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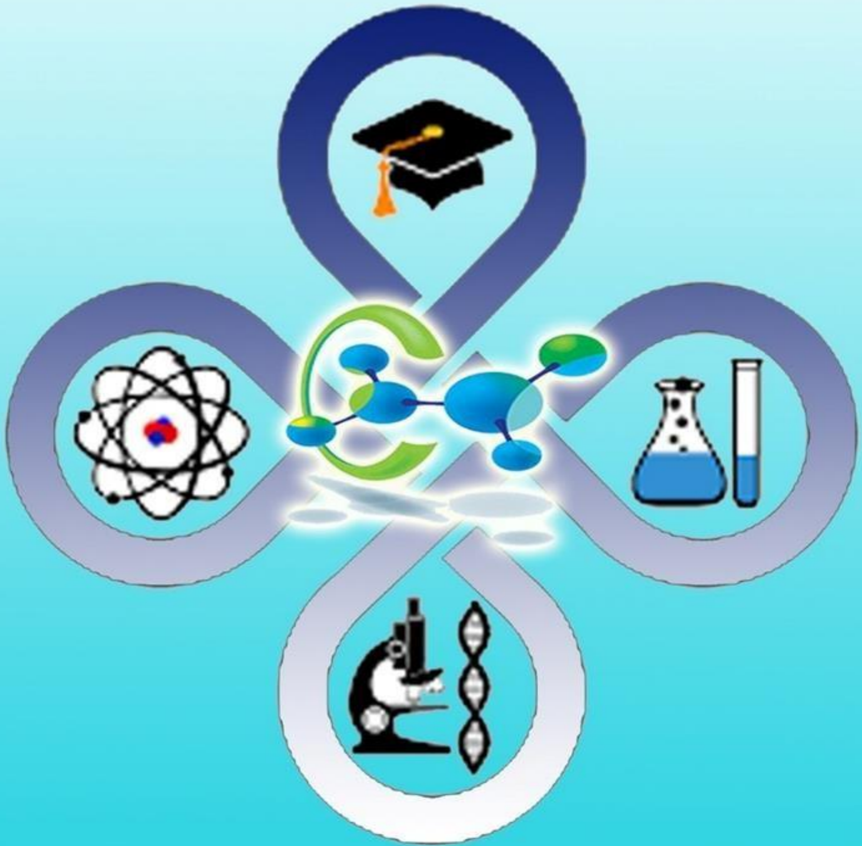
АКТУАЛЬНЫЕ ВОПРОСЫ СОВРЕМЕННОЙ НАУКИ, ОБРАЗОВАНИЯ И ВОСПИТАНИЯ В РЕГИОНЕ



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THE ANALYSISES OF INTERNATIONAL FRAMEWORKS OF CORPORATE GOVERNANCE.

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Abstract: The article focuses on the corporate governance system. The article includes the international frameworks of this system and their principles. The research covers three types of international governance framework approaches are given in this paper. These international framework approaches' mechanisms connect organization to their affairs. The main purpose of article is to compare these international frameworks in order to clarify their distinguishable aspects.
Key words: corporate governance, capital, shareholder, manager, international framework, principle.

Аннотация: В статье основное внимание уделяется системе корпоративного управления. В статью включены международные рамки этой системы и их принципы. Исследование охватывает три типа рамок международного управления, которые приведены в статье. Эти механизмы международных рамочных подходов связывают организацию с их делами. Основная цель статьи сравнить эти международные рамки, чтобы прояснить их отличимые аспекты.
Ключевые слова: корпоративное управление, капитал, акционер, менеджер, международная структура, принцип.

