An Evaluation of Corporate Governance Practice in Libya: Stakeholders’ Perspectives

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Abstract

Prior to 1997 the research carried out on corporate governance around the world was minimal. However, after the crisis that swept the financial markets and economics of the major Asian countries in 1997, and the notorious collapse of Enron in 2001, the interest in corporate governance has increased. Therefore, corporate governance has attracted considerable attention in the area of academic research and on the agenda of public policy debates in both developed and less-developed countries. An improved corporate governance system is now viewed as an essential feature of companies, and it can serve as an incentive for investment and also strengthen the foundation of long-term economic performance.

The principal aim of this study is to investigate and offer an initial understanding of corporate governance practice within a developing economy, the case of Libya. Therefore, studying with different stakeholders is more suitable to understand corporate governance patterns and relations within the Libyan context. The study also investigates how the various environmental factors affect corporate governance practice and inhibit the practice and development of corporate governance.

Two main research methods were employed in this study, namely, interviews and questionnaires. Distributing 453 questionnaires to six groups of stakeholders, and ten semi-structured interviews with policy-makers were chosen to achieve the objectives.

The findings suggest that the corporate governance framework in Libya is less-developed, and Libya has lagged behind its neighbours. Also, the study revealed that the absence of principles of corporate governance has led to the weakness of accountability and responsibility processes. The influence of the opaque economic structure, out dated legal system, influences of culture and social norms, political interference, lack of accounting professionalism in the corporate governance framework were also evident. The weakness of the education system and the stakeholders' activism were other factors in the corporate governance framework.

The participants also indicated that the stakeholder's model of corporate governance is more acceptable in a Libyan context and the Board of Directors as main internal mechanism of corporate governance needs to be more responsible and needs to act on behalf of the stakeholders.

In essence, the results demonstrate that a good corporate governance framework depends on effective internal and external factors such as a complete legal system, a developing economy, and effective board members, associated with supportive political and educational systems, and culture and social norms. Therefore, the vision of improving corporate governance can be fully realised only if all the related parties such as government, academia, external auditors, NGOs and universities work together to eliminate these obstacles to attain a good framework of corporate governance in the country.

The research has contributed to the understanding of the concept of corporate governance in the context of a developing economy with particular economic and social attributes, whilst adding to the more general knowledge and understanding of corporate governance practices and empirical research.

بسم الله الرحمن الرحيم

In the name of Allah, most Gracious, most merciful

Dedication

This thesis is dedicated to my parents, my wife, my sons (Mohamed and Abdulbari), my daughter (Retag), my brothers, and my sisters.

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CHAPTER ONE

The Rationale and Purpose of the Study

1.1 Introduction

Prior to 1997, the research carried out on corporate governance around the world was extremely minimal (Shleifer and Vishny, 1997; O'Sullivan, 2000). However, the crisis that swept the financial markets and economies of the major Asian countries in 1997 and the failure of several famous names (e.g. Enron, World Com and Parmalat) that have occurred in the last 15 years led to questions over the importance and significance of good corporate governance practices. Therefore, interest in corporate governance has grown and attracted considerable attention in the area of academic research and public policy in both developed and less-developed countries (Mallin, 2004; Reed 2002; Solomon and Solomon, 2004; Sternberg, 2004; Weir and Laing, 2001).

A number of theories have been used to explain the concept of corporate governance. These theories include agency theory, transaction cost theory, the finance model, the myopic market model, the abuse of executive power and the stakeholder model (Keasey, et al., 1997). However, it is argued that the main theories which have affected the development of corporate governance are the agency theory, transaction cost economics and stakeholders theory (Mallin, 2004).

Agency theory (shareholders' perspective) is used to provide an explanation of the agency relationship between a company's managers and its owners. Agency theory links governance to implementing contracts and argues that agents run the company on behalf of their principals, who may impose sanctions whenever the agent fails to meet the contractual requirements. The role of agents in the company reflects the accountability relationship between principals and agents, since they are responsible for protecting the interests and rights of principals and minimising managerial expropriation and acting in favour of the principal.

Transaction cost theory can be viewed as closely related to agency theory. The transaction cost theory views the company as a governance structure, whereas agency theory views the company as a nexus of contracts (Mallin, 2004). Solomon and Solomon (2004) argued that transaction cost theory is based on the fact that companies have become so large and complex that price movements outside companies direct production and the markets coordinate transaction. In other words, the way in which companies are organized determines their control over transactions.

The stakeholder theory emerged in the late twentieth century and it can be seen as contrary to the shareholder perspective (Keasey et al, 1997; Letza et al, 2004; Mallin, 2004: p14). The main stakeholder theory idea is that the objective function in the modern corporation is not merely more equitable but more socially efficient than concentrating on shareholders' wealth (Keasey et al, 1997). The stakeholders' theory of corporate governance argues that those responsible for the governance of the company have responsibilities to other parties than shareholders and any fiduciary obligations owed to shareholders to maximise profits might be subject to the constraint of respecting obligations owed to such wider stakeholders (Reed, 2002). Stakeholder theory views corporate governance as an instrument to examine a wider set of stakeholders' relationships that consist of interactions between employees, customers, suppliers, creditors, society at large and other stakeholders. Therefore, stakeholder theory generally focuses on the interest of any group that may benefit from or be negatively impacted on by the company, including those with a non-financial interest, who have a right to be treated fairly, and have access to disclosure of a wide range of information, including environmental information (Gibson and O'Donovan, 2007).

The development of corporate governance depends on the different theories which explain the nature of corporate governance mechanisms and the differences of practice regarding the legal, cultural, ownership and political systems which differ between countries. Solomon and Solomon (2004) argue that the acceptance of these theories' views on what is wrong in the practice depends on the characteristics of the country where some theories may be more appropriate and relevant in some countries.

The definition of the term corporate governance differs depending on which theory or model is applied. In the shareholders' model (agency theory), corporate governance is defined as a relationship between agents (managers) and principals (owners or shareholders).

This definition of corporate governance focuses on the relationships between the corporation and its shareholders, and refers to a company's relationship with its shareholders to ensure that it acts in accordance with their interests. Keasey et al (1997: p4) stated that corporate governance may be described as "a form of accountability of senior management to the shareholders".

In stakeholder theory, the concept of corporate governance refers to an organisation's relationship with its shareholders and all other stakeholders who are affected by or affect the company's operations and decisions. Solomon and Solomon (2004: p14) defined corporate governance as "a system of checks and balances, both internal and external to companies, which ensures that companies discharge their accountability to all their stakeholders and act in a socially responsible way in all areas of their business activity".

The importance of corporate governance has changed remarkably and it is now viewed as an essential feature of companies (Hussain and Mallin, 2002), an incentive for investment and strengthen the long-term economic performance.

Corporate governance also is seen as key to developing a market economy and civil society in transitioning economies (McCarthy and Puffer, 2003) where investors are uncertain about the protection of their property rights. For instance, a survey of international investors by McKinsey & Co in 2002 found that 85% consider corporate governance in Africa and Eastern Europe to be 'equally, or more, important than financial issues in deciding which companies to invest in' (Nganga et al, 2003).

Most countries perceive that the collapse of companies can lead to an increase in the rate of unemployment and decrease of economic prosperity. Therefore, developed countries are paying attention to corporate governance in order to avoid economic problems, and numerous studies have been done in these countries to develop their corporate governance.[1]

In developing countries, minimal research has been done and there is still a lacuna in the literature on corporate governance development (Okike, 2007; Tsamenyi et al, 2007; Okeahalam, 2004; Shleifer and Vishny, 1997). For instance, the scarcity of information about corporate governance in Africa led an editorial writer of Business Week Magazine (19th May 2003) to observe that the worldwide movement to improve corporate governance is nothing less than a cultural revolution transforming the investment landscape in the US, Europe, and Asia. However, the current trend in studies is misleading because the institutions of corporate governance lie at the heart of the greatest challenges that all

[1] For example, the OECD (Organisation for Economic Co-operation and Development) established Principles in 2004 to assist OECD and non-OECD members in their efforts to improve corporate governance practices.
The OECD members are: Australia, Austria, Belgium, Canada, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, Spain, Sweden, Switzerland, Turkey, the United Kingdom, and the United States.

developing economies now face: how to move successfully from institutions of economic and political governance that tend to be heavily relationship-based to institutions that are more effectively rules-based (Oman et al, 2003).

Corporate governance comprises a set of mechanisms, processes, regulations and laws, customs, and policies that affect the system of a company. For instance, in developed economies such as the US, the problem typically lies in the disclosure practices, whereas in developing economies the problems have often emerged from maintaining minority shareholders' rights since the large shareholders exercise their influence to control the company. Finally, whatever the corporate governance system that a company adopts it will act to enhance the investments and improve the economic performance.

1.2 Justification of this Study

Corporate governance differs substantially across countries due to the differences in economic, cultural, social, political and legal systems predominant in a country. Therefore, the mechanisms of corporate governance are prone to success if aligned with these systems, and failure if not. Berglöf and Claessens (2004) argue that the wholesale transfer of governance standards from developed market economies may discourage investors from taking controlling positions and thus undermine potent corporate governance mechanisms in less developed economies.

The interest in corporate governance has increased and attracted considerable attention in the area of academic research and is on the agendas of public policy debates in both developed and less-developed countries (Mallin, 2004; Reed, 2002; Solomon and Solomon, 2004; Sternberg 2004; Weir and Laing, 2001), and it has changed markedly, now being viewed as an essential feature of companies (Hussain and Mallin, 2002). Corporate governance is seen as key to developing a market economy and civil society in transitioning economies (McCarthy and Puffer, 2003). The literature review shows that the number of studies focusing on developing countries is limited (Camplell and Keys, 2002; Okike, 2007; Tsamenyi et al, 2007).

Libya as a transitional economy aims at benefiting from raw material and location in order to develop its economy and build a strong and attractive environment for investment. Therefore, adopting a new comprehensive policy in which corporate governance issues should be a major part is fundamental in order to compete in the international economy.

Therefore, this study is important because it is expected to make a major contribution to economic development in Libyan by investigating the state of corporate governance practice by using the views of stakeholders.

Empirical evidence from different studies indicates that there are many factors that influence corporate governance practices in developed and developing countries' economies (e.g. Bremer and Elias, 2007; Hanifa and Cooke, 2002; Yakasai, 2001; McCarthy and Puffer, 2003; Hussain and Mallin, 2002). These factors include legal, economic, social, cultural and political factors which influence the form and substance of corporate governance.

Many of these studies (e.g. Okika, 1988, in Nigeria; Bremer and Elias, 2007, in Egypt; El Mehdi, 2007 in Tunisia; Ahunwan, 2002 in Nigeria; Claessens and Berglof, 2006 in developing countries; Hussain and Mallin, 2002 in Bahrain) concluded that each country has different factors that have an effect on the practice of corporate governance and which influence the structure of corporate governance mechanisms. Therefore, the differences in these factors between countries may explain the differences of corporate governance framework. This expectation gives the study its theoretical argument and leads to the assumption that the corporate governance in Libya cannot be explained by other frameworks. Therefore, the research problem of this study is to investigate the corporate governance in the Libyan context.

To the researcher's knowledge, this study will be the first study that has focused on the corporate governance in Libya. The researcher hopes to open the door for more research in this area. Also, the researcher anticipates the study findings will be of interest to Libyan policy-makers and academic community and contribute to improvements in the corporate governance framework.

Studying corporate governance practice in a Libyan context is motivated in part by the eagerness to explore the factors that could affect the practice of corporate governance. In addition, limited research on accounting in general and corporate governance in particular in Libya has motivated this study. This is due to differences, not only in economic systems but also in accounting, culture, political systems and social attributes. Therefore, this study aims to provide an understanding of corporate governance and the influence of societal, organisational and personal factors on this practice.

1.3 The Study Aims and Objectives:

The principal aim of this study is to investigate and offer an initial understanding of corporate governance practice within a developing and transition economy, the case of Libya. Therefore, studying different stakeholders may be more suitable to understanding corporate governance patterns and relations within the Libyan context.

Survey Six groups of stakeholders and ten semi-structured interviews with policy-makers were chosen to understand and explain the corporate governance framework. The aim was to understand their perspective about the practice of corporate governance.

To achieve this aim, the following objectives were set for the study:

1. Identify the current situation and developments concerning corporate governance in Libya.
2. Identify the effect of the various environmental factors on the practice of corporate governance in Libya.
3. Evaluate the perceptions of the various stakeholders concerning corporate governance.
4. Identify and evaluate scenarios concerning future development of corporate governance in Libya.

The objective of this thesis has been to undertake a comprehensive study of the nature of corporate governance in the Libyan context and explore how the various environmental factors affect corporate governance practice. The study will also reveal the main obstacles inhibiting the practice and development of the Libyan corporate governance framework. To achieve this objective, the study investigated:

1. Who are the key stakeholders concerning corporate governance in Libya?
2. What are these stakeholders' views and attitudes on the practice of corporate governance in Libya?
3. What types of corporate governance issues do different stakeholders think are important in Libya?
4. What are the current rules and practice regulations concerning the governance of companies in Libya?
5. What particular issues of governance, if any, does the Arabic and Islamic context raise concerning issues of corporate governance in Libya?
6. How effective do stakeholders think existing arrangements are? And what changes do they think are needed?

1.4 Research Methodology

In order to develop a fuller picture of stakeholders' standpoints regarding the corporate governance in Libya, two methods were used, namely questionnaire and interview methods. The questionnaire aimed to determine how different groups of stakeholders perceived the concept of corporate governance in the Libyan context, with data being used to answer most of the research questions. The questionnaire survey has been considered an effective method in evaluation of corporate governance in order to investigate individuals' views or current practices (Hussan and Mallin, 2002; Chahine and Safieddine, 2007). The five-point Likert scale questionnaire was divided into eight parts based on areas identified in the literature. The parts were the following: the first part relates to the general information about participants; the second part sought the respondents' opinion about the concept of corporate governance; the third part focused on the rights of stakeholders; the fourth part was on the factors that affect corporate governance; the fifth part looked at the framework of corporate governance; the sixth part discussed the future plans for corporate governance; the seventh part examined the future introduction of corporate governance and, lastly, the eighth part highlighted additional questions posed to listed companies.

The questionnaire was piloted by peer evaluation and among the supervisory team. Their comments and suggestions were incorporated in the final version of the questionnaire. The questionnaire was translated into the Arabic language by the researcher and passed on to a translation expert for affirmation.

Interviews have also been considered an effective method for corporate governance studies (e.g. Liew, 2007; Edwards and Wolfe, 2007; Jamali et al, 2007; Solomon et al, 2002). Therefore, interviews were used in this study to collect specific information about the corporate governance from policy-makers. The interview participants were purposely selected because their influence on the practice and development of the corporate governance is high. The semi-structured interview with 10 interviewees allowed the researcher to get detailed information.

The interviewees were offered freedom in responding to the questions, and in choosing place and time of the interview. Interview questions were informed by the literature review, discussions with supervisors and from the questionnaire responses.

Great care was taken in the preparation and conducting of the interviews in order to minimise the impact of potential problems. To that end, the interviews were generally arranged in advance. Prior to the interviews, the following steps were taken: interviewees were provided with appropriate information about the research and the broad content of the interview; careful thought and consideration was given to the opening of the interview and the wording of the questions; permission was obtained for recording of the interviews on the basis of strict confidentiality.

During the study, the ethical considerations largely centred on protecting the confidentiality of individual respondents which was ensured through anonymity. Additional ethical considerations concern the consent, and ongoing willingness of individuals to participate.

1.5 Structure of the Thesis

To accomplish the above aims and objectives, data were collected by a questionnaire survey and semi-structured interviews. The thesis has been divided into following chapters.

Chapter **two** focuses on the international debates over the nature of corporate governance by providing the definitions and theories related to corporate governance. Also, the chapter discusses differences between shareholders' and stakeholders' perspectives of the corporate governance framework. The chapter reviews the introduction of corporate governance in different systems, including the Anglo-American model (unitary system), the German model (dual system) and corporate governance in the Islamic perspective (Islamic system). The main aim and role of introducing corporate governance is explained and the differences between these systems explored.

Chapter **three** focuses on the mechanisms of corporate governance that affect the practice. These mechanisms were in line with OECD (2004) Principles, which include the responsibilities of the Board of Directors, shareholders' and stakeholders' rights, disclosure and transparency. The chapter starts by broadly examining these factors and provides details about these factors in different corporate governance systems. The discussion in this chapter has revealed that internal factors have significant impact on the practice and framework of corporate governance.

Chapter **four** focuses on the corporate governance between the international best practice and the local contingency. The debate concentrates on the social, cultural, legal, political, economic factors and the effect of globalisation on the corporate governance practice. The discussion concludes that in spite of a recent tendency toward convergence in corporate governance systems, every country's corporate governance system reflects its unique social/cultural, legal/political and economic profile. The chapter also explains how countries, especially developing countries, can find a balance between developing their economy by attracting foreign investment and at the same time maintaining their identity in the world.

Chapter **five** focuses on the Libyan economy and its corporate governance framework. This chapter portrays the environment of business activity in Libya and explains the development of Libyan business activities, which have been related to the corporate governance system. The chapter starts by examining Libyan Economic Policy, including the legal system and the role of the Board of Directors. In examining the role of the legal system both the Commercial Code and Income Tax Law are presented and discussed.

This chapter also discusses the responsibilities of the Board of Directors in Libya, the compensation of board members and the role of the watchdog committee as the only committee established by law in Libyan companies. This chapter discusses the rights of shareholders in the Libyan environment and what their rights are as protected by the legal system.

Transparency and Disclosure within the Libyan economic system and the disclosure under the Libyan Stock Exchange regulation are discussed and investigated. Further, the discussion indicates that although the Libyan Stock Exchange has sought to improve the disclosure and transparency practices in Libya by requesting companies to improve their disclosure practice, the quality standards of accounting and audit profession affect the level of disclosure and transparency practices. Therefore, this chapter explains the role of establishing the Libyan Stock Exchange to enhance the disclosure practices. Moreover, we investigate the constraints on corporate governance reform.

Chapter **six** focuses on the research methods used in the study to achieve the aims of the study. Also, the chapter explains the data collection methods, the questionnaire survey's population, questionnaire design, pilot study, administration of the questionnaire survey and the interview survey method.

Chapter **seven** presents the results of the questionnaire survey. Differences between the responses of selected groups are detailed. Also, during the analysis of questionnaires, links are drawn between the findings and the wider literature related to these findings.

Chapter **eight** presents the second part of the analysis of data collected through semi-structured interviews with policy-makers. The main aim of the interviews was to elicit more detailed information about the concept and operation of current corporate governance practice and the future shape of practice on the horizon. These interviews help to shape and constitute a more complete picture of corporate governance in the Libyan context.

Chapter **nine** synthesises the main findings of both questionnaire and interview survey.

Chapter **ten** concludes with discussions of the implications of the corporate governance in Libya.

1.6 Main Findings and Contribution

On the basis of a review of the relevant literature, and in the light of the empirical study and researcher's observation, the following are the study's main findings:

- Political stability and the aspiration for economic development are the main factors that can act as a catalyst in improving the practice of corporate governance.
- The legal system that governs companies is considered as absent, ineffective or out of date.
- Enforcement of the legal system will remain a major challenge to developing the framework of corporate governance in Libya.
- The weakness of the accounting and auditing professions and the unstable managerial environment, in both the sector level and the secretariat level are the major impediments to practising corporate governance, especially in the case of accountability and responsibility.

The following are the study's main contributions:

- The study contributes to the corporate governance literature which was considered to be limited in terms of detailed case studies in developing economies, especially in Africa.
- Theoretically, the study contributes to knowledge by using stakeholder theory to evaluate the corporate governance framework, which complements previous studies in developing countries.
- Empirically, the study reinforces the fact that the corporate governance is a part of the political system and a wider social and economic web. However, the degree of influence of these factors on the practices differs between countries.
- Finally, the study provides a foundation for future research on corporate governance in Libya.

CHAPTER TWO

International Debates over the Nature of Corporate Governance

2.1 Introduction

This chapter presents current debates on the nature of corporate governance. The chapter is divided into two main sections. The first section introduces definitions of corporate governance, whereas the second section reviews theoretical aspects of corporate governance, including the main theories that explain the nature of corporate governance. Also, this chapter examines corporate governance from an Islamic perspective, since Libya is an Islamic country.

The corporate governance debate has increased and attracted considerable attention from academic researchers and the public policy agendas in both developed and less-developed countries (Mallin, 2004; Reed, 2002; Solomon and Solomon, 2004; Sternberg, 2004; Weir and Laing, 2001). Corporate governance has also changed markedly to be an essential feature of companies (Hussain and Mallin, 2002), and a key to developing a market economy and civil society in transitional economies (McCarthy and Puffer, 2003). However, there is no real consensus on the definitions of corporate governance (Keasey et al, 1997; Solomon and Solomon, 2004). Solomon and Solomon (2004) argued that there are substantial differences in definitions of corporate governance according to which country is considered, and the viewpoint of the policy maker, practitioner, researcher or theorist. More precisely, the core of corporate governance depends on who controls the corporation and the extent of separation of ownership from control is the crucial issue (Shleifer and Vishny, 1997). In the same perspective, the term of corporate governance is related to the term corporation, so to understand and evaluate corporate governance we need to know what corporation means. Monks and Minow (2004; p 9) define a corporation as:

> "A mechanism established to allow different parties to contribute capital, expertise and labour for the maximum benefit of all of them. The investor gets the chance to participate in the profits of the enterprise without taking responsibility for the operations. The management gets the chance to run the company without taking the responsibility of personally providing the funds."

Many authors have discussed the role of the corporation in establishing a corporate governance framework. For example, Mallin (2004) discussed whether the corporation concentrates only on the shareholders' value as its main objective or whether it focuses on the interest of diverse groups who have relationships with the corporation such as employees, providers of credit, suppliers, customers and the local community. In addition, the competitive environment between companies imposes on companies both material and ethical obligations to shareholders and others (stakeholders), requiring them to take into account its social responsibilities to the society within which it operates.

There is a broad consensus that the underlying problem of corporate governance is related to the company's growth and through the separation of management and ownership (Keasey et al, 1997; Solomon and Solomon, 2004; Mallin, 2004). This separation might lead to conflicts of interests between owners, whose interest is to maximise their profit, and the management, which usually focuses on finding a balance between the shareholders' interest and maintaining the corporation especially, in the long-term. This situation allows corporate behaviour to diverge from the profit-maximising, cost-minimising ideal (Keasey et al, 1997). Therefore, corporate governance can be defined in two different and contrasting ways as follows:

2.1.1 Narrow Definition:- This definition of corporate governance focuses on the relationships between the corporation and its shareholders. Keasey et al (1997; p 2) stated that:

> "In its narrowest sense corporate governance may describe as a formal system of accountability of senior management to the shareholders".

The Cadbury Committee Report (1992) defined corporate governance in para (2.5) as

> "...the system by which companies are directed and controlled".

Shleifer and Vishny (1997, p.737), defined corporate governance as the:

> "... ways in which suppliers of finance to corporations assure themselves of getting a return on their investment."

These definitions indicate that corporate governance exists as a mechanism for management to act to maximise the wealth of the company's shareholders. These definitions are typically used in Anglo-Saxon countries where the markets are more complete or perfect and the system of law is completely established (Allen, 2005).

However, Liu (2005) argued that the definition has encountered some criticisms, especially from stakeholders' advocates since the company is not legally owned by shareholders.

The concept of corporate governance has been changed towards a wider and inclusive meaning according to the changes in the company's role and meaning even in Anglo-Saxon economies. Empirical research was conducted by Masaru Yoshimori in 1995 with managers and executives in a sample of major corporations in five countries (namely the US, UK, Germany, Japan and France), and the findings in this survey were as follows. In the UK, the response was approximately a 30 percent assumption that the large company was managed in the interest of all stakeholders, versus 70 percent who thought the large company should give the shareholders' interest the first priority. In Germany, 82 percent thought the purpose of the company is for the interest of all stakeholders, versus 18 percent who thought that the purpose of the companies is only for the shareholders. The results in France and the US were for the interest of all stakeholders, 78 percent and 24 percent, and for only shareholders, 22 percent and 76 percent, respectively. However, in Japan, 97 percent thought that the aim of the company is for the interest of stakeholders. The results indicate that there is a wide variation in the concept of a company and its responsibilities to wider groups around the corporation.[2] Therefore, governance mechanisms have also had to change to take accounts of all these groups.

2.1.2 Broader Definition-: The essential concept of the wider definition of corporate governance is to embrace a larger set of stakeholders' relationships encompassing interactions between employees, customers, suppliers, creditors and society at large (Baker and Owsen, 2002). The OECD defined corporate governance in its Principles of Corporate Governance (2004) as:

> "Corporate governance involves a set of relationships between a company's management, its board, its shareholders and other stakeholders. Corporate governance also provides the structure through which the objectives of the company are set, and the means of attaining those objectives and monitoring performance are determined".

Similarly to Solomon and Solomon (2004: p14) argue that:

> "Corporate governance is the system of checks and balances, both internal and external to companies, which ensures that companies discharge their accountability to all their stakeholders and act in a socially responsible way in all areas of their business activity".

[2] The result shows the increase of advocates in the UK and the US for the concept of a wider meaning.

According to these definitions of corporate governance, the accountability and responsibility of corporations does not stop at the shareholders but goes beyond them to all the stakeholders. Therefore, the corporation is responsible to the wider society and should be resolving the conflict of interest between the related groups.

Broad definition advocates claim that corporations should take account of the next generation as future and potential stakeholders. For instance, they want corporations to act to keep the environment free from pollution despite the fact that these acts may reduce the shareholders' and other stakeholders' present benefit. This might confirm that the responsibility of the corporation is to act in a manner that reflects its social responsibility. Some studies have linked improving corporate governance with increasing the practice of corporate social responsibility. Solomon et al (2003) argued that if companies across the world wish to become internationally competitive and able to attract foreign capital, they need to show greater accountability of directors and management to shareholders and stakeholders and improve the transparency of financial reporting. Consequently, without inclusion of stakeholders, such as employees, suppliers, and customers, the effectiveness of a corporate governance system might face barriers especially in the long-term, where the success of a company requires harmonisation between all the parties related to a company.

The proliferation of scandals and crises was a main reason for the attention on corporate governance. Also, the extension of the privatisation process in the world, especially in developing economies, has led companies to seek to attract capital. Therefore, companies need to increase international financial integration, and trade and investments flows, by removing restrictions on products and ownership. This situation might explain the need for effective corporate governance in these economies in order to achieve economic growth.

In summary, corporate governance is a concept that seeks to protect shareholders rights and stakeholders' interests through finding a balance between economic development, social welfare and the objectives of the company. Therefore, corporate governance entails the pursuit of objectives that represent the interests of a company and its stakeholders.

Consequently, corporate governance has changed at the micro level and macro level. At the micro-economic level, corporate governance now is viewed by most public companies as an essential feature for growth and, at the macro-economic level, it has been a part of the reform effort and widely claimed to be essential for the creation of a better and more attractive investment climate in developing countries.

To achieve the best corporate governance many countries have established codes for corporate governance practice. Good corporate governance needs a clear definition of responsibilities; therefore, many countries have established codes of practice. Table (2.1) shows some of these countries.

Table 2.1 the dates of establishing corporate governance codes in various countries

Date of Establishing the Code	The name of Country
Pre 2000	Australia, Belgium, Brazil, Canada, Germany, Greece, Hong Kong, South Africa, India, Ireland, Italy, Japan, UK, USA.
2000- 2003	Austria, China, Cyprus, Czech Republic, Denmark, Finland, Indonesia, Kenya, Malaysia, Pakistan, Russia, Taiwan.
2004	Argentina, Bangladesh, Iceland
2005	Egypt
2006	Estonia, Lebanon

Source; European Corporate Governance Institute

2.2 Theoretical Aspects of Corporate Governance

The problem of corporate governance arises from the separation of beneficial ownership and executive decision-making in the joint-stock company (Keasey et al, 1997). Jensen and Meckling (1976) proposed a theory of the firm based upon conflicts of interest between various contracting parties, namely, shareholders, corporate managers, and debt holders.

There is no doubt that the current debates between the shareholder's perspective and stakeholder's perspective on corporate governance have led the advocates and supporters to attempt to justify these models (Letza et al, 2004). The main focus in this debate concentrates on whether a corporation's governance arrangements have implications which go beyond those of its shareholders (Keasey et al, 1997). Development of corporate governance relies on different theories that sought to explain the nature of the term, including as it does legal, cultural, ownership, and other structural differences.

The acceptance of these theories depends on the characteristics of the country where some theories may be more appropriate and relevant to some countries (Solomon and Solomon, 2004). Mallin (2004) explained that the main theories that have affected the development of corporate governance are agency theory, transaction cost economies and stakeholder theory.

2.2.1 Shareholders' Perspective

The use of the term shareholder has been of interest since corporate ownership opened up to the public through share ownership and the joint stock company emerged as a normal growth for small and family companies in the business world. This growth demonstrated a conflict of interests and set up two main groups in corporations; shareholders who have share(s) in the corporation (principals) and the managers who run the corporation (agents) (Keasey et al, 1997; Solomon and Solomon, 2004; Mallin, 2004). The relationship between these parties is called an agency relationship and is defined by Jenson and Meckling (1976) as a contract under which one or more persons {the principal(s)} engage another person (the agent) to perform some service on their behalf which involves delegating some decision making authority to the agent.

Agency theory analyses the conflicts between principals and agents in the corporation. Jenson and Meckling (1976) stated that:

> "It is an impossible for the agent to represent the principals' viewpoint in all respects. Therefore, agency problems arise because of it being impossible for an agent to contract for every possible action whose outcome affects both his own welfare and the welfare of the principal."(Jenson and Meckling, 1976, cited in Brennan, 1995)

Grant (2003) argued that the main purpose of shareholders (principals) is to maximise their value (interest), whereas the management's purpose is to expand and grow the corporation because it reflects the success of the management. The conflict of interests comes also from the lack of shareholders' monitoring which has resulted from dispersed shareholders and a decrease in their incentive to monitor management; therefore, the managers of a company may pursue their own goals at the expense of shareholders (Hart, 1995).

In agency theory, the management are accountable to shareholders for their stewardship of the assets of the company (Gamble and Kelly, 2001); and companies have a limited set of responsibilities, which primarily consist of obeying the law and maximising shareholder interests (Reed, 2002). The problem is the agents do not necessarily make decisions in the best interest of the principal, even if the primary objective for companies is shareholders' wealth maximisation. The problem emerges when the agents endeavour to pursue their own personal interests, which sometimes override the achievement of the principals' interests.[3]

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[3] It has become clear when managers focus on short-run profit where managers' pay is related to this variable rather than long-term wealth (Solomon and Solomon, 2004)

The principals depend on the management to make decisions on their behalf, since the management has a legal right and the chance to be far more knowledgeable about the company's activities and financial situation than current or potential investors or principals (Solomon and Solomon, 2004; Mallin, 2004).

Agency theory is overcoming the conflict of interests between the shareholders and management. The conflict is not restricted to these divergent interests but goes beyond to, for example, conflicts between the large investors and minority shareholders especially in developing economies. For example, Shleifer and Vishny (1997) stated that:

> "The more fundamental problem is that the large investors represent their own interests, which need not coincide with the interest of other investors in the firm, or with interests of employees and managers. In the process of using his control rights to maximize his welfare, the large investor can therefore redistribute wealth- in both efficient and inefficient ways- from others."

In the same way Hart (1995) stated that:

> "A large shareholder may use his (voting) power to improve his own position at the expense of other shareholders. For example the large shareholder might persuade management to divert profit to himself, e.g. by selling goods from a company the shareholder owns at a low price or by buying goods from a company the shareholders owns at a high price. Another possibility is that the shareholder would agree to leave management alone, in exchange for having his shares repurchased at the premium (the practice is known as greenmail in the United States). Finally, the large shareholder may simply become management, i.e. he may run the company himself".

Other ways to mitigate the agent problem in more complete markets is through takeover activity; divesting principals' investments; or by governmental intervention. Direct ways may also exist when the shareholders can monitor company management and help to resolve agency conflict. As Solomon and Solomon (2004, p19) stated:

> "First, as owners of the company, shareholders have a right to influence the way in which the company is run, through voting at AGMs ... shareholders can influence the composition of the Board of Directors in their investee companies. Another way in which shareholders may attempt to align managers' interests with their own is through the passing of shareholder resolutions, where a group of shareholders collectively lobby the company on issues with which they are dissatisfied".

In conclusion, in the developed countries such as the US and the UK the good market mechanism which is linked with a three-tier hierarchical governance structure, the active shareholders' general meeting, the responsible Board of Directors and expert executive managers, can operate to mitigate the principal-agent problem. However, in less-developed economies, such as the Libyan economy, the conflict is still in existence even if more often it is associated with cultural and political influences.

2.2.2 Transaction Cost Theory

Transaction cost theory can be viewed as closely related to agency theory. The transaction cost theory views the company as a governance structure, whereas agency theory views the company as a nexus of contracts (Mallin, 2004). In a world of incomplete contracts, the governance structure has an important role. The governance structure can be seen as a mechanism for making decisions that have not been specified in the initial contract (Hart, 1995).

Solomon and Solomon (2004, pp.21-22) argue that transaction cost theory is based on the fact that:

> "Companies have become so large and complex that price movements outside companies direct production and the markets co-ordinate transaction. In other words, the way in which companies are organized determines their control over transaction".

Williamson (1996) defines transaction costs this way:

> "the ex-ante costs of drafting, negotiating and safeguarding an agreement and, more especially, the ex-post cost of mal-adaptation and adjustment that arise when contract execution is misaligned as a result of gaps, errors, omission, and unanticipated disturbances. Also it refers to the costs of running the economic system."

He suggests the following factors lead to the rise of transaction costs. The human factors include: bounded rationality, which means humans are unlikely to have the abilities or resources to consider every state-contingent outcome associated with a transaction that might arise, and the opportunism where humans work for their own self interests.

The environmental factors are the uncertainty debasing the problems that arise from bounded rationality and opportunism, and the existence of a small number of investors opening the door for the possibilities of withdrawal and use of alternative investors in the market-place. Consequently, a party in a certain transaction may find difficulty in disciplining (controlling) the other party (ies) in the transaction, associated with the asset specificity: the party who has invested in the asset will incur a loss if the party who has not invested withdraws from the transaction.

Williamson further argues that three dimensions of a transaction affect the type of governance structure chosen for the transaction: asset specificity, uncertainty, and frequency. As asset specificity and uncertainty increase, the risk of opportunism increases. Thus, decision-makers are more likely to choose a hierarchical governance structure. As frequency increases, the comparative advantage of using market governance structures decreases, because the costs of hierarchical governance structures can be amortised across more instances of the transaction.

