CORPORATE GOVERNANCE: A REVIEW OF THE FUNDAMENTAL PRACTICES WORLDWIDE

Khaled Otman *

* Department of Accounting, Faculty of Economics, University of Benghazi, Benghazi, Libya
Contact details: Department of Accounting, Faculty of Economics, University of Benghazi, P. O. Box 1308, Benghazi, Libya.

OPEN ACCESS

How to cite this paper: Otman, K. (2021). Corporate governance: A review of the fundamental practices worldwide. *Corporate Law & Governance Review, 3*(2), 53–66. https://doi.org/10.22495/clgrv3i2p5

ISSN Online: 2664-1542
ISSN Print: 2707-1111

Received: 25.04.2021
Accepted: 30.12.2021

JEL Classification: G3, G30, G38
DOI: 10.22495/clgrv3i2p5

Abstract

This paper focused on the concept of corporate governance based on shareholders' and stakeholders' perspectives and the development of corporate governance around the world, including the UK, the US, and Australia. The OECD Principles of Corporate Governance were presented, including shareholders' rights, the equitable treatment of shareholders, disclosure and stakeholders' rights and transparency practices, and the responsibilities of board of directors. Numerous corporate collapses have highlighted the call for the management and directors of companies to be more accountable, and they have led governments and international organisations such as the OECD to be more active in establishing principles of corporate governance. It was concluded that the system of corporate governance has increased in different countries in relation to the nature of the economy, legal systems, and cultural norms.

Keywords: Corporate Governance, Corporate Law, Shareholders, Disclosure, Directors

Authors' individual contribution: The Author is responsible for all the contributions to the paper according to CRediT (Contributor Roles Taxonomy) standards.

Declaration of conflicting interests: The Author declares that there is no conflict of interest.

1. INTRODUCTION

The need to enhance corporate governance has increased in many developed and developing countries over the past few decades (Brown & Caylor, 2006). Therefore, this paper reviews the development of corporate governance practice around the world.

There has been increasing emphasis on corporate governance, both in terms of practice and in academic research (Ali Shah, Butt, & Hassan, 2009; Bebchuk, Cohen, & Ferrell, 2009). This is due to the collapse of many companies worldwide, such as WorldCom, Enron, and Arthur Andersen (Dao, 2008). However, Ramon (as cited in Mulili & Wong, 2011), states that differences in culture, legal systems, and historical developments from country to country make it difficult to identify one definition of corporate governance. Corporate governance as a discipline in its own right is relatively new, with researchers in the disciplines of law, economics, accountancy, and management all developing their own ideas about how it should be defined (Armstrong, 2005). The concept of corporate governance can be viewed from at least two perspectives — the narrow view and the broad perspective (Olayiwola, 2010) — depending on the view of the policymakers, practitioners, and theorists (Solomon, 2010). The narrow standpoint aims to maximise and protect the shareholder, while from the broader viewpoint, the corporation is responsible for a wider constituency of stakeholders other than shareholders (Maher & Andersson, 2000).

From the narrow viewpoint, Shleifer and Vishny (1997) define corporate governance in terms of the ways in which suppliers of finance to a firm assure themselves of a good return to their investment. This definition is shallow in that it emphasises the suppliers of finance and does not recognise the relationships between a firm's stakeholders and managers. Similarly, the Cadbury Committee defines a governance system as "the system by which companies are directed and controlled" (The Committee on the Financial Aspects of Corporate Governance, 1992). The Australian Standard (2003) defines corporate governance as the process by which organisations are directed, controlled, and held to account.

Sheikh and Chatterjee (1995) define corporate governance as "a system whereby directors are entrusted with responsibilities and duties in relation to the direction of a company's affairs" (p. 5), while Sternberg (2004) views it as "ways of ensuring that corporate actions, agents and assets are directed at achieving the corporate objective established by the corporation's shareholders" (p. 28).

The ASX Corporate Governance Council (2007) defines corporate governance as:

The framework of rules, relationships, systems, and processes within and by which authority is exercised and controlled in corporations. It encompasses the mechanisms by which companies, and those in control, are held to account. Corporate governance influences how the objectives of the company are set and achieved, how risk is monitored and assessed, and how performance is optimized (p. 3).

Lin and Hwang (2010) define the benefits of well-organised corporate governance as follows: "A good corporate governance structure helps ensure that the management properly utilizes the enterprises resources in the best interest of absentee owners, and fairly reports the financial condition and operating performance of the enterprise" (p. 59).

These definitions are consistent with the views of some researchers who argue that the main obligation of a company is towards maximising the wealth of its shareholders (Friedman, 2008; Sternberg, 2004; Sundaram & Inkpen, 2004). The narrow perspective of these definitions is consistent with the conventional finance model that can be explained through the agency theory. The shareholder plays the role of principal and the manager is the agent. This view is similar to a recent definition of the Walker Review (Walker, 2009), which asserts that "the role of corporate governance is to protect and advance the interests of shareholders through setting the strategic direction of a company and appointing and monitoring capable management to achieve this" (p. 23).

The OECD (2004) defines corporate governance as: "Corporate governance involves a set of relationships between a company's management, its board, its shareholders and other stakeholders" (p. 11). The corporate governance structure specifies the distribution of rights and responsibilities among different participants in the corporation, such as the board, managers, shareholders, and other stakeholders, and spells out the rules and procedures for making decisions on corporate affairs. By doing this, it also provides the structure through which the company objectives are set and the means of attaining those objectives and monitoring performance (OECD, 1999).

In this case, the company is considered a social entity that has accountability and responsibility to a variety of stakeholders, encompassing shareholders, creditors, suppliers, customers, employees, management, government, and the local community (Freeman & Reed, 1983; West, 2006; Mallin, 2007). Rezaee (2009) describes corporate governance as an ongoing process of managing, controlling, and assessing business affairs to create shareholder value and protect the interests of other stakeholders. According to this definition, there are seven important functions of corporate governance: oversight, managerial, compliance, internal audit, advisory, external audit, and monitoring.

