341**	0.163	1
VIF		1.397	1.590	1.691	2.354	1.846	1.736	1.122	1.681

** . Correlation is significant at the 0.01 level (2-tailed); * . Correlation is significant at the 0.05 level (2-tailed).

Here,

CGI = Corporate Governance Index; Log_age = Logarithm of the age of the Company; Log ROA = Logarithm of return on assets; Log_Size= Logarithm of total assets; NFI vs Bank_dummy = Banking industry, used as a dummy on the basis of Non Financial Institutions(NFI); NFI vs NBFI = Non-Banking Financial Institutions, used as a dummy on the basis of NFI; Local vs MNC= Multinational companies, used as a dummy on the basis of local companies; Local vs JV and Franchise=Joint venture and Franchise companies, used as a dummy on the basis of local companies; Aud= Companies not audited by firms other than the one affiliated with Big 4 audit firms, used as a dummy variable on the basis of companies which are audited by Big 4 affiliated audit firms.

6.3.3 Analysis of the Regression Model

As mentioned in Chapter 5, in the regression model, the total compliance index, a continuous variable, is used as the dependent variable and denoted as CGI in the model. The dependent variable is tested against six independent (predictor) variables- age, profitability, size, industry type, company type, and finally type of auditor. However, among these variables ‘industry type’, ‘company type, and ‘type of auditors’ were categorical data, hence they were recoded into different dummy variables against one basic category in each case. The other three predictors, age, size and profitability (ROA) were measured in continuous scale; but following prior research (like Akhtaruddin, 2005; Mutawaa and Hewaidy, 2010), the normal logarithm of this variable is taken to bring the distribution of these variables closer to normality.

The regression equation is,

$$CGI_y = \beta_0 + \beta_1 \log_age + \beta_2 \log_roa + \beta_3 \log_size + \beta_4 ind_type + \beta_5 com_type + \beta_6 aud_type + e$$

Where,

CGI is the corporate governance index representing the compliance score,

β_0 =the intercept;

and the control variables are:

\log_age = logarithm of the age of the company;

\log_roa = profitability of the company measured by the logarithm of ROA (return on assets);

\log_size = size of the company measured by the logarithm of total assets;

ind_type = type of industry;

com_type = type of company;

aud_type = type of auditor used by the company;

e = the error term.

Regression analysis was run using ordinary least squares (OLS) estimates and the results are reported in Table 6.4. The overall estimation indicates that among the six control variables, four (age, size, industry type (only NBFIs compared to NFIs) and type of company) have a statistically significant effect on the extent to which companies are complying with the Code.

Panel-A of Table 6.4 indicates the explanatory power of the OLS model. As suggested by the adjusted R^2 , the explanatory power of the regression model of the study is 46.9% ($p < .001$). The R^2 is 0.530, indicating that the model is capable of explaining a 53% variability in the level of compliance of the sample companies. However, the difference between R^2 and the adjusted R^2 is small, about 6% ($0.530 - 0.469 = 0.061$). This shrinkage means that if the model were derived from the population rather than a sample it would account for approximately 6% less variance in the level of compliance score of the companies. The Durbin Watson (D-W) test provided assurance about the lack of autocorrelation among the independent variables. As a very conservative rule of thumb, if the value is less than 1 or greater than 3 it is considered that there is definitely a cause for concern, or there is an autocorrelation issue (Bowerman and O'Connell, 1990; Field, 2009), however in this study the value is well below that risk level at 1.881, so the variables are not related.

The significance of R^2 can be further tested using an F-ratio (Field, 2009). Panel B of Table 6.4 contains the analysis of variance (ANOVA) which tests whether the model is significantly better at predicting the outcome variable than using the mean. The F statistic ($F=8.734$) of this table indicates that the model employed to explain the variation in the level of compliance is significant at the conventional ($p < 0.001$) level, and better at predicting the outcome than simply using the average (mean). Hence we can be confident that the results of this study did not occur by chance.

Table 6.4 Multivariate Analysis

Panel A: Regression Analysis

Coefficient of multiple regression	0.728
Coefficient of determination (R^2)	0.530
Adjusted R^2	0.469
Durbin-Watson	1.881
Standard error	6.677

Panel B: Analysis of Variance

	Sum of Squares	df	Mean Square	F	Sig.
Regression	3115.858	8	389.482	8.734	0.000
Residual	2764.734	62	44.592		

Panel C: Variables in the equation

		Unstandardized Coefficients		Standardized Coefficients	t	Sig.	Collinearity Statistics	
		B	Std. Error	Beta			Tolerance	VIF
	(Constant)	1.691	14.469		0.117	0.907		
	Log Age	4.809	1.578	0.314	3.048	0.003	0.716	1.397
	Log ROA	0.039	1.946	0.002	0.02	0.984	0.629	1.59
	Log Size	2.461	0.593	0.47	4.152	0.000	0.591	1.691
Type of Industry	NFI vs Bank_Dummy Variable	-2.653	2.849	-0.124	-0.931	0.355	0.425	2.354
	NFI vs NBFI_Dummy Variable	-9.789	2.155	-0.537	-4.542	0.000	0.542	1.846
Type of Company	Local vs MNC dummy	8.24	3.002	0.315	2.745	0.008	0.576	1.736
	Local Vs JV and Franchise_dummy	14.496	5.074	0.264	2.857	0.006	0.891	1.122
Auditor affiliated vs not affiliated with Big 4 dummy		-1.022	2.057	-0.056	-0.497	0.621	0.595	1.681

However, as indicated by the result of Panel C of Table 6.4, some variables are more significant in explaining the level of compliance. The following section discusses the findings relating to these variables in detail.

▪ *Age of the Companies*

Company age denoted by 'log Age' is found to be positively related with the CGI. The findings indicate that if other things remain the same then with a one year increase in the age of the company, the level of compliance increases by 4.809 units ($p < 0.05$). The findings thus support hypothesis 1 that the level of compliance with the Code provision is significantly associated with the age of company. Moreover, the findings suggest that the age of company has positive impact on the level of compliance with the Code.

The findings of this study thus vary with the findings of Akhtaruddin (2005) who also attempted to investigate the impact of age on compliance; but instead of referring to voluntary disclosure, he tested on mandatory disclosure provisions. While his findings reported no association between these two variables, the present study claims the opposite and indicates that older companies are likely to be more compliant with the voluntary Code provisions. The difference between these two findings on Bangladesh might be because at the time when Akhtaruddin collected his data, it was just the initial year(s) of the implementation of the mandatory provisions he considered, hence he himself mentioned that this may not be a good enough time to understand the impact of company age on the compliance level.

Whereas using the recent data, the findings of the present study report that there is now a positive association between the two variables and that the older companies are complying more than the younger ones. However, Owusu-Ansah(1998) also has similar findings, i.e. a positive association between these two variables in Zimbabwe. The most likely reason

behind the better governance standard in older companies is, as have been argued in previous studies(e.g. Akhtaruddin, 2005; Owusu-Ansah, 1998), the older companies are more experienced and capable to take additional initiatives to improve their image and thus are more likely to be willing to improve their governance standard as a marketing tool for creating brand image.

▪ ***Profitability***

Although the companies with higher profitability, which was measured by the ROA, are expected to comply more than the companies with lower profitability, the findings do not support hypothesis 2 that company profitability as measured by ROA is positively associated with the extent of compliance with the Code provisions ($p > 0.05$). This finding is not consistent with Akhtaruddin (2005) who found that in Bangladesh companies with higher profitability are disclosing more. The differences between the findings might be because Akhtaruddin(2005) used a much larger sample (174) than this study, and measured the mandatory provisions regarding disclosure; whereas, this study deals with much wider areas covered by the voluntary provisions. Nonetheless, the finding of ‘no association’ between the level of compliance and profitability is not unique for this study as there are other studies too, such as the study of Wallace et al. (1994) who worked on Spanish companies, Street and Gray (2002) worked on compliance with international accounting standards, and in a recent study by Mutawaa and Hewaidy (2010) investigated Kuwaiti companies and reported that there is no significant association between the level of compliance with International Financial Reporting Standards (IFRS) and profitability of companies.

▪ *Company Size*

The regression model supports Hypothesis 3 that company size as measured by the log of total assets is positively associated with the level of compliance with the Code provisions. The findings indicate that if other things remain the same then with 1.00 BDT (Bangladesh Taka) increase in the total assets of the company, the level of compliance increases by 2.461 points ($p < 0.01$). The positive sign on the coefficient suggests that companies with greater total assets tend to comply more with the Code than do companies with fewer total assets.

Thus the finding is consistent with the studies on Bangladesh including Akhtaruddin (2005) where level of disclosure was measured against mandatory provisions and Habib-Uz-Zaman (2010) who measured compliance with CSR reporting information of Bangladeshi listed commercial banks. The finding is also consistent with many other studies on developed and developing countries (Ahmed and Nicholls, 1994; Hossain, 2008; Mallin and Ow-Yong, 2012; Wallace et al., 1994).

▪ *Industry Type*

Table 6.4 (Panel C) indicates that the type of industry is statistically significant only in the case of NBFIs. The findings indicate that all other things being equal, the compliance score will be less by 9.79 points ($p < 0.01$) than would have been the case for NFIs. The findings indicate that except for the NBFIs, the industry classification has a negligible effect on the level of compliance of the sample companies. Similar findings have also been reported by some other studies (Akhtaruddin, 2005; Inchausti, 1997; Owusu-Ansah, 1998).

▪ *Type of the Companies*

It was hypothesized that the type of company will be significantly associated with the level of compliance with the Code, where it was expected that the MNCs which are controlled by the

parent company and J/Vs and Franchises where the parent company has a certain level of influence over the corporate management will have a better governance standard than the local companies. Panel C of Table 6.4 suggests that in both cases the local companies are complying less with the Code. The findings indicate that the compliance score will be more for MNCs by 8.24 points than would be the case for local companies and for the J/Vs and Franchises where the level of compliance score increases by 14.496 when compared with the compliance score of local companies.

However, as mentioned earlier, the findings are not unexpected because the foreign owned companies are controlled by their parent companies which are in most of the cases exposed to the international market and are required to comply with international standards of corporate governance.

- ***Type of Auditors***

The findings also do not support the hypothesis that the type of auditor (Big 4 affiliated) is positively associated with the level of compliance. Although the findings suggest that the compliance score decreases 1.02 points when the auditors are not affiliated with any one of the Big4 audit firms, it is statistically insignificant. Hence it cannot be claimed that the Bangladeshi companies audited by the audit firms affiliated with one of the Big4 audit firms have better compliance than those companies audited by other types of audit firms. A similar finding is reported by a recent study (Kabir et al., 2011) which examined the association between Big 4 affiliated auditors and accruals quality in Bangladesh and found no positive impact. They (Kabir et al., 2011) believe that the reason for this is due to low demand for quality audit among the companies of Bangladesh and a weak monitoring systems. However

the case of Bangladesh is not unique for Bangladesh, as other studies (Mutawaa and Hewaidy, 2010; Wallace et al., 1994) also reported the same.

Overall the findings of the regression model suggest that among the six variables –age, size, industry type (only NBFIs compare to NFIs) and type of company, account for the unique variance in the outcome variable CGI. The other two predictor variables are found to have no statistically significant effect on the level of compliance with the Code.

6.4 THE LEVEL OF COMPLIANCE IN EACH PROVISION OF THE CODE

This section addresses the third research question that aims to identify which provisions of the Code are most complied with and those which are least complied with. To support this analysis, at first the level of compliance on each of the provisions included in questionnaire has been analyzed, followed by an analysis of the most and least complied with provisions to understand whether legal or regulatory pressure matters for compliance decisions by companies.

6.4.1 Compliance with Board Issues

There were 34 questions under board issues (out of this 34 questions, 25 were included in questionnaire and 9 were collected from company annual reports). Board related questions are categorized into 6 groups and these are: duties of the board; board membership criteria and nomination of new board member; training; board composition; board agenda; audit committee.

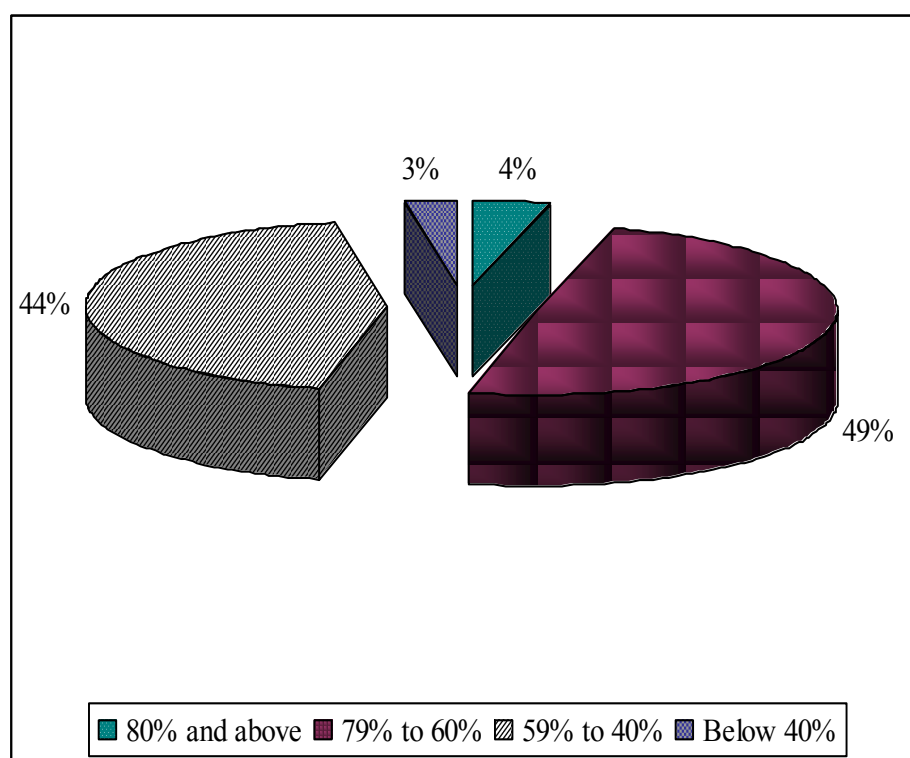
Table 6.5 reveals that the level of compliance (CGI) with all of the provisions related to board is at the moderate level (mean 20.88, 61% of the required items). The range values

indicate that there are companies who score as low as 13 (38%), whilst there are also companies who are almost fully compliant with the Code at 31 (91%).

Table 6.5 Status of the CGI, Related to Board Provisions

	N	Mean	Min	Max	Std. Dev
CGI on Board Issues (Total 34 Provisions)	71	20.88	13	31	3.87

Figure 6.3 Percentage of the Sample Companies Complying with the Provisions Relating to Board Issues



Nonetheless, Figure 6.3 suggests that the percentages at these two extreme cases are very low, i.e. only 3% of sample companies fall at the lower end, indicating their compliance score is below 40% and only 4% were found as highly compliant. However the maximum number of companies (49%) is within the range of 79% to 60% compliance; and the rest (44%) are showing a low level of compliance with the board related provisions.

- **Provisions Relating to Duties of Board**

The findings of Table 6.6 suggest that almost the entire sample of companies are highly compliant with the first four questions (1-4) and the last two (10 and 11). On the contrary, only a small number are compliant with question numbers 5, 8 and 9 (percentage of compliance is 11, 10 and 34 respectively). This suggests that among the 71 companies' boards 63 do not collectively participate in the appointment of the senior management, and similarly only a few boards evaluate the performance of their individual members, and only 34% of the sample companies have a succession plan in place for MD/CEO or senior management.

Table 6.6 Compliance with the Provisions Relating to Duties of Board

Q	Duties of the Board	N	Percentage of Compliance
1	Does a Code of Conduct exist for the board detailing directors' roles and responsibilities?	71	89
2	Are the key risk areas of the company identified and monitored by the Board?	71	94
3	Are the performance indicators of the company identified and monitored by the Board?	71	99
4	Does the Board collectively appoint the Managing Director (MD)/Chief Executive Officer (CEO)	71	90
5	Does the board collectively participate in the appointment of senior management?	71	11
6	Are the performance criteria for MD/CEO established by the Board?	71	65
7	Is the performance of the MD/CEO evaluated by the Board?	71	59
8	Does the Board evaluate the performance of its individual members?	71	10
9	Does the Board have in place a succession plan for senior management and the MD/CEO?	71	34
10	Is the internal control mechanism regularly reviewed and monitored by the Board?	71	87
11	Is the risk management system regularly reviewed and monitored by the Board?	71	72

Some of the respondents clarified the reasons behind non-compliance in the questionnaire. According to them, the concept of 'senior management' is different in Bangladesh to that of developed countries. Moreover, the Companies Act 1994 does not identify who is to be considered as 'senior management'. Thus the term varies from company to company, in Bangladesh; hence the board legally or voluntarily is not supposed to participate in the appointment of senior management. In addition, according to the practice in Bangladesh, the board is not legally supposed to look after the appointment of those other than directors.

The sample companies also have moderate level of compliance with question number 7. 59% compliance with that provision indicates that 41% of the sample companies' boards do not evaluate the performance of its MD/CEO. Chapter 3 of this study discussed that in Bangladesh, most of the companies have originated from sole-proprietor-ship or 'family owned' background, where CEO/MD is the sole decision maker about everything. Later, as some studies (e.g. Farooque et al., 2007a; 2007b) stated, when these companies became public limited, many things have changed but that culture of single-point decision making remained in many cases, though now days CEO/MDs are assisted and advised by functional heads (i.e. CFO, Sales director, Marketing director etc). However, CEOs are mainly responsible for making strategic decisions associated with profitability, growth etc. Therefore, a system of evaluating CEO/MD's performance by the board might establish accountability, transparency, fairness and social responsibility in decision making as well as would ensure protection of shareholders interest.

- **Provisions Relating to Board Membership Criteria**

Table 6.7 suggests that the sample companies are poorly compliant with all the three provisions relating to board membership criteria. It indicates that in 59% of the sample

companies' boards, there are directors who have directorships in more than 6 boards; for 41% of the sample companies, directors are not made ineligible for re-election if they fail to attend at least 50% of the board meetings; and in 80% of the sample companies, the board neither has a nomination committee nor any particular method for nominating new directors to ensure board diversity.

Table 6.7 Compliance with the Provisions Relating to Board Membership Criteria

	Board Membership Criteria	N	Percentage of Compliance
12	Is the board free from directors holding directorship in more than 6 boards?	71	41
13	Does a director become ineligible for re-election if he/she fails to attend at least 50% of the board meetings?	71	59
14	Does the board have Nomination Committee or a particular method to nominate qualified person for directorship?	71	20

- **Provisions Related to Board Members' Training**

Scholars (like Berghe and Levrau, 2004; Mallin, 2005b; Nicholson and Kiel, 2004) have been arguing for a long time that in order to ensure good governance, training as a method of on-going development is essential. Mallin (2005b, p.729)“it is essential that directors are individuals of probity, equipped to do the job that they are appointed to do by virtue of their experience, skills and knowledge, and – an area that may often be overlooked – that they undertake appropriate training and development to keep them up to date with all relevant areas of the business and its operating environment”.

However, Table 6.8 suggests that the level of compliance is very poor in all of the three Code provisions relating to board members' training. The highest compliance score is 36%, indicating that only 36% of the sample companies' boards provide opportunities for the

training of individual directors. Training incurs certain costs and needs certain facilities; hence it is globally recommended that it is the company's responsibility to fund the development and training (Mallin, 2005b). However, the findings indicate only 21% of the directors are financially supported to pursue training opportunities.

Table 6.8 Compliance with the Provisions Relating to Training of Board Members

	Training of Board Members	N	Percentage of Compliance
15	Does the Board provide opportunities for training of individual directors?	71	36
16	Does the Board provide funds for training of individual directors?	71	21
17	Does the Board require new directors to attend corporate governance orientation or training program offered by reputed institutions/individuals	71	09

A significant gap between the standard and reality also exists in the case of corporate governance training of new directors. Only 9% of the companies reported that they require their new directors to attend a corporate governance orientation or training program. However, six of the respondents came forward to explain the reason behind their non-compliance. In summary, it seems that there are two plausible reasons behind this. Firstly, this provision is not included in the SEC's listing regulation, and secondly, there is no such training institute in Bangladesh to offer regular training on corporate governance⁷³.

⁷³ Chapter 3 of thesis indicates that there are a few private institutes like BEI which offers directors training and training on corporate governance, but may be the problem is with a lack of communication between companies and the institutes; or may be as the respondents indicated, these few are not enough to support training needs.

- **Provisions Related to Board Composition.**

Table 6.9 identifies the four provisions related to Board composition. Question 18 and 19 shown in the Table were included in the questionnaire and question (i) and (ii) were answered by analysis of the company annual reports⁷⁴.

The most important fact to note from Table 6.9 is that unlike other provisions discussed above, 100% of the sample companies are complying with the provision related to the annual rotation of the directors. However, this outstanding level of compliance is not surprising as this is what the companies are supposed to comply with according to the Companies Act 1994 provision⁷⁵.

Although in Chapter 3, the study has identified that the corporate sector of Bangladesh is mostly comprised of family owned businesses for which separation of the roles of chairman and CEO is challenging but the findings indicate that the second highest compliance score (95%) is obtained by question number (i) suggesting that except for a few cases, the roles of chairman and CEO is separated. Nonetheless, the size of the board seems to be an issue. Table 6.9, question (ii) suggests that the level of compliance is at a moderate level according to the corporate governance framework. Although the Code does not identify any particular

⁷⁴ It is important to note that the study could not investigate the provisions related to non-executive directors, as most of the annual reports of the sample companies did not identify their directors' classification as executive or non-executive. According to the SEC's listing regulation, the companies duly identify whether or not they have independent directors, but they didn't do the same in the case of their non-executive directors. Hence, it was not possible for the study to investigate the extent of compliance related to the non-executive directors. For instance, only 8% of the sample companies had clearly defined their directors' profile.

⁷⁵ Companies Act, 1994; Section 91 (2) "Notwithstanding anything contained in the articles of a company other than a private company not less than one third of the whole number of directors shall be persons whose period of office is liable to determination at any time by retirement of directors rotation".

range of standard board size, but referring to international best practices the Code recommends that companies' boards are to be limited from "7-15"; however according to the data available in the annual reports, 25% of the companies' board size does not comply with the Code's recommended 7-15 size.

Table 6.9 Compliance with the Provisions Relating to Board Composition

	Board Composition	N	Percentage of Compliance
18	Is it mandatory to retire 20% of the board members annually by rotation?	71	100
19	Are the vacancies in the board normally filled at the AGM?	71	70
i.	Is the chairman of the board and CEO different persons?	71	95
ii.	Is the board comprised of 7 to 15 members?	71	75

Table 6.10 Descriptive Statistics of the Board Size of the Sample Companies

	Industry	Minimum	Maximum	Mode	Mean
Board Size	Overall	4	23	11	11
	Banks	6	23	15	13.8
	NBFI	10	20	11	13.7
	NFI	4	15	8	8.4

Table 6.10 deals with the descriptive statistics related to the board size of the sample companies. It suggests that on average, board size is 11 ranging from a minimum of 4 and to a maximum 23. The data is slightly higher than the findings of Rashid et.al (2010) who worked with a larger sample (N=274) than this study and report that the average board size in Bangladesh is 7, and the study by Haque (2007) reports that on average the board size is 9.

However, there is another interesting fact to notice from Table 6.10. Whilst in terms of total compliance score (see Table 6.2) Financial Institutions were found to be more compliant than the NFIs, Table 6.10 shows that they are having comparatively larger boards than those of the

NFIs. Whilst the average size for NFIs is 8, for the Banking and NBFIs it is 13. Moreover, most of the non-compliant companies (i.e. whose board size is not within 7-15) fall under either Banking or NBFIs.

A further reflect on the board size in Banks (as indicated in Table 6.10, minimum 6 and Maximum 23) suggests that the banks whose board size is less than 10 is either a subsidiary of a large organization or local conglomerate (e.g. BRAC); on the other hand, the banks with larger board size (15 and above) are local commercial banks which are family dominated. The plausible reason behind their larger board size might be related to the Bangladesh Bank's regulation on the paid-up capital and reserve required for banking institution⁷⁶. So the bank owners if not supported by a large institute need to include additional investors to contribute in meeting the paid up capital requirement. In case of NBFIs as well, the study of Islam et. al (2010) where they raised concerns about the governance practices in NBFIs finding that an overwhelming majority of the listed NBFI's board is heavily dominated by sponsor shareholders who generally belong to a single family and are actively involved in management and thus ended up with large board size. Although there is one company in the NFIs whose board is below 7, that is the case only in one company, and the rest comply. The findings are quite similar to those of Haque (2007) who reported that on average the NFIs are having a smaller board (6) in relation to the Insurance companies (25) and Banks (12).

⁷⁶ Bank Company Act, 1991 Section 13 and 14 address the paid up capital and reserve requirement. . According to the regulation, all banks are required to semi-annually calculate and maintain minimum capital adequacy ratios, i.e. absolute capital for Bangladeshi banks is BDT 4000 million and foreign banks are required to deposit BDT 4000 million in cash or unencumbered approved securities with Bangladesh Bank which represents paid up capital and reserves.

The Companies Act 1994 requires that vacancies on the board should be filled at the AGM⁷⁷, which is also recommended by the Code (Question 19); nonetheless, it is surprising to see that 30% of the companies are not complying with the Code provision, which is also a legal requirement. The most likely reason behind such non-compliance might be with the confusion among the respondents.

As one of the respondents explained, they are non-compliant because in the case of the occurrence of a casual vacancy, instead of waiting for the AGM, they immediately appoint the director and formalize it at the AGM. However, it is important to note that neither the Code nor the Companies Act 1994 specifies the course of action in the case of casual vacancies if the AGM is not near.

- **Provisions Relating to the Board Agenda**

The first provision in Table 6.11 deals with the provision which demands companies to circulate the board meeting agenda sufficiently in advance of the meeting, the compliance level 92% suggests that the sample companies are highly compliant.

In contrast, the next question of Table 6.11, the rate of non-compliance is much higher than the first question. According to the Code, the agenda is supposed to be signed ‘solely’ by the Chairman of the board. However the compliance score indicates that 72% of the sample companies are non-compliant with this provision.

⁷⁷Companies Act 1994, Section 91 (b) “the directors of the company shall be elected by the members from among their number in general meeting; and(c) any casual vacancy occurring among the directors may be filled in by the other directors but the person the appointed shall be a person qualified to be elected a director under clause (b) and shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last appointed a director”.

Table 6.11 Descriptive Statistics of the CGI on the Provision Relating to the Board Agenda

	Board Agenda	N	Percentage of Compliance
20	Is the agenda for each board meeting circulated to directors sufficiently in advance of that meeting?	71	92
21	Is the Board Agenda approved solely by the Chairman?	71	28

The plausible reason behind such contrasting levels can again be related to the fact that neither the Companies Act 1994 nor the SEC Guidelines or any other kind of regulation demands that companies comply with this provision. However there is no such regulation regarding who should and should not approve the agenda. Moreover, a few respondents argued with the phrasing of this provision; pointing at the word ‘solely’, they argued that ‘the agenda is signed by the MD, or by both MD and Chairman; but never by the Chairman ‘solely’.

- **Provisions Relating to the Audit Committee**

Table 6.12 suggests that except for the provision related to the qualification of the audit committee chairman (question ii of Table 6.12), the sample companies are highly compliant with the provisions relating to the audit committee - 97% companies have an audit committee; the Chairman of the board is not a member of the committee in 87% of the companies; 83% of the companies’ audit committees are meeting quarterly to monitor internal and external audits and preparing reports on all meetings for the board to ensure accountability; whilst 90% of the sample companies’ audit committees are comprised of at least three members where at least one is an independent director.

Table 6.12 Compliance with the Provisions Relating to the Audit Committee

	Board Audit Committee	N	Percentage of Compliance
22	Does the company have an Audit Committee:	71	97
23	Does the Audit Committee exclude/ restrict the Chairman of the Board from being a member of the Committee?	71	87
24	Does the Audit Committee meet at least quarterly?	71	83
25	Does the Audit Committee prepare reports on all meetings for the board?	71	83
i	Is the Audit Committee comprised of at least three members, appointed by the board?	70	90
ii	Does the Chairman of the Audit Committee have professional qualification and recent and relevant financial experience?	67	52

In contrast, only 52% of the companies are complying with the provision which states that the Chairman of the audit committee should have a professional qualification and recent and relevant financial experience, although the same has been demanded by the SEC Guidelines.

It is unfortunate to note that two companies were found (both in banking industry) where they reported that they comply with such provision but their annual report states that the Chairman of the audit committee comes from another background apart from accountancy or finance and has no experience in those required field.

- **Provisions Relating to the Directors' Report and to the Company Secretary**

Table 6.13 indicates that the sample companies are highly compliant with these two provisions. 81% of the sample companies prepare a Directors' Report and 97% of them have a Company Secretary. However, it is also necessary to emphasize that the companies which did not upload their annual report on the company website or have not included any

information related to the Directors' Report or to the Company Secretary within the time of data collection are considered as non-compliant.

Table 6.13 Compliance with the Provisions Relating to the Directors' Report and Company Secretary

	Other Provisions	N	Percentage of Compliance
i	Does the board prepare a Directors' Report containing information as per the provision XI (B) of the Code?	71	81
ii	Has the company appointed a Company Secretary or other qualified Compliance Officer or any other external advisor (other than the auditor, company lawyer or other advisor to the board)	71	98

6.4.2 Compliance with Shareholder Issues

Among the 12 provisions relating to shareholders' rights, Table 6.14 suggests that the sample companies are highly compliant (80% and above) with five provisions (Q 2,3,5,6 and 8). The highest compliance (97%) is achieved with regards to recording and verifying the outcome and proceedings of the annual general meeting. The second highest score is 96%, and is in relation to two provisions: shareholders' voting rights and the opportunity of shareholders to ask questions of the board during the AGM. This suggests that 96% of the companies allow their shareholders to question the board and to vote.

Table 6.14 also suggests that high compliance is also reported with the provision related to the venue of AGM (compliance =93%). And finally the sample companies are highly compliant with the provision which demands that they ensure that the shareholders receive notice of the AGM, through a standard means of communication at least 21 days before the meeting (compliance = 87%, as indicated in Q2 of Table 6.14). All these high levels of compliance suggest that at least from the companies' point of view, the shareholders are

given the opportunity to participate in the AGM, to question the board, and can exercise their major rights over the company decisions.

Table 6.14 Compliance with the Provisions Related to the Role of Shareholders

	Provisions Relating Shareholders' Rights	N	Percentage of Compliance
1	Does your company provide a Shareholders Handbook which informs shareholders about their rights and responsibilities?	71	92
2	Do your shareholders receive notice of the AGM, through a standard means of communication at least 21 days before the meeting?	71	87
3	Are the outcome and proceedings of general meetings recorded and verified?	71	97
4	Do the shareholders receive information about company resolutions, decisions and operations in a manner that can be understood by a layperson?	71	75
5	Is the AGM held in a convenient location in the vicinity of the company's registered office?	71	93
6	Do all the shareholders have the same voting right of one vote per share?	71	96
7	Do the shareholders have an opportunity to nominate items for the AGM agenda prior to the AGM meeting?	71	28
8	During the AGM, can your shareholders question the Board, subject to reasonable limitations?	71	96
9	Does your company facilitate the voting process of the shareholders beyond that established by law? (e.g. using a ballot procedure rather than a hand count for counting multiple shareholdings)	71	79
10	Are your shareholders allowed to nominate Board candidates before the notice of AGM?	71	72
11	Can your shareholders nominate audit firms prior to the notice of AGM?	71	38
12	Is the Handbook available and accessible to shareholders?	71	90

The sample companies are moderately compliant (compliance score ranging from 60% -79%) with three other provisions (Q 4, 9, and 10, in Table 6.14), indicating that 21% of the sample companies do not facilitate alternative voting processes of the shareholders beyond that established by law; and 25% of them do not ensure that their shareholders receive

information about company resolutions, decisions and operations in a manner that can be understood by a layperson. Two of the respondents clarified in a note in the questionnaire that although they publish their annual reports both in English and Bengali, they believe they should be considered as non-compliant because the Code did not identify what language would be enough for the shareholders' understanding who are 'illiterate'⁷⁸. Moreover, they also requested clarification of some of their confusions. For instance they were confused with the word 'layperson' as have been used by the Code. Finally, 28% of the companies do not comply with the provision related to board member nomination before the AGM.

However, 100% non-compliance is also been found with the provision that demands from companies to ensure that the 'Shareholder Handbook' be available and accessible to shareholders? Now this is not surprising because only 2 amongst 71 companies said that they provide a Shareholders Handbook which informs shareholders about their rights and responsibilities. The plausible reason may be as the respondents indicated, publishing a handbook is not a legal requirement and considering the level of literacy of general shareholders, it is in their words, 'useless'.

A substantial gap also exists in two other provisions. The compliance score 0.28 in the case of Question 7 indicates that the majority of the companies do not provide an opportunity to their shareholders to nominate items for the AGM agenda prior to the AGM meeting, and many of the respondents stated their reason behind such noncompliance. According to them companies legally cannot provide opportunities to their shareholders, as the agenda is decided by the Companies Act 1994. Perhaps for the same reason companies are also showing very

⁷⁸ Chapter 3 (section 3.2.1) has identified that although the literacy rate is improving over the years in Bangladesh, it still shows a concern. However, to reflect further on this issue, the education system and its quality has been highlighted in Chapter 7 (section 7.2).

poor compliance (compliance = 38%) with the provision which recommends companies to allow their shareholders to nominate audit firms prior to the notice of AGM⁷⁹.

6.4.3 Compliance with Financial Reporting, Auditing and Non-Financial Disclosure Issues

The mean score (24.92, 75% of the required items) of in Panel-A of Table 6.15 suggests that the sample companies have moderate level of compliance (at the higher end of the moderate level) with the 33 provisions relating to financial reporting, auditing and non-financial disclosure. However Panel-B of the Table shows that irrespective of the industries, in comparison with the provisions relating to board and to shareholders' rights, the sample companies are more compliant with these provisions. It also indicates that Banks are slightly more compliant with a mean value of 25.94 (78%), than the NBFIs and NFIs.

To support the analysis, following the categories of the Code, these 33 provisions are divided into four groups: accounting standards, external auditor, internal auditor and disclosure. The following sections analyse the level of compliance with each of the provisions in each group.