Solomon and Solomon (2004) argue that transaction cost economies attempt to incorporate human behaviour in a more realistic way. In this concept, transaction cost economies make the assumption of bounded rationality and opportunism (opportunistic behaviour may have dire consequences for the investment in the company). Given the problems of bounded rationality and opportunism, managers organise transactions in their best interest and this activity needs to be controlled.

2.2.3 Stakeholders' Perspective

The stakeholder perspective emerged in the late twentieth century and it can be seen as a contrast to the shareholder perspective (Keasey et al, 1997; Letza et al, 2004; Mallin, 2004). The term stakeholder refers to a broad spectrum of business constituents that must be considered in the decision-making process (Grant, 2003). In a similar vein, Freeman, (1984: p.32) defined stakeholders as group or groups who can affect or are affected by an organisation; however, extreme proponents of stakeholder theory suggest that the environment, animal spaces and future generation should also be included as stakeholders (Solomon and Solomon, 2004). Also, a useful definition for the word stakeholder has been provided by Donaldson and Preston (1995) as:

> "Stakeholders are identified through the actual or potential harms and benefits that they experience or anticipate experiencing as a result of the firm's actions or inactions".

The main purpose of the stakeholder model is that the objective function of the modern corporation is not merely more equitable but also more socially efficient than concentrating on shareholders' wealth (Keasey et al, 1997). The stakeholder theory of corporate governance argues that those responsible for the governance of the company have responsibilities to other parties than shareholders. Any fiduciary obligations owed to shareholders to maximise profits might be subject to the constraint of respecting obligations owed to such stakeholders (Reed, 2002).

Burton and Dunn (1996), for example, argue that since the company can help stakeholders financially, giving its employees pay increases, paying tax to the government and by providing good financial value to customers, or through taking decisions that help stakeholders or at least prevent them from any harm, there is a relationship between a corporation and its stakeholders through their mutual interests.

The benefits of a reputation for the ethical treatment of stakeholders' groups, and the success of the German and Japan economies which have rejected the shareholder model, has filled the development of the stakeholders' model (Keasey et al, 1997). Donaldson and Preston (1995) suggested three ways in which stakeholder theory could be applied (see Table 2.2).

Table 2.2 the aspects of applied stakeholder theory

Aspect	Explanation
As descriptive/ empirical	In this case the theory has been used to describe: -the nature of the corporation -how the managers think about managing -how board members think about the interests of corporate constituencies -how corporations are managed.
As instrumental	The theory is used to identify the connections, or lack of connections, between stakeholder management and the achievement of traditional corporate objective such as growth and profitability.
As normative	The theory is used to interpret the function of the corporation including the identification of moral or philosophical guidelines for the operation and management of corporations.

Stakeholder theory is developed through the pervasive impact of large corporations on society which forces corporations to discharge accountability to many more sectors of society rather than concentrate on their shareholders (Solomon and Solomon, 2004).

The stakeholder model is related to corporate social responsibility. For instance, the Ethics Resource Centre (ERC) sees ethics and the struggle against corruption as the core concept in corporate governance and advises companies to go beyond the legislative and regulatory requirements in order to build effective programmes to communicate company ethical values. Hence, companies perceive that by being ethical they can recruit the best workforces and foster positive long-term relationships with many stakeholder groups (Potts and Matus, 2004). Therefore, companies should behave in a socially responsible way, satisfying the interests of all of their stakeholders (Solomon and Solomon, 2004).

According to the normative version of the theory, stakeholders also have the right to participate in corporate decisions that affect them. Managers also should have a fiduciary duty to serve the interests of all groups of stakeholders, and the objective of the company is to promote the interests of all stakeholders, not only those of shareholders (Iqbal and Mirakhor, 2004).

Although stakeholder theory flourishes in the continental system of corporate governance, it has also been formally supported in the Anglo-Saxon system. For instance, Porter (1992) recommended that various stakeholder constituencies appoint representatives to a unitary board (cited in Turnbull, 1997). Also, the American Law Institute (1992) states ‘‘the modern corporation by its nature creates interdependences with a variety of groups with whom the corporation has a legitimate concern, such as employees, customers, suppliers, and members of the communities in which the corporation operates’’. In the UK, the Corporate Report (ASSC, 1975) suggested that companies should be made accountable for their impact on a wide group of stakeholders. Furthermore, another reason for supporting stakeholder theory is that stakeholders are not only affected by companies but they in turn affect companies in some way when they supply the companies with "contributions" and, therefore, they expect their own interests to be satisfied via inducements (Solomon and Solomon, 2004).

In contrast, stakeholder theory is criticised by others: for instance, Sternberg (1997) considered the theory to be fundamentally misguided and incapable of providing better corporate governance, business or business conduct. In her view, the theory rules out the maximising long-term owner value which is the aim of business. Also, it makes trusteeship equally impossible: the obligation to balance stakeholder benefits overrides the specific obligations that trustees have to their designated beneficiaries. Also it does not allow for the variety of organisations and organisational purposes and the only type of legitimate organisation is to balance stakeholder benefit. With regard to corporate governance, she argues that the theory explicitly denies that corporations should be accountable to their owners, but instead they should be accountable equally to all their stakeholders. Also, as such, it hinders corporate governance because it requires managers to balance stakeholder interests, thus violating the prior obligations of managers to owners.[4]

Shleifer and Vishny (1997) argued that the separation of ownership and control is the main issue of the corporate governance system, and each theory has prescribed mechanisms to reduce the issue. Despite the view of the conflict between these perspectives, which are sometimes described as polar opposites and also sometimes stakeholders' theory is seen as undermining accountability (see Shankman, 1999; Sternberg, 1997), in fact in the long-term and in a globalised competitive environment, stakeholder theory has become more acceptable when introducing a corporate governance system than shareholder theory. This consistency may suggest that the achievement of shareholders' interests eventually leads to taking into account all stakeholders' benefits.

Finally, all of theories recognised that an important key to developing corporate governance theories and practices is that companies should take an appropriate approach by taking into account the interests of both the shareholders and stakeholders in their decisions and operations.

2.3 Corporate Governance Systems

Corporate governance systems differ between countries, reflecting contrasts of legal systems, cultural systems and economic environments. There is a consensus regarding the models as of corporate governance in the world. This consensus sees these models as divided into two types:

- Outsider models (unitary system): - a good example is the US and other English language speaking countries, also called the Anglo-American or Anglo-Saxon model.
- Insider models (dual system): - this system is applied on the European continent and the best example is the German model.

2.3.1 Anglo-American Model (Unitary System- Outsider Model)

In the Anglo-Saxon system, the “Corporation” concept is based on a fiduciary relationship between shareholders and management. Based on the concept of market capitalism, the

[4] Turnbull (1997) criticised Stemberg’s views when he cited some empirical evidence which does not seem to support her: Analytica (1992) found that in Japan it is common for companies to exchange small amounts of stock with lenders and business partners as a sign of goodwill; and Baums (1994) also found that in Germany some stakeholders, such as employees, become members of the company board.

Anglo-Saxon system is founded on the notion that self-interest and decentralised markets can function in a self-regulating, balanced manner (Cernat, 2004). The model is also concentrated on dispersal ownership across a large number of individual and institutional investors (Franks et al, 2005; Keasey et al, 1997; Solomon and Solomon, 2004; Franks and Mayer, 1997). For instance, in the UK, in only 16% of the largest 170 listed companies is there a single shareholder owning more than 25% of shares and in only 6% is there a single majority shareholder (Mayer, 2002). The corporate decision-making in this model is shaped by shareholders as in next figure.

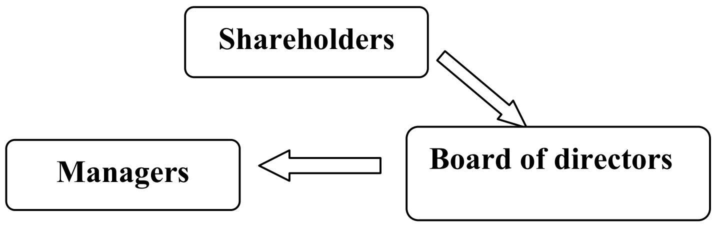

Figure (2.1) the Anglo-Saxon model of corporate decision-making.
Source: Cernat, 2004

Nestor and Thompson (2000) argued that the outsider model is characterised by:

- The recognised primacy of shareholder interests in the company law;
- Strong emphasis on the protection of minority investors in securities law and regulation;
- Relatively strong requirements for disclosure.

The other strong mechanisms are the active takeover and the mergers and acquisitions activities in the Anglo-Saxon system, which play a significant role in the monitoring of management by shareholders. Solomon and Solomon (2004: p.150) noted that:

> "The term 'outsider' refers to systems of finance and corporate governance where most large firms are controlled by their managers but owned by outside shareholders, such as financial institutions or individual shareholders. This situation results in the notorious separation or divorce of ownership and control".

Since companies in the Anglo-Saxon model are controlled by their managers (Solomon and Solomon, 2004), shareholders elect the board members, who should comprise both executive and non-executive directors to monitor the executive directors' actions.

The chairman of the board is selected by the board members. The board has information about the company from the management, and works as a link between managers and investors (Mallin, 2004). At the same time, usually there is a separation between the Chief Executive Officer (CEO) who runs the company, and the chairman, who runs the Board.
The role of the board according to the Combined Code (2003) is to provide entrepreneurial, prudent and effective controls to enable risk to be assessed and managed. In addition, the board should determine the company's aims and its strategies, plans and policies (Mallin, 2004).
Therefore, appointments to the board are made on merit and on objective criteria. Members, particularly in the case of chairmanships, should have enough time available to dedicate to the job. Also, the compensation for managers should be linked to performance and the company's value, in the short-term and long-term, more than focusing on their self-interest.

2.3.2 German Model (Dual System)

The German model has been focused on by academics and researchers because of the success of the German economy, especially after the Second World War. The model is different from the Anglo-Saxon model since it considers not only the interests of shareholders but also inputs from relevant stakeholders (Cernat, 2004). Ownership in the German model is typically highly concentrated, and banks provide substantial long-term external corporate finance. Banks act as stable shareholders and protect companies against hostile takeovers. Therefore, far-reaching employee codetermination and a limited role for the stock market are features of the model (Keasey et al, 1997). The German legal system is explicit that a company does not have a sole duty to pursue the interests of shareholders but also others, which in the German model is characterised by focusing on the maximisation of stakeholder value rather than shareholder value (Allen, 2005; Goergen et al, 2008).
The success of the model comes from developing a highly interdependent structure, based on co-operation and long-term stability associated with persevering capital, and employee voices being mutually reinforced with complementary institutions contributing to German industrial success (Hall and Soskice, 2001; Monks and Minow, 2004). Another reason for the success might be the downturn following the scandals that swept the Anglo-Saxon economies and affected investors' trust to invest.
Germany may be seen as a type of non-liberal corporate governance system due to the limitation placed on the role of markets as mediating mechanisms for both capital and

labour (Jackson, 2001). This may come from the high centralisation of ownership by large shareholders and banks which are closely linked to business through credit, large equity stakes, the exercise of proxy votes, and Supervisory Board representation (Edwards and Fischer, 1994).

Therefore, this model of corporate governance has been characterised by a pyramidal ownership structure, with companies owning each other through a series of cross-shareholding, extensive bank proxy voting and family ownership (Franks et al, 2005; Solomon and Solomon, 2004). German companies also evolved a two-tier board system that provides a good representation of the large shareholders to deal with the management to manage the company. Therefore, capital market regulations and accounting rules tend to weaken the position of minority shareholders and market mechanisms. For example, the German accounting rules are creditor-oriented and are considered to lack the same transparency as is found in International Accounting Standards (IAS) or the US General Accepted Accounting Standards (GAAP) (Jackson et al, 2005).

Figure (2.2) indicates the structure of corporate governance in Germany companies.

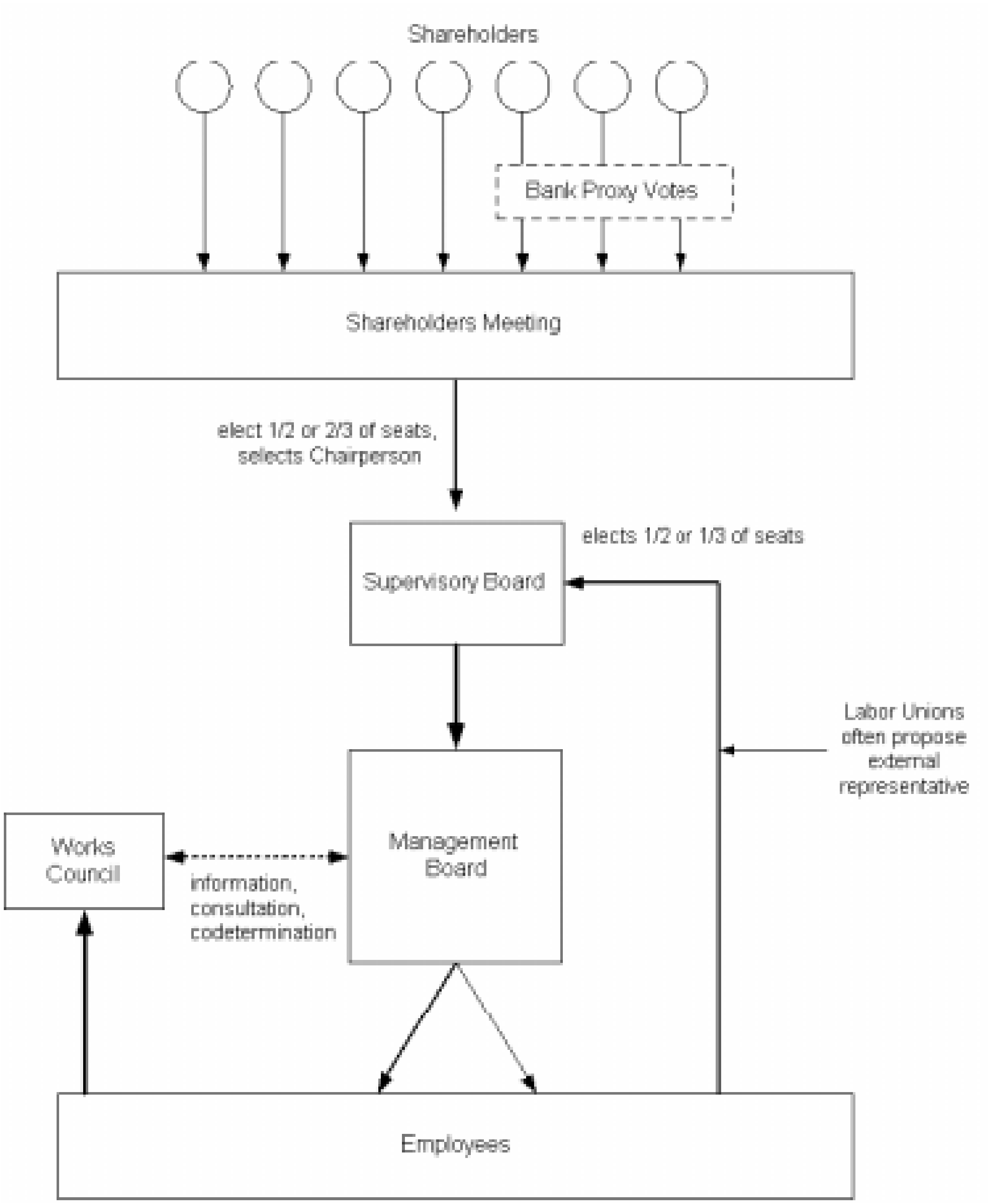

Figure (2.2) - The structure of Corporate Governance in Germany
Source: Jackson et al, 2005

The board in the German model comprises a two-tier management structure; the Management Board and Supervisory Board. The Management Board is appointed by the Supervisory Board and entrusted with the day-to-day running of the company (Keasey et al, 1997). The Supervisory Board is elected by the shareholders in general meetings with co-determination between shareholders and employees (Georgen et al, 2008; Mallin, 2004).

In large companies with more than 2000 employees, employees make up half of the Supervisory Board but the chairman, who is a shareholder representative, has a casting vote in case of a stale-mate. Bankers are elected to the Supervisory Board. In small companies with more than 500 employees but less than 2000 employees, one third of the Supervisory Board has to consist of employee representatives (Goergen et al, 2008). Therefore, the system offers the separation of the supervisory function and the management functions into different bodies. The Supervisory Board is composed of non-executive board members, and the Management Board is composed of executive board members. The tasks are different between both boards. According to the German Corporate Governance Code (2006), the tasks of the Management Board are to:

- Be responsible for independently managing the enterprise. In doing so, it is obliged to act in the enterprise's best interests and undertakes to increase the sustainable value of the enterprise.
- Ensure that all provisions of law are abided by and works to achieve their compliance by group companies.
- Ensure appropriate risk management and risk controlling in the enterprise.
- Develops the enterprise's strategy,

Whereas, the tasks of Supervisory Board are:

- To advise and supervise the Management Board in the management of the enterprise and to be involved in fundamental decisions.
- Appoints and dismisses the members of the Management Board.
- Appoints members of the Management Board to a committee, which also determines the conditions of the employment contracts including compensation.

On the other hand, both boards should;

- Cooperate closely for the benefit of the corporation.
- The management Board coordinates the enterprise’s strategic approach with the Supervisory Board at regular intervals.

- The Management Board should provide sufficient information to the Supervisory Board.
- The Management Board informs the Supervisory Board regularly, without delay and comprehensively, of all issues important to the enterprise with regard to planning, business development, risk situation and risk management.
- The Management Board should report to the Supervisory Board, through submitting documents required for decisions, in particular, the Annual Financial Statements, the Consolidated Financial Statements and the Auditors' Report in due time before the meeting
- In the event of a takeover offer, both boards must submit a statement of their reasoned position so that the shareholders can make an informed decision on the offer.

Labour plays an important role in the German system through the workers councils and the principle of co-determination. The workers councils are engaged in consultation and participation in the corporate decision-making process and stabilising core employment, while the trade union is concerned with wage bargaining and working conditions (Cernat, 2004).

The main disadvantage of the system is that the Supervisory Board relies on information is provided by the Management Board concerning the current state of affairs. Also, the possible weakness of monitoring the management exists since the average number of meetings is four times a year and sometimes only two (Keasey et al, 1997).

Recently, there are indications of change in the continental system of corporate governance, which depends on internal mechanisms, towards an Anglo-Saxon system, which consists of external mechanisms, and a more complete legal system. However, the disclosure and transparency practice, stock market development and voting structures are still the fundamental differences. Table (2.3) summarises the main differences between the two models of corporate governance.

Table 2.3 Distinction between corporate governance models

Aspects	Anglo-Saxon	Continental
<u>Labour-related</u> Co-operation between Social partners Labour organisations Labour market Employee influence	Conflict or minimal contact Fragmented and weak Poor internal flexibility, high external flexibility Limited	Extensive at national level Strong, centralised unions High internal flexibility, lower external flexibility Extensive through workers councils and co-determination
<u>Capital-related</u> Ownership structure Role of banks Family-controlled firms Management Board Market for corporate control Role of stock exchange	Widely dispersed ownership; dividends prioritized Banks play a minimal role in corporate ownership General separation of equity holding and management One-tier board Hostile takeovers are the correction mechanism for management failure Strong role in corporate finance	Banks and other corporations are major shareholders; dividends less prioritized Important both in corporate finance and control Family ownership important only for small and medium sized enterprise Two-tier board; executive and supervisory responsibility separated Takeovers restricted Reduced

Source: Cernat, 2004

2.3.3 Corporate Governance in the Islamic Perspective (Islamic System)

In respect of the Islamic economy, the Islamic financial system developed in the Islamic world during the Middle Ages; however the last three decades have witnessed its rise in significance in the global economy. This revival is attributed mainly to the following reasons:

1- The boost in the oil-related income following price increases during the 1970s of many Muslim Arab countries.
2- The desire of Muslim populations is to develop financial products and financial services that are compatible with their religious beliefs.
3- Dissatisfaction of some Muslims with the materialist ideologies of capitalism and with communism and the uneven performance of western financial markets (Grais and Pellegrini, 2006; Pervez, 1990).

Islamic financial principles are promoted throughout the world by Islamic education institutions. Nowadays, there are more than 284 institutions offering Islamic financial services, operating in 38 countries, both Muslim and non-Muslim (Grais and Pellegrini, 2006). In the UK, for instance, there are more than 40 Muslim primary schools. Also the HSBC bank, among many others, offers Islamic home finance which is based on trade principles in contrast to the conventional interest-based mortgage (Er, 2008).

Islam regulates and influences all fields of a Muslim's life, including the governance and conduct of business and commerce. The Holy Qur'an in Surah An-Nur Verse 37 stated:

"Men whom neither trade nor sale (business) diverts from the Remembrance of Allah…", and in Surah Al-Baqarah Verse 275 stated;

"… Allah has permitted trading and forbidden Riba (usury)…"

Muslims have to conduct their business activities according to Islamic principles such as being fair and honest (Lewis, 2001).The influence of Islam regulation on the business activities is clear by prohibiting monopolies. The Holy Qur'an stated in Surah An-Nisa verse 29

"O you who believe! Eat not up your property among yourselves unjustly except it be a trade amongst you, by mutual consent."

Also, Islam prohibits of the business activity during the time of Friday congregational prayer, The Holy Qur'an stated in Surah Al-Jumu'ah verse 9:

"O you who believe (Muslims)! When the call is proclaimed for the salat (prayer) on Friday (jumu'ah prayer), come to the remembrance of Allah [Jumu'ah religious talk (khuthoh) and *salat* (prayer)] and leave off business (and every other thing) that is better for you if you did but know!" .Moreover, Islam imposes a duty of good faith in contracts and dealing: this is not merely the absence of bad faith but requires the contracting party to take positive steps to do the right thing, make full and honest disclosures and perform his obligations correctly.

Islam takes into account human nature and provides universal values and promotes a happy way of life. It teaches its believers the morals to control any problematic behaviour resulting from unsatisfied needs and to inculcate loyalty towards fellow citizens and create a willingness to sacrifice self-interest to the common welfare. Muslims should become content, generous and kind and can have self esteem since they believe that everything in life belongs to Allah and they are just guardians of the resources.

Er (2008) argued that neither education nor social background appears to determine the behaviour of a person. Therefore, eliminating acts of corruption can be achieved if a person condemns such acts on moral grounds. On this point, these Islamic principles instil in people accountability, responsibility, fairness and good conduct.

2.3.3.1 Business Principles in Islam

The main rule in business activity in Islam is honesty and fair dealing, so the Muslim business person should have high moral values, and the market should be free. The Islamic economic system allows people to earn their living in a fair and profitable way without exploitation of others, and at the same time Islam emphasises the welfare of the society over individual rights (Lewis, 2001). In a similar manner, Islam prohibits transactions involving uncertainties, such as speculative investments. Therefore, people engaging in trade and business should behave equitably, and should not lie about weights and measures, and all investment and products should be useful to society. That is because the Holy Qur'an stated in Surat Al- Mutaffifin (verse1):

> "Woe to Al-Mutaffin (those who give less in measure and weight)".

Also, in Surah Ar-Rahman Verse 9 "And observe the weight with equity and do not make the balance deficient."

In order to conform to Islamic rules and norms, financing in Islam depends on the concept that the payment of interest is bad and is replaced during progressive Islamic transformation by co-operative instruments such as Mudarabah and Musharakah (Choudhury and Hoque, 2006). According to Lewis (2001):

- Mudarabah partnership is formed whereby management is stipulated for one of the partners and other partner(s) are investors.
- Musharakah partnership is formed whereby management and participation is stipulated for all partners, whether or nor all partners participate.

Furthermore, there are two other principal categories of business in Islam:

- *Ijara* (hire) is based on the capital hiring labour for a job and then fixing wages. In this case, the financier will receive all profits and at the same time is responsible for all losses.
- Modern companies where investment can be made through the stock market but this trade has to involve *halal* commodities only.

Regarding the corporate governance system, the Islamic perspective requires company directors, management and auditors to perform their professional duties with the objectives of satisfying the needs of the shareholders, other stakeholders and Allah. Therefore, corporate governance in Islam aims to enhance accountability, transparency and trustworthiness where these values are paramount in Islam and these principles are introduced by *Shari'a* (the Islamic law) as follows.

1- Accountability (hesab): Muslims believe that they will be made accountable for whatever they do (i.e. both bad and good actions). The word of accountability is repeated in the Holy Qur'an in different verses. For instance, Surah Al-Baqarah verse 284 says:

> " To Allah belongs all that is in the heavens and all that is on the earth, and whether you disclose what is in your ownselves or conceal it, Allah will call you to account for it".
>
> Surah Ibrahim verse 51 "That Allah may requite each person according to what he has earned. Truly, Allah is swift at reckoning".

The generic sense of accountability in Islam is accountability to God (Allah) and to society for all activities that a Muslim has to carry out. Consequently, each individual is under a "self monitoring duty" that is an obligation to supervise adherence to his terms of reference and accountability to God and himself.

Also in Islam where economic, political, religious and social affairs fall under the Islamic law (the Shari'a, which means the way to the source of life), accountability refers to a legal system in keeping with the code of behaviour called for by the Holy Qur'an and the hadith[5] (Lewis, 2006).

Islam takes an extremely serious stance on accountability, not just for the present but for the future life, and asks followers to respect public property. For instance, Umar ibn 'Abdu'l-'Aziz, extinguished a candle that was bought by using public funds if people came to see him for a private purpose. On the other hand, when he was writing to his family, or for a need he had concerning himself, he would request a candle from his own property (Er, 2008).

Corruption, and other unacceptable behaviour, has been prohibited by Islamic principles. For instance, in Sura Albaqra Verse 188, it states:

> "Do not eat up one another's property unjustly nor bribe with it the judges in order that you may knowingly and wrongfully deprive others of their possessions".

Moreover, the Prophet Mohammed (PUH) once said:

[5] Saying of the Prophet Mohamed (PBUH)

"If someone among you sees wrong he must right it by his hand if he can (deed, conduct, action). If he cannot, then by his tongue (speak up, verbally oppose); if he cannot, then by his gaze (silent expression of disapproval); and if he cannot, then in his heart. The last is the minimum expression of his conviction (faith, courage)". (Er, 2008).

2- Transparency and disclosure: Islam also requires an obligation of good faith in contracts and dealings. This requires taking positive steps to do the right thing, making full and honest disclosures and performing his obligations correctly. In this way, Allah has encouraged in the following verses (*ayat)* transparency:

'O you who believe! When you contract a debt for a fixed period, write it down. Let a scribe write it down in justices between you'. (Al-Baqarah: 282)

" ... Now you have brought the truth ..." (Al-Baqarah: 71)

"... and knows what you conceal and what you reveal" (Surah An-Naml: 25)

3- Responsibility: the concept of trustworthiness is stated in Surah Al- Anfal (verse 27):

"O you who believe! Betray not Allah and his Messenger, nor betray knowingly your Amanat (things entrusted to you and all the duties which Allah has ordained for you)"

It is a highly regarded virtue in Islam that every individual within an organisation is required to subscribe to standards of ethical conduct while carrying out their commercial activities. Islam prescribes a system of Zakat[6], and encourages its believers to give money to the poor only to purify himself, not in return for any favour done to him when in Sura Alail verse 17-21states that:

"He who spends his wealth for increase in self-purification. And who has (in mind) no favour from anyone to be paid back. Except to seek the Countenance of his Lord, the Most High. He surely will be pleased (when he enters Paradise)''.

Islam also punishes thieves by chopping off their hand without discrimination between people. The purpose of this is to purify the Islamic community and to deter future thieves and to maintain the property of people. Therefore, Islam requires high responsibilities and becomes more effective than the conventional punishment methods especially for executives who mislead investors in the developed world.

[6] Zakat is a social obligation to pay wealth and resource tax on retained earnings which is given to the poor and the needy. It is equal to 2.5 per cent of idle wealth and assets annually.

4- Fairness: Islam encourages its believers to collective decision-making, tolerance, civil and political liberty, and to resolve problems by fair means. Surat Al- Imran, verse 159 says

"… and consult them in the affairs. Then when you have taken a decision, put your trust in Allah…"

Also, Islam is strict about independent justice. The Holy Qur'an in verse 58 in Surat An-Nnisa stated:

> "Verily! Allah commands that you should render back the trust to those to whom they are due; and that when you judge between men, you judge with justice….."

According to the above explanation of the Islamic perspective on corporate governance, Islam would be in favour of corporate social responsibility and the stakeholder approach rather than the shareholder approach.

Islam also provides for a comprehensive code of moral and ethical behaviour in economic activities and a good corporate governance framework, through providing different mechanisms such as Shari'ah Supervisory Board[7] with specialised jurists in commercial jurisprudence or experts of Islamic financial institutions.

To run in mainstream economies, Islamic financial institutions need the power of the behavioural transformation of preferences in increasing awareness and implementation of participatory practices. Even in the hostile environment of competition and given the impossibility for Islamic corporations to enter into strategic alliances with conventional corporations. Islamic financial portfolios remained stable during the high points of the economic and financial crisis which hit Malaysia in 1990s (Choudhury and Hoque, 2006). Therefore, financial institutions becomes increasingly attractive to gain national support, especially from Muslims, to promote its operations based on transparency, business disclosure, absence of predatory competition and anti-trust consequences, coupled with sustainable productive performance with social benefits that will enhance trust.

Corporate governance in the conventional (non-Islamic) economy is driven by the objective criterion of competition, conflict and shareholder wealth maximisation (Lazonic and O'Sullivan, 2000). In an Islamic perspective, corporate governance practice is undertaken by the board, management, employees and shareholders with the social wellbeing criterion

[7] According to Lewis (2001), the aim of the Shari'ah Board is harmonising and converging concepts and their application amongst the supervisor boards of Islamic financial institutions. The objective is to avoid inconsistencies between the individual boards and assist with developing new products.

replacing the criterion of maximisation of shareholders wealth (Choudhury and Hoque, 2006).

Finally, a difference between the concept of corporate governance in the Islamic perspective and the mainstream economic perspective emerges from the different understanding of the nature of corporation. In the Islamic perspective, a corporation is a legal entity of shareholders with proportionate ownership of assets according to individual group equity and profit-sharing capabilities. Mudarabah and Musharakah contracts, and other ones that revolve around these principal development-financing instruments, establish the legal validity of the corporation. Absolute ownership within an Islamic corporation is thus replaced by proportionate ownership according to participation and in view of the extensive co-operative linkages established (Choudhury and Hoque, 2006).

In contrast, the corporation in a mainstream (conventional) economy is "a mechanism established to allow different parties to contribute capital, expertise and labour for the maximum benefit of all of them. The investor gets the chance to participate in the profit of the enterprise without taking responsibility for the operations. The management gets the chance to run the company without taking the responsibility of personally providing the funds'' (Monks and Minow, 2004; p9). So while western corporations have a separation of ownership and control, in the Islamic system corporations ownership, control and benefits are to be shared.

2.4 Conclusion

Corporate governance has generated an enormous debate in the last two decades. One main reason for this attention is the crisis that swept the financial markets and economies of the major Asian countries in 1997 and the failure of famous names such as Enron, which shocked investors about the governance of the company. The result was a growth in attention to corporate governance in both developed and developing countries.

The best corporate governance requires understanding of the nature of the different factors that affect the practice. The most important issue which impacts on the concept of corporate governance is who controls the corporation, and therefore to whom the corporation is responsible.

The most positive impact on the concept of corporate governance is the company. Therefore, whether the company should focus on the shareholders' (owners) interests as a main objective or concentrate on the diverse groups' benefit is a key issue. These two themes have increased in different economies regarding the nature of these economies, and the contrasts of legal systems, and cultural norms.

Generally, there are two models of corporate governance: the outsider model and insider model. The outsider model has its focus on the interest of shareholders and uses external mechanisms to oversee the management. The insider model depends on internal mechanisms, reflecting on ownership structure that is concentrated where the financial institutions play a pivotal role and oversee the management.

The Islamic perspective of corporate governance was analysed in this chapter to identify the main difference between the corporate governance mechanisms in Islam and non-Islamic economies, since Libya is an Islamic country.

In conclusion, corporate governance is a concept that should be recognised as a process rather than a one-shot operation. This process involves finding a balance to protect shareholders' rights and stakeholders' interests through exploration of possible factors that affect the practice, since it can help companies to generate and maximise value for intended beneficiaries by improving accountability and transparency processes.

The next chapter examines the main mechanisms of corporate governance from different perspectives to understand these mechanisms and identify whether Libya should develop its framework on a shareholder or stakeholder basis.

CHAPTER THREE

The Mechanisms of Corporate Governance

3.1 Introduction

This chapter presents the background of the main mechanisms of corporate governance in order to understand and frame the effect of these factors on practice. Therefore, the procedures and devices used to deliver corporate governance are described and evaluated during this chapter. An important challenge facing any organisation for its existences and growth, in the light of high competitiveness and globalisation, is regaining the confidence of financiers and society. That confidence can be achieved through adherence to principles that help organisations to attract investment. Malpractice and collusion between top management and auditors and the Board of Directors was the main reason for Enron's bankruptcy. Therefore, the best method to create confidence between investors and an organisation is to ensure the best and clearest practices of management are evident to investors. This chapter addresses the following mechanisms: the responsibilities of the Board of Directors, shareholders' rights, disclosure and transparency practices and stakeholders' rights.

3.2 Board of Directors and its Responsibility

The Board of Directors plays a significant role in corporate governance practices. It is the heart of the company because of its role between shareholders and management, thereby monitoring management (Jensen and Meckling, 1976; Solomon and Solomon, 2004).

The Board of Directors is considered the main internal governance mechanism that oversees management actions including the setting of top management pay and ensuring managerial behaviour and the quality of managerial decisions (Ezzamel and Watson, 1993; Kang et al, 2007). Weak boards and poor independent judgment lead to various problems in corporate governance (Luo, 2005). Further, the Board of Directors tends to be the instrument shareholders use to monitor top managers (Fama and Jenson, 1983; De Andres et al, 2005).

According to Mallin (2004), a major difference in corporate governance across the world is board structure. There are two kinds of boards of directors: the unitary board is predominant in the Anglo-Saxon countries and other developing countries[8]. This type of board is characterised by one single board comprising both executive and non-executive (outside) directors. Alternatively, the dual (two tier) board is predominant in Germany, the Netherlands and Denmark. This is characterised by the existence two separate boards, a Supervisory Board which oversees the direction of business and a Management Board responsible for the running of the business.

3.2.1 Board Size

Board size means the number of persons that sit on the board including both executive and non-executive directors.