Аннотация: Ушбу мақола корпоратив бошқарув тизимга қаратилган. Корпорация бу шундай бизнес турики, у сармояни жалб этиб ва уни кенгайтиришга қаратади. Акциядорлар инвесторлар каби ўз маблағларидан фойда олищ мақсадида пул сарфлашади. Шунингдек, мақолада халқаро тизимнинг қолиблари ва уларининг тамойилларини ўз ичига олди. Тадқиқот учта халқаро бошқарув тизимини ёритади. Ушбу халқаро тизими корхоналарининг фаолиятини боғлайди. Мақоланинг асосий мақсади ушбу халқаро тизимларни солиштириш ва уларнинг фарқли жиҳатларни кўрсатишдир.
Калит сўзлар: корпоратив бошқарув, капитал, акциядор, менежер, халқаро тузилма, тамойил.

Introduction.

The aim of the corporate governance is to direct and control activities of an organization. The system of corporate governance are established structure, rules and procedures for decision making for corporation affairs. Therefore, the system follows the questions around its governance such as "on whose behalf?" and "to what end?". Moreover, the most of corporate law regulations show that the board of directors are obligated to be loyal to the interests of the corporations.

There are many definitions are given to the corporate governance system. For example, Anthony Tarantino defines it "the corporation has its own existence and personality under law that requires the actions of real people to operate [1] in order to properly serve the interests of society. The concept of Tarantino that corporate directors to consider social interests were supported by Great Britain companies Act of 2006 and in 2008 by Supreme Court of Canada [2].

In the legal framework, the board of directors' duties are interpreted as person that is responsible to govern the relationships between society and individuals. Therefore, governments provide legal licenses to corporations in order to operate by charters of corporate governance. By compare, a legal interpretation cited that directors owe duties to shareholders is accepted a private property as the shareholders cause risk as their claim profit of companies. These legal frameworks of corporation views subjects to private law that manages relationships between individuals, which includes contract law and property law. As cited Joel Bakan if corporations are not legal person, therefore it might be considered slavery and illegal [3].

Based on functions of the board of directors, whether they primarily serve to the society or to founders of the company is not obvious. If the board of directors serve to owners, it should be valued owner-managed corporation. Richard Leblanc, James Gillies gave observation about directors "the director directs, but never manage. They elect the CEO, but later have to remove CEO. He has legal responsibilities to the shareholders, but has a moral responsibility to employees, customers, vendors and society as a whole" [4].

Literature review.

The *agency theory* indicates the agents of the company owners are self-interested managers. They need to be monitored and controlled in order to keep effectively their interests and behaviors with employers' ambitious. The board of directors are in charge of governance skills of the managers. The result increases in regulations and controls the board of directors and managers. According to Shan Turnbull, the agency theory is the value of the firm can not be maximized because managers possess discretions, which all them to expropriate value to themselves

[5]. In other words, it means that the managers can misuse their positions in order to get cover their needs.

However, the *stewardship theory* cited that the managers are good at providing stewards to corporations and they can be trusted to work diligently in order to corporate get profit and provide shareholder returns. Ironically, it can be assumed that the board of directors are unnecessary and the stakeholders' advisory board are sufficient in conduct the corporation properly.

The above-mentioned theories are reasonable for the board of directors and managers relations understanding. There are examples where the board of directors are simply advisors without real power. In other cases, existing practices of the board of directors have not been succeed due to misguided by lack of perspective and appreciation practices to guide their activities, for example corporate scandals at Enron, WorldCom and Parmalat corporations [6].

Agency theory is constructed on presumption doubts, mistrust and difficult to control regulations. However, the stewardship theory is constructed on presumption of trust and it implies the board of directors no needs to monitor the functions of managers. Turnbull cited that the agency and stewardship theories are acceptable but it depends on the institutional and cultural aspects. In other words, it means that the individuals behave competitively or collaboratively.

Research methodology

The collection quantitative data are probably measuring variables and verifying existing theories or hypotheses or questioning them. The data is often used to generate new hypotheses based on the results of data collected about different variables.

Therefore, the research methodology of the article is conducted by various sources, in particularly is quantitative approach. For example, exploring Aspirational corporate governance, the Organization for Economic Co-operation and Development and National Association of Corporate Directors. Based on the observations and the point of the experts the analyses, the article provided practical recommendations.