Table 6.15 Compliance with the Provisions Relating to Financial Reporting, Auditing and Non-Financial Disclosure Issues

Panel A: Descriptive Statistics of the Percentage of the Compliance Score

Descriptive Statistics					
	N	Minimum	Maximum	Mean	Std. Deviation
Total Compliance Score on Financial Reporting Issues (Total 33 provisions)	71	12.00	30.00	24.92	4.19

⁷⁹ Discussion in Chapter 7 (section 7.3.4) also reflects on such kind of provisions and indicates that there are some provisions in the Code which are hard to comply due to their inadequacy, inappropriateness or contradiction with the legal provisions.

Panel B: Comparison of the Overall Compliance Score by Industry

	Type of Industry	N	Percentage of Compliance	Range
Provisions Relating to Financial Reporting, Auditing and Non-Financial Disclosure (Total 33 provisions)	Bank	17	25.94	16-29
	Non-Banking Financial Institutions	17	25.88	18-30
	Non Financial Institutions	37	24.02	12-29
Total		71		

- **Provisions Relating to Accounting Standard**

Table 6.16 suggests that all the sample companies are in 100% compliance with the two provisions related to accounting standards, indicating that all of the sample companies do ensure that the accounting standards are implemented within the timeframe set by the accounting regulator (ICAB) of Bangladesh, and all of them have employed qualified personnel to prepare financial statements and accounts.

These findings are supported by a recent study (Siddiqui, 2011) which indicates that due to globalization, the International Federation of Accountants (IFAC) issued some statements of membership obligations to assist high quality performance by professional accountants, and as a part of ICAB's attempts to comply with the IFAC quality control requirements, a quality assurance department has been established by ICAB which regularly visits different audit firms across the country to ensure that their audits are of the standards set by the IFAC. 100% compliance by the sample companies might be a reflection of these strides made by ICAB(Siddiqui, 2011).

Table 6.16 Compliance with the Provisions Relating to Accounting Standards and Accounts

	Accounting Standards	N	Percentage of Compliance
1	Does your company ensure that the accounting standards are implemented within the time frame given by ICAB?	71	100
2	Does your company employ appropriately qualified personnel to prepare financial statements and accounts?	71	100

- **Provisions Relating to External Auditors**

100% compliance in case of question 1 in Table 6.17 indicates that all of the sample companies believe their external auditors are independent. However, the Code has identified some other provisions (indicated in Table 6.17, Q 2-7) which according to the Code will help the companies to ensure independence of their external auditors. For instance, Q2 of Table 6.17 states that the external auditors should be appointed by the shareholders, and 99% of the companies' state that they do comply. In Bangladesh, the external auditors are selected by the directors and they are appointed at the AGM with the vote of shareholders. The sample companies are also highly compliant with the external audit fee provision. Table 6.17 indicates that, in case of Q6, the compliance score indicates that 96% of the companies do disclose their audit and non-audit fees. However, a moderate level of compliance is achieved in case of Q4, Q5 and Q7 (as indicated in Table 6.17) with compliance score 63%, 62% and 77% respectively; and that is why the independence of the external auditors seems to be at risk. If the external auditors are not rotated every three years in the case of 37% of the sample companies, if 38% of them do allow the external auditors to be involved in non-audit activities, and 23% do not restrict the shareholding of statutory auditors to a maximum of 1%

of the shares in their companies, then the claim of external auditors' independence may logically be questioned.

Table 6.17 Compliance with the Provisions Related to External Auditors

	External Auditors	N	Percentage of Compliance
1	Are your external auditors independent?	71	100
2	Are your external auditors appointed by the shareholders?	71	99
3	Does a shareholder, nominating an audit firm need to submit standardized information about the firm to facilitate comparison among nominating firms?	71	13
4	Are the audit firms or partners involved in your firm's audit rotated every three years?	71	63
5	Does your audit firm provide accounting or non-audit consulting activities in your company (where they are appointed as the statutory auditors)?	71	62
6	Does your company disclose both audit and non-audit fees (where applicable) to the shareholders?	71	96
7	Does your company restrict the shareholding of statutory auditors to a maximum of 1% of the shares in your company?	71	77

- **Provisions Relating to Internal Auditors**

The level of compliance with the provisions relating to internal auditors also reflects a mixed scenario. Table 6.18 suggests that the sample companies are 100% compliant with the provision asking companies to have an internal audit function; whilst only 21% of the sample companies fail to ensure compliance with the provision related to the independence of their internal audit department.

Nonetheless, 46% compliance score, in case of Q3 (as indicated in Table 6.18) suggests that the sample companies are poorly complying with the provision which recommends companies to delegate some authority to their internal audit department to propose initiatives

and changes directly to the board. There is almost no compliance (compliance =10%) reported with the provision 3(i) of Table 6.18 which recommends that the financial statements prepared by the internal audit department are to be signed by the Chairman of the audit committee. The reason might be because the SEC Guidelines demand that companies have an internal audit department, but do not go further in articulating provisions related to the work of an internal audit department as has been done in the Code.

Table 6.18 Compliance with the Provisions Related to Internal Auditors

	Internal Auditors	N	Percentage of Compliance
1	Does your company have an internal audit function?	71	100
2	Is your internal audit department independent from management?	71	79
3	Does your internal audit department have authority to propose initiatives and changes directly to the board?	71	46
i.	Does their financial statements further signed by the Chairman of the Audit Committee?	71	10

- **Provisions Relating Disclosures**

Table 6.19 suggests that the sample companies are highly compliant with most of the disclosure provisions (14 out of 20; compliance score 80% or more); whilst they are having a moderate level of compliance with two provisions which require that the companies should disclose their contingent liability (compliance = 77%), and related party transactions.

However the non-compliance may be related to the fact of not uploading the annual reports online. Companies are supposed to disclose it in their annual report which must be available to shareholders, but there is no such law that they need to make these information available online immediately after the AGM.

Table 6.19 Compliance with the Provisions Relating to Disclosure

	Provisions Relating Disclosure	N	Percentage of Compliance
14	Does your Board present a balanced assessment of the company's position that may be understood by shareholders?	71	100
i	Does the company publicly disclose: quarterly un audited results	71	99
ii	Does the company publicly disclose: Half yearly Balance Sheet and Profit and Loss Accounts	71	87
iii	Does the company publicly disclose: Audited annual Balance Sheet	71	97
iv	Does the company publicly disclose: Annual Directors' Report	71	82
v	Does the company publicly disclose: Corporate Governance Statement	71	82
vi	Does the company publicly disclose: Statement of Corporate Social Responsibility	71	59
vii	Does the company publicly disclose: Ownership Structure	71	100
viii	Does the company publicly disclose: Directors' Shareholding	71	83
ix	Does the company publicly disclose: Material risk factors	71	58
x	Does the company publicly disclose: Senior Management Structure	71	85
xi	Does the company publicly disclose: Directors' Remuneration	71	82
xii	Does the company publicly disclose: Report on end use of funds raised from public	71	01
xiii	Does the company publicly disclose: contingent liability	71	77
xiv	Does the company publicly disclose: Related party transactions	71	79
xv	Does the company publicly disclose: Credit Rating	71	49
xvi	Does the company publicly disclose: Details of Investment	71	82
xvii	Does the company publicly disclose: Basis of estimates used in financial reporting	71	82
xviii	Does the company publicly disclose: Depreciation policy	71	82
xix	Does the company publicly disclose: Tax policy	71	83

Companies are found to be poorly compliant with two other provisions (Question number 7 and 16 in Table 6.19) that demand companies to disclose their statement of corporate social responsibility and credit rating. Furthermore the sample companies show a significant gap with regards to the provision related to the publication of the report on end use of funds raised from the public when using shares and debentures, having very poor compliance.

The findings on the disclosure issues are consistent with the findings of other studies (like Belal, 1999; Belal, 2001; Belal and Owen, 2007; Bhuiyan and Biswas, 2007; Habib-Uz-Zaman, 2010; Imam, 2000; Sobhani et al., 2009) which found that the companies of Bangladesh are moderately compliant with disclosure provisions of some other regulatory and international best practice recommendations. However, Sobhani et al (2009) studied the recent disclosure pattern of Bangladesh and stated that the level of disclosure has made impressive progress over the last 10 years.

In summary the findings on compliance with financial reporting and disclosure issues suggests four important facts:

- i) Compare to the other two areas of the Code (i.e. the board and shareholders' right relayed provisions), compliance is comparatively higher with the financial reporting related provisions;
- ii) Although the banks reported better compliance standard with the financial reporting provisions, but unlike the earlier to cases, the mean difference across different industrial categories were found to be insignificant. It indicates that the compliance pattern is almost similar across FIs, NBFIs and NFIs. This perhaps reassures the fact that the regulatory pressure has a significant influence over the compliance decision in Bangladesh;
- iii) ensuring independence to the external auditor and internal audit department is a concern. Although the findings suggest that the sample companies are highly compliant with provisions relating to external and internal audit, but the problem arises when the Code demands independence of these internal and external auditors, by going beyond legal requirements; and finally

- iv) the findings relating to financial and non-financial disclosures suggest that although Bangladesh has made an impressive progress on disclosure, but compared to the Code, it is still at the moderate level.

6.4.4 Comparison of the Most Complied with and Least Complied with Code provisions in Relation to Legal and Regulatory Requirements

In almost all the cases the findings indicated that voluntary provisions (i.e. those provisions of the Code which are not found in SEC Guidelines) remained mostly noncomplied with. Hence, the following section attempts to cross-verify these possibilities by comparing the most complied with provisions and least complied with provisions with the related regulatory requirements to understand whether the compliance decision amongst the sample companies is significantly influenced by the legal and regulatory requirements.

Table 6.20 shows that among the total 79 provisions of the Code which were included in the questionnaire for evaluating the overall level of compliance, 18 (23% of 79 provisions) were poorly complied with, or in other words have received a compliance score below 50%. It is interesting that in the case of all the 18 provisions, none match with either the SEC Guidelines or the Companies Act 1994. Whilst chapter 4 has indicated that Indian Code has re-emphasized on ensuring the independence of an independent director and thus highlights on the provision relating to nomination committee, the Table 6.20 indicates neither the SEC Guidelines nor the Company Act, 1994 does the same – perhaps that is the reason the similar provision of the Code (as indicated in Table 6.20, Q5) remained non-complied. Whereas, Table 6.21 which includes the 40 provisions of the Code which received a compliance score 80% and above matches either with SEC Guidelines or the Companies Act 1994. Thus, the

level of compliance seems to be higher when the Code provision matches with both legal and regulatory requirements.

Whilst at different points of the analysis the findings indicated that the companies' compliance decision is most likely to be influenced by the legal and regulatory requirements, the findings of this section indicate that some of the Code provisions which are entirely voluntary, i.e. not required by any legal or regulatory requirements remained non-complied with, and on the contrary the high compliance has been achieved on those provisions of the Code which are also a legal or regulatory requirement. It is most likely that the sample companies are not responding to the Code itself, rather that they are responding to the provisions which are mandatory for them. Thus the findings indicate that although there might be some other causes of non-compliance with the Code provisions, it seems that the provisions are generally not complied with if they are not a legal requirement.

Table 6.20 List of the Least Complied with Code Provisions (with CGI below 0.50)

	The Code Provisions	Mean CGI	Does the Code provision coincide with the following two CG regulations?	
			SEC Guidelines	Company Act 1994
	Board Issues: Duties of the Board			
1	Does the board collectively participate in the appointment of senior management?	0.11	No	No
2	Does the Board evaluate the performance of its individual members?	0.10	No	No
3	Does the Board have in place a succession plan for senior management and the MD/CEO?	0.34	No	No
	Board Issues: Board Membership Criteria			
4	Is the board free from directors holding directorship in more than 6 boards?	0.41	No	No
5	Does the board have Nomination Committee or a particular method to nominate qualified person for directorship?	0.20	No	No
	Board Issues: Training of Board Members			
6	Does the Board provide opportunities for training of individual directors?	0.36	No	No
7	Does the Board provide funds for training of individual directors?	0.21	No	No
8	Does the Board require new directors to attend corporate governance orientation or training program offered by reputed institutions/individuals	0.09	No	No
	Board Issues: Board Agenda			
9	Is the Board Agenda approved solely by the Chairman?	0.28	No	No
	Shareholders' Issues			
10	Does your company provide a Shareholders Handbook which informs shareholders about their rights and responsibilities?	0.02	No	No
11	Do the shareholders have an opportunity to nominate items for the AGM agenda prior to the AGM meeting?	0.28	No	No
12	Can your shareholders nominate audit firms prior to the notice of AGM?	0.38	No	No
13	Is the Handbook available and accessible to shareholders?	0	No	No
	Financial Reporting: External Auditors			
14	Does a shareholder, nominating an audit firm need to submit standardized information about the firm to facilitate comparison among nominating firms?	0.13	No	No
	Financial Reporting: Internal Auditors			
15	Does your internal audit department have authority to propose initiatives and changes directly to the board?	0.46	No	No
16	Does their financial statements further signed by the Chairman of the Audit Committee?	0.10	No	No
	Financial Reporting: Disclosure			
17	Does the company publicly disclose: Report on end use of funds raised from public when using shares and debentures	0.01	No	No
18	Does the company publicly disclose: Credit Rating	0.49	No	No

Table 6.21 List of the Most Complied With Code Provisions (CGI 80% and above)

	Provisions of The Code	Mean CGI	Does the Code provision coincide with the following two CG regulations?	
			SEC Guidelines	Company Act 1994
	Duties of the Board			
1	Does a Code of Conduct exist for the board detailing directors' roles and responsibilities?	0.89	No	Yes
2	Are the key risk areas of the company identified and monitored by the Board?	0.94	No	Yes
3	Are the performance indicators of the company identified and monitored by the Board?	0.99	No	Yes
4	Does the Board collectively appoint the Managing Director (MD)/Chief Executive Officer (CEO)	0.90	No	Yes
5	Is the internal control mechanism regularly reviewed and monitored by the Board?	0.87	Yes	No
	Board Composition			
6	Is it mandatory to retire 20% of the board members annually by rotation?	1.00	No	Yes
7	Is the chairman of the board and CEO different persons?	0.95	Yes	No
	Board Agenda			
8	Is the agenda for each board meeting circulated to directors sufficiently in advance of that meeting?	0.92	No	Yes
	Board Audit Committee			
9	Does the company has an Audit Committee: (if 'NO', then please directly go to question number25)	0.97	Yes	No
10	Does the Audit Committee exclude/ restrict the Chairman of the Board from being a member of the Committee?	0.87	No	No
11	Does the Audit Committee meet at least quarterly?	0.83	No	No
12	Does the Audit Committee prepare reports on all meetings for the board?	0.83	Yes	No
13	Is the Audit Committee comprised of at least three members, appointed by the board?	0.90	Yes	No

Table 6.22 List of the Most Complied With Code Provisions (CGI 80% and above) (continued..)

	Provisions of the Code	Mean CGI	Does the Code provision coincide with the following two CG regulations?	
			SEC Guidelines	Company Act 1994
	Other Provisions			
14	Does the board prepare a Directors' Report containing information as per the provision XI (B) of the Code?	0.81	Yes	No
15	Has the company appointed a company Secretary or other qualified Compliance Officer or any other external advisor (other than the auditor, company lawyer or other advisor to the board)	0.98	Yes	No
	Provisions Related to Shareholders			
16	Do your shareholders receive notice of the AGM, through a standard means of communication at least 21 days before the meeting?	0.87	No	Yes
17	Are the outcome and proceedings of general meetings recorded and verified?	0.97	No	Yes
18	Is the AGM held in a convenient location in the vicinity of the company's registered office?	0.93	No	Yes
19	Do all the shareholders have the same voting right of 1 vote per share?	0.96	No	Yes
20	During the AGM, can your shareholders question the Board, subject to reasonable limitations?	0.96	No	Yes
	Financial Reporting: Accounting Standards and Accounts			
21	Does your company ensure that the accounting standards are implemented within the time frame given by ICAB?	1.00	Yes	No
22	Does your company employ appropriately qualified personnel to prepare financial statements and accounts?	1.00	No	Yes
	Financial Reporting: External Auditors			
23	Are your external auditors independent?	1.00	Yes	Yes
24	Are your external auditors appointed by the shareholders?	0.99	No	Yes
25	Does your company disclose both audit and non-audit fees (where applicable) to the shareholders?	0.96	No	Yes

Table 6.23 List of the Most Complied With Code Provisions (CGI 80% and above) (continued..)

	Provisions of the Code	Mean CGI	Does the Code provision coincide with the following two CG regulations?	
			SEC Guidelines	Company Act 1994
	Financial Reporting: Internal Auditors			
26	Does your company have an internal audit function?	1.00	Yes	Yes
	Financial Reporting: Disclosure			
27	Does your Board present a balanced assessment of the company's position that may be understood by shareholders?	1.00	Yes	Yes
28	Does the company publicly disclose: quarterly un audited results	0.99	No	Yes
29	Does the company publicly disclose: Half yearly Balance Sheet and Profit and Loss Accounts	0.87	No	Yes
30	Does the company publicly disclose: Audited annual Balance Sheet	0.97	Yes	Yes
31	Does the company publicly disclose: Annual Directors' Report	0.82	Yes	No
32	Does the company publicly disclose: Corporate Governance Statement	0.82	Yes	No
33	Does the company publicly disclose: Ownership Structure	1.00	Yes	Yes
34	Does the company publicly disclose: Directors' Shareholding	0.83	Yes	No
35	Does the company publicly disclose: Senior Management Structure	0.85	No	Yes
36	Does the company publicly disclose: Directors' Remuneration	0.82	No	Yes
37	Does the company publicly disclose: Details of Investment	0.82	No	Yes
38	Does the company publicly disclose: Basis of estimates used in financial reporting	0.82	Yes	No
39	Does the company publicly disclose: Depreciation policy	0.82	Yes	Yes
40	Does the company publicly disclose: Tax policy	0.83	Yes	Yes

6.5 SUMMARY

This chapter aimed to identify the extent to which sample companies are complying with the Code of Corporate Governance for Bangladesh (“the Code”). In particular it addressed three research questions of the study:

1. To identify the overall level of compliance of the Bangladeshi listed companies with the Code.
2. To examine whether the compliance level varies depending on different company attributes.
3. To identify the Code provisions which are most, and least, complied with.

The findings suggest that in general the level of compliance with the Code amongst the sample companies is 67% of the Code requirements, indicating that the sample companies are moderately compliant with the Code.

The descriptive statistics in section 6.2, indicated that the level of compliance varies across three major categories of industries, and the Financial Institutions in general and the Banking industries in particular were found to be more compliant than the NFIs, a finding which complements prior studies on Bangladesh. For example Siddiqui and Podder (2002), Reaz (2006), Reaz and Arun (2006) claimed that the recent initiatives of the Bangladesh Bank and SEC to regulate the financial sectors of Bangladesh has the potential to have a positive impact on their governance standard. However level of compliance did not vary much across industries in case of financial reporting related issues. Furthermore, when the compliance scores were more systematically regressed by different control variables, the findings did not support the claim that the Banks are a better performer, in terms of compliance with the Code, than the NFIs.

Overall, compliance was found to be comparatively higher in those industries (i.e. FIs, Fuel and Power industry and Food and Allied industry) which either have additional regulatory requirements, are exposed to foreign markets, are in competition with foreign companies, or are targets of the governments' special attention for development, indicating that compliance among companies tends to be higher with the increasing regulatory requirements and pressure from stakeholders, namely the government. This was further supported by the regression model which suggested that companies are more compliant if they are MNC or J/V or Franchise than the local companies.

The result of the multivariate analysis suggests that age, size by total assets, industry type (only in the case of NBFIs when compared to NFIs) and the type of company have a statistically significant association with the level of compliance with the Code. As indicated by the t-statistics, all other variables are either positively or negatively associated with the level of compliance, but statistically insignificant.

The findings relating to the most and least complied with areas of the Code suggest that the overall compliance is at moderate level on each of the three categories of the Code provisions (the board issues, the shareholder issues and the issues related to financial reporting, auditing and non-financial disclosures). However, even among that moderate level, the sample companies are comparatively less compliant in the board related provisions; especially with the provisions relating to directors' or professionals' qualifications, training, evaluation of board performance etc. The findings also indicated that the plausible cause of non-compliance is due to the provisions' ambiguity, inadequacy and contradiction with the national legislation.

The compliance status on shareholders' rights suggests that the shareholders are assured of their major rights, for instance the voting right, the right of information and are given enough opportunity to allow them to participate in the AGM, but companies are found to be non-compliant with taking some additional steps beyond the legal requirements to empower their shareholders. For example, the Shareholders' Handbook, additional voting facilities and some additional information about company resolutions which can significantly affect shareholders' interest. The plausible reasons behind this non-compliance seem to be related with three major issues: i) inadequacy of the provision, especially if it creates confusion amongst users; ii) inappropriateness of the provision, especially if it contradicts with legal or other regulatory provisions and does not fit with country's existing support facilities, and iii) the voluntary nature of the provisions.

The sample companies are more compliant with the provisions relating to financial reporting, auditing and non-financial disclosures. Although the level of compliance is at moderate level but unlike the other two areas of the Code, it is at the higher end of the compliance framework, i.e. near to 80% compliance. However this was expected because over the last decade the Central Bank of Bangladesh, ICAB and SEC has taken a number of steps to regulate the financial reporting and accounting standard of companies. Some earlier studies (Haque, 2007; Reaz, 2006; Siddiqui, 2010; 2011) were thus optimistic enough and stated that these initiatives of the regulatory bodies have the potential to bring changes in the reporting standard of Bangladesh; the findings of the present study thus complement their prediction.

However, the findings also indicated that the independence of the corporate governance monitors of the sample companies, i.e. the internal and external auditors are at stake. Although companies stated that they do ensure independence of external auditors, they were

found to be generally less compliant with those provisions (e.g. rotating external auditors, allowing the internal auditor to propose change) which according to the Code, could help the companies in ensuring internal and external auditors' independence. The sample companies were also found to be moderately compliant with the disclosure provisions.

Findings relating to compliance with the Code provisions indicated that the sample companies are more responsive to the regulatory provisions, section 6.3.4 compares the most and least complied Code provisions to the SEC Guidelines and the Companies Act 1994 provisions, and finds that the sample companies are highly compliant with those provisions that matches with other legal and regulatory requirements. Moreover the findings also indicated that the compliance tends to be higher with the increase of legal and regulatory pressures, hence the discussion concludes by arguing that the compliance decision of companies is most likely to be influenced by the regulators' involvement.

Before concluding it is noteworthy to mention that many of the sample companies did not identify their directors' classification in their annual report as a NED, thus the present study could not work on the provisions relating to NEDs. However, by doing so, the sample companies are not in default of the Companies Act 1994, as it does not have any definition of NED, neither did the SEC Guidelines. The SEC Guidelines required that at least one fifth (1/5) of the total number of the company's board of directors, subject to a minimum of one, should be independent directors and the companies are accordingly complying it, or else providing a reason for noncompliance.

In conclusion, despite the fact that the sample companies have a moderate level of compliance with the Code, the overall findings do not provide enough evidence to support the claim that the Code has been widely accepted by the companies of Bangladesh. Whilst there

might be other causes for compliance like the existence of foreign companies, and pressure from stakeholder groups for compliance, the decision of compliance with any provision in Bangladesh is most likely to be strongly influenced by the impact of legal and regulatory bodies, and not due to the companies' voluntary effort.

Whilst the overall findings of this chapter answer the research questions relating the level of compliance, it also indicates some questions which remained unanswered here. For instance, the question arises, if the Code is customized according to the country specific needs then why are the sample companies not complying with the voluntary provisions? If the Code reflects an international standard of governance then why are at least the companies which are exposed to the foreign market, and are considerably aware of the need to comply with an international standard of governance, not showing a high level of compliance with the Code for Bangladesh? Finally, and most importantly, if regulatory pressures have a significant influence over the companies' compliance decision, then why are they lacking in creating enough pressure among companies to reach an acceptable level of standard practices? These questions are addressed in the next chapter which aims to extend the understanding of the level of acceptance of the Code amongst the listed companies of Bangladesh, and develop some recommendations in chapter 8.

CHAPTER 7

RESULTS: SEMI-STRUCTURED INTERVIEWS

Chapter 7

7.0 RESULTS: SEMI-STRUCTURED INTERVIEWS

7.1 INTRODUCTION

After discussing the results from the questionnaire survey in Chapter 6, this chapter addresses the rest of the research questions of the study. In particular, using the data obtained from the semi-structured interviews, this chapter addresses the following three research questions:

- What barriers are companies in Bangladesh facing in ensuring compliance?
- What are the causes of non-compliance with the provisions of the Code?
- What is the appropriate model of governance for Bangladesh?

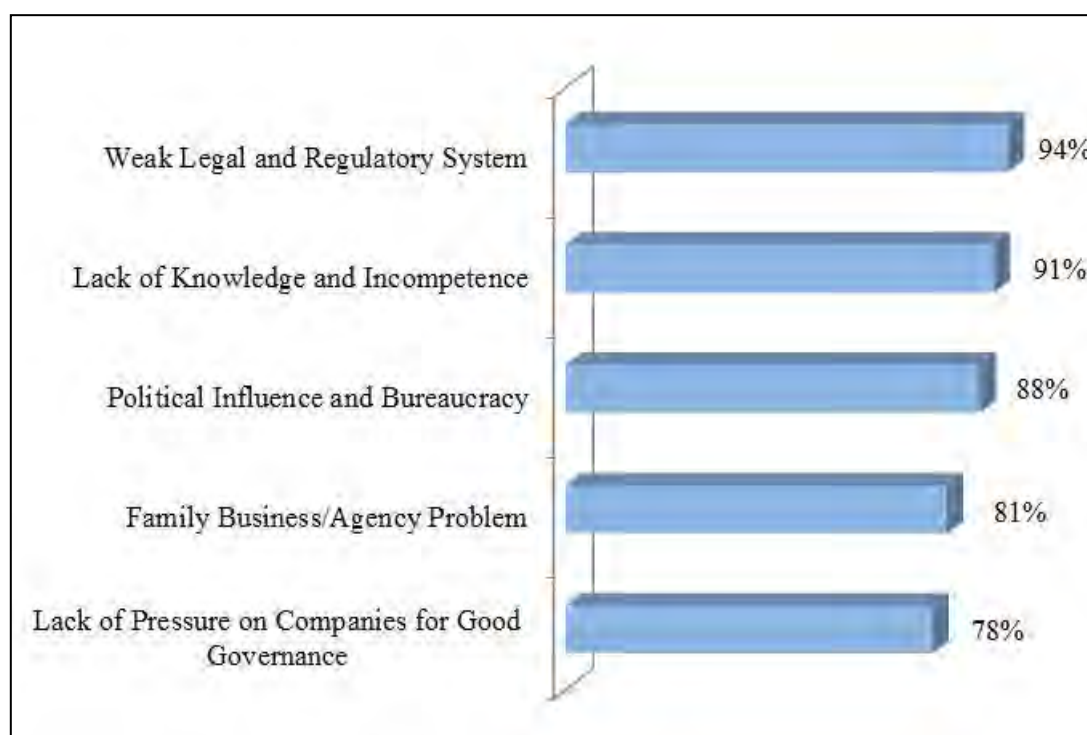
As identified in chapter 5, following the study of Kaler (2002; 2009), Solomon (2007) and others, ten groups of stakeholders were identified for interviewing. These groups are representing the claimants on, or those who have direct influence on the corporate governance practices of companies in Bangladesh, namely, companies (including board members, company secretaries and managers), legal and regulatory bodies, Government and policy makers, employees, academicians, corporate governance rating agencies, consumers, exporters, donor agencies and the BEI (as they are the formulators of the Code).

The chapter is divided into four sections: section 7.2 discusses the barriers related to corporate governance in Bangladesh. Section 7.3 identifies the plausible causes of non-compliance with the provisions of the Code; whilst Section 7.4 deals with the findings related to the appropriateness of the model of corporate governance suggested by the Code. Finally, the last section 7.5, summarizes the overall findings and draws conclusions.

7.2 THE BARRIERS TO GOOD CORPORATE GOVERNANCE IN BANGLADESH

From the analysis of the stakeholders' perceptions five major problems emerged that a company in Bangladesh faces in establishing good governance (see Figure 7.1) - the weak legal and regulatory system (94%); the incompetence and the lack of general knowledge (91%); political system and bureaucracy (88%); domination of family businesses (81%); and finally the lack of pressure on companies (78%). All these problems are discussed in detail in the following sections.

Figure 7.1 Barriers to Establishing Good Governance in Bangladesh



7.2.1 Weak Legal and Regulatory System

Stakeholders' opinions indicate a big gap between the ideal standard and reality in the legal and regulatory system in Bangladesh. There was almost a general agreement among interviewees (94%, see Figure 7.1) that the weak legal and regulatory system is the top most

challenge for companies in Bangladesh. A few interviewees, mostly from corporate sectors, were more critical in criticizing the existing conditions and stated that instead of ensuring good governance, the legal and regulatory bodies are working as an ‘indirect catalyst’ for bad corporate practices. For instance, one of them argued that,

*“Many unethical practices and corruption prevails because our legal system is weak. The system is there but nothing more than a dummy. This weakness in fact inspires others to carry on their illegal activities... because they know they will never be caught”*⁸⁰ (Company B2)

Previous studies on Bangladesh (e.g. Akhtaruddin, 2005; Siddiqui, 2010; Sobhani et al., 2009) also claimed the same. For instance, Mollah (2010) studied the role of the judiciary in ensuring legal accountability of government officials and its impact on governance in the context of Bangladesh and claimed that justice in Bangladesh is not blind and not fair for all. Perhaps that is the reason that 47% of the interviewees of the present study strongly argued that the typical agency problems and other existing problems of Bangladesh would not be able to impact the corporate environment to that extent that it is doing now, if the legal system was strong and effective.

The detailed discussion of the interviewees helped to extend such understanding by finding that there are four major causes behind the inefficiency of the legal and regulatory system of Bangladesh, and these are: the increasing lack of legal professionals; inadequate legal provisions; the lack of implementation and monitoring; and finally the institutionalized corruption.

⁸⁰ Quotations are verbatim from interviewees and therefore have not been corrected for grammatical inconsistencies.

▪ ***Increasing Lack of Legal Professionals***

Bangladesh has lawyers who are nationally and internationally recognized. They are renowned for their professional knowledge and expertise. However, the interviewees, especially from the regulatory bodies opined that there is an increasing lack of this kind of professional.

As indicated in Figure 7.2, interviewees believe that three major reasons are causing the dearth of legal professionals in Bangladesh - the ineffective educational system, the lack of competent academics for legal education, and finally the lack of awareness among legal professionals. The legal education is perceived to be ineffective primarily because of the general education system which fails to produce quality students to enrol in law schools. However, the interviewees from legal bodies strongly argued that the legal education system has deficiencies too. In the absence of any law for publishing books, the institutions are lacking quality law books which often are short of references from Bangladeshi legal structure.

One interviewee from the legal bodies criticized as follows:

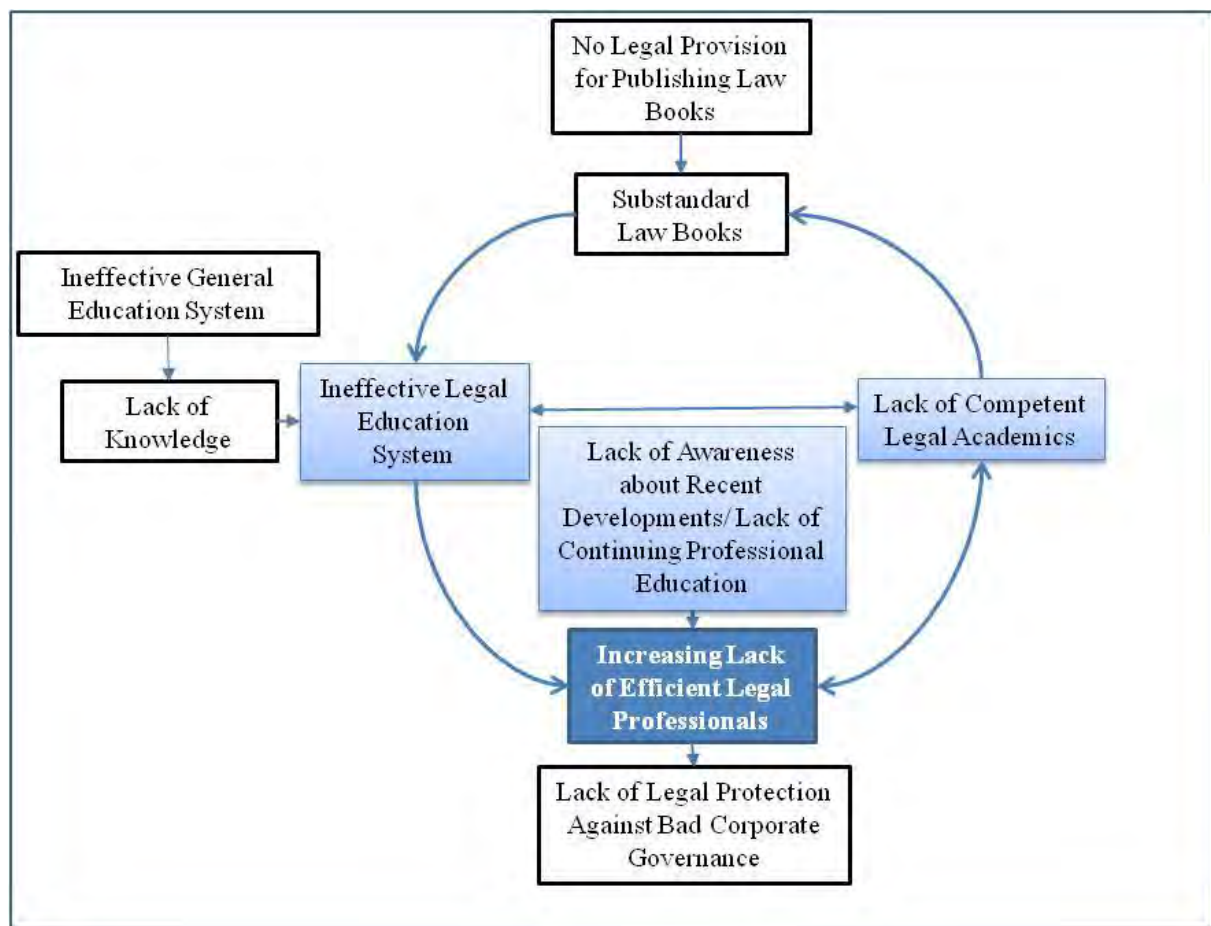
".....the institutions that are teaching law are either insufficient, misleading or at times I find wrong...from time to time, I go to, the legal book shops... and I often hiccups, most of the books you see on commercial markets, are written by students. Yes!!!! They are often written by first year often third year students..."(Regulators-D1)

Whilst another interviewee opined:

"Law books are dated....the references from Bangladesh are inadequate" (Regulators-G2)

Hence, as Figure 7.2 indicates, interviewees believe these substandard law books are failing to provide adequate knowledge among students, and this deficiency continues throughout their professional life, as a legal practitioner and legal academic.