These definitions support other schools that argue that a firm has an obligation not only to its shareholders but to all stakeholders, whose contributions are necessary for the success of the firm (Donaldson & Preston, 1995; Freeman, 1984). In these terms, Solomon (2010) defines corporate governance as "the system of checks and balance, both internal and external to companies, which ensure that companies discharge their accountability to all their stakeholders and act in a socially responsible way in all areas of their business activity" (p. 6).

The aim of corporate governance is to facilitate the efficient use of resources by reducing fraud and mismanagement with the view not only to maximise but also to align the often conflicting interests of all stakeholders (Cadbury, 1999; King Committee on Corporate Govrnance, 2002). Thus, this view considers a corporation to be an extension of its owners, with its central aim being to provide goods or services to customers, primarily to maximise the wealth of its owners (West, 2006).

According to Mallin (2010), the essential features of corporate governance are that: it assists in ensuring that an adequate and appropriate system of controls operates within a company and that assets may therefore be safeguarded; it avoids any single individual having too much influence; and it tries to encourage both transparency and accountability in the relationship between company management, the board of directors and other stakeholders, which investors are increasingly looking for in both corporate management and performance.

Sheridan and Kendall (1992) emphasise that achieving good corporate governance requires a system of structured operation and control that fulfils the following objectives:

- achieve a long-term strategy of goals of the owner to maximise shareholder value or control market share;
- secure the interests of employees at all times and ensure that they are guaranteed a positive working atmosphere, further training courses, health coverage, and fair retirement packages;
- maintain excellent long-term relations with customers and suppliers in terms of service, quality, and financial settlement procedures;
- comply with all relevant legal and regulatory requirements.

In addition, the primary concern of corporate governance is how effectively different governance systems manage the relationship with the various stakeholders (Maher & Andersson, 2000). Allen (2005) finds that the stakeholder model of corporate governance is more useful to developing countries, as pursuing their interest might help overcome the market failure in these economies. Iqbal and Mirakhor (2004) examine the conventional stakeholder theory of corporate governance, which views a firm as a "nexus-of-contracts" with different stakeholders, and they highlight that the firm's objective should be to maximise the welfare of all stakeholders. The results suggest that research participants take a broad view of the corporate governance concept, with recognition of a wide range of stakeholders evident (Wanyama, Burton, & Helliar, 2013).

To contribute to the aim of this paper, it will provide an introduction to corporate governance. The remainder of the paper is structured as follows. Section 2 discusses corporate governance systems. The emergence of corporate governance in the western world such as the UK, the US, and Australia is reviewed in Section 3, followed by details about the OECD Principles of Corporate Governance in Section 4. Section 5 provides the conclusion for the paper.

2. CORPORATE GOVERNANCE SYSTEMS

Corporate governance systems play an essential role in economic performance because they offer mechanisms that influence returns on investment by suppliers of external finance to firms (Edwards & Nibler, 2000). The system of corporate governance can differ to a considerable degree depending on the mechanisms that the owners of a corporation use to influence managers (Davis & Useem, 2000). Corporate governance systems vary from country to country in a variety of capitalism systems in which they are embedded (Giurca Vasilescu, 2008). Therefore, different models of corporate governance have been applied throughout the world, and each model has its own characteristics and features (Hasan, 2009). These models are divided into two types (Nestor & Thompson, 2000).

Outsider models (unitary system): A good example is the US and other English-language-speaking countries; it is also called the Anglo-Saxon model.

Insider models (dual system): This system is applied on the European continent; the best example is the German model.

Both systems have grown from different institutional, regulatory, and political environments, but with an internally consistent governance system and a unique mixture of corporate control (Babic, 2003).

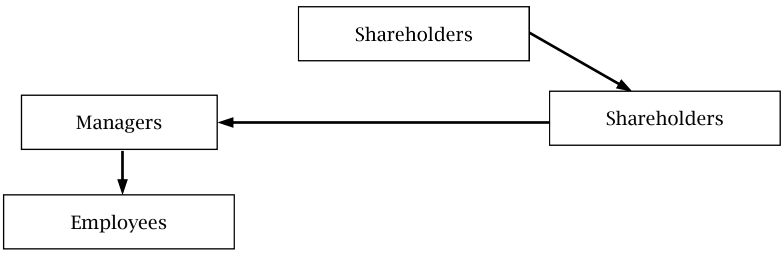
Shleifer and Vishny (1997) supported a two-system classification to consider corporate governance problems. The system consists of the following: 1) unitary systems, such as those in the US and the UK, that tend to rely more on managerial compensation and the market for corporate control; and 2) dual systems, such as those in Germany, France or Spain, which tend to use control by large incumbent shareholders to align the behaviour of managers and owners.

Weimer and Pape (1999) reached a similar classification distinguishing between unitary and dual systems of corporate governance. The paramount characteristic of the market-oriented systems is an active external market for corporate control, which is a mechanism for independent shareholders to influence managerial decision-making. Such markets include stock, labour, and hostile takeover markets. By contrast, in the dual systems, oligarchic groups with different identities substantially sway managerial decision-making by more direct modes of influence. In particular, the limited voting rights of independent shareholders, cross-shareholdings, and interlocking directorships indicate the network orientation.

2.1. Anglo–American model (outsider model)

In the Anglo-Saxon system, the company concept is based on a fiduciary relationship between shareholders and management. The Anglo-Saxon system is founded on the notion that self-interest and decentralised markets can function in a self-regulating, balanced manner, and it is based on the concept of market capitalism (Cernat, 2004). Thus, companies have generally similar models of corporate governance in Anglo-American countries (the UK, the US, Australia, and Canada). This model includes one independent board of directors, which monitors and controls management's activity for the purpose of improving it. The International Chamber of Commerce shows that ownership is concentrated in the Anglo-Saxon model, with few people having authority over the management team, and that there is a poor shelter for minority investors who call for independent director support, which is done through an executive chairman (Hasan, 2009).