The ability of a board to monitor top managers can increase by adding more directors to the board (large board); in consequence the CEO will find it difficult to dominate the board (Kula, 2005). However, the large board may have some obstacles, such as a decreased ability of the board to control management, poorer communication and decision-making. Moreover, there is some evidence of an inverse relationship between company value and board size. On this point, Yermack (1996) found that a small Board of Directors is more effective, allowing companies to achieve a higher market value, whereas a large board suffers from problems of coordination, communication and effectiveness, which lead to excessive influence by the CEO.

De Andres et al (2005) in their study also found a negative impact of board size on company performance. They researched 450 large non-financial companies from Belgium, Canada, France, German, Holland, Italy, Spain, Switzerland, the UK and the US and inferred that over-sized boards of directors have poorer performance in both unitary and dual boards.

In practice, many countries recognised this issue and give advice on the board size without specifying the best size. In the UK, the codes do not specify the board size; however, they provide recommendations to companies to find an optimal composition. For instance, the Combined Code (2006) in Para A3 stated that:

> ‘‘The board should not be so large as to be unwieldy. The board should be of sufficient size that the balance of skills and experience is appropriate for the requirements of the

[8] Libya also implies this system of board structure where companies’ boards are unitary.

business and that changes to the board's composition can be managed without undue disruption''

Similarly, the German Code of Corporate Governance (2006) stated in Para 4.2.1:

"The Management Board shall be comprised of several persons and have a Chairman or Spokesman",

In Para 5.4.2 stated;

"The Supervisory Board shall include what it considers an adequate number of independent members".

In the MENA (Middle East and North Africa) region, where the unitary board system prevails, the Egyptian Code of Corporate Governance (2005), for instance, does not refer to the numbers of directors on the board but leaves this to the company policy. In Libya, the Commercial Code also does not mention the size of the company board, but it is left to the General Assembly. However, the Libyan Stock Market regulations (Corporate Governance Code) recommend that the number should be between three and eleven members with a majority of non-executives.

Finally, although, the board size is affected by the company size (Li and Harrison, 2008) companies should seek balance between the size of the board and its effectiveness by using a mix of qualifications, age, race, and gender of the directors, more than concentrating on the size of the board.

3.2.2 Board Diversity

The gender, racial and cultural composition of the Board of Directors (board diversity) is the most debatable governance issue in the companies especially in developed economies. For instance, in North America, attention is increasingly paid to race, ethnicity and gender of corporate directors, while in Europe nationality appears to have become an important dimension of board diversity (Ruigrok et al, 2007). Furthermore, many corporate managers believe that a positive link exists between board diversity and shareholders' value (Carter et al, 2003). This has led many to think about board composition and what are the advantages and disadvantages of board diversity.

According to Kang et al (2007), board diversity means variety in the composition of the board of directors, which is affected by board size and the company industrial context. There are two categories of diversity:

- Observable diversity; that is readily detectable attributes such as gender, background, nationality, ethnic and age.
- Less visible diversity such as educational, functional and occupational backgrounds and industry experience.

Board diversity promotes a better understanding of an increasingly diverse marketplace, increasing creativity and innovation which leads to more effective problem-solving and improves the effectiveness of corporate leadership (Carter et al, 2003; Kang et al, 2007).

Gender is the most debated diversity issue concerning the board of directors. Many countries, such as Norway, require companies to make a portion of their board women. This is partly because women may be more independent since they are not part of the "oldboys" network. Women also may have a better understanding of such things as consumer behaviour, the needs of customers, and opportunities for companies to meet those needs (Kang et al, 2007). Also, with women on the board of directors, corporate governance can be achieved which subsequently, may translate to competitive advantage and the company will have a competitive advantage (Bernardi et al., 2002). However, in practice, the Board of Directors still has men dominating in most companies in both the developed and developing worlds. For instance, in the UK, the number of women on the board of 350 large companies was less than 5 per cent in 1995 (Conyon and Millan, 1997).

In Canada, the results of several studies of board compositions indicate that about 4-5 per cent of board members are women (Burke, 1994). Burke offered the following reasons for the absence of women on Canadian corporate boards: the small number of vacancies on boards that require filling, reluctance of organisations to appoint constituent directors (women, minorities); the preference of male CEOs for the appointment of other male CEOs to their boards; the difficulty which boards report they experience in finding qualified and interested women; and the absence of any penalty for not having women on the corporate boards.

In Australian companies, during 2003, 33 companies from a sample of 100 companies did not have a female director, while 51 companies had one female director and only 15 companies had two or more female directors. Significantly, only 10.37 per cent of the total director positions in Australia's top companies were occupied by a female (Kang et al, 2007).

The special life and the stress of board members have been suggested as causing women to be reluctant to stay on a board. For instance, Penny Hughes, President of Coca-Cola Great

Britain, left her board position to bring up young sons, and Brenda Barnes, CEO of Pepsi Co, left (again) because of managing her work and family life (Vinnicombe and Johnson, 2001).

Overall, the proportion of women on the board is still under-represented in most countries. In the UK, for example, the manner of selecting and appointing in large companies is far from clear and attitudes towards women in top positions impede their representation (Conyon and Millan, 1997).

In developing countries, board diversity is still hindered by culture and the dominant attitudes towards women. For instance, the social environment in the Arabic world plays an influential role in community life and people's relationships with each other. Also, Arabic countries scored high in Hofstede's (1980) masculinity dimension.[9] Therefore, personal connections, nepotism, sectarian and ideological affiliations influence management procedures, often posing a barrier to female advantage in the world of business.

3.2.3 The Role of the Board

According to Kula (2005) and Brennan (2006), the roles of the board are: to control and monitor the managers to provide the CEO and other top managers advice; to form formulate strategies for the company; and to foster resource independence by facilitating the acquisition of resources. Brennan (2006) defined the role of the Board of Directors as being charged with the oversight of management on behalf of shareholders. To achieve this function, the board must assume an effective oversight function, which in turn is influenced by factors such as board composition, the quality, the size, the duality of CEO/Chairman positions, diversity, information asymmetries and board culture. Mallin (2004) explained the role of Board of Directors as: determining the company's aims; monitoring the achievement of all aims; appointing a chief executive officer; having a regular meeting with

[9] Consistent with Hofstede's (1980) many studies found the negative attitude towards women in Arab Countries. For instance, Abd El-latif (1988) studied the Egyptain society's attitudes towards working women. The study found a negative attitude towards women in top managerial and leadership position. Mostafa (2005) found that UAE students have significantly different attitudes towards women managers from those of the older generations. Also, the study predicts that modernity may diminish patriarchal attitudes towards women in the Arab world

an agenda and making the right decisions for any matters that are related with its responsibilities.

To carry out its roles the board should have: access to the appropriate company information; a balance between executive and non-executive directors; appropriate sub-committees; offer appropriate training for new directors to a listed company. Further, company board should act as monitors in disagreements that take place among internal managers and carry out tasks involving serious agency problems, such as setting executive remuneration and hiring and firing managers. In this point, the OECD (2004) made a suggestion to two key elements of the duty of the board of directors:

> "This principle states the two key elements of the fiduciary duty of board members: the duty of care and the duty of loyalty. The duty of care requires board members to act on a fully informed basis, in good faith, with due diligence and care. In some jurisdictions there is a standard of reference which is the behaviour that a reasonably prudent person would exercise in similar circumstances. ... The duty of loyalty is of central importance, since it underpins effective implementation of other principles in this document relating to, for example, the equitable treatment of shareholders, monitoring of related party transactions and the establishment of remuneration policy for key executives and board members. ... The duty of loyalty for a board member relates to the company and all its shareholders and not to the controlling company of the group."

The Combined Code (2006) states:

> "The board's role is to provide entrepreneurial leadership of the company within a framework of prudent and effective controls which enables risk being assessed and managed. The board should set the company's strategic aims, ensure that the necessary financial and human resources are in place for the company to meet its objectives and review management performance. The board should set the company's values and standards and ensure that its obligations to its shareholders and others are understood and met."

In a dual system of boards, the board is divided into two categories, management and Supervisory Boards. The Management Board (composed entirely of executives) is responsible for independently managing the enterprise, developing the enterprise's strategy, ensuring that all provisions of law are abided by and working to achieve their compliance as well as ensuring appropriate risk management and risk control in the enterprise (German Code, 2006 para 4.1). In contrast, the Supervisory Board (composed of non-executive board members) is responsible for supervising and advising the Management Board in the company, appointing and dismissing the members of Management Board and issuing terms of references (German Code, 2006 Para 5.1).

In Egypt, according to the Egyptian Code of corporate governance (2005) paragraphs 3.25 and 3.26, the role of Board of Directors is generally to be responsible for the company's risk management. It should submit an annual report to shareholders in the general assembly including: an overview of corporation's activities and its financial position: an overview of the corporation's next year's activities: activities and results of the corporation's subsidiaries, a briefing on the changes in the main capital structure of the corporation and with the code of corporate governance compliance.

Overall, in all situations, theoretically, the main role of the Board of Directors is to reduce agency problems by monitoring the top management. In practice, board roles can be affected by the legal system and culture, so to improve the board performance board members should be qualified and avoid any factor that adversely affects their responsibilities. Also, the board should have regular meetings, with an agenda in order to make the right decisions.

3.2.4 Board Composition

Regardless of the system of board of directors, a board consists of two different types of directors: executive directors that are responsible for the day-to-day management, and non-executive directors who are not involved with the company's day-to-day operations.

Board composition is defined as the proportion of outside (non-executive) directors to the total number of directors (Haniffa and Cooke, 2002).

The outside directors should offer the board more independence from the executives, especially the CEO, since inside directors have potentially less independence from management (Kula, 2005). Also, inside directors may not feel confident in contradicting the CEO, so outside directors are in a better position to monitor managerial activities. Board independence is expected to be associated with enhanced corporate performance and valuation (Choi et al, 2007). The Combined Code (2006) states:

> Except for smaller companies, at least half the board, excluding the chairman, should comprise non-executive directors determined by the board to be independent. A smaller company should have at least two independent non-executive directors (para.A.3.2).

In a dual board, such as is found in Germany the Supervisory Board includes employee representatives comprising between one third or one half of board members in companies having more than 500 or 2000 employees respectively (German Code 2006 para.1).

3.2.5 Appointment to the Board

Most corporate governance codes (see, for example, the Combined Code, German Code and Egyptian Code) emphasise that appointments to the board should be focused on the ability and efficiency of the directors and electing them should be a transparent procedure.

In the unitary board system, used in Anglo-Saxon countries and in most developing countries, shareholders elect board members in the Annual General Meeting (AGM).

In the dual board system, which exists in most continental countries, the Supervisory Board are also elected by shareholders (this system is a little different in Germany, where employees may elect some Supervisory Board members). Then the Supervisory Board appoints the members of the Management Board (Mallin, 2004).

3.2.6 Non-Executive Directors

There has been increased discussion in the literature on corporate governance issues and the role of directors. Non-executive directors are an important element of a board's composition because they control and act as a counterweight to executive directors, and contribute to the overall leadership and development of the company (Mallin, 2004).

Non-executive directors also have an important role in making the executive directors accountable for their policies and activities, as well as having been heralded as important monitors of a company's top management with the ability to prevent unbridled power being exercised by the CEO (Cheng and Firth, 2005; Pass, 2004), they also act as referees in conflicts between managers and shareholders (Fama and Jensen 1983). Amongst the aims of appointing independent non-executive directors to the board are the looking of the after the interests of outside shareholders, the deterrence of excessive top management pay, and the promotion of the use of performance related pay (Cadbury, 1992; OECD, 2004). Therefore, non-executives are expected to perform an important governance role by introducing independence and impartiality to board deliberations and ensuring that the interests of shareholders are taken into account in board decisions, since they are independence from the management. McNulty and Pettigrew (1996) identified the board functions into three perspectives. These perspectives are; the governance perspective, the resource perspective and the strategic perspective. The governance perspective treats the board as a mechanism for insuring the organisational actions are in accordance with the owners' interest, since the board can mitigate the conflict of interest between management and owners, and resist management opportunism and the self-interested behaviour of managers. The resource perspective emphasises that the role of the board is to help link the organisation its environment and secure critical resources. The strategic perspective which is now being given more attention, acquires resources or represents stakeholder interests, it involves making important decisions that enable the organisation to change.[10]

Increased attention to the role of non-executive directors has been taken consistently with the corporate governance development. In the UK, for instance, since the Cadbury report recommended that non-executive directors should be entirely independent of the board to ensure objectivity, the proportion of non-executives in UK corporate boards steadily increased, from 34 per cent in 1991 to 49 per cent in 2001(Liu, 2005), and they become increasingly involved in both the formulation and implementation of strategic decisions within their organisations (McNulty and, Pettigrew, 1999).

Consistent, with the Cadbury report the Combined Code (2006) explained the factors that prohibited people from being non-executive directors. For example, if a person has been an employee of the company or group within the last five years, or has, or has had within the last three years, a material business relationship with the company either directly, or as a partner, shareholder, director or senior employee of a body that has such a relationship with the company (for more details please see the resource).

Pettigrew and McNulty (1995) identified that non-executive members are able to mobilise power and exert influence in and around the boardroom. In 1996 McNulty and, Pettigrew found that non-executive directors influence mostly through persuasion and coalition formation. Also, they argued that non-executive directors rely less on their positional authority to exert influence, and more on their personal knowledge, experience and expertise, as well as their ability to form relationships with individuals. Therefore, non-executive directors are expected to bring independent judgements, especially with respect to the corporation's strategy, and appointment of management. Therefore, non-executive members of the board should be independent of executive members. However, the literature expresses serious concern over the effectiveness of non-executive directors. The high proportion of non-executive directors on boards, as proposed by agency theory has

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[10] In a similar vein, OECD (2004) stated that; “Boards should consider assigning a sufficient number of non-executive board members capable of exercising independent judgment to tasks where there is a potential for conflict of interest. Examples of such key responsibilities are ensuring the integrity of financial and non-financial reporting, the review of related party transactions, nomination of board members and key executives, and board remuneration.”

disadvantage such as the stifling of strategic actions (Goodstein, et al, 1994), excessive monitoring (Baysinger and Butler, 1985), lack of business knowledge to be effective (Patton and Baker, 1987), and lack of real independence (Demb and Neubauer, 1992) (sited by Haniffa and Cooke, 2002). In terms of corporate disclosure, non-executive directors are an interesting variable to consider because more disclosure may be expected if they carry out their monitoring role rather than their perceived monitoring role (Haniffa and Cooke, 2002). Further, non-executive directors may not be able to conduct full monitoring of the top management or be independent for several reasons. They may not have significant financial interest in the company; they may be busy and they probably have little time to think about the company's affairs, or to collect information about the company beyond that provided by management; they may become loyal to the management who proposed them, so that they can be re-elected; and, in the long term, non-executive directors on the same board may become less effective monitors because they may build up close relationships with other members on the board (Hart, 1995; Pass, 2004).

McNulty and Pettigrew (1999) argued that non-executive members need power and influence to contribute to the exercise of board duties. Non-executive directors are a very important instrument that should be considered carefully in the process of establishing good corporate governance especially in a transition economy like Libya where the company can benefit from their experience and knowledge.

The role of non-executive directors has been criticised. For instance, Treadwell (2006) argued that the title "non-executive" be dropped and replaced by the simple title, "Director". His belief is that business needs hardnosed, experienced and professional non-executive directors who have the time to give to the role. Also, Mace (1971) criticised the non-executive directors in US companies as “ornaments on the corporate Christmas tree” when he found most Boards of Directors did not create objectives, corporate strategy and board policy.

In the future, it could be supposed that non-executive directors are likely to play a significant role in the future of the corporate governance framework. Not only do many scholars believe that they can influence the corporate governance practice (O’Sullivan, 2000), but also it is clear from recent reports and codes their role in improving the corporate governance framework is also emphasised. In the future, non-executive directors should not only be responsible for the policing of executives' actions and behaviours but also for the strategic direction. Therefore, non-executive directors should not just be seen as ornaments which had been a view by some authors, but it would appear that their role should be integral part of the Board of Directors and respective committees on the board. This role should be related to the substantial amount of experience in relation to the working of the board.

3.2.7 CEO and Chairman

A key issue concerning the role of the CEO is that the CEO's benefits should be related to the company performance, and he/she should be rewarded if the company achieves good performance and punished for poor performance. Yet this reward should not give executives the right to excessively follow risk-taking that could potentially harm the stakeholders (Frye et al, 2006). Also, a combining of the roles of CEO and Chairman is symptomatic of wider problems relating to the shareholders' trust and the effect of non-executive directors as monitors of management. Hence, the Cadbury Committee (1992) recommended that separation of the two roles would help to avoid concentration of power in one person. However, in some cases, the Chairman may become the Chief Executive Officer (CEO) if a board so decides. In this case, the board should consult major shareholders in advance and should set out its reasons at the time of the appointment and in the next annual report.

3.2.8 Board Sub-Committees

The sub-committee is an important mechanism for a board that aims to carry out its duties (Petra, 2005; O'Sullivan and Diacon, 1999). The main committees that many companies establish are audit, compensation and nominating committees. Cadbury (1992) and Hampel (1998), for instance, argue that the existence of audit and remuneration committees is expected to improve confidence in the overall system of governance, whereas the Audit Committee is expected to improve the quality of the external audit process where it serves as the principal point of contact between the statutory auditor and the company (O'Sullivan and Diacon, 1999).The establishing of these committees has increased, especially in developed economies. For instance, in Europe in 2003 only 3 percent of European companies do not use committees, whereas in 1999 this was 25 percent (Albert-Roulhac and Breen, 2005).

3.2.8.1 The Audit Committee

The audit committee is arguably the most important committee in a company because it can strengthen the position of management by providing assurance that all possible steps have been taken to provide independent reviews of the management's financial policies and operation (Vanasco, 1994). Also it provides a useful bridge between both internal and external auditors, and the board (Mallin, 2004; Al-twaijry et al, 2002).

In addition, it can be a monitoring mechanism that improves the quality of information flow between company owners and managers, especially in the financial reporting environment thus improving the disclosure practice. Therefore, an audit committee is ideally associated with more reliable financial reporting and, in particular, fewer errors, fewer irregularities, and fewer illegal acts (Karamanou and Vafeas, 2005).

Historically, the audit committee is not a new phenomenon, especially in Europe. For example, the UK had audit committees in 1872. However, the widespread adoption of the audit committee did not begin until the late 1980s (Vanasco, 1994). The Cadbury Report (1992) recommended that all listed companies should establish audit committees. In 2006, the Combined Code (2006) in Para C. 3.1) stated:

> "The board should establish an audit committee of at least three, or in the case of smaller companies, two members who should all be independent non-executive directors. The board should satisfy itself that at least one member of the audit committee has recent and relevant financial experience".

In the USA, the Securities and Exchange Commission (SEC) suggested in 1940 that all public companies should have an audit committee (Al-twaijry et al, 2002). In 1978, the New York Stock Exchange (NYSE) required all listed companies to have audit committees composed solely of independent directors, and the 1987 report of the American Treadway Commission concluded that audit committees had a critical role to play in ensuring the integrity of US company financial reports (Cadbury Code, 1992: para 4.33).

Establishing such a committee has become widespread in non-English speaking countries and most corporate governance codes have recommended establishing such a committee (Egyptian Code 2005; German Code 2006). Also, the OECD principles (2004) mentioned the importance of using committees as they may improve the overall work of the board.

The Combined Code (2006 para C.3.2) explained the main aim of the audit committee as follows:

- to monitor the integrity of the financial statements of the company, and any formal announcements relating to the company's financial performance, reviewing significant financial reporting judgements contained in them;
- to review the company's internal financial controls and, unless expressly addressed by a separate board risk committee composed of independent directors, or by the board itself, to review the company's internal control and risk management systems;
- to monitor and review the effectiveness of the company's internal audit function;
- to make recommendations to the board, for it to put to the shareholders for their approval in general meeting, in relation to the appointment, re-appointment and removal of the external auditor and to approve the remuneration and terms of engagement of the external auditor;
- to review and monitor the external auditor's independence and objectivity and the effectiveness of the audit process, taking into consideration relevant UK professional and regulatory requirements;
- to develop and implement policy on the engagement of the external auditor to supply non-audit services, taking into account relevant ethical guidance regarding the provision of non-audit services by the external audit firm; and to report to the board, identifying any matters in respect of which it considers that action or improvement is needed and making recommendations as to the steps to be taken.

In Egypt, the corporate governance Code in para (6.2) recommended the functions of the audit committee as the following:

- Evaluate the efficiency of the financial manager and other major staff of the financial department.
- Review the internal audit system and submit a report including its recommendations.
- Review financial statements before submission to the board of directors, and include its recommendations in a report.
- Review the accounting policies and give opinions and recommendations.
- Review the audit plan with the external auditor and provide its recommendations.
- Review the comments of the external auditor and follow up with corrective measures.

- Assess the qualifications, performance, and independence of the external auditor; nominate external auditor and determine his fees.
- Approve assigning additional tasks to external auditor and decide his fees for additional tasks.
- Review the plan of the internal audit department and assess its efficiency and capacity.
- Review the reports of the internal audit department, the feedback of the management regarding these reports, and the corrective measures.

To achieve these aims, there are two issues that might be notable: the composition and the independence of the committee. These issues have been focused in most corporate governance reforms. For instance, the Combined Code (2006) recommended that the audit committee should be independent and comprises non-executive directors and that one of them has financial experience. O'Sullivan (2000) stated that:

> "The existence of an audit committee with significant non-executive membership is expected to reduce the likelihood that the extent of auditor effort, as well as the auditors' willingness to report any areas of non-compliance, are affected by the level of non-audit fees the company's auditor could earn from the company".

In Egypt, the code of corporate governance (2005) in para (6.1) recommends establishing an audit committee with at least three non-executive members, and that at least one of its members should have financial and accounting expertise. However, if the number of non-executives on the Board of Directors is less than three, one or more members may be appointed from outside the corporation. The reason for having a majority of non-executive directors in the committee is that the executive directors cannot fulfil an objective monitoring role because they are not independent from management.

In Libya, the Libyan Stock Market (LSM) Code of good corporate governance practice recommends that a number of committees should be formed in each listed company which depends on the company needs, until the board achieves effectively its responsibilities.

Finally, the audit committee has become more common, being established to achieve independent security of the company's financial policies and providing expert advice about the current accounting practices and policies.

3.2.8.2 Remuneration Committee

So long as the conflict of interest between investors and management has existed, remuneration policy has been a significant issue that has attracted a lot of attention from investors and others. Mallin (2004) argued that the debate over remuneration committees has focused on the following issues:

- the overall level of directors' remuneration and the role of share options;
- the suitability of performance measures linking directors' remuneration with performance;
- the role of the remuneration committee in setting the directors' remuneration;
- the shareholders' influence on the exercise of directors' remuneration.

The main role of the committee is to determine executive remuneration packages to prevent any excesses in the remuneration of directors (Mallin, 2004). This is important to avoid directors rewarding themselves regardless of the company's performance.

The remuneration committee can monitor and review the remuneration that should be awarded to the directors. The Combined Code (2006) in para (B.2.1) recommended establishing a committee of at least three, or two in small companies, from independent non-executive directors.

In Egypt, the code recommended companies to establish a remuneration committee, with a majority of non-executives. The aim is to propose executives' remuneration and negotiate with them in consultation with the chief executive officer. The final decision, though, should be left to non-executive members.

The Libyan Stock Market Code recommends that each board establish a remuneration committee with the main role being to establish a clear policy for the board members' and top management compensation and also to confirm the members' independence and examine the weak and strong points of the board and advice on a solution.

The remuneration committee can be viewed as an extension of corporate governance that controls executive pay and acts on behalf of stakeholders. Therefore, most corporate governance codes recommended establishing the committee. The Cadbury Code in the UK recommended that

> "Boards should appoint remuneration committees, consisting wholly or mainly of non-executive directors and chaired by a non-executive director, to recommend to the board the remuneration of the executive directors in all its forms. ...Executives should play no part in decisions on their own remuneration" (p. 31).

The UK Combined Code (2006) recommended that the remuneration committee consist of at least three, or two in the case of smaller companies, independent non-executive directors. Also the Code advises that the remuneration committee should also be responsible for appointing any consultants in respect of executive director remuneration.

The Libyan Stock Market Code recommends that each board establishes a remuneration committee with the main role being to establish a clear policy for the board members and top management remuneration. Also, it confirms the members' independence and examines the weak and strong points of the board and offers advice on solution. Theoretically, the remuneration committee assumes a major role in crafting executive pay; therefore, the composition of the committee becomes of major importance in corporate governance debates. This leads to the argument that the committee should not be a tool of corporate governance, but an important aspect of corporate governance development. This will happen if the committee pays attention to the reform the remuneration scheme. To achieve its role the committee should consist of the majority of qualified, independent non-executive directors and/ or institutional investors**.** However, the committee might work in the interests of management by enhancing their levels of pay, especially when the independence is in form not in core. According to Main et al (1993), the compensation committee has been to some extent captured by the incumbent management (cited by Main and Johnston, 1993). The global financial crisis has brought to public attention the difficulties associated with executive remuneration in the financial services sector. Therefore, establishing the remuneration committee undoubtedly seems to be no quick solution. The solution is that institutional shareholders have to appear to be responsible investors; therefore, they might be genuinely committed to ensuring good remuneration practices in investee companies. Governments also should now step in to change executive remuneration norms relying on extreme greed, by reconsidering how they formulate norms to ensure wider adoption.

3.2.8.3 The Nomination Committee

The third committee that has been recommended is the nomination committee. The main aim of the committee is recommending board appointments and being responsible for renewing and replacing board members. Therefore, it should have a majority of non-executive directors.

The Combined Code 2006 in para (A.4.2) stated:

> "The nomination committee should evaluate the balance of skills, knowledge and experience on the board and, in the light of this evaluation, prepare a description of the role and capabilities required for a particular appointment".

Establishing sub- committees is not always a positive way to help and implement the role of the board of directors. These committees should have a positive effect on company performance, and give the stakeholders more confidence in the company. However, establishing these committees and ensuring they are effective may mislead stakeholders' view of the efficiency of the board of directors.

Finally, the responsibility for managing the company entirely belongs to the Board of Directors, despite establishing committees, because the main aim of these committees is only to help the board to achieve its responsibilities. Board committees are seen as assisting the board and its directors to discharge their duties and responsibilities; however the board retains its overall responsibility for those functions (Mallin, 2004). In this point, the OECD Principles (2004) sound a cautious note when they state:

> "While the use of committees may improve the work of the board they may also raise questions about the collective responsibility of the board and of individual board members. In order to evaluate the merits of board committees it is therefore important that the market receives a full and clear picture of their purpose, duties and composition. Such information is particularly important in the increasing number of jurisdictions where boards are establishing independent audit committees with powers to oversee the relationship with the external auditor and to act in many cases independently". (Section VI, para. E.2)

3.3 Shareholders' Rights

The ownership structure of the company has undergone an important debate as one of the key corporate governance issues in most economies.

Shareholders are often referred to as the owners of the company, and can be divided into two groups: Large Shareholders and Small Shareholders; or Institutional Shareholders and Individual Shareholders.

The importance of the company's ownership as one of the major corporate governance issues that affect the efficiency of the company has arisen since Berle and Means (1932) warned that the growing dispersion of ownership of stocks was giving rise to a potentially value-reducing separation of ownership and control. Although the aim of dispersed of ownership sometimes is to attract more investments and encourage the minority or small investors, the legal protection of the investments is the main point of the encouragement.

For example, in the UK, dispersed ownership is associated with a high level of investor protection; whereas in developing countries the lack of legal protection finds a prevailing ownership structure.

In this vein, we can distinguish between two systems:

The Common law system which is prevalent in the UK and the US provides good protection for the rights of both majority and minority shareholders. In these countries, a public company has a large number of small shareholders (Hart, 1995; Shleifer and Vishny, 1997; La Porta et al, 1998). Shareholders are viewed as monitors of the company by virtue of constraints on managers through the following mechanisms: the board of directors, the threat of proxy fights, large shareholders, hostile takeovers and corporate financial structure (Hart, 1995). However, shareholders even with these mechanisms still sometimes face mismanagement of their shares by managers.[11]

Civil law system, where is no separation of ownership and control, unlike the common law system. Government intervention in economic activity and the protection of private property is weaker than in the common law system (Zhao and Millet-Reyes, 2007). Shareholders typically consist of families, especially in countries with poor shareholder protection (La Porta et al, 1998; Ararat and Yurtoglu, 2006). Financial institutions and the government prevail in large companies (Zhao and Millet-Reyes 2007). For example, in Germany, large banks through proxy voting arrangements often control over a quarter of the votes in major companies, and these banks have smaller but significant cash flow stakes as direct shareholders or creditors.

In contrast, in smaller companies, the norm is family control through majority ownership or pyramids, in which typically the owner controls 51 percent of a company, which in turn controls 51 percent of its subsidiaries and so on (Franks and Mayer, 1994, cited by Shleifer and Vishny, 1997). The Regional Corporate Governance Working Group in the Middle East and North Africa (MENA) Region (RCGWG, 2003) found that the governance systems in the MENA region are insider systems that are characterised by majority or concentrated ownership by family companies and by states.

Since ownership may take different forms (individual, family, state-owned, foreign), several studies have focused on the effect of ownership on the practice of corporate

[11] The obvious example is the company scandals in these economies such as Enron (2001) and the existence of the financial crises which started in 2008 and saw the collapse of many corporations, especially financial ones.

governance. For instance, Persons (2006) explained that, under a highly concentrated structure, minority shareholders had very limited influence on the company, which may discourage some governance mechanisms, such as a hostile takeover. In the UK, Conyon and Leech (1994) found that executive remuneration in companies with high concentration of external ownership is low. Haniffa and Cooke (2002) noted a positive relationship between ownership concentration and corporate disclosure in Malaysian companies. In addition**,** Barako et al (2006) found that the levels of institutional and foreign ownership have a significantly positive impact on voluntary disclosure by companies in Kenya and they suggested that the extent of voluntary disclosure is influenced by a firm's corporate governance attributes, ownership structure and company characteristics.

Ahunwan (2002) found that a conflict between managers and shareholders often arises in developing countries, and is affected by worsening, ill-functioning capital markets, information asymmetry and a lack of adequate infrastructure. Moreover, these countries' corporate structures are characterised by a desire to maintain control over companies by the majority shareholder, and a reliance on debt finance. A similar result was found by La Porta et al (1999) who argued that, although the agency problem in developed countries is between managers and shareholders, in developing countries this also exists between majority and minority shareholders.

The ownership structure characterised as dispersed by Berle and Means (1932) has evolved, and nowadays has become more concentrated (Solomon and Solomon, 2004). The concentration of ownership by institutional investors as organisations with millions of pounds invested in shares of listed companies (national or foreign companies), as well as in other forms of financial asset, has become common in the Anglo-Saxon system (Solomon and Solomon, 2004). In the UK, individual investors in 1963 owned 54 per cent of shares, but by 2002 the percentage had dropped to 14 per cent. At the same time, institutional investors (comprising mainly pension funds and insurance companies) had increased their shareholdings from 16 per cent in 1963 to approximately 36 per cent in 2002 (Mallin, 2004). In the US, the pension funds grew from owing less than 9 per cent to nearly one-third of the market between 1970 and 1993 (Mayer,1997).

On the wave of the increase in institutional investors in business activities in the UK, the reform of corporate governance concentrated on institutional investors as the key shareholders. The Cadbury Code (1992) stated: "institutional shareholders now own the majority of shares of quoted companies".

The Combined Code (2006) in para (D.1) stated that: "Institutional shareholders should enter into a dialogue with companies based on the mutual understanding of objectives" and Para (E.3) stated "institutional shareholders have a responsibility to make considered use of their votes"**.**

As a result of increasing their influence in business activities, most corporate governance codes confirm that the importance of corporate governance is to maintain ownership rights, and achieve equitable treatment of all owners (see, for example, Combined Code 2006; German Code 2006; Egyptian Code 2005). In Libya for example, the stock market code of corporate governance focuses on owners' fair treatment and rights in the distribution of profit and attendance at the annual meeting or any other meetings. Also, they have the right to obtain full and honest information.

The OECD Principles (2004) in para (II) stated that the corporate governance should protect and facilitate the exercise of shareholders' rights. In addition, these Principles suggest some of these rights as following:

A- Shareholders' rights should include the right to (1) secure methods of ownership registration; (2) convey or transfer shares; (3) obtain relevant and material information on the corporation on a timely and regular basis; (4) participate and vote in general shareholder meetings; (5) elect and remove members of the board; (6) share in the profits of the corporation.

B- The right to participate in, and to be sufficiently informed on, decisions concerning fundamental corporate changes such as: (1) amendments to the statutes, or articles of incorporation or similar governing documents of the company; (2) the authorisation of additional shares; and (3) extraordinary transactions, including the transfer of all or substantially all assets, that in effect result in the sale of the company.

C- The right to sufficient and timely information concerning the date, location and agenda of general meetings, as well as full and timely information regarding the issues to be decided at the meeting

D- The opportunity to ask questions to the board, including questions relating to the annual external audit, to place items on the agenda of general meetings, and to propose resolutions, subject to reasonable limitations

E- Effective participants in key corporate governance decisions, such as the nomination and election of board members, should be facilitated. Shareholders

> should be able to make their views known on the remuneration policy for board members and key executives. The equity component of compensation schemes for board members and employees should be subject to shareholder approval.

There are several notable points which help explain the effect different forms of ownership have on the management and control of companies.

Firstly, the closer relations between investors in companies in Europe and Japan may encourage better informed investors.

Secondly, the investors' intervention may have different incentives in different countries. For instance, dispersed shareholdings in the UK and US systems may provide insufficient incentives for any one investor to monitor and control the performance of companies, whereas in the case of large dominant shareholders, the returns to active governance are greater.

Thirdly, hostile takeovers, and other market controls, are less active in most countries than in the UK and the US where they are regarded as an important discipline on the behaviour of companies (Mayer, 1997).

Large shareholders can be very effective in solving the agency problem; they may also inefficiently redistribute wealth from other investors to themselves (Shleifer and Vishny, 1997). Millan (2004) pointed out that share ownership has concentrated on institutional investors who are much more concerned about the internal governance of the company and the company's relationship with other stakeholder groups. However, the real owners of the shares have lost influence on the companies in which they invested since the institutional investors, not the beneficial owners, are voting.

3.4 Disclosure and Transparency

Transparency and disclosure are crucial points in the success of corporate governance frameworks because stakeholders rely on disclosure, especially in financial reports, to assess corporate performance and monitor management. This importance has spread worldwide after the fraudulent and opaque accounting and auditing function in Enron, one of the biggest companies in the strongest capital market where the highest standards of integrity and ethics and full disclosure should have existed.

