Corporate governance, holistic view VS conventional view

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Abstract:

The word "governance" is not much new, but "Corporate governance" is relatively new and has been popular for the last two decades. There are three models of "CG" being practiced in the world، The Anglo Saxon, the Japanese model, and the German model of corporate governance. The main objectives of corporate governance are to control irregularities in financial institutions and to provide a better mechanism for sustainable development for these financial organizations. Although there are three models of "CG" two models are being exercised in the world. One is Anglo-Saxon (property view) while the other is the European model (social entity view). Islam as a complete code of life also has the rules for every sphere of life including governance. Islam is a constitutional part of life and it also has rules for every aspect of life including governance. Islamic law as a set of divine injunctions is more clear, balanced, based on justice, and beneficial for social welfare. It rejects the individual interest when it goes against society. That's why the holistic view of "CG" as prescribed by Islam is more beneficial for all stakeholders. The aim of this research paper is to compare the Islamic corporate model with the said two models (Anglo Saxon model, European model) on the basis of qualitative data and actual practice. The methodology of this research is qualitative which focuses on the comparative study of both models. The differences among said models are highlighted and the paper concludes that a holistic view of "CG" is better than a narrow approach to "CG".

Key words: corporate governance, stakeholder, holistic approach, Islamic view

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Introduction

Corporate governance is its broad term means the set of laws and policies by which the corporations and organizations are directed to control their operations.

Corporate governance was introduced in 1970s first time in America. The purpose of corporate governance is to control disorders and irregularities in the investment world. When many scandals happened in many corporations in the world then the world reacted on it and emphasize to develop the laws and to make the governance clean and transparent. After that there came evolution in the corporate governance. Many international imitative on governance came .For example Cadbury report 1992 (UK), Green bury 1995(UK), the combined code 1998 (UK), Turnbull report 1998(UK), OECD principles for corporate governance 1999 (UK), Basle committee Guidelines 1999, Smith report 2003(UK), Code of corporate governance issued by SECP (2002) and Sarbanes-Oxley Act 2002 (USA). Along four decades when law about the corporation developed then three models of corporate governance has been established and introduced in economic world.

Anglo –American Model (AAM), Japanese Model (JM), German Model (GM)

The Anglo-Saxon model or Anglo –American model of corporate governance is systems which supervises and controls the function of corporation. It is used in America, U.K, Canada and Australia. The main feature of this model is to protect the interest of shareholders only (Sulainam Abdullah Saif, 2012). In Japanese model very low attention is paid to the shareholders .German model of corporate governance is more like japan in 83 percent. In this model the board of directors has not much influence on management. (Franklin Allen, 2007)

These are the top three popular model of corporate governance in the investment world. Most of the countries of the world use these models in governing the corporation and financial organizations. Emergence of these three models attracted the academies, regulators, executives and researchers worldwide.

Though these models are attractive and popular but they have some tailless and lope holes in their rules also. The ideal and balanced model of corporate governance is which could maintain balance between the ownership and other stakeholders. The purpose of this paper is to prove that the forth Model for corporation is the best and most transparent and beneficial for all stakeholders which is known as Holistic model for corporate governance.

Concept of Corporate governance

When the scandals and irregularities rose in corporations and financial organization it took the attention of the scholars to define corporate governance on the base of problems and issues involved. It is: *"The process and rules under which a company is managed on the behalf of shareholders and stakeholders"*[1]. According to Organization for Economic Co-Operation and Development states that:

> *"Set of rules that define the relationship between stakeholders, management, and board of directors of a company and influence how that company is operating. At its most basic level, corporate governance deals with issues that result from the separation of ownership and control. But corporate governance goes beyond simply establishing a clear relationship between shareholders and managers"* (OECD, 2004)

Objectives of corporate governance

The main objective of the governance is the maximization of stakeholder's value and to protect other stakeholder's rights. It can be only accomplished by making the corporate system better. For this reason some laws and regulations are described so that every institute can easily attract capital through giving respect and concentration to both shareholders and other stakeholders.
To gain these objectives corporate governance tries to make a reliable system which enables the investors to invest with full confidence and make good profit.