Figure 1. Anglo-Saxon model of corporate governance



Source: Cernat (2004, p. 153).

Figure 1 shows that the Anglo-Saxon model is founded on the relationship between the shareholders and the managers. Shareholders need to have strong legal protection under the Anglo-Saxon model because this structure of corporate ownership is widely dispersed and the effect of shareholders on management is weak. The function of corporate governance in the Anglo-Saxon system is to protect the interests and rights of the shareholders (Hasan, 2009).

2.2. Continental model of corporate governance (insider model)

The stakeholder's model is focused on a relationship-based model that emphasises the maximisation of the interests of a broader group of stakeholders (Donaldson & Preston, 1995). The Continental European (German) model of corporate governance (specific to companies from Continental Europe, as well as from Japan) focuses on the interests of workers, managers, suppliers, customers, and the community, and it facilitates innovation and competition (Giurca Vasilescu, 2008). The same concept is also being applied in France, where the board of directors and the managers hold duties not only to the company itself, but also to employees, the trade union, the works council, and the public (Snyder, 2007). The underlying principle on which the Continental corporate governance system is based is embodied in the stakeholder theory of the firm. The Continental capitalist model considers not only the interests of shareholders but also input from the relevant stakeholders (Cernat, 2004).

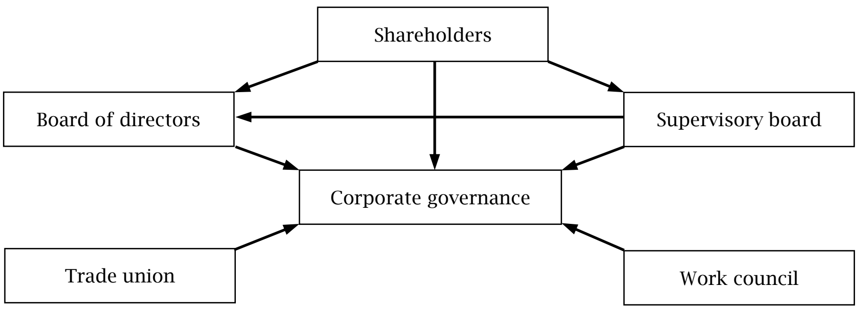
The German model is concentrated on the banking system. Although banks have strong influence and control over their governance system, they do not have high stocks as a part of firms they finance in Germany and Japan. The main advantage of this model is the monitoring and flexible financing of firms (Giurca Vasilescu, 2008). Therefore, many European countries, such as Germany, France, and Greece, practice the stakeholder's model of corporate governance in many large firms as part of the social and economic structure (Maher & Anderson, 2000). The Continental model is based on three propositions, which are clearly in opposition to those of the Anglo-Saxon model. These three propositions are concerned with stakeholder interests, rights, and the manager's responsibilities, which can be summarised as follows (Iqbal & Mirakhor, 2004):

- maximising stakeholders' interests, not only those of stockholders, as in the Anglo–Saxon model;
- all stakeholders have the right to participate in corporate decisions;
- managers are responsible for protecting stakeholders' interests.

Figure 2 shows that the Continental model is based on the relationship between the shareholders, the board of directors, and the supervisory board, based on the prominent role of banks and extensive ownership related to finance and control (Cernat, 2004). The supervisory board usually comprises many stakeholders, including investors (shareholders and creditors/banks), employees (union groups), suppliers, customers, and government appointees representing broader segments of society (Schilling, 2001; West, 2006). In Germany, the corporate governance framework mainly concerns a few hundred large firms with more than 2,000 employees, which are listed on the stock exchanges and operate on the two-tier system — that is, a supervisory and management board system (Hasan, 2009).

The legal system plays a very small role in German corporate governance. A two-tiered system consists of board directors and a supervisory board, which has the power to elect the board of directors. However, the supervisory boards do not have much decision-making responsibility, and co-determination undermines their monitoring effectiveness. For shareholders to take legal action against management in the case of negligence, it would take a majority at a general meeting, or 10%, to file a court petition (Scott, 1998).

Figure 2. Corporate governance of the Continental model



Source: Cernat (2004, p. 153).

Comparative analysis of the advantages and disadvantages of both models of corporate governance — the Anglo-American and German–Japanese model — suggests that a company's system of governance may be enhanced by the following factors (Giurca Vasilescu, 2008):

- the competitiveness of products and services, which influences the corporate governance of a company;
- the capital market, which actually presents official recognition of a firm's performances, and implicitly of management's, through the level of the firm's share prices;
- the institutional investors represent a potential force to influence the governance of a company;
- the labour market for managers, which sanctions the managers who receive excessive benefits without having performed well, by replacing them in the managing board.

Table 1. A comparison of US and German governance systems

Aspects	*US*	*Germany*
Executive compensation	High	Moderate
Board of directors	Primarily outsiders	Management/supervisory
Ownership	Diffuse/non-corporate	Concentrated: high family/corporate/bank
Capital markets	Very liquid	Relatively illiquid
Takeover/control market	Major	Minor
Banking system	Fragmented	Universal banking

Source: Kaplan (1997).

3. EMERGENCE OF CORPORATE GOVERNANCE IN THE WESTERN WORLD

The importance of corporate governance became dramatically clear at the beginning of the 21st century, as a series of corporate meltdowns arising from managerial fraud, misconduct, and negligence caused a massive loss of shareholder wealth (Baker & Anderson, 2010). In the late 1980s, governance failure in the US and financial scandals leading to the collapse of several prominent companies came to light in the UK and the US (Iskander & Chamlou, 2000). The spectacular collapses of Enron, WorldCom, Tyco, and Global Crossing in the US, HIH in Australia, and Robert Maxwell MMC, BCCI, and Polly Peck in the UK were obviously key motivators for the heightened interest in corporate governance (Anandarajah, 2004; Jongsureyapart & Wise, 2011). Therefore, this section will review the emergence of corporate governance in the western countries, in particular the US, the UK, and Australia, which face financial crises and collapse companies in the last decades.