Figure 7.2 Factors Influencing the Increasing Lack of Legal Professionals in Bangladesh



In order to verify this claim, this study has reviewed the Laws of Bangladesh and found that there is actually no legal provision relating to publishing books⁸¹. In addition, a short review

⁸¹ Although The Printing Presses and Publications (Declaration and Registration) Act 1973, includes a provision (Part III: XXIII) that “no minor can be printer, publisher or editor, but that is applicable only in the case of Newspapers”.

of the syllabus⁸² for the LLB honours course for the session 2004-2005 of the Department of Law, University of Dhaka⁸³ reveals that most of the text books are old, published in the year 1974, 1982, 1984⁸⁴. Moreover, instead of focusing on local laws, many books were found emphasizing Indian laws. However, it was not possible to properly cross verify the claim that students are publishing law books. Some authors were found to be the Justice, whilst some are university professors. However, a recent study (Imam, 2010) also claimed the same and indicates the possibility of 'ghost written books' which cannot be ignored either when the ethics of the people of Bangladesh are claimed to be at stake.

Furthermore, the lack of awareness among the legal professionals to learn new knowledge, new technology or new changes of the legal environment is also believed to be responsible for the existing gap. Figure 7.2 indicates that these three major factors have created a vicious circle and jointly contribute to the existing gap. The circle indicates that the substandard law books and lack of competent teachers leads to inadequate knowledge among students, many of whom become teachers for the legal institutions. So very naturally these teachers who are unqualified fail to ensure adequate knowledge for the industry and fail to write quality books. And thus according to the interviewee, this vicious circle is continuously contributing to the growing gap of legal professionals.

To further understand, the researcher reviewed the requirements to obtain a license for practicing law in Bangladesh. The findings suggest that like any other common law country

82 This was found to be the last updated syllabus in the departments' website and is downloadable http://www.univdhaka.edu/DownLoads/Academic_Program/law_llb.pdf (Accessed on June 28, 2011).

83 University of Dhaka has been chosen because this is the top ranking public University with the highest number of enrolment of students every year,

84 There is a possibility that the courses are updated, but the website needs updating.

the graduates need to obtain a licence and the graduates need to pass several examinations and tests to become an advocate⁸⁵. However, if the books which are the major contributor of knowledge are dated and substandard, and there is a lack of awareness amongst legal professionals, then it might be obvious that even a ‘tough system’ of getting a license will fall short in ensuring competent graduates. On top of all, the viva voce that graduates in Bangladesh need to face before getting the certificate also has potential to create scope for unethical or politically influenced examiners to favor their expected candidates, and thus impair a meritocratic system.

Interviewees believe incompetent legal professionals are failing to identify the need for legal provisions to control the existing corporate environment and even failing to implement the existing provisions effectively; and that is how the incompetence of legal professionals becomes a major barrier for ensuring good governance. Fairly typical comments were as follows:

“If they (lawyers) do not know how to utilize the law and apply it on criminals then, how can you expect justice from them? In many occasion I have found our lawyers even confused in interpreting legal provisions.” (Regulators-D2)

⁸⁵After graduation in law from specified universities or after becoming a barrister, “a person is eligible to appear in the examination held by the Bar Council for enrolment of advocates provided he has completed six months pupillage in the chamber of an advocate who has practised as an advocate for not less than seven years and who fulfils in turn other requirements. After passing such a written examination the candidate will have to pass the viva voce examination and also to complete a Bar Vocational Course conducted by the Legal Education and Training Institute set up by the Bar Council for enrolment as an advocate to practise in the subordinate courts of Bangladesh. After completion of two years' practice as an advocate in any subordinate court a person is eligible to be enrolled as an advocate of the High Court Division of the Supreme Court of Bangladesh, unless exemption is granted to him from the requirement of such a practice by the Bangladesh Bar Council and by fulfilment of other requirements. Such a candidate has to appear and pass in the written as well as viva voce examination conducted for such enrolment by the Bar Council” (www.banglapedia.org)

▪ ***Inadequate Legal and Regulatory Provisions***

In Bangladesh, the companies are basically governed by the Companies Act 1994 (based on the Companies Act 1913, as revised in 1994). However, for 64% of the interviewees, the legal provisions are inadequate and ineffective even after reforms. One of the interviewees from the regulatory bodies was involved in the review committee of the amendment process and opined that the amendment was ineffective because of:

- i. the lack of initiatives from the legal authority of the legal committee for the amendment/review process.
- ii. the amendments made by competent junior lawyers were rejected because of a perceived notion that knowledge and expertise grows with age.
- iii. acceptance of some recommendations which are controversial. For example one interviewee reported that,

“...the Act has given the right that unless an accountant resigns or the company holds an extraordinary meeting, the company cannot remove the accountant...I cannot tell you the number of companies that are right today since 1995 being held hostage by the accountants. I had great difficulty in removing one accountant who had completely misaudited 10 years of accounts” (Regulators-D1)

Since there is little amendment, there are many provisions in the Companies Act 1994 which have become inappropriate in today's context. With reference to the punishment mechanism, the interviewees argued that a simple punishment mechanism for gross mistake lacks strength to create pressure on companies to comply with legal provisions. One of the interviewees from the corporate bodies opined that,

“The punishment mechanism is extremely insufficient compared to the crime. ... even today there are provisions of punishing for 500 taka (which is

less than 5 pound) for gross mistake for companies whose monthly turnover may be million dollar or more”(Company-B3)

Interviewees also criticized the SEC Guidelines. As identified in Chapter 4, the SEC Guidelines have no detail on the independent director provisions. Challenging the independence of existing independent directors of Bangladesh, 61% of the interviewees also opined that the provision has been ‘thrown to the market’ without any clear definition of the qualities and credentials to be expected from an independent director; and as a result companies are using the loopholes and appointing ‘anybody’ who will not challenge company decisions. One interviewee from a Financial Institution said:

“...in absence of a clear guideline, many of the companies are asking their friends to be the independent director. They say, ‘you will be the independent director of my company, you will not hold any shares, you will come to the board meeting’. Although it is untold, but it is very clear to that friend that s/he cannot challenge any board decision. That means I am appointing someone I find convenient and comfortable”(Company-A4)

Figure 7.3 Factors Influencing the Inappropriate Legal Provisions in Bangladesh

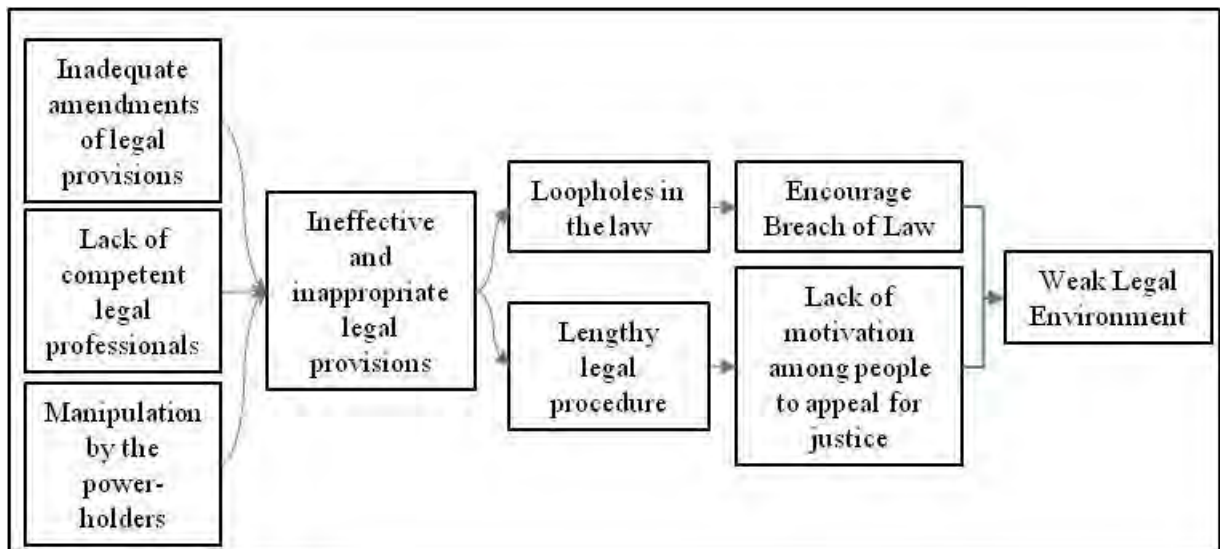


Figure 7.3 identifies that the legal provisions are considered to be inadequate as the political parties who have a nexus with industrialists, influence any legal amendment process for their

own benefit. Even if the nexus is, or was not, responsible for the inadequate provisions, the interviewee fears that they will not allow the amending of anything that threatens their interests. One statement from regulatory bodies is remarkable to note here:

“There is a nexus in between the parliamentarians, the industrialists and Banks. The parliamentarians since early 90s directly and now indirectly are comprised of industrialists. So you have this vicious circle that the Banks who are the entrepreneurs who also run the parliament will never of course make any law, that will hamper, restrict their absolute freedom”(Regulator-D1)

As indicated in Figure 7.3, interviewees believe the inadequacy of legislation is directly or indirectly encouraging bad governance, and its ineffectiveness discourages people from appealing for justice, and thus the overall legal system in Bangladesh is perceived to be weak to ensure good governance.

▪ ***Lack of Implementation of Legal Provisions and Monitoring***

50% of the interviewees believe that the lack of implementation and monitoring is another challenging factor for the country, and argued that even within the existing drawbacks of the legal system, comparatively better governance could be established if the provisions were properly implemented and compliance was duly monitored. Typical comments from the corporate bodies were as follows:

"A law imposition without follow-up without enforcement does not mean anything actually. You will find many companies with worst governance scenario but in their annual reports they state they are complying with governance provision. No one even bother to check their status".
(Company-B5)

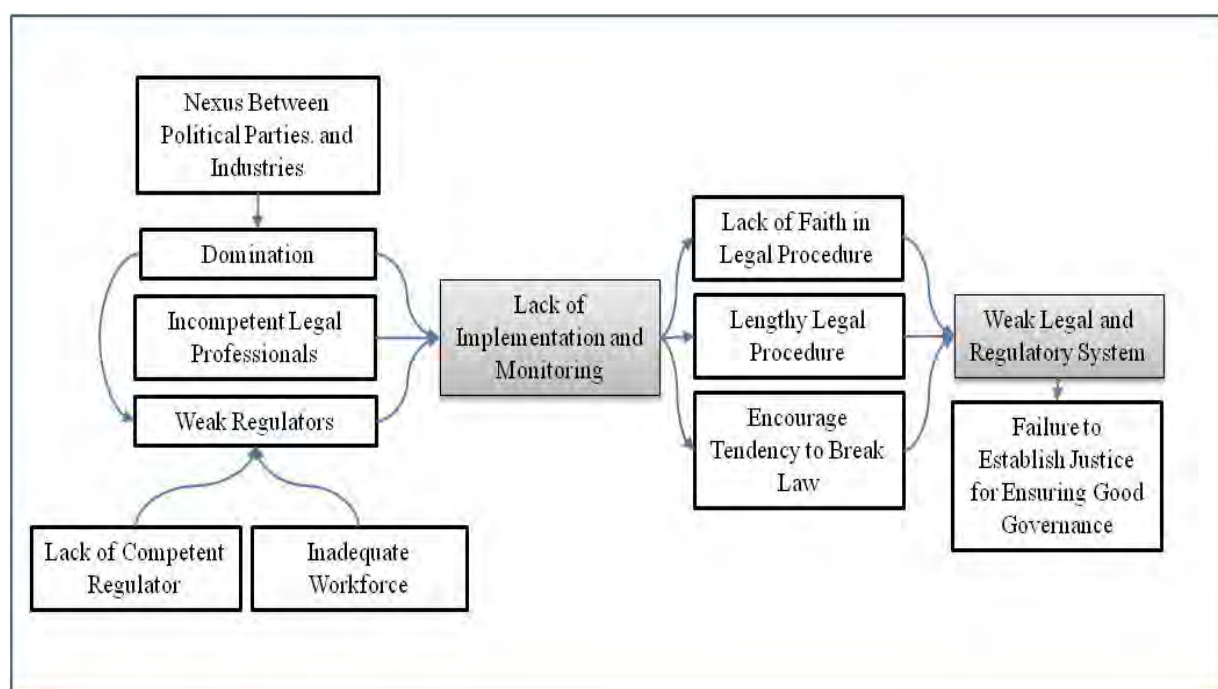
The recent study by Belal and Roberts (2010) also had similar findings on the corporate social reporting related laws of Bangladesh. The authors stated that “Bangladesh has a good number of rules and regulations which are meant to control the social and environmental behaviour of the companies operating in Bangladesh. However, in reality they are routinely

flouted due to lack of enforcement by the relevant agencies”(Belal and Roberts, 2010, p.313). The same is also echoed in the interview results of this study. As indicated in Figure 7.4, the interviewees of this study opined that there are three main reasons why the legal provisions are not properly implemented in Bangladesh:

- i) The domination of the nexus as has been identified earlier, which halt and manipulate the legal implementation process at any level. Interviewees claimed that even the competent professionals often find it difficult to implement justice due to the undue influences of the nexus especially the political parties. However, the question arises, why do the legal professionals allow anybody to manipulate them? The answer might be related to some prior studies on the legal system of Bangladesh. For instance Panday and Mollah(2011), and Islam (2010) observed that commitment to the political parties often makes the legal professionals compromise with their ethics. Perhaps that is the reason why the political parties and the legal professionals have both been accused by the interviewees of the study for manipulating the legal implementation process and amending legal decisions. Even the interviewee who was a Member of Parliament and served as a Minister of Government of Bangladesh also agreed that the legal implementation process will not be able to work properly unless it is independent and made free from the influence of national politics.
- ii) Lack of professionally trained legal practitioners (as has been identified earlier) who often fall short in even interpreting the legal provisions.
- iii) Finally, the weak regulators who often lack knowledge, lack a competence workforce and lack enough legal power to dominate over the nexus and powerful companies. However, considering the impact of weak regulators on the overall governance standard, the interviewees were critical in discussing the issues relating to the regulators of Bangladesh. 45%

of the interviewees claimed that the regulators of the corporate sector have failed to a) confirm trade facilitation, b) develop a comfortable climate for investment, c) ensure improvement in the regulatory environment and d) most importantly, have failed to stop or prosecute the malpractices in the entire corporate sector.

Figure 7.4 Causes Behind, and Consequences of the Lack of Implementation and Monitoring of Legal Provisions in Bangladesh



Whilst 41% of the interviewees strongly criticized the extent to which listed companies are complying with the SEC Guidelines, they opined that in the absence of proper monitoring by the regulators many of the companies are submitting false reports of compliance. For instance, several interviewees stated that although on paper the ownership is separated from management but actually *‘the business is still run by the same old family members’*. Nonetheless, until now no evidence of SEC’s prosecution against such falsification exists.

Weak regulators have also been held responsible for the existing volatile capital market and the poor audit practices in Bangladesh. When the question was asked of the SEC and DSE

(Dhaka Stock Exchange) members, ‘what limits them to perform their roles’, they opined that the SEC should have been properly equipped with qualified and adequate staff, chartered accountants and an adequate budget, and enough legal power to ensure a healthy capital market, but unfortunately it is lacking in all of these. On top of all this, the influence of political power is often stopping them from taking any kind of regulatory action.

However the interviewees from the corporate sectors and stakeholder groups consider that along with these issues, the lack of ethics of the DSE, and SEC members are also responsible for the weak capital market of Bangladesh. They opined that, besides the influences of power holders, some of the employees of the SEC are also responsible for compromising their ethics thus making the market even weaker.

The ICAB, as a primary regulator of the audit practice in Bangladesh, was accused for the poor state of the existing accounting and audit quality. There was almost a general agreement among interviewees that the annual reports of most of the companies are nothing but a formality. Fairly typical comments were:

“...annual reports?!! Oh no!!... the condition is horrible!! ...they would only have the list of directors and probably the memorandum of articles. And the financial statements? Well they may reflect the reality may be not...who knows!!”(Regulator-D5)

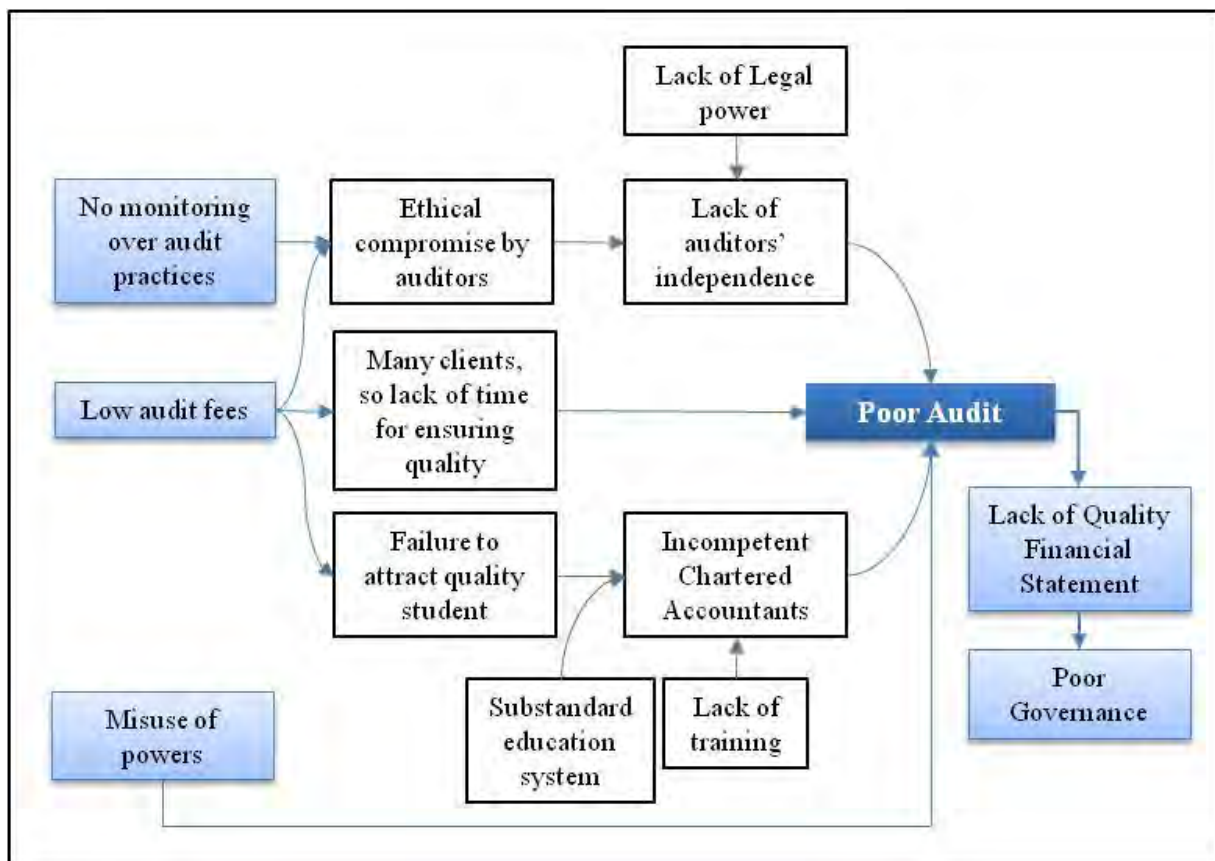
The discussion of the interviewees from ICAB⁸⁶ revealed some major issues relating to the audit environment in Bangladesh, and the findings are presented in Figure 7.5.

Figure 7.5 suggests that the audit quality in Bangladesh is challenged by three major factors: low audit fees; misuse of power by some members of the ICAB; and the lack of monitoring

⁸⁶ICAB has the legal responsibility to monitor audit quality in Bangladesh.

of the ICAB. Whilst earlier studies (Habib and Islam, 2007; Imam et al., 2001; Kabir et al., 2011) indicated that the audit fees are extremely poor in Bangladesh, the interviewees of the present study identified its impact on the governance standards. According to them the low audit fees are creating fierce competition among audit firms which often forces them to compromise their ethics and independence. Often, for survival, audit firms need to be engaged with many companies, at the cost of the audit quality. Moreover, as an interviewee from ICAB highlights, due to low audit fees, the Institute finds it hard to attract talented students to join the audit profession.

Figure 7.5 Factors Influencing the Quality of the Audit Report



Members of the ICAB also report, as the Figure 7.5 indicates that the quality auditor is further challenged by the ineffective education system of the ICAB. Whereas even in

developed countries, there is an increasing number of studies (e.g. Crawford et al., 2011a; Crawford et al., 2011b; Helliard et al., 2002; Helliard et al., 2000; Lucas, 1997) stressing on strategizing the audit education system, enhancing the learning process and most importantly emphasizing the need of involving students in real audit problems, the interviewees of the study opined that the audit education system so far has not been able to orient the audit student about strategies to deal with the ‘tricky’ audit mechanism of Bangladesh, Thus their theoretical knowledge is failing to help the apprentice to understand how to behave in the audit environment of Bangladesh. Moreover they also opined that once they have graduated, the incompetence of the auditors is further claimed to be further exaggerated due to lack of training facilities in Bangladesh.

While reviewing the country’s training facilities, the study found that there are some institutes including ICMA which organizes training programs for auditors such as the Bangladesh Institute of Management (BIM), Financial Management Academy (FIMA), but as the interviewees argued, most of these facilities are available only for the members of the institutes. Furthermore, the interviewees also opined that sometimes the power-holders of the ICAB often misuse/abuse their power to manipulate audit practices, whilst a few of them opined that the ICAB or ICMAB could do much better if they have some kind of monitor over their performance. Thus, as indicated in Figure 7.5, the interviewers believe, due to lack of quality audit bad governance in corporate sector remains ignored, overlooked and intentionally or unintentionally uncovered.

Overall, the interviewees raised concerns, as they believe the absence of timely legal action and strong law enforcement agencies is encouraging the wrong-doers to continue their bad practices. For instance, one interviewee from the regulatory bodies opined:

“Why would a company bother to comply with provisions when things can be achieved more easily by bypassing laws and in illegal manner? Why would they bother to be ethical? Is there any evidence that the justice was there against those big companies who are known for smuggling, manipulating and cheating?” (Regulators-D2)

▪ ***Institutionalized Corruption***

It has already been discussed how the interviewees feel the involvement with politics makes legal professionals corrupt. However, that is not the only way corruption occurs among legal professionals. It emerges from the opinion of 28% of the interviewees that the ‘inbuilt culture’ of corruption among some legal professionals sometimes makes it frustrating for companies to deal with the judiciary and law enforcement agencies. One interviewee from MNC thus opined that

“I know a businessman who needs to bribe the political parties, his lawyers and the bureaucratic system to get a business. So how can the same legal system who is demanding you to be corrupt, asking to be honest at the same time? The same law which is asking money from them in no way can ask them (companies) to be honest” (Company-C1)

By referring to the term as an ‘inbuilt culture of corruption’ the interviewees indicated that corruption has become institutionalised not only in legal profession, but also among general people. However, interviewees clarified from where the culture has been inherited. They believe, people are not born as corrupt but rather the system of a country sometimes makes them bound to follow corruption, so is the case of Bangladesh. They believe that the poor pay structure of the government officials contributes significantly in building up such culture. The salary scale of the government officials, and the legal professionals, regulatory bodies of Bangladesh is alarmingly poor. Hence, the interviewees believe that this forces a person to accept bribes, and do unlawful activities for an extra income to support their family.

One of the interviewees from academia also argued that the length of legal action sometimes depends on the amount of bribes provided to the lawyers and to the officer of the lawyer's office. It is interesting to note that the interviewees believe that this bribe has infused the corruption and today it has become an inherited culture among the citizens of the country in general. Hence the interviewees claimed corruption is endemic and directly or indirectly all the stakeholders are contributing to the systemic corruption in Bangladesh. For instance, when it was asked, 'what happens when the pay rises for these officials?' The interviewees claimed, '*it does not change the scenario as generally people have become habituated in doing unethical activities*'. Interviewees also argued that people are somehow encouraging the culture, as it sometimes helps them to get unfair privileges.

Accordingly, law implications are amended to favour particular groups; the companies which are known for bad governance survive because, according to the interviewees they are protected by law enforcement agencies via political patronage; and most importantly, the interviewees raised concerns that the corruption in general is making it difficult to establish the sense of ethics for the future generations.

Table 7.1 summarizes the causes behind, and consequences of the weak legal and regulatory system in Bangladesh.

7.2.2 Lack of Knowledge and Incompetence

91% of the interviewees opined that it is not only the legal profession, rather any kind of initiative to improve governance standards is primarily resisted due to the lack of knowledge and competence amongst top executive, middle level managers and general workforce. Fairly typical comments were:

“It is not to say that the entire population is incompetent. No, there are of competent people for whom the economy of Bangladesh has got a respectable structure. However the number of such competent people is few compare to the need” (Company-B1)

“Competent professionals could do much better if they could get support of the competent workforce...lack of knowledge is perhaps rooted with our faulty education system”.(Company-A2)

Table 7.1 Summary of the Problems Related to the Legal and Regulatory System of Bangladesh

		Causes	Consequences
1	Increasing Lack of Legal Professionals and Regulators	Substandard education system; The lack of competent teachers; The lack of awareness among legal professionals and regulators to learn	Inadequate legal provisions; Incompetent regulators; Delay in legal process; Failure to establish justice
2	Lack of Implementation of Legal Provisions and Monitoring	The domination of ‘power holders’; The lack of knowledge among lawyers and law enforcement agencies; The inadequate workforce; Corruption; The weak regulators.	Scope for further corruption; noncompliance with legal provisions; Lack of faith among people on Laws and Regulation
3	Inadequate Legal and Regulatory Provisions	The lack of knowledgeable legal professionals; The ineffective amendments of the legal provisions; The manipulation of legal provisions by political parties and power holders.	Scope for further corruption; lengthen the legal process; Lack of motivation among people for legal remedy; Makes regulatory bodies weak
4	Culture of Corruption among legal professionals and regulators	Lack of ethics among political members; Inbuilt culture of corruption among general people including the legal professionals; Poor pay structure of government officials	Culture of bribes; Manipulation over legal implementation; Delay the implementation process of legal process
5	Weak Regulators and Law Enforcement Agencies	Regulators lack knowledge, competence, ethics; face undue influences of political parties	Volatile Stock Market; Box-Ticking Compliance; Poor Audit (auditors fail to produce quality auditor, fail to express fair opinions, fail to charge companies for fraudulent and companies lack willingness for quality audit).

Their further discussion indicates that the lack of knowledge and competence is primarily due to the deficiencies of the general education system of Bangladesh. As seen in Figure 7.6,

inadequate course curriculum in educational institutions, an ineffective learning process, lack of motivated and competent faculty members, lack of resources, commercial mentality of the educational institutes, lack of quality control over the educational institutes, and national politics and are the seven major issues that are perceived to have a significant impact on the existing gap of knowledge and competence among the people of Bangladesh.

Criticizing existing university course-curricula, the interviewees stated that although the modules are compatible with international standards, they lack enough reference from the Bangladesh perspective and the needs of the country. For instance, one of the interviewees from an MNC said:

“It is not that we expect the new-comers to know everything, but they should at least have the basic ideas and some practical knowledge of working in Bangladeshi environment”(Company-C3)

While talking about his own experience, one interviewee also said:

“I learned many courses in my university life, ..but I wish I could learn some courses on logistics management, I wish I learned time management or something related to manage a firm in a vulnerable economy.”(Employee-E1)

To cross-verify their claim, the researcher reviewed the course curriculum of some public and private universities⁸⁷ and unfortunately found that the number of courses/modules relating to Bangladesh is actually insignificant. During the follow-up sessions the discussants revealed a triangular influence behind the failure to develop an effective course-curriculum. Figure 7.7 shows the triangular influence, with the main reasons being the students' interest in courses that have market demand, a lack of awareness amongst corporate bodies of how to

⁸⁷Five university course materials (only for Business Studies, as the interviewees indicated on the business graduates specifically) were reviewed. The five universities include both public and private universities.

communicate their needs, and a lack of interest amongst universities to understand the market needs and their attitude for commercial gain.

Figure 7.6 Causes Behind the Lack of Knowledge and Incompetence in Bangladesh

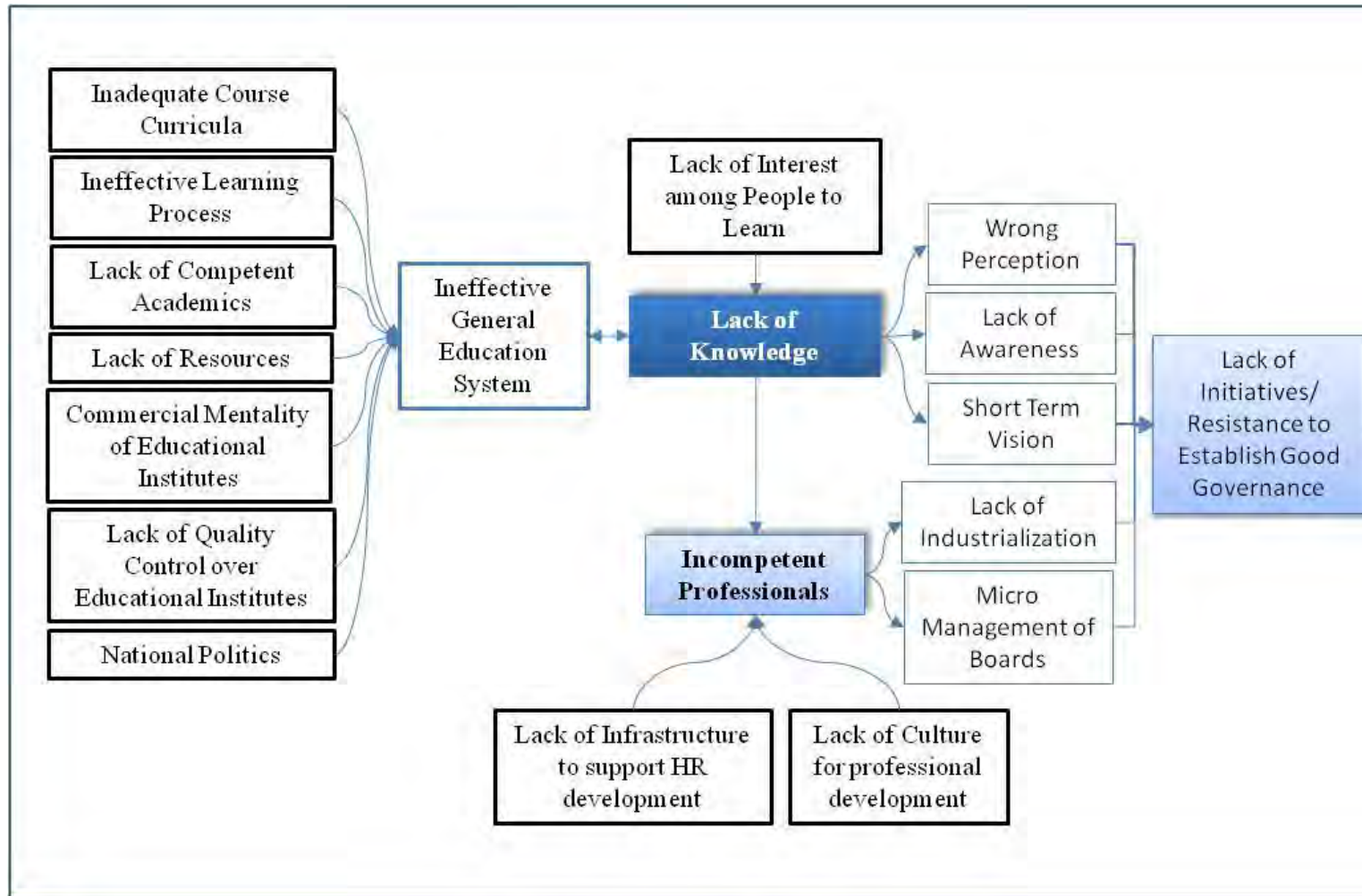
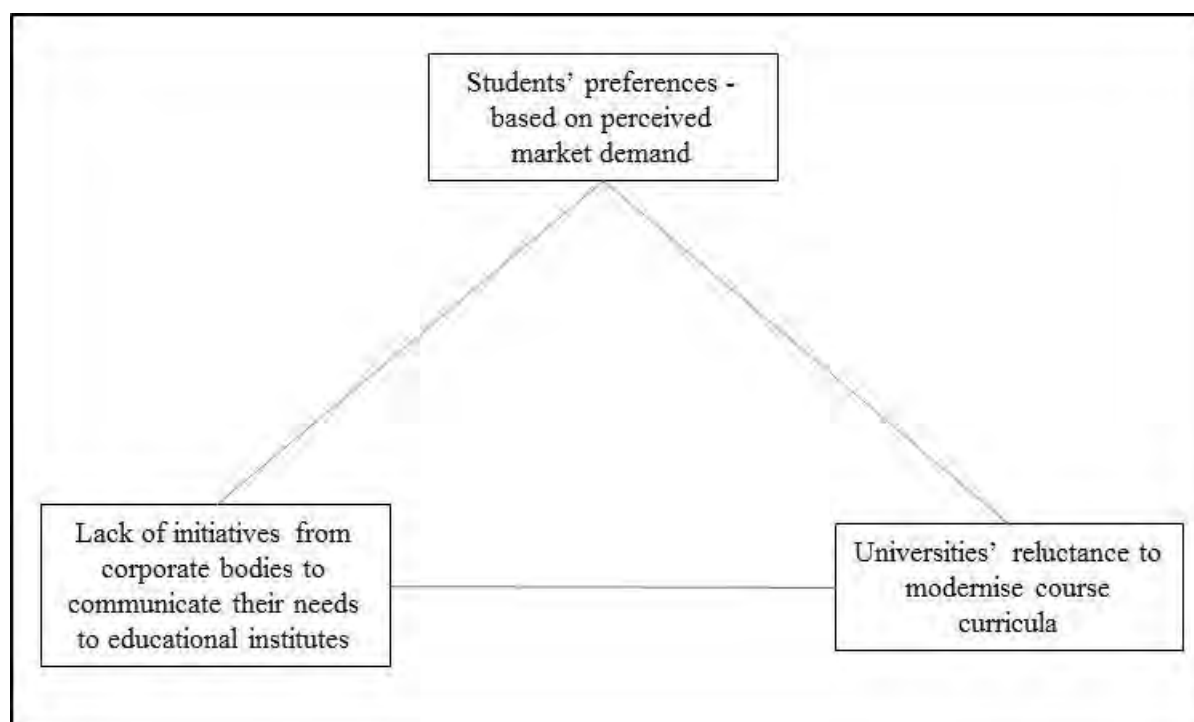


Figure 7.7 Triangular Influences on the Standard of Course Curricula at Universities in Bangladesh



This triangular-influence indicates that the students lack proper mentoring in choosing a course that fits with their capabilities and potential, thus they are misguided by the ‘so called market need’ i.e. whatever they, and their friends think is marketable in the corporate world. On the other hand, instead of designing course curricula according to the national and international market, many of the universities are ‘selling’ the course that they are already prepared with and persuade the student to take those. Moreover, as they indicated, there is no urge from the universities or corporate bodies to develop a network to understand each other’s need and develop a course curriculum that not only fits the domestic needs but also ensures compatibility with international standards.

ii) 12% of the interviewees opined that even with the existing curricula at the university level, students were supposed to have fundamental knowledge to work in the corporate world, but the learning process has some deficiencies too. While showing respect for the national

language the interviewees argued that the method of communication in the educational institutes should be in English so that students are confident enough to communicate. Moreover, the learning process lacks practical orientation to the business problems which could make the students responsive enough to handle different practical situation.