Healy and Palepu (2001) defined disclosure as:

> "a whole array of different forms of information produced by companies such as the internal report which includes the director's statement, the Operating and Financial Review (OFR), the profit and loss account, balance sheet, cash flow statement and other mandatory items. It also includes all forms of voluntary corporate communications, such as management forecasts, analysts' presentations, the AGM, press releases, information placed on corporate websites and other corporate reports, such as stand-alone environmental or social reports (cited by Solomon and Solomon, 2004: p, 120).

Disclosure has become an important mechanism in the modern economy to reduce the information asymmetry which comes from the separation of ownership and management, where management is involved in the day-to-day running of the company's operations and the owners are not (Millan, 2004; Markarian et al, 2007; Solomon and Solomon, 2004). Mitton (2002) studied approximately 400 companies in five East Asian countries and found that companies with greater disclosure performed better than other companies during the crisis period of 1997-1998.[12]

The cornerstone of the information that companies have to disclose is the financial information. However, the disclosure process is influenced by a broad range of social systems, such as cultural, political, and economic factors and the prevailing corporate governance system (see, for example, Archambault and Archambault, 2003).

Literature showed that in developed economies, the harmonisation of governance structures, especially in disclosure processes, has increased (see, for example, Payne, 2006; Markarian et al, 2007).[13] The OECD Principles also encouraged the practice of disclosure as a principle of a good governance framework. In these principles, disclosure has become the most important mechanism to improve the practice of corporate governance when it is stated (in para V p.22):

> "The corporate governance should ensure that timely and accurate disclosure is made on all material matters regarding the corporation, including the financial situation, performance, ownership, and governance of the company."

Furthermore, Solomon and Solomon (2004) stated that an increase in corporate transparency is a major initiative of corporate governance reform in any country. The Cadbury Report (1992, para 4.48) stated; "The lifeblood of markets is information and barriers to the flow of relevant information represent imperfections in the market".

[12] The countries were Indonesia, Korea, Malaysia, the Philippines and Thailand.

[13] The basic cause of this convergence might be the increasing of institutional investors and the free mobility of the capital as a result of globalisation.

The confidence of financial disclosure is affected by the auditor's role and responsibilities as one of the key market mechanisms. Auditors' malpractice can take many forms: for instance, Fisher and Lovell (2006: p. 302) argue that in the cases of Enron and WorldCom the auditors' complicity in the deceit was a factor, whilst in the cases of Maxwell Communication and BBC1 the causes were unclear due to the inadequacy of the auditors' performance.

In contrast to the numerous studies on corporate governance in developed countries, minimal research has been done on developing countries. Studies are usually limited and available only on an individual country basis. Also, the focus on corporate governance has been increased with globalisation and the adoption of International Monetary Fund (IMF) and World Bank economic reforms, coupled with financial scandals in the West (Tsamenyi et al, 2007).

The OECD (2004, para,V. p 49) stated:

> "A strong disclosure regime that promotes real transparency is a pivotal feature of market-based monitoring of companies and is central to shareholders' ability to exercise their ownership rights on an informed basis. Experience in countries with large and active equity markets shows that disclosure can also be a powerful tool for influencing the behaviour of companies and for protecting investors. A strong disclosure regime can help to attract capital and maintain confidence in the capital markets."

The rise of corporate governance reforms in developing countries is coupled with the desire to attract foreign investment and growing economies. In the MENA region, the laws and regulations obligate listed companies to disclose their financial and non-financial information annually or semi-annually. In other developing economies, the weakness of disclosure is predominant: for instance, Tsamenyi et al (2007) found that the disclosure levels of Ghanaian listed firms are generally low, and the ownership structure, dispersion of shareholding, and firm size (measured as total assets and market capitalisation) all have significant effect on disclosure in Ghana.

Disclosure is important at both micro and macro-economic levels. For the macro level, a strong transparent disclosure regime is essential for market-based monitoring of companies and is central to shareholders' ability to exercise ownership rights, attract capital and maintain confidence in the market. At the micro level, reliable and timely information increases the confidence within the company and enables it to make good business decisions. It encourages potential investors and lenders, helps improve public understanding of a company’s activities, policies and performance and helps auditors to evaluate and ratify the company's annual reports.

Disclosure practice does not develop in a vacuum, so there are many factors that affect the quality of overall disclosure. Environmental factors affecting disclosure noted in the literature include the legal system, culture, stage of economic development, political system, colonial background, education level, technological development, financial system, size and efficiency of capital market, inflation, corporate governance practice, ownership structure, demand for public accounting market, and the independence of auditors (Ho and Wong, 2001; Archambault and Archambault, 2003).

A strong and fair regulatory system helps to improve the disclosure and transparency practice by providing confidence to investors. Therefore, the corruption and failures of the regulatory system in terms of disclosure in the Philippines has led to structural economic decline and capital flight (Saidi, 2004). Also, a significant number of Ukrainian companies have failed to comply with the legal obligation of disclosure because the level of fines imposed by the Securities Commission in relation to these violations has been insufficient to encourage compliance (Mycyk et al, 2006).

Barako et al (2006) suggested that the extent of voluntary disclosure in Kenyan companies is influenced by a company’s corporate governance attributes, ownership structure and company characteristics. They also found that the levels of institutional and foreign ownership have a significantly positive impact on voluntary disclosure.

Culture norms and belief systems influence the direction, practice and quality of corporate governance (Yakasai, 2001). Hence, since accounting is considered a socio-technical activity involving the interaction of both human and non-human resources, disclosure practice cannot be culture-free (Haniffa and Cooke, 2002). Corporate disclosure also is affected by the level of education, since the level of education may increase the amount of corporate disclosure (Archambault and Archambault, 2003).

Disclosure practice is affected by shareholders’ and stakeholders’ different perspectives.

In the shareholders’ view, a company's aim is to maximise the profit of shareholders and long-term stakeholders’ benefit, whereas in the stakeholders' perspective, a company should take note of the interest of all groups that may be influenced by the company's decisions. Hence, disclosure activity will be different according to these perspectives. In Germany, for instance, there is a high emphasis on providing financial information to the long-term stakeholders; whereas in the Anglo-Saxon countries financial information is provided more for the benefit of short-term investors.

Disclosure is an important mechanism of good governance, and should be developed especially in developing countries to attract more investment and encourage rapid growth of the economy. Disclosure improves public understanding of a company's structure, activities, policies and the performance of companies. Companies, especially international ones, should implement more disclosure practice to provide evidence of respect for the environmental and ethical standards and companies' relationships with the communities in which they operate.

3.5 Rights of Stakeholders

Although the literature of corporate governance has concentrated on shareholders' benefits, stakeholders can also play an important role in the corporate governance since they are affected by companies and in turn affect companies in some way when they supply the companies with "contributions". Therefore, they expect their own interests to be satisfied via inducements (Solomon and Solomon, 2004). For instance, in the continental model of corporate governance, stakeholders have power to influence the company's policies. However, stakeholders face many obstacles, including the neglect of their influence from researchers.[14]

One reason for this might be ascribed to the vagueness of the definition of stakeholders and the opaqueness regarding their role (Millan, 2004). Also the complexity of stakeholders' benefit measurement might be another reason for the neglect by policy-makers and researchers. Grundfest (1990) argued that the main reason for neglecting stakeholders in the corporate governance debate could be that shareholders will not allow a challenge to their interests, and managers are unwilling to give other stakeholders the power to "impose on corporations binding obligations to workers, communities or other constitutions".

Since the term corporate governance has been defined as a relationship between the company and its stakeholders, the role of stakeholders in corporate governance has increased and their rights have been identified in most Codes of good practice.[15] For

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[14] This might be ascribed to the flourishing of the model of corporate governance in the Anglo-Saxon region where the focus of shareholders' rights is dominant and the stakeholders' benefits will be protected and increased with the shareholders' interests on the long-term.

[15] OECD Principles defines the corporate governance as "… a set of relationships between a company's management, its board, its shareholders and other stakeholders. Corporate governance also provides the

instance, in Japan and Germany, the interest of stakeholders is not ignored, employees' and creditors' representation in supervisory and management boards is provided.

In the Anglo-Saxon system, stakeholders' rights are protected by the legal system and market regulation. Brennan (2006) argued that under UK law, directors owe their duty to the company, not to the shareholders; whereas in the US the duty tends to be expressed as a duty to shareholders collectively, but this very much depends on individual circumstances. Further, Porter (1992) recommended to USA policy makers that they should encourage long-term employee ownership and encourage board representation of significant financial advisers, employees, customers, suppliers, and community representatives.

The rising concern for social responsibility by companies has increased the concentration on a broad range of stakeholders. In the era of globalisation, companies have increased the shareholders' interest and focused on the welfare of their employees, customers, the environment and the local community. John and Senbet (1998) suggest that managers who are conscious of the company's influence on all stakeholders will decrease the potential for agency problems, since their interests and those of shareholders should be more closely aligned (cited by Frye et al, 2006).

In the MENA region, the role of stakeholders in corporate governance is not as developed as in many other countries. Also, the definition of stakeholders in the region is confined to those who have direct and explicit legal rights such as employees, bondholders and other debtors (RCGWG, 2003).

The OECD (2004) emphasised that the corporate governance should recognise the rights of stakeholders established by law or through mutual agreements, and in para (IV) explained the role of stakeholders as:

- Stakeholders should have the opportunity to obtain effective redress for violation of their rights.
- Performance-enhancing mechanisms for employee participation should be permitted to develop.
- Stakeholders should have access to relevant, sufficient and reliable information on a timely and regular basis.
- Stakeholders, including individual employees and their representative bodies, should be able to freely communicate their concerns about illegal or

structure through which the objectives of the company are set, and the means of attaining those objectives and monitoring performance are determined.

unethical practices to the board and their rights should not be compromised for doing this.

- Creditor rights should be protected by an effective, efficient insolvency framework and by effective enforcement.

Freeman (1984) suggested that companies' aims should not be concentrated on the maximisation of shareholders' welfare, but the company should be extended to include the maximisation of the welfare of other stakeholders such as employees, creditors, suppliers, customers, the environment, and the community. Finally, although depicted as external influences, stakeholders' influence on corporate governance is dependent upon the nature of the system.[16] However, companies should not concentrate only on the interests of their shareholders, but also should have responsibilities to other stakeholders. They should seek a balance between wealth maximisation for shareholders and the interest of other stakeholders. In this point it would be beneficial for companies to determine their stakeholders and respect their interests.

3.6 Conclusion

This chapter has reviewed and identified the differences between the systems of corporate governance regarding the internal aspects of the company.

The issues analysed in detail were in line with the OECD principles which include the responsibilities of board of directors, shareholders' rights, disclosure and transparency practices and stakeholders' rights. Therefore, this chapter has provided many useful insights into the introduction of corporate governance by reviewing the differences of these mechanisms across corporate governance models (insider and outsider systems), through clarifying the main differences between the models of corporate governance.

The literature suggests that corporate governance depends upon the company's predominant disposition towards either the shareholders' or stakeholders' viewpoints. However, the chapter revealed that developing continuous corporate governance is not isolated from other issues which frame the practice of corporate governance. The next chapter presents the external factors that impact the corporate governance, which shape and create the differences between the effect on the framework and practice of corporate governance.

[16] For instance the level of disclosure practice might rely on the stakeholders' level of satisfaction. Therefore, companies should look at stakeholders' demands for disclosure.

CHAPTER FOUR

Corporate Governance between the International Best Practice and the Local Contingency

4.1 Introduction

As mentioned in the previous chapter, there are two categories of issues concerning the practice of corporate governance. The last chapter discussed the internal mechanisms of the practice in line with the OECD (2004) Principles. This chapter provides a brief background to other factors affecting the practice of corporate governance and, therefore, the framework for the best model for a country. Also, this chapter presents and discusses whether globalisation means one-size fits all countries on corporate governance or whether the diversity with more harmonisation of these factors will improve the practice. These factors are: social/cultural influences, legal/political influences, economic influences and the effect of globalisation on the practice of corporate governance.

4.2 Social/Cultural Influences

The influence of environmental factors has become crucial in the practice of corporate governance, especially in transition and developing economies (see, for example, McCarthy and Puffer, 2003).

Kluckhohn (1951) defined culture as consisting of "patterned ways of thinking, feeling and reacting, acquired and transmitted mainly by symbols, constituting the distinctive achievements of human groups, including their embodiments in artefacts; the essential core of culture consists of traditional (i.e. historically derived and selected) ideas and especially their attached values".(cited in Hofstede, 2001: p 9).

Hofstede (1980, p. 25) defines 'culture' as the collective programming of the mind, which distinguishes the members of one group or category of people, who share the same social and cultural environment, from another. Archambault and Archambault (2003) argued that culture influences how people perceive situations and organise institutions.

Although there are two main systems of corporate governance structure, namely the outside and the inside system, in practice, there is no full symmetry in corporate governance systems in different countries. For example, Rabelo and Vasconcelos (2002) observe that companies pass through significant transformations due to the combined forces of socio-political changes, technological progress and economic trends toward globalisation. These elements, along with the structural characteristics of developing economies such as less developed capital markets and governmental interventionism, make the practice of corporate governance fundamentally different from the practices found in developed economies.

Culture also has a social function by allowing an organisation to survive and adapt to the external environment since the corporation is an artificial entity which faces interactions between different groups. The values that guide the behaviour of stakeholders will impact on their actions in the company's activity. Haniffa and Cooke (2002), for example, found that the culture factor is significantly associated with the extent of voluntary disclosure in Malaysia. McCarthy and Puffer (2003) argued that Russians would be reluctant to accept corporate governance systems inconsistent with their cultural traditions since they would be seen as unfamiliar and uncertain. Also, Qu and Leung (2006) found that the transparency of corporate disclosure could hardly be achieved in the traditional Chinese cultural environment.

Hofstede (2001) indicated that corporate governance is related to corporate financial goals, and these goals are not culture-free. He also provides a framework depending on four dimensions of societal values: large versus small power distance, individualism versus collectivism, strong avoidance versus weak uncertainty avoidance, and masculinity versus femininity.

1- Power distance represents the extent to which people tolerate unequal distribution of power within society.
2- Individualism refers to the extent to which people are independent as opposed to collectivism, in which people are organized into strong groups.
3- Uncertainty avoidance represents the extent to which the people feel threatened by unknown situations.
4- Masculine societies stress achievement, heroism, assertiveness, and material success, whereas feminine societies stress relationships, modesty, caring for the weak and quality of the life (Archambault and Archambault, 2003)

Culture has been employed to guide the formation of several accounting and reporting theories, which significantly enrich the explanations about the different accounting practices and reporting systems among different countries (Qu and Leung, 2006). Gray (1988), for example, suggests that a link between societal values and accounting systems can be established and the influence of culture can be assessed. He provided four sub-cultural accounting values namely: professionalism versus statutory control, uniformity versus flexibility, conservatism versus optimism and secrecy versus transparency. On these values, there is a reverse relationship between secrecy and public disclosure that when secrecy increases, the amount of public disclosure decreases. Also, secrecy increases with uncertainty avoidance and power distance and decrease with individualism and masculinity (Archambault and Archambault, 2003).

A country's history plays a significant role in its culture, values, and traditions: in Russia, for example, the pervasive power of the state over companies is likely to remain (McCarthy and Puffer, 2003). Haniffa and Cooke (2002) explained that the Malays have high uncertainty avoidance which may be attributed to their strong religion, which is reflected in their values of non-assertiveness, conflict avoidance and uneasiness in dealing with ambiguities and uncertainties. Also, they found that the Chinese are rated low on uncertainty avoidance, as evidenced by their greater acceptance of new challenges and willingness to take greater risk in terms of individualism. The Malays are rated lower on individualism, which is partly attributed to their religion (Islam) which encourages collectivism because under Islam, the preferred social order is closer to collectivism and rights to private ownership are ultimately subordinate to Allah. In contrast, the Chinese are considered to be more individualistic at the national level which may partly be attributed to the presence of a communal ideology and the ethnic polarisation in the socioeconomic structures. Religious beliefs greatly influence the cultural fabric. For instance, Islamic tradition places ethical/ social activity ahead of individual profit maximisation, and speculative investment such as margins trading is not allowed since Islam prohibits transactions involving uncertainties, and, therefore, the majority of Muslims are reluctant to engage with these business activities.[17]

However, the spread of education, especially business schools, and, the growth of globalisation will advance the precepts of good corporate governance practice, and at the

[17] No Islamic organisations deal to these activities but adhere with the Islamic regulations by establishing the Sharia Committee. Therefore, such organisations have been increased in Islamic world and in Muslim communities in western countries.

same time, cultural values, traditions, and ethics will continue to evolve in each country, with more convergence with similar standards.[18]

Bonn and Fisher (2005) argued that an organisation's approach to ethics must be addressed in its corporate governance framework. However, this is just the first step if the organisation is interested in more than simple compliance with corporate governance principles. Solomon and Solomon (2004) argued that companies should improve corporate governance and discharge accountability to all of their stakeholders, purely because it is ethical. Therefore, regardless of the predominant culture, ethical values can help companies develop long-term relationships with shareholders and other stakeholders. Furthermore, collaborations between global companies and host countries hold the promise of considerable development in the fight against corruption (Potts and Matuszewski, 2004). McCarthy and Puffer (2003) argued that establishing a system of corporate governance practice must be based on a foundation of ethical beliefs and behaviours, and any uncertainty about some ethical behaviour could lead to confusing and potentially unacceptable actions related to corporate governance.

Corporate social responsibility is derived from ethical attitudes (Solomon and Solomon, 2004). Potts and Matuszewski (2004), for example, argued that since the revenues of some companies began to exceed the GDP of many countries, companies will have functions traditionally handled by government such as setting standards of being responsible for the social well-being of stakeholders, in the areas of training and education, and assuming a degree of environmental stewardship. The OECD (2004) recognises that its Principles can be adapted to the specific circumstances of individual countries and regions according to the differences in culture, legal and economic circumstances.

In summary, in spite of a recent tendency toward convergence in corporate governance systems, each country's corporate governance system reflects its unique social/cultural

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[18] Although there is no doubt that the business schools improved the accounting and management sciences in the world, business schools have been criticised in developed economies, especially in the UK and the US. For instance, Podolny (2009) argued that relying on quantitative methods and mathematical models instead of qualitative techniques and inductive approaches has created greater rigor in business schools, but the study of management challenges became fragmented. This has led to two unintended consequences. First, business schools have largely ignored the teaching of values and ethics because those are not subjects of inquiry for traditional business school academic disciplines. Second, those leadership and ethics courses that are taught are soft, in the sense of analysis. Ghoshal (2005) also criticised the business schools education in terms of the principles of theories and ideas. He suggested that business schools do not need to create new courses, but they need to stop teaching some old ones.

profile (McCarthy and Puffer, 2003). Therefore, the challenge is how every country, especially developing ones, can find a balance between developing its economy by attracting foreign investment and at the same time maintaining its identity.

4.3 Legal / Political Influences

Another important factor in the development of good corporate governance are the legal and political systems. The legal and political trends, especially in the long term, reflect the values of the underlying business culture (McCarthy and Puffer, 2003; Saidi, 2004). In this way, the OECD Principles (2004 para I.) stated that:

> "The corporate governance should promote transparent and efficient markets, be consistent with the rule of law and clearly articulate the division of responsibilities among different supervisory, regulatory and enforcement authorities".

In the last two decades, many economies have retreated from the centrally planned model to an open-market system. This transformation imposed in these economies a need to enact laws, regulations and policies to pave the way for transition. In Russia, for example, since the 1980s, many laws were enacted to establish and improve the transition stage. In the later 1990s, a new Joint Stock Company Law aimed at strengthening shareholder rights was established, and the Law on the Securities Market strengthened corporate governance by offering some protection to minority shareholders. In 2000, tax reform laws set a lower flat tax rate for companies and individuals, encouraging a more honest approach to reporting corporate profits and personal income (McCarthy and Puffer, 2003).

Egypt, in recent years, also has shown increased interest in upgrading legal structures and corporate governance practices to world standards. The Egyptian government is reviewing commercial law to develop a Unified Corporate Law, an Audit and Accounting Law and an Anti-trust Law (Nganga et al, 2003). In Libya, despite Commercial Law being established in 1953, trade was prohibited by government from 1977 to 1988. In the later 1990s, many laws, regulations and policies were enacted to adapt to the world economy.[19]

Saidi (2004) distinguished between two models, the US model (Sarbanes-Oxley Act), based on the enforcement of rules, and the UK model (Cadbury Report) a less costly approach, which is based on compliance with principles. Further, he suggested that because the US

[19] The most important laws and regulations enacted were: the foreign investment No 5/ 1997, the business activities laws 1988 and free zone law in 1999.

model needs a good set of regulators, and it is very costly to apply, especially for small companies, emerging market countries should follow the UK corporate governance model.

However, a system of governance that is based on law may not be effective in developing economies, where social connections and political intervention have a high influence on the governance practice. Berglöf and Claessens (2006) argue that whether there is a regulation, law or voluntary code, enforcement is the key to creating an effective business environment and a good corporate governance system, especially in developing countries and transition economies.

In the African continent, some countries like Kenya, Nigeria, Morocco, Ghana, Zimbabwe, Egypt, Mauritius, Botswana and Tunisia are reviewing or have recently amended their commercial laws to improve shareholder protection and accommodate corporate governance issues. However, in practice, the legal systems remain slow and inefficient and most investors are hesitant to use the courts due to the length of time it takes to obtain a satisfactory resolution (Nganga et al, 2003).

A corporate governance system cannot be effective without political support, institutional reforms and an independent judiciary. For instance, Saidi (2004) argued that no effort to improve transparency and accountability in the MENA region will succeed until they are supported by better policies and stronger institutions.

Foreign investors need to be assured that the system of corporate governance put in place is effective, in order to win their confidence to invest. For instance, the former US President, Bill Clinton, recognising the enormous investment potential in Nigeria, called on the government to put its house in order so as to attract prospective investors (Okike, 2007).

In August 2006, the leader of the Libyan revolution, Muammer al-Gaddafi in a move to increase transparency requested Ministries and Chief Executive Officers to disclose the properties owned by themselves, their wives or their children (Libyan channel on 1/9/2006].[20]

Political and economic constraints, resulting from the intermingling of business and politics, often prevent improvements in the enforcement environment and the adoption and implementation of public laws (Berglöf and Claessens, 2006). A good example of the interplay between corporate governance and political factors is the trade sanctions

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[20] This calling might be because of the spread of corruption in the country, especially in public sectors and the state-owned companies. Also, it is confirmed by the global corruption report in 2007 where Libya ranked 131 out of 179

prohibiting studying at US Universities which were imposed by the US government against Libya in 1981.[21]

A further aspect of the impact of policies on corporate governance is by affecting the attractiveness to foreign investors. In most developing countries, like Libya, the economy still depends upon natural resources like oil and gas. Therefore, the country encourages foreign investment in these sectors more than others. This situation has seen significant strides in towards increasing foreign investment in raw materials. The above examples would support the Shleifer and Vishny's (1997) arguments that:

> "Corporate governance mechanisms are economic and legal institutions that can be altered through political process. Therefore, corporate governance should be driven by cooperation between the private and public sectors and by broad-based political support''.

4.4 Economic Influences

The economic framework is another important factor in corporate governance practice. The World Bank has demonstrated that good governance serves as one of the most important basic engines for economic growth, development and prosperity (Saidi, 2004). Consequently, in developing countries, good corporate governance becomes a part of the economic reform efforts. Also, good corporate governance practice is recognised as essential for the creation of a better and more attractive investment climate, and has become one driver of economic growth in these countries (RCGWG, 2003). In a similar light, the OECD principles (2004) stated:

> "Corporate governance is only part of the larger economic context in which firms operate that includes, for example, macroeconomic policies and the degree of competition in product and factor markets".

Most developed countries have benefited from globalisation and cooperation through international bodies such as the Organisation for Economic Co-operation and Development (OECD) and World Bank, and achieved more convergence between corporate governance systems to attract international investment. However, in many developing economies, the transition to a market economy is still in the early stage, and governments retain a large ownership position in many sectors of the economy. For example, RCGWG (2003) found, in the Middle East and North Africa region, that despite most countries having privatised

[21] After Lifting the sanction by the US government, the US companies returned to invest in Libya and also students got the chance of studying there.

state-owned companies, many of these companies still tend to have considerable state ownership and control. Reed (2002) argued that the poor economic performance and the resultant high international debt levels in developing countries have required the intervention of the World Bank which has frequently advocated increased focus on governance issues as a part of general reforms in these economies.

The accounting and auditing profession is another factor affecting corporate governance through its role in preparing and testifying the companies' annual reports. The OECD Principles (2004) stated that:

> "Information should be prepared and disclosed in accordance with high quality standards of accounting and financial and non-financial disclosure". (Section V B)

Accounting information is the cornerstone of monitoring a company's management and enables shareholders and other stakeholders to evaluate the performance of top management. With the importance of information in annual financial reports, the legal system in most countries has required an examination of companies' annual reports by external auditors to provide independent judgment on the reality of reports. Thereby, the external audit represents one of the most important corporate governance mechanisms used to monitor a company management's activities (Solomon and Solomon, 2004).

External auditors are appointed by the general meeting of shareholders by the Supervisory Board in the two tier system or in others by the board itself. Having a company's reports approved by qualified auditors is a point of legitimacy, and a highly positive evaluation of a company's corporate governance. Although it is entirely management's responsibility to prepare annual accounts, an external audit can significantly influence the amount of information disclosed in their normal course of duty (Barako et al, 2006).

The relationship between audit committees and external auditors is complex. The audit committee's involvement in strengthening internal controls might lead the external auditor to reduce the assessed level of control risk, resulting in less substantive testing (Collier and Gregory, 1996). However, external auditors do not exert a significant influence on the level of voluntary disclosure by companies (see, for example, Barako et al, 2006).

4.5 Globalisation and Corporate Governance Practice

Corporate governance systems differ dramatically along a number of important dimensions such as the ownership structure, board composition, board size, and the legal, cultural and political factors. The 1990s saw a boom in institutional investor activity with large institutional investors holding foreign equities in different countries.[22] These demands, operated on a global basis, advocate good governance practices characterised by similar mechanisms of corporate governance such as independent boards, separation of the chairmanship and CEO roles and the presence of independent audit and remuneration committees and increasing disclosure norms (Markarian et al, 2007).

Hence, international harmonisation of corporate governance has become more common through the growing integration of financial and product markets (Nestor and Thompson, 2000). This convergence has been supported by rising international trade and international harmonisation in financial markets (Solomon and Solomon, 2004) as well as by the increasing competition between companies around the world (Gugler et al, 2004).

Garrett (2004) highlights several drivers of convergence, mainly the market for corporate control, listing standards of exchanges, effects of international organisations (such as the OECD, IMF), and the effects of various political and regulatory factors.

Nestor and Thompson (2000) argue in a similar current of thought, stating that the causes of convergence in governance practices include the globalisation of markets, where institutional investors insist on international norms of governance, especially in regard to transparency and the rights of minority shareholders.

Globalisation entails a lifting of barriers to the mobility of capital, products, and labour, leading to an intensification of competition for these factors across borders by companies and countries (Khanna et al, 2002). On this point, Reed (2002) defined globalisation "as a process of structural change, which can be understood in terms of a series of interrelated changes involving three basic structures, methods of production, forms of state and the international economy". Therefore, globalisation leads to increasing flows of finance, trade and human capital.

With regard to governance-related disclosure practices, Markarian et al (2007) indicate that disclosure practices have been both evolving and converging, for Anglo-Saxon and non-Anglo-Saxon companies, towards more disclosure regarding governance matters. Increased disclosures are associated with market liquidity, reduced cost of capital, and greater overall transparency, and such increased disclosure in both governance regimes seems to be a step in the right direction.

[22] For example, institutional ownership of US public companies shares increased from 6 per cent in 1950 to 47 per cent by the end of 1996 (Markarian et al, 2007)

Glison (2001) argued that an aspect of the convergence debate recognised the distinction between the following types functional and formal convergence:

Functional convergence is likely to be the first response to competitive pressure. In this convergence, there are no predicted differences among the systems of monitoring management. For instance, the tenure of senior management in all systems is equally sensitive to poor performance, whether measured by stock market returns in Anglo-Saxon companies or accounting earnings in others.

Formal convergence is a second form for which legislative action is required to alter the basic structure of existing governance institutions; however, there is no formal convergence because each system's governance institutions have sufficient flexibility to find a solution within their path dependent limits. Also, Glison argues that formal convergence of continental corporate governance to the U.S. model can be expected to be very difficult, especially when it comes to matters of corporate control.

There is much debate between scholars on whether globalisation should pressurise companies to adopt a common set of the most effective corporate governance practices, while others maintain that such convergence will not occur because of a variety of forms of path-dependence. Moreover, advocates of the merits of globalisation argue that the freeing up of capital flows will lead to the more efficient allocation of capital by improving investors' access to investment opportunities and companies' access to financing. Consequently, we need globalised corporate governance approaches (O'Sullivan, 2000).

Globalisation might have encouraged the adoption of some common corporate governance standards, but there is a little evidence that these standards have been implemented (Khanna et al, 2002).

The convergence of corporate governance does not mean victory of one system over another. It should be seen as giving more choices to companies. The patterns of ownership and control should ultimately correspond more to the needs and characteristics of a particular company than to the prevalent system of corporate governance in the county. Companies should have the possibility to move from one regime to another as they grow and their needs and constituencies change (Nestor and Thompson, 2000).

Convergence in corporate governance seems to be in standards more than on forms and mechanisms. So, the convergence should take advantage of each system. For instance, convergence of corporate governance should favour the Anglo-Saxon model in terms of the external mechanisms and favour the German model in terms of internal mechanisms.

4.6 Corporate Governance in Developing Countries

Despite the underdeveloped and informal nature of the third world economy, the issues of corporate governance have been given attention by countries and international institutions such as the World Bank. Developing economies have become a fertile region to research regarding corporate governance, although these studies are still limited. In developing countries, also many conferences and workshops have been held alongside the World Bank and other international organisations to improve corporate governance practice. For instance, with an aim of providing Arab perspectives on OECD principles of corporate governance, the Global Corporate Governance Forum, the centre of International Private Enterprises, and local partners in Morocco, Egypt, Lebanon, and Jordan, organised a series of corporate governance meetings to evaluate the state of corporate governance practices in these countries and develop a set of recommendations to present to the OECD. The first meeting was held in Cairo in September 2003, and advanced a series of recommendations to the OECD on the principles. The second meeting was held in Beirut on June, 2004 and aimed to address practical implementations of corporate governance in the Arab World with a focus on improving transparency and disclosure (Saidi, 2004).

In 2003, the Regional Corporate Governance Working Group in collaboration with the Egyptian Ministry of Foreign Trade studied the Corporate Governance in Morocco, Egypt, Lebanon, and Jordan countries of the MENA Region, and they concluded that:

- Corporate governance has been promoted at different levels in the countries of the MENA region. However, the issue has been approached differently and with distinct depth depending on the sophistication of the country's financial sector.
- Corporate governance principles should be a vehicle for markets to grow rather than an impediment.

Hussain and Mallin (2002) investigated the existing state of corporate governance in a country in the Middle East: Bahrain. They found that Bahraini companies have in place several of the features of international corporate governance best practice. They found that boards are dominated by non-executive directors, and there is separation of the roles of Chair and CEO. However, they argued that it is not clear how effective the nomination appointments process is and directors tend to be fairly entrenched. In 2003, they also examined the dynamics of corporate governance by analysing the board structures of companies in the country. They found non-executive directors dominated the board composition, and key factors influencing the appointment of these directors were relevant skills and business experience and reputation. However, none of the companies had a nominations committee and, therefore, non-executive directors were generally nominated by the board as a whole, by major shareholders, or Chairmen/CEOs.

In addition, non-executive directors appeared relatively independent as, in the majority of cases, the non-executive directors were not former executive board members or major shareholders. They concluded that:

> “Whilst Bahrain does not have a corporate governance code per se, the company law reforms contain some interesting provisions that will contribute to the corporate governance in Bahrain. Amongst these provisions is one that excludes directors from being on more than three boards. There are therefore some encouraging features and developments in corporate governance in Bahrain" (2003: p.249).

Bremer and Elias (2007) investigated the challenges facing the progress of corporate governance in Egypt by using historical, empirical and interview data with a review of the development of stock markets and accounting and financial reporting standards. They analysed the structures of capital markets, the privatisation policy, board structure, the culture and the legal environment of corporate governance.

They found that even though the challenges to improve corporate governance in Egypt appear daunting, recent developments indicate that momentum may be building for change. The Egyptian Institute of Directors have organised conferences and training programmes with the support of World Bank and the International Finance Corporation. They identified greater understanding of corporate governance by the accounting profession to improve the transparency and disclosure practice, and that the capital market authority had exerted some energy in getting compliance up to standards. However, they also found challenges to corporate governance in Egypt which derive primarily from the deficiencies of the macroeconomic and political environment, as evidenced by the index of economic freedom in 2007 that ranks Egypt 127th out of 157 countries.

El Mehdi (2007) examined the relationships between corporate governance and corporate performance in Tunisia. He found a strong relationship between good governance and performance. He concluded that companies ought to look for ways to get rid of weak corporate governance in order to enhance performance levels. He concludes that corporate governance practice is weak in Tunisia because of the ownership concentration, the weak quality of regulation and the limited role of the legal texts.

Saidi (2004) explored the role of corporate governance in the MENA region in improving the transparency and disclosure practices and he found that:

- The values of corporate governance- transparency, accountability and responsibility- offer the key for the modernisation of the countries of the region.
- The private sector business community can play a leading role in economic, political and social reforms.
- National institutions, laws, regulations and practice based on international norms and standards would enable the countries of the region to modernise their corporate sector, as well as to attract technology and foreign investment and become internationally competitive.
- The process of designing and implementing the basics of corporate governance- transparency and regular reporting, independent auditing, removal of conflicts of interest, improved ethics, protection of minority shareholders' rights - provides a foundation for meaningful reform in the economic sector and elsewhere in society.

Najib (2007) considered the current state of corporate governance in Arab Countries. His results showed that Arab Countries, especially Morocco, Jordan and Egypt, have legal and regulatory frameworks are largely compliant with the OECD Principles of Corporate Governance. However, practices are not. Another key finding was that corporate governance issues have not been ignored in public debates in the MENA region.

Chahine and Safieddine (2008) studied the corporate governance and the external monitoring of banks in Lebanon. They found that, although the main role of banks is financing, Lebanese banks are both active monitors of and resource providers to their corporate clients. Their findings indicated that developing-country banks have a substitution role that allows them to act as channels for implementing good corporate governance practices. The greater involvement of banks with their larger corporate clients may ensure better oversight of the risks encountered by banks in their clients' operating activities.

