

1-12-2006

Dolorous songs and blessing of the curses: corporate governance in Australia

Jane Andrew

University of Wollongong, jandrew@uow.edu.au

K. Cooper

University of Wollongong, kcooper@uow.edu.au

K. Islam

University of Wollongong, mksi747@uow.edu.au

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Recommended Citation

Andrew, Jane; Cooper, K.; and Islam, K.: Dolorous songs and blessing of the curses: corporate governance in Australia 2006.

<https://ro.uow.edu.au/commpapers/183>

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Abstract

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Keywords

Corporate Scandals, Corporate governance, accounting regulation

Disciplines

Business | Social and Behavioral Sciences

Publication Details

This article was originally published as Andrew, J, Cooper, K and Islam, K, Dolorous songs and blessing of the curses: corporate governance in Australia, The Journal of American Academy of Business, Cambridge, 10 (1), 285-289, 2006. Original journal available [here](#).

Dolorous Songs and Blessings of the Curses

Md. Kazi Saidul Islam

PhD Student
School of Accounting and Finance
University of Wollongong
NSW, Australia
Email: mksi747@uow.edu.au or mkazi62@yahoo.com

Dr Kathie Cooper

Director
Forensic Accounting
School of Accounting and Finance
University of Wollongong
NSW, Australia
Email: Kathie@uow.edu.au

Dr Jane Andrew

Lecturer
School of Accounting and Finance
University of Wollongong
NSW, Australia
Email: jandrew@uow.edu.au

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The spate of corporate collapses that have plagued the business community in the last few years has had both positive and negative impacts. These have implicated accounting in the scandals and the commonality in the nature of collapses has brought in a number of blessings by triggering global consciousness and consensus to root out the problems. We argue that regulatory changes, the emergence of corporate governance codes, mandatory compliance with accounting standards for greater transparency and the emergence of a new accounting order would not have been possible without such spectacular failures.

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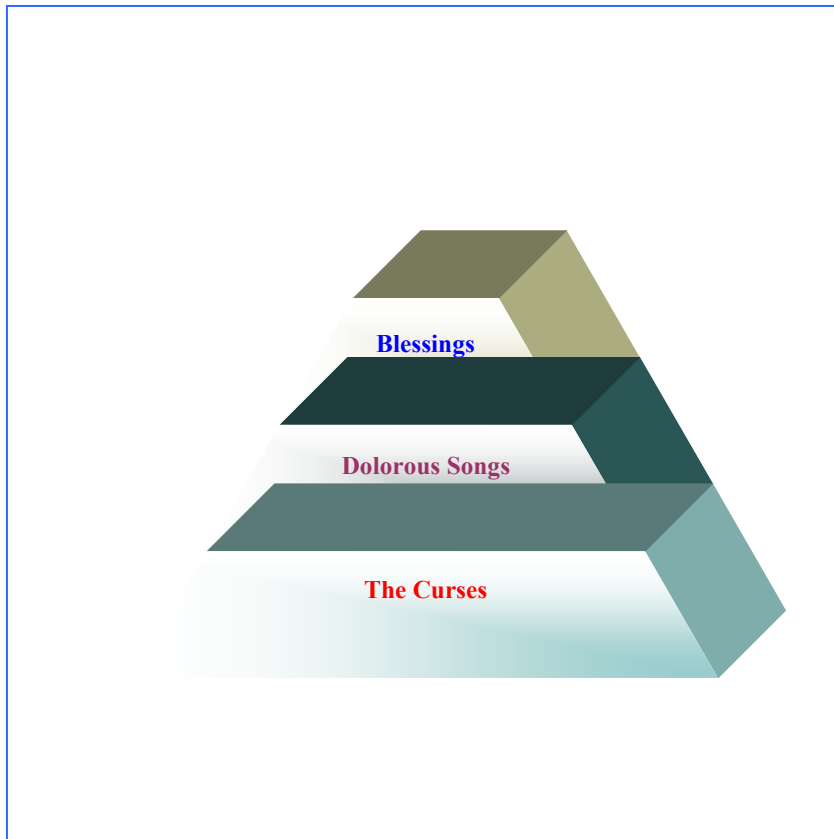
Introduction