3.1. Corporate governance in the UK

The development of corporate governance has attracted more attention in the UK since the series of corporate collapses and scandals in the late 1980s and early 1990s, including the BCCI bank and Robert Maxwell pension funds (Financial Reporting Council [FRC], 2006; Jones & Pollitt, 2002). As a result, the Committee on the Financial Aspects of Corporate Governance, chaired by Sir Adrian Cadbury, was set up in 1992 (Cadbury Report). This Committee evaluated the effectiveness of audits and was to consider the relationship between shareholders, directors, and auditors by investigating the structure and responsibilities of the boards of directors (Rayton & Cheng, 2004). The Cadbury Report highlighted a number of recommendations about the operation of the main board, as well as the establishment, composition, and operation of the key board committee, the importance of non-executive directors, the transparency of financial reporting, and the code of best practice. These recommendations were incorporated into the London Stock Exchange (LSE) Listing Rules in 1992.

In 1995, the Confederation of British Industry (CBI) launched a group study, chaired by Sir Richard Greenburg, in response to public and shareholder concerns about the remuneration of directors (Greenbury Report). These concerns about executive remuneration were in three areas: the size of basic pay increases; the large gains from share options, particularly in the recently privatised energy and water utilities; and the compensation payments to directors on the loss of office (Short & Keasey, 1999). The Study Group on Directors' Remuneration had the following terms of reference: to identify good practice in determining direct remuneration and prepare a code of such practice for use by the UK.

The Greenbury Committee's Code of Best Practice deals specifically with the following: the establishment, membership, and status of remuneration committees; the determinants of the remuneration policy for executive directors and other senior executives; the disclosure and approval of the details of remuneration policy; and the length of service contracts and the determination of compensation when these are terminated (Hughes, 1996).

The Cadbury Committee suggested that the FRC should establish a new committee to review the implementation and compliance with its recommendations and identify whether there was a need to update the code (The Committee on the Financial Aspects of Corporate Governance, 1992); a similar recommendation was followed by the Greenbury Committee. This new committee was chaired by the FRC in 1995 and sponsored by the LSE, the CBI, the Institute of Directors, the Consultative Committee of Accountancy Bodies, the National Association of Pension Funds, and the Association of British Insurers (The Committee on Corporate Governance, 1998). This report (Hampel Report) was released in 1998 and included 17 "principles of corporate governance" structured into four distinctive categories: directors, directors' remuneration, shareholders, and accountability and audit (Short & Keasey, 1999). The terms of the remit were as follows: the committee will seek to promote high standards of corporate governance in the interests of investor protection and in order to preserve and enhance the standing of companies listed on the Stock Exchange (Rayton & Cheng, 2004).

In 1999, the Turnbull Committee was formed to review the effectiveness of the internal control system and offered clear guidelines. The Committee was chaired by Nigel Turnbull (Solomon, 2010) and was intended to provide guidance to assist listed companies to implement the requirements in the code relating to internal control (Kendrick, 2000). This guidance covered five key areas: the importance of internal control and risk management, maintaining a sound system of internal control, reviewing the effectiveness of internal control, the board statement on internal control, and internal audit (Vinten, 2001). Thereafter, the Institute of Chartered Accountants in England and Wales established the Guidance Internal Control: Guidance for Directors on the Combined Code in 1999 based on the Turnbull Committee's report.

Corporate scandals such as Enron and WorldCom in the US revealed some difficulties in the corporate governance system in the US, which led to concern about the system of corporate governance in the UK (FRC, 2006). Therefore, the Smith Committee was formed and chaired by Sir Robert Smith in 2002. The main aim of the Smith Committee was to review the effectiveness of audit committees. Its focus was "to assist a company board in making suitable arrangements for their audit committees and to assist directors serving on audit committees in carrying out their role" (FRC, 2003, p. 3), as audit committees and internal auditing were one of the main reasons for the failure of the Enron case in the US (Solomon, 2010). The main recommendations of the Smith Committee were that there should be no less than three independent non-executive directors involved in the audit committee and that one of the three members should have experience related to finance (FRC, 2003).

Additionally, in response to the scandals of corporate failure in 2001 in the US, the Higgs Committee was set up by the Secretary of State for Trade and Industry and the Chancellor of the Exchequer in 2002, and it was nominated by Derek Higgs to assess the effectiveness of non-executive directors (Jones & Pollitt, 2002). Therefore, the Higgs Report was launched in 2003 to offer guidance for non-executives and chairmen. It also presented recommendations that aimed to improve transparency in the director nomination and appointment processes and to increase multi-experience in boardrooms (Rayton & Cheng, 2004). However, the Higgs Report was critical in three main respects: the identification of a senior independent non-executive director; a chief executive of the company should not become the chairman; and at least half of the board members should be independent non-executive directors (Dewing & Russell, 2004).

Both the Smith and Higgs reports stated that the development of a corporate governance system is sound, but they suggested reviewing the combined code to get the best practice in the UK. As a result, the FRC formed a working group, which included Smith and Higgs, to revise the combined code (Jones & Pollitt, 2002). Many of the recommendations on audit committees and non-executives of directors that were established by the Smith and Higgs reports were incorporated in the new combined code (Rezaee, 2009). The FRC set up the new combined code in 2003, which included guidance from Turnbull, Smith, and Higgs.

In 2004, the Turnbull Review Group was formed by the FRC to investigate the effect of guidance and linked disclosures and to determine whether the guidance needed to be enhanced. The new revision was established in 2005 to support directors to evaluate how their companies had implemented the requirements of the Combined Code relating to internal control and how to manage risk and internal control (Mallin, 2010). Following the Turnbull Review, the new Combined Code was set up in 2006 and introduced the following key principles: the roles of a company's chairperson and chief executive; the composition of the company's board of directors; and the composition of the board's three main committees, namely the Nominations, Remuneration and Audit Committees (Pass, 2006).