From the above discussion it may be concluded that many Arab countries (e. g. Egypt, Morocco, Bahrain, Tunisia and Lebanon) have been paying increasing attention to the corporate governance system and trying to install principles of good corporate governance. This is clear from reviewing the corporate governance literature in these countries. Some studies have concentrated on the corporate governance model used in each country, others focused on issues of current practice. From these studies it can be concluded that Arab countries are concerned such as other developing countries about the corporate governance to develop their economy and improve the management practice. The studies investigated the weakness of the corporate governance mechanisms and the low enforcement of the legal system as the main reasons prohibiting the good practice of good governance. Also, the studies revealed that the development of financial and economic and the cultural norms affect the practice in the Arabic world.

A significant amount of research, theoretical and empirical, has explored the phenomenon of corporate governance in the developing economies. Table 4.1 summarises some of these studies including the main findings.

Table 4.1 Summary of Previous Studies in some Developing Countries:

Author(s)	Year of study	Location	Title of study	Findings
Yakasai	2001	Nigeria	Corporate Governance in a third world country with particular reference to Nigeria	Providing the recipes that would ensure good corporate governance in the private sector, particularly in Nigerian banks.
Haniffa, and Cooke	2002	Malaysia	Culture, corporate governance and disclosure in Malaysian corporations	**1-** There is a significant association (at the 5 per cent level) between two corporate governance variables (*viz*. chair who is a non-executive director and domination of family members on boards) and the extent of voluntary disclosure. **2-** The culture factor (proportion of Malay directors on the board) is significantly associated (at the 5 per cent level) with the extent of voluntary disclosure suggesting that governmental focus on culture may solicit a response to secrecy from those who feel threatened.
Ahunwan	2002	Nigeria	Corporate Governance in Nigeria	The success of corporate governance reforms is linked to broader governance reforms of the Nigerian state. One might argue that the international economic order sets the context in which states like Nigeria

				have to compete in the global economy
Solomon et al	2003	Taiwan	Corporate Governance in Taiwan: empirical evidence from Taiwanese company directors	**1-** The Board of Directors constitutes the most important instrument in Taiwanese corporate governance. **2-** An important role is played by outside directors in the corporate governance system in Taiwan. **3-** Respondents endorsed the agency theory perspective on corporate governance as they considered the presence of outside directors' improved corporate accountability to shareholders. **4-** Few companies had created remuneration and audit committees **5-** Directors displayed an awareness of accountability issues and a desire to improve accountability and transparency.
Allen	2005	Emerging Economies	Corporate Governance in Emerging Economies	**1-**Pursuing the interest of all stakeholders may help overcome market failures. **2-** The mechanisms such as competition, trust and reputation may be preferable to legal measures to ensure good corporate governance
Lin	2005	Taiwan	Corporate Governance, Leadership Structure and CEO Compensation: evidence from Taiwan	.**1-** The paper supports the viewpoint of stewardship theory whereby the CEO acts as a steward of his/her company when he/she also holds the position of chairman of the company. **2-** The findings show that CEO compensation will be high when the board's control is relatively ineffective. **3-** The shareholdings of the Board of Directors can reinforce the degree of control from the board.
Ahmed and Yusuf	2005	Bangladesh	Corporate Governance: Bangladesh perspective	This study provided a conceptual framework of corporate governance along with an analysis of corporate governance in Bangladesh. The study also found various factors including poor legal enforcement, discretionary powers of the corporate top management, overriding

				regularity provisions, the lack of standard practice in financial reporting and auditing and the absence of strong pressure groups have caused the weakness of corporate governance in Bangladesh.
Vaughn and Ryan	2006	South Africa	Corporate Governance in South Africa: a bellwether for the continent	**1-** Corporate governance reform should be viewed as a dynamic, evolving process. **2-**The implementation of governance and legislation is an important start. The process should be continually assessed, progress measured and necessary changes enacted. **3-**South Africa has led the way in establishing sound corporate governance guidelines that can serve as bench-mark for other African countries.
Haniffa and Hudaib	2006	Malaysia	Corporate Governance Structure and Performance of Malaysian companies	**1-** Board size and top five substantial shareholdings are significantly associated with both market and accounting performance measures. **2-** There is a significant relationship between multiple directorships and market performance while role duality and managerial shareholdings are significantly associated with accounting performance.
Berglöf and Claessens	2006	Developing Countries	Enforcement and Good Corporate Governance in Developing Countries and Transition Economies	The study explained how we can improve corporate governance in weak enforcement environments. The limited empirical evidence suggests that private enforcement tools are often more effective than public tools. Concentrated ownership aligns incentives and encourages monitoring, but it weakens other corporate governance mechanisms and can impose significant costs. Political economy constraints, resulting from the intermingling of business and politics, often prevent improvements in the enforcement environment and the adoption and implementation of public laws.

Krambia-Kapardis and Psaros	2006	Cyprus	The Implementation of Corporate Governance Principles in an Emerging Economy: a critique of the situation in Cyprus	**1-** Only a small minority complied with all significant aspects of the Code, and the vast majority did not comply with any. **2-** Typical free market controls (e.g. low degree of concentration of ownership, reliable and timely information flows and opportunities for investor diversification) that facilitate international institutional investment did not exist in Cyprus. **3-** Cyprus was making serious endeavours to improve the corporate governance of its listed companies
Okike	2007	Nigeria	Corporate Governance in Nigeria: the status quo	There is a case for adherence to global corporate governance standards: however, any Code of Best Practices adopted in Nigeria must reflect its peculiar socio-political and economic environment, whilst at the same time providing the right assurances to prospective investors.
Tsamenyi et al	2007	Ghana	Disclosure and corporate governance in developing countries: evidence from Ghana	The level of disclosure in Ghana is low. Ownership structure, dispersion of shareholding, and firm size (measured as total assets and market capitalisation) all have significant effect on disclosure. However, the correlation between disclosure and leverage is insignificant.

The corporate governance literature is dominated by empirical studies in the industrialised countries of Western Europe, the USA and Australia. Even international comparative studies of corporate governance have focused on analyses of the differences and similarities of the practices in these countries only (e. g. Keasey and Wright 1993; Mallin, et al, 2005; Collett and Hrasky, 2005; Melis, 2000; and Shleifer and Vishny, 1997). Attempting to generalise the findings of these studies to less developed economies can be dangerous since the stage of legal and economic development and social and cultural norms are likely to be important factors affecting the corporate governance framework. Differences in country, time period and explanatory variables also make generalisations questionable. Though some improvements have been made, corporate governance is at its first steps in most developing countries. Few studies are available on corporate governance in the developing nations; except for the context of newly industrialised countries such as Malaysia, Singapore and South Africa.

Table 3.1 revealed that the association between the corporate governance framework and the economic development, legal system and enforcement and cultural and social norms have been reported. Yakasai (2001); Ahunwan, (2002); Allen, (2005); Ahamed and Yusuf, (2005); Vaughn and Ryan, (2006); Berglof and Claessens, (2006); Okike, (2007) found a link between the corporate governance framework and the state of economic, legal and political systems. For instance, Allen (2005) found that the stakeholder model of corporate governance is more useful to developing countries, since pursuing their interest might help overcome the market failure in these economies.

Tsamenyi et al (2007) and Haniffa and Cooke (2002) found evidence between the practice of corporate governance and level of disclosure. In this point Tsamenyi et al (2007) found evidence that corporate size, ownership structure and dispersion of shareholding have a significant influence the level of disclosure in Ghana. Concerning the relationship between corporate governance and the company directors, many studies carried out in developing countries explore the role of board members in practicing good corporate governance. Solomon et al (2003) found that the Board of Directors constitutes the most important instrument in Taiwanese companies. Also, they found that non-executive directors play an important role in corporate governance in Taiwan. Haniffa and Cooke (2002) also found the significant association between the chair who is a non-executive director and the voluntary disclosure in Malaysia.

Finally it can be easily noted that developing countries are more aware of the importance of developing the corporate governance. This attention confirms that corporate governance has become a necessity for all countries, not a luxury for developed countries. Also, these studies explored the need for radical developments in developing countries in terms of legal system and economic policy to pursue the economic and managerial developments in other world. Further, studies revealed that developing countries can benefit from the developed countries’ frameworks and international organisations’ guidelines to develop their governance practice.

4.7 Conclusion

This chapter has discussed the issues and factors which differ between economies in terms of the adopting of corporate governance.

The discussion explained that there are two main models of corporate governance framework. Corporate governance practices differ dramatically across countries reflecting their own identity. The ownership structure, legal system, cultural and ethical norms, political and social factors are the main issues which influence the practice of corporate governance in a country.

Globalisation and the growth of international companies have influenced the practice and encourage countries to modify their existing frameworks to become closer to international standards of best practice. However, the discussion revealed that the functional convergence of corporate governance is likely to be a first response to globalisation. Also, it revealed that there are no predicted differences among the systems of monitoring management in the different systems.

In the same vein, the formal convergence still differs between countries because it requires alteration of the basic structure of existing governance institutions, which is very difficult to achieve in a short period.

Significant numbers of studies have examined the subject of corporate governance in the context of developed and developing countries. All these countries have placed attention on corporate governance to increase their ability to adapt to international corporate governance standards and at the same time maintain their specific culture norms.

In conclusion, these factors have been major influences on the practice of corporate governance that countries should take into account before establishing a framework.

In the MENA region, many studies have concentrated on corporate governance; however, there is no evidence that this subject has been examined in Libya. Therefore, the next chapter will focus on the practice of corporate governance in the Libyan context and concentrate on the main factors that are likely to influence Libyan practice, such as the economic and accounting environment in Libya, the historical development of the accounting profession, and the principal constraints of the good practices.

CHAPTER FIVE
The Corporate Governance Framework in Libya

5.1 Introduction

Each country aspires to achieve the maximum economic prosperity and sustainable development. Therefore, governance reforms have become an important mechanism for economic growth and investors' confidence.

In the Middle East and North Africa (MENA), governance reform has risen to the forefront of the development debate. In the 1990s, the MENA region experienced growth in the private sector which led to the reengineering of the business process by amending the complex, arcane legislation, regulations and procedures which had been imposed upon citizens (Middle East and North Africa governance News & Notes, 2007). This chapter will explore the environment of the Libyan economy and aspects of the current situation in Libya, especially the debate on development. The main themes of this chapter are selected in the light of the findings of previous chapters in terms of key influences on corporate governance practice and reform.

Good corporate governance practices are country specific and depend heavily on the level of development of a country. In the transition from a relatively inward-oriented system of economic and political governance to a more open, market-oriented one, Libya is undergoing a process that most developing countries have already been through. In reforming its economy, Libya is seeking to attract international investment.

The purpose of this chapter is to provide an introduction to the corporate governance in Libya. The chapter begins by examining broadly the theme of corporate governance including economic policy, legal system, shareholders' rights, the practice of disclosure and the role of the Libyan Stock Market in the development of the practice. In addition, details on the main limitation of the reforms of the corporate governance framework, including the ownership structure and the low enforcement of legal system, will be provided in this chapter.

5.2 Libyan Economic Policy

Libya is a developing country located in North Africa with an area exceeding 1.75 million square kilometres and a population of 5.3 million in 2006 (www. gpco.gov.ly). The Libyan social environment is characterised by the extended family, clan, tribe, village and Islamic religion and about 97% of Libyans are Sunni Muslims. The economy of Libya is unique in many aspects, accompanied by the peculiar characteristics of its political regime (Ahmad and Gao, 2005).

The development of the modern Libyan economy started with the independence of the country in 1952. Libyan economic development was extremely bleak until 1959 when it first discovered oil, and economic prospects changed dramatically (Bait El-mal et al, 1973).

During the period from independence to the Al-Fateh Revolution (1952-1969), the Libyan economic system was mostly capitalist. Private ownership existed with minimum governmental intervention. Public ownership was in activities that needed large scale investment. The government commenced a number of steps to promote and encourage competition and the establishment of private businesses. These included the enactment of import and export laws demanding that the importation of competitive overseas goods be subject to licence. Important steps included the establishment of the Industrial and Real Estate Bank of Libya to provide loans to Libyan entrepreneurs to build local industries, and the establishment of the Industrial Research Centre to help put into practice the country's development plans by offering technical and economic services in both the public and private sectors (Bait El-Mal et al, 1973).

On 1st of September 1969, Libya faced a big alteration to all aspects of life, when the monarchy was overthrown by the Al-Fateh Revolution.

In 1972, a new political, administrative and legislative system was introduced as part of the People's Revolution, which established a socialist state, to be governed only by the people. Col. Muammer al-Qaddafi created a system of government that rejects political parties and purports to establish a "third way", superior to both capitalism and communism. The country's governing ethos derives predominantly from Qaddafi's "Green Book," which calls for an almost total dismantling of traditional state organs (The U.S. Commercial Service, 2004). After the Declaration of the People's Authority in 1977, Libya became a 'State of the Mass' or a Jamahiriya, and only the people controlled the leadership, authority, wealth, and arms so as to realize a “society of freedom” (Ahmad and Geo, 2005; The US Commercial Service, 2004).

The declaration of the Principles of Authority of the People on March 2nd 1977 founded the completely new system of distribution of authority by adopting the following four points:

1. The official name of Libya will be ‘‘The Socialist People’s Libyan Arab Jamahiriya.’’
2. The Holy Qur’an is the constitution of society in the Socialist People’s Libyan Arab Jamahiriya
3. The People’s direct democracy is the basis of the political system in the Socialist People’s Libyan Arab Jamahiriya, where the authority is in the hands of the People alone. The people exercise their power through the People’s Congresses, People’s Committees, Syndicates, Unions, Professional Associations and the General People’s Congress.
4. Defence of the homeland is the responsibility of every citizen, male and female, and by general military training, the people shall be trained and armed. The method of preparing the military institutions and general military training will be regulated by law.

Laws are discussed through the People's Congresses and then issued by the General People's Congress.

The economic environment changed as a result of several actions taken under the new political system, which emerged with the Al-Fateh Revolution. These events started with nationalising foreign companies that were operating in Libya, restructuring the economy with regard to new political, administrative and legislative principles through establishing public-owned companies and eliminating private and foreign companies.

In the 1980s, the State owned and controlled most of the business activities. Businesses such as manufacturing activities, foreign and domestic retail trade, and banking and insurance services were all owned by the State and under its supremacy (Kilani, 1988).

As result of its misgovernance, the inefficient state-owned sector continued to hinder Libyan’s economic growth and development. This situation forced Libya to relax controls on the non-state sector. Consequently, in early 1987, Libya’s economic system began gradually changing from a planned economy to a market economy with socialist features. Companies have undergone significant changes that focus on economic and management reform. Subsequent laws allowed for the “practice of economic activity” and the creation of private banks (The US Commercial Service, 2004).

During 1988, the economic liberalisation was encouraged by issuing the law No 8 /1988 which allows private business in the retail trade, and small-scale industries. In 1992, the General People's Congress passed a Privatisation Law No 2/ 1992, permitting the sale of state property to non-governmental Libyan interests (The US Commercial Service, 2004). This provided more liberalisation of economic activities to help the country reduce the pressure on the government general budget which was suffering from the global oil price decline. Many sources point to the enactment of Law No 5/1997, the encouragement of Foreign Investment law, as a watershed event, setting out the terms under which foreigners could invest in Libya (The US Commercial Service, 2004). The Act encourages foreign investments in areas that would result in transferring modern technology, diversity of income resources, and contributing to the development of GDP so as to help Libya’s entry into the international markets.

In 2004, General Secretary (Prime Minister) Dr Ghanem announced his intention to launch a massive privatisation effort, encompassing over 380 companies. In order to achieve the new strategic objectives Libya created by a new Act in 1999 so-called free zones (The US Commercial Service, 2004). Consequently, in the transition from a directed economy to a free market, Libya is undergoing a process that many developing countries have already been through. For instance, it attempted to attract international investment alongside development of the capital market and privatisation by converting state-owned companies into shareholding corporations.

5.3 The Legal System in Libya and the Role of the Board of Directors

According to the OCED Principles (2004), the foundation for any corporate governance is provided by the basic legal framework. Moreover, it recommended that the corporate governance should be consistent with the rule of law. La Porta et al (1997) examined the relationship in 49 countries between the legal system and the corporate governance system. The found that there are three forms of legal systems in relation to corporate governance system. The French legal system afforded the lowest level of investor protection, the English legal system afforded the highest level, while the German and Scandinavian legal systems lay somewhere between these two systems.

The Libyan legal system is based on a combination of French Civil Law and Islamic legal principles. The formal sources of the law, as set down in the first Article of the Civil Code, include legislative provisions, Islamic principles, custom, and principles of natural law and rules of equity. In addition, judicial decisions and the thoughts and doctrines of eminent jurists serve as two informal sources of law that guide judicial decision-making.

In 1971, this system was abolished and replaced with a single system integrating Islamic and secular principles. The major legal codifications include the Civil Code and Civil Code of Procedure of 1954, and the Commercial Code of 1953. All of these have undergone significant amendments since 1971(United Nations, 2004).

5.3.1 The Libyan Commercial Code

The Libyan corporate governance movement started in 1953 with the establishment of the Commercial Code. In this law, many aspects of corporate governance were established. The law discriminated between different types of companies: the joint-liability companies, limited partnership companies, joint-stock companies, limited liability companies, and limited partnership by shares, particular partnership companies and co-operative companies. In addition, this law explained all the details needed for establishing registering, governing, managing, bankrupting and dissolving of all types of companies. Furthermore, sanctions have been established for any failure to fulfil any of those requirements. Article 478 of the Libyan Commercial Law states that joint stock companies' liability is limited only to the full payment of their shares, whereas the 1970 amendment to Commercial Law in Articles 4 and 17 requires no less than 51 per cent of the capital of joint stock companies to be owned by Libyans.

By statute, a journal and an inventory and balance sheet book must be kept. The journal should contain the company's day-to-day business transactions and a monthly total of its expenditures. The inventory and balance sheet book is a combination of a number of books, accounts and statements that include the inventory statement, balance sheet and profit and loss account. The business organisation's annual reports should be made available, within the company's headquarters, to its shareholders at least fifteen days before the General Assembly meeting within which these reports are to be attested (Article 58). Article 570 forced joint stock companies to maintain the following records: a register of members, a register of bondholders, a minute book of member's meetings, a minute book of director's meetings, a minute book of statutory auditors' meetings, a minute book of executive committee’s meetings (if there are such meetings), and a minute book of bondholders’ meetings.

5.3.2 The Income Tax Law

The first Libyan Tax Law was issued in 1968. The 1968 Tax Law was abolished when the Libyan Income Tax Law No 64/ 1973 was issued.

Furthermore, in 2004, the Tax Law No 11/2004 was issued. According to this law, companies are required to provide tax statements within a month after ratification of the balance sheet or within seven months of the fiscal year end, to the tax authority with their balance sheet, trading account, profit and loss account, depreciation statement, and detailed statement(s) of the company's expenses that are included in the profit and loss account. In the case of making a loss, the law permits companies that have been closed with a loss within the year to deduct this loss from their profits before tax for the maximum of five years from the year of the loss. The law also determines companies' profit tax rates, as detailed in table 5.1.

Table 5.1: Companies' profit tax rates

Group	Tax rate (%)
The first LD200,000	15
The following LD 300,000	20
The following LD 500,000	25
The following LD 500,000	30
The following LD 500,000	35
More than that	40

Source: The Libyan Income Tax Law No 11/ 2004.

The law imposed on companies to pay 40% if their profits exceed two million Libyan Dinar as a tax. This high rate could contribute to malpractice of companies’ assets and tax evading. Therefore, the law should seek to make a balance between the tax rate and the state of the economy.

5.4 Responsibilities of the Board of Directors

The Commercial Law imposes upon the members of the Board of Directors to be sui juris; however, it does not specify the number of the board members which is left to a general Assembly in a company.

According to the law, Article 530, the General Assembly in each company is responsible for appointing the board members and, in the case of no appointment of the chairman of the board by the General Assembly, the board members have the right to authorise one of them to act as chairman of the Board. However, the Commercial Law does not explicitly detail any necessary qualifications.

According to the law, the Board of Directors is responsible for managing a company and forming its general policy, which should be endorsed by the General Assembly. The company's managers should adhere to these policies for any decision they may take. The board, which has to be generally comprised from Libyan members as well headed by a Libyan, has to meet at least once every two months (Article 8 of the 1970 Commercial Law).

5.4.1 Directors' Compensation

The Commercial Law clarifies the methods of the board's remuneration. The law permits members to have a salary, special benefits or attendance allowance for every session which is defined by the articles of incorporation. Moreover, it is permissible to combine one or more of these benefits. However, according to Article 11 of the 1970 Commercial Law, remuneration must not exceed 10% of the company's net profit after elimination of all expenses, depreciations and any reserves that have been approved by the General Assembly. Article 12 of the 1970 Commercial Law stated that the board must report to the General Assembly by at least one week before the General Assembly meeting the following:

- Full statement of the board's remuneration during the financial year and any salaries or any other compensation that have been given to the board. Similarly, the statement should include any remuneration that has been given to board members in their work as employees or executives in the company or for any services or consultations they provided.
- Full statement of the board's remuneration during the financial year in the form of cars, houses, etc.
- Full statement of any remuneration or percentage of net profit that the Board of Directors suggests to distribute to its members.

- Full statement of any remuneration that has been provided to current or former members such as salary or any remuneration.
- Full statement of any transactions where the members of the board or any executives have a conflict of interest between the interest of company and interest of the member or members.
- Donations with a full statement of all donors.

Although the law in Libya specifies the duties and responsibilities which should be undertaken by the boards of directors, there is still ambiguity about the form of the board, and the qualifications and experience board members of directors should be required to have.[23]

In addition, the law does not indicate how executive directors should be appointed, and whether or not the board should take into consideration the interests of all the shareholders and stakeholders. Furthermore, although the board is enabled to establish sub-committees, there is no indication about the special sub-committees except the Watchdog Committee (Article 547 of the Commercial Law).

5.4.2 The Watchdog Committee

This Committee consists of three to five working members and two non-working members (Article 547 of the Commercial Law). The Committee members are appointed usually by the General Assembly for three renewable years. Article 45 of the 1970 amended Commercial Law requires at least one of the Watchdog Committee members to have an accounting qualification.

The main obligation of the Committee is to assure the company’s management’s adherence to the law. Furthermore, the Committee is responsible for making sure that the company's accounting system is kept in accordance with accounting rules and procedures as specified by law, and that its balance sheet and profit and loss account figures agree with the results enclosed in the company's records (Article 553 of the Commercial Law). Either all or one of its members should make expected and unexpected visits to the company they are attached to and check, investigate and audit their records. Article 555 of the Commercial Law required that members of the Watchdog Committee must attend the Board and the General Assembly meetings.

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[23]Article 12 of the law No 65/1970

5.5 The Rights of Shareholders

In the Commercial Law and bylaws, some shareholders' rights are protected and they have equal opportunities. For example, shareholders have the right to attend the general meetings and vote (one share, one vote) to participate in decisions concerning fundamental corporate changes and to discuss any raised issues in the assembly schedule. The law states that each share has the right to vote (Article 503). Also, shareholders can review financial statements at the company two weeks before the Annual General Meeting.

According to Article (515), the General Assembly comprises a corporation's shareholders. The tasks of the General Assembly according to Article (516) are:

- Approve the budget and annual reports.
- Elect and appoint the board of directors, auditors and the chairman of the Watchdog Committee.
- Determine the remuneration for the board of directors, Watchdog Committee and the auditors if this is not indicated in the articles of association (the establishment contract).
- Review and make decisions regarding all matters that concern the company and its responsibilities.
- Any other issues that are raised by the board of directors, and any other issues regarding the top management's duties or auditors' responsibilities.

The General Assembly holds two types of meetings: ordinary and extraordinary meetings (Article 515). Ordinary meetings should take place at least once a year and within the first four months of the business organisation's fiscal year to discuss the Board of Directors' annual report and the Watchdog Committee's report, approve the company's annual reports and decide upon dividends (Article 516). However, some decisions and issues have to be addressed in an extraordinary meeting of the General Assembly. These include an increase in the company's capital, adjustments to the articles of association (the establishment contract) of the company and the appointment of any liquidation committee members (Article 517).

In addition, the Assembly may appoint a new head or new members to the board and the Watchdog Committee and decide their remuneration.

To protect the shareholders' rights, the Board of Directors must immediately call a General Assembly if requested by shareholders who hold at least 20% of the company's capital, to discuss the issues that they explained in their request for a meeting (Article 519).

To provide more opportunities to shareholders the law allows shareholders the right to represent others on their behalf in the General Meeting (Article 524). Further, a shareholder does not have the right to vote in any decisions that has direct or indirect self-interest to him or others or which are in conflict with the company's interest. Furthermore, the board cannot participate in voting on Assembly decisions which relate to issues that may concern their responsibilities (Article 525).

5.6 Transparency and Disclosure in the Libyan Economic System

According to the OECD Principles (2004), the corporate governance should assure that timely and accurate disclosure is made of all material matters regarding the corporation, including the financial situation, performance, ownership, and the governance of the company. Disclosure should include, but not be limited to, material information on: (1) The financial and operating results of the company (2) Company objectives (3) Major share ownership and voting rights (4) Members of the board and key executives and their remuneration (5) Material foreseeable risk factors (6) Material issues regarding employees and other stakeholders, and (7) Governance structures and policies.

In Libya, as mentioned earlier, economic policy relied on the state-owned sector from 1971. After 1987, the Libyan government gradually relaxed its role and allowed individuals to practise economic activities and permitted the creation of private business, such as banks, in 1992 (A Country Commercial Guide for U.S. Companies, 2006). Despite the creation of the private sector and following the policy of transfer of state-owned companies to the private sector, the government, as are many other governments in developing countries, is still as a major owner in many companies (see, for example, Rabelo and Vasconcelos, 2002; Ahunwan, 2002 Yakasai, 2001; La Porta et al, 1999).

Haifa and Cooke (2002) argue that, when the legal system which governs information disclosure is not enforced, companies are unlikely to disseminate high-quality information.

Libyan disclosure requirements are low, and the companies are only required by law to provide a balance sheet, a profit and loss account together with the external auditor's report and directors' report (Article 572). Historically, the reason for this is the absence of accounting standards in Libya. Moreover, Saleh (2001) stated that British and American accounting practices, transferred to Libya through oil companies, have affected the country's accounting practice in oil companies. This, in turn, has also influenced other business companies (non-oil companies) as employees move in and out of the oil sector. Thus, foreign influence through the oil sector seems to be encouraging more disclosure practice.

Also, this absence of accounting standards has found a new culture of preparing the annual reports of most companies depending on a little disclosure information. Commercial information, such as selling prices, was disclosed more freely than financial information (Mashat, 2005). The nature of the economic system in Libya explains in part companies' disclosure practices. Since Libyan companies are either fully or partially state-owned companies, maximising their market value was not considered as the companies' main objective (Mashat, 2005). After expansion of the private sector, the need for more information about the company has increasingly been dominated by shareholders and other stakeholders during the General Assembly and through the Libyan Stock Market regulation; however, the absence of a basic infrastructure of disclosure processes is still an impediment to full disclosure.

The absence of Libyan Accounting Standards and the weak adoption of the International Accounting Standards (IAS) affects full disclosure and results in a deficiency in the content of reports and statements. Thus, as a result, significant differences arise in the ways in which accounting principles, rules, methods and procedures are applied within different companies, even ones in the same industry, which causes enormous problems for accounting education (Ahmad and Gao, 2005). For instance, the main reasons for not disseminating the social responsibility information in Libyan companies are the lack of legal requirements and administrative difficulties (Mashat, 2005).

An annual audit should be conducted by an independent auditor in order to provide an external and objective assurance on the way in which financial statements have been prepared and presented. Thereby, in Libya, the law forces companies to attest annual financial reports by an independent external auditor to provide confidence to stakeholders that the information distributed is fair, honest and reflects the company's time situation. The Libyan Union of Accountants and Auditors was established to regulate and support the accounting profession and to increase accountants' and auditors' professional and educational efficiency. Also, it encourages participants to attend national and international seminars and conferences and to follow up Libya the international developments in the accounting and auditing profession.

Article 24 of Accounting Profession Law stipulates that admittance to membership requires the holding of at least a bachelor's degree (or the equivalent) in accounting or a related discipline, and the undertaking of authorised practical experience to practise public accounting and auditing services. However, weaknesses in the disclosure practice and quality of information might be ascribed to the absence of a comprehensive framework for accounting and auditing standards, the weakness of the Libyan Union of Accountants and Auditors (LUAA)[24], and the inappropriateness of the accounting curricula to the needs of the economy. In this way, El-Sharif (1980) revealed that Libyan accounting firms were generally engaged in auditing and bookkeeping services and tax and liquidation services, and he concluded that the need for professional accounting services in Libya exceeded their availability to the business community.

5.6.1 The Role of the Libyan Stock Market in Improving the Disclosure Practices

It is important for this study, as it investigates the corporate governance system in Libya, to examine the role of the Libyan Stock Market. Libya first regulated companies in 1953 by establishing its Commercial Law. However, it did not establish a Stock Market until 2001 under the Act No 21/2001.

The market has been pushed forward by forcing all Libyan companies having capital of more than 1,000,000 LD[25] (state-owned or private) to list in the Stock Market.

With the aim of improving the regulatory framework of the Market, the Market authority has issued corporate governance guidelines. The code is to be primarily implemented in joint-stock companies which are listed. The code addresses the following issues: the rights of shareholders: disclosure and transparency: the responsibilities of the board of directors; and the establishment of sub-committees on the Board of Directors such as the auditors committee, remuneration committee, nomination committee and watchdog committee.

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[24] The LUAA was established in 1975, following law No 116/1973 to organise and improve the accounting profession and to raise the standards of accountants and auditors professionally and academically as well as organising and encouraging the participation of its members in conferences and seminars related to accounting internally and externally and to keep in touch with new events, scientific periodicals, and lectures. However, it has failed to achieve these objectives since it is restricted to conferment of the permit of exercise of the profession. The reason for this failure might be ascribed to the Libyan economic policy which has affected the practice and regulation of the professional accounting services.

[25] US dollar = 1.30 Libyan dinner

In respect of disclosure and transparency, the Code recommended listed companies to have a written code to determine their policy and regulation. In addition, the code recommended all companies to disclose at the same time as the annual financial reports the following:

1. What has been applied from the corporate governance Code?
2. The names of any other companies where any of the Board of Director members is a member on its board.
3. Full disclosure of the name of the chairman and other directors.
4. Brief description of the responsibility of the sub-committees in the company as well as the names of the members, the name of the chairman and the time of meetings during the year.
5. The manifesto about all remunerations and bonuses to the chairman and other members as well as the top management and watchdog committee.
6. Any commercial disputes, penalty, fines or obstruction suffered by the company.
7. The annual review of results of evaluation of the procedures' efficiency of internal audit.

Therefore, the Stock Market has advanced disclosure and transparency practices in listed companies, and has changed the ownership structure of listed companies which is one of the most important steps in the development of the economy.

5.7 Limitations on Corporate Governance Reforms

Libya, as in many other developing countries, faces many obstacles to reform its corporate governance framework. These obstacles can be summarised in the following sections.

5.7.1 The System of Ownership Structure

The Libyan economy is not highly developed and is still dominated by the government, businessmen and family shareholders. For instance, the Libyan government controls, directly or indirectly, the majority of assets and enterprises in Libya, through a substantial portfolio consisting of industries, financial institutions and real estate state-owned enterprises, which constitute the overwhelming majority of economic activities (Porter and Yergin, 2005).

A privatisation programme is being seriously considered, which provides the economic changes for moving towards a more open economy. However, although the economic policy allowed private business to compete and replace the state-owned sector, the privatisation practice was not able to help the economy because of the vagueness of this practice. Also, the sale of small and failing companies has led to the fear and, therefore, unwillingness of the public to encourage this policy, and allowed only those who have the power and money to buy companies.[26]

The law No 5/1997 was established to encourage foreign investors to improve the management performance and behaviour by allowing them to manage companies.[27] Moreover, Libya gives tax exemptions to investors in the first five years of their investments, and confirmation of no nationalisation without fair compensation. For the purpose of developing corporate governance in Libya, it may be necessary for the Libyan government to provide more flexibility to investors to encourage them to provide their experience to help the economy.

Although there have been changes in the ownership structure since opening the door to investment and establishing the stock market, there is still vagueness around and limitation upon ownership polices. Ownership structures in Libya remain dominated by family, institutional and government investors, but this will not present a major problem in applying an effective corporate governance practice, because the system has already been successfully applied in developing countries with a similar structure of ownership, such as Malaysia and Korea, both of which have companies mostly owned by families, and Germany and Japan, which have companies owned by large shareholders.

5.7.2 The Weak Enforcement of the Legal System

The legal system is an essential element of an effective corporate governance framework, because it defines the responsibilities of the parties and enables enforcement. Libya, like many developing countries, seeks to develop its economy through harmonisation with the global economy. This harmonisation requires the Libyan government to improve the economic environment by revising the legal system and improving its enforcement. A critical other factor that affects corporate governance practice is the enforcement of the legal system. According to Berglöf and Claessens (2004), enforcement is more than

[26] Although Libya allowed company employees to buy the company, this policy faces problems of changing the management and the failure of attracting professional managers.

[27] In 2006, Libya sold 19% from the capital of Sharah Bank to BNP Paribas Bank, and in 2008 the Arabic Bank in Jordan bought 20% from Wahada Bank and gave the investors the CEO position (for more details see www.cbl.gov.ly)

regulations, laws-on-the-books or voluntary codes, it is the key to effective corporate governance, at least in transition and developing countries. Hence, good corporate governance practice is related to fair and effective enforcement of the legal system to provide investors' confidence.

The enforcement problem exists in many developing economies. For insistence, Oyejibo and Soyibo (2001) suggested that, for Nigeria to reap the benefits of effective corporate governance there is a need to strengthen the enforcement mechanism of the regulatory institutions. In the MENA Region, the enforcement is consistently patchy, and the judiciary is not sufficiently developed to respond to the complaints of businessmen (RCGWG 2003).

Libya is a part of the MENA Region and its business life is dominated by social relationships. Its legal enforcement is not perfect. In practice, this weak general environment of enforcement influences the efficiency of corporate governance mechanisms. Regarding the Libyan context, although the legal enforcement of commercial disputes is heard in courts, because of the limiting effects of The Libyan Centre for Reconciliation and Arbitration, the time-consuming processes are often more protracted than in developed economies. This might cause personal inconvenience to local and foreign investors.