Songs reflect mind. Birds and people sing to express their jovial feelings. Again the songs of cuckoo in the spring remind the sorrows of losing her pair. Sometimes songs of people cause tears. Songs on drums can not be as pathetic as those on a violin or piano. So songs can be dolorous or delightful. Blissful or brutal events determine the sweetness of songs. Our concern is about the songs in the corporate world. Corporate bodies are artificial entities governed and surrounded by many people. Management, regulators and stakeholders are the birds who live on the branches and leaves of corporate entity to care for their interest and eat apples. When a company runs well, the sweet wind touches everybody living on the tree. The management throws complacent smile for effective efforts, the regulators for good control and the stakeholders for having their shares from the company assets and profit. Their songs are then played on the drums followed by dances or Champaign. To the contrary, when a company runs badly and ultimately collapses for a range of reasons, the high sounding drums are replaced by buzzwords and

the shocking songs are played on violins or pianos. The story of songs-dolorous or delightful-in the corporate world can be traced throughout history. Our paper embarks on a story based on the scandal games in the collapse tournament of the new millennium. There is a plethora of studies that have inquired into the causes of accounting scandals, impact of corporate collapses on the society and remedies for these. But those studies do not properly address that every cloud has a silver lining. The present paper aims to evaluate the two sides of a coin with special emphasis on the blessings of the curses arising out of scandals and collapses: Specific points to be addressed are:

- (a) The curses attributed by Accounting Scandals and Corporate Collapses
- (b) The Dolorous Songs – the negative impact of the curses
- (c) The Blessings – the positive impact of the curses

Because of chronological emergence of the events, the above points can be shown with the help of a diagram as follows:



The Curses

Literally the term “curse” is featured by nuisance, blight, annoyance or irritation. Perspective determines the meaning and magnitude of the curse. Starvation, health hazards and deprivation are curses in the least developed countries. Corruption, ethical failure, terrorism, military aggression and deaths are the curses of the day to the mankind. This paper deals with accounting scandals and corporate collapses caused by corporate corruption and ethical failure. Scandals are the catastrophes nobody wants to endure. Scandals refer to human characteristics that create anarchy and lend irregularities in a social system. These are the events that happened in the past and caused harms to self-image and others. There are many faces of scandals like political scandals (Water Gate

scandals), organized crimes (Mafia and Yakuza), money laundering, sexual harassment, racism, embarrassing emails, outrageous extravagance, and accounting, financial or corporate irregularities.

Accounting or corporate scandals are not new. Accounting is as old as a civilization. Related scandals and collapses are also as old as accounting. Shakespeare's 'Merchant of Venice' (written in 1596-1598) depicts about greed and scandalous business environments of his time. Johnston of NabarroNathanson identified 400 years of financial scandals (<http://www.nabarro.com>). At least there is a two centuries of corporate panic and collapses in Australia (Sykes: 1998). The World witnessed lot of Scandals and collapses in the 80s and 90s. The corporate collapses of the new millennium give testimony to the curses happened by spectacular accounting scandals caused by incompetence or greed of the directors, auditors and CEO. They adopted the brilliant, creative and illegal means of creating money. When the vicious circle of poverty appears to the prime curses on the fate of the people of underdeveloped countries, and terrorism and atomic plants appear to be the prime threats to the mankind, the appalling accounting scandals and spectacular corporate collapses appear to the dreadful curses throwing disastrous blow to the economies of the first-world countries. The seeds of recent collapses are said to have found in the Tsunami of financial crisis originated in South East Asia in 1997. The subsequent collapses plagued Europe, America, Asia, Africa and Australia in a crazy fashion. To mention a few, Enron (US), WorldCom (US), Global Crossing (Bermuda), Xerox (Mexico), Cinar (Canada), Allfirst (Allied Irish), Ahold (Netherlands), Gazprom (Russia), Aremissoft (Cyprus), Sumitomo (Japan), Lernout &