Analysis and results

The find the best of corporate governance system, which generalizes the overall concept of it, might be misguided. It suggests that effect of cause relationship between procedures and outcomes. The definition itself do not reveals easily predefined the best practices. Therefore, less prescriptive principles might be better matched to promote of adaptation with general criteria. Instead, less guiding principles are based on criteria must bring desired results. Australia, Canada, the UK and Hong Kong have chosen the reformation of corporate governance in favor of principal based approach. However, the US followed a rule-based approaches based on legislation from Sarbanes-Oxley Act.

The regulation demands observance of the minimum standard that does them effective as expedient intervention. However, they are not flexible and cause to behave toward minimum standards than promoting yield for superior results. Moreover, the regulation motivates to get advantageous behavior. Another issue with perspective practice is to maximize the specific outcome tendency.

Frederick Lipman and Keith Lipman the corporate governance helps to prevent corporate scandals, fraud and potential civil and criminal liability of the organization [7]. However, Alex Todd the appropriate style of corporate governance in any business is a strategic consideration directly influenced by its relative position in the corporate lifecycle. Therefore, corporations need to actively consider their strategic priorities before adopting corporate governance reforms and corporate strategies that enhance both business performance and governance effectiveness [8]. In other words, corporate governance might to optimize share values.

Steve Zaffron and Logan Dave cited that if corporate governance were accepted as evil in order to protect shareholders form managers, the system would be defined by regulations and restrictions regarding to the business behavior. The result of behaviors cause the mistrust and opportunism. If people perceive the corporate governance system as public policy instrument, the system would become defined by openness to new possibilities [9].

Steve Zaffron and Logan Dave revealed the statement that limiting the discussion with specific words such as shareholders' value and managements' mistake. The result of transformation would be unavailable. If people recognize the complexity of corporate governance system, but refuse to accept possibilities of governing system is achieved and current fact pattern would stay remain recursive and self-fulfillment [10]. According to Zaffron and Dave, people do not stop to believe that directors cannot begin broader mandate and that shareholders do not let them to do.

International governance framework approach

Aspirational corporate governance (ACG) is aimed to provide guidance on the corporate governance system. The ACG is based on the corporate scandals and financial crises that caused deficient corporate governance system, which is result of outdated commands and hierarchies controls. These patterns caused to not to cope with complexity. Moreover, the corporation is not able to regulate themselves, causes them to be vulnerable to corruption. Turnbull cited it organization based on ability to manage complexity. In other words, distributing decision making among members.

The ACG helps guide of corporate governance practice complexities such as conflicts organizational, stakeholders and society objectives. The ACG focuses on to provide and design framework to account for complexities of good corporate governance by requisite organization, requisite variety and adaptive capacity criteria.

Requisite organization. Management patterns of organizational hierarchy operate in various levels of work complexity based on different factors. These different factors are (1) level of innovation complexity, (2) the horizon planning, (3) level of complexity of assets and (4) level of complexity of shareholder groups. Mark Van Clieaf and Janet Langford Kelly define these factors [11]. Based on these factors, the organizations' CEOs are required to have appropriate level of cognitive capacity in order to consider fully impact of their decisions.

Requisite variety complex system show different parts cause-effect dynamics. It requires minimizing the number of choices that resolve doubts. This condition recognizes that independence system needs to get an internal model of its atmosphere in order to persist and get dynamic balance. It recommends that aspirational governance should accept uncertainty by establishing network governance. Network governance provides input from various sources and through channels to manage uncertainty. This network governance might include multiple boards, advisory council or watchdog organizations.

Adaptive capacity provides two useful means: empower stakeholders to reduce their uncertainty and transfer risks from stakeholders. It focuses on acceptable uncertainty. For example, board of directors might empower more shareholders or stakeholders with voting rights or prefer to tie instead voluntarily the hands to calm interested parties, without refusing control. The self-regulation system are considered to respond to its surroundings. Therefore, adaptive capacity measures is important indicator for stably corporate governance.