In 2009, the Turner Review was set up in response to recommendations regarding the changes in regulation and the supervisory approach based on the Chancellor of the Exchequer's request in October 2008 for the assessment of the causes of the then-current crisis (Financial Services Authority [FSA], 2009). This review supported the changes that have occurred in the approach of corporate governance in financial crises and highlighted the important features of corporate governance: risk, risk management, and internal control within corporate governance (Solomon, 2010). However, Tourani-Rad and Ingley (2010) argue that because the Turner Review did not investigate issues of the ineffectiveness of internal risk management with boards of directors to reduce risk-taking in-depth, the UK government formed a review of bank governance by Sir David Walker.

This review was set up in 2009 to study corporate governance in the UK banking industry and create recommendations to embrace: the effectiveness of risk management at the board level; the skills, experience, and independence of boards; the effectiveness of board practice; the role of institutional shareholders; and how national and global practice can be spread (Walker, 2009). At the same time, the FRC asked for the next revision of the Combined Code in the UK (Mizuno & Tabner, 2009). The new Combined Code was established in 2010, and the main principles of the code are leadership, effectiveness, remuneration, relations with shareholders, and accountability (FRC, 2010).

3.2. Corporate governance in the US

Corporate governance is a "hot topic"' in the US, with more literature and research on the governance area having been conducted there than in any other country in the world (Solomon & Solomon, 2004). For instance, the discussion on corporate governance in the US began in 1932 with a book by Berle and Means (Hopt, 1994). Since then, the Business Roundtable has addressed corporate governance issues, including the Role and Composition of the Board of Directors of the Large Publicly Owned Corporation in 1978 and the Statement on Corporate Responsibility in 1981 (Business Roundtable, 1997). In addition, the new project of the Institute of Internal Auditors (IIA) was chaired by Ray Garrett, former chairman of the Securities and Exchange Commission (SEC). In 1982, this institute provided principles of corporate governance: analysis and recommendation (National Commission on Fraudulent Financial Reporting, 1987).

In 1987, the National Commission on Fraudulent Financial Reporting launched recommendations about decreasing financial statement fraud, with these recommendations appropriate for the SEC, external auditors, accounting educators, public companies, and regulators (National Commission on Fraudulent Financial Reporting, 1987). Moreover, the Business Roundtable launched its statement on corporate governance and American competitiveness in 1990, as well as a statement on corporate governance in the US in 1997. This statement focused on the function of the board, structure, and operation, as well as stockholder meetings. In 1998, corporate governance principles and recommendations were established by the California Public Employees' Retirement System (CalPERS). These issues focused on accountability in governance and also solved matters such as board process and evaluation, individual director characteristics, and shareowner rights (CalPERS, 1998). At the same time, in 1998, a committee was formed by the New York Stock Exchange (NYSE) and the National Association of Corporate Directors and the Centre (NACD) to investigate audit committee effectiveness. In 1999, this committee released its report, which was known as the Blue Ribbon Committee (Blue Ribbon Committee on Improving the Effectiveness of Corporate Audit Committees, 1999; NACD, 2000).

The NACD and the Centre for Board Leadership launched the Report of the NACD Blue Ribbon Commission on Director Professionalism. This report included four areas: Responsibilities — what boards should do; Processes — how boards should fulfil their responsibilities; Selection — who directors should be; Evaluation — how boards and directors should be judged. The aim of the NACD is to shine a spotlight on defining, establishing, and refining “best practices” in order to enhance board performance. Therefore, the Centre for Board Leadership has conducted research related to enhancing boardroom performance through board topics and holding roundtable debates with CEOs and directors (NACD, 2001a, 2001b).

The Enron scandal prompted more attention to developing corporate governance as a response by the Centre of Corporate Governance (CCG) and the IIA Research Foundation. For instance, the Centre of Corporate Governance at Kennesaw State University aims to emphasise audit committees and entrepreneurial companies in particular in order to improve effective corporate governance for public, private and non-profit enterprises (Lapides et al., 2002). The Center launched 10 principles: interaction, board purpose, board responsibilities, independence, expertise, meetings and information, leadership, disclosure, committees, and internal audit (Hermanson & Rittenberg, 2003).

Significant changes to US federal securities laws since the 1930s legislation were a result of the Sarbanes-Oxley Act in 2002 (Calder, 2008). The SEC requested the enhancement of accountability, integrity, and transparency during a review of its listed companies in its corporate governance listing standards in 2002. The committee report was promoted by President George W. Bush, SEC Chairman Harvey Pitt, institutional investors and state pension funds, leading academics and commentators, the Business Roundtable and the Council of Institutional Investors, members of Congress, and CEOs of listed companies (New York Stock Exchange [NYSE], 2002).

The Conference Board Commission on Public Trust and Private Enterprise was established to solve circumstances resulting from the recent corporate scandals and subsequent decline of confidence in US capital markets. The Board Commission’s work focused on three main aspects: corporate governance, auditing and accounting, and executive compensation. The first report was on executive compensation and released in September 2002. The second report was on Corporate Governance: Principles, Recommendations, and Specific Best Practice Suggestions. This report concentrated on the relationship between the board and management, fulfilling the board’s responsibilities, director qualifications, the role of the nominating/governance committee, board evaluation, hiring special investigative counsel, shareowner involvement, and long-term share ownership (Conference Board, 2003).

In 2003, the Hon. Jed S. Rakoff of the US District Court for the Southern District released the “Restoring Trust” report concerning WorldCom Inc. in November 2002. This report included 78 recommendations in 10 main areas: board of directors, board leadership and the chairman of the board, board compensation, executive compensation, audit committee, governance committee, compensation committee, risk management committee, general corporate issues, and legal and ethics programs (Breeden, 2003). In addition, in November 2003, the SEC gave consent to the final corporate governance rules of the NYSE, which were incorporated into Section 303A of the NYSE’s Listed Company Manual. The companies were required to comply with the rules and disclosure in the annual report in these aspects: independent directors, non-management directors, corporate governance committee, compensation committee, audit committee membership, authority and responsibilities of the audit committee, shareholder control, and corporate governance guidelines (NYSE, 2003).