Hauspie (Korea), and HIH (Australia). The following are some examples of the corporate collapses in Australia and USA in the in the New Millennium:

USA	Australia
Xerox (2000)	Harris Scarfe (March 2001)
Enron (2001)	HIH Insurance (April 2001)
AOL (2002)	One.Tel (June 2001)
Adelpedia (2002)	Ansett Airlines (Sept 2001)
Duke Energy (2002)	
Global Crossing (2002)	
Sunbeam (2002)	
Tyco (2002)	
Parmalat (2003)	

As if there were deep holes in the Chinese wall or black holes in the corporate sky where lot of sprinkling stars, supposedly stable companies, entered and disappeared. The companies that have collapsed can't get up. Among the countries, US is claimed to have played supper scandal games. Enron is the best puzzle game ever in the world. "Enronitis" is now a concept that offers diverse introspects- economic, political, social, legal and ethical. WorldCom adds more combustible in the furnace. The collapses of Australian Ansett, OneTel, HIH and Harris Scarfe in the new millennium and Quintex Group, Bond Corporation, Pyramid and Rothwells in the 1980s also bit the dust.

Dolorous Songs

The tragedy is that the headline-grabbing accounting scandals seriously undermined investor confidence, economic landscape and political image. They cost investors hundreds of millions of dollars and thousands of employees their jobs (Sweeney and Vallario: 2002). The domino effect was dreadful. The sudden collapse hit the tourism, travel, hospitality and service industries. Directors, chief executives and auditors lost their image, pride and complacent smile. A good number of them appeared with cadaverous countenance before the Judges, public and stakeholders after collapses. Suicide (of an Enron director), imprisonment and financial penalty are the other prices of accounting scandals. Even auditing firm Arthur and Andersen dissolved for shredding Enron Audit papers shortly after disclosure of fraud and with the rapid loss of other clients. Out of court settlements by the auditors and earnings restatements became a practice to cover up the financial deceits in the past. Governments of the super economies including USA were exposed to public distrust more than the claim by opposition. All these indicate that accounting scandals leading to corporate collapses have had serious impact on the political and economic panorama. As to impact of corporate scandals and collapses, it has been opined that ‘corporate greed became the order of the day, with executive salaries ballooning and corporate fat cats flagrantly flaunting their wealth. The two major Australian political parties widely seen as weak, ineffectual bystanders, appeared helpless and hopeless in the face of global pressures and corporate cupidity’ (Bryce, 2002). The following are the examples of Australian collapses that reverberated throughout the community with consequences of the most serious kind :

- Seventeen thousand Australians faced the dole queue following the collapse of the national airline Ansett. The domino effect of Ansett collapse was already hit. The tourism, travel, hospitality and service industries were shaken, while hundreds of “mum and dad’ small businesses were under threat (Bryce, 2002)
- The OneTel collapse was another blow to the Federal government. It sharply impacted on a host of small creditors owed thousands of dollars for goods and services and many faced bankruptcy without receiving anything from the company wind up. The workers entitlement were again under threat (Cook 2001)
- HIH collapse appeared to be a far-reaching calamity. Individual cases of hardships emerged almost immediately after this collapse and continue to emerge. Income protection insurance policies became worthless. This forced many marginal earners to approach Central Link to obtain disability support pension. About 200 permanently disabled people did not receive their regular payments and joined other unsecured creditors and policyholders. Retirees who invested their superannuation or life savings in HIH shares to fund their retirement were left with nothing. Thousands of holders of professional indemnity, public liability, home warranty and travel insurance policies found themselves uninsured for claims made by or against them. One morning in March 2001, about 1000 employees woke to find themselves unemployed and hundreds of others lost their jobs in the following months. Many of the local industries and organizations in the arts and entertainment and in ports and recreation had to close their doors

without receiving sponsorship funds from HIH or becoming unable to find alternative insurance. Building industry fell in turmoil after this collapse, because HIH was one of Australia's biggest home-building market insurers. There are thousands of other cases of personal and community hardship, each one no less devastating for those affected by it. (HIH Royal Commission, 2003).