Alam (2009) and Choudhury (2011) raised similar concerns reporting that there is a set of questions known as a ‘question bank’ or ‘Test papers’. These test papers are commercially published and sold; and the school teachers also take ‘extra classes’ in solving those ‘Test paper’ questions. The questions from it are repeated often within one or the next year. So if one learns the question sets for a few years he/she is certain to pass and even possibly achieve top marks. One interviewee focused on the problem from the evaluation point of view too. As he said, it is not possible for a single teacher to mark ‘*1000 scripts (per course), within a short time*’. Hence often they grade the scripts by just scanning it.

11% of the interviewees believe that the lack of competent academics is also hampering the quality of education. They argued that the academics are the ones who need to update themselves on recent developments on a continuous basis, and they need to be research scholars. However, the interviewee from academia stated that, compared to other professions in Bangladesh, the teachers are poorly paid and lack support from institutes or the Government for funding for research. As he said:

“At present, a teacher on joining as lecturer in public universities, receives around taka 18,000 (which is less than 150 GBP per month) and as junior they will be lucky if they can arrange some funds for their research” (Academics-G1)

As a consequence, as the interviewee said, the teachers are to some extent bound to concentrate on ‘part-time teaching’ in private universities, which is paying them an attractive amount. Thus the students of public universities in many cases are deprived, as the teachers

have less time for them. However, it does not mean that private university students are gaining much from these competent teachers because, as the interviewee said, in private universities the part-time teachers are obligated to follow the pre-set rules of the universities which do not always contribute to knowledge production, and give more emphasis to profit generation. Moreover these teachers are more liberal on grading the students as in most of the cases the repeating or assigning of a course to a particular teacher (in the case of guest i.e. part time teachers) depends on the students' evaluation, and the teachers who are more liberal on grading and 'more relaxed on teaching' are usually popular among students.

The commercial mentality of universities, as mentioned earlier is also found to be responsible for the low quality education in Bangladesh. In explaining commercial mentality', the interviewees said that the mushrooming growth of universities occurred in the country since the introduction of the Private Universities Act in 1992. This opened up new opportunities for private entrepreneurs, philanthropists and retired bureaucrats to step into this 'business'. Consequently, private schools and universities have shot up rapidly without even considering the capacity building, adequate teaching staff, infrastructure and other facilities that a university will need. And obviously the quality of education has been compromised for the sake of business. One interviewee from the regulatory body has shed light on this 'commercial business in education':

"I have been interviewing some graduates these days that are graduated from universities. Those graduates, are having their MBA degrees with impressive grades but they know nothing..... fact is students don't have to worry if the semester fees are paid duly ...certificate is then almost guranteed. So the reality is the qualification of students depends on whether the parents have timely deposited the tuition fees"(Regulator-D3)

The interviewees argued that many of the educational institutes are suffering from a lack of resources like well-equipped classrooms with teaching aids, laboratories, well maintained cafeteria, auditorium, libraries with recent journals books, and other publications, IT support and other infrastructural facilities.

However, national politics seems to have a significant impact on the quality of education in Bangladesh. The interviewees opined that a significant number of faculty members are involved in national politics and this is being manifested in grouping, lobbying, and even leading political moves like meetings and processions. To do that they need the support from the students, and unfortunately they trade it with undue favour to students in admissions, grading, research and granting scholarships. Hence, Dove (1983) argued that if obtaining undue privilege through politics starts from the teachers, then it is illogical to blame students for doing the same thing. Moreover, the interviewees also reported that being involved in politics many teachers are not able to take classes regularly. Even when they take classes they are not well prepared, so at the end, students are being ‘cheated’ out of their education.

In addition, national politics is also detrimental to maintaining a peaceful learning atmosphere of study. Bangladesh has a long history of student politics. Many political moves including the Non-Cooperation Movement in 1969 and the War of Independence in 1971 were strengthened by students involved in national politics. The interviewees argue that realizing the power of students, the government and the opposition parties use them as trump card by halting classes, and creating chaos on the campus. Hence, the interviewees feel that unless the students are detached from politics the entire scenario would not change much.

Finally, the interviewees stated that there is inadequate monitoring over the quality of the educational institutions in Bangladesh. It has been mentioned earlier that there is a

‘mushrooming growth’ of schools and universities in the country, but as usual there is lack of control on its quality. The interviewees claimed that neither the government nor the public is concerned enough about this quality issue in the educational institutions. On behalf of the University Grants Commission (UGC), an agency of the Ministry of Education (MOE) supervises and monitors all private universities, but pointing to the existing standard of education, the interviewees questioned the effectiveness of UGC too.

The interviewees also believe that the culture of ‘not learning’ is also responsible for the existing gap of knowledge. According to them, the people of Bangladesh are basically happy with what they have, and in general, they have lack of interest in learning new things. Moreover, there is a perceived notion that knowledge is gained only from academic books and syllabus, ‘online facilities are only for social networking’. So, the interviewees believe that the gap between ‘world knowledge pool’ and the knowledge among the people of Bangladesh is increasing every day.

86% of the interviewees opined that lack of knowledge, lack of skill and the flawed education system are the primary causes behind the existing lack of a competent workforce. In addition, 25% of the interviewees argued that the existing incompetence could be reduced through training, but the country lacks enough infrastructures to support training facilities. Training seems to be further challenged by the mindset of people. A significant number of interviewees opined that instead of capacity building, the existing culture perceives training as a formality, reward, and retreat from work. Two particular comments are noteworthy:

“Training in our culture is perceived as ‘opportunity to travel abroad’. It is hard to manage top management for training if it is within the country. But you organize it abroad, people are enthusiastic, and take their family too as if they are on holiday. Even if you organize a training program

outside the country that is not always effective...because their concentration is more on tourist spots”(Company-B2)

“...I know about some incidents where people were sent to overseas training because their managers could not manage their deserved promotion or expected pay rise. Therefore they chose expensive training to compensate Trainees, most of the time, do not expect to learn anything from training and same is true for their bosses. It has merely become a formality” (Company-B5)

Table 7.2 summarizes the way the lack of knowledge and incompetence poses challenges to the good governance initiatives in Bangladesh.

Table 7.2 Summary of the Problems Relating to the Lack of Knowledge and Incompetence in Bangladesh

		Causes	Consequences
1	Lack of Knowledge	Ineffective education system; Lack of interest among people to learn	Lack of long term vision; lack of awareness among stakeholder groups; wrong perception; Lack of industrialization; Lack of competent workforce, professionals,
2	Lack of Competence	Lack of knowledge; Lack of interest among people to learn; Lack of infrastructure; Culture and mind-set of people	Failure of companies to cope with changing nature of the global need; micro management by board members; growing gap of professionals; lack of industrialization

7.2.3 Political Influence and Bureaucracy

Confrontational politics, some corrupted politicians, and politicized bureaucrats have created a substantial impediment to good governance in Bangladesh, stated 88% of the interviewees of this study. Figure 7.8 explains the ways in which the interviewees perceive that politics, government and bureaucracy are instigating corruption and infusing bad governance in the corporate sector.

Figure 7.8 indicates that the manipulation of the legal system and the disruption of the education environment which have been discussed in earlier sections, are just two impacts among many. It emerges from the discussion of the interviewees that the confrontational politics has a negative impact on the investment climate of the country. According to them, the political parties are always in disagreement with each other; instead of leading the country for development, most of them are in a war of proving each other wrong. As a consequence, massive strikes and internal and external conspiracy have become a regular phenomenon. Ultimately the impact is severe on the corporate sector. The companies find it an enormous struggle to meet their deadlines for transactions. Given all this, and despite the huge potential of the country, institutional investors hesitate to invest in the country due to this instability. A recent study on Bangladesh Huque (2011) also claimed that the corruption and adversarial relationships between the two major political parties have become one of the major barriers in the way of an effective system of accountability, whilst Azmat and Coghill (2010) argued that institutional investors' pressure for good governance could make a significant difference in Bangladesh, but unfortunately the unstable political clout is making it more challenging.

Discussion in the earlier sections highlighted the way political parties are manipulating the corporate environment for their benefit. However, this nexus gets a new dimension when the interviewees from the government bodies refused to accept the claim that the nexus was formed solely for the benefit of political parties. They argued that these corporate houses bribe the political parties for the greed for power, for bypassing laws, or to get undue advantages and especially for their business growth. Hence the interviewees from government bodies strongly opined that it is illogical to blame only the political members while both are responsible for this 'selfish nexus'. During the follow up discussion, admitting

the counter claim of the political members the interviewee from the government bodies also claimed that

“Yes, I am with this statement but only partially. There are both -politics in the business and business in the politics. Sometimes businesses grow with support from politicians and sometimes politicians grow with support from business”.(Followup discussant)

Many newspaper articles (The Daily Star, 2010a; 2010b) are publicly debating the argument that the political parties and the companies are depending on each other, while one needs funds to run political activities, the other needs undue privileges to run the company, and a nexus is formed out of this selfish greed from each side. This is reflected from one of the comments of the interviewees too.

“It is the utter greediness and the corporate economic interest that play a significant role in the whole manipulation of the corporate governance policies. The political interference argument is the front line cause. The underlying cause, in my view, is the selfish economic greed and interest of the corporations that drive them to the power house”. (Government-F2)

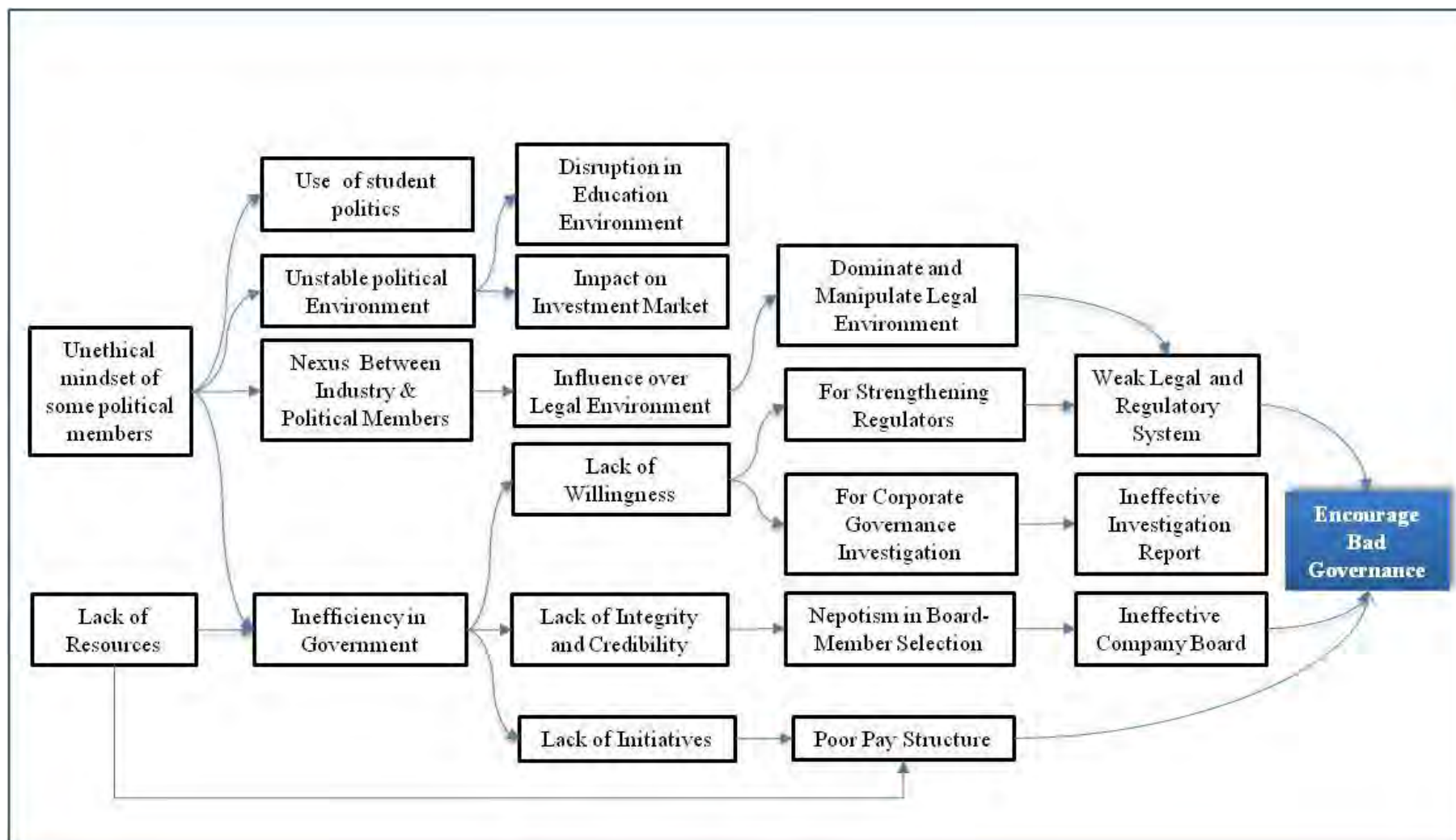
By studying the accountability and governance in Bangladesh Huque (2011, p.70)claimed that *“the Parliament has never been fully effective in the sense that there has never been an effective opposition in the legislature. It has either been dominated by an overwhelming majority, or boycotted by the opposition who did not participate in the proceedings”*. 52% of the interviewees added to such claim and argued that for almost a decade or more, Parliament has mostly been comprised of members who are ‘a businessman first then a politician’. Further clarification from the interviewees indicates that their objection is not of politicians for being in politics, instead the allegation is of those politicians only who are prioritizing their business over political or national interests. For instance, one of the interviewees from the legal bodies explained as follows:

“The history of Bangladesh is enriched with the evidence of the contribution of politicians...Bangladesh is historically bonded with those political leaders who sacrificed their life, family and everything to develop a prosperous Bangladesh. Many of those politicians had their business too, but they used to do business to support their group, support the community....it is our bad luck. Those politicians are becoming a history and overshadowed with the emerging groups who have already destroyed the image and are joining to political groups to hold power and do business.”(Regulator-D2)

The interviewees further argued that whilst the Government of Bangladesh deserve appreciation for some initiatives to reform the corporate structure, they are working as a barrier by protecting some business defaulters. For instance, taking the case of the share market scandal in 1996, interviewees strongly argued that the names of the defaulters were not disclosed because they were sheltered by Government. A comment is worthy to quote here.

“The corporate criminals who brought the innocent people on street have been identified by the newspapers, media, general public...but we didn’t see such transparency in our Government. The Government keeps its mouth shut when they know they are involved in the story...and will make sure others also do the same” (Company-B3)

Figure 7.8 Political and Bureaucratic Influences on the Corporate Sector of Bangladesh.



As Figure 7.8 indicates, political parties have also been held responsible for nepotism. The interviewees claim that some companies suffer when the Government unduly appoints its representatives on to company board especially in the case of State-owned enterprises (SOEs). These representatives are argued to often lack the competence to ensure competitiveness for that particular company.

The interviewees further argued that the red-tape bureaucracy is another challenge for establishing good governance in Bangladesh. Similar claims were found in the studies of Chowdhury (2003) and Jamil(2007) who argued that the bureaucratic ills are embedded in the attitudes among the bureaucrats of Bangladesh, and the corruption is strongly infused in the system due to their activities.

However, some interviewees stated that the lack of resources and the economic constraints also sometimes stop the Government from taking some major initiatives for improving corporate governance standards. For instance, as one of the interviewees from academia argued, the poor pay structure of the government officials is one reason for bad governance, but even if the government wanted it cannot ensure a reasonably fair salary package for them, it is not their unwillingness, but the inability of the economy to afford the cost.

Overall, as the Figure 7.8 indicates, the interviewees believe, the undue influence of political parties and bureaucrats are directly or indirectly encouraging corruption and encouraging bad governance.

The findings relating to politics and bureaucracy in Bangladesh are summarized in Table 7.3.

Table 7.3 Summary of the Problems Related to the Political Influence and Bureaucracy in Bangladesh

		Causes	Consequences
1	Political Parties	Unethical mindset	Weak regulators; Disruption in education system; lack of FDI; Ineffective government; Encourage corruption,
2	Bureaucrats	Unethical mindset	Ineffective government; Prolonged business process; Encourage corruption
3	Government	Lack of willingness and initiatives to empower regulators, ensure quality investigation on corruption; nepotism, lack of resources	Weak regulators, Encourage corruption; ineffective corporate board; poor pay structure,

7.2.4 Family Businesses and Agency Problems

Some family-owned companies of Bangladesh are rapidly developing a corporate culture, growing as corporate entities, whilst others are still owner-driven and encapsulated with stereotypical mentality to manage a business. Perhaps that is the reason the interviewees of this study have a mixed feeling about the corporate governance structure of family firms in Bangladesh.

81% of the interviewees argued that there are some family-owned companies in Bangladesh which deserve appreciation for effectively competing in the global market, but for most of them establishing good governance is a big challenge. Whilst earlier research on Bangladesh (Farooque et al., 2007a; 2007b; Imam and Malik, 2007; Siddiqui, 2010; Uddin and Choudhury, 2008) concluded with a deep concern that the existing corporate features of the family governed firms are likely to create opportunities for expropriating wealth from

minority shareholders, and the findings of this research suggest that their concerns are rather the reality.

The findings indicate that there are four major problems associated with family businesses- CEO duality, the rubber stamping board, management without authority and finally nepotism (see Figure 7.9).

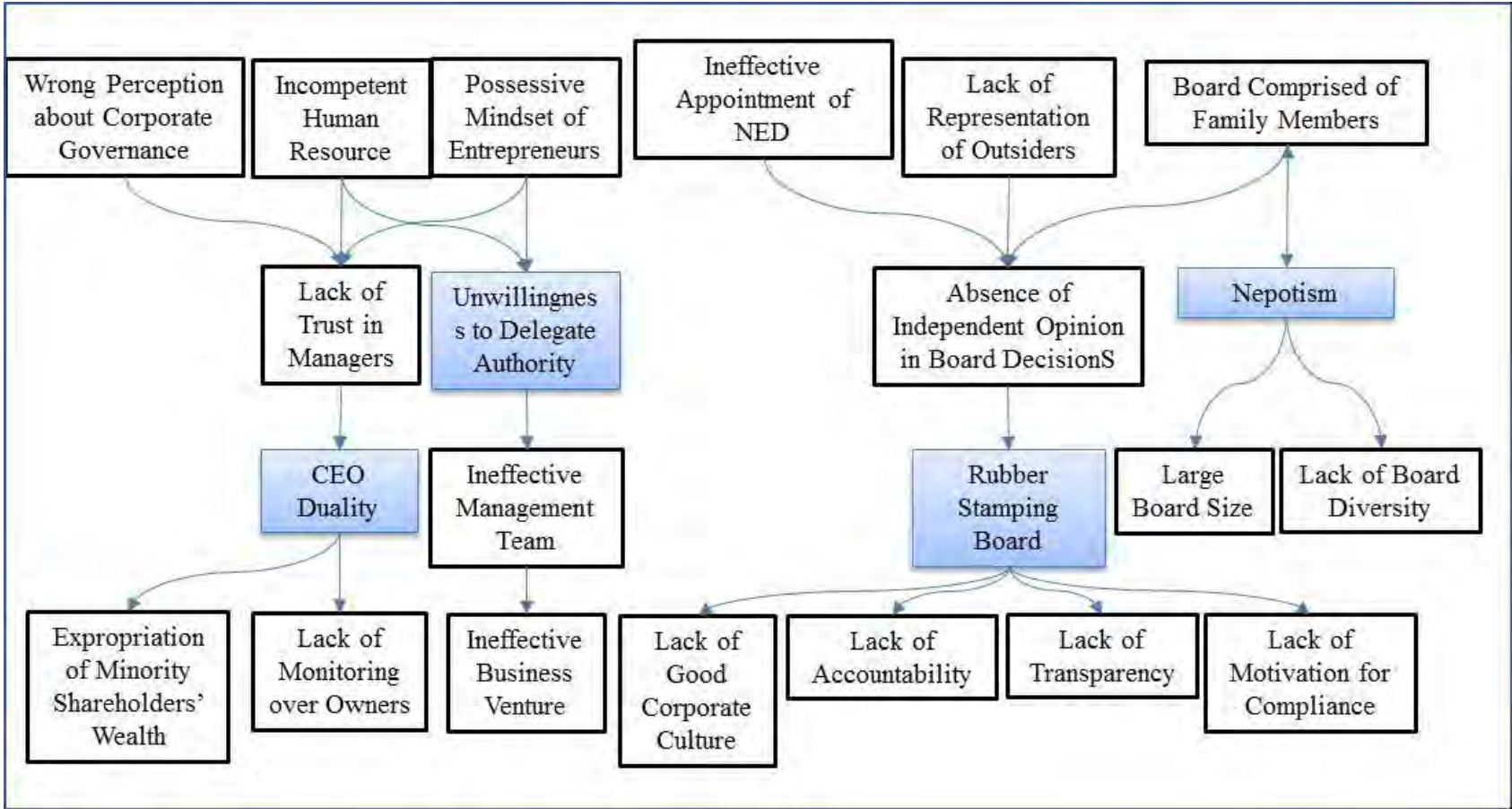
a. CEO duality

Interviewees argue that listed companies which are supposed to separate their ownership from management, they are complying on paper only. One interviewee from the listed companies reported,

“...will find many companies where CEO, Chairman are the same person, it is a ‘one man show’, but their compliance statement will say they are separated. Even where it is separated, but from the back stage decision is made by the founder or one single man” (Company-B3)

78% of the interviewees opined that there are agency conflicts between the owners and the outsiders/minority shareholders. They argued that power is concentrated within family members where it is challenging for independent directors to practice their independence.

Figure 7.9 Problems Relating to Family Businesses



Ownership is not yet separated because of the wrong perception and stereotype mindset of owners, as stated by a significant number of interviewees, while the interviewee from a family business and two others from regulatory bodies argued that the incompetence of managers has failed to gain the trust of owners to 'hand over his/her business'. A feeling of inheritance and a feeling of possessiveness are resisting themselves from being separated from their business. Fairly typical comments were as follows:

"...business community of today is still leaded by the first generation. We did not inherit any big companies, from our earlier dictators or rulers. Since our independence, the business which have survived and have become bigger are almost all family dominated. They have the inherited dominating mindset on business. It is not surprising that they will not allow someone else to come and control their business which is their life, almost like their children"(Company-A1)

The interviewee who is playing the roles of both Chairman and CEO reported that,

"Why should I leave my business to someone who is going to ruin my business? Who guarantees that my CEO will have the same competency as I have, even he has, how can you guarantee that he will have the same feeling for my business as I have? It will not take even a night for them to steal whatever I have gathered for ages?" (Exporter-J1)

However, it was interesting to find that although interviewees agreed that CEO duality is one of the reasons for bad governance in many of the family businesses, a significant number of interviewees also opined that at this moment, restricting CEO duality may not ensure better governance either. In the absence of adequate competent professionals, the interviewees believed that entrepreneurs will hesitate to split the roles, and thus any pressure for compliance is very likely to end up with only mock/cosmetic compliance. Moreover, a significant number of interviewees also argued that in the absence of competent and ethical professionals, compliance with provisions against CEO duality may pose a risk on companies'

survival. Hence, they argued that entrepreneurs must be supported by competent professionals before they can be expected to separate the two roles.

b. Rubber Stamping Board:

Many of the interviewees have strongly criticized the effectiveness of the boards of family owned companies. According to them, the lack of independence has made the board of family businesses nothing but a rubber stamp. They claimed that in many family owned companies, the board composition neither complies with the Companies Act 1994⁸⁸ nor with the SEC Guidelines⁸⁹. In most of the cases, the boards are comprised of mostly family members. The power is concentrated within family members. In total, the interviewees claim that the boards' decisions are actually the decisions of the family or families made at their 'dinner time' which are placed on the board just for legal formalities. In the absence of adequate provision, the 'purposeful appointment' of independent directors has also failed to ensure a check and balance mechanism especially in the case of board decisions. One comment of an interviewee is noteworthy to quote here,

“ ...look our SEC has made an effort to control their dominance by making a provision that you must of a certain amount of NED...and so the

⁸⁸According to Section 90(1) of the Companies Act 1994, “every public limited company, and every private company that is a subsidiary of a public limited company, must have at least three directors representing the shareholders”

⁸⁹According to Section 1.2 of the SEC order “all companies should encourage effective representation of independent non-shareholder directors on their Boards of Directors so that the Board as a group includes core competencies considered relevant in the context of each company. For this purpose, the companies should comply with the following:-

- i. At least one fifth (1/5) of the total number of the company's board of directors should be independent non-shareholder directors;
- ii. The independent non-shareholder directors should be appointed by the elected directors”.

companies did. Overnight they have changed their composition. They board has got new NEDs too...and who are they?...they are the wives of the directors, friends, relative...I mean anybody who will not dare to argue with board decision, or I should rather say family decision!!”(Company-A5)

The minority shareholders, according to the interviewees are neither aware of what is going on in the companies, nor are they strong enough to challenge the companies for unethical activities (if any).

c. Unwillingness to Delegate Authority

Whilst earlier sections indicated that the owners out of their possessive mentality or lack of trust of managers, reject the idea of delegating responsibilities to managers, the interviewees further argued that, it is like a vicious cycle, i.e. the competent managers are also not able to work effectively as they lack enough authority to work, and take independent decisions which could show their competence. For instance, the opinions in favor of owners emerged as follows:

“..when out of trust the authority and power was totally delegated to CEOs in many instances those companies have failed. It may work abroad but from the Bangladesh perspective this is what happening. The reason is that, the CEO’s are failing to take right decisions, since they don’t have stake he is making mistakes in many decisions, there are lapses in many of his decisions...although they are paid highly and are experienced too. Then why do you ask me to delegate power to him? ” (Regulator-D3)

On the other hand, the interviewees representing employees argued,

“...Problem is also with owners, they are not delegating authority. Now If I don’t have enough authority, if I have to say ‘yes’ with all of your decision, and cannot execute mine...then neither my subordinates will listen to me, nor even I will be able to complete a project efficiently. You have to give me reasonable authority at least”(Employee-E2)

While scholars like Wong et al. (2010) Young et al (2008) report that the managers tend to increase the agency costs by favoring the unfavorable ventures of the family members, the

interviewees also added to this claim that lack of authority is discouraging competent people from working in family companies which are causing the owners or the directors to be involved in micro management.

d. Nepotism

The analysis of the interviewees' opinions reveals that all the problems relating to these companies are directly or indirectly linked to kinship. Whilst one interviewee from the regulatory bodies reported that due to nepotism, large board sizes have become a burden for the entire corporate community, interviewees from the corporate bodies stated that it is nepotism that makes family members believe that directorship of the business is an inherited right and they have a free ride with the company.

Interestingly, the same complaint has also been echoed from the opinion of the interviewee who is the founder of a family business. He stated that as a founder he has to accommodate his six brothers as directors regardless of their qualification. However he does not find the same level of sincerity among his brothers for the company. 34% of the interviewees further argued, since these directors did not realize the trouble of transforming a small firm into a company they do not calculate enough before taking any risks as at the end of the day they consider the founder is responsible for all risks and liabilities. In his words,

"..Yes, at one point I realized I am tired. I cannot fire them, nor can make them accountable for their decisions. They are callous in making decisions because they know at the end of the day their brother is there to protect them.....when it is time for profit sharing, they are very aware, but when you ask them about responsibilities, you will get an answer like 'go and ask the chairman, I am just the director'" (Company-C3)

The interviewees opined that nepotism also creates agency costs. For instance one interviewee reported that while accommodating the family members, the family firms are

actually missing the opportunity to hire competent professionals. Whilst, some others claimed, kinship is a major barrier for evaluating the performance of board members. For instance one interviewee argued as follows:

“It is useless to ask the director to evaluate the performance of his dad who is the CEO of the company. So what do you expect from that evaluation?”(Donor-K1)

In order to facilitate a quick review, Table 7.4 summarizes the way family businesses are perceived to be creating barriers for good governance in Bangladesh. Whilst previous studies on Bangladesh (as discussed in Chapter 3) indicated that the domination of family businesses is an issue for the corporate sector because the controlling board members exercise extensive influence on the board decision making process, and manipulate regulations for their personal interest, the overall findings of the present study suggest that the problem remains even after the introduction of the Code and the SEC Guidelines. The study extends the previous understanding by identifying that mere separation of the roles of the CEO and the Chairman may not protect firms from the undue influence of family members, neither the inclusion of NEDs in the board will work as a solution to establish better accountability in family businesses. For ensuring better governance, the findings suggest primarily that entrepreneurs need to understand the risks of CEO duality, to be supported by competent professionals, whilst the NEDs need independence to place their opinions.

Table 7.4 Summary of the Problems Relating to Family Businesses in Bangladesh.

	Causes	Consequences
CEO Duality	Mindset and wrong perception of owners	Information asymmetry, expropriation of minority shareholders' wealth
Rubber Stamping Board	Power concentration, domination of family members	Lack of corporate culture; Company serves the purpose of family mostly; Lack of Accountability; Lack of Motivation to ensure compliance; Lack of transparency
Lack of Authority Delegation	Mindset of controlling shareholders, lack of trust on managers	Incompetent management, owners' involvement in micro management
Nepotism	Kinship	Large board, lack of competent workforce

7.2.5 Lack of Pressure on Companies for Good Governance

78% of the interviewees alleged that in absence of an effective legal system, good governance could be promulgated if the companies in Bangladesh had enough pressure from other sources for better governance standards. For instance, one interviewee stated,

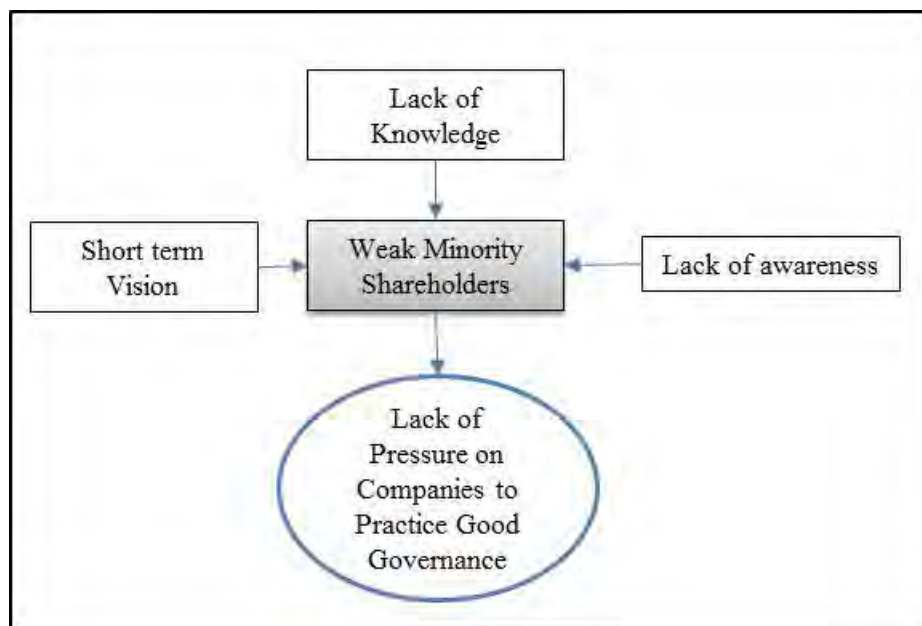
“Even within the existing limitations our RMG sector is complying with almost every single provision set by their international buyers, why? Because they know otherwise their foreign partners will not deal with them”
(Company-B1)

Their discussion reveals there could be five sources which the interviewees think could bring significant changes in the present governance scenario of Bangladesh, and these are: the shareholders, effective AGM (Annual General Meeting), some other stakeholder groups (namely employees, government, consumers, suppliers and so on), threat of takeover, and different other internal and external pressure groups (namely donor agencies, think-tanks, credit rating agencies, different trade associations).

a. *Weak Minority Shareholders*

As presented in Figure 7.10, the interviewees believe there are three major reasons for which the minority shareholders are weak enough to create pressure on companies to practice good governance, and these are: lack of education, lack of awareness about their rights and responsibilities, and short term vision.