In addition, the Chartered Financial Analyst (CFA) Institute Centre for Financial Market Integrity set up the Asset Manager Code of Professional Conduct draft for industry debate and observation in 2004. The code was set up to extend the CFA Institute Code of Ethics and Standards of Professional Conduct to address individual conduct. This code is a guideline to managers globally and includes loyalty to clients, investment process and actions, trading, compliance and support, performance and valuation, and disclosures (CFA Centre for Financial Market Integrity, 2004). In 2005, the NYSE set up the Proxy Working Group (PWG) to evaluate the voting and proxy process, including rules that allow brokers to vote on certain issues on behalf of the beneficial owners of shares. In 2006, the PWG report was published with recommendations to both the NYSE and the SEC to develop the proxy voting system.

In 2007, the Teachers Insurance and Annuity Association-College Retirement Equities Fund (TIAA-CREF) set up corporate governance policies. Its Statement of Policy inquired about: maintaining a culture of integrity; contributing to the strength and continuity of corporate leadership; guaranteeing board and management accountability; and encouraging the long-term growth and profitability of the business enterprise. These corporate governance policies involved shareholder rights, director elections, majority voting, the board of directors, board structure and processes, board responsibilities, executive compensation, TIAA-CREF corporate governance program, international governance, environmental and social issues, and securities lending policy (TIAA-CREF, 2007).

Following the governance policies of TIAA–CREF (2007), the NACD set up Key Agreed Principles as a framework for strengthening governance for the US. Publicly traded companies were to assist in enhancing the quality of arguments and move the debate on governance issues forward. These principles are board responsibility for governance, corporate governance, transparency, director competency and commitment, board accountability and objectivity, independent board leadership, integrity, ethics and responsibility, attention to information, agenda and strategy, protection against board entrenchment, shareholder input in director selection, and shareholder communications (NACD, 2008).

In response to the financial crises of 2008 and 2009, the NYSE made a decision to support a comprehensive review of corporate governance principles that could be widely accepted and supported by issuers, investors, directors, and other market participants and experts. In addition, the NYSE established the Commission on Corporate Governance in 2009 to debate fundamental topics of governance issues such as the proper role and scope of a director's authority, management's responsibility for governance, and the relationship between shareholders' trading activities, voting decisions, and governance. The diverse Commission members analysed changes that had occurred over the past decade, their effect on how directors viewed their job, their relationship to management and shareholders, and how the current governance system generally worked (NYSE, 2010).

In addition, the SEC and other regulators highlighted major issues that have appeared due to fundamental changes to the governance of corporations, with corporate governance becoming a prominent issue both in the financial markets and with the public. Four foundation governance principles, which could be widely accepted and supported by issuers, investors, directors, and other market participants and experts, were set up for discussion by the NYSE in 2010.

3.3. Corporate governance in Australia

Corporate governance issues have been given more attention by the Australian government, business, institutional investors, professional advisers, consultants, academics, the Australian Stock Exchange (ASX), and the media over the past three decades (Stapledon, 2011). For instance, in 1990, a working group was formed by the ASX, the Australian Institute of Company Directors, the Business Council of Australia, the Security Institute of Australia, and the Business Law (Bosch, 1991). The working group was chaired by Henry Bosch, chairman of the Australian National Companies and Securities Commission, and the first report of the working group was released under the title "Corporate Practices and Conduct" in 1991 (Bosch, 2002). Further issues of the Bosch Report on corporate practice and conduct were published in 1993 and 1995. These reports cover a range of corporate governance issues, including board structure and composition; appointment of non-executive directors; directors' remuneration; risk management; financial reporting and auditing; conflicts of interest; the role of the company secretary; and shareholders (Bosch, 1995).

Following the Bosch Report, another working group was chaired by chairman Fredrick Hilmer and released its report in 1993 entitled "Strictly Boardroom: Improving Governance to Enhance Company Performance" (Hilmer, Rogers, & Independent Working Party into Corporate Governance, 1993). The second edition of the Hilmer Report was published in 1998 under the same name, with a few changes based on global developments in corporate governance, including an article in an appendix entitled "The Fallacy of Independence" by Hilmer and Donaldson (1996). This report highlighted issues such as board composition, executive remuneration, and disclosure from 1993 to 1998 (Hilmer, 1998).

In 1994, a media release of the ASX stated that it "wished to take a leadership role in helping to promote corporate governance standards for listed companies" (Ramsay & Hoad, 1997, p. 2). For instance, in 1995, the ASX introduced Listing Rule 3c (3) (i), which requires listed companies to apply these rules from their first financial reporting in 1995 (Collett & Hrasky, 2005). In 1996, the ASX established Listing Rule 4.10.3, which replaced Rule 3c (3) (i). The objective of this rule is to support listed companies in the introduction of a statement of corporate governance practice (Mallin, 2011). This rule followed the one implemented by the LSE, which was based on the recommendations of the 1992 Cadbury Committee (Ramsay & Hoad, 1997).

The ASX presented guidance in the form of Listing Rule 4.10.3, which focused on four main areas: annual report disclosure, directors, audit, and business risk (Listing Rule 4.10.3). In addition, the Treasurer published the Corporate Law Economic Reform Program (CLERP) in 1997, which proposed that Australian business and company regulations be developed to encourage business, economic development, and employment (Australia Treasury, 1998). However, a 1997 survey by the Australian Investment Managers Association (AIMA) about the disclosure of corporate governance practice in 100 large Australian companies found that just 10% of large companies give attention to disclosing corporate governance practice statements in their annual report. A study by the Australian Institute of Company Directors and KPMG surveyed 514 directors from different types of companies and found that only 32% of directors surveyed applied a number of corporate governance initiatives (Ramsay & Hoad, 1997).