Pillars of Corporate Governance from Conventional Perspective
The pillars are considered main elements on which a building stands. There are basically four pillars of corporate governance which has been focused by every system and claimed to maintain these objectives.
Accountability, Transparency, Fairness, Responsibility

Accountability
Accountability in term of corporate governance means that the management is accountable to the BOD and the BOD is accountable to the shareholders. The board of directors play main role to supervise the management and to plan long term business strategy. In addition selection of chief executive officer (CEO) ,evaluating his performance and planning process is also the responsibility of board of directors.

> *"The board of directors has the vital role of overseeing the company's management and business*
> *Strategies to achieve long term value creation. Selecting a well-qualified chief executive officer*
> *(CEO) to lead the company, monitoring and evaluating the CEO's performance, and overseeing the CEO succession planning process are some of the most important functions of the board".* (Roundtable, 2016)

Management is responsible for its settings, executing and managing the strategies and to overseeing the operation of company. Regarding to risk, it is also the duty of

management to determine the temperament and level of the risk and to manage it. Secondly, if management is going to take a risk it should keep risk management techniques in consideration along with all other risk mitigation tools. Another responsibility of management is to prepare the company's financial report and statement and other related disclosures.

Transparency

Transparency is one of the pillars of corporate governance. It means that company should inform stakeholders about all the activities, strategies and plans clearly and there should not be any concealment of facts. They should be aware of all fact and figures include the mechanism and process. It is basically the openness through which every stakeholder can know about the company's real situation and plans.

The disclosure of facts should be at regular intervals and through a simple and easy way so that any stakeholder may not feel any ambiguity. "*Accordingly, companies should disclose not only the types of practices they employ but also their bases for selecting those practices"* (Roundtable, 2016).

Secondly, the company should clarify the role of every one i.e, BOD, Management and others along with clarification of their responsibilities. Transparency is very useful because its builds confidence in the minds of stakeholders which is a key factor for development.

Fairness

Fairness means that company should treat equally with everyone. They should not be any biasness and favoritism in any way. All shareholders have equal rights of consideration according to their values. Secondly, all other stakeholders may also be treated fairly and equally. If a company follows this principle of fairness it will survive and could serve better in the society.

Responsibility

It refers to the duties of BODs, Management etc. It is responsibility of the BOD to control the management of the company, its business management, selection process and monitoring the performance. Accountability and responsibility goes together side by side. The BOD is accountable to the shareholders. Similarly, BOD is responsible for the activities of Management and similarly they are responsible for the other stakeholders too.

Corporate governance in Islamic Perspective

Status of man and wealth in the universe

Before corporate governance will be discussed in Islamic perspective it will be worth mentioning to explore the status of Man in this universe. According to sharia perspective man is not totally free in this universe; he is bound to follow the Devine

injunction in this world, because he exists as khalifa of Allah (SWT) in the Earth.

﴿وَإِذْ قَالَ رَبُّكَ لِلْمَلَائِكَةِ إِنِّي جَاعِلٌ فِي الْأَرْضِ خَلِيفَةً﴾.[2]

"And (remember) when your l0rd said t0 the angels: verily I am g0ing to place (mankind) generation after generati0n 0n earth".

According to this verse man has been sent by Allah for a purpose .He has not given the right to develop his own rules for any sphere of life while Allah has already given the whole code of life to follow. If there will be any contradiction between divine injections and human made rules, he has to obey Allah order and will leave the rest of the rules.