Figure 7.10 Causes behind the Weak Shareholder Base in Bangladesh



There was a consensus amongst the interviewees that the minority shareholders are mostly illiterate and unaware of their rights and responsibilities. Fairly typical comments about them were as follows,

“Generally shareholders are ignorant about their rights and responsibilities, they rarely read annual reports before coming to the AGM, and they are least bothered about the company moves. If you go to our capital market, you will see there are people who may be completely illiterate, or can only write his name, they are coming and investing. Now this is not the entire picture, of course there are people who are educated, but I cannot guarantee that they are educated enough to understand their responsibilities as shareholders”
(Company-B5)

Interviewees from the regulatory bodies further argued that the major problem with the educated shareholder groups is with their lack of vision. 48% of the interviewees from corporate and legal bodies stated that in the capital market an interest group prevails among the shareholders, who for their own benefit, spread rumours about share prices, and surprisingly, both educated and uneducated shareholders are depending on that buzz for their investment decisions. Company governance standards play almost no role in their decision process. One comment is noteworthy to quote here,

“We do not calculate what will happen if the existing management changes, we do not consider the past performance of X, Y Z who is going to be the Director and waiting for my vote, we consider what is floating around in the market...people are buying this share, then let's go and buy that too...”(Regulator-D7)

b. Ineffective Annual General Meeting (AGM)

50% of the interviewees strongly criticized the quality of the AGM as a check and balance mechanism for shareholders. According to their claims, in the absence of pressure from powerful shareholders and legal monitoring, AGMs have become a mere formality. While reviewing the Companies Act 1994, it was found that the penalty provision for not appropriately organizing an AGM is old and ineffectual enough to consider it as a punishment. According to the provision⁹⁰, a defaulting company may be fined up to 10,000 taka (equivalent to £80 GBP approx.). Hence the interviewees criticized that this amount fails to outweigh the cost of organizing an AGM. The interviewees invariably responded that the shareholders are reluctant to attend the AGM because they do not find it worth in terms of

⁹⁰Companies Act 1994, Part (iv) 82. “Penalty for default in complying with section 81--If default is made in holding a meeting of the company in accordance with sub- section (1) of section 81, or in complying with any directions of the Court under sub-section (2) thereof, the company and every officer of the company who is in default, shall be punishable with fine which may extend to ten thousand taka and in case of a continuing default, with a further fine which may extend to two hundred fifty taka for every day after the first day during which such default continues”.

their time and energy. However, there is still a group of shareholders who participate, and whom the companies need for their ‘dummy AGM’ and they participate for the presents distributed by the companies. Some of their comments:

“I am also shareholders of some companies...but I am not a food lover, so do not bother to go there. I invest for a targeted period, I have my own calculation...so let them make their own decisions, if I find it uncomfortable, I will divest, simple...”(Company-B4)

“My participation is not worth [it]; it’s expensive in terms of time and effort. I am not able to change anything; Companies will do whatever they have decided anyway” (Follow-up Discussant-2)

48% of the interviewees have indicated another problem in the given scenario. According to them, there are some shareholders who are knowledgeable and expert enough to challenge the management, but even they do not participate due to the havoc created by rowdy groups who are hired by the companies to create chaos in the AGM and indirectly to support the decisions of the companies’ boards. Some comments will help to understand the situation better:

“Shareholders usually do not participate....Do you know about the ‘AGM Manage party’ of Bangladesh? The companies hire a rowdy group, they dominate in the AGM” (Company-B3)

“Because there is a group of arrogant shareholder groups who dominates the AGM, so the large number of shareholders who are gentleman are not encouraged participating. Somehow the whole environment of AGM has been polluted because of some ‘Muscle man’ shareholders, who create chaos in the AGM for their personal gain. Previously, the shareholders used to suggest on annual accounts, they used to put valuable comments but, now a days this culture is absent because of the ‘Muscle shareholders’.”(Regulator-D5)

The emerging features of these hooligans are quite interesting. According to the interviewees these hooligans are not the local terrors, not even those who are patronized by political parties, rather they are the people who purchase a minimum amount of shares of many different

companies and are basically unemployed, and they are hired by the companies to create chaos during AGM.

In short, as seen in Figure 7.11, the effectiveness of an AGM in Bangladesh is considered to be hampered due to three major reasons: the weak shareholders who are not able to understand company decisions; the unethical mindset of companies manipulates AGM environment and hires ‘muscle man’ groups to discourage shareholders to practice check and balance mechanism, i.e. asking questions or going voting against companies’ decision; ; and finally lack of strong legal provisions to stop this manipulation and companies’ unethical activities. As a consequence, as the interviewees believe, most of the AGMs end with almost no valid and appropriate questions. Thus companies are considered to be successfully managing any potential pressure from shareholders in Bangladesh.

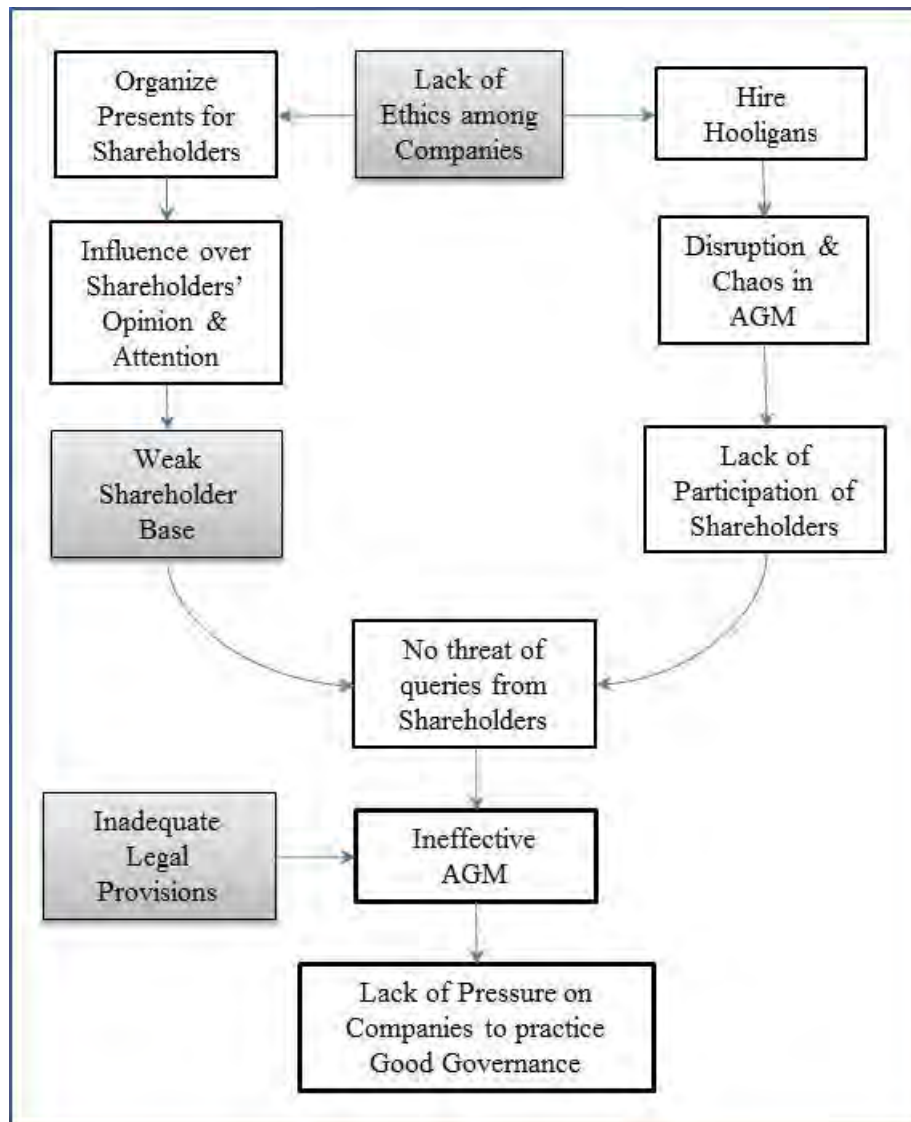
Nevertheless, one interviewee seems to be positive about the future, as he thinks the knowledgeable people are there who are participating in AGMs and raising their voice, although the number of these people is few, but he is hopeful that if these experts are encouraged then it will inspire others to join in and will ensure a successful AGM.

a. Lack of Powerful Stakeholder Groups

With reference to the major stakeholder groups like shareholders, government, employees, customers, and suppliers, 34% of the interviewees argued that the stakeholder base in Bangladesh has failed to create pressure on companies for good governance. While discussing employees, two different kinds of opinion emerged. One group believes the employees are not able to create pressure as they are incompetent, not aware of the facts and most importantly, they do not bother about company’s governance issues. One comment is noteworthy to reflect their concern:

“...the mind-set of our employees. They take their job as their duties not as responsibilities. A feeling of ownership is absent which could make their work more effective....they are not concerned about what is going wrong within the company, other than the board level corruption, there are other sources of bad practices which occurs at the mid- level, lower level...employees, they see it but overlooks...they don’t care” (Company-B2)

Figure 7.11 Underlying Causes behind Ineffective AGMs in Bangladesh



One counter argument of another group of interviewees was that even among this wide range of incompetent workforce there are talented people, but the culture is not there to allow them authority, responsibility and opportunity to utilize their talent.

Interviewees from both the non-financial and financial sectors agreed that the financier of a company (usually FIs) could be a major source of pressure for good governance, but they are failing to act as such as either they do not have access to the board or are not comfortable to talk against the majority of the board.

A number of interviewees consider that the consumer base of the country could also create pressure on poorly governed companies by rejecting their products. According to them, regardless of the level of education, income or social class, most of the consumers are not aware of their rights and responsibilities, and prefer to remain silent even when they are cheated with their purchased product. For instance one interviewee from the legal bodies criticized in the following way:

"... we have Consumer Protection Act, where you have a power; a position to gain information you can gather information. But my question is what are you going to do with it? Do we use it productively?" (Regulator-D1)

However, the most interesting fact about consumers' behaviour emerged from the opinion of the member of the Consumers' Association of Bangladesh (CAB). He argued that the Consumer Rights Protection Act, 2009 gives power to the District Consumer Courts which have been established in each locality of Bangladesh, to deal with consumers' disputes. On hearing a complaint, the Courts have the authority to issue orders to the defaulting companies. However although so far no complaints have been lodged by consumers, there is a lot of evidence in the media that in hospitals the consumers (patients) are being affected by the bad quality products of a number of companies. So far the CAB, along with the District Courts, filed a complaint against the unethical practices of many companies and has revealed that some companies' products are unhygienic, unhealthy and in many cases it was reported they are poisonous too. The companies were fined and closed for a certain period; the television

and other electronic media also publicized it with the aim of raising awareness among consumers and other stakeholders. However, the interviewee claimed that consumers' reaction was found to be irrational as instead of avoiding the company products, they were still buying them, and after the punishment period the companies continued to successfully run their business without improving the quality of their products.

An interviewee from academia identified some plausible factors behind this irrational consumers' behaviour pattern. Firstly, the majority of the consumers are desperately poor, not more than 5-7% will fall under higher or upper middle income groups, hence, expecting quality awareness from the rest is irrational. Secondly, although there is a growing middle class in Bangladesh with money to spend, they are still price sensitive not quality sensitive. Hence they are less reactive to any kind of disclosure of unethical practices in companies. Thirdly the publicity of wrong doing becomes a 'blessing' because a large pool of customers who earlier could not afford the products, are able to purchase them after such negative advertising as the companies concerned engage in a "market campaign" of price reduction. Lastly the consumers have become accustomed to being cheated with their everyday products which might have desensitized their urge to react in the case of bad practices. Hence they leave all their concerns to religion that 'GOD will save us', and purchase at a price they are comfortable with. As the interviewee from academia said,

"...if they start reacting then they have to react with the toothpaste in the morning, foods they take from in breakfast to supper, pollution on the road, drinks, cloths...what not? People are already struggling with a lot of issues, issues with their survival...so perhaps that is why they are not reacting to one more corruption of companies"(Academics-G1)

Suppliers and the community are two other stakeholder groups which the interviewees consider as a potential source of pressure for companies but which have failed in the case of

Bangladesh. They argue that like any other stakeholder group these two have also been weakened by lack of knowledge, lack of awareness, lack of concern about the impact of companies on them and on the entire community.

b. Lack of Threat of Takeover

According to 18% of the interviewees, shareholders' interests could be better protected by the pressure of capital markets and the threat of takeovers but unfortunately the corporate sectors are free from any kind of threat of takeovers. Thus one of them commented as follows:

"the companies which are at 'Z' category, or the one which has been acknowledged as poorly performed company would not do that bad if they were under pressure from capital market, if they would know that they will be taken over any time if they fail to reach a standard...but this practice is absolutely, absolutely absent...because as I said there is no other threat, there is no market threat" (Regulator-D1)

Unfortunately, the cross checking of this claim indicates that the Companies Act 1994 does not have any provisions regarding the takeover of a company for under-performance or any other reason. Although Part V of the Act deals with the provisions related to winding up, the interviewees argued that the process is lengthy, and lacks strength to exert pressure on companies to perform well. The corporate lawyer interviewee commented that:

"There are just too many companies compare to our economy compare to business opportunity..., it is very easy to form a company and it's almost impossible, almost impossible to wind them up. If you do not allow companies to fail people will never appreciate the value of a company"

c. Weak Watchdogs

Other than the auditors, the interviewees' opinion revealed that some organizations like BEI, Credit Rating Agencies (CRAB), Consumers' Association of Bangladesh (CAB) and the

media could play the role of watchdog for corporate governance. Separate interview sessions were conducted with almost all of these organizations.

In answering the question about ‘what problems they face in promoting corporate governance’, the BEI reported that they found it an enormous struggle to bring the directors into training on corporate governance. However it was much easier when the training was in affiliation with the regulatory bodies. Hence they believe lack of legal power is limiting them to work on governance issues. Furthermore, they argued that lack of funding is their major challenge for continuing the corporate governance related projects. Similar view was reflected in the recent study on the corporate social reporting in Bangladesh (Belal and Roberts, 2010) where the authors claim that the pressure groups in Bangladesh are not well funded or organized to work as a catalyst for improving corporate social reporting standard.

A similar kind of complaint emerged from the CRAB and CAB. Both believe more legal or regulatory power would help them to perform better. In the case of CAB, they argued that the watchdogs of Bangladesh are actually toothless because of two major issues. One is lack of legal power and the other is lack of funds which forces them to concentrate on survival instead of monitoring others’ performance.

Unlike other groups, the watchdog role of the media was, broadly speaking, appreciated by the interviewees. They opined that at the present time the privatization of news and electronic media has brought some changes in corporate behaviour. However 12% of the interviewees opined that the media is being often pressurized and bribed to hide “reality” from the general public.

All these facts and figures related to the failure of all these five pressure groups in Bangladesh have been presented in Table 7.5.

Table 7.5 Causes behind the Lack of Pressure on Companies to Practice Good Governance

		Causes	Consequences
1	Lack of Powerful Shareholder Groups	Lack of Knowledge; Short term vision; Undue influence of interest group; Lack of association among shareholders	Segmented, weak, incompetent, and short sighted shareholder base
2	Ineffective AGM	Lack of ethics among companies; domination of hooligans, lack of awareness among weak investors; inadequate legal provisions	Lack of participation of shareholders; Uncomfortable environment for queries from shareholders;
3	Lack of Powerful Stakeholder Groups	Weak investors; Corrupted government; lack of opportunity and power for employees; lack of power on financiers; Unaware customers; unconcerned suppliers; and Impetuous community	Weak, incompetent and silo stakeholder base
4	Lack of Threat of Takeover	Weak, insufficient legal and regulatory provisions; Absence of market control mechanism	Lack of threat on companies for being taken over
5	Weak Watchdogs	Lack of legal and regulatory power, incompetence, lack of skill, unaware consumer base, lack of financial independence, unethical mindset	Ineffective, toothless watchdogs

The overall discussion on the barriers to good corporate governance practice in Bangladesh reveals that the country has five major challenges to face in ensuring good governance. Whilst the legal and regulatory system is considered as fundamental for good governance, there was a general agreement amongst interviewees that the legal and regulatory system is the most significant barrier in Bangladesh – it is weak, inadequate and to some ineffective as a controlling governance mechanism. Lack of knowledge and incompetence amongst directors, managers and the general workforce was identified as the second major challenge.

While discussing in detail the causes and consequences of the existing dearth of professionals and knowledgeable people, the interviewees argued that the standard of governance in Bangladesh could be improved faster if people were competent and knowledgeable enough to understand the benefit of good governance. Whilst Chapter 3 that identified politics is historically related to the socio-economic sphere of life, the findings here suggest that politics, Government and bureaucracy form the third major barrier to good governance of the country. While different initiatives of government were appreciated, interviewees were critical in discussing the way the politics of Bangladesh is corrupting different spheres of the corporate sector of the country.

Problems related to family businesses were found to be the fourth major barrier and the interviewees indicated that many of the typical family governance issues like agency conflict between owner and minority shareholders, lack of monitoring over board performance, and domination by family members do exist in the corporate structure of the Bangladesh. Finally, the interviewees' opinions suggested, lack of pressure on companies to adopt good governance is the fifth major issue for Bangladesh. Whilst the shareholders, were alleged to be mostly illiterate, unaware about their rights and responsibilities, AGMs were claimed to a

formality only. Employees were accused of either being incompetent or lacking power to exercise good governance. The watchdogs (other than the legal and regulatory bodies and auditors) of Bangladesh are considered to be weak financially, toothless due to lack of regulatory power. Thus, the overall discussion on the barriers to good governance suggests that the entire governance mechanism in Bangladesh is to some extent dysfunctional compared to the developed countries. In establishing good governance, companies in Bangladesh are facing barriers from the overall corporate environment.

7.3 THE CAUSES OF NON-COMPLIANCE WITH THE CODE

Whilst the previous section deals with the barriers companies in Bangladesh are facing in relation to corporate governance, this section addresses the next research question which intends to identify the causes of non-compliance with the provisions of the Code of Corporate Governance for Bangladesh (“the Code”). It was interesting to find that the interviewees agreed that the Code has not been well accepted by the companies in Bangladesh. They opined that the listed companies are following the SEC Guidelines. This perhaps supports the findings in Chapter 6 which indicated that the listed companies are most likely to be complying only with the SEC Guidelines for aligning their corporate governance standards.

In response to the question, ‘why didn’t they ensure compliance according to the only voluntary Code of Bangladesh?’ the interviewees’ stated that whilst the barriers as discussed in the earlier section pose strong challenges for companies in ensuring better governance standards, there are seven particular reasons behind the non-compliance with the Code. As indicated in Figure 7.12, these causes are: the lack of legal power, the communication gap, the lack of compliance culture, the inadequate provisions, the lack of knowledge, the lack of

motivation to comply and finally the lack of infrastructure. The following section details all the causes that have emerged from the interviewees' opinion.

7.3.1 The Lack of Legal Power

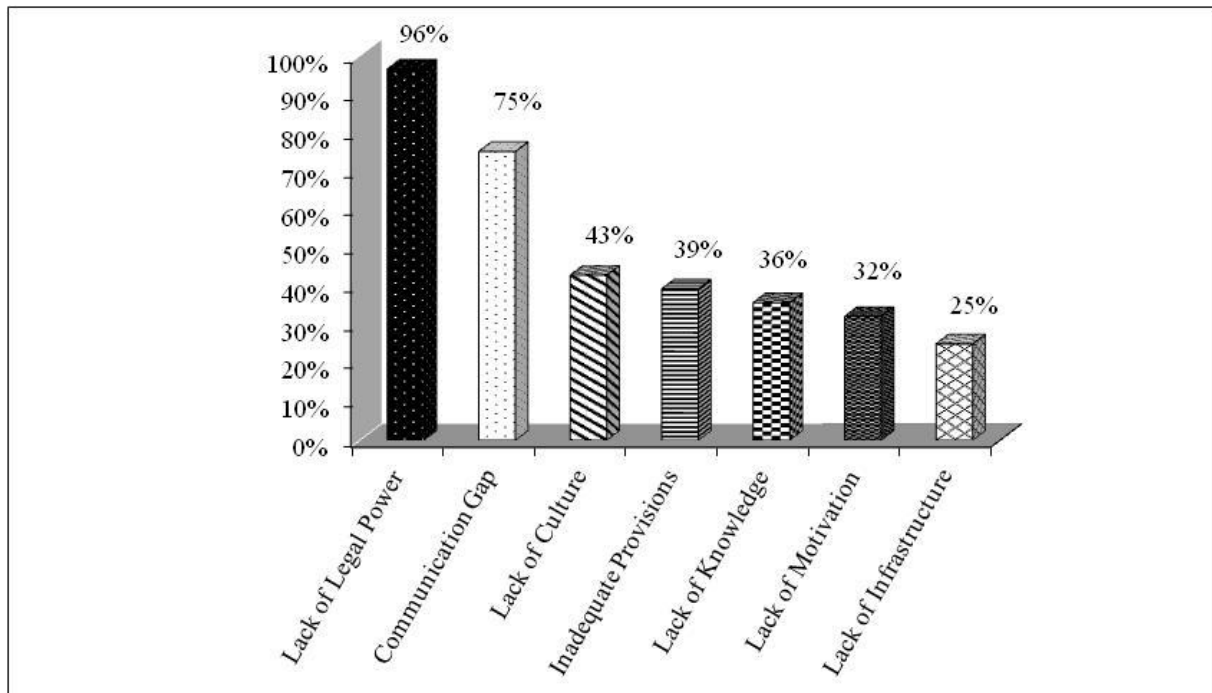
In section 7.2, the interviewee from BEI claimed that the lack of legal/regulatory power is one of their major challenges for ensuring better governance standards in Bangladesh. In total, 96% of the interviewees in general (as indicated in Figure 7.12) supported such claim and agreed that the Code has not been accepted by the companies primarily because it lacks the legal power of enforcement. Their core argument is that the country is not yet ready to adopt any code unless it is imposed on them as a legal or regulatory requirement. Fairly typical comments were as follows:

“We are still having the first generation business, the literacy rate is still not up to a standard, and corporate culture is yet to develop...so it is not the right time to expect from Bangladesh to voluntarily comply with code provisions” (Company-B3)

“More or less...whatever extent the companies may be complying, they comply only with those provisions which are backed by legal power.”(Regulator-D1)

The interviewee from the BEI also agreed with such claims and reported that their corporate governance initiatives would be much easier to implement if they had some legal power to control corporate practices. Similar findings emerge from some recent studies on Bangladesh (Mollah, 2010; Panday and Mollah, 2011) where the authors also found that the judicial effect is stronger in Bangladesh in ensuring accountability.

Figure 7.12 Causes of Non-Compliance with the Code Provisions



7.3.2 Communication Gap between the Code and its Users

75% of the interviewees believe a communication gap between the Code and its targeted users is another major reason behind non-compliance. They argued that the Code development process should have been followed by an effective, thorough implementation process. Moreover, considering the voluntary nature of the Code, the interviewees further argued that the BEI should have conducted regular and continuous awareness building programs which could educate companies about the importance and benefits of the Code. Perhaps that is the reason it was not surprising to experience some interviewees who opined that there is no Code in Bangladesh except for the SEC Guidelines. Some comments are worthy to quote here,

"... A new code? But, I know about the SEC Code only"- (Company-C3)

"...Corporate governance code? BEI code? What is that?" (Company-A4)

“...No, I don’t think there is any code in Bangladesh on corporate governance. I deal with companies’ bad practices with their products and services; I deal with the exiting corporate legal provisions. According to me there is no such code for Bangladesh” (Consumer-I1)

An interviewee from the regulatory bodies thus criticized the awareness building programs of BEI and opined as,

“Before introducing the Code in the market, BEI should have considered that the Code is supposed to be voluntarily complied, that means companies have to be self-motivated for compliance not pressurised”(Regulator-D1)

However, fairly typical comments from the interviewees who attended trainings organized by BEI on the Code came as,

“..Yes, I have attend BEI’s training on corporate governance once....The problem is that they should have motivated people to join, to understand what is corporate governance and to know that compliance is not expensive only, but it also offers some benefit. They should have made people understand if compliance is expensive, but non-compliance is more expensive, it incurs bigger the cost than compliance. And BEI I don’t think have communicated this message.” (Company-B3)

A better explanation of what went wrong regarding the communication was found from the opinion of one interviewee who was involved in the taskforce for the Code development. According to the interviewee, BEI did organize some seminars, workshops and training, but they did not continue it for long for better implementation or any follow up process to understand the extent to which the Code has been appreciated or adopted by the companies. Hence according to the interviewee, it is not logical to expect compliance with a Code which has not been communicated properly to its users.

“Did they (BEI) try to understand what happened to the Code they developed? why companies are not complying? Nope. So it’s not fair for anybody to throw out a code in the market and to expect something to happen”(Regulator-D1)

The question arises as to why the BEI did not continue communicating the Code to its expected users. The plausible reason is perhaps related to the opinion of the interviewee from the BEI who reported that they have willingness to proceed further for ensuring faster implementation of the Code and better compliance, but they were limited with their funding. Since BEI is a donor-funded organization, it could not proceed further due to lack of funding.

Due to this lack of communication, people are either completely ignorant about the existence of the Code, or have wrong perceptions about it. For instance, two of the interviewees from the listed companies claimed that they did not pay much attention to the Code because the entrepreneurs had not been involved in the Code formulation process. According to their perception, the Code was formulated by some academics, bureaucrats and some corporate people who hardly have any connection with real business issues. Whereas, Chapter 4 of this study identified that the taskforce for the Code formulation was a good mixture of different stakeholders, where 43% were professionals from corporate sector and only 11% were academics, and 11% were bureaucrats who have a direct link with the corporate sector of Bangladesh. Moreover the rest, 46%, was comprised of different stakeholder groups who are expected to have added value by considering the stakeholders' needs while developing the Code provisions.

7.3.3 The Lack of Compliance Culture

The influence of culture on compliance seems to have captured the attention of a huge number of studies (like Archambault and Archambault, 2003; Doupnik and Salter, 1995; Haxhi and Ees, 2010; Mir et al., 2009; Zarzeski, 1996). However, 43% of the interviewees of the present study indicate that lack of culture to comply with the provisions is also a reason behind non-compliance with the Code.

The overall discussion revealed there are certain aspects of the culture which influence people's compliance decision. For instance, a few interviewees argued that in general, people in Bangladesh are not clear about the ethics and have a culture of violating rules which might have influenced their decision of non-compliance with the Code. Fairly typical comments as follows:

“Ethics and values work only as a check-box activity. Most of us do not know what is ethical and what is not....we do not know in reality in this politicized world how we can be ethical, show integrity and at the same time earn profit from business... being unethical has become a part of our social life..it has become the culture”

“In general, we are not abided by any kind of law. We feel proud if we can break the law. That is in our culture you know. It's not only culture it is in our gene..... It is not in our culture to follow a code automatically and I should rather say, follow good things regularly in every business transactions”(Company-B2)

The culture of resistance has been emphasized by 28% of the interviewees. According to them culturally the people do not always welcome new things or new changes. This low degree of tolerance to any kind of change is believed to have made them resistant to considering the Code as their guideline for good governance.

Moreover, some attitudinal issues emerged from the opinion of the interviewees which seems to have an influence over the compliance decision of companies. For instance, some interviewees were arguing that they did not emphasize the Code because BEI did not invite them to participate in their training, whilst a few opined they are successful in ensuring profits so they do not need to know how to ensure better practice, which perhaps further reflects the lack of knowledge on corporate governance amongst professionals.

7.3.4 Inadequate/ Ineffective Code Contents

Code contents are vital for ensuring compliance (Erwin, 2011), whereas 39% of the interviewees opined, non-compliance is inevitable with some of the provisions of the Code due to inadequacy or ineffectiveness. For instance, interviewees from the corporate, legal and regulatory sectors strongly criticized the existing provisions relating to NEDs. Referring to their experience with the appointment of independent directors is compliance with the SEC Guidelines, the interviewees suggested that the Code should have articulated some specific provisions relating to the qualifications, the selection and appointment process of NEDs, and most importantly some provisions to ensure that the NEDs can independently exercise their power and authority. An interviewee, thus opined as follows:

“It’s not that Bangladesh does not have competent people who can successfully perform the roles of a NED. But the problems is companies need to appoint the right person, companies need to allow them to have their independent opinion”(Company-C1)

Whilst, an interviewee from the regulatory bodies argued:

“The Code could be more careful in developing provisions for Bangladesh. With the existing provisions the NEDs or Independent Directors can hardly feel independent, powerful and safe same to express their opinion....simply outlining the responsibilities are surely encouraging people to take the advantage of such weak provisions”(Regulator-D1)

However, a good number of interviewees both from the corporate and regulatory bodies also argued that the concept of the NED is ineffective in ensuring good governance because according to the provision, the NEDs’ remuneration is very less compared to their assigned responsibilities. Hence they argued, instead of focusing on NEDs, the Code should have emphasized more the qualifications, competence and evaluation of the executive directors who have the power and authority and a stake in the business. Fairly typical comments were:

“Why focusing on NEDs now? You need to ensure the competency of the executive directors first. They have interest in business, so if you can change their mind-set to do business properly many of your problems will be solved”(Company-A2)

“I think we need to emphasize on the executive directors first. Control their practices, educate them to understand the meaning of good governance, make them competent enough to ensure justice...If they remain the same as they are now, it’s no use of appointing a competent NED; they won’t be able to work”. (Company-B7)

Thus they believe if the existing provisions are imposed on companies, non-compliance or mock compliance will be the obvious consequence. It was interesting to find that their claims echo the empirical findings of Rashid et al. (2010) who examined the influence of corporate board composition in the context of independent outside directors on firm economic performance in Bangladesh and found that the idea of the introduction of independent directors may have benefits for greater transparency, but the non-consideration of the underlying institutional and cultural differences in an emerging economy such as Bangladesh may not result in economic value added to the firm. Moreover studies of neighbouring countries (like Aggarwal, 2010; Olatunji and Stephen, 2011) also have similar findings and urged for a reformulation of the provisions according to the country context. Perhaps that is the reason (as discussed in Chapter 4 of the present study) the revised version of the voluntary Code in India has detailed its provisions relating to independent directors.

Furthermore, the interviewees also argued that the provision relating to the separation of the roles of Chairman and CEO is inappropriate for Bangladesh. Their argument is that Bangladesh is mostly dominated by family businesses where the first generation is still running the business and many of these family businesses have become conglomerates, showing growth, and paying dividends. At this point if the Code demands the management to be separated from owners, non-compliance or mock compliance will be an obvious

consequence. Hence the interviewees stated that to make it work the policy makers need to educate these companies about the benefits of the Code, and convince them before introducing the provision. As one interviewee from such a family run conglomerate company explained,

“Actually there is a growth trap. To ensure compliance, the Code needs to find the exact problems that these growing companies are facing, needs to find valid reasons why the companies should listen to the Codes when they are doing excellent; or else non-compliance will be the obvious consequence. If you create pressure they will then go by mock compliance.”(Company-B6).

Hence, the interviewees stated it would not be surprising if the companies disagree with compliance with that provision especially when there are empirical findings (Kota and Tomar, 2010) on neighbouring countries that the CEO duality structure contributes positively and significantly to the firm performance in medium-sized companies in India.

Criticism has also been raised against the Code provision relating to the evaluation of the performance of the CEO and the board members. They argue that in a country where the companies are mostly family businesses and boards are comprised of family members, it is not useful to evaluate board members’ performance as the truth is difficult to reveal. Moreover, a few interviewees also argued that the Code should have also articulated some provisions to deal with noncompliant companies, or identified some provisions for a punishment or reward mechanism to encourage compliance in everyday business practices.

The discussion indicates that the criticisms about inadequacy and ineffectiveness are mostly related to the board related provisions. It is interesting to find that whilst the interviewees’ opinions indicate that the inadequate provisions relating to board provisions will encourage

non-compliance, the findings in Chapter 6 complemented this claim by finding that the sample companies are mostly non-compliant in the case of board related provisions.

7.3.5 Lack of Knowledge and Lack of Awareness amongst Companies

Whilst the earlier section indicated that the lack of knowledge amongst people in Bangladesh is one of the major barriers of good governance in Bangladesh, 36% of the interviewees believe, due to this inadequate knowledge the Code has not been accepted yet. One of the interviewees from the regulatory bodies stated that if the companies were well aware of the necessity of establishing standard business practices which are internationally compatible, then they would not wait for any sort of legal pressure to comply, rather they would be self-motivated to do so accordingly. Whilst some others indicated that companies sometimes resist compliance due to wrong or negative perceptions towards corporate governance. Hence they argued that the lack of knowledge and lack of awareness amongst companies are also responsible the existing non-compliance status in Bangladesh.

7.3.6 Lack of Motivation to Comply

Earlier studies (like Berente et al., 2010; Sacconi and Faillo, 2010) suggest that compliance with norms is a matter of self-enforceability and endogenous motivation to conform. Whereas 32% of the interviewees believe the entrepreneurs or the professionals lack self-motivation to bear the cost of changing the governance standard. One interviewee from the IMF, who was involved in training corporate directors on corporate governance in Bangladesh stated that one of the major problems they faced in convincing directors of the need for better governance, is their lack of motivation to follow any guideline for better governance. In detailing the reasons behind this, the interviewee explained, there is no official business case for good governance in Bangladesh; some companies are doing well, having a better

governance standard and on the other hand some have failed and become bankrupt, but so far there is no scholarly work in identifying why and how their governance standard is responsible for their performance. Whereas, as the interviewees argued, these kinds of business cases/studies could serve as a more effective tool than the cases of other countries to convince Bangladeshi companies of the need to ensure a better compliance standard.

However a few others argued that the institutes which have organized corporate governance training are also responsible for the existing lack of motivation among companies to comply with the Code. According to them, if trainees do not implement their learning into their business practices, then it can be considered as a failure of the training institutes which could not motivate the trainees to conform, or to ensure better governance practices.

7.3.7 The Lack of Infrastructure

25% of the interviewees believed the lack of infrastructure is also a reason for non-compliance with the Code. They argued that disclosure of information is often difficult due to lack of technological support. Moreover, the interviewees argued that the Code suggests that companies to make the shareholders handbook available to all the shareholders, this may not be feasible for companies in Bangladesh, because the information technology or even postal service is not effectively functioning in the country.

Referring back to the provision of the Code recommends directors be trained in corporate governance issues, the interviewees opined that this provision is more likely to be non-complied with because Bangladesh does not have enough training facilities to support such a provision. The compliance status in Chapter 6 also supports the claim and reports that almost all of the sample companies are non-compliant with this provision of the Code.

The analysis of the cause of non-compliance with the Code for Bangladesh indicates that there are seven particular reasons for non-compliance with the Code. As identified in section 7.3.2, there was a general agreement amongst interviewees that the Code has not been accepted by the companies of Bangladesh primarily because of its voluntary nature. However, section 7.3.3 to section 7.3.7 indicated that the interviewees also believed the voluntary Code would be accepted if it was effectively communicated with its users; if a culture of compliance could be created; if the Code could ensure none of its provisions are inadequate or ineffective; if the users of the Code were educated enough to understand the benefit of compliance and had self-motivation for compliance; and finally if the country could provide adequate infrastructure for ensuring compliance.

7.4 THE APPROPRIATE MODEL OF CORPORATE GOVERNANCE FOR BANGLADESH

This section addresses the research objective relating to the appropriateness of the model of corporate governance suggested by the Code. Similar to the findings of Siddiqui(2010), Chapter 4 of this study has identified that the Code and the SEC Guidelines both reflect the shareholder perspective of governance, hence to address the objective, the interviewees' perceptions regarding the robustness of the shareholder model of governance in the context of Bangladesh is analysed. Then in section 7.4.2, the feasibility of adopting the alternative one, i.e. the stakeholder model of governance in the Bangladeshi corporate environment is discussed. As in Chapter 2 it was identified that the critics of the shareholder model believe (like Belal, 2004; Kaler, 2002;Rwegasira, 2000) that the stakeholder model would be more appropriate for countries like Bangladesh. Finally, the perceptions relating to the optimal solutions for Bangladesh were analysed in pursuit of identifying the best model of governance.