The melancholy part is that the fluttering wings of the butterflies like Enron, WorldCom, HIH and OneTel were so colorful, dazzling and attractive that stakeholders were not in a position to understand that the wings of each of these butterflies were connected to a large body of an insect. Directors and CEOs did not disclose the truth. They were more interested in their personal gain than the stakeholders' interests. Many of them were rewarded enhanced fees before collapses. Auditors as watch dogs also did not bark seeing the strangers nor did they bite their hands which fed them. They cast their ravenous eyes on augmentation of audit fees and extension of contractual period. There are instances that a number of audit reports were clean before collapses. The whole situation implies that the fence consisting of CEO, directors and auditors became gluttonous and thus grasped the crops- the fortunes of the stakeholders.

The Blessings

The facts apparently suggest that the pathetic exodus of sprinkling stars from the corporate sky triggered neurotic curses. At the same time gripped collapses remind us of the fact that there is the other side of a coin. Severity in accounting scandals and

commonality in the nature of collapses have bought in a number of blessings by launching global consciousness and consensus to root out the diagnosed disease, setting celestial attributes in the governance process, bringing harmony as well as transparency in the disclosure regime and building a strong knowledge-base through continuous education to be provided by the higher educational institutions and professional bodies. Regulatory changes, emergence of corporate governance codes, mandatory compliance with accounting standards for greater transparency and thus emergence of a new accounting order were not possible so rapidly without such a severity in the corporate ruins. The blessings of the curses can be described with the help of some **7 C's** :



1. Consciousness about the problem

The devastating collapses first came into the headlines of the radios, televisions, daily newspapers and periodicals of different countries. Subsequently the issues were discussed in different forums, seminars, symposiums, and conferences. Blatant debates were observed in the parliaments of the affected countries including USA, UK and Australia. The nature and causes of deception, persons-(eg, directors, CFOs, CEOs or auditors)

responsible for the deceits, loss of the business and society, legal actions, and punishments for the crimes and prospects of the future corporate world were highlighted. US president George W Bush expressed his highest concern about corporate fraud. After the collapse of Enron, he formed a task force and made a 10-point plan to prevent obstruction of justice, make truthful financial reporting and establish integrity.

2. Consensus

It's very difficult to reach a consensus in the global issues. Different culture, political philosophies, legal systems and social customs stand as opposing factors contributing to disagreement. Despite repulsive consequence of the 11 September, there were incongruities in the decisions to find out a way to punish the terrors and prevent further events. But accounting scandals and corporate collapses of the new millennium have taught the whole universe to stand on the same platform to diagnose the disease and find a common panacea. Greed and dishonesty of the executives, directors and auditors are acknowledged to have caused corporate collapses. To prevent these diseases, ethical pronouncements by the IFAC appear to be the important medicine in addition to similar pronouncements by the accounting profession of the individual countries. Since the greed was nourished through charismatic use of accounting numbers (e.g., earnings misstatements, hiding figures and so on), the countries are now highly dependent on the global accounting standards. American (US) accounting profession has thrown away its egoistic attitude and superiority complex. FASB and IASB-the two powerful bodies of standard setters- are meeting together at least twice a year to remove existing differences and converge with each other (Barth 2006). European Union has taken measures to

comply with IFRSs from 1 January 2005. Australia has also joined the foray with its laws, standards and institutions. Other parts of the world (e.g., India and Pakistan) are also on the same boat for adopting and following IFRSs.