Status of wealth from sharia prospective

The whole universe belongs to Allah SWT. He is the real owner, nourisher and cherisher of it. The heaves, the earth and each and every thing which exist in earth is His property. Quran states:

﴿لَهُ مَا فِي السَّمَاوَاتِ وَمَا فِي الْأَرْضِ﴾.[3]

"To him belongs all that is in the heavens and all that is 0n the earth"

And in another verse it is stated:

﴿لَهُ مَا فِي السَّمَاوَاتِ وَمَا فِي الْأَرْضِ وَمَا بَيْنَهُمَا وَمَا تَحْتَ الثَّرَى﴾[4].

"To him belong all that is in the heavens and all that is on the earth and all that between them, and all that is under the soil."

Man has the tentative possession only. Man is allowed to use all these resources of the universe as a trustee and he should be accountable for these. Man is responsible about the resources of universe. Quran has stated: and you

﴿ثُمَّ لَتُسْأَلُنَّ يَوْمَئِذٍ عَنِ النَّعِيمِ﴾.[5]

"And on that day you shall be asked about the delights (you indulged in, in this world)."

"لاَ تَزُولُ قَدَمَا عَبْدٍ يَوْمَ القِيَامَةِ حَتَّى يُسْأَلَ عَنْ عُمُرِهِ فِيمَا أَفْنَاهُ، وَعَنْ عِلْمِهِ فِيمَ فَعَلَ، وَعَنْ مَالِهِ مِنْ أَيْنَ اكْتَسَبَهُ وَفِيمَ أَنْفَقَهُ، ...."[6]

"A person couldn't move forward on the day of judgment until he asked about his life where he has spent it, about his knowledge of what he did and about his wealth where he acquired it and where he spends it and the body where he used it."

According to these verses wealth belongs to Allah and He has created it, so he is the real owner. Man possession is the secondary position and temporary control. He has left behind it on day unwillingly.

Four pillars of corporate governance in Islamic perspective

Accountability, Fairness, Transparency, Responsibility

Accountability

In term of Accountability, man is responsible for his deeds in this world as well as in the hereafter. There is a day of Hisab and Accountability in Muslim belief. The holy profit used to seek refuge from the Day of Judgment / Accountability.

اللهُمَّ إِنِّي أَعُوذُ بِكَ مِنَ الضِّيقِ يَوْمَ الْحِسَابِ " عَشْرًا[7].

"O Allah I seek your refuge from the day of Accountability "He said it Ten times"

This is obligatory for every person that he should fulfill Allah's will and seek Allah's pleasure in every action of life. Everything he is going to do should be under Islamic rule and under the sharia ambit. Every person is responsible for everything under his /her care.

Holy prophet said *"Oh! Each one of you is guardian and each guardian is accountable for everything under his/her care"*

﴿لَا يُسْأَلُ عَمَّا يَفْعَلُ وَهُمْ يُسْأَلُونَ﴾[8].

"Allah won't be accountable to them but they will be"

﴿كُلُّ نَفْسٍ بِمَا كَسَبَتْ رَهِينَةٌ﴾[9].

"Every person is pledge for what he has earned"

It means that man is accountable by its nature for his all deeds not only for financial matters so he has to live very conscious in his daily life.

Fairness

Fairness means to treat people reasonably equally and not to prefer someone in unfair way. Fairness regards to corporation Islam has very strictly rules to maintain fair policy in society specially to protect to right to wealth. Islam discourages biasness and unfairness in every sphere of life.Quran states:

﴿يَا أَيُّهَا الَّذِينَ آمَنُوا كُونُوا قَوَّامِينَ بِالْقِسْطِ شُهَدَاءَ لِلَّهِ وَلَوْ عَلَى أَنْفُسِكُمْ أَوِ الْوَالِدَيْنِ وَالْأَقْرَبِينَ إِنْ يَكُنْ غَنِيًّا أَوْ فَقِيرًا﴾ [10]

"O you who believe, upholders of justice, witnesses for Allah, even though against your selves or the parents, or the kinsmen. One may be rich or poor Allah is better caretaker of both"

﴿إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَى أَهْلِهَا وَإِذَا حَكَمْتُمْ بَيْنَ النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ إِنَّ اللَّهَ نِعِمَّا يَعِظُكُمْ بِهِ إِنَّ اللَّهَ كَانَ سَمِيعًا بَصِيراً﴾.