A guide on good corporate governance practices for investment managers was published in 1995 in the Blue Book (Clark, 2005) under the title "Corporate Governance: A Guide for Investment Managers and a Statement of Recommended Corporate Practice" by the AIMA or Investment and Financial Services Association (IFSA, 1995). This guide was revised in 1997, 1999, 2002, 2004, and 2009 (IFSA, 1997, 1999, 2002, 2004, 2009); it included four guides for managers from 1999 to 2004 but currently extends to five guides: communication, voting, proxy voting policy and procedures, reporting to clients, and environmental and social issues and corporate governance (du Plessis et al., 2011).

In addition to guidelines for managers, there are guidelines for corporations. These guidelines included 13 guides in 1999 and 14 in 2004. There are currently 18 guides (IFSA, 1997, 1999, 2002, 2004, 2009): annual disclosure, the composition of the board of directors, chairperson to be an independent director, board committees generally, key board committees, the appointment of non-executive directors, performance evaluation, equity participation by non-executive directors, respective roles of the board and management, board and executive remuneration policy and disclosure, company meetings, disclosure of beneficial shareholder information, major corporate changes, company codes of ethics, share and option schemes, the format of resolutions, trading by directors and senior management, the election of directors, and a number of permissible directorships an individual may hold (IFSA, 2009).

Global scandals and corporate failures such as Enron, WorldCom, Health South, and Global Crossing in the US, as well as Australian corporate collapses such as general insurers (HHH) and retailers (Harris Scarfe), have directed more attention to corporate governance issues in Australia (Stapledon, 2011). Hence, in 2002, the Corporate Governance Council was launched by the ASX. This Council embraces representatives from 21 industry and regulatory bodies operating in Australia: Association of Superannuation Funds of Australia Limited, Australasian Investor Relations Association, Australian Council of Superannuation Investors, Australian Stock Exchange Limited, Australian Institute of Company Directors, Australian Institute of Superannuation Trustees, Australian Shareholders' Association, Business Council of Australia, Chartered Secretaries Australia, CPA Australia Ltd, Securities Institute of Australia, Group of 100, Institute of Actuaries of Australia, Institute of Chartered Accountants in Australia, Institute of Internal Auditors Australia, Investment and Financial Services Association, Law Council of Australia, Property Council of Australia, National Institute of Accountants, and Securities & Derivatives Industry Association (ASX Corporate Governance Council, 2003).

In 2003, the ASX Corporate Governance Council released 10 important principles of good corporate governance and 28 associated recommendations relating to the best practice of corporate governance appropriate to listed companies in Australia (Henry, 2008). These principles are as follows: lay solid foundations for management and oversight, structure the board to add value, promote ethical and responsible decision-making, safeguard integrity in financial reporting, make timely and balanced disclosure, respect the rights of shareholders, recognise and manage risk, encourage enhanced performance, remunerate fairly and responsibly, and recognise the legitimate interests of stakeholders (ASX Corporate Governance Council, 2003). Each principle contains recommendations that support the framework of corporate governance and give flexibility to all companies to consider an appropriate structure of governance (Ablen, 2003).

Following the principles of good corporate governance and recommendations for best corporate governance practice, and ASX media release highlighted that during the 2004 annual reports, companies followed or dealt with four main policies of corporate governance: board of directors and its committees, internal control framework, and ethical standards, business, and role of shareholders (ASX Corporate Governance Council, 2008). In addition, the Corporate Law Economic Reform Program (CLERP) became law in Australia in 2004. This law highlighted issues such as director liability, disclosure, and shareholder participation, and it also preserved the notions of investor protection and confidence as being essential in the market. In 2006, the ASX offered some proposals to develop the disclosure of corporate governance practice in companies. These suggestions were intended to enhance compliance with Listing Rule 4.10.3 by following the recommendations; further, these proposals indicated that some information was presented by other annual reports or websites, and this information was not located in statements of corporate governance (ASX Corporate Governance Council, 2006). According to the annual Horwath rating from 2001 to 2006, ASX Corporate Governance Council principles and recommendations contributed to the development of some aspects of corporate governance practice in 250 large Australian companies (Psaros, 2009).

The second edition of the ASX's governance principles and recommendations was established in 2007 by the ASX Corporate Governance Council, with a reduction to eight governance principles and 27 best practice recommendations. Principle 8 was moved to principles 1 and 2, and principle 10 was relocated to principles 3 and 7 (ASX Corporate Governance Council, 2007). These guidelines are of interest to shareholders, employee customers, suppliers, creditors, consumers and the broader community as interested parties (Farrar, 2008). Moreover, in 2008, the Australian Prudential Regulation Authority (APRA) launched its own approach to the issue of executive remuneration and excessive risk-taking, with its guidance focused on the board remuneration committee, remuneration policies, and risk management (Australian Prudential Regulation Authority [APRA], 2008).

In 2009, the ASX reviewed corporate governance reporting and found that companies were continuing with a high level of corporate governance reporting, focusing on five main areas in particular: independence of directors, trading policies, risk management, remuneration committee, and diversity. The Chief Supervision Officer of the ASX said that "a culture of sound corporate governance transparency has developed among ASX listed entities since the first Principles and Recommendations were introduced in 2003" (Australian Security Exchange, 2010a, 2010b). An ASX media release (Australian Security Exchange, 2010a, 2010b) pointed out that the ASX Corporate Governance Council had revised its principles and recommendations in 2010 to include amendments on diversity, remuneration, trading policies, and briefings, which would affect financial reports in 2011.

4. OECD Principles of Corporate Governance

The OECD was established based on Article 1 of the Convention signed in Paris on 14 December 1960, and it came into force on 30 September 1961. The OECD promotes policies designed to:

- achieve the highest sustainable economic growth and employment and a rising standard of living in member countries while maintaining financial stability and thus contributing to the development of the world economy;
- contribute to sound economic expansion in member and non-member countries in the process of economic development;
- contribute to the expansion of world trade on a multilateral, non-discriminatory basis in accordance with international obligations.