The Organization for Economic Co-operation and Development (OECD) is run to provide international guidance in the forms by recommended principles. The OECD's main objectives are to achieve the highest sustainable economic growth and employment and uses its wealth of information on a broad range of topics to help governments' foster prosperity and fight poverty through economic growth and financial stability. It ensures the environmental implications of economic and social development are taken into account.

OECD principles follow these: (1) Ensuring the basis for an effective corporate governance framework, (2) the rights of shareholders and key ownerships functions, (3) the equitable treatment of shareholders, (4) the role of shareholders in corporate governance, (5) disclosure and transparency, and (6) the responsibilities of the board. As ACG motivates to help organizations contribute as the same objectives as OECD, but the OECD principles of corporate governance might to cover the completeness of ACG framework.

Table 1. Diagnosis of OECD Principles of corporate governance

PRINCIPLE		ACG parameters		
		Requisite organization (complexity)	**Requisite variety (uncertainty)**	**Adaptive capacity (self-adjustment)**
1.	Ensuring the basis for an effective corporate governance framework	√		
2.	The rights of shareholders and key ownerships functions			√
3.	The equitable treatment of shareholders			√
4.	The role of shareholders in corporate governance		√	
5.	Disclosure and transparency		√	
6.	The responsibilities of the board	√		

Source: Kent H. Baker and Ronald Anderson

The table 1 shows six principles of OECD in comparative of ACG framework. And it can be noted that principles are equally balanced across ACG frameworks. The first and sixth principles of OECD match the ACG criteria of requisite organization. These principles deal with structure and the authority of the board of directors. Hence, these principles call complexity. The fourth and fifth principles match the ACG criteria of requisite variety, due to they cover information dependency. The second and third principles match the criteria for contributing to adaptive capacity, due to the claim of changes, thereby self-adjustment.

National Association of Corporate Directors (NACD) helps boards exceed the expectations of their stakeholders. The NACD enables directors to anticipate risks and opportunities. The NACD equips directors to make sound decisions based on leading practices and insights from recognized experts.

If compare the NACD with OECD, the OECD provides guidance to countries, while the NACD focuses on corporate directors. Therefore, the NACD begin with abstractions and provides detailed ten principles. The principles are: (1) Board responsibility for governance, (2) corporate governance transparency, (3) director competency and commitment, (4) Board accountability and objectives, (5) independent board leadership, (6) integrity, ethics and responsibility, (7) attention to information agenda and strategy, (8) Protection against board entrenchment, (9) shareholder input in director selection and (10) shareholder communications.

The following table 2 illustrates diagnosis of NACD principles in compare with ACG parameters. From this table, it can be seen that the NACD's the first, third and sixth principles match with structure and the authority of the board of directors, hence, it satisfies the requisite organization of ACG framework. And other principles of NACD follows as table indicates with ACG framework.

Table 2. Diagnosis of NACD Principles of corporate governance

PRINCIPLE		ACG parameters		
		Requisite organization (complexity)	**Requisite variety (uncertainty)**	**Adaptive capacity (self-adjustment)**
1.	Board responsibility for governance	√		
2.	Corporate governance transparency		√	
3.	Director competency and commitment	√		
4.	Board accountability and objectives		√	
5.	Independent board leadership		√	
6.	Integrity, ethics and responsibility	√		
7.	Attention to information agenda and strategy		√	
8.	Protection against board entrenchment			√
9.	Shareholder input in director selection			√
10.	Shareholder communications		√	

In contrast with OECD principles, NACD principles are not straight toward addressing requisite variety. It seems that director's independency, which is similar to agency theory view of corporate governance. Relying on number of principles or practices cause less important the aspirational nature of these three ACG parameters.

In conclusion, three types of international governance framework approaches are given in this paper. These international framework approaches' mechanisms connect organization to their affairs. And researcher conducted his context of research that ACG might help organization get their targets in the system of corporate governance. Therefore, the rest of international governance systems compared their principles with ACG parameters. The parameters of ACG might to consider to be implemented to all corporations; thereby it can enhance the effectiveness of governance system.

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