Both shareholder and stakeholder perspectives of governance have defined, in their own ways, the purpose of the corporation, the major governance problems, the causes of non compliance with standards, and their most appropriate solutions (see Gamble and Kelly, 2001; Letza et al., 2008; Letza et al., 2004b; Letza et al., 2004a; Sundaram and Inkpen, 2004). Hence, in order to address the research objectives discussed above, the interviewees were first guided through those theoretical assumptions. Later, they were asked to express their further opinions (if any) which they might think were not covered by the theories.

7.4.1 Perceptions Relating to the Appropriateness of the Shareholder Perspective of Corporate Governance in Bangladesh

As discussed in Chapter 2, there are two major models of shareholder perspectives of governance: the principal-agent and the myopic market model. The principal-agent model is fundamentally based on the assumption that the social purpose of corporations is to maximise wealth for its shareholders (Danielson et al., 2008; Jensen and Meckling, 1976; Letza et al., 2008; Smith, 2003) and considers that the major problem of corporate governance is with the universal agency problem. However, section 7.1.4 of this chapter has identified that Bangladesh is overburdened with problems like a weak legal and regulatory system, incompetence, political influences.

According to the theory, the agency problems arise when the agent does not share the principal's objectives (Fama and Jensen, 1983; Jensen and Meckling, 1976), however the findings of the present study indicate that the agency problems arise in Bangladesh due to the information asymmetry between the owners (large/insider shareholders) and the minority (outside) shareholders. They believe that it is mostly evident in family businesses where the executive managers do not hold enough power unless they are from the controlling family.

Theoretically two types of problems occur from the agency relationship (Berle and Means, 1932; Letza et al., 2008). Firstly, because the agents' activities cannot be verified properly, that provides opportunities for the agent to work in their own interest. Although the interviewees agreed that this kind of agency problem prevails in Bangladesh, but stated that the manipulation is done by the board members, not by the agent. Since, the boards of family-run companies are mostly comprised of family members, they believe that the performance evaluation of the board members loses its usefulness.

Secondly, theoretically the problem with the typical agency relationship arises when the principal and the agent prefer different actions because of their different attitudes toward risk (Danielson et al., 2008); but 68% of the interviewees argued that this is not the case in Bangladesh as in most of the family businesses, the power is still centralized within family members, and in many cases the decisions are still made by one person. Jensen and Meckling (1976) argued that due to these two particular agency problems, agents' activities should be monitored and that is what creates agency costs (Letza et al., 2004a; Mallin, 2010; Sundaram and Inkpen, 2004). Whilst the interviewees opined that the agency costs in Bangladesh arise from some other sources, for instance, the failure of NEDs or independent directors increases agency costs by favoring the unfavorable ventures of the family members, whilst nepotism increases agency costs by hiring inefficient personnel.

According to the theory, agency problems can be better addressed by making an efficient contract and optimal incentive system to align the behaviour of the managers so that they work in the best interest of the owners (Blair, 1995; Jensen and Meckling, 1976; Sundaram and Inkpen, 2004). It also recommends the introduction of a voluntary code and appointment of NEDs (Letza et al., 2008; Letza et al., 2004b; Letza et al., 2004a) who will work as a

control mechanism against the self-interest of agents. However, interviewees in general rejected the acceptance of these recommendations as optimal solutions for dealing with the agency problems of Bangladesh. 98% of the interviewees opined that removal of restriction is not an option for Bangladesh and believe that culturally the people of Bangladesh are not keen to abide by norms unless it is required by legal or regulatory bodies. 64% of them further added to this argument by claiming that the country does not need any additional restrictions, rather it should focus on what it already has for market and corporate control and strongly emphasise in ensuring effective implementation and proper monitoring of these existing provisions. One comment from the corporate lawyer is noteworthy here,

"look, we are slowly coming into a regime where there is a certain measure of control required...we do not listen to norms unless it is imposed on us, you can think of new provisions later, at this moment what we have is good enough for the time being, just implement it, and properly monitor it...without restriction nothing will work"(Regulator-D1)

Fairly typical comments from the corporate bodies were as follows:

"for Bangladesh, regulation is most important ... the most important thing is the presence of regulation. For corporate governance also regulation is must, regulation from legal or powerful regulatory bodies."

The majority of the interviewees were against a voluntary Code as a mechanism for improving corporate practices. As discussed in the earlier section, the interviewees in general preferred a legally enforceable code for Bangladesh, whilst some of them extended this argument by stating that, to begin with, a mandatory code should be introduced in Bangladesh, and once the country adopts the culture of good governance, restrictions can be relaxed gradually towards being completely voluntary. However, they strongly opined that the extent of any compulsory or voluntary mechanisms will depend on the countries

adaptability, culture and the strength of legal system. The interviewee from the CRAB (Credit Rating Agency of Bangladesh) stated that,

"At this moment we are in a very early stage. Strong restriction and control is necessary first, but once the culture of governance starts taking place the rules can be incrementally relaxed, but regulators need to keep an eye all the time to understand to what extent they can loosen up restriction or offer voluntarism".

Fairly typical comments from corporate bodies were:

"At least the regulators should give the necessary structure that we should play, because the corporate structure is not developed try yet. So in that case voluntary code will not work, and legal restriction is the only to ensure good governance"(Company-B5)

And the regulators offered the same solution and opined the same,

"There should be a combination. There should be certain restriction the beginning some restriction should be there and at the same time there should be a process of volunteerism. Gradually, when companies are regulated then ask them to volunteer"(Regulator-D2)

By emphasising the extent of compliance with the Code and the SEC Guidelines, some interviewees argued that companies are, at least to a certain extent, complying with the SEC provisions because it is their listing regulation, and also because the SEC has some evidences of delisting some companies for not complying or explaining the reason of non-compliance with SEC regulations⁹¹; whilst, they argued that none of the companies have adopted the Code of Corporate Governance for Bangladesh, as it is voluntary.

⁹¹The Dhaka Stock Exchange website indicates some evidence of the delisting order of SEC. For instance on October 5, 2010, SEC issued SEC's Directive No. SEC/SRMIC/94-198/623 regarding delisting of the securities of 4 listed companies and place them in the OTC market for trading (www.dsebd.org)

Regarding the NEDs, the study has already identified that the interviewees believe the concept of NEDs is already not working in Bangladesh. The lack of competent NEDs, the lack of authority and the purposeful selection process of the NEDs have placed the NEDs' independence at stake; even an attractive incentive system will increase such dependency of the NEDs. Instead, 24% of the interviewees believe that if good governance is to be established in Bangladesh, it is more important to focus on the executives, their competence, ethics and motivation.

Unlike the principal-agent theory, the assumptions and solutions of the myopic market model were accepted by a good number of interviewees. This model argues that the Anglo-American model of governance encourages managers to emphasize more short-term performance while ignoring the long term value and competitiveness and sustainability (Blair, 1995). 56% of the interviewees shared the similar view that the traditional corporate governance system encourages managers to focus on short-term performance by sacrificing long-term value and the competitiveness of the corporation. However they argued that it is not the financial market that often forces managers to behave in a way divergent from the maximization of the long-term wealth for shareholders, rather it is due to the shareholders themselves and also the stakeholders who lack adequate knowledge and lack the understanding of the impact of short-term returns, and thus creates a direct and indirect pressure on companies to overly emphasize short-term gains.

The interviewees also agreed with the proposed solution of this model that promoting an environment to encourage long-term horizon would be a good solution for addressing these issues. However they opined that creating a culture for long-term performance will take time,

as the shareholders, managers and almost the entire range of stakeholder groups are short-term return oriented. For instance one interviewee reported that:

“It would be too optimistic to expect that our shareholder will be loyal enough to emphasis long term return, at least I can’t see it within next 10/20 years. It is not to say that, it will never happen, it will... but you need to allow them some time to make them understand the benefit of long term vision, to encourage the voice of shareholders who knows when to raise voice”.(Company-B2)

Table 7.6 summarizes the perceived notion of the interviewees about the appropriateness of the shareholder perspectives of governance in Bangladesh. It suggests that although the interviewees agreed that agency problems do exist in Bangladesh and the companies are short-term oriented too, they argued that these problems appeared in some other forms different to what the theory says. Moreover they indicated that the optimal solution for Bangladesh is the one which addresses the needs of the country. Nonetheless, the interviewees were not denying the merits of any of the models of shareholder perspectives, but their discussion indicated that the reality in Bangladesh is quite different than the theoretical assumptions.

Table 7.6 Perceptions Relating to the Shareholder Perspectives of Governance in Bangladesh

	Major Problems		Solutions to Address Corporate Governance Problems	
	Theoretical	Perceived notion in Bangladesh	Theoretical	Challenges to Implement the Theoretical Solutions
Principal-Agent Model	<p>Agency problems in between owner and manager, is the major problem of governance;</p> <p>Information asymmetry in between principal and agent;</p> <p>Agency problem arises when agent misutilize power and have different attitude towards risk</p>	<p>It is the fourth major problems and exist in between owner and minor shareholders;</p> <p>In between owner minority shareholders</p> <p>Arises when owners misutilize their power.</p>	<p>Removing restrictions on markets;</p> <p>Strengthening incentive system for NED;</p> <p>Introducing voluntary Code;</p> <p>Appointing Non Executive Directors (NEDs)</p>	<p>Restrictions should be there.</p> <p>Incentive system redesigned for executives as well.</p> <p>The Code of Corporate Governance should be mandatory;</p> <p>The lack of competent NEDs; family dominance; and the lack of culture to support NEDs' effectiveness.</p>
Business Myopic Model	Excessive Concern with Short-term market value	It is a problem for the country, but not the major one.	<p>Increasing shareholders' loyalty and voice;</p> <p>Reducing the ease of shareholders' exit;</p> <p>Encouraging relationship Investment;</p> <p>Empowering long-term offer groups</p>	Too optimistic to implement.

7.4.2 Perceptions Relating to the Appropriateness of Stakeholder Perspective of Corporate Governance in Bangladesh

The most fundamental challenge emerged against the central proposition of stakeholder perspectives of governance is the view that the purpose of a company is to maximise the interest of its wider stakeholders (Blair, 1995; Freeman, 1984; Keasey et al., 1997). 88% of the interviewees strongly opined that the propositions of the stakeholder model are attractive and something which are ‘good to adopt’, but the country is not yet ready to adopt such a ‘wide perspective’. The analysis of their perception reveals the interviewees are disagreeing to accept stakeholder model of governance as the appropriate one for Bangladesh due to four reasons.

Firstly, the interviewees rejected the orthodoxy of the stakeholder theory that the well-being of the stakeholders needs to be prioritized first even if necessary, by compromising the interest of shareholders (Danielson et al., 2008; Ehrhoff et al., 2011; Letza et al., 2008; Letza et al., 2004a). The interviewees argued that, compromising shareholders’ interest for the sake of the interest of other stakeholders would be a violation of law in Bangladesh. With reference to the Companies Act 1994, interviewees stated that legally companies are liable to ensure the maximum return to its shareholders. Since shareholders are the major stakeholders of a company, the interviewees believe that being responsible to shareholders should be considered as being responsible to stakeholders as well. However, considering the need to maintain international best practices, companies are expected to consider the interests of its other major stakeholders too but they strongly emphasized that that consideration should not be at the cost of shareholders’ interest in any way.

Secondly, the interviewees in general rejected the theoretical presupposition of considering the interest of ‘all stakeholders’. They argued that as the companies in Bangladesh are already overburdened with different socio-economic challenges, which makes it very difficult for companies even to maximize the return of its shareholders; and at this point considering the interest of ‘all’ would threaten their survival. Considering the interest of all stakeholders’ is also believed by the interviewees to be impractical and to some extent impossible to achieve. Thus they feel that it would be over ambitious specially for small and medium companies if they aim to serve all.

Chapter 2 discussed about some previous studies (e.g. Jenson, 2000; Letza et al., 2008; Letza et al., 2004b; Letza et al., 2004a; Sundaram and Inkpen, 2004) which argued with the same logic and stated that ‘multiple objectives is no objective’. While, Sternberg (1997, p.5) claimed that, “an organisation that is accountable to everyone, is actually accountable to no one: accountability that is diffuse, is effectively non-existent”. Moreover, there are some other difficulties with the notion of the rationality or utility maximization concept (Letza et al., 2008; Letza et al., 2004b; Letza et al., 2004a). For instance, previous studies have considered that the standard measure of evaluating all the different stakeholders’ is oversimplified and unrealistic, as they believe, “preference quantification is not at all that simple and one person cannot exactly say by how much they prefer one choice over the other; and there is no linkage between rationality and maximization if one does not need to measure some ‘utility’ like goodness, acceptability, or desirability” (Letza et al., 2008, p.24). A comment of one interviewee who was a company secretary and the Head of Legal department of a listed company, is noteworthy in this regard, as he states:

“With the changing corporate world, the needs, demands and wants of the stakeholders are changing too. How can one company identify these

multidimensional preferences, and how do you want me to measure the extent to which they will consider it maximum? These perceptions of satisfying all or reaching the maximum for all is hypothetical, at least not possible for Bangladesh”(Company-B3)

Thirdly, the interviewees believe it will be more challenging for companies to ensure efficiency through stakeholder model of governance at least at this moment. Keasey et al.(1997) demonstrate that by being responsible to stakeholders, firms can develop a reputation for the ethical treatment for their stakeholders and that will help them to build up relationship of trust, which supports profitable investments and mutually beneficial exchanges. This is because ethical behaviour reduces the costs of social association (Jones et al., 2007; Letza et al., 2008), and thus companies are considered to be able to achieve competitive advantage through both internal and external relationships(Letza et al., 2008). However, the interviewees argued that achieving competitive advantage through such relationships of trust is the ideal case, but the reality is different in Bangladesh. The reality is, as the interviewees argued, the country has a dearth of professionals; people are short-term oriented in general; and corruption is endemic where ethical values even among educated people are at stake; and in such cases, expecting relationships of trust between stakeholders and the company would be too optimistic. One of the interviewees from regulatory bodies thus stated that,

“Yes, I agree that harmonious relationship among stakeholders would be one of the best ways to overcome our corporate crisis, but that is impractical to expect. Overnight things would not change; you cannot expect people to change their attitude, culture even within a decade which they have been inherited from their forefather. It may work in Japan or in some other countries where people fight tooth and nails to keep their promise, but here it has been taken as granted that the trust, promise will be broken either intentionally or unintentionally”(Regulator-D2)

Finally, and perhaps the strongest objection emerged in the area of the stakeholders' integration concept of stakeholder theory. There were at least some interviewees who agreed with the potential of the stakeholder concept of corporate governance, and showed their interest to change their governance structure, but there was not even a single one who did not strongly reject the proposal of involving stakeholders in any sort of organizational activities, especially in any kind of decision making process. The arguments they placed are:

i) They wanted clear evidence that by involving stakeholders' in their organizational activities there would be benefits. They argue that, people in general are lacking in knowledge; short-term oriented and lacking business acumen. On top of it, as they argue, people in general are selfish in nature, and mostly lack the sense of ethics. Under such conditions, bringing them into companies' decision making is not perceived as being beneficial for companies. Fairly typical comments were as follows:

"Why would I bother to bring some other people in my companies' decision making when I am sure that they do not have that competence to participate in the decision-making process or even to competently pursue their own interest in the company"(Company-A2)

"I wonder how many times companies were being hostage by their labour union who were pressing their undue demands, then I am sorry I am in favour of inviting them into my board in any form just because it will bring a good image of mine....the companies who were hostage by their labours or employees, do they have any image?....the investigation report could not find any fault of the companies, but what is the result?"(Regulator-D1)

ii) They argued that considering the existing weak corporate environment, any kind of involvement of the major stakeholders (if not all) would be threatening for the companies. Taking the case of Government, the interviewees argued that as a major stakeholder, the Government demands to be involved if stakeholder integration is to be adopted. In a situation where political influence is considered to be one of the vital obstacles for good governance,

the interviewees believe that the stakeholder model of corporate governance will legitimize their undue and selfish interest over the companies.

One of the noteworthy comments was made by an interviewee from the banking sector,

“Look we have a network between political parties and industrialists, and many of the parliament members have their own business, that means they are my competitor too. They are already influencing us in many ways; don’t you think you are putting some more power on their hand to kill us?”(Company-A5)

Whilst another interviewee argued:

“The theory (stakeholder theory) is not appropriate for us, at least at the moment. It does not clearly states who are my stakeholders, whom to consider, to what extent to consider, and most importantly it has no specification of whom not to consider and in what criteria. It simply states, with whom company has long term relation. In that case, the local terrors with whom the companies are to some extent bound to maintain a relation, should I ask the companies to put effort to maximize their interest too; as because, they have interest in my business? Should they be involved in my business activities too?”(Regulator-D3)

Similar kinds of arguments were lodged by some other studies on stakeholder theory (Antonacopoulou and Meric, 2005; Jansson, 2005; Lepineux, 2005; Plaza-Ubeda et al., 2010; Sternberg, 1997; Wood and Jones, 1995) where they concluded with their concern because, at present, the definitions of stakeholders are numerous, some are general while others are narrower. If it is too general then nearly everybody is included. Referring to the ‘muscle man’ of AGM, one interviewee from the regulatory bodies stated that these rowdy group also have interest in companies, then in absence of clear guideline of identifying stakeholders it would be difficult to convince companies to adopt such a wide approach of corporate governance. Such claims are similar to the findings of Belal and Roberts (2010) and Belal and Owen (2007). These two papers examined the social reporting practices in Bangladesh and indicated that non-managerial stakeholders can play a positive role in improving social

reporting standards. However, considering the existing level of corruption in Bangladesh, it is hard to guarantee that the stakeholder-oriented reform will have a positive impact.

iii) They further argue that the status of stakeholders changes over time, and that might create a problem once one stakeholder has been involved in the organizational activities, especially in the case of the decision making process. Since there is not enough legal protection against potential stakeholder abuse the interviewees believe the potential to change the stakeholders' status may be a threat for company especially in case of information leakage.

Turning the discussion to the abuse of executive power model of governance, the analysis of the perceptions of the interviewees indicates that unlike other models discussed above, most of the presumptions and presuppositions of this model matches with the existing corporate status of Bangladesh. For instance, the major proposition of the model is that the current Anglo-American corporate governance arrangements vest excessive power in the hands of management who may abuse it to serve their own interests at the expense of shareholders (Hutton, 1995) and the interviewees opined that, this is the case of family businesses in Bangladesh, where power and authority is centralized within family members who often use it for their own interest (see section 8.2 of this study).

Echoing the views of the abuse of executive power model the interviewees also stated that the current institutional arrangement lacks any kind of threat of takeover, effective audit system or independent NEDs which could prevent these managers from abusing their corporate power (see Conyon et al., 1995; Gregg et al., 1993). Rather, as they argued, kinship, blood relation, marital connection and political power are the ways through which the abuse takes place in Bangladesh. Moreover, considering the existing lack of competent managers and the weak legal system of the country, the interviewees also do not believe that the theoretical

recommendations of statutory changes like a four-year fixed term for chief executive officers, independent nomination of NEDs and allowing power to the NEDs are suitable monitoring mechanisms for Bangladesh, at least at this moment. Instead, they believe, some awareness building programs and training focusing on the consequences of their abuse will be more effective to control their domination.

Moreover, in answering to what extent the interviewees prefer a company to consider the interest of stakeholders, the interviewees opined that, the primary purpose of a company should always be to ensure the maximum return for its shareholders and in so doing the companies need to ensure fair treatment with all of its stakeholders. For instance, one of the remarkable comments came from the corporate sector,

“The purpose is always to serve for shareholders. They are the financer and the major stakeholders, if I serve them well I should be considered as half the way of doing justice to my stakeholders. Then being fair to everyone I am in transaction with will do the rest. A company should ensure quality products for customers; better work environment and fair salary for its employees; fair return to suppliers; and most importantly ensuring that it is free from any kind of harm to the environment...and a company which ensures all these should be considered as being responsible to its stakeholders”.(Company-B5)

Table 7.7 summarises the perceived notion about the appropriateness of the stakeholder perspectives of governance in Bangladesh. Similar to the shareholder perspectives, none of the models of stakeholder perspectives were perceived as enough to understand the corporate environment and the challenges of Bangladesh. It appears that, the existing corporate infrastructure of Bangladesh has some elements in common from both the models of

Table 7.7 Perceptions in Relation to the Appropriateness of the Stakeholder Perspectives of Governance in Bangladesh

	Major Problems		Solutions to Address Corporate Governance Problems	
	Theoretical	Perceived notion in Bangladesh	Theoretical	Perceived Notion and Challenges to Implement the Theoretical Solutions
Stakeholder Model	Absence of stakeholders participation; Government's failure to ensure stakeholders' representation	participation of incompetent stakeholders would be a burden for companies.	Trust relationship and long term contractual association in between firm and stakeholder; Inter-firm Cooperation Employees' participation Business ethics	Business Environment is not ready to afford the theoretical solutions
The Abuse of Executive Power Model	Abuse of executive power for their own interest. The power is embedded with executive overpay	Occurs only in family businesses. Power is sourced from blood relations; marital connection and politics.	Statutory changes in governance; Fixed four year terms for CEOs; Independent nomination of directors; Greater Power of NEDs	These solutions are overambitious, and hypothetical. Executives need extensive trainings on corporate governance.

stakeholder perspectives of corporate governance – i.e. the stakeholder model and the abuse of executive power model; but neither of these two are enough to capture the existing challenges of the country. The stakeholder model is being appreciated for its social concern, but in the absence of ethics, knowledge and competence amongst stakeholders and the lack of legal protection, the interviewees rejected the idea of involving any kind of stakeholders in their company activities. Whilst the abuse of executive power model was found to be effective enough to understand the consequences of the domination of an overpowering executive, the interviewees argued that the situation is more family businesses but the source of power of those managers is kinship. Hence they rejected the theoretical optimal solutions to control such domination.

7.4.3 Perceptions Relating to the Appropriate Model of Corporate Governance for Bangladesh

This section analyses interviewees' perceptions relating to the appropriate model of corporate governance for Bangladesh. In the course of discussion regarding the appropriateness of the different models of shareholder and stakeholder perspectives in Bangladesh, 84% of the interviewees strongly opined that considering the existing deficiencies in the corporate governance framework of Bangladesh, neither the shareholder model nor the stakeholder model would be an ideal choice to establish good governance in Bangladesh. Rather, there seems to be a consensus amongst interviewees that for Bangladesh, an appropriate model of governance is the one that emphasizes on the basic characteristics of good governance (i.e. shareholders rights, competence and independence of directors, quality audit, disclosure and transparency), and emphasizes more on the existing barriers and socio-economic challenges that companies in Bangladesh face in establishing good governance. Fairly typical comments from the regulatory bodies were:

“Despite of the fact that it has to face challenges from inside and outside, as a developing country the economy of Bangladesh is doing great. It is not important to argue in favour of shareholder or stakeholder governance. What actually matters is, at this stage of globalization we need to prove ourselves competitive, and for that we need to ensure we are having a standard of governance, and to do that fundamentally and primarily we need to focus on our problems, understanding why cannot we ensure good governance, and then identifying what needs to be done so that we can fight with these obstacles and ensure sustainability in this global world”(Regulatory-D1)

The corporate bodies generally opined:

“For the time being, the appropriate model is the one which responds to our need. We cannot deny that companies from any sector of the world need to maintain a standard of governance. What is the use of argument then? If you have to ensure good governance, then we need to come forward to understand what we need to do. Two things we need to do: one, understand what are the best practices; two, understand what are the obstacles Bangladesh have; and develop the policies accordingly, and thus we will get the model of governance which is appropriate for us”(Company-A1)

In fact, the findings relating to the need of a flexible and adaptive approach to design corporate governance model is not unique for this study, rather quite a few scholars (like Gamble and Kelly, 2001; Letza et al., 2008; Letza et al., 2004b; Letza et al., 2004a; Sundaram and Inkpen, 2004; Wanyama et al., 2009) have argued the same and consider the polarized view(shareholder vs stakeholder) of governance is possible in an ideal situation, but the reality is different, and every country is unique which demands a continuum of propositions to ensure good governance. Therefore, these studies have indicated that for establishing good corporate governance practices, governance model needs to be viewed from much wider scope and with more flexible attitude. Also, by going beyond the current debate over the superiority of the existing models, the interviewees of this study also believe that an appropriate model for Bangladesh would be the one that is based on the basic characteristics of good corporate governance, tailored to the country specific needs,

recognizes and deals with the existing deficiencies, and thus helps companies to ensure better governance practices.

Considering the potential of stakeholder model of governance, a number of interviewees believe that the regulators and policy makers should also take initiatives to develop the culture and corporate framework to support more stakeholder orientation in the governance model. To do so, the interviewees have emphasized on developing skill and ethical values particularly amongst stakeholders and companies, creating awareness about good governance and developing legal and regulatory support for companies. However, they also strongly indicated that before adopting the features of stakeholder model of governance, the policy makers must ensure that the country is ready to afford that model and companies are well protected from any kind of abuse. Fairly typical comments came as follows:

“Stakeholder participation is of course a good option, but it can effectively function only when we can create the right environment to use it. Especially bank can be a monitor of the money they invest in the company. Again shareholders’ representative on board can also be a solution for suggesting different issues...having director from CA, lawyer would be beneficial for companies as well, because the companies can be benefitted from these representatives’ qualification, experience and expertise...but as I said before, you need to be very sure that these stakeholders are competent enough to utilize the opportunity given by the companies, ethical enough to avoid any kind of manipulation of the opportunities, and have the right environment to create pressure on companies to establish good governance....these are absent now, but if proper initiatives are undertaken then at least in future we can hope for a stakeholder oriented model in Bangladesh”(Company-A1)

7.5 SUMMARY

This chapter discusses the findings from the semi-structured interviews to address three research questions of the study – the barriers to good corporate governance practices in Bangladesh; the underlying causes of non-compliance with the Code; and the appropriate model of governance for Bangladesh.

The overall discussion relating to the barriers to good corporate governance practices indicates that the entire corporate governance system is dysfunctional in Bangladesh. The weak legal and regulatory system; the lack of knowledge and competence amongst people; political influence and bureaucracy; family businesses and agency problems; and finally the lack of pressure on companies to practice good governance – these five issues have been identified as the major barriers the companies are facing in establishing good governance . Whilst prior studies on Bangladesh (Belal and Owen, 2007; Farooque et al., 2007a; Uddin and Hopper, 2003) indicated that the legal system is weak in the country, the findings of this study suggest that in spite of different reform activities (as discussed in chapter 3 it still remains weak.

However, it was interesting to find that while incompetence and the lack of knowledge was considered to be endemic, none of the interviewees think that knowledge and competence is intense for the government bodies. Rather, ethical values and the mind-set of some political members and bureaucrats are considered to be the primary factors behind their corruption. Despite all these negative features, some interviewees were optimistic to expect a better future for the country. They believe that Bangladesh still has some political leaders who have ethical values and vision, they are educated, talented and on top of this, have the leadership qualities to change the existing scenario. There are also talents among the bureaucrats who they believe by virtue of their ethics, their work has become popular nationally and internationally. Hence, if these two groups come forward, and they get support from the people, the interviewees believe that as a developing country, Bangladesh can certainly hope to set an example of good governance.

The interviewees believe that many of the family businesses of Bangladesh lack proper corporate culture, lack industrialization, and lack proper monitoring over the performance of the board which is mostly comprised of family members. The independent directors are believed to be ineffective due to family dominance. Although some of the family firms are doing well, they considered that many of them are still struggling to understand the benefits of good governance and thus this creates the fourth major barrier for the country. Nevertheless, the interviewees were hopeful that the new generation of those family businesses is more knowledgeable and flexible to adopt governance regulations. Finally, the interviewees argued that the companies could show better governance standards if they had enough pressure from their wider stakeholder groups. Whilst financial limitations are holding back the private think-tanks and other watchdogs from being active in initiating corporate governance activities, a lack of awareness, concern and knowledge about the rights and responsibilities are not allowing other important stakeholders like customers and suppliers to ask companies to ensure better governance.

The discussion relating to the underlying causes of non-compliance with the Code reveals another interesting fact. Although the five major barriers are considered to be the obstacles for ensuring compliance, the interviewees opined they are not the major causes of non-compliance with the Code. Rather, they believe the voluntary nature of the Code is the primary reason for which the Code has not been adopted by companies. There was almost a general agreement amongst the interviewees that even the voluntary Code would be accepted (at least to some extent) by the companies if the BEI could create awareness amongst companies to ensure compliance and to promote the benefits of good governance. However, their opinion further indicated there are five other reasons for non-compliance with the Code and these are: the lack of a culture for compliance, inadequate and ineffective provisions of

the Code which are more likely to lead to mock compliance; a lack of knowledge amongst companies; a lack of motivation to ensure compliance; and finally the lack of infrastructure.

Finally, to identify the appropriate model of governance for Bangladesh the study has analysed interviewees' perceptions using the shareholder and stakeholder models of governance. The results indicate that elements of each theory have relevance in the Bangladeshi perspective, but none of them could fully encapsulate its entire dysfunctional system. For instance, the dominant principal-agent model seems to be effective in understanding the consequences of agency problems despite the fact that the kind of agency problem in Bangladesh is different than the theoretical one; however it has largely ignored the fact that emotion, culture and the lack of competent professional will not allow separation of management from owners, and not even the voluntary code will work in the absence of a strong legal system and a culture of compliance. The business myopic model helped in understanding, for long term sustainability, companies must take initiatives to ensure a long-term perspective between the firm and its stakeholders, but seems to be largely deficient in incorporating the other major problems like political influences, lack of knowledge and a short-term perspective among people whose views are entrenched and not possible to change overnight or even within a short time. Most importantly, the overall findings suggest that in Bangladesh, the three-tier hierarchical governance structure (AGM, board and executive managers) of the shareholder perspective has failed to ensure an adequate check and balance mechanism to protect shareholders' interests. Whilst the issues relating to AGMs seem to be too complex to be resolved soon, the board and executive managers are suffering mostly from issues relating to competence and ethics. Thus, in the absence of a robust legal system and resilient capital market, it would be too optimistic to think that a shareholder perspective of

governance will be able to ensure good governance in the existing vulnerable status of Bangladesh.

On the other hand the stakeholder perspective has also been rejected as an ideal one for Bangladesh. The country is perceived to be lacking strong stakeholders to carry on the assumptions and presuppositions of the stakeholder perspective of governance. The lack of competent stakeholders, the lack of culture, the lack of stakeholders' ethics and, most importantly, the lack of proper legislation to guard the companies against stakeholders' abuse are considered to be the major challenges in adopting the stakeholder concept. Although the interviewees appreciated the theoretical propositions, and the social values of the theory, they fundamentally refused the idea of incorporating stakeholders' value maximization as companies' major objective and any kind of stakeholder integration in companies' decision making process. Rather they believe, at this moment, that companies should primarily work in the best interest of the shareholders, and ensuring fair transactions in dealing with all of its stakeholders. Moreover the interviewees indicated that it would be too difficult to convince companies to allow stakeholders any kind of stakeholder empowerment.

Hence, based on inductive reasoning, the evidence fundamentally rejects the dichotomize view to take a static position in favour of one of the two extreme theoretical models- shareholder and stakeholder. Since all four models are able to capture part of the reality of Bangladesh, the interviewees believe an appropriate model for Bangladesh would be the one that is tailored to the country specific needs and, by recognizing the existing deficiencies, help the companies to ensure better governance practices, and thus support the demand of thinking of corporate governance in a new way by going beyond the static polarized conception of corporate governance.

CHAPTER 8

DISCUSSION AND CONCLUSION

Chapter 8

8.0 DISCUSSION AND CONCLUSION

8.1 INTRODUCTION

This concluding chapter summarizes the main areas covered in this thesis. The major findings from the empirical work are brought together to develop recommendations for improving governance standards in Bangladesh. In addition, the chapter discusses the major limitations of this research, and suggests future research avenues.

8.2 SUMMARY OF THE STUDY

The aim of the study is to evaluate the overall acceptance of the Code of Corporate Governance for Bangladesh (“the Code”) among firms. For the purpose of the study, the research statement above is broken down into six specific objectives as outlined below:

1. To identify the overall level of compliance of the Bangladeshi listed companies with the Code.
2. To examine whether the compliance level varies depending on different company attributes.
3. To identify and discuss the Code provisions which are the most, and the least, complied with.
4. To investigate and discuss the major barriers to good corporate governance practices in Bangladesh.
5. To identify and discuss the causes of non-compliance with the Code.
6. To identify and discuss the appropriate model of governance for Bangladesh.

There are eight chapters in this study. Chapter 1 provides the motivation of the study and the reasoning behind studying each of the above research objectives.

Chapter 2 deals with the theoretical framework and literature review. Both agency theory and stakeholder theory are analysed to understand the theoretical propositions and assumptions of the models of governance pertaining to these theories. These models are the principal-agent model, the business-myopic model, the abuse of executive power model and finally the more recent stakeholder model. The analysis also highlighted the ways these theories are used in this study. For instance, to facilitate a thorough understanding, instead of focusing only on the issues of traditional agency problems, the wider stakeholder perspective of governance is used to view the corporate framework of Bangladesh in Chapter 3. Institutional theory is also discussed which helped in reasoning the status of the Code adoption and implementation process. The theoretical propositions pertaining to each model are also used to develop the questions for the semi-structured interviews to identify the major barriers, the causes of non-compliance and the recommendations for better governance standards in Bangladesh. Finally, the theories are also used to explore the appropriate model of governance in Bangladesh.

Chapter 2 also reviews previous literature on code compliance and the barriers developing countries are facing in establishing good governance. The discussion indicates that the degree of compliance varies among developed countries and non-compliance with code provisions are found to be commonly evidenced in the studies on developing economies. Perhaps that is the reason a rich vein of research has emerged debating the appropriateness of a reformed model of corporate governance in developing countries. The chapter concludes by highlighting the existing studies on corporate governance in Bangladesh and emphasizing that there is a major gap in the literature concerning Bangladesh and its compliance standard.

It argues that before commenting on the appropriateness of the Code it is very important to see the extent to which companies are complying with the Code, whether companies are facing difficulties in complying and if the Code provisions are appropriate – which should systematically solve the dilemma of the country to decide whether or not the suggested model is appropriate for Bangladesh.