"Surly, Allah commands you to deliver trusts to those entitled to them, and that, when you judge between people, judge with justice. Surly,

excellent is the exhortation Allah gives you. Surly, Allah is All-hearing, All- seeing"

Islam emphasizes to maintain the fairness and justice in any condition, individually or socially. In Sura Tatfif Allah says:

﴿وَيْلٌ لِلْمُطَفِّفِينَ الَّذِينَ إِذَا اكْتَالُوا عَلَى النَّاسِ يَسْتَوْفُونَ وَإِذَا كَالُوهُمْ أَوْ وَزَنُوهُمْ يُخْسِرُونَ﴾.

"Woe to the curtailers. Who, when they measure something to receive from people, take it in full, and when they measure or weigh something to give in to them, give less than due"

Quran has strongly condemned and cursed the dual standards who are involved in unfair measurements. When they buy they take with heavy weight and when they sold out to others, they give with light weight. They have been cursed for not maintaining the fair policy of measurement. Fairness in Islamic perspective carries broad sense and it is not limited to the financial activities rather it is concern to the family life too.

Transparency

Transparency means openness and clean and pure information of the financial activities disclosure is the main and key element of any contract rather it is financial or social. Concealment of facts turns the contract and transaction into Haram .Islam advises its followers to keep all the contracts and transactions clear and transparent, so that it couldn't go toward dispute.

﴿يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا تَدَايَنْتُمْ بِدَيْنٍ إِلَى أَجَلٍ مُسَمًّى فَاكْتُبُوهُ﴾ [11]

"O! Who you believe! When you deal with each other in transaction involving future obligation in a fix period of time, reduce them to writing, let a scribe write down faithfully as between the parties".

One person decision may not fulfill the criteria of transparency, so Islam encourages solving the problems by consultation and collective decision. Quran states:

﴿وَأَمْرُهُمْ شُورَى بَيْنَهُمْ﴾ [12].

"And who conduct their affairs by mutual consultation"

That's why sharia has prohibited future and forward sale. This is the basic conditions for the validity of contract that the commodity intended to be sold must be in the physical or constructive possession of the seller. The sale of bird in air and a fish in river is invalid sale in sharia. The logic behind is all about transparency.

Responsibility

In Islamic point of view responsibility is not only important for governance but Each and every person is responsible in his /her daily life except three whose are neither responsible nor accountable for their any action. The holy prophet said:

رفع القلم عن ثلاثٍ عن النائم حتى يستيقظ، و عن الصبى حتى يحتلم، و عن المجنون حتى

يعقل[13].

"There are three whose actions are not recorded: a lunatic whose mind is deranged till he is restored to consciousness, a sleeper till he awakes, and a boy till he reaches puberty".

ألا كلُّكم راعٍ، وكلّكم مسئولٌ عن رعيّته

"All of you are shepherds and each of you is responsible for his flock"

Differences in conventional and Islamic point of view

The conclusion results with four differences between conventional and Islamic perspective are as below:

1. Objective/ Intention

The major objective or intention of convention corporate governance is ultimately to maximize the shareholder profit or to protect the wealth of other stakeholders, irrespective of the rest of the society suffers or not.

In Islamic prospective the main objective is clearly mentioned that: The only and main purpose, intention and goal of each and every person is to serve and to please Allah SWT .Quran has mentioned it :

﴿وَمَا خَلَقْتُ الْجِنَّ وَالْإِنْسَ إِلَّا لِيَعْبُدُونِ﴾[14]

"I did not create the jinn's and human beings except for the purpose that they should worship Me"

The secondary interest is to gain the social/basic interest and complimentary benefits but in this regard no one could put the society in trouble and nor to harm anyone for personal interests. The main logic is:

لا ضرر ولا ضرار[15]

"There should be neither harm nor reciprocated harm"

The rules of Islamic law contain the objectives called Maqasid e Sharia. They are tree in numbers.