3. Continuous efforts

Enormous efforts have been taken to annihilate the corporate demons, discipline corporate culture and develop a uniform disclosure regime. Intellectuals played vital role. Cadbury Report (UK 1992), Greenbury Report (UK 1995), Hampel report (UK 1998), Turnbull Report (UK 1999), Blue Ribbon Committee Report (USA 1999), Smith Report (UK 2003), Higgs Review (UK 2003), Tyson Report (2003), Dey Report (Canada 2003), Bosch Report (Australia 1995), Ramsey Report (Australia 2001) and HIH Final Report (Australia 2003) are among the series of intellectual initiatives that have had massive impact on the development of a framework of corporate governance. Drives taken by Stock Exchanges and Securities and Exchange Commissions are remarkable for this purpose, to mention a few, New York Stock Exchange Rules, the Combined Code on Corporate Governance 2003 in the UK and the Principles of Corporate Governance and Best Practice Recommendations 2003 in Australia. Spectacular legal reforms are observed. The CLERP Act 2004 has brought tremendous changes in the Corporations Act 2001 in Australia. The Sarbanes-Oxley Act 2002 of the USA shatters the glory of all pieces of Company legislations ever. On July 30, the President signed the Sarbanes-Oxley Act of 2002, the most far-reaching reform of American business practices since the time of Franklin D. Roosevelt. (file:///C:/Documents%20and%20Settings/User/Desktop/A%20Review/Bush%

201.htm) The legislation included action on all of the President's proposals, and gave important new tools to prosecutors. IASB is continuously issuing up-to-date IFRSs with interpretations. IFAC has taken the role of issuing auditing standards, professional ethics and International Public Sector Accounting Standards (IPSASs). OECD Principles 2004 is already in the market.

4. Celestial Attributes

The materialistic world can not guaranty that people will behave without greed. When profit is the main target of an entity, it is not unusual that the executives, directors, auditors as human being may target personal gain. This attitude of people is inherent and true throughout the history of human creature. God knows the truth. That's why the major holly books- The Bible, The Torah, The Qur'an and the Tripitok have laid down paragraphs for controlling greed and behave with honesty. The Qur'an specifically states about the "Day of Judgment" when God will take an account of the accountability and transparency (truth) of the people in the earth. It's a matter of pleasure that recent corporate governance drives including intellectuals's reports, corporate governance codes, principles, accounting standards and laws like SOX have taken into consideration the honesty, integrity, accountability and transparency. We can be positive in our thinking that these celestial attributes with appropriate enforcements can bring fruits for the corporate world and prevent further collapses.

5. Convergence and harmonization of financial reporting

The consensus among the global professional accounting bodies and securities regulators on the causes and remedies of corporate diseases has paved the way for global convergence and harmonization of financial reporting. It has been mentioned earlier that FASB and IASB sit together at least twice a year to minimize differences and converse each other. The promise to compliance with IFRSs in Europe and other countries can contribute to global harmonization of financial disclosure and facilitate flows of capital in the international market place and explore economic opportunities.

6. Conferring knowledge

Education creates the foundation of a discipline for implementing gathered knowledge in practice. Following the spate of accounting scandals, Business and Law Schools of the universities have included corporate governance aspects in their curricula. Many universities and research organisations have established separate institute. Researchers are trying to critically analyse the facts. Accounting professions, management training organizations and securities regulators have also come forward to educate on corporate governance and provide training for compliance with the corporate governance drives.

7. Confidence

The lost paradise can be regained by cleaning hearts and purification of activities. Because, gaining paradise depends upon how an individual behaves in his or her daily life. To purify the contaminated characteristics of the corporate persons, celestial attributes have been taken into consideration in outlining the framework of corporate

governance. Accountability and transparency accompanied by honesty and integrity have become the core idea of recent corporate governance and disclosure regime. Enforcement activities have been meticulously designed in recent laws and rules. When the initiatives are positive, we can be confident that investors and other stakeholders will be able to make informed judgment and take timely decisions about their investments.

Conclusion

Severity in accounting scandals and resultant collapses have triggered global consciousness and consensus to annihilate the corporate criminals. A vital point of satisfaction is that diseases have been diagnosed, powerful medicines have been discovered and continuous efforts are being given to find out more effective remedies. Therefore, panacea is possible. We should not look back in anger. We repeat, every cloud has a silver lining. This is the era when we can see “Love among the Ruins” like Robert Browning, a famous optimistic poet of the Victorian period.

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