Chapter 3 discusses the corporate governance framework and the socio-economic context of Bangladesh with three different aims. First, to have an insight into the way the governance system of Bangladesh has evolved; second, to understand the factors influencing its governance system and finally to discuss about the key players of corporate governance in the country. The discussion indicates that, like many other developing countries the corporate governance in Bangladesh has evolved through its long history, culture and mostly political changes. The legal system is based in part on English common law, but it is not quite similar to the absolute form of English law from the perspectives of socio-cultural and religious values. Previous studies relating to Bangladeshi corporate governance suggested that the corporate practices are mostly governed by the Companies Act 1994, and the socio-cultural aspect has significant influence over it. There are five bodies which regulate corporate governance practices in Bangladesh – the Registrar of Joint Stock Companies and Firms (RJSC), Bangladesh Bank, the SEC, the Stock Exchanges and the ICAB. However, the overall discussion supports the findings of Siddiqui(2010) that these key players are exposed to the problems of legitimacy. For instance, the SEC is financially dependent on the government and the lack of self-regulation by the professional bodies and their inefficiencies have created the scope for the donor agencies in Bangladesh to intervene with policy-making decisions through private-sector think-tanks (Siddiqui, 2010).

The discussion also indicated that the corporate structure is mostly comprised of small and medium sized firms. In many of the cases the Board of Directors are also entirely comprised of family members. Listed firms rely heavily on either bank or public funds and the mechanism for market control is almost absent in Bangladesh. The capital market and its investors are characterized by a low-level of sophistication. This chapter concludes by stating that the ability of Bangladesh to participate in this future growth will depend on how quickly and effectively its government can resolve issues in socio-economic and political struggles, bureaucratic control, corruption, unsupportive legal structure in general and also with special reference to the capital market and corporate governance in particular.

Chapter 4 discusses the Code of Corporate Governance of Bangladesh. It discusses the basic features of the Code and compares its provisions with the SEC Guidelines of Bangladesh, the OECD Principles 2004, and the Codes of India and Pakistan to understand the extent to which the provisions of the Code vary with these provisions. The discussion indicates that both the SEC Guidelines and the Code is a reflection of the OECD recommendations. The SEC Guidelines focus only on five major areas of governance and comparatively the Code is more comprehensive and covers detailed provisions on different areas of corporate practices. Although the Pakistani Code is almost a reflection of the OECD Principles 2004, the revised version of the Indian Code has some detailed provisions on some areas (like independent directors) which can serve as a guideline for the policy makers of Bangladesh to understand the way neighbours are addressing their issues differently.

Chapter 5 then introduces the methodology and methods used to gather and analyse the data. An interpretive methodological approach has been used to provide an understanding of the overall acceptance of the Code for Bangladesh. A questionnaire and semi-structured

interviews are the two methods adopted to obtain the primary data for this study, while the secondary data was collected from the company annual reports, web-sites etc. The questionnaire contained the provisions from the Code and was distributed among the listed companies of Bangladesh. In total, 71 listed companies participated in the questionnaire survey and 32 stakeholders of companies were interviewed.

Chapters 6 and 7 deal with the findings and analysis of the data collected in the study. Chapter 6 addresses the first three research questions relating to the status of compliance with the Code provisions, whilst Chapter 7 covers the rest of the three research questions which were addressed through interviews with wider stakeholder groups. The following sections summarize the findings on each of these six research objectives.

Research Objective 1: *Level of Compliance with the Code Provisions amongst the Listed Companies*

The Code states that its aim is “to improve the general quality of corporate governance practices which can be achieved when companies acknowledge, incorporate and fully comply with its provisions” (BEI, 2004, p.4). That is why, in the present study, the analysis of the overall acceptance of the Code in Bangladesh started with an analysis of the extent to which the companies are complying with the provisions of the Code. Companies are considered to be compliant according to their responses to the questionnaire and the information disclosed in their annual reports and their company websites.

The findings suggest that on average, the level of compliance amongst sample companies is at a moderate level (67%). In comparison with the results of others (see Akhtaruddin, 2005; Belal, 2001; 2004; Haque, 2007; Reaz, 2006) who measured compliance against the

Companies Act 1994 or some other regulations (e.g. corporate social reporting)⁹², the findings of the present study suggest that there is an increasing trend of compliance over time. For example, Akhtaruddin (2005) examined the level of mandatory disclosures made by listed companies and found only 43% of the sample companies were complying; whilst the study of Sobhani et al.(2009) indicated companies are disclosing at least one item of disclosure on human factors, 47% on community issues and 19% on environmental issues. Compared to their findings, the level of compliance is high in the present study, where the majority (73%) of the sample companies are complying within the range of 60% to 79% with the Code provisions. Sobhani et al. (2009) also realized an increasing trend in corporate social reporting practices and stated that the level of disclosure has increased over the last 10 years in Bangladesh.

Nonetheless, this moderate level of compliance does not compare favorably with the level of compliance in some other emerging economies like Brazil, China, Russia, and especially India. These countries are ranking high on the ease of getting credit, and the sovereign credit rating of them is higher than Bangladesh. Their stock exchanges have the largest volume of trades in the world. Even in India which has a lot of socio-economic similarities with Bangladesh, its corporate governance landscape has been changing fast over the past decade. By contrast the present study's findings indicate that corporate governance has been slow in making its mark in Bangladesh.

It has already been eight years since the Code was introduced. The questions thus naturally arise, if the Code represents an appropriate synthesis of international and national best practices that are wholly applicable to the Bangladeshi context, then why are only 6% of

⁹² See details in Chapter 2, section 2.3.1.3

companies highly compliant with it and why so far are even the listed companies only moderately compliant with the Code provisions? These questions further validated the need for understanding the rest of the research questions which are framed to extend understanding about the level of acceptance of the Code in Bangladesh.

Research Objective 2: Level of Compliance and Firm-Level Characteristics

To understand the pattern of compliance better, the second research objective was set to examine the extent to which the level of compliance varies with different company characteristics. From prior studies and the dominant corporate features of Bangladesh, six key characteristics are identified as explanatory variables, and these are: company age, profitability, size, industry type, company type, and finally the type of auditors.

To facilitate understanding, at first the overall compliance score was examined through the industry classification. The summary of the descriptive analysis indicated that the level of compliance varies significantly among the industrial categories. Although the average compliance score was at a moderate level in each of these categories, the mean score significantly varies between FIs (including banks and NBFIs) and NFIs, suggesting that the FIs in general, and the banking industry, in particular, are more compliant with the Code.

However, the result of the multivariate analysis suggests that except for the NBFIs, the industry classification has a negligible effect on the level of compliance of the sample companies⁹³.

⁹³The findings indicate that all other things being equal, the compliance score of NBFIs will be less by 9.79 points ($p < 0.01$) than would have been the case for NFIs.

In the recent past, Bangladesh has taken some major initiatives to strengthen its FIs, for instance it has reformed many of its policies and placed mandatory provisions for FIs to regulate their corporate practices. Additionally in year 2010, the Government launched two insurance laws: Insurance Act 2010 and Insurance Development and Regulatory Authority Act 2010, to further strengthen the regulatory framework and make the industry operationally vibrant. A significant number of the interviewees claimed that unlike the judicial system of the country, Bangladesh Bank is comparatively stricter in enforcing its regulations and take immediate actions against non-compliance for which FIs are perceived to have better governance than the NFIs. However the findings of the present study suggest that the regulatory effort did not make an impact on the level of compliance with the voluntary Code provisions. This is perhaps the reason behind the moderate level of compliance with the Code across different industries.

However, the fact regulatory pressure can increase the level of compliance in Bangladesh was indicated by the compliance score of the Fuel and Power industry, which scored highest amongst the NFIs. This particular industry is mostly comprised of family-owned companies and has been declared as a growth sector by the Government of Bangladesh. Hence, different policies have been developed and the progress is monitored with special attention by the Government. Hence it can be argued that, Government and regulatory pressure on companies in Bangladesh has the potential to improve the level of compliance with codes of corporate governance.

The findings from the regression analysis also suggests that other than the industry type, age, size by total assets, and the type of company have a statistically significant association with the level of compliance with the Code. As indicated by the t-statistics, all other variables are

either positively or negatively associated with the level of compliance, but statistically insignificant.

Research Objective 3: *The Code provisions which are most, and least, complied with*

Chapter 1 of this study discussed in detail that before the Code is revised, it is essential for the policy makers to identify the provisions which are most and least complied with. The third research objective of this study intended to address such need. The Code has three major categories of provisions: board issues, shareholders' rights issues and issues related to financial reporting, auditing and non-financial disclosure ("financial reporting issues"). The findings suggest that irrespective of the industry, the sample companies were mostly compliant with the provisions related to financial reporting, and poorly compliant in the case of board related provisions.

Discussion indicated that companies are non-compliant with some provisions of the Code because these provisions are not a legal requirement, or they are ambiguous or inappropriate because the country lacks enough infrastructures. The interviewees also argued the same thing that lack of infrastructure is leading to non-compliance. For instance, the lack of training facilities is one of the reasons behind non-compliance with the provision that requires directors to be trained on corporate governance practices. However, their claim is arguable, because even though the country does not have plenty of facilities for training their directors, it does not mean that it does not have any. There are a few institutions like the BEI, ICMAB, ICMA which run training programs on corporate governance related issues. The question thus arises as to whether the companies are aware of the need of training at all which could drive them to find available facilities to train their directors to ensure better governance. Perhaps the answer to such question has been provided by the later findings from

the interview analysis (in Chapter 7) which indicates that other than the lack of infrastructure, the lack of culture, inadequate knowledge and the lack of awareness among people are the most likely reasons behind the reluctance of companies for attaining trainings.

Legal provisions for shareholders rights are, for the most part, adequate in Bangladesh (BEI, 2004). However, the Code has recommended some provisions regarding shareholder issues which are aimed towards empowering the shareholders and making them understand their rights and responsibilities. Although the findings suggest that the sample companies are complying with some of the provisions relating to shareholders' rights, concern remains because the effectiveness of these attempts to empower the dispersed shareholders was found to be challenging during the interview analysis in Chapter 7 which indicated that in most of the cases, the AGMs in Bangladesh fail to ensure an effective check and balance mechanism through which shareholders' could create pressure on companies for good governance.

Although the sample companies are mostly compliant with the provisions relating to financial reporting, on an average, the level of compliance is at the higher end of the moderate level.

Since, at a different point in the analysis, the findings indicated that the sample companies are following the SEC Guidelines, not the Code, to reconfirm, Chapter 6 concluded with an analysis of the provisions which received more than 80% and less than 50% compliance. These most and least complied with provisions are then compared against the SEC Guidelines and the Companies Act 1994 provisions to understand whether they match with the legal and regulatory provisions of Bangladesh. It was interesting to find that none of the Code provisions which had below 50% compliance score, were a requirement of the Act or the regulatory provision; whereas all the 'mostly complied with Code provisions' are actually a requirement of either the SEC Guidelines or the Act. Also compliance was found to be

higher when the Code provisions coincide with both. Thus this study argued that among the sample companies the decisions to comply is mostly likely to be influenced by the involvement of regulators. Although the moderate level of compliance could be appreciated at this stage when the concept of good governance is relatively new in Bangladesh, the comparison of the most and least complied with provisions indicates that amongst the least complied with provisions, there are some areas which are very sensitive governance issues e.g. having a nomination committee, directors' training, disclosure of credit rating etc. For countries like Bangladesh where the independence of NEDs is questionable, competence and awareness about the need for good governance amongst the board of directors is challenged, and non-compliance with these kinds of provisions certainly raises concerns.

In summary, the overall discussion relating to compliance with the Code indicates that:

- Companies are not complying with the Code; rather they are following the legal and regulatory guidelines for ensuring a better governance standard.
- The level of compliance has the potential to increase with pressure from Government and regulators

In order to validate and complement the findings from the survey, further investigation was needed to understand whether such compliance reflect the realities. Chapter 5 discusses that such an understanding is better addressed with semi-structured interview as it allows the researcher to explored cases in depth. Hence the last three research questions which sought stakeholders' perceptions were addressed through qualitative analysis and reported in Chapter 7.

Research Objective 4: *The Barriers to Good Corporate Governance Practices in Bangladesh*

The Code claims that its provisions “are set out in a manner which represents an appropriate synthesis of international and indigenous best practices that are wholly applicable to the Bangladeshi context”(BEI, 2004, pg.4). To understand whether the Code objectives are met, Chapter 7 of this study, begins by diagnosing the barriers the companies face in ensuring good governance, because it is undeniable that any code is most likely to be rejected by companies if it does not recognize and deal with the domestic issues.

The findings indicate that the entire corporate governance framework is in fact dysfunctional in Bangladesh. A wide range of stakeholder opinions were covered including, government, employees, customers, shareholders, lending agencies, legal and regulatory bodies, watch dogs etc. According to their opinions, Bangladesh suffers from five major barriers which must be addressed before developing Code provisions, and these are - a weak legal and regulatory system; a lack of knowledge and competence; political influence and bureaucracy; issues relating family businesses; and finally the lack of pressure on companies for good governance.

Whilst prior literature, like Klapper and Love (2004) (as discussed in Chapter 2) suggest that a strong legal system is considered to be pivotal to establish good governance, in Bangladesh it was found to be weak, ineffective, politically biased, poorly manned, and most importantly weakened by inadequate and ineffective law provisions. A lack of competence among people in general was identified which is directly and indirectly hindering many of the aspects for ensuring good governance Bangladesh. While typical agency problems prevails, the study

identifies that lack of concern, awareness, and motivation are some other factors which are resisting companies to ensure good governance standards in Bangladesh.

The pay structure has been found to be a major area of concern. Because many of the existing problems seem to be linked with the poor pay structure for professionals like government officials, regulators, academics and most importantly the auditors who were supposed to be independent enough to control the forgeries of companies. The findings indicate that the corruption has been institutionalized in Bangladesh and it is directly or indirectly related to the existing pay structure which makes it almost impossible for many of the professionals (especially the government officers, academics, auditors) to maintain at least a minimum living standard. Hence, they are to some extent bound to compromise their ethics at the cost of their independence.

During the survey analysis, it was found that the sample companies comply with many of the provisions relating to shareholders' rights and opportunities. However the interview findings here revealed that those opportunities are not utilized because of the existence of hooligans ("muscle man") who are hired by the companies to press their (companies') decisions. Hence shareholders do not find it worthy to participate in the AGMs. The companies which are not taking any such unethical measures, their AGMs are not successful enough to ensure a check and balance mechanism. The country lacks well informed investors to exercise their rights and responsibilities of shareholders and thus fail to take the opportunities offered by the companies to ask them questions in case of any doubts.

In the absence of a strong legal and regulatory framework, stakeholders are considered as an effective source to create pressure on companies for ensuring better governance standards. Unfortunately, the findings suggest that the companies in Bangladesh are not only free from

takeover threat, but also lack internal and external pressure for governance. Other than the weak shareholder base, the suppliers, consumers, government, community are claimed to be lacking in awareness, competence and mind-set to challenge company decisions and make demands for better governance standards. Although some new pressure groups have emerged in the country like CAB, CRAB, they lack funds and enough regulatory power to work effectively.

In summary the analysis indicated that the overall corporate governance infrastructure of Bangladesh is dysfunctional in most, if not all, aspects. Overall findings indicated that any initiatives to improve governance standard must pay attention to these deficiencies, if any meaningful change is to take place.

Research Objective 5: *The Causes of Non-Compliance with the Code*

In order to support the understanding of the appropriateness of the Code in Bangladesh, the study then analyzed the specific causes of non-compliance with the Code. As identified in Chapters 3 and 6, like many other developing countries, Bangladesh has already taken some major steps to improve its governance standard. Hence, in this research question, the study identified the reasons that still remain as a cause of non-compliance with the Code.

The findings suggest that not all the barriers as identified in Chapter 7, are causing non-compliance with the Code. Seven particular reasons were identified for which the interviewees believe the Code has not been accepted yet in Bangladesh, and companies are non-compliant with its provisions, and these are – the voluntary nature of the Code; the lack of communication from the BEI; the lack of culture for ensuring compliance, inadequate and ineffective provisions of the Code; the lack of knowledge; the lack of motivation among people to comply with the Code; and finally the lack of infrastructure

Whilst, the survey findings indicate that the companies may not be following the Code to ensure their governance standard, almost all of the interviewees' opinions support that claim and stated that companies are actually following the SEC Guidelines for corporate governance standard – suggesting the Code as a whole has not been accepted by the companies of Bangladesh. The voluntary nature of the Code and the lack of legal power in the hands of the BEI (i.e. the donor-funded private think tank which introduced the Code) are considered to be the fundamental reasons behind such non-acceptance. Although the legal and regulatory arrangements in Bangladesh is weak and ineffective, the interviewees believe that due to a lack of knowledge and awareness, the people of Bangladesh tend to comply only with those provisions which are legally imposed on them or they are pressurized to do so.

The Code has also not been accepted yet because it has not been properly communicated to companies in Bangladesh. Although some initiatives were taken by the BEI for raising awareness about the necessity of compliance, the interviewees in general believe those were not enough to convince people to bear the cost of compliance. However it is not unique for Bangladesh that unless people find some potential benefit, tangible or otherwise they will be reluctant to comply voluntarily. The interviewees from BEI and donor agencies also agreed that the awareness building program was not sufficient to ensure proper implementation of the Code, whilst the interviewee from the BEI argued that they could not do it due to lack of funding. However, the question remains unanswered as to why, when the donor agencies of Bangladesh like the World Bank were found to be effective in bringing the companies to comply with CSR provisions (see Belal, 2004) did they not do the same in case of the Code provisions? They funded the project for the Code development (for details, see Chapter 4), but why did they not continue to support the project until its successful implementation and monitoring, knowing that mere publication of an effective Code does not necessarily

guarantee its success in practice, especially in developing countries where the culture of compliance is quite rare.

The findings further indicated that even if companies intend to comply with the Code, some of its provisions will be difficult to comply with due to their ambiguity or inappropriateness in the context of Bangladesh (e.g. making Shareholder Handbook available to all shareholders or training directors on corporate governance). Instead of blaming only the Code or the BEI, a significant number of interviewees believe non-compliance with the Code is also because of the lack of motivation among companies to comply, the lack of knowledge especially amongst family businesses which are in a ‘growth trap’ and the lack of infrastructure which resists compliance with Code provisions in Bangladesh. Thus the causes of non-compliance with the Code as identified by the interviewees from the wider stakeholder groups have similarities with the possible causes of non-compliance identified from the survey analysis.

However, some of the interviewees had hopes that overtime, the new generation is getting the control over the business and the first generation who are more resistant to change are gradually being phased out. This new generation is perceived to be more educated and more aware of the needs of voluntary compliance. Thus they believe, if people are made well aware about the needs then, if not now, then at least in the future it is not absurd to expect that companies in Bangladesh will voluntarily comply with international standard of practices.

Research Objective 6: *Appropriateness of the Code*

In response to the recent debate relating to the appropriateness of the shareholder perspectives of governance in a developing country structure, the last research objective of

this study aims to identify an appropriate model of corporate governance for Bangladesh. Based on the interviewees perceptions regarding the appropriate model of governance for Bangladesh, earlier findings related to the problems of corporate governance and the causes of non-compliance with the Code, this research question, in particular aimed to identify which model fits better in the corporate governance framework in Bangladesh: the shareholder model which is prescribed by the Code? Or the stakeholder model which has been recommended by prior studies?

The overall findings suggest that none of the theoretical models alone or even in combination is enough to encapsulate the major governance challenges of Bangladesh, hence does not fit appropriately in the corporate governance environment of Bangladesh. While the findings support the claim of prior studies like Siddique (2010), Mir and Rahman (2005) (see details in Chapter 2) that the dominant shareholder perspective is not applicable for Bangladesh, it extends such understanding by finding that the shareholding perspective becomes inadequate to understand the pattern of agency issues, the newly emerged stakeholder concepts of governance were found to be inappropriate because Bangladesh lacks strong stakeholders and lacks legislative support for companies against the potential manipulation of existing stakeholders. Many of the issues such as incompetence of professionals, immoral activities of stakeholders, weak legal and regulatory system, and lack of willingness for better governance remained unrecognized in both of these two perspectives of governance. Therefore supporting the arguments of others scholars (e.g. Davies, 2008; Letza et al., 2008; Letza et al., 2004a) this study also takes a standpoint against the polarization of these two contrasting paradigms of governance and claims that being rigid to one particular model is somewhat unrealistic to view the corporate governance reality in Bangladesh.

By finding evidence for the need of a new approach to design a corporate governance model for Bangladesh, this study also complements earlier studies(e.g. Davies, 2008; Letza et al., 2008; Letza et al., 2004a; Shankman, 1999) which advocate a flexible, adaptable and innovative approach for developing a corporate governance model. The overall findings of this study indicate that both the shareholder and stakeholder model have their own merits in dealing with the corporate governance challenges in Bangladesh, but a more effective governance model would be the one that emphasizes on the best practice recommendations; considers the ability of the country to adopt best practices; and highly prioritizes the needs of the business environment. It also recommends that the method of governance practice needs to be reviewed regularly to bridge the gap between standard and reality. In doing so, the interviewees suggested that the existing Code should be reformed according to the needs and deficiencies of the country. Policy makers are also recommended to take initiatives to develop a corporate environment in which companies will be willing to maximize the interest of both shareholders and stakeholders. Thus, a high emphasis is placed on training for capacity building, networking and developing core groups which can be identified as ideal cases for best practices.

8.3 RECCOMENDATIONS FOR IMPROVING GOVERNANCE STANDARDSIN BANGLADESH

Considering the overall findings of the present study, some recommendations are developed for reforming the Code and also for the policy developments to ensure better compliance by the companies of Bangladesh. Recommendations are developed in the light of the suggestions made by the interviewees, previous literature, measures taken by neighbouring countries and the developments in the global capital market. The codes of India and Sri Lanka have been emphasized in particular because these two countries regularly revisit their code provisions to

incorporate recent developments which can help Bangladesh to understand how neighbours with a similar kind of infrastructural and cultural challenges are dealing with the problems.

Recommendations for the Code Reformulation:

- i) The Code needs to be revised. The provisions must be amended according to the needs and affordability of the country. The findings of the study thus can be a good help to understand the needs, the possible barriers for compliance and also the areas where inadequacy or ambiguity in provisions have been traced. It is important that the Code is revised on a regular basis to incorporate the emerging needs, accommodate the changes in the global corporate environment.
- ii) The use of NED as a proxy for understanding board effectiveness is very common and popular method amongst corporate governance literature. However, this study could not work on the provisions relating to NED because most of the sample companies did not declare who are their NEDs, and what is qualification and expertise of their IDs. A significant number of interviewees emphasized on this issue. Therefore, this study recommends that, companies in Bangladesh should be compelled to declare the identity of NED in their board setup and also communicate the criteria and qualifications needed to become a NED in respective functions.
- iii) Interviewees recommended that issues relating to family-owned companies are quite different to others. Separation of ownership is important but in the absence of a strong legal system, transparency and accountability, the policy makers should realize what is happening in the name of separation and resulting in mock compliance. Rather, the interviewees believe before reforming the Code provisions for the family owned

companies, the policy makers should also consider the views of the entrepreneurs, culture and reality of the country.

- iv) The policy makers should also consider developing provisions relating to the whistle-blowing mechanism. However, instead of simply asking companies to establish a whistle-blowing culture some provision should be developed to guide companies to establish the mechanism for whistle-blowing, and ensure a safe environment for whistle-blowers. The Indian Code of Corporate Governance can be followed in this regard. Following the Indian Code, the Chairman of the audit committee can be given the authority to have direct oversight of whistle-blower issues. Whilst the interviewees of the study believe establishing a safe culture of whistle-blowing is possible only if the whistle-blowers are confident about their anonymity, the policy makers must emphasise this area and think about other possibilities. In order to avoid any kind of victimization from any side, the companies need to ensure that the employees know exactly when and in what circumstances they should blow the whistle.
- v) There was a general agreement among employees that there must be some provisions in the Code for dealing with non-compliance, and the regulators must set examples by implementing such provisions and identifying and penalizing non-compliant companies. Whilst some of the interviewees raised concerns about the possibility of the wrong application of these penalty mechanisms and its consequences, a significant number of interviewees counter-argued by stating that *'it is the penalty that is most effective in making people to be well-aware about their rights and responsibilities'*. Hence they believe, if the penalty mechanism is implemented fairly that will reduce the risk of penalizing an innocent firm.

Along with penalties, a reward mechanism should also be adopted. However, as the interviewees believe that recognition only will not be sufficient at this moment to motivate people to comply, then some kind of material benefit like tax benefit, or credit benefit should be given.

- vi) The OECD Principles of Corporate Governance Guidelines: A Boardroom Perspective (OECD, 2008) identifies a system of chartered directors that can help to overcome the directors' incompetence issue in future. This study indicated that the young generation entrepreneurs who are considered to be comparatively open minded, are gradually taking their place in the corporate environment of Bangladesh. Hence some provisions can be developed according to the system of chartered directors to guide the young directors to become qualified by requiring them to fulfil certain educational requirements (such as attending a certified director education course. However, the Government, regulatory and professional bodies should come forward to support such provisions. For instance a network can be developed amongst the industrialists, academics and professionals to identify the need; design the course; and develop the infrastructure to produce qualified chartered directors. Although the interviewees opined that the country lacks adequate infrastructure to support training needs, it appears that the problem is actually with proper communication, organization and a lack of vision. As some of the interviewees indicated the universities of Bangladesh are well equipped to support effective training programs along with the few professional training institutes, whilst others believe there are some entrepreneurs who can be used as professional trainers to fill the competence gap. All that is needed is to have the vision to utilize all these existing opportunities in an effective way.

- vii) The provision related to the nomination committee should be extended to ensure a formal and transparent procedure for the appointment of new directors. Or in the absence of a nomination committee, as has been suggested in the Sri Lankan Code of Corporate Governance, the board as a whole should annually assess board composition to ascertain whether the combined knowledge and experience of the Board matches the strategic demands facing the Company. The findings of such an assessment should be taken into account when new board appointments are considered and when incumbent directors come up for re-election.
- viii) In order to address the incompetence issue, some provisions can be developed relating to training. In addition to the existing brief training related provisions, the interviewees suggested to include some specific provisions to ensure that at least its senior and middle level managers are regularly trained to the required level of competence, updated on the latest technology and are well aware of the global needs especially with issues relating to good governance. Considering the limited training facilities the provisions must be flexible enough to allow a reasonable time for companies to comply with those provisions.
- ix) After developing an appropriate code of corporate governance, it is essential that the Code is communicated among the relevant parties in a comprehensive and well planned manner. In communicating the code successfully, the regulatory support is necessary. The regulator (SEC) needs to play a significant role in communicating the code among the enlisted companies. For instance, they can provide the Code to the enlisted companies and make an electronic version available in their website. For successful communication, it is imperative that both electronic and printed version of the Code is

made available and awareness on the Code availability created among the relevant parties.

- x) For successful implementation of the revised Code, strategies need to be developed and high emphasis need to be given. The overall findings of this study suggest that the voluntary mechanism of the Code is less likely to make any significant impact on level of compliance. Therefore, some sort of regulatory pressure is necessary for the Code adoption. However, interviewees also agreed that the effectiveness of the Code will be achieved when companies will realise the importance of the Code and adopt it voluntarily. In solving this dilemma, interviewees suggested that two parallel process need to run simultaneously. On one hand, to encourage voluntary compliance, an awareness program needs to be designed and conducted rigorously and continuously to make the concerned parties understand the beneficial sides of following the code. On the other hand, to create the regulatory pressure on companies, the SEC Guidelines is suggested to be revised in light of the revised code. The SEC needs to monitor very carefully about its implementation.
- xi) It is equally important to develop strategies for post implementation monitoring of the Code. Attention needs to be given on company experience in implementing the Code and difficulties faced during the implementation phase.
- xii) In order to instil good governance in day-to-day practices, special attention must be paid on ethical behaviour. For encouraging ethical behaviour, interviewees believe companies must be provided with clear definitions, guidelines and policies of the ethical and non-ethical behaviour. They also suggested that ethical practices can be encouraged by rewarding ethical behaviour. Furthermore, culture of good corporate governance

should be established. To do so, companies need to communicate and reinforce the good governance norms through regular campaigns, events, recognition at team and individual level and so on.

Recommendations for the regulators, policy makers and the Government of Bangladesh:

- i) Since the study indicates that the country is not yet ready to ensure compliance voluntarily, any activities to improve corporate governance standards at least at the beginning, should be driven by the regulatory system. Hence, as mentioned in the earlier section, it is very important that the SEC Guidelines of Corporate Governance is revised according to the need of the country and they should be made comprehensive.
- ii) For ensuring a successful implementation of the SEC Guidelines, a high emphasis should be placed on the capacity building of the SEC and other law enforcement agencies. Special attention should be paid to:
 - training regulators and their workforce to understand corporate governance challenges, issues and values. Training must be on a continuous basis to keep abreast of the latest developments.
 - increasing capacity; the regulators must have competent professionals to carry out the monitoring tasks.
- iii) The overall findings indicate that the most effective and perhaps ‘the only way to ensure quality AGM’ (opined by the interviewees) is to make the shareholders aware about their rights and responsibilities; and there was almost a general agreement amongst interviewees that comparatively, regulators are the most significant means

through which any realistic initiatives can be taken at this moment. Quite a few interviewees recommended that the SEC take initiatives to organize investors' education program which will help investors to make the right investment decisions and make them aware about their rights and the issues relating to the AGM.

- iv) The Companies Act 1994 needs to be revised to overcome the inadequacies and to incorporate the latest development. For instance, it should include the definition, criteria, extent of power, roles and responsibilities of NEDs and independent directors; audit practices, auditors' independence, auditors pay; directors' performance evaluation, nomination committee, audit committee etc.
- v) To protect the immature death of businesses, the interviewees recommended developing takeover mechanisms which might create a pressure on companies for performing well. However, the interviewees also recognize that development of provisions for takeovers needs time and needs thorough analysis but they believe that the takeover mechanism should be considered from now on, so that in future it can be established. Once the takeover threat mechanism is in place, they believe the country can start thinking of voluntary code provisions instead of the mandatory one.
- vi) For improving the audit environment, interviewees made several recommendations like quality control on the audit practice, amendment of the audit education system, structuring audit fees, and most importantly continuous training of auditors to keep pace with recent developments. ICAB must keep its eyes open to understand whether the companies are facing any problems in ensuring compliance with their prescribed standards. In order to improve auditor' competence, the ICAB can refer to some recent studies (Crawford et al., 2011a; Crawford et al., 2011b) which have particularly

addressed the gap between the competence auditors and company expectations. These papers have also addressed some generic skills that a competent auditor must have.

- vii) Other than the SEC, a separate institute for corporate governance (with regulatory power) is considered to be very important at this stage for facilitating code implementation process, regular monitoring the compliance status, providing guidance and support to companies for ensuring good governance. Although BEI has taken such initiatives, but the interviewees believe that a lack of regulatory power and being dependent on foreign aid, mean that the BEI could not perform these duties as is needed by the country.

The Indonesian example can be noted in this regard. The country has developed a National Committee on Governance which is responsible to review and revise the Code on a regular basis, to ensure that the code is more contextual and fit for the current situation. This committee has revised the Code and is emphasizing the implementation and communication with the business community.

- viii) Corruption is endemic in Bangladesh, but that does not mean that everybody is corrupt. Even among this entire corrupt environment interviewees believe, there are ethical people in all professions who must be identified, must be supported, and must be made vocal to stop corruption. Corruption cannot be removed but surely can be reduced if proper knowledge, concern, awareness and a pressure from other sources like the media is there.
- ix) For addressing the incompetency issues among people generally, other than developing a network among education institutions, the University Grant Commission of

Bangladesh (UGC) should come up with some policies to ensure that the course curricula are adequate enough to ensure companies are getting the workforce as a useful resource; to ensure that the faculty members are qualified enough, paid enough, and are supported enough to enhance their knowledge and qualification. The UGC also needs to ensure that the courses are updated regularly. The student admission and evaluation system should be strictly controlled to check the commercial activities of educational institutes.

Interviewees stated that full compliance with any standard of good governance depends much more on the behaviour of the relevant parties than about rules. To ensure compliance effectiveness, they believe it is imperative to ensure that the companies, directors, boards have the right attitude to the requirements, which is not possible to develop overnight or only through trainings. Rather it is important that business ethics and ethics in general are taken into serious consideration at every sphere of life. Business ethics and corporate governance related courses should be included at different stages of the education system to ensure that ethical values are instilled amongst the future managers of the country.

- x) To motivate and to convince companies to ensure compliance, organizations, and academics should come forward to develop business cases. Instead of looking into companies in other countries, cases should be developed based on Bangladeshi companies which will be more acceptable for companies who argue that corporate governance is not an issue for Bangladesh, or claim that as long as they earn a profit they do not need to worry about good governance.

However, this study does not claim that these recommendations are the optimal solutions for ensuring better governance in Bangladesh. The recommendations are not without reservations but expected to help the policy makers and regulators to identify some development areas of corporate governance which need immediate attention and also some plausible solutions have been suggested. The study argues that the policy makers must have an open mind to learn from every possible way to develop appropriate Code provisions which fits into the country specific needs and the needs of the global environment.

8.4 CONTRIBUTION AND SIGNIFICANCE OF THE STUDY

The study has made several contributions to the corporate governance literature in general and Bangladesh in particular. The study is the first attempt to measure compliance against the Code of Corporate Governance for Bangladesh. Whilst there is an increasing trend in the literature measuring the extent to which companies are complying with international standards of corporate governance, there was a lack of understanding from the Bangladeshi perspective. The findings of the study thus fill this gap and provide evidence for shareholders and other stakeholders.

Understanding of corporate governance practices against codes or best practices recommendation is the most common, popular and accepted method of study in both developed and developing countries. Studies have empirically proved, disclosure of compliance with best practice recommendations not only have positive impact on stock market (e.g. Fernández-Rodríguez et al., 2004; Igor et al., 2006) or improve performance (Bauwhede, 2009; Mallin and Ow-Yong, 2012), but also helps the code to remain abreast (e.g. Akkermans et al., 2007). Findings of non-compliance further allows countries to trace their gaps between standard and reality following an appropriate action for code improvement (e.g.

MacNeil and Li, 2006; Parsa et al., 2007). Understanding the overall corporate governance standard is particularly important for Bangladesh to attaining and sustaining development goals and strengthening corporate governance could help the country to attract foreign investment. The findings of the present study thus potentially contribute to the economy of Bangladesh in two ways. Firstly, whilst earlier studies on Bangladesh report poor levels of compliance when measured against different standards, by taking recent evidence the findings of the study indicate that the situation is not as bad as before. This sign of improvement in the governance standard is expected to have an impact on the domestic and foreign investors' level of confidence in Bangladesh. Secondly, the overall findings also inform companies and help them to take corrective actions to improve their governance standard.