The Libyan social environment is characterised by the extended family, clan, tribe and Islamic religion. Therefore, the management process is influenced by personal connections and ideological affiliations. For instance, personal relations and family ties play a major role in choosing managers, rather than academic qualifications, and managers are more concerned about the creation of social relationships in the workplace than the job itself (Agnaia, 1997). Also, Libyan leaders have emphasised the importance of appointing individuals to key government positions on the basis of merit, rather than intercession or mediation (Porter and Yergin, 2005).

The prevailing procedures for registering a new business take on average 100 days in Libya. This time-consuming process can cause personal inconvenience to investors, especially foreigners. This requirement could be used to people to start their own business and will force the employees to work with the government which has more than 840,000 workers in public services (Porter and Yergin, 2005).

Porter and Yergin (2005) found Libya lags behind its MENA peers by a substantial margin on all but one of six key governance indicators (see Figure 3). In particular, they found Libya ranks lower than the MENA average on control of corruption, regulatory quality, governance effectiveness, rule of law and voice and accountability. Only on political stability does Libya rank better than the MENA average.

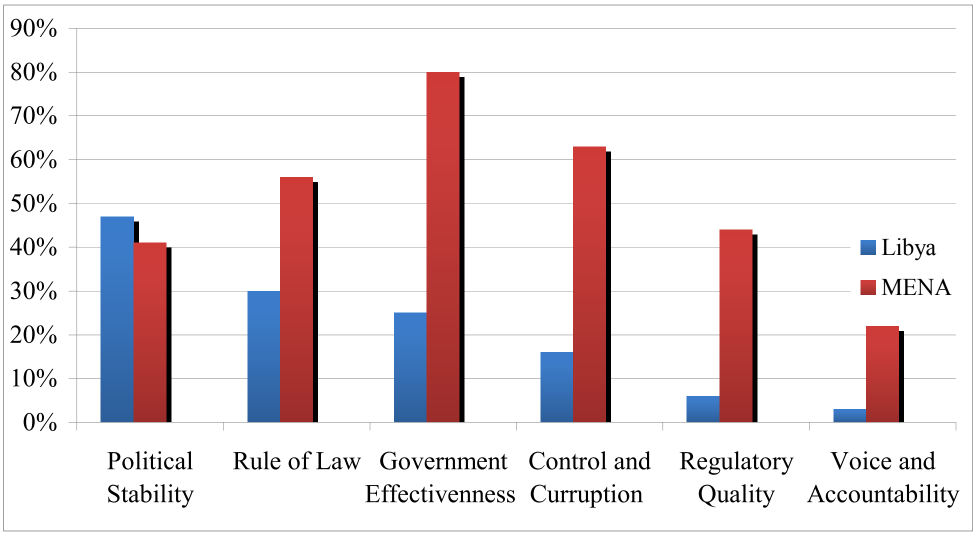

Figure (5.1) Macro, Political, social Environment Libya vs. Selected MENA countries
Sources Porter and Yergin 2005

Competitiveness in the financial sector is low and banks have failed to improve their products and services to clients. A brief look at the state of the sector reveals poor and inadequate modernisation and the sector still depends heavily on a paper-based system with consequent long delays in providing services, and an absence of ATMs.

This situation has resulted in most transactions being done in cash, and this makes it more difficult to regulate and prevent corrupt practices. However, Libya has established new banking laws to reform its banking system which aims to:

- Emphasise the independence of the Central Bank in line with international best practices;
- Improve the capital adequacy ratio of commercial banks;
- Strengthen the competitiveness of domestic banks, eventually leading to the participation of foreign banks in the domestic banking market;
- Extend the domain of Central Bank supervision to include all banks;
- Adoption of Basel II principles on effective banking supervision; and
- Improve standards of, and requirements for, supervisory disclosure by the banks (Porter and Yergin, 2005).

There are increasing numbers of local and foreign investors in Libya. After lifting of UN sanctions in 2003, Libya received in 2004 more than USD 1.3Bn of FDI, 80% of which went to the energy sector and the remaining 20% to other sectors of the economy. The strategies and operations of Libyan companies are unsophisticated by international standards, across all sectors, public and private, including small and medium-sized enterprises. Policy instability and inefficient government bureaucracy currently rank as the top challenges to doing business in Libya, negatively impacting both foreign and local businesses (Porter and Yergin, 2005).

In the light of developing corporate governance, the Libyan Stock Market (LSM) and the Central Bank of Libya are the main players in developing corporate governance practice by establishing principles of good corporate governance. However, the question is whether the initiatives are respected and implemented.

5.8 Conclusion

This chapter has provided an introduction to and brief background of the political and commercial environment of Libya and highlighted the development of accounting within this environment. It began by broadly examining the theme of corporate governance in Libya, including the governance structure and development of Libyan economy. The main factors affecting corporate governance and its effectiveness in Libya were also explored. The chapter also discussed the role of the Libyan Stock Market in the development of practice.

Finally, there was discussion of factors that could place constraints on corporate governance reform and issues of ownership, and the weak enforcement of legal system was considered in detail. The next chapter details the research methodology to achieve the research objectives.

CHAPTER SIX

Research Methodology and Methods

6.1 Introduction

Chapters two, three, four and five reviewed the relevant literature on corporate governance and its application in Libya. This chapter discusses the research design, and justifies the chosen methods for the collection of data. The chapter commences with summary of the research aims and objectives. The chapter discusses the methodology and methods used to collect the data through both quantitative and qualitative methods.

Therefore, this chapter presents the research problem, research objectives, research questions, data collection methods, the questionnaire survey's population, questionnaire design, pilot study, administration of the questionnaire survey, response rate, and interview survey method.

This research has been structured as shown in Figure (4) below which provides an overview of the research process.

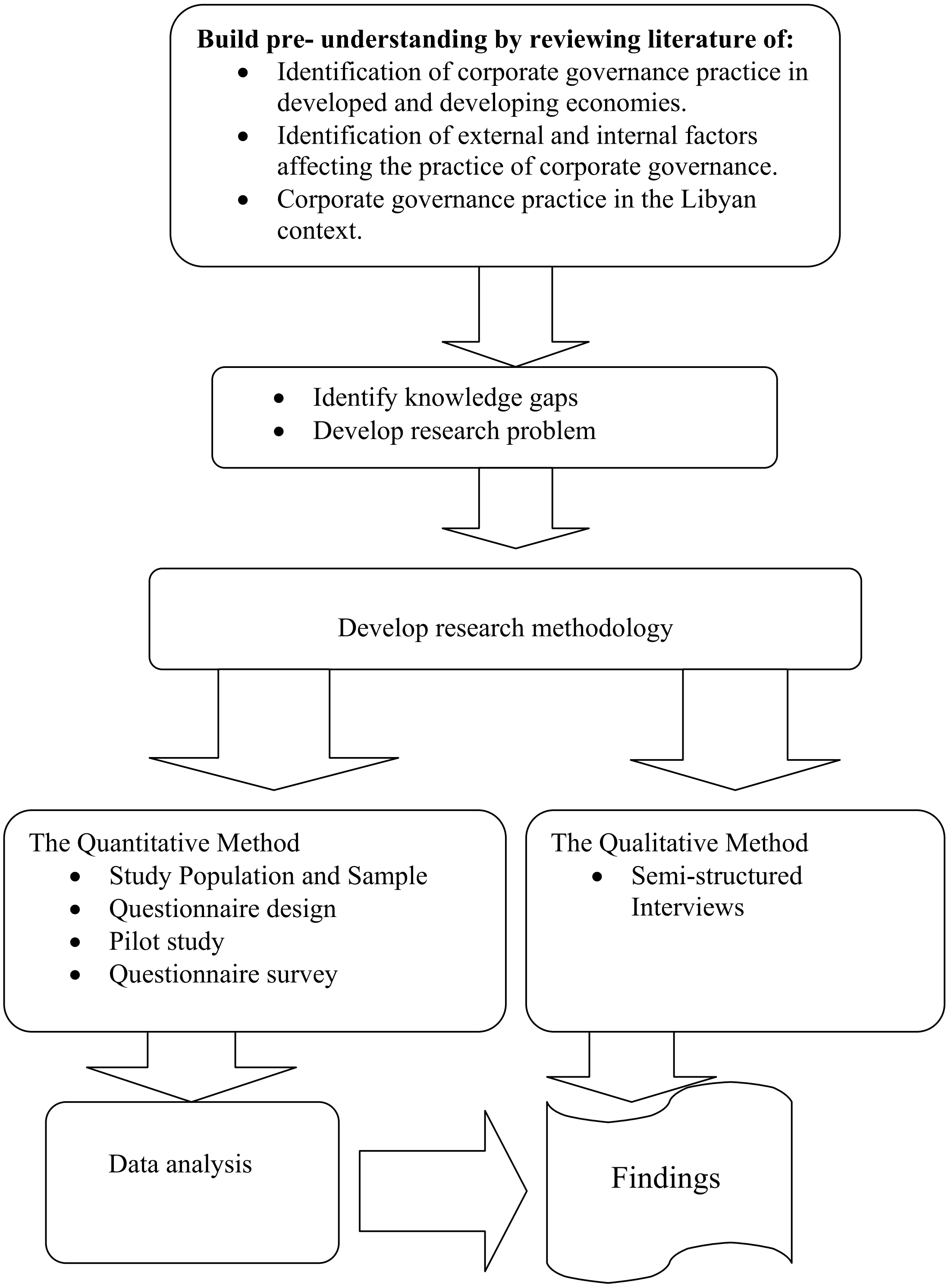

Figure (6.1): flow chart describing the research process

6.2 Research Methodology

Fisher (2007: pp. 33-34) argues that there is a difference between the terms methodology and methods. Methodology is the study of methods and it raises all sorts of philosophical questions about what it is possible for researchers to know and how valid their claims to knowledge might be. Methods are concerned with which data can be collected and what is the suitable way to do it. Also, Collis and Hussey (2003) distinguish between the two terms methodology and methods. Methodology refers to the overall approach to the research process, from the theoretical underpinning to the collection of the data, whereas methods refer to the various means by which data can be collected and / or analysed.

Crotty (1998: p3) described methodology as:

> "The strategy, plan of action, process or design lying behind the choice and use of particular methods and linking the choice and use of methods to the desired outcomes"

Therefore, a research method is concerned with: why you collected certain data, what data you collected and where you collected it, when you collected it, how you collected it and finally how you will analyse it (Collis and Hussey, 2003).

Fisher (2007) explained that the most commonly used methods are: interviews, questionnaires, panels (including focus groups), observation (including participant observation), documents and databases. He also argued that adopting one or more of these techniques depends on, among other thi ngs, the research's epistemological and methodological assumptions. These assumptions have led to the emergence of different approaches of social science (for example, positivism, interpretivism or realism).

6.3 Overview of the Philosophical Assumption

Epistemology is a crucial philosophical concept for social scientists, and it considers questions to do with the theory of knowledge (Henn et al, 2006: p.10). Crotty (1998: p.3) argued that "epistemology refers to the theory of knowledge embedded in the theoretical perspective and thereby in the methodology". From the epistemological perspective, there are three paradigms: positivism, interpretivism, and realism.

A paradigm is ''a cluster of beliefs and dictates which for scientists in a particular discipline influence what should be studied, how research should be done and how results should be interrupted'' (Bryman, 1988).

6.3.1 The Positivist Approach

The positivist paradigm is associated with quantitative research strategies (Henn et al, 2006). Positivism holds that an accurate and value-free knowledge of things is possible, and as a result positivism produces general laws that can be used to predict behaviour, in terms of probability if not with absolute certainty (Fisher, 2007). In addition, positivism is based on the assumption that social reality is independent of the researcher; hence, the researcher should remain distant when conducting the research and not allow values and bias to alter their objective views (Collis and Hussey, 2003). The crux of the approach is that precision, objectivity and rigour replace hunches, experience and intuition as the means of investigating research problems, and, therefore, social science is based on the approach used in the natural sciences (Collis and Hussey, 2003)

Henn (2006: p.13) stated that "the logic of a positivist research design is that:

- We seek to identify cause and effect to explain phenomena, and to test theory;
- Knowledge should be based on what can be tested by observation of tangible evidence;
- Researchers should use the scientific methods which emphasises control, standardisation, and objectivity."

6.3.2 The Interpretivist Approach

The interpretive paradigm is associated with unstructured qualitative methods (Henn et al, 2006). The term subsumes the views that the subject matter of the social sciences is totally different from the natural sciences. Therefore, the social sciences require a different logic of research procedure which reflects the distinctiveness of humans as against the natural order (Bryman and Bell, 2007).

The interpretive research design is to explore or build up the understanding of something that we have little or sometimes no knowledge of. Through piecing together such an understanding, we eventually build up a theory (Henn et al, 2006). However, the feature of interpretive research is that you cannot understand how others may make sense of things unless you have insightful knowledge of your own values and thinking processes (Fisher, 2007). The differences between the positivist and interpretivist approaches are in Table 6.1 below.

Table 6.1 the positivist and interpretivist divide

Positivist	Interpretivism
1- Knowledge is based on a phenomenon that is directly observable (phenomenalism).	1- Knowledge is based on understanding interpretations and meanings that are not directly observable.
2- The social world should be researched using the principles of social sciences (such as experiments). Such a shared approach is often referred to as the unity of scientific method.	2- The social world should be studied in its natural state (using participant observation and in-depth interviews) to understand naturally occurring behaviour.
3- There is a stress on reliability and generalisability.	3- There is a stress on validity.
4- Explanation is achieved through the formulation of causal laws or law-like generalisations (nomothetic approach).	4- Explanation is achieved through descriptions of social meaning/ reasons and other dispositions to action (idiographic approach).
5-There is use of the hypothetico-deductive method in which there is an emphasis on testing given theory.	5- There is use of the analytic-inductive method in which theory is generated from the data.
6- Methods imply researcher/ respondent detachment in the objective collection of data.	6- Methods imply insider approach-participation in life and culture of respondent/ closeness of respondent and researcher in the joint construction of subjective data.
7- Analysis is based on the statistical testing of given theories.	7- Analysis is based on verbal, action, and situation description from which theory evolves.

Sources: Henn et al, 2006 : p 16

6.3.3 The Realist Approach

The Realist approach believes that the natural and the social sciences can and should apply the same kind of approach to the collection of data and to explanation, and it is committed to the view that there is an external reality to which scientists direct their attention. In other words, there is a reality that is separate from our descriptions of it (Bryman and Bell, 2007). Thus, the realist approach retains the ambitions of positivism but recognises, and comes to terms with, the subjective nature of the research and the inevitable role of values in it.

Realism still aims to be scientific, but makes fewer claims to knowledge that perfectly mirrors the objects of study (Fisher, 2007). However, realism depends on assuming that the world cannot be known without interpretation; therefore, realism seeks to explain the observation in terms of underlying structural mechanisms (Thomas, 1996). There are two forms of realism:

1. Empirical realism- using appropriate methods can help reality to be understood. Empirical realism is 'superficial' when it 'fails to recognise that there are enduring structure and generative mechanism underlying and producing observable phenomena and events (Bryman and Bell, 2007).
2. Critical realism- critical realism is specific forms of realism whose manifesto is to recognise the reality of the natural order and the events and discourses of the social world which imply there is a level of reality below the everyday level of events and our experiences of them (Bryman and Bell, 2007; Fisher, 2007).

During the present research, the approach will be adopted which allows the researcher to collect large amounts of comparable data and compare the findings derived from the study with literature reviewed previously. Therefore, the research is realist using both quantitative and qualitative methods. Also, the researcher has considered the following general points before beginning to write the questions:

- The main type of data collection instrument such as interviews, questionnaires, content analysis, observational techniques.

- The method of approach to respondents, including stated purpose of the research, length and duration of questionnaire, the type of questions to be used, confidentiality and anonymity.

- The build-up of question sequences or modules within the questionnaire, and the ordering of questions and scales or other techniques within the general framework.

6.4 Research Objectives

The aim of the PhD is to investigate and explore the current state of corporate governance in Libya from a theoretical and practical perspective, using the views of stakeholders on corporate governance, and identify its development in Libya. To achieve this aim, subordinate aims will be pursued. These subordinate aims are:

1. Identify the current situation and developments concerning corporate governance in Libya.
2. Identify the effect of the various environmental factors on the corporate governance in Libya.
3. Evaluate the perceptions of the various stakeholders concerning the application of corporate governance in Libya.
4. Identify and evaluate scenarios concerning future development of corporate governance in Libya.
5. Review, evaluate and contribute to the policy debate on corporate governance in Libya.

This study will aim to answer the following questions:

1. Who are the key stakeholders concerning corporate governance in Libya?
2. What are those stakeholders' views on and attitudes to the practice of corporate governance in Libya?
3. What types of corporate governance issues do different stakeholders think are important in Libya? For example, fraud, non-voting shares, over-powerful CEOs and excessive pay?
4. What are the current rules and regulations concerning the corporate governance in Libya?

5. What particular issues of governance, if any, does the Arabic and Islamic context make for the issues of corporate governance in Libya?
6. How effective do the stakeholders' groups think existing arrangements are? And what changes do they think are needed?

6.5 Research Methods

As explained above, the methods are the various means by which data can be collected and/ or analysed. The present study's main objective is to investigate the corporate governance from the stakeholders' perspective in Libya. Therefore, two main methods have been employed in this study, namely, questionnaires and interviews.

6.5.1 Questionnaire Survey

A questionnaire is a list of carefully structured questions, chosen after considerable testing, with a view to eliciting reliable responses from a chosen sample (Collis and Hussey, 2003; p. 173). Since the questionnaire survey can be employed as an efficient data collection tool, it becomes the most appropriate data collection method in the social sciences (Oppenheim, 1992). The questionnaire can be used for descriptive or explanatory research. Descriptive research, such as research that uses attitude and opinion questionnaires, enables the researcher to identify and describe the variability in different phenomena. In contrast, explanatory research enables the researcher to examine and explain relationships between variables, in particular cause-and-effect relationships.

Therefore, the questionnaire was designed with the aim of eliciting data to evaluate the current practice of corporate governance in Libya, since it is the most widely used technique in education research. However, it requires a careful, clear statement of the problem underlying the research; otherwise, ambiguity and misinterpretation will invalidate the findings.

Fisher (2007) outlines the main general issues which should be considered before designing the questionnaire. These issues are: short questions, attractive design, logical and sequential structure (easily understood by respondents), dividing the questionnaire into parts related to various issues the questionnaire is asking about, ordering the questions from easy questions to hard ones and keeping personal questions to the last, and only include them if you can justify them. Also, he outlined the following steps which should be taken into account during the design of a questionnaire.

Firstly, on the type of questions, there are open and closed questions. Open questions mean the questionnaire has open questions and lots of white spaces for responses. Responses have to be written or recorded in full, thus the researcher has to provide plenty of space for the answers (Fisher, 2007; Oppenheim, 1992). The advantage of open questions is that they give the respondents freedom of thought. However, these questions are easy to ask, but difficult to answer, analyse and may be hard to read and be time-consuming (Oppenheim, 1992; Henn et al, 2006).

Closed questions, on the other hand, are easier and quicker to answer by respondents, and require little time and do not need extended writing. However, closed questions lose spontaneity and expressiveness and may irritate respondents (Oppenheim, 1992).

Secondly, regarding the distribution, questionnaires can be administrated by post or mail, telephone, personally and in group and individual distribution (Collis and Hussey, 2003).

1- Personally administered questionnaires, according to Sekaran (2003), are suitable when confined to a local area. The advantages of personally administered questionnaires can be summarised as follows:

- The researcher(s) can collect all the completed responses within a short period of time.
- The researcher can clarify any ambiguity and doubts that the respondents may have about the questions.
- The researcher has the opportunity to introduce the research topic and motivate the respondents to give their frank answers.
- Distributing the questionnaires to a large number of respondents is less expensive and consumes less time than interviews.
- It does not require as high skills as conducting interviews.

2- Postal or mail questionnaires, use reasonably inexpensive methods, especially in a large sample (Collis and Hussey, 2003). The questionnaire is usually posted with a covering letter and a prepaid envelope for returning the completed questionnaire.

According to Oppenheim (1992), the questionnaire survey has the following advantages:

- Low cost of processing: the most obvious appeal of the mail questionnaire is the low cost.

- Avoidance of interviewer bias error, because it gives respondents the opportunity to think freely or consult other people
- Ability to reach respondents who live at widely dispersed addresses or abroad.
- Greater anonymity: the mail questionnaire provides greater anonymity for respondents. Consequently, this questionnaire is suitable for sensitive issues.

However, the following points are the main disadvantages of a mail questionnaire: low response rate, and consequent bias through the returning sample's interest in the topic; unsuitability for respondents of poor literacy, visually handicapped, the very old or for children; no opportunity to correct misunderstandings or offer explanations to participants;

3- Regarding telephone questionnaires as the number of telephones has grown in most countries in the world; the telephone questionnaire survey has become more popular, especially in developed countries. Therefore, it can be used and it can be helpful with sensitive and complex questions. The advantage of the questionnaire is the high rate of responses; however, the bias through knowing the researcher's telephone number is the main disadvantage.

4- In relation to group distribution is appropriate if the survey is being conducted in one or few locations, where the researcher is able to assemble the respondents in the same place and, therefore, is able to explain the questionnaire to them. This method is characterised by convenience, low costs and a high response rate (Collis and Hussey, 2003).

6.5.1.1 Question Wording

The fundamental part of designing the questionnaire that the researcher should pay attention to is the wording of questions and use of language, which must be clear, and unambiguous. Thus, in designing a questionnaire, the researcher should attempt to minimise any ambiguity, and avoid loaded questions, by following these basic rules during designing the questionnaire: avoid lengthy questions, avoid "double-barrelled" questions; avoid proverbs; avoid double-negatives; use simple words and avoid acronyms, abbreviations, jargon and technical terms; beware of the dangers of alternative usage; beware of leading questions (Oppenheim,1992). In addition, the questionnaire should include an introduction providing a brief background to the study and its purpose, thereby encouraging respondents' participation.

Taking into account the disadvantages of the mailed and personally administered questionnaires, a personally delivered questionnaire that was also personally collected from the study participants was used as a primary instrument for data gathering in this research. That is, the researcher personally distributed the questionnaire to the research participants and also collected it from them. In doing so, the researcher has the chance to introduce the research area, the aims of the survey and the reasons behind selecting each person or group of the research participants to be surveyed; has the opportunity to correct misinterpretation and illuminate any doubts or vagueness that the study participants might have with reference to the research topic or any question in the questionnaire; has the opportunity to motivate the study participants to reveal their honest response since there is a chance for him/her to initiate good communication with those responding to the survey; has a real chance to increase the return rate of questionnaires and, therefore ensuring accurate sampling.

The designing and the writing of the questionnaire can significantly affect response rates. That is, in questionnaires that are poorly or badly designed and written, some questions might be biased and do not give the study participants the chance to choose amongst a full range of answers. Lengthy, complex or baffling questions can also be ignored and left unanswered. Therefore, in constructing this questionnaire survey, good questionnaire design principles were considered. Such principles related to the wording and language of questions, scaling these questions and coding after receiving the response, and the general appearance of the questionnaire.

6.5.2 The Interview Method

An interview is an action involving personal contact between the interviewer and the respondent, and it is a method of collecting data in which selected participants are asked questions in order to find out what they do, think or feel (Collis and Hussey, 2003).

Using interviews to elicit what a respondent believes, thinks, knows and likes is accompanied with the following advantage (Oppenheim 1992): this is a good method where the researcher has to record verbatim the respondents' answers. Interviews can improve the response rate; provide a prepared explanation of the purpose of the study; and allow the researcher to control the interview situation. The interviewer can probe for additional and detailed data and, finally, the interview is preferable when asking longer, difficult, and open-ended questions. However, it is usually more expensive than other techniques and they permit the interviewer's personal influence and bias to intrude and minimise the ability to maintain anonymity.

The interview method has many forms such as the following.

6.5.2.1 Face-to-Face Interview

Face-to-face interviews are designed to explore issues in detail using probes, prompts, and flexible questioning styles. In many respects, the face-to-face interview is conducted in the situation where the researcher's intention is to share control for the data-gathering exercise with the respondent (Henn et al, 2006).

In addition, the face-to-face interview's character brings higher response rates which may be appropriate for long interviews with complex questions. The researcher can adapt the questions as necessary, and clarify doubts and can pick up nonverbal cues from the respondent. However, geographical limitations, and the lack of anonymity, are the main disadvantages of this type (Sekaran, 2003).

6.5.2.2 Telephone Interviews

Telephone interviews provide the researcher access to respondents who would never find time for a face-to-face interview (Fisher, 2007). Also, it is advisable when the researcher and respondents are far away from each other, and can be achieved at any time convenient to respondent (Sekaran, 2003). However, the interview is not suitable for complex matters and in case of questions that require detailed or long answers (Fisher, 2007). In addition, with telephone interviews, the researcher will not be able to see the respondent and read the nonverbal communication (Sekaran, 2003).

In addition, the interview could be divided into four types of personal interviews, namely, structured, semi- structured, unstructured and focus group interviews.

6.5.2.3 The Structured Interview (Standardised Interview)

Structured interviews mean the interviewer knows what information is needed. Also, the interviewer has a list of predetermined questions to ask the respondents (Sekaran, 2003). All interviewees are given the same context of questioning (Bryman and Bell, 2007). Also, the structured interview is more objective and easier to analyse, but it is not flexible.

6.5.2.4 The Semi-Structured Interview

The semi-structured interview refers to a context in which the interviewer has a series of questions that are in the general form of an interview schedule but he or she is able to vary the sequence of questions. The questions are more general than in a structured interview. In addition, the interviewer has some latitude to ask further questions in response to what are seen as significant replies (Bryman and Bell, 2007). The semi-structured interview is conducted in this study to permit the coverage of the general themes that have been identified in the literature of corporate governance while allowing flexibility to pursue any significant issue arising during the interview. Also, it enables the different stakeholders to provide their opinions and answer the questions.

6.5.2.5 The Unstructured Interview

The unstructured interview is dominated by the open-ended approach to interviewing. The interviewer does not enter the interview, setting with a planned sequence of questions, but uses flexible questions to explore issues in detail.

During the unstructured interview the interviewer has a list of issues or topics, and the questions are informal and the phrasing and sequencing of questions will vary from interview to interview (Bryman and Bell, 2007). However, the interviewer can explore and elicit the details by bringing some preliminary issues to the surface with interviewees and then can determine what variables need further in-depth investigation. Sekaran (2003: p.225) stated:

> "The type and nature of the questions asked of the individuals might vary according to the job level and type of work done by respondents. For instance, top and middle-level managers might be asked more direct questions about their perceptions of the problem and the situation. Employees at lower levels may have to be approached differently."

6.5.2.6 The Focus Group Interview

According to Sekaran (1992: p.220): "Focus groups typically consist of eight to ten members with a moderator leading the discussions regarding a particular topic, concept, or product".

The focus group interview allows the interviewer to focus upon group norms and dynamics around issues to be investigated.

6.6 Data Collection

This section summarises the process of data collection, including the two main data sources, namely, quantitative and qualitative research methods (questionnaires and semi-structured interviews).

6.6.1 The Population and Sample of the Present Study

A population is any precisely defined set of people or collection of items which is under consideration, whereas, a sample is a subset of a population that should represent the main interest of the study (Collis and Hussey, 2003). Defining the population clearly is an essential stage in social research since a clearly defined population makes the selection of a representative sample more likely. Various groups from the Libyan stakeholders (such as academic staff, government officials, owners, employees) have to be involved as subjects in this study. However, it was deemed considerably ambitious to survey all of these stakeholders. That was mainly because of the professional and technical nature of the questions and the data collection instrument, and the cost matters that might be associated with this.

To understand the situation of corporate governance you need to select appropriate and related groups. A key step in social research is to define the population of the study clearly which makes the selection of a representative sample more likely.

According to Thomas (1996), before choosing the sample, it is necessary to clearly define the population being surveyed, also to ensure that the sample selected provides an accurate representation of the population. The main aim of this study is to investigate the stakeholders' perspective on corporate governance; therefore, various groups from the Libyan economic environment have to be involved as subjects in this survey. However, it would appear difficult to examine the perceptions and attitudes of a representative sample of the groups on these issues, due mainly to the high technical and professional nature of the questions to be examined and the cost factor involved in terms of money and time required. Accordingly, the population frame for this questionnaire survey embraces those who are thought to possess familiarity with Libyan economic development. These groups of respondents have also been surveyed in several studies in developing countries relating to a variety of aspects of accounting practices (see for example, Wallace (1988) and Naser et al (2003). Therefore, the population of the study consist of the following groups:

Academic Staff

Academic staff were one of the stakeholder groups that had been chosen for the study because they influence accounting and the corporate governance framework. They are involved in improving the accounting education and accounting and auditing professions. Accounting academics might be deemed as holding objective attitudes as well as being aware and conscious of the real problems of the country. Further, most academic staff in Libyan universities achieved their degrees in western countries where the topic of corporate governance is given high attention, thus they might be able to provide fair and independent views regarding corporate governance.

For this research, the academic accountants targeted are those who are working in the accounting departments in the main Libyan universities (Alfateh University; Garyounis University and Academy of Graduate Studies). All of these educational institutions have master's degree programmes.[28]

External Auditors

External auditors can be viewed as judges of the integrity of annual reports and of the integrity of financial operations. Under Libyan law, the shareholders' role in governance is to appoint the directors and external auditors in order to satisfy themselves, among other things that an appropriate governance structure is in place. External auditors may exercise considerable influence upon the company in terms of assessing the internal control systems, providing constructive advice, detecting fraud and irregularities and affecting the company's disclosure decisions (Firth, 1978).

Investment Advisors of Banks

Another group was chosen from among employees of credit departments in public banks. The main reason for selecting this group is their interested of good governance practice, to ensure that their banks' money and investments are not comprised by fraud or mismanagement.

[28] The master degree is the highest degree provided in Libyan Universities in business schools, since there is no PhD programme.

Company Employees

This includes those who might have the professional and technical ability in the accounting field and who are expected to be involved in one way or another in corporate governance practices in the company. Also, they have a related interest in the good governance of the company and they may wish that good governance gives them a voice as a major stakeholder group

Government Officials

The employees of the Libyan Stock Market are a very important authority, who should compel listed companies to practise an effective corporate governance system and monitor its implementation. This will help such companies to possess a strong monitoring and management system which will help attract local and external investors. Also, their opinion will be useful for this study through making clear any difference between the practice and the requirements of the Libyan Stock Market.

Investors

To achieve the objectives of this study, the investors are one of the groups selected to answer the questionnaire. The questionnaires were distributed to both institutional and individual shareholders (banks and insurance companies and pension fund and Libyan businessmen board) to investigate their views about the good corporate governance that can maintain their investments and provide them more confidence to invest.

6.6.2 Pilot Study

A pilot study is an important step in producing a good questionnaire. This step helps the researcher to improve the questionnaire through finding out any problems such as ambiguous and unnecessary questions and sometimes the shortcomings of the questionnaire design. Collis and Hussey (2003) argued that it is essential to pilot or test your questionnaire as fully as possible before distributing it. At the very least, one should use colleagues or friends to read through it and play the role of respondents, even if they know little about the subject. Oppenheim (1992) added that "questionnaires have to be composed and tried out, improved and then tried out again, often several times''

Therefore, in this study, there were a number of steps before final distribution of the questionnaires. In the first stage, a draft of the questionnaire was produced by writing down and grouping all questions and issues which had resulted from the literature review.

The first discussion of the questionnaire draft was with the supervisor's team. In addition, a draft was then piloted among the PhD students at Nottingham Business School, Nottingham Trent University to elicit their comments on the comments on the wording and structure of the questionnaire.

After that the questionnaire was translated from English into Arabic with, professional help to avoid any bias and to confirm the meaning in Arabic language. In addition, a draft of the questionnaire was checked for grammar and meaning in the Arabic language by a language specialist in Libya.

6.6.3 Questionnaire Design

Fisher (2007) suggested that questions should be easy to answer, and short and precise in order to help potential respondents fill out the questionnaire.

In order to achieve the aims of the study, the questionnaires were distributed to different categories that represent different stakeholders to explore their views regarding the issues related to the corporate governance system. The designing of questionnaire was entirely depending on the OECD Principles and on the related literature. The groups were as follows; academic accounting staff, external auditors, investment advisors in government banks, company employees, government officials and investors. In all, 453 questionnaires were distributed, 195 questionnaires were returned, which means the rate of response was 43%.

The questionnaire survey comprised 11 questions, which were divided into sub-questions. The questionnaire structure was designed to investigate corporate governance practice.[29]

The questionnaire employed a Likert scale in which respondents were asked to tick the appropriate box from 1 to 5, where 1 represented strongly disagree or not important at all, 2 represented disagree or not important, 3 represented uncertain, 4 represented agree or important and, finally, 5 referred to strongly agree or very important.

These scales measure respondents' extent of agreement with each statement. In order to give more options to participants, they were asked in the last page in the questionnaire to provide and list any comments, factors or ideas that could affect the practice of corporate governance in Libya. Out of a total of 195 returned questionnaires, the researcher received

[29] Copies of the questionnaire and covering letter are in the Appendices (Appendix 1.1 and 1.2)

some useful comments that the respondents felt to be important. These comments presented by respondents will be incorporated in the analysis in the proper place.

6.6.4 Administration of the Questionnaire Survey

The questionnaires were distributed in July and August 2007 to the selected samples in Libya. As mentioned earlier, the questionnaires were distributed to different groups of stakeholders to elicit their opinions. To minimise the problem of low response rates, questionnaires were delivered by hand to the sample. In addition, the questionnaire was accompanied by a covering letter which explained the aim of the study and identified the researcher. One was from the researcher asking for the questionnaire to be completed, explaining the nature and importance of the study, and assuring respondents their responses would be treated in confidence. A second letter supporting the research was provided by Elmergib University where the researcher is a lecturer, asking for respondents' cooperation. Table 6.2 illustrates the number of questionnaires distributed, the number of returned questionnaires, the response rate for each group, and the overall response rate.

Table 6.2 Groups of Respondents for the Questionnaire survey

No	Name of category	Number distributed	Number of responses	Percentages of responses
1	Academic staff	66	32	48
2	External Auditors	110	43	39
3	Investment advisors of banks	50	21	42
4	Company employee	66	35	53
5	Government officials	64	29	45
6	Investors	97	35	36
	Total	453	195	43%

6.7 Types of Questions

The questionnaire has been divided into the following parts:

6.7.1 The Respondent Occupation

The first question was about the occupation of respondents. The respondents were divided into six groups which consisted of academic staff, external auditors, investment advisors of banks, listed company employees, government officials and investors. This question was important because it was expected to provide the basic data needed for analysing and testing relationships with other variables in the study.