The key function of the OECD is to provide management consulting to member governments. It researches and produces policies on a myriad of topics ranging from trade matters to environmental issues. It also has the power to make recommendations, which are non-binding agreements, and to make decisions, which are legally binding on the members. Therefore, in 1998, the OECD council meeting at the ministerial level asked the OECD in conjunction with interested bodies to develop a set of corporate governance standards and guidelines. In a 1999 meeting, OECD ministers established the principles of corporate governance, which were enhanced by an ad hoc task force on corporate governance (Maher & Andersson, 2000). These principles were adopted by the 30 member countries of the OECD as reference tools for countries worldwide (Jesover & Kirkpatrick, 2005).

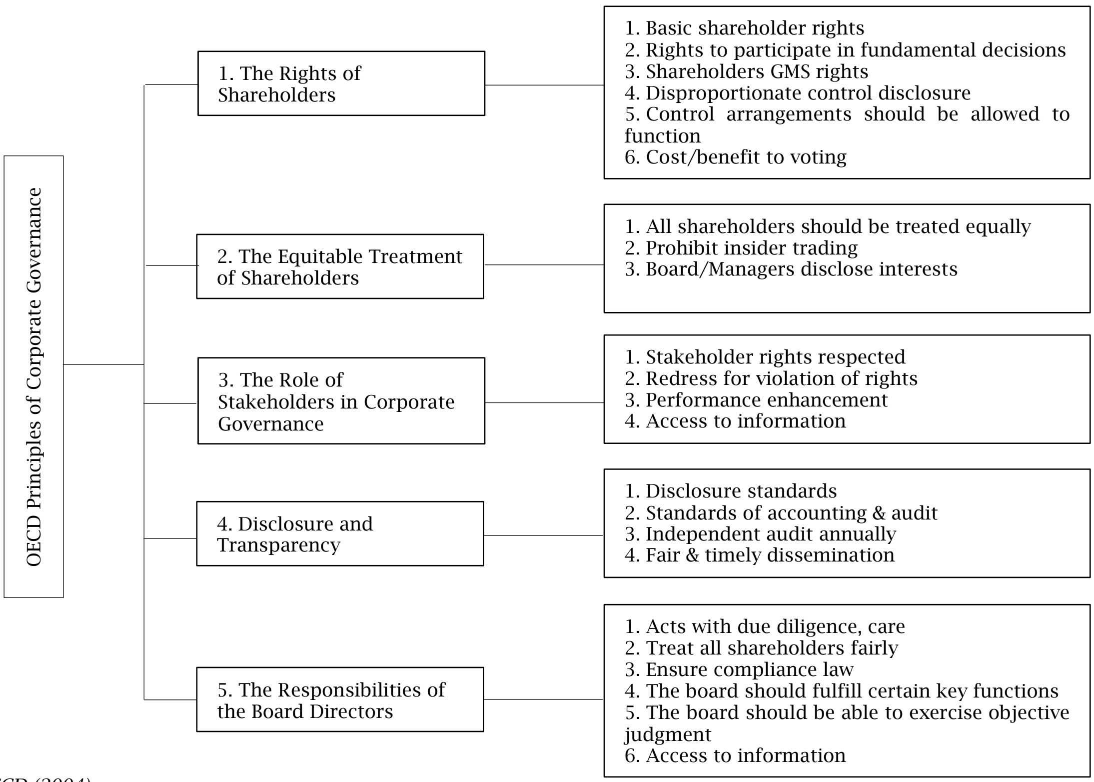
The OECD seeks to promote governance reforms in close cooperation with other international organisations, especially under a joint program with the World Bank, and with the participation of the IMF to organise Regional Corporate Governance Roundtables. These Roundtables include senior policymakers, regulators, and market participants in order to enhance understanding of governance and support regional reform efforts (Chowdary, 2002).

In 2000, the OECD Principles of Corporate Governance became one of the 12 core standards of global financial stability, and they are now used as a benchmark by international financial institutions (Cornford, 2004). The OECD Principles of Corporate Governance were revised in 2004 to assist governments in their effort to evaluate and improve legal, institutional, and regulatory frameworks for corporate governance in their countries. Therefore, the Principles also provide guidance in developing good corporate governance for those interested. Although cultural and institutional differences exist between countries, the underlying principles may allow more fundamental compatibility (Jesover & Kirkpatrick, 2005).

In 2006, the OECD issued the methodology for assessing the implementation of the OECD Principles on Corporate Governance. The vital purpose of an assessment is to identify the nature and extent of specific strengths and weaknesses in corporate governance and thus highlight policy dialogue that will identify reform priorities leading to the enhancement of corporate governance and economic performance, as the principles are concerned in part with company law, securities regulation and the enforcement/legal systems (OECD, 2006).

The OECD Principles have been designed to be adaptable to different circumstances, cultures, and traditions in different countries (Chowdary, 2002). These principles cover five areas: the rights of shareholders and key ownership functions, the equitable treatment of shareholders, the role of stakeholders in corporate governance, disclosure, and transparency, and the responsibilities of the board. The OECD Principles became the basis of codes developed in many countries, as well as by industry bodies such as the International Corporate Governance Network and International Federation of Accountants, the International Organization of Securities Commissions, and the activities of the Asian Development Bank and the World Bank in Roundtables in Asia (Duca et al., 2007; OECD, 2003).

Figure 2. OECD Principles of Corporate Governance



Source: OECD (2004).

5. CONCLUSION

The issue of corporate governance has attracted increased attention since the late twentieth century due to many corporate collapses and financial crises in the last decade. This has resulted in a growth in attention to corporate governance in both developed and developing countries. These collapses have highlighted the call for the management and directors of companies to be more accountable, and they have led governments and international organisations such as the OECD to be more active in establishing principles of corporate governance. The system of corporate governance has increased in different countries in relation to the nature of the economy, legal systems, and cultural norms. Models of corporate governance can generally be classified either as an outsider or insider model. This paper focused on the concept of corporate governance based on shareholders' and stakeholders' perspectives and the development of corporate governance around the world, including the UK, the US, and Australia. The OECD Principles of Corporate Governance were presented, including shareholders' rights, the equitable treatment of shareholders, disclosure and stakeholders' rights and transparency practices, and the responsibilities of board directors.

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