Daruriat *(protection of social Interests)*

Hajiat (protection of *complementary Benefits)*

Tahsiniat *(protection of embellishments)*

This concept gives a different value and brings positive change in society. One of the results may be that an individual may avoid those interests which go against the rest of the society and it also develops the cooperative mindset that an individual could find success *(Falah)* by helping other members of society.

This concept doesn't exist in Convention corporative governance.

2. The nature of contract

The nature of contract from western perspective in bilateral while Islamic point of view every contract is actually trilateral. Every legal and permissible explicit contract exist a unique type of implicit as well .The implicit contract is actually the Devine contract "covenant of Aalst" which was the first contract among Allah and the human .According to which man is bound to fulfill all his duties as prescribe by the Devine injunctions .According to the "Covenant of Aalst" each and every contract with humans have pre implicit contract with Allah .So according to Islamic perspective that it is more necessary to fulfil the contract, because Allah also is one of the contractor.

3. The key player

The key player concept of western corporate governance is also different from Islamic perspective. According to the shareholder model the key player is the shareholder who has provided capital. On the contrary in the Islamic perspective Allah is the main and major stakeholder. The universe, the heavens, the earth and all the creation belongs to Allah. He is the real owner of it and human possession is the secondary possession. Wealth is His blessing; He gives it to which He wants. Wealth and offspring is the test of Allah.

﴿إِنَّمَآ أَمۡوَٰلُكُمۡ وَأَوۡلَٰدُكُمۡ فِتۡنَةٞۚ وَٱللَّهُ عِندَهُۥٓ أَجۡرٌ عَظِيمٞ﴾[16]

"Your wealth and children are a test and trial from Allah, whereas Allah! With Him is a great reward."

All other stakeholder s has the right to protect their interest not only the shareholder. Islam doesn't ignore the society as well.

According to sharia the main and major stakeholder is Allah.

4. Mechanism

Both perspectives are unanimous that the mechanism for the corporate governance constitutes of boards of Directors (BOD), senior management and shareholders.

The board has the right to make and design policy for the organization and look after managers and protect the shareholders interest. In Islamic perspective the other stakeholders' voice and suggestion may also be considered in policy and rules making bodies.

COMPARISON OF CONVENTIONAL AND ISLAMIC CORPORATE GOVERNANCE IN BRIEF

Objective	***Conventional Perspective***	***Islamic Perspective***	***Commentary***
Accountability	Management is accountable to BOD,S and BOD,S are accountable to shareholders	Everyone is first responsible to Allah SWT as a servant. Then to all stakeholders	*Accountability in Islamic perspective is dimensional and having extraordinary value*
Fairness	Fairness belongs to distribution of wealth and to the policies made by the BOD, s.	Maintaining of "Adal" and "Qist" are obligatory, not only to general society but either with the enemies too.	*Fairness required in both system but in Islamic perspective fairness is the part of Iman in every matter of life*
Transparency	Transparency builds confidence in the minds of stakeholders which is a key factor in development.	Islam orders to maintain transparency in order to maintain justice and peace and to avoid from unequal and dual role in society	*The jurisdiction of transparency in conventional is limited to the stakeholders* while Islam promotes peace and justice in whole society
Responsibility	All three are responsible to each other. The BOD is accountable to the shareholdersManagement is responsible to BOD. And Management is accountable to the other stakeholders.	All are first responsible to Allah SWT, and then they are responsible to the Humans. Human rights have been given preference in Islam. So responsibility is double	*In Islamic perspective this is in broader sense. Each and every one is responsible to Allah SWT. Then they are responsible for the use and preservation of the human assets.*

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