6.7.2 The Concept of Corporate Governance

This section of the questionnaire was designed to obtain respondents' perception of the meaning of corporate governance in the Libyan context. The first question elicited respondents' opinions regarding the definition of corporate governance by providing three definitions of corporate governance. The second question was to obtain respondents' perceptions of the importance of corporate governance. The third question focused on the view of the significance of corporate governance in Libya to different groups of stakeholders.

6.7.3 Rights of Stakeholders

This section contained questions investigating the rights of stakeholders in the Libyan context. This section was important because it provided the respondents' opinion on stakeholders' and shareholders' rights in the Libyan context.

6.7.4 Factors Affect Corporate Governance

This section of the questionnaire endeavoured to elicit more details on the possible factors that might affect on the corporate governance practice in Libya.

6.7.5 The Framework of Corporate Governance

This section of the questionnaire aimed to elicit respondents' opinions regarding the development of corporate governance in Libyan companies.

6.7.6 Future Plans of Corporate Governance

This section elicited respondents' perceptions regarding corporate governance's future in Libya. Participants were asked their views about the future changes and their suggestions for amendments that need to be considered in future. The first question focused on the areas of disclosure and transparency practice in Libyan. The second investigated the role and responsibilities of the Board of Directors in any future Libyan corporate governance framework. The third question asked about other factors that could be introduced to improve the practice of corporate governance in Libya.

6.7.7 Future Introduction of Corporate Governance

This section of the questionnaire purposed to draw out respondents' opinion regarding the future introduction of corporate governance in Libya. This section was important to help the researcher to explore the approach to developing the corporate governance in Libya.

6.8 The Research Interview

Semi-structured interviews were used beside the questionnaire to elicit more open and original opinions about corporate governance in Libya and the future scenarios for developing governance in Libyan companies. The purpose of the interviews was to explore in more depth the issues about corporate governance in the Libyan context with business policy-makers. The semi-structured interview was adopted, as it allows the researcher to have control over time, content and the sequence of the interview, while still giving the interviewer the opportunity to probe, and allowing the interviewee some scope in responding to the questions. Furthermore, interviews can also produce more spontaneous reactions if the interviewer can catch informants off guard.

A semi-structured interview survey was used to collect data from 10 interviewees. Interview questions were developed from a review of the literature, developed in discussion with the supervisory team of this study. Interviewees were informed that interview results would be discussed in general, confidentially, and used for research purposes only. This assurance was necessary to encourage interviewees to participate in interviews and to improve the quality of participation. The interviews were conducted with different policy-makers in important positions in Libya, which provides original support for this study.

A pilot interview was undertaken prior to the main interviewing process with the director of studies.

All ten interviews were conducted face-to-face and took between 40 and 60 minutes. The interviews followed this process:

1- All interviewees received a copy of a covering letter and the guidelines of the interview before the interview date
2- The researcher came to the interviewees' offices to confirm the appointment and the place of the interview
3- All interviewees were asked for permission to record the interviews with the interviewee having the right to stop the recording at any time

4- The researcher provided plenty of time for interviewees at the end of interview to talk and provide any suggestion or idea that they think would be useful to the study
5- During all interviews, the researcher tried to make interviewees feel relaxed by allowing them to talk informally before and during the interview.

The researcher carefully recorded on an interview schedule the time and place of the interview and the name of the interviewee. The researcher got permission to record the interviews from five interviewees; two of whom spoke English. Moreover, the researcher proceeded to the next question only after each response had been accurately recorded.

According to Denzin and Lincoln (2003: p52) the qualitative material data is a complex process in terms of the analysis and interpretation. Therefore, in this study the analysis of the data from interviews was to summarise and present the mass of data collected from interviewees using the systematic thematic analysis, which included the techniques of Miles and Huberman (1984). After listening to and reading the hard copy of all interviews, the researcher created a set of predetermined themes such as stakeholders, culture, shareholders, legal system, enforcement, economy, Board of Directors, disclosure, and external auditors. Any other themes or comments which emerged from interviewees were also analysed in relevant themes when necessary to illustrate the important points. To demonstrate all the participants' views about corporate governance, different perceptions and perspectives which were not common were also quoted. The chosen quotations have been translated into the English language using the comments from those interviewees who spoke English. Also, any confusion was avoided by using the best English words to achieve the study aims. The next table shows the date of the interviews, the interviewees' position and the time of the interviews.

Table 6.3 the list of interviewees and the interview time

Date of Interview	Interviewee	Time
10/7	Chairman of the Economic Research Centre	11.00 -12.00 am
11/7	Chairman of the Libyan Stock Exchange	8.00 - 8.55 pm
31/7	Chairman of the Accountants and Auditors Association	4.45 - 5.30 pm
6/8	External Auditor	5.00 – 6.00 pm
7/8	Chairman of the General Board of Ownership	10.00-10.50 am
7/8	Chairman of the Libyan Foreign Investment Board	1.35 - 2.30 pm
8/8	Chairman of Libyan of Chamber of Commerce	6.30 - 7.30 pm
9/8	CEO of Insurance Company	8.00 - 9.00 am
9/8	Secretary of National Planning Council	10.40 -11.30 am
13/8	CEO of a Bank	1.00 -1.35 pm
Total	10	

6.9 Ethical Consideration

Particular emphasis is given to the ethical dimensions of the research. An important factor was to obtain informed consent, as researchers on the subject of corporate governance tend to find that creating solid communication grounds from the start can reduce attrition rates and increase the quality of data gathered

In this respect, and after obtained the ethical clearance from the research ethics committee in the Nottingham Trent University, the participants were given a clear explanation of the nature of the research, using a covering letter for interviews. The interview guidelines explaining the aim of this research and the consent letter were given to all interviewees before the interview took place. As the research involved participants disclosing their perspectives on the current situation and the practice of corporate governance in Libya, privacy, confidentiality, and anonymity were promised to all participants, also keeping the recorded disks in a secure place, changing participants' names and eliminating his/her position or job place that could reveal the participant in the analysis of the data. Regarding the place and time, the researcher met them regarding their choice of time and place.

Regarding the questionnaire, it was accompanied by a covering letter which explained the aim of the study and identified the researcher. One was from the researcher asking for the questionnaire to be completed, explaining the nature and importance of the study, and assuring respondents their responses would be treated in confidence. A second letter supporting the research was provided by Elmergib University where the researcher is a lecturer asking for respondents' cooperation.

6.10 Interview Guides

As the interview was semi-structured, all interviewees received the same set of questions in a similar manner. The researcher built the guidelines of the interviews with his supervisory team to elicit interviewees' perceptions about corporate governance. In addition, the guidelines focused on questions which aimed to collect specific details on the corporate governance system with more emphasis on the future planning and the obstacles to good practice. Therefore, the guidelines' instructions included the following elements:

- The acceptable definition of corporate governance and its importance in Libya.
- The corporate governance issues that are related to the Libyan economy.
- The effect of the legal system, and social and cultural values on the framework, and the efforts of developing corporate governance in Libya.
- Issues of disclosure practice and the Board of Directors' responsibilities.
- The role of external auditors and financial institutions in improving the practice of corporate governance in Libya.
- The best way to introduce corporate governance in Libya.

6.11 Reliability and Validity of the Research Methods

The issue of reliability and validity concerns with both quantitative and qualitative methods. Reliability means the stability or consistency of the measurement (Bryman and Bell 2007; Fisher 2007). Reliability is concerned with the question of whether the results of a study are repeatable; therefore, it is particularly an issue in connection with quantitative research (Bryman and Bell 2007). Three factors should be considered when measuring the reliability of research which are: the stability of measure over time, the consistency of scale or index (internal reliability) and the inter-observer consistency (Bryman and Bell 2007). Reliability in quantitative methods can also be assessed by test-retest method, the split half method, and the alpha coefficient test (Hussey and Hussey, 1997). In this study the

Cronbach alpha test was used to test the reliability, and the results were within the acceptable range.[30]

Quantitative validity refers to whether the indicators really measure the concept being investigated (Bryman and Bell 2007). Therefore, validity can be classified into: internal validity which relates to the issue of causality or the cause and effect relationship; and external validity which focuses on whether the sample reflects the population and whether the conclusion can be generalised to the whole population (Bryman and Bell 2007; Fisher 2007). The research methods were designed to describe the perceptions of the respondents of the corporate governance practices in Libya. Although, the validity of quantitative findings depends on whether the sample reflects the population, the sample of stakeholders is not sufficiently large to be truly representative of the stakeholders. Nevertheless, the systematic manner in which the sample was selected and the questionnaire covering letter enabled me to have some confidence in concluding that the views and experiences represented in the data was likely to be indicative of those of the larger population. Moreover, the study is based on recent literature that strengthens the internal validity of the conceptual definition on corporate governance (e. g. OECD Principles) used in this study. This lack of ambiguity over the concept of corporate governance improved the validity of the research results. Moreover, validity was also indicated by conducting statistical significance tests. Pre-testing or a questionnaire pilot study was another step in ensuring its reliability and also validity of the data.[31]

In terms of qualitative methods issues of both internal and external validity apply (Fisher 2007). Internal validity refers to credibility of the data and defines how believable the interpretation and the findings are. Believability is improved by using a range of techniques to triangulate the findings. External validity refers to transferability of the data and emphasises the possibility of generalising the findings across social settings (Fisher 2007). In this study, the quality, relevance and usefulness of the qualitative data obtained were significantly enhanced by the manner in which the semi-structure interviews were conducted. The consent form, a copy of a covering letter and the guidelines of the interview were used to standardise and increases the consistency and the quality of interviews. Also,

[30] The Cronbach alpha scores range between 0 and 1, and it should be at least 0.7, the minimum value for reliability (Bagozzi, 1994).

[31] Thomas (1996) argues that pilot study is the first step to ensuring the reliability and validity of questionnaires.

the commitment of interviewees enabled me to successfully develop the findings, since they were policy makers and experts, and their comments and answers equipped me with confidence to accurately interpret what they had to say. The archival resources such as laws and regulations and the results of the additional questionnaire to listed companies were used as a secondary data source and employed appropriately in discussion. Therefore the reliability and validity of the study are considered to be generally good because of the care taken in collecting and analysing the data. The agreement between the findings of the quantitative surveys and qualitative data suggest that the data was consistent since the finding from one method seemed to validate those from the other.

CHAPTER SEVEN

Questionnaire Survey Results

7.1 Introduction

This chapter outlines and discusses the findings of the questionnaire survey which was carried out during July and August 2007.

The questionnaire was circulated to the following groups: academic accountant staff, external auditors, investment advisors in government banks, company employees, government officials and investors. In all, 453 questionnaires were distributed, and 195 questionnaires were returned during that time, which mean the response, rate was 43%. The design and implementation of the questionnaire and interview survey were detailed in section 6.5.4.

7.2 Justifying Using Statistical Analysis

The main issue was to choose the appropriate statistical techniques for the data analysis. As the study focuses on respondents' perceptions of corporate governance in Libya, and whether different stakeholder groups hold different or similar views on corporate governance, it is appropriate to analyse their views using the mean to compare the opinions and perceptions of respondents on corporate governance practice.

To examine differences between independent samples, the researcher carried out non-parametric tests, which are appropriate for this study. In general, various advantages can be gained from using non-parametric tests. Siegel and Castellan, (1988: pp.35-36) have summarised these as follows:

1- Non-parametric tests are suitable when the sample size is small.
2- Non-parametric tests typically make fewer assumptions.
3- Non-parametric tests are available to analyse data which are inherently in ranks and data whose seemingly numerical scores have the strength of ranks.
4- Non-parametric tests are suitable for treating samples made up of observations from different populations.
5- Non-parametric statistical tests are easer to apply and the interpretation is more direct than the interpretation of parametric tests.

The Kruskal-Wallis (KW) tests were carried out to test any differences between independent samples, which is appropriate with ordinal (ranked) data. The mean value that underscores respondents' behaviour with respect to the stated research question was computed for each appropriate variable. The mean test response was used to investigate and explore where the difference between groups was significant.

7.2.1 Kruskal-Wallis One-Way Analysis of Variance

To compare between groups' views, and because the data are ordinal, the Kruskal-Wallis test was employed. The Kruskal-Wallis test is the non-parametric version of the parametric ANOVA test for calculating differences in the population mean. Kruskal-Wallis One-Way Analysis of Variance tests the hypothesis that independent groups or samples are the same against the alternative hypothesis that one or more of the groups differ from the others, so it is used to test several independent samples. Thus, in the present study the Kruskal-Wallis test is used to establish any difference in average response across the six groups in their answers to each question.

The Kruskal-Wallis test can be computed using the following formula:

$$H = \frac{12}{N(N+1)} \sum_{j=1}^{k} \frac{R_j^2}{n_j} - 3(N+1)$$

Where

H = Kruskal-Wallis Test

Rj = sum of the ranks of the jth group;

nj = sample size of the jth group;

N = combined sample sizes of all groups

In line with most tests in the social sciences, the study was conducted at the 5% level of significance and 95% level of confidence (Curwin and Slater, 2002: p279; Silver, 1992:p191). When the obtained value of Kruskal-Wallis is significant, it indicates that at least one of the groups is different from at least one of the others. The Kruskal-Wallis test does not tell which one is different and how many of the groups are different from each other (Siegel and Castellan, 1988). Therefore, the researcher will use the mean to explore variation in group behaviour and opinion on each question.

7.2.2 Mann-Whitney Test

The Mann-Whitney test (MW) is a non-parametric equivalent to the t-test parametric test (Zikmund, 2003). This technique is used to test the difference between two independent groups which may be of different sizes (Curwin and Slater, 2002). Therefore, in this study, the MW test was used to verify which pairs of group averages were significantly different.

If the two groups are the same size, the Mann-Whitney value is computed for the second of the two groups using the following formula:

$$U = S - \frac{n1(n1+1)}{2}$$

Where:

S = the sum of the ranks;

n1 = the total number of respondents in sample 1

7.3 The Major Findings

Questions 2, 3 and 4 of the survey sought to investigate general standpoints regarding the concept of corporate governance.

7.3.1 The Concept of Corporate Governance

In order to determine respondents' attitude towards effective corporate governance in Libya, they were asked for their opinions on the definitions of corporate governance that are suitable for the Libyan context.

Selected groups were invited and requested to indicate their opinion on a five-point scale ranging from strong disagreement to strong agreement (1=Strongly disagree; 2=disagree: 3= Neutral; 4= Agree; 5= Strongly agree).

The study participants were given a list of possible definitions of corporate governance, which were constructed from the contrasting theoretical standpoint of shareholder theory and stakeholder theory. To achieve fuller insights about corporate governance, the participants were offered three questions of which the first one concerned the shareholder model and the second and third questions were about the stakeholder model with differences in the definitions of stakeholders. A summary of the responses of the study participants is depicted in Table 7.1.

Table 7.1 Group means and Kruskal-Wallis Tests showing respondents' views regarding the best definition of corporate governance in Libya

Statement	Group means						Kruskal-Wallis Test			
	1	2	3	4	5	6	overall mean	Rank	P-value	Result
Q2a-Corporate governance refers to an organisation's relationship with its shareholders to ensure that it acts in accordance with the interests of them.	2.67	2.69	3.05	2.61	3.10	3.62	2.94	3	.000	Significant*
Q2b- Corporate governance refers to an organisation's relationship with all stakeholders who are affected by or affect the company's operations and decisions.	4.28	4.12	4.38	4.29	4.31	3.91	4.20	1	.273	Not-significant
Q2c- Corporate governance refers to an organisation's relationship with all members of society, irrespective of whether they affect or are affected by the company's operations and decisions.	3.25	3.05	3.40	3.26	3.31	3.18	3.22	2	.668	Not-significant

Groups are: 1 = academic staff, 2= external auditors, 3= investment advisors of banks, 4= company employees, 5= government officials, 6= investors.
The KW test shows whether there are any differences in the means of responses given by the groups for each question.

Table 7.2 The Mann-Whitney probabilities: respondents' views regarding the best definition of corporate governance in Libya

Questions	G(1-2)	G(1-3)	G(1-4)	G(1-5)	G(1-6)	G(2-3)	G(2-4)	G(2-5)	G(2-6)	G(3-4)	G(3-5)	G(3-6)	G(4-5)	G(4-6)	G(5-6)
Q2a	0.935	0.178	0.740	0.114	0.000	0.194	0.690	0.116	0.000	0.117	0.859	0.049	0.069	0.000	0.063
Q2b	0.686	0.119	0.909	0.698	0.230	0.081	0.606	0.446	0.439	0.135	0.298	0.052	0.768	0.195	0.163
Q2c	0.257	0.567	1.000	0.804	0.869	0.125	0.230	0.225	0.349	0.557	0.760	0.497	0.805	0.872	0.687

Groups are: 1 = academic staff, 2= external auditors, 3= investment advisors of banks, 4= company employees, 5= government officials, 6= investors.

The MW test explains which particular pairs of group means are significantly different from each other.

In this research a 95% level of confidence has been chosen to test the differences between groups. Therefore, when the level of significance is equal to or lower than the critical value 0.05, it indicates that at least one of the groups is different from at least one of the others.

As can be seen from Table 7.1, the definition which received most support was the second definition **Q2b** which described corporate governance in terms of an organisation's relationship with all stakeholders who are affected by or affect the company's operations and decisions. This definition received strong agreement from all respondents with an overall mean score of 4.20. All the group means were more than neutral, which demonstrated the strong and clear support by respondents for the stakeholders' perspective. The mean score of groups varied between 3.91 and 4.38.

In **Q2c,** corporate governance is referred to as an organisation's relationship with all members of society, irrespective of whether they affect or are affected by the company's operations and decisions, and this was supported with an overall mean response of 3.22, the mean of each group centralised between 3.05 and 3.40.

The result is in line with the findings of Iqbal and Mirakhor (2004) when they argue that the governance model in an Islamic economic system is a stakeholder-oriented model where the governance structure and process at system and firm level protect the rights of stakeholders who are exposed to any risk as a result of the firm's activities.

In respect of **Q2a,** which defined corporate governance as an organisation's relationship with its shareholders to ensure that it acts in accordance with their interests, this received less support with a mean score of 2.94.

According to table 7.1, the respondents were divided into two categories. The first category consisted of academics, auditors and company employees who showed disagreement with this statement with mean scores of 2.67, 2.69, and 2.61 respectively, whereas bank investment advisors, government officials and investors groups were more supportive of this definition, with mean scores of 3.05, 3.10 and 3.62 respectively.

In the first statement (definition), the Kruskal-Wallis test revealed a significant difference in the average perceptions amongst the groups involved in the survey at the 5 per cent level of significance. Investors most strongly supported this definition, with a mean of 3.62, while academic accountants, external auditors and company employees groups were less supportive with means of 2.67, 2.69, and 2.61 respectively.

The Mann-Whitney (MW) test was carried out to identify which group or groups' view are statistically different. Table 7.2 showed that the investors group was present in four relationships which shared significant differences in group means (p=0.000).

These results can be explained as follows;

1. The difference between the group of investors and company employees reflects the conflict of interest between these groups, where the investors prefer companies to act primarily in their interests even if these interests are not the interests of other stakeholders. On the other hand, the employees perceived that their benefit might be in conflict with the shareholders' interests.
2. In respect of academics (G (1-6), p=0.000) and external auditors (G (2-6), p=0.000) along with investors, the reason for their support for the broad definition, the stakeholders' perspective, might be ascribed to their higher education which may have given them more knowledge and insight into the benefits of pursuing the interests of the stakeholders which should eventually lead to the benefit of shareholders in the long term.
3. A marginally significant result (G (3-6), p=0.049) contrasts attitudes of investors and investment advisors of banks.

To summarise, the study participants perceived that the most appropriate definition of corporate governance in the Libyan context is the stakeholders' perspective, since less support is given to the shareholders' view. However, participants were concerned about the meaning of stakeholders, as all members of society, or only the groups who are affected by or affect the company's operation. Participants suggested that companies need to identify their stakeholders and take account of them as a part of their practice of corporate governance.

The result supported the finding of Iqbal and Mirakhor (2004) when they argue that the governance model in an Islamic economic system is a stakeholder-oriented model where governance structure and process at system and firm level protect the rights of stakeholders who are exposed risks as a result of the firm's activities. Also, Clarke (2005) suggested that corporate governance needs to go beyond the immediate mechanisms and institutions of corporate governance, to consider the bigger questions of how corporations allocate resources and returns, and how they contribute to economic development. Moreover, these findings were in line with those of Allen (2005), whose study analysed corporate governance in emerging economies. His results showed that since markets are imperfect and incomplete in these economies, the focus on all stakeholders, rather than shareholders, may lead to a better allocation of resources and equitable income distribution.

7.3.1.2 The Importance of Corporate Governance in Libya

Q3 explores the perceived purposes of corporate governance in Libya. The aim of this question is to determine respondents' attitudes towards the importance of corporate governance: they were asked for their opinions on the benefit of introducing corporate governance to Libyan companies. The respondents were invited and requested to indicate their opinion on a five-point scale ranging from not at all important to very important **(1**=Not important at all, **2**= Unimportant**, 3**= Uncertain, **4**= Important**, 5**= Very important).

Table **7.3** indicates that, in general, all the statements listed were viewed by respondents as important since no mean scores were less than 3.55. It shows that respondents in all groups believed, with no significant differences, that corporate governance would be useful for the Libyan economy. In addition, the statement received the highest support with a total mean of 4.56 and the strongest support was from academic staff, with a mean of 4.69. Less support came from the investors group with a mean of 4.20.

This result was in line with the suggestions by Judge et al (2003) when they said ''effective governance is critical to all economic transactions, especially in emerging and transitioning economies''. Also, it is in line with McCarthy and Puffer's (2003) finding when they stated "Corporate governance is a key to developing a market economy and civil society in transitioning economies like Russia''. So, the study might reflect and demonstrate a strong relationship between good governance practice and the level of economic development.

Table 7.3 Group means and Kruskal-Wallis Tests showing respondents' views regarding the significance of corporate governance in Libya

Statement	Group means						Kruskal-Wallis Test			
	1	2	3	4	5	6	All mean	Rank	P-value	Result
Q3a- Useful for the Libyan economy	4.69	4.65	4.62	4.57	4.66	4.20	4.56	1	.072	Not-significant
Q3b- Improve accountability mechanism	4.22	4.44	4.38	3.91	4.21	4.03	4.19	2	.103	Not-significant
Q3c- Reduce the level of corruption	3.56	3.88	3.43	3.34	3.72	3.26	3.55	6	.125	Not-significant
Q3d- Improve the investment climate	3.78	3.63	3.62	3.60	3.79	3.74	3.69	5	.951	Not-significant
Q3e- Improve corporate social responsibility in Libya	4.53	4.40	4.19	4.06	3.83	3.80	4.14	3	.000	Significant*
Q3f- Protect stakeholders' rights	4.26	4.21	4.14	4.03	3.79	3.71	4.03	4	.017	Significant*

Groups are: 1 = academic staff, 2= external auditors, 3= investment advisors of banks, 4= company employees, 5= government officials, 6= investors.
The KW test shows whether there are any differences in the means of responses given by the groups for each question.

Table 7.4 The Mann-Whitney probabilities: respondents' views regarding the significance of corporate governance in Libya

Questions	G(1-2)	G(1-3)	G(1-4)	G(1-5)	G(1-6)	G(2-3)	G(2-4)	G(2-5)	G(2-6)	G(3-4)	G(3-5)	G(3-6)	G(4-5)	G(4-6)	G(5-6)
Q3a	0.743	0.788	0.416	0.790	0.011	0.993	0.582	0.972	0.013	0.675	0.971	0.055	0.597	0.060	0.024
Q3b	0.190	0.453	0.159	0.968	0.532	0.720	0.005	0.192	0.070	0.049	0.445	0.232	0.187	0.524	0.570
Q3c	0.110	0.969	0.550	0.246	0.244	0.298	0.046	0.953	0.009	0.697	0.495	0.510	0.150	0.684	0.067
Q3d	0.546	0.846	0.412	0.932	0.878	0.822	0.828	0.511	0.665	0.694	0.794	0.894	0.388	0.527	0.825
Q3e	0.296	0.102	0.002	0.000	0.000	0.332	0.019	0.002	0.002	0.443	0.127	0.122	0.285	0.249	0.913
Q3f	0.694	0.900	0.123	0.012	0.011	0.694	0.184	0.015	0.011	0.278	0.079	0.071	0.250	0.157	0.749

Groups are: 1 = academic staff, 2= external auditors, 3= investment advisors of banks, 4= company employees, 5= government officials, 6= investors.

The MW test explains which particular pairs of group means are significantly different from each other

Good corporate governance improving the accountability mechanism was the second supported statement in the list with a mean score of 4.19. Strong support came from auditors, with a mean score of 4.44, and investment advisor, with a mean score of 4.38.

The results support the finding reported by McKinsey (2000) that corporate governance was perceived as adding value to a company according to the widely cited investor opinion survey on corporate governance. Interestingly, although investors should be concerned with improving accountability mechanisms, the data analysis revealed that investors ranked as the fifth group in terms of support with a mean score (4.03).

The third ranked statement concerned the relationship between the implementation of corporate governance and improving corporate social responsibility, with a mean score of 4.14, whereas protecting stakeholders' rights was in fourth position, with a mean of 4.03.

Improving the investment climate (Q3d) was ranked fifth with a mean score of 3.69. This finding might indicate that government officials and investors appreciate the problems of raising investment for companies since they are the ones more likely to be involved increasing capital for a company. Academics might be being aware and conscious of the real problems of the country since they can understand the main obstacles of investment opportunities. The finding suggested that good corporate governance has positive impacts and can eliminate adverse effects which have a negative impact on stakeholders. This compares with Tam and Tan (2007) when they argued that with more effective governance arrangements, investor protection can be enforced, market mechanisms can function competitively and minority shareholders' interests are safeguarded.

The lowest mean value concerned the reducing the level of corruption, with a mean of 3.55, which is not in favour of Shen et al (2006) argument who argued that establishing a sound corporate governance policy benefits many levels of management and ownership, and can help companies avoid management-level corruption and enhance company values. The lower support for the statement that corporate governance reduces the level of corruption might reflect participants' view that corporate governance is not a miracle drug to fight corruption. Fighting corruption needs enforcement of laws, changing bad culture and stimulating the moral and ethical behaviour of employees and management.

The Kruskal-Wallis (KW) Test revealed significant differences between groups about **Q3e** and **Q3f** where the P value was 0.000 and 0.017 respectively.

To investigate which group or groups were different regarding **Q3e,** Mann-Whitney Tests were carried out. Regarding table 7.4, there was a difference between the academics and auditors groups and company employees, government officials and the investors groups. The academics and auditors strongly agreed with the statement that corporate governance is important to improve the corporate social responsibilities in the Libyan context, with mean scores of 4.53 and 4.40 respectively; the company employees, government official and the investors groups were less supportive, with mean scores of 4.06, 3.83 and 3.80 respectively. The reason why participants support this statement may be their knowledge, especially for academics, as most of them graduated in western countries where the accounting science and the principles of corporate governance are more developed. This finding is consistent with the argument by Clarke (2007) when he said ‘’the effective integration of corporate social and environmental responsibilities could potentially release greater value for both shareholders and wider stakeholders’’.

In respect of **Q3f,** which asked the groups’ opinion on the relationship between introducing good corporate governance and protection of stakeholders’ rights, the Mann-Whitney (MW) test revealed that there was a significant difference between the academics and auditors groups and government officials and investors groups. The academics and auditors groups most strongly agreed with the statement (with means of 4.26 and 4.21 respectively) which might reflect their analytical when looking at the interactions between companies and other parties, while the government officials and investors groups showed less support, with mean scores of 3.79 and 3.71 respectively.

This finding revealed that in Libya, as a developing country, stakeholders’ rights are thought to be less protected. The result was in line with Claessens (2003) when he stated:

> “Corporate governance can reinforce the better relationship with all stakeholders, which eventually helps to improve social and labour relationships and aspects such as environmental protection”.

This finding also is in line with most studies carried out in developing countries. For instance, Tam and Tan (2007) found that corporate governance in Malaysia needs to be better able to scrutinise and restrain the power of large shareholders to protect the interests of minority shareholders.

7.3.1.3 The Significance of Corporate Governance in Libya

Question four endeavoured to determine the significance of applying good corporate governance to different groups of stakeholders. In order to achieve this objective, the participants were asked to give their opinions on the significance of corporate governance in Libya to all parties listed. Groups were requested to indicate their level of agreement.

The results in Table **7.5** indicate that, in general, participants in principle agreed on the significance of corporate governance to all listed parties, since all items recorded overall mean scores of more than 3.74. The respondents ranked creditors and government agencies as first and second main beneficiaries of applying good corporate governance, with means of 4.70 and 4.64, respectively. This result may be explained on the grounds that low commitment to good principles of corporate governance will erode the rights of stakeholders. Notably, creditors, such as banks, suppliers and other lenders, are suffering from poor practices of corporate governance and the government also suffers by losing tax revenue.

Table 7.5 Groups means and Kruskal-Wallis Tests showing the significance of corporate governance to different groups of stakeholders

Statement	Group means						Kruskal-Wallis Test			
	1	2	3	4	5	6	All mean	Rank	P-value	Result
Q4a- Shareholders	4.28	4.47	4.40	4.40	4.41	4.71	4.45	3	.017	Significant*
Q4b- Creditors (suppliers, banks, others)	4.84	4.77	4.62	4.66	4.71	4.57	4.70	1	.223	Not-significant
Q4c- Employees	4.38	4.37	4.43	4.43	4.28	4.15	4.34	4	.699	Not-significant
Q4d- Government and its agencies	4.81	4.70	4.48	4.60	4.76	4.45	4.64	2	.036	Significant*
Q4e – Auditors.	3.81	3.95	3.62	3.74	3.70	3.46	3.74	6	.107	Not-significant
Q4f- Society at Large	4.47	4.42	4.15	4.26	4.41	3.90	4.28	5	.078	Not-significant

Groups are: 1 = academic staff, 2= external auditors, 3= investment advisors of banks, 4= company employees, 5= government officials, 6= investors.

The KW test shows whether there are any differences in the means of responses given by the groups for each question.

Table 7.6 The Mann-Whitney probabilities: respondents' views about the significance of corporate governance to stakeholders

Questions	G(1-2)	G(1-3)	G(1-4)	G(1-5)	G(1-6)	G(2-3)	G(2-4)	G(2-5)	G(2-6)	G(3-4)	G(3-5)	G(3-6)	G(4-5)	G(4-6)	G(5-6)
Q4a	0.095	0.379	0.310	0.281	0.000	0.545	0.470	0.565	0.056	1.000	0.924	0.023	0.912	0.009	0.016
Q4b	0.417	0.065	0.082	0.229	0.026	0.219	0.285	0.617	0.101	0.775	0.486	0.827	0.631	0.567	0.317
Q4c	1.000	0.759	0.829	0.631	0.250	0.748	0.819	0.611	0.220	0.884	0.480	0.191	0.470	0.145	0.547
Q4d	0.340	0.011	0.089	0.611	0.010	0.072	0.394	0.685	0.063	0.322	0.042	0.960	0.245	0.320	0.039
Q4e	0.352	0.395	0.668	0.474	0.058	0.127	0.148	0.118	0.007	0.549	0.767	0.502	0.694	0.088	0.234
Q4f	0.787	0.163	0.254	1.000	0.010	0.216	0.345	0.818	0.013	0.651	0.230	0.446	0.330	0.141	0.026

Groups are: 1 = academic staff, 2= external auditors, 3= investment advisors of banks, 4= company employees, 5= government officials, 6= investors.

The MW test explains which particular pairs of group means are significantly different from each other.

The third and forth ranks were shareholders and employees, with means 4.45 and 4.34 respectively. The less important beneficiaries were viewed as society at large and auditors, with mean score 4.28 and 3.74, respectively. All findings can be explained on the grounds that corporate governance is important in developing the economy, and all parties could benefit since the mean score was high in all statements.

Although all selected groups showed agreement with the significance of a corporate governance, the Kruskal-Wallis (KW) test showed there were significant statistical differences between the six groups in respect of shareholders **Q4a** and government and its agencies **Q4d** (P-value= 0.017 and 0.036 respectively). However, according to the group means, the differences were in the level of agreement, not in disagreement.

The Mann-Whitney (MW) test results (table 7.6) indicate that there were differences in response between the investors group and the academics, bank investment advisors, company employees and the government official groups, where the investors group strongly supported this statement with a mean score of 4.71, while the bank investment advisors, company employees and the government official groups supported this statement but with less force (group mean score were 4.28, 4.40, 4.40 and 4.41 respectively).

The Kruskal-Wallis (KW) test of **Q4d** showed statistically significant differences between participants. The Mann-Whitney (MW) test results (table 7.6) identified statistically significant differences in responses between the academics and government officials groups and the bank investment advisors and investors groups. The academics and government officials strongly agreed on the statement, with mean scores of 4.81 and 4.76 respectively, whereas the bank investment advisors and investors groups also supported this statement but less than academics and government officials (mean scores of 4.48 and 4.45 respectively).

The difference between groups might be due to the diversity of their interests or to their knowledge of the understanding of corporate governance. Furthermore, this finding can be explained on the grounds that the purpose of applying corporate governance in Libya is to protect the creditors group since they are affected by management deception, especially in the transition time of the economy.

7.3.2 The Rights of Stakeholders

Question five concentrated on the rights of stakeholders, including shareholders. In general, stakeholders (such as creditors and employees) play an important role in influencing a corporate governance system. Therefore, stakeholders' interests are often protected by law. In the same vein, the OECD principle (2004) stated that;

> "The corporate governance framework should recognise the rights of stakeholders established by law or through mutual agreements and encourage active co-operation between corporations and stakeholders in creating wealth, jobs, and the sustainability of financially sound enterprises" (Para IV).

Respondents from all groups involved in this study were asked to give their opinions on a list of statements relating to rights of stakeholders provided in this question. With a five-point scale question, they were asked to indicate their levels of opinion about existing stakeholders' rights in the Libyan context.

Table 7.7 demonstrated that, in general, respondents in all groups agreed in principle with most of the statements listed to shareholders' rights, since these statements recorded overall mean scores of 4.61 or above. Among the statements receiving the highest mean scores and ranking were that shareholders approve the annual accounts, distribution of profits and appoint external auditors with a mean score of 4.86 and shareholders have the right to participate, vote at the general meeting and be treated fairly with a mean score of 4.85.

These results are in line with the findings and recommendations made by RCGWG (2003), when they argued that shareholders are explicitly given the right to vote and participate in the general assembly of the company, and with the OECD principle (2004) when it stated that a corporate governance should protect shareholders' rights as well as ensuring that all shareholders are taking and practising their rights (OECD, 2004 Para. II).

Table 7.7 Groups means and Kruskal-Wallis Tests showing respondents' answers regarding the rights of stakeholders under current practice of corporate governance in Libya.