One of the major theoretical contributions of this study is on the existing debate over the appropriate model of governance in developing countries. As discussed earlier in Chapters 1 and 2, finding the shareholder perspective inappropriate, some critics opined that stakeholder perspective of governance would be the best alternative for developing countries. The existing studies on Bangladesh also suggested exploring the possibility of adopting the stakeholder approach for Bangladesh. However, there was no clear answer whether the stakeholder model would be an optimal solution especially when in countries like Bangladesh there is a dearth of professionals, a lack of knowledge and ethics among people, and corruption is everywhere. The findings of this study fill this gap and suggest that neither the shareholder nor the stakeholder perspective of governance is enough for developing countries like Bangladesh. Whilst the study supports the previous studies that the shareholder perspective is inappropriate because of the infrastructural deficiencies, it adds to the existing literature by finding that the country is not yet ready to adopt a stakeholder perspective of

governance. Thus by finding the way to develop an appropriate model of governance, this study helps to strengthen the corporate governance practices in Bangladesh which at the national level, are expected to lead to a process of revitalizing the national economy (BEI, 2004).

The findings of the study complements some recent theoretical arguments where researchers like (Letza et al., 2008; Letza et al., 2004a)opined that the polarization of shareholder and stakeholder perspectives is unrealistic, hence invited researches to understand corporate governance in a new way, by going beyond the traditional static conception of good governance. With empirical evidence the findings of this study have responded to those calls and argue that, in countries like Bangladesh where no particular model is able to capture the real situation, good governance needs to be strategized in some other way, even if it means the features of different models can be combined.

The study also contributes to knowledge as it contains the first attempt from Bangladeshi perspective to compare compliance with the Code provisions across industries and an insight into the compliance pattern between mandatory and voluntary provisions. Whilst most of the earlier studies on developing countries found poor compliance with both mandatory and voluntary provisions, the findings of the study suggest that even within low or moderate level of compliance companies, in countries like Bangladesh, companies comply only/or more with mandatory/regulatory requirements. The findings thus also indicate that the regulators should be aware of the guidelines they set and emphasize the implementation process.

As discussed in Chapter 1, there was a gap in understanding the reasons behind bad corporate governance in Bangladesh and understanding their solutions. Adoption of mixed methodology allowed the study to respond to the call of the policy makers and enhance the

understanding of the corporate governance practices from the developing countries' perspective. Whilst most of the previous studies are based on either a quantitative or a qualitative approach, adoption of a mixed method allowed this study to take advantage of both methods. The quantitative measurement of compliance provides a relatively unbiased and specific understanding on the compliance level, the qualitative approach helped the study to broaden its scope by exploring different stakeholders' opinions regarding compliance and other unique problems of governance, Overall, the mixed method enabled the study to provide a richer explanation of why, how and where companies are non-compliant. Whilst many of the studies concluded by providing evidence of non-compliance, the present study takes a unique position by providing evidence of non-compliance and identifying the reasons behind this and their possible solutions. Thus, the study has made an attempt to respond to the recent call for "engagement" based research made by researchers like Gray (2002). An engagement based approach allowed the study to explore different stakeholders' perceptions who are directly and indirectly involved with the governance practices of companies in Bangladesh.

The findings are a particular help for the Code and the SEC Guidelines as both of these are due for revision and amendment. An understanding of the overall corporate governance environment was necessary for the policy makers. It is undoubted that before making any meaningful reformulation of the Code provision, the reviewers must know what the needs of the country are; which provisions remain those are complied with and what are the reasons behind this; and what might work best for the country to ensure full compliance. The findings of the study are a response to these needs. The recommendations which are developed in the light of the wider stakeholder groups' opinion, the literature review and the corporate

governance practices of neighboring countries can be followed to identify some possible solutions.

Finally, the overall study indicates that the corporate governance status in Bangladesh is similar to many other developing countries (e.g. Garay and González, 2008; Kota and Tomar, 2010; Okike, 2007; Olayiwola, 2010; Wanyama et al., 2009) which are of the opinion that mere code development will not guarantee good governance, rather changes are needed at political and cultural level. However, the study extends such understanding by finding that in countries like Bangladesh where the compliance decision is greatly influenced by regulators, it would be too optimistic to think that companies will be ready to step forward for voluntary compliance without any pressure, or that a culture of compliance can be created within a short time. Whilst the need for political, cultural and infrastructural changes are obvious, as a beginning, countries like Bangladesh should also ensure that the good governance initiatives are well supported by the regulatory authorities. Moreover adding to the previous literature's understanding of the issues relating to compliance, this study suggests that a culture of voluntary compliance in Bangladesh is possible if the Code reflects country's needs and ability, companies and users are well communicated with about the Code and most importantly companies are made well aware about the necessity for voluntary compliance.

8.5 LIMITATIONS OF THE STUDY

However, as with any other research, the present study has some limitations. For instance, considering the sample size of the survey analysis, caution must be applied as the findings may not be generalizable, especially in the case of non-listed companies. Only 71 questionnaires were administered to identify the level of compliance with the Code and 32 interviewees were conducted to capture the wider stakeholders' perceptions. Although the

study tried to include the perception of wider stakeholder groups, that might not be an exhaustive list of all of them; especially when the concept of stakeholder varies across different industries. However the findings have merit because the opinions expressed by the respondents in the questionnaire and the views expressed by the interviewees did not contradict with each other, rather complemented each other. Hence it is expected that the findings provide a representative picture of the views of the stakeholders in Bangladesh.

Another limitation relates to the sample bias and thus further relates to the generalizability of the study findings. Since the random method did not work, this study used the snow-balling technique to reach an acceptable sample size. However, precautions were taken to avoid bias and every effort was made to include all the industries in the sample. The next limitation is, due to cost and time factors, only one year's annual reports were considered, whereas the findings could be more robust if a trend of compliance could be drawn by considering the annual reports for at least five to ten years.

Some limitations lie with the research methods. For instance, both the questionnaire survey and the semi-structured interviews could be illusory in some cases as usually respondents by nature tend to reflect themselves as the ideal case or may not want to reveal their lack of knowledge. Moreover, in any empirical research it would be irrational to expect that the respondents will be comfortable in giving a bad impression about them; rather most of them will try to provide an impressive image of them. Moreover the qualitative analysis is also threatened by being too impressionistic and subjective as the analysis relied to a great extent on the researcher's perspective and evaluation. However to safeguard the study from such threat the data triangulation strategy was adopted in which the findings are verified with the available other documents and the findings of prior studies on Bangladesh.

Again, the study has used only six variables to understand whether the level of compliance varies with different company attributes. Some more variables like different other measures of profitability, culture could enhance the robustness of the findings. Thus it gives a future scope for future research to extend the understanding further.

Another limitation of this study is that it relied on the questionnaires mostly being completed by the companies themselves to understand their compliance standard, whereas the effectiveness of compliance is ensured when Code provisions are adopted in everyday practice, and there is a chance that compliance in practice may vary from the findings of this study. However the study tried to balance this shortcoming by using several methods of data triangulation and by exploring stakeholders' views relating to compliance.

8.6 AREAS FOR FUTURE RESEARCH

Comparatively little research on corporate governance in Bangladesh has been conducted. According to the researcher's best knowledge, the current study is the first attempt to understand the overall corporate governance practices, the corporate governance standards and associated problems in Bangladesh. However the corporate environment is dynamic and demands regular review.

Considering the limitations and implications of the present study, the following are some recommendations for further research in relation to corporate governance in Bangladesh. *Firstly*, being the first attempt the present study could not measure the progress of compliance with the Code. Moreover the compliance status was measured on the basis of a particular point in time (2009/2010), hence the claims may not be generalizable to other periods. It would be interesting see the findings of future research which can carry a longitudinal study over a longer period of time.

Secondly, the present study draws attention to poor shareholders' participation in AGM. Although some of the interviewees being shareholders explained some reasons for their reluctance to be present at the AGM, a thorough study is needed to understand the culture, the shareholders' issues and everything around AGMs in Bangladesh, with the aim of establishing the AGMs as an effective tool for check and balance mechanism of corporate governance.

Thirdly, the study considered some of the predominant variables to understand whether the level of compliance varies with different company attributes. But future research could be carried on by taking some more variables like leverage, liquidity, and most importantly listing status and culture. *Fourthly*, it would be interesting for future research to see the impact of compliance on business performance, especially to see if having independent director(s) on board has any impact.

Finally, future study should investigate the impacts of compliance with the Code on firm performance. Case studies are particularly recommended to develop success and failure business cases which are high on the agenda for ensuring better implementation of corporate governance, and also for ensuring that compliance with the Code reflects regular practices by going beyond being a mere statement.

8.7 CONCLUDING THOUGHTS

In conclusion, the findings of the study indicate that corporate governance in Bangladesh is in its early stage. The culture of compliance is gradually taking place. The level of compliance with the Code at a glance may not be impressive, but considering its existing home grown challenges, it can be appreciated. Moreover, for any developing country like Bangladesh where the entire corporate governance system is vulnerable, it is too optimistic to expect that

companies will live up to a high standard of governance compared to the developed countries.

The overall findings indicate that the Code has not been widely recognized by the companies in Bangladesh. Nevertheless, the study does not want to make any sweeping comment against its potential – because the non-acceptance is not entirely due to the weaknesses of the contents of the Code. It is the lack of communication and lack of awareness which did not allow the Code to exert its best possible benefit for the country. The problems as identified by the study might seem frustrating and puzzling. However, the findings relating to non-compliance with the Code suggest that a high level of compliance is very much a possibility if proper attention is being paid to the barriers of governance and the deficiencies of the Code. Once the Code is revised, it is likely that compliance with its provisions has the potential to improve the overall governance standard of Bangladesh.

It is good to note that despite the continuous socio-economic challenges, the country has been taking initiatives to reform its governance practices since its independence. Whilst some of those initiatives could not contribute much to the overall growth of the country, some others have certainly made a significant contribution. The depth of knowledge and understanding of the interviewees indicated that there is an urge among the people for better governance, which is further evidenced by the recent governance reform initiatives taken by the country. For instance, the development of a corporate governance unit in the SEC; regulators' attention to the core deficiencies of the SEC and the capital market⁹⁴; ICAB's new roles to

⁹⁴For instance, in the middle of the year 2011, the SEC has created a new and separate corporate governance unit comprised of professionals and experts on stock market and finance. Their aim is to monitor compliance status vigorously, increasing their capacity in terms of number and competency.

improve the quality of audit⁹⁵; or UGCs new initiatives to improve governance standards⁹⁶, all of these have the potential for a better governance standard in the coming days. Although some major issues (for instance, the audit fees; the pay structure of Government officials; the manipulation of political members in the legal system; and the quality of primary and legal education) still remain unaddressed, the recent steps are expected to make a difference to the corporate governance standard of the country in the future. Hopes can be placed especially when the interview analysis revealed that there is an urge among companies to pay attention to good governance as a global need. The question may arise as to why hope is placed on recent initiatives when earlier initiatives were found to be ineffective. However, no country so far excelled in improving its governance practices overnight, it is their constant efforts, understanding and, on top of everything, positive attitudes to change the situation that helped them to bring success. These recent initiatives in Bangladesh thus certainly bring hope for a better future.

Nonetheless, it cannot be ignored either, while an increasing number of developing countries are stepping forward in promoting their codes of corporate governance and showing concern about the necessity of having an appropriate model of governance, the Code of Corporate Governance for Bangladesh is halted with its mere introduction. It needs to be revised and requires proper implementation. Hence, the study emphasises that continuous effort should be

⁹⁵The recent quality assurance department which was established by ICAB to comply with the IFAC quality control requirements is ensuring that “regular visits are being made by the ICAB's quality assurance team to different audit firms across the country to ensure that their audits are of the standards set by the IFAC. Also, workshops, training programs are being organized regularly to create awareness regarding audit quality in Bangladesh. The entire syllabus for ICAB examination has also been revised” (Siddiqui, 2011, p 5-6).

⁹⁶ Bangladesh Research and Education Network, a World Bank funded Higher Education Quality Enhancement Project with collaboration of UGC (University Grants Commission) of Bangladesh has taken initiative to develop networks all over Bangladesh. Networks are developing among the universities and for video conferencing.

placed in identifying the needs of the country to ensure that the Code provisions remain up-to-date according to the local and global needs. While some aspects of the Code should be enshrined by the Government through its Ministry of Commerce, the SEC and other regulators; the rest depends on the willingness of the companies. Nevertheless, considering the existing lack of commitment amongst companies, this study argues that at least, for a start it is the regulatory pressure that is more likely to initiate the expected changes. This study also recognizes that the benefit of compliance can be fully realized when companies accept the Code compliance as important for their business process and not as a mere compliance issue. Hence, along with the legal and regulatory pressure for compliance strong emphasis should be placed on raising awareness of corporate governance. That is why instead of blind adoption of any particular model of governance, the policy makers should pay attention in amending the Code and the SEC Guidelines, facilitate companies to comply, and thus help them to see the benefit of compliance. Finally, efforts must be taken to ensure that companies are implementing the provisions – whether on a regulatory or a voluntary basis - with the spirit of compliance, not for mere legal or regulatory obligation.

8.8 REFLECTIVE ACCOUNT

Completing the thesis was an amazing journey and a great learning experience. This three years' project has helped me to learn a lot apart from the direct research related knowledge. I believe this learning will surely add values in my profession as an academic and also as a person. Found below are some key learning which might be important additions to my personal account.

Planning and time management

The first thing that came to me as a great learning is the structured work plan for the thesis. Since my study was a funded project (Sponsored by the Association of Commonwealth Universities), I had a deadline to complete my study in three years. Hence, my supervisors planned and scheduled my project from the very beginning which helped me to get a comprehensive view of important project activities, its deadline and available time for completion of those. Completion of a PhD program offers personal, social and academic challenges, and for me that clear structured project plan always worked as a guideline for checking progress against timeline and adopt accordingly. This is very useful in work life also, as practicing such planning gives advantage in balancing different roles and responsibilities while keeping the goals on track.

Improvisation

Whilst a structured work plan helped me to keep my studies on track, I have also learnt that not everything will go as planned and it is extremely important to have flexibility in the work process. For instance, as I have mentioned in Chapter 5, that my initial sampling plan did not work in Bangladesh. It was almost impossible to get data even from a single respondent. Having a clear deadline in mind it was very difficult to accept the reality. However, the quick improvisation of the initial sampling plan helped me to get access to the source of information. Adoption of a snowball technique was more appropriate for the local context in Bangladesh, and as I have explained in the thesis it opened new avenues for me to explore new areas. Furthermore, the idea of getting written consent from the respondents did not work for some of the interviewees. As I realized, due to the data sensitivity, the respondents, to some extent felt threatened to give a written consent on paper. While they were convinced

with the data protection process followed in the University of Birmingham, they thought that a written consent is a violation of the guarantee provided for anonymity. Hence, after discussing this issue with the supervisors, and other researchers from Bangladesh, the study had to continue with the oral consent from those respondents. Thus a quick improvisation removed barriers and allowed me to adjust with the local context and flexibility in the approach allowed me to access to the data required for an in depth analysis of the problems and its solution.

Work-Life Balance

Balancing ‘work’ and ‘life’ is one of the challenging aspects of PhD life. The PhD experience is much more than learning and doing research. It needs commitment, passion, patience and self-confidence to face the challenges of research – which definitely demands time from personal and family life. However, a good research needs social context. I have learned that people learn better by interacting with others, and people can produce better by engaging with families, friends, colleagues and other society members. Whilst it was extremely difficult for me to continuously juggle the responsibilities of a researcher, a mother and a wife, but after completion of the study I have realized that the continuous ‘work-life’ balance has made me even stronger and more confident. I have learned that life offers challenges every time, but there is also a solution for every problem – we just need to be committed to the things that we want and face the challenges with patience and confidence.

Overall, the PhD life as I have experienced, is an excellent way to learn, to investigate and to see life in a new way- which is challenging and exciting all at the same time.

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Appendices

Appendix I

Code _ _ _ _



THE UNIVERSITY
OF BIRMINGHAM

Survey on Corporate Governance Practices in Bangladeshi Companies

To the respondents

Thank you very much for your willingness to participate in this survey. This survey is being conducted as part of academic research study into understanding corporate governance practices in Bangladesh.

Questions in this survey are based on the provisions of the Code of Corporate Governance for Bangladesh and your valuable responses will be helpful in better understanding the corporate governance in Bangladeshi companies.

The survey results will only be used for research purposes and presented in an aggregate form thereby not revealing any individual firm's practices.

I have collected some background information about your company from its annual report and the code at the top of the survey enables me to link my background analysis with your response to the survey

Please read each question carefully and mark the **most appropriate response** considering the situation of your company

Section A: BOARD ISSUES

		YES	NO
Duties of the Board			
1	Does a Code of Conduct exist for the board detailing directors' roles and responsibilities?		
2	Are the key risk areas of the company identified and monitored by the Board?		
3	Are the performance indicators of the company identified and monitored by the Board?		
4	Does the Board collectively appoint the Managing Director/Chief Executive Officer (MD/CEO)?		
5	Does the board collectively participate in the appointment of senior management?		
6	Is the performance criterion for MD/CEO established by the Board?		
7	Is the performance of the MD/CEO evaluated by the Board?		
8	Does the Board evaluate the performance of its individual members?		
9	Does the Board have in place a succession plan for senior management and the MD/CEO?		
10	Is the internal control mechanism regularly reviewed and monitored by the Board?		
11	Is the risk management system regularly reviewed and monitored by the Board?		
Board Membership Criteria and Nomination of New Board Members			
12	Is the board free from directors holding directorship in more than 6 Boards?		
13	Does a director become ineligible for re-election to the board incase of failure to attend at least 50% of the board meetings (without a leave of absence) of previous year?		
14	Does the Board have a Nomination Committee or a method to nominate		

		YES	NO
	qualified person for directorship?		
Training:			
15	Does the Board provide opportunities for training of individual directors?		
16	Does the Board provide funds for training of individual directors?		
17	Does the Board require new directors to attend corporate governance orientation or training programme offered by reputed institutions/individuals		
Board Composition:			
18	Is it mandatory to retire 20% of the board members annually by rotation?		
19	Are the vacancies in the board normally filled at the AGM?		
Board Agenda:			
20	Is the agenda for each board meeting circulated to directors sufficiently in advance of that meeting?		
21	Is the Board Agenda approved solely by the Chairman?		
Audit Committee:			
22	Does the company has an Audit Committee: (if 'NO', then please directly go to question number25)		
23	Does the Audit Committee exclude/ restrict the Chairman of the Board from being a member of the Committee?		
24	Does the Audit Committee meet at least quarterly?		
25	Does the Audit Committee prepare reports on all meetings for the board?		

Section B: SHAREHOLDERS' RIGHTS

		YES	NO
26	Does your company provide a Shareholders Handbook which informs shareholders about their rights and responsibilities?		
27	Do your shareholders receive notice of the AGM, through a standard means of communication at least 21 days before the meeting?		
28	Are the outcome and proceedings of general meetings recorded and verified?		
29	Does the AGM held in a convenient location in the vicinity of the company's registered office?		
30	Do the shareholders receive information about company resolution,		

	decisions and operations in a manner that can be understood by a layperson?		
31	Do all the shareholders have the same voting right of 1 vote per share?		
32	Do the shareholders have an opportunity to nominate items for the AGM agenda prior to the AGM meeting?		
33	During the AGM, can your shareholders question the Board, subject to reasonable limitations?		
34	Does your company facilitate the voting process of the shareholders beyond that established by law? (like using a ballot procedure rather than a hand count for counting multiple shareholdings)		
35	Are your shareholders allowed to nominate Board candidates before the notice of AGM?		
36	Can your shareholders nominate audit firms prior to the notice of AGM?		

Section C: FINANCIAL REPORTING, AUDITING AND NON-FINANCIAL

		YES	NO
Accounting Standards and Accounts			
37	Does your company ensure that the accounting standards are implemented within the time frame given by ICAB?		
38	Does your company employ appropriately qualified personnel to prepare financial statements and accounts?		
External Auditors:			
39	Are your external auditors independent?		
40	Are your external auditors appointed by the shareholders?		
41	Does a shareholder, nominating an audit firm need to submit standardized information about the firm to facilitate comparison among nominating firms?		
42	Are the audit firms or partners involved in your firm's audit rotated every three years?		
43	Does your audit firm provide accounting or non-audit consulting activities in your company (where they are appointed as the statutory auditors)?		

		YES	NO
44	Does your company disclose both audit and non-audit fees (where applicable) to the shareholders?		
45	Does your company restrict the shareholding of statutory auditors to a maximum of 1% of the shares in your company?		
Internal Auditors			
46	Does your company have an internal audit function? (If no, please proceed to Question 49).		
47	Is your internal audit department independent from management?		
48	Does your internal audit department have authority to propose initiatives and changes directly to the board?		
Disclosure			
49	Does your Board present a balanced assessment of the company's position that may be understood by shareholders?		

Other

Please make any additional comments here if you would like to do so.

General Information

Name of the Respondents (optional): _____

Job Position: ☐ CEO ☐ Director (Executive) ☐ Senior Manager

Company Secretary ☐ Other (Please specify) _____

Thank you for completing this questionnaire

Appendix II



THE UNIVERSITY
OF BIRMINGHAM

CORPORATE GOVERNANCE PRACTICES IN BANGLADESHI COMPANIES

INTERVIEW QUESTIONS

SECTION A: GENERAL INFORMATION

A1: According to you, the purpose of a company should be to..

- ☐ Maximize the interest of shareholders only (since they are the owner of the company)
- ☐ Maximize the interest of wider stakeholders (e.g. Employees, creditors, suppliers, customers and Local community) (since they have long-term relationship (in terms of both contribution and risk sharing) with the firm and affect its long-term success.)
- ☐ Maximizing the interest of both shareholders and wider stakeholders especially the parties who contribute specialized inputs (e.g. employees, banks, customers etc)

A2: Please rank the following options you consider as major problems of governance in Bangladesh (*1 for most important and 4 for least important*)

☐ Separation of owner and manager _____

(As it provides opportunities for managers to work for their own interest and not for the best interest of the company)

☐ The weak legal and regulatory arrangement _____

(As it is ineffective in controlling the executive managers (holding excessive power and abusing their power in pursuit of their own interests))

☐ Over emphasis on short-term and ignoring the long-term return. _____

(For example: Managers are solely concentrating on short term market value, current share price, and ignores the long-term expenditure to create long-term value of the firm like capital expenditure, R&D spending)

☐ Lack of stakeholders' participation _____

(i.e. existing environment fails to encourage stakeholders' involvement including employee participation, inter-firm cooperation etc.)

☐ Other, please specify

A3: Then which of the following options do you think will better address the governance problems of the country?

- ☐ Restriction and control on corporate, capital market and managers.
- ☐ Not strong control and restrictions, but adopting appropriate incentive systems to reward managers (bonuses, stock options etc.) along with an introduction of a voluntary code of governance.
- ☐ Creating pressure of takeovers

(E.g. if a firm underperforms its share price will drop which will provide a chance for outsiders to purchase the firm's stock at a lower price)

- ☐ Promoting an environment for emphasizing long term vision and long term performance.

(e.g. an environment in which shareholders and managers are encouraged to share long-run performance vision (e.g. increasing shareholders' loyalty and voice, reducing shareholders' exit, encouraging "relationship investing", and empowering other groups like employees, suppliers to have long run relationship with firm).

- ☐ Appointing non-executive directors and ensuring more powers in their hands.
- ☐ Encouraging overall stakeholders' active participation and assigning control rights, rewards, and responsibilities to the appropriate stakeholders, especially the parties that contribute specialized inputs. The stakeholders who make firm specific investments and contributes and bear risks in the corporation, should have residual claim) and should participate in the corporate decision makings.
- ☐ Other _____

A4: Does your company follow Corporate Governance guidelines (such as SEC guidelines, the Code of Corporate Governance for Bangladesh (BEI Code), OECD guidelines etc.) for implementing good corporate governance Practices?

☐ Yes

☐ No

If yes, please specify which one _____

If No, then please skip questions A4 and A5.

A5: If you are following a specific guideline, please explain why you have chosen that one?

☐ It is a listing requirement

☐ It better reflects the international standards of good governance

☐ Other companies are implementing it

☐ Others (please specify) _____

A6: What difficulties have you faced in ensuring compliance with your guideline in Bangladesh corporate environment?

SECTION B: THE CODE OF CORPORATE GOVERNANCE FOR BANGLADESH

B1: How did you come to know about the Code of Corporate Governance for Bangladesh (the BEI Code)?

- ☐ Seminar/ Workshop ☐ Bangladesh Enterprise Institute
(BEI)
- ☐ Colleague ☐ Local Newspaper
- ☐ Stock Exchange
- ☐ Other (please specify) _____

B2: To what extent, you think the BEI Code is useful for ensuring better governance in your company (if you have already implemented or have to implement)

- ☐ Very Useful
- ☐ Useful
- ☐ Neither useful nor useless
- ☐ Not Useful at all

Why? _____

B3: As you know that the BEI Code is more comprehensive compare to the SEC guidelines. Especially it has some provisions on shareholders' right (whilst SEC guidelines have no provision regarding shareholders) and some additional provision on Disclosure issues and Board issues.

In which area of the Code, do you think the companies of Bangladesh will find it difficult to comply with?

- ☐ Board Issue

☐ Shareholder Involvement

☐ Financial Reporting and Auditing

☐ Disclosure

Why? _____

B4: Most of the developing countries' have developed its Code of Corporate Governance in the light of OECD Principles. However, this adoption has been criticized because developed countries' (like UK, US) corporate structure is not similar in structure as that of many developing countries experiencing vulnerable economy, underdeveloped capital markets, ineffective legal and regulatory system etc.

What is your view in this regard?

B5: The critics suggests that stakeholder model of governance which emphasizes on stakeholders (like shareholders, employees, banks, suppliers, customers, government, local community) participation will work better in ensuring better governance in developing countries compared to the existing one (which emphasizes only on shareholders).

Do you think at this moment, the major stakeholders are knowledgeable, capable and interested enough to participate in the decision making process to ensure good governance?

B6: Critics also argue that shareholders being reluctant, less interested, legally restrained or mutually conflicting in manager's performance –

What is your view in this regard in case of Bangladesh?

B7:Criticism has also been raised against stakeholder model – critics argue that aligning the interest of different stakeholder groups is difficult. Even in single group, for example individual employees or suppliers or even shareholders always have different and changeable attitudes toward interest in and relationship with a particular company over time. Moreover, organizational-stakeholder relationship changes as their perceived importance varies with the needs of organization.

Considering this limitation of stakeholder model of governance, do you think this model will work for ensuring good governance in Bangladesh? Why and how?

B8:In our competitive global business environment, which of the following action should policy makers do to ensure good governance in Bangladesh?

- ☐ Retain the current model of governance (which emphasizes only on shareholders), as it is appropriate.
- ☐ Retain the existing model of governance, but introduce reforms in the following areas; Like_____
- ☐ Reform the current model into the stakeholder model of governance
- ☐ Develop a new code which will reflect a balanced approach between shareholder and stakeholder model.
- ☐ Other, please specify_____.

B9:Considering existing economic, political and other socio-economic structure of Bangladesh, what sort of provisions you think the Code must include that will better address the governance problems of Bangladesh?

SECTION C: FINANCIAL CRISIS

system of your company?

C3: What sort of code provisions do you think will help your company deal with this financial crisis?

SECTION D: OTHER

D1: Do you have any further comment?

Thank you very much for your valuable time

Appendix III
Components of the Corporate Governance Index

Sub Section of CGI	No	Components of the CGI	Data Source
Board Issues	1	Does the board has code of conduct for Directors	Questionnaire survey
	2	Does the board identify and monitor the key risk areas	Questionnaire survey
	3	Does the board identify and monitor company's performance indicator?	Questionnaire survey
	4	Does the board collectively appoint the MD/CEO?	Questionnaire survey
	5	Does the board collectively appoint the senior managers?	Questionnaire survey
	6	Does the board set the performance criteria of the MD/CEO?	Questionnaire survey
	7	Does the board evaluate the performance of the MD/CEO?	Questionnaire survey
	8	Does the board evaluate the performance of its members?	Questionnaire survey
	9	Does the board have succession plan for senior management and CEO?	Questionnaire survey
	10	Does the board review internal control mechanism?	Questionnaire survey
	11	Does the board review the risk management system?	Questionnaire survey
	12	Is the board free from directors holding directorship in more than 6 boards?	Questionnaire survey
	13	Does a director become ineligible for re-election if fails to attend at least 50% of the board meetings?	Questionnaire survey
	14	Does the board have Nomination Committee?	Questionnaire survey
	15	Does the board provide opportunity for directors' training?	Questionnaire survey
	16	Does the board provide fund for directors' training?	Questionnaire survey

Sub Section of CGI	No	Components of the CGI	Data Source
	17	Does the board the new directors to be attending corporate governance training?	Questionnaire survey
	18	Is it mandatory to retire 20% of the board members annually by rotation?	Questionnaire survey
	19	Are the vacancies in the board normally filled at the AGM?	Questionnaire survey
	20	Is the board meeting agenda circulated to directors sufficiently in advance of that meeting?	Questionnaire survey
	21	Is the Board Agenda approved solely by the Chairman?	Questionnaire survey
	22	Does the company have an Audit Committee (AC)?	Questionnaire survey
	23	Does the AC exclude the Chairman of the Board from being a member of the Committee?	Questionnaire survey
	24	Does the Audit Committee meet at least quarterly?	Questionnaire survey
	25	Does the Audit Committee prepare reports on all meetings for the board?	Questionnaire survey
	26	Is the chairman of the board and CEO different persons?	Company annual reports
	27	Is the board comprised of 7 to 15 members?	Company annual reports
	28	Does the board comprised of mostly non-executive director?	Company annual reports
	29	Are the committees (like Audit Committee) comprised of a majority of non-executive directors or at least headed by a non-executive director	Company annual reports
	30	Is the Audit Committee Chairman a non-executive or independent director?	Company annual reports
	31	Is the Audit Committee comprised of at least three members?	Company annual reports
	32	Does the chairman of the Audit Committee have professional qualification and relevant financial experience?	Company annual reports

Sub Section of CGI	No	Components of the CGI	Data Source
	33	Does the board prepare a Directors' Report containing information as per the provision XI (B) of the Code?	Company annual reports
	34	Has the company appointed a company Secretary or other qualified Compliance officer or any other external advisor (other than the auditor, company lawyer or other advisor to the board)?	Company annual reports
Shareholders' Rights and Responsibilities	1	Does your company provide a Shareholders Handbook?	Questionnaire survey
	2	Do your shareholders receive notice of the AGM, at least 21 days before the meeting?	Questionnaire survey
	3	Are the outcome and proceedings of general meetings recorded and verified?	Questionnaire survey
	4	Do the shareholders receive information about company resolution, decisions?	Questionnaire survey
	5	Is the AGM held in a convenient location in the vicinity of the company's registered office?	Questionnaire survey
	6	Do all the shareholders have the same voting right?	Questionnaire survey
	7	Do the shareholders have an opportunity to nominate items for the AGM agenda?	Questionnaire survey
	8	During the AGM, can your shareholders question the Board?	Questionnaire survey
	9	Does your company facilitate the voting process of the shareholders beyond that established by law?	Questionnaire survey
	10	Are your shareholders allowed to nominate Board candidates before the notice of AGM?	Questionnaire survey
	11	Can your shareholders nominate audit firms prior to the notice of AGM?	Questionnaire survey
	12	Is the Handbook available and accessible to shareholders?	Company annual reports
Financial Reporting, Auditing and	1	Does your company ensure that the accounting standards are implemented within the time frame given by ICAB?	Questionnaire survey

Sub Section of CGI	No	Components of the CGI	Data Source
Disclosure	2	Does your company employ appropriately qualified personnel to prepare financial statements and accounts?	Questionnaire survey
	3	Are your external auditors independent?	Questionnaire survey
	4	Are your external auditors appointed by the shareholders?	Questionnaire survey
	5	Does a shareholder, nominating an audit firm need to submit standardized information about the firm?	Questionnaire survey
	6	Are the audit firms or partners involved in your firm's audit rotated every three years?	Questionnaire survey
	7	Does your audit firm provide accounting or non-audit consulting activities in your company?	Questionnaire survey
	8	Does your company disclose both audit and non-audit fees?	Questionnaire survey
	9	Does your company restrict the shareholding of statutory auditors?	Questionnaire survey
	10	Does your company have an internal audit function?	Questionnaire survey
	11	Is your internal audit department independent from management?	Questionnaire survey
	12	Does your internal audit department have authority to propose initiatives and changes directly to the board?	Questionnaire survey
	13	Does their statement further signed by the Chairman of the Audit Committee?	Company annual reports
	14	Does your Board present a balanced assessment of the company's position that may be understood by shareholders?	Questionnaire survey
	i	Does the company publicly disclose: quarterly un audited results?	Company annual reports
	ii	Does the company publicly disclose: Half yearly Balance Sheet and Profit and Loss Accounts?	Company annual reports
	iii	Does the company publicly disclose: Audited annual Balance Sheet?	Company annual reports

Sub Section of CGI	No	Components of the CGI	Data Source
	iv	Does the company publicly disclose: Annual Directors' Report?	Company annual reports
	v	Does the company publicly disclose: Corporate Governance Statement?	Company annual reports
	vi	Does the company publicly disclose: Statement of Corporate Social Responsibility?	Company annual reports
	vii	Does the company publicly disclose: Ownership Structure?	Company annual reports
	viii	Does the company publicly disclose: Directors' Shareholding?	Company annual reports
	ix	Does the company publicly disclose: Material risk factors?	Company annual reports
	x	Does the company publicly disclose: Senior Management Structure?	Company annual reports
	xi	Does the company publicly disclose: Directors' Remuneration?	Company annual reports
	xii	Does the company publicly disclose: Report on end use of funds raised from public when using shares and debentures?	Company annual reports
	xiii	Does the company publicly disclose: contingent liability?	Company annual reports
	xiv	Does the company publicly disclose: Related party transactions?	Company annual reports
	xv	Does the company publicly disclose: Credit Rating?	Company annual reports
	xvi	Does the company publicly disclose: Details of Investment?	Company annual reports
	xvii	Does the company publicly disclose: Basis of estimates used in financial reporting?	Company annual reports
	xviii	Does the company publicly disclose: Depreciation policy?	Company annual reports
	xix	Does the company publicly disclose: Tax policy?	Company annual reports

Appendix IV