Statement	Group means						Kruskal-Wallis Test			
	1	2	3	4	5	6	overall mean	Rank	P-value	Result
Q5a- Shareholders approve the annual accounts, distribution of profits.	4.81	4.77	4.81	5.00	4.97	4.83	4.86	1	0.025	Significant*
Q5b-Shareholders have the right to participate, and vote at the general meeting.	4.78	4.77	4.81	5.00	4.93	4.83	4.85	2	0.041	significant*
Q5c- Shareholders have the right to be informed on decisions representing fundamental changes.	4.59	4.60	4.62	4.71	4.52	4.60	4.61	3	0.889	Not-significant
Q5d- Stakeholders have legal access to relevant information by their interests.	3.97	4.19	4.06	4.37	4.07	3.94	4.11	4	0.096	Not-significant
Q5e- Stakeholders' rights are protected.	3.66	4.05	3.88	4.00	3.36	3.86	3.81	5	0.016	significant*
Q5f-Stakeholders' rights that are established by law are respected by companies.	2.77	3.05	2.83	3.56	2.54	2.70	2.93	6	0.000	significant*
Q5g- Companies act in a responsible manner and protect the rights of the society.	2.48	2.85	2.72	3.55	2.54	2.82	2.85	7	0.000	significant*

Groups are: 1 = academic staff, 2= external auditors, 3= investment advisors of banks, 4= company employees, 5= government officials, 6= investors.
The KW test shows whether there are any differences in the means of responses given by the groups for each question.

Table 7.8 The Mann-Whitney probabilities: respondents' views regarding the rights of stakeholders in Libya

Questions	G(1-2)	G(1-3)	G(1-4)	G(1-5)	G(1-6)	G(2-3)	G(2-4)	G(2-5)	G(2-6)	G(3-4)	G(3-5)	G(3-6)	G(4-5)	G(4-6)	G(5-6)
Q5a	0.640	0.979	0.008	0.063	0.865	0.704	0.002	0.023	0.509	0.008	0.072	0.858	0.272	0.011	0.083
Q5b	0.888	0.806	0.004	0.102	0.627	0.704	0.002	0.070	0.509	0.008	0.196	0.858	0.117	0.011	0.221
Q5c	0.814	0.922	0.509	0.594	0.905	0.912	0.315	0.703	0.910	0.464	0.680	0.992	0.222	0.408	0.654
Q5d	0.121	0.660	0.012	0.471	0.727	0.503	0.111	0.278	0.393	0.121	0.989	0.875	0.017	0.502	0.973
Q5e	0.031	0.416	0.068	0.254	0.260	0.388	0.575	0.002	0.212	0.372	0.098	1.000	0.012	0.173	0.027
Q5f	0.151	0.728	0.001	0.160	0.610	0.345	0.014	0.016	0.088	0.004	0.130	0.466	0.000	0.001	0.425
Q5g	0.115	0.359	0.000	0.904	0.159	0.668	0.002	0.162	0.951	0.003	0.400	0.717	0.000	0.004	0.226

Groups are: 1 = academic staff, 2= external auditors, 3= investment advisors of banks, 4= company employees, 5= government officials, 6= investors.

The MW test explains which particular pairs of group means are significantly different from each other.

The cornerstone of corporate governance arrangements for conventional businesses is the protection of shareholders' rights (Grais and Pellegrini, 2006). In the MENA region, even though shareholders' rights are clearly identified in the legal system, there is still a gap between the law and the practice (RCGWG, 2003).[32]

Regarding **Q5d,** there was a satisfaction from participants when the mean score of all respondents was 4.11. The investors group was the weakest in its support for this issue with a mean score of 3.94, while the strongest agreement came from company employees (mean score of 4.37). There was also striking evidence that the academic staff also appear to believe that stakeholders have unsatisfactory legal access to relevant information, with the mean score of 3.97.

Question **Q5e** endeavoured to determine whether the stakeholders' rights are robustly protected by the legal system. There were significant differences in the participants' opinions towards this statement with generally low support (see Table 7.7). The result can be attributed to the commercial law in Libya which was promulgated in 1953 and, since that time, there have been many amendments to the law to coincide with fluctuating Libyan business policies. Thus, almost of participants were reluctant to agree with this statement, however, external auditors and companies' employees were most supporting of the statement with mean scores of 4.05 and 4.00 respectively.

The Mann-Whitney (MW) test results (table 7.8) indicated the differences in the responses made by the groups to questions **Q5e** and **Q5f**. Question **Q5e** revealed a significant difference between the group of government officials and the groups of external auditors, company employees and investors. The reasons why the government group (Libyan Stock Market employees) supported this statement less may be their desire for more change in the laws and regulation which would eventually lead to developing the business activities and the financial market. This explanation is in line with the OECD Principles of Corporate Governance (2004) when they emphasise that good corporate governance is important in building market confidence and encouraging more stable, long term international investment flows. This statement revealed a notable separation of opinion between the academic staff and the external auditors when they scored means of 3.66 and 4.05 respectively. This can be explained on the grounds that most academic staff are more aware that in Libya, as in other developing

[32] The RCGWG (2003) argued that shareholder participation is weak in the MENA Region which can be attributed to the lack of a particular culture and / or poor awareness by small investors.

countries, the protection of stakeholders' rights is low. This result was in line with results reported by Nganga et al (2003) who stated: "Legal protection of investor rights is particularly important in emerging markets where investors are uncertain about the protection of their property rights". Also, a survey of international investors by McKinsey & Co in 2002 found that 85% consider corporate governance in Africa and Eastern Europe to be ''equally, or more, important than financial issues … in deciding which companies to invest in''.

La Porta et al (1998) have suggested that better investor protection increases the willingness of investors to provide financing and should be reflected in lower costs of access to external finance.

Question **Q5f** asked if companies respect their stakeholders' rights. This question was in sixth rank out of seven, and with a mean of 2.93, indicating less support from a majority of the respondents. Company employees group showed a slight agreement with a mean score of 3.56, whereas external auditors group showed a neutral agreement with the statement when a mean score was 3.05.

Although a company should make the interests of shareholders a priority, it should not overlook benefits for its other stakeholders. However, after analysing the responses to question five **(Q5),** it is notable that respondents thought the rights of stakeholders in the Libyan context may need more protection, as a basis for developing the climate of investment. Therefore, improved corporate governance is seen as important in the Libyan context to reinforce better relationships with all stakeholders.

7.3.3 The Obstacles to Good Corporate Governance in the Libyan Context

Question **(Q6)** attempted to determine the main obstacles to improving corporate governance practice in the Libyan context. In order to achieve this objective, respondents from all groups involved in this study were asked to give their opinions on points they perceived as obstacles for the practising of corporate governance, indicating their level of agreement with areas on a five-point scale, where 5 represented Strongly Agree and 1 reflected Strongly Disagree.

The results are reported in Table 7.9, where respondents agreed in principle with the majority of the statements listed in this question representing impediments to good practice of corporate governance in Libya.

Poor enforcement of the legal system, with an overall mean of 4.43, and the range of the mean scores for all groups were between 3.43 and 4.54, was seen as the greatest obstacle followed by the lack of legal and regulatory systems, with an overall mean of 4.38.

The third factor, with a mean of 4.05, was poor leadership within the company, while the fourth factor was government interference in business activities, with a mean score of 3.91.

Respondents considered that the remaining statements have less effect on the corporate governance system in Libya, which included social connections (with a mean score of 3.75), the Libyan culture (with a mean score of 3.46) and the form of company ownership (with a mean score of 2.55).

These findings can be explained on the grounds that the legal system in Libya is perceived as either not being adequate or as being outdated and needing, along with other laws and regulations that govern corporate governance, revision. This weakness might have appeared after the government mitigated its control on the business activities, moving forward to an open market. Therefore, more consideration should be given to systems and procedures of laws and regulation that govern company and business activities across all business activity.

Regarding **Q6a,** the mean score was over 4.00, with the exception of academic staff who gave the weakest support, with a mean score of 3.43, while the strongest support came from the investors with a mean of 4.54. It was somewhat surprising that the academics group did not support **Q6a** (laws are not enforced), whereas all other groups supported this. This may reflect the reality that the groups who agreed are actively involved in business activities and directly experience the consequences of poor enforcement.

Table 7.9 Group means and Kruskal-Wallis Tests showing respondents' answers regarding the following factors which could affect the practice of corporate governance in Libya.

Statement	Group means						Kruskal-Wallis Test			
	1	2	3	4	5	6	overall mean	Rank	P-value	Result
Q6a- Poor enforcement of laws	3.43	4.51	4.29	4.43	4.38	4.54	4.43	1	.368	Not-significant
Q6b- Lack of legal and regulatory system that govern companies' activity	4.75	4.33	4.14	4.34	4.34	4.31	4.38	2	.002	significant*
Q6c- The Libyan culture	3.58	3.37	3.52	3.22	3.64	3.48	3.46	6	.284	Not-significant
Q6d- Social connections (family, tribe and others).	3.68	3.60	3.90	3.81	3.71	3.88	3.75	5	.573	Not-significant
Q6e- Poor leadership within the company	4.31	4.07	4.00	3.50	4.24	4.17	4.05	3	.000	significant*
Q6f- The form of company ownership	2.57	2.77	2.29	2.40	2.45	2.49	2.55	7	.101	Not-significant
Q6g-The government interference in business activities (political interference)	3.77	3.88	3.62	4.12	3.78	4.19	3.91	4	.010	significant*

Groups are: 1 = academic staff, 2= external auditors, 3= investment advisors of banks, 4= company employees, 5= government officials, 6= investors.

The KW test shows whether there are any differences in the means of responses given by the groups for each question.

Table 7.10 The Mann-Whitney probabilities: respondents' answers regarding factors that could affect the practice of corporate governance in Libya.

Questions	G(1-2)	G(1-3)	G(1-4)	G(1-5)	G(1-6)	G(2-3)	G(2-4)	G(2-5)	G(2-6)	G(3-4)	G(3-5)	G(3-6)	G(4-5)	G(4-6)	G(5-6)
Q6a	0.116	0.718	0.559	0.852	0.142	0.117	0.374	0.221	0.612	0.374	0.593	0.099	0.692	0.342	0.195
Q6b	0.001	0.000	0.002	0.001	0.002	0.233	0.814	0.968	0.959	0.159	0.222	0.277	0.769	0.795	0.994
Q6c	0.171	0.723	0.109	0.607	0.323	0.438	0.637	0.077	0.590	0.287	0.452	0.690	0.055	0.375	0.142
Q6d	0.982	0.116	0.312	0.584	0.247	0.149	0.319	0.612	0.240	0.562	0.323	0.649	0.667	0.882	0.581
Q6e	0.042	0.006	0.000	0.539	0.277	0.307	0.002	0.164	0.427	0.031	0.019	0.117	0.000	0.001	0.617
Q6f	0.977	0.044	0.072	0.136	0.158	0.036	0.058	0.115	0.142	0.575	0.547	0.259	0.915	0.536	0.656
Q6g	0.748	0.388	0.074	0.909	0.019	0.174	0.065	0.872	0.010	0.010	0.341	0.001	0.109	0.656	0.034

Groups are: 1 = academic staff, 2= external auditors, 3= investment advisors of banks, 4= company employees, 5= government officials, 6= investors.

The MW test explains which particular pairs of group means are significantly different from each other.

In respect of **Q6b,** table 7.9 shows that Libya suffers from a lack of legal and regulatory systems to organise business and govern companies' activity. Group mean scores were more than 4.10 with most support coming from academics (4.75) and less support from bank investment advisors, with a mean score of 4.14. The support of the statement can be explained on the grounds that Libya, like many countries in the MENA region, faces many problems in lacking a legal system. For instance, only few countries in the region have bankruptcy procedures (RCGWS, 2003). Also, the result confirms the economic changes have not been followed by comprehensive review of the legal system[33].

The **Q6a** and **Q6b** results support the views of these researchers who believe that most developing countries exhibit weaknesses in enforcement of legislation (see, for example, Berglöf and Claessens, 2004).

Table 7.9 also suggests that all groups agreed that the effect of culture on the corporate governance system in the Libyan context was less significant as a barrier, with mean scores between 3.64 and 3.22 (the strongest support came from government officials and the weakest came from company employees). The result shows that although culture ranked as the fifth factor between the factors, the overall mean and group means scores were somewhat neutral, which can be explained on the grounds that companies are not separated from the cultural norms which influence the corporate governance framework.

Comments on the last page of the questionnaire by respondents offered insights into this issue. These comments focused on the remedy for corruption by stimulating more carefully the privatisation of companies and creating a better environment of competitiveness, increasing the level of salaries and wages (compensation), which do not balance with the cost of living and may cause poor management in many companies. Also, important were nominating managers and employees according to a merit system rather than social and cultural connections, tackling the restricted levels of business education with a focus on business values and management behaviours and following the Islamic principles. This result is in line with the recommendation by Najib (2007: p32) when he said:

> "Introducing corporate governance as part of the culture of the country will constitute a good and practical solution for the problem of ownership management mix and it will allow for separate ownership from management, which is in the best interest of the company. Authorities in securities markets, whether government or private business,

[33] The clear example for the lack of legal system is that although there is allowing of private sector and the law prohibits working with others by compensation.

should provide training opportunities for companies' management and staff as well as other parties with a view to introducing new management techniques and risk assessment methods and strategies. Additionally, public governance and corporate governance have to be dealt with jointly and are of equal importance. Not only do many enterprises in the region still belong to the state, but also public governance had direct repercussions on corporate governance".

Social connections such as family and tribe were also perceived by participants; with a range of mean scores between 3.60 and 3.90 (the strongest support came from bank investment advisors, whereas the weakest support was from auditors). This result could be explained on the grounds that the differences between culture and social connection are complicated; therefore, the results were similar (see the table 7.9 **Q6c** and **Q6d**).[34]

Question **Q6e** concentrated on poor leadership within companies as a possible barrier to good corporate governance practice in Libya. Unsurprisingly, company employees were the weakest supporters, with a mean score of 3.50, whereas stronger support came from academics, government officials and investors, with mean scores of 4.31, 4.24 and 4.17 respectively.

Question **Q6f** of the survey asked respondents whether they thought that company ownership structure affects the practice of corporate governance in Libya. The issue received far weaker support with no significant differences among groups' answers.

Auditors and academics groups were the strongest supporters, with mean scores of 2.77 and 2.57, and bank investment advisors showed least support with a mean score of 2.29. The argument might be ascribed to the aspiration of the bank investment advisors to improve the governance framework regardless of the ownership structure. Also, this confirms that academics and external auditors were more convinced that dispersal of ownership structure and effective institutional ownership can help to improve governance mechanisms and practice.

Government interference in business activities within the company was ranked as the fourth strongest factor (mean = 3.91). As can be seen from Table 7.9, respondents were in general support of this statement, with mean scores over 3.60 in all groups. The stronger supporters were investors and government officials, with means of 4.19 and 4.12 respectively, while the least support came from bank investment advisors, with a mean score of 3.62. This finding reflects that all respondents believe that, during the last three decades government, interference in business activities were visible, and that even after reducing the government control in

[34] Some comments on the last page argued that social connection is a part of Libyan culture.

business activities, the government still has considerable power and controls the business activities.[35]

The Kruskal-Wallis test for question six showed that (at $p<0.05$) there were no significant differences in the groups' answers in **Q6a, Q6c, Q6d**, and **Q6f**. However, there was a significant difference in groups' answers in questions **Q6b, Q6e** and **Q6g.**

The Mann-Whitney test was carried out to understand which groups were different. The result in table 7.10 identified significant differences between academics and all other groups. In question Q6e, the Mann-Whitney test identified significant differences between company employees group and all other groups. Table 7.10 showed also statistically significant differences between academic group and both external auditors and bank investment advisors groups, and between government official and investment advisors of banks. However, these differences were generally in the level of agreement. The results seem to confirm the fact that there are many factors which affect and are affected by the practice of corporate governance in Libya. The result also suggest the companies are not isolated from the environment in which they operates; economic, social, cultural and ethical factors are all seen as a part of this environment and therefore could influence the practice of corporate governance. In addition, these significant differences should be viewed as indicating the presence of diversity in agreement-disagreement responses as a result of different perceptions of different stakeholder groups.

7.3.4 The Framework of Corporate Governance

Question **(Q7)** sought to determine reasons that might prevent good corporate governance practice in Libyan companies. Participants from all groups involved in this study were asked to give their opinions on possible factors which might restrain good corporate governance in Libyan companies. The chosen groups were requested to indicate their level of agreement with listed statements on a five-point scale, where 5 represented Strongly Agree and 1 signified Strongly Disagree. Responses to this question are summarised in Table 7.11.

[35] For more details of this point see the interviews analysis in chapter eight.

Table 7.11 Group means and Kruskal-Wallis Tests showing respondents' answers regarding the possible reasons that might have been prevented good corporate governance practice in Libya.

Statement	Group means						Kruskal-Wallis Test			
	1	2	3	4	5	6	Overall mean	Rank	P-value	Result
Q7a- Poor financial and non-financial disclosure	4.66	4.65	4.52	4.74	4.72	4.77	4.69	1	.437	Not-significant
Q7b- The companies' tax rate prevents good practice of corporate governance.	4.09	4.05	4.05	4.06	4.10	4.34	4.12	2	.077	Not-significant
Q7c- Not adopting IAS and absence of the L AS leading to poor corporate governance.	4.13	3.98	3.95	3.51	4.14	3.48	3.87	4	.000	Significant*
Q7d- Good relationships between companies and external auditors	2.37	1.88	2.81	2.24	2.52	2.61	2.35	9	.000	Significant*
Q7e- Inappropriate composition of Board of Director in Libyan companies.	3.81	4.02	3.71	3.86	3.66	3.61	3.80	5	.099	Not-significant
Q7f- The powerful Chief Executive Officers	4.13	3.45	3.90	3.51	3.57	3.91	3.72	6	.001	significant*
Q7g- Dual role played by same person as CEO and Chairman	3.83	3.71	3.81	3.60	3.38	3.68	3.66	8	.221	Not-significant
Q7h- The state of the Libyan economy affects on the practice of corporate governance practice in Libya.	4.07	3.74	4.00	3.89	3.76	3.90	3.88	3	.057	Not-significant
Q7i- Privatisation and creating stock exchange market have improved the practice of corporate governance in Libya.	3.52	3.62	3.40	3.76	3.72	4.03	3.69	7	.001	Significant*

Groups are: 1 = academic staff, 2= external auditors, 3= investment advisors of banks, 4= company employees, 5= government officials, 6= investors.
The KW test shows whether there are any differences in the means of responses given by the groups for each question.

Table 7.12 The Mann-Whitney probabilities: respondents' answers regarding possible reasons that might prevent good corporate governance practice in Libya.

Questions	G(1-2)	G(1-3)	G(1-4)	G(1-5)	G(1-6)	G(2-3)	G(2-4)	G(2-5)	G(2-6)	G(3-4)	G(3-5)	G(3-6)	G(4-5)	G(4-6)	G(5-6)
Q7a	0.964	0.340	0.442	0.571	0.300	0.331	0.386	0.518	0.250	0.097	0.149	0.057	0.867	0.782	0.666
Q7b	0.608	0.799	0.682	0.713	0.049	0.942	0.904	0.384	0.006	1.000	0.638	0.088	0.437	0.011	0.158
Q7c	0.285	0.275	0.000	0.851	0.003	0.783	0.003	0.285	0.017	0.049	0.306	0.086	0.001	0.848	0.007
Q7d	0.000	0.012	0.394	0.437	0.056	0.000	0.000	0.000	0.000	0.000	0.083	0.255	0.089	0.002	0.312
Q7e	0.112	0.430	0.751	0.520	0.164	0.060	0.313	0.043	0.006	0.399	0.900	0.738	0.383	0.155	0.556
Q7f	0.000	0.047	0.020	0.000	0.036	0.022	0.594	0.479	0.006	0.285	0.093	0.960	0.934	0.196	0.049
Q7g	0.446	0.962	0.271	0.028	0.329	0.504	0.454	0.046	0.673	0.325	0.038	0.359	0.413	0.649	0.134
Q7h	0.014	0.642	0.068	0.012	0.137	0.115	0.238	0.926	0.230	0.360	0.106	0.480	0.183	0.871	0.190
Q7i	0.729	0.396	0.223	0.338	0.008	0.108	0.205	0.361	0.001	0.010	0.025	0.000	0.766	0.026	0.018

Groups are: 1 = academic staff, 2= external auditors, 3= investment advisors of banks, 4= company employees, 5= government officials, 6= investors.

The MW test explains which particular pairs of group means are significantly different from each other.

Table 7.11 results indicate that, in general, respondents from all groups agreed in principle with most of the listed statements as factors inhibiting best practice of corporate governance in the Libyan context.

Respondents ranked poor financial and non-financial disclosure and the companies' tax rate as the first and second most important factors preventing good practice, with mean scores of 4.69 and 4.12 respectively. This finding is in line with the result in Question six **(Q6g)** when the respondents showed agreement concerning government interference in business activities.

Not adopting the International Accounting Standards (IAS) and the absence of Libyan Accounting Standards are thought to lead to poor disclosure practice**.** Stronger levels of agreement were present from academics, government officials, auditors and bank investment advisors, with mean scores of 4.13, 4.14, 3.98 and 3.95 respectively, whereas company employees and investors showed less strong agreement, with mean scores of 3.51 and 3.48 respectively. However, even with generally high agreement with this statement, the Kruskal-Wallis test revealed significant differences between the groups ($p<.05$).

The Mann-Whitney test in table 7.12 reflected significant differences between the company employees and investors and the others. The differences were in level of agreement, and the study respondents were more in the line with international perspectives on auditor independence, especially after the Enron collapse where this became a focus of worldwide attention.

An important aspect of corporate governance is the quality of financial disclosure. The statutory audit provides an external check on the way in which financial statements have been prepared and presented by company management (O'Sullivan and Diacon, 1999). Hence, the Cadbury Report (1992) in Para 5.1 suggests that the annual audit is ''one of the cornerstones of corporate governance''. However, a number of studies have questioned the objectivity and effectiveness of the audit process. For instance, O'Sullivan (1993) focused on the difficulties encountered by audit users in making auditors responsible for the accuracy of audited financial statements. Auditor independence has become the focus of much worldwide attention, especially following the Enron collapse (Ho, 2003). Two issues appear to be important to auditor independence: the length of the auditor's relationship with the company and the extent to which the auditing firm undertakes consultancy work for the company (O'Sullivan and Diacon, 1999).

In order to obtain an insight into aspects of the auditor-client relationship, the questionnaire asked respondents to provide their opinion about the relationship between the external auditor and the company. Question **Q7d** focused on the good relationship between companies and their external auditors. The results indicated that generally there was a strong disagreement from all groups about this statement, because the overall mean was 2.35. The additional questionnaire also revealed that Libyan all listed companies rotate the external auditor from time to time.

Moreover, table 7.11 revealed that the groups' mean scores of **Q7d** were significantly different. The auditor group, with a mean of 1.88, showed the most extreme view here, with lower support for the statement, whereas the highest value was from the bank investment advisors (2.81).

The Kruskal-Wallis test highlighted statistically significant differences between groups' responses to this statement at the level of 5% confidence. The Mann-Whitney (MW) test in table 7.12 revealed that the auditors' perceptions significantly differed from all groups. Most respondents in auditor groups expressed strong disagreement with this statement. Moreover, there was disagreement between academics and company employees; whereas respondents among bank investment advisors expressed less disagreement compared with academics (the mean score was 2.81 for bank investment advisors and 2.37 for academics). In addition, the Mann-Whitney (MW) test in table 7.12 showed a statistically significant difference between investors, company employees and government officials. This difference may be due to the diversity of the groups or may be because this statement needed to go into more detail about this point and its possible effects on good governance. This finding may confirm that external auditors are the profession which plays an important role in the practice of good governance in a company.

An important aspect of recent governance deliberations concerns the composition of the Board of Directors. On the basis of their participation in company management, directors are usually divided into insiders and outsiders and most authors believe that non-executive directors provide superior performance benefits to the company as a result of their independence from management (De Andres et al, 2005). The Board of Directors is charged with promoting the interests of company owners. The board has the legal authority to ratify and monitor managerial initiatives, evaluate the performance of top managers and reward or penalise that performance. The role of executive directors provides valuable information about the company's activities, while non-executive directors are expected to contribute expertise and objectivity in monitoring management decisions (Baysinger and Hoskisson, 1990). In the UK, for instance, Cadbury (1992) recommends that all boards should have a minimum number of non-executive members. Combined Code (Para, A.3) stressed that:

‘‘the board should include a balance of executive and non-executive directors (and, in particular, independent non-executive directors) such that no individual or small group of individuals can dominate the board’s decision taking.’’

This study asked respondents to give their opinion on whether the composition of the Board of Directors in Libyan companies is inappropriate. The result reported in table 7.11 indicated that, in general, respondents from all groups agreed in principle with **Q7e** since all groups recorded a mean score above 3.61. The Kruskal-Wallis (KW) test showed there were no significant differences in the answers between the groups (P= 0.099). With regard to the groups’ mean scores, table 7.11 revealed that strongest agreement came from the auditors group, with a mean score of 4.02, and the next strongest groups were company employees, with a mean score of 3.86 and the academics, with a mean score of 3.81.

The most pressing issue according to observers of corporate governance practice in developing countries is the power of Chief Executive Officers (CEO). Therefore, the present study was looking to elicit the respondents’ opinion about whether the CEO is too powerful in Libyan companies. The results in Table 7.11 indicated that, in general, participants from all groups in principle agreed on the power of the CEO as a reason to affect good corporate governance practice since the overall mean was 3.72. Most groups recorded mean scores between 3.45 and 4.13, with stronger support from the academics group and weak support from the auditors.

Question **7g** focused on whether the CEO and Chairman roles should be held by the same person. The importance of this point in corporate governance has emerged after recent international corporate crises. Experts in mature markets recommended the separation between the Chief Executive Officer (CEO) and the duties of the Chairman (RCGWG, 2003)[36]. In addition, bestowing the CEO’s and chairman’s duties on one individual makes it harder for a board to replace a poorly performing CEO, so the separation is at the core of shareholders’ interest (Khanchel, 2007).

According to Table 7.11 and regarding **Q7g,** participants from all groups agreed with this statement since the overall mean was 3.66 and it ranked as the eighth factor affecting the corporate governance system in Libyan companies, with no statistically significant differences between the groups. In addition, the table indicates that respondents’ means ranged between 3.38 and 3.83, with strongest support coming from academics, whereas the weakest support came from government officials. This finding can be explained on the grounds that Libya

[36] For instance, in developed economies like the UK the Cadbury Committee (para. 4.9) emphasised that “if the two roles are combined in one person, it represents a considerable concentration of power”.

needs more clear separation between the CEO and the Chairman roles in most companies. Although the statement was supported by participants with mean score of 3.66, the additional questionnaire revealed a clear separation between the CEO and the chairman positions in listed companies.

The last element affecting the practice of corporate governance is the state of the economy. Question **Q7h** sought to establish stakeholders' perception as to whether or not the state of the Libyan economy has affected the practice of corporate governance. According to Table 7.11, the respondents generally strongly agreed with the statement since the mean of all groups was 3.88 and without any statistically significant differences between the groups. The Kruskal-Wallis (KW) test did not show any differences at p=0.57.

The pessimistic groups, according to their mean score, were the academics and the bank investment advisors, with means of 4.07 and 4.00 respectively. This result could be explained on the grounds that academics may have better knowledge and are involved in monitoring the development of the economy including the relationship between the state of economy and the corporate governance framework. This finding is in the line with the suggestion by RCGWG (2003) when they argued "corporate governance is rightly seen as essential to attract investment, to access capital, and to develop risk management and competitiveness. Corporate governance implementation is the key to the MENA region continued participation in the world economy".

To gain further insights into attitudes concerning the state of the Libyan economy, the researcher asked the respondents to give their opinion on whether privatisation and creating the Stock Market improved the corporate governance framework. Table 7.11 revealed that **Q7i** was ranked as the seventh highest out of nine, with a mean score of 3.69, and with agreement across the groups. In more detail, the investors and company employees groups seemed to be the most optimistic, with mean scores of 4.03 and 3.76 respectively, whereas the bank investment advisors and the academics groups were the less optimistic groups, with mean scores of 3.40 and 3.52 respectively. It was not surprising that investors' groups supported the process of privatisation and establishing the stock market as a way of improving the Libyan economy and, therefore, develop the governance mechanism.

According to the Kruskal-Wallis test, there were statistically significant differences (p= 0.001). To conduct more analysis and know which group or groups were different, the Mann-Whitney test was carried out. Table 7.12 indicated that there were differences in the responses made by the investors group and all other groups, with investors consistently more positive (the mean score of investors was the highest with 4.03); the bank investment advisors group was statistically different to both company employees and government officials.

It can be clearly observed that, in general, there was support for all the statements listed in this question with the exception of the good relationship between companies and external auditors. Also, these findings reflect that the disclosure practice and the Board of Directors responsibilities are not sufficiently developed. Also the finding may confirm that the legal system that governs companies is out of date and therefore needs more development.

7.3.5 Future Plans of Corporate Governance Framework

To discover the stakeholders' perspective on good practice in corporate governance in the Libyan context, part six of the questionnaire contained three questions regarding how Libya should improve its corporate governance, mainly focusing on improving the disclosure and transparency practice and increasing the Board of Directors' responsibilities.

7.3.5.1 The Disclosure and Transparency Practice

Regarding the disclosure and transparency practice, all groups were asked to give their opinions on areas they perceived as important for improving the disclosure practice

The statements in the question were consistent with the OECD Principles (2004) of corporate governance. The results reported in Table 7.13 indicate that, in general, respondents from all groups agreed in principle with all the statements listed regarding different areas of disclosure, since all statements recorded mean scores of 4.25 or above.

The statement that achieved the highest mean score and ranked first is **Q8a**: companies should provide timely and accurate disclosure on the financial and operating results, with a mean score of 4.86. Table 7.13 also indicates that all groups demonstrated strong support for this statement and the investors group expressed the strongest agreement amongst the groups, with mean score of 4.94. This is not surprising as it clearly is in their interest.

The Kruskal-Wallis (KW) test did not show any significant differences between the stakeholders’ groups ($p = 0.285 > 0.05$). Also, this result reflects the weakness and lack of disclosure practices which might reflect the state of the economy. The finding was in line with the OECD Principles of corporate governance which stated in para (V):

> “The corporate governance should ensure that timely and accurate disclosure is made on all material matters regarding the corporation, including the financial situation, performance, ownership, and governance of the company”.

This support may not be surprising and the result was expected because most developing countries face the same problem. For instance, Qu and Leung (2006) argue that the reliability of financial disclosure is not expected to be high in developing countries unless legal disclosure standards are set. The RCGWG (2003) demonstrated that public adherence to international auditing standards and financial disclosure requirements have demonstrated the important role of developing the capital markets in the MENA region.

Q8b sought to determine if Libyan stakeholders believe that Libyan companies should disclose company objectives. According to Table 7.13, this question achieved a mean score of 4.48 and was ranked seventh among the statements listed in this question. Table 7.13 also indicated that the auditors' group articulated the strongest agreement amongst the respondents, whereas, somewhat surprising, the investors group showed less agreement (4.23). Although the extent of agreement was very high for all groups, the Kruskal-Wallis (KW) test revealed significant differences in the answers between the respondents. However, these differences were not in terms of agreement-disagreement, but represented variance in the level at agreement as some respondents agreed more strongly than others. To investigate which group or groups were statistically different, the Mann-Whitney test was used. The Mann-Whitney tests in table 7.14 revealed that both academics and external auditors were different to other groups, where they strongly supported this statement, with means of 4.69 and 4.74 respectively. A possible explanation for this difference may be the educational factor where both academics and external auditors might be more qualified than other groups in general.[37]

Q8c focused on disclosure of foreseeable risks. Table 7.14 demonstrated the respondents strongly agree on the statement, with the mean score being 4.67. The strongest support came from bank investment advisors (mean = 4.86) while the weakest support was from auditors (4.51). This agreement reflects the absence of any requirement of reporting on market risk factors, and other foreseeable risk factors, and even external auditors are required to pay high regard to such risks in their investigation.

[37] Users of financial information need information on reasonably foreseeable material risks which may include: risks that are specific to the industry or the geographical areas in which the company operates; dependence on commodities; financial market risks including interest rate or currency risk; risks related to derivatives and off-balance sheet transactions; and risks related to environmental liabilities (OECD, 2004).

Table 7.13 Group means and Kruskal-Wallis Tests showing respondents' agreement / disagreement with possible statements about whether Libyan companies should disclose

Statement	Group means						Kruskal-Wallis Test			
	1	2	3	4	5	6	Overall mean	Rank	P-value	Result
Q8a- The companies should provide timely and accurate disclosure.	4.88	4.88	4.76	4.86	4.76	4.94	4.86	1	.285	Not-significant
Q8b- The companies should disclose the company objectives.	4.69	4.74	4.29	4.41	4.38	4.23	4.48	7	.000	Significant*
Q8c- The companies should disclose the foreseeable risk factors.	4.81	4.51	4.86	4.63	4.59	4.74	4.67	3	.033	Significant*
Q8d- The companies should disclose all issues regarding employees and other stakeholders.	4.63	4.42	4.76	4.65	4.62	4.32	4.54	6	.015	Significant*
Q8e- The companies should disclose the impact of the company's activities on the society and environment.	4.91	4.58	4.86	4.77	4.55	4.48	4.68	2	.001	Significant*
Q8f- The companies should disclose the ownership structure.	4.66	4.33	4.14	4.11	4.14	4.63	4.35	8	.000	Significant*
Q8g- The companies should disclose the remuneration policy.	4.75	4.44	4.29	4.86	4.55	4.80	4.63	5	.000	Significant*
Q8h- An annual audit should be conducted by an independent, competent and qualified auditor.	4.78	4.79	4.43	4.51	4.76	4.45	4.65	4	.005	Significant*
Q8i- Information should be prepared, audited and disclosed in accordance with international standards of accounting	4.81	4.35	3.94	4.00	4.30	3.88	4.25	9	.000	Significant*

Groups are: 1 = academic staff, 2= external auditors, 3= investment advisors of banks, 4= company employees, 5= government officials, 6= investors.

The KW test shows whether there are any differences in the means of responses given by the groups for each question.

Table 7.14 The Mann-Whitney probabilities: respondents' agreement / disagreement with possible statements about disclosure.

Questions	G(1-2)	G(1-3)	G(1-4)	G(1-5)	G(1-6)	G(2-3)	G(2-4)	G(2-5)	G(2-6)	G(3-4)	G(3-5)	G(3-6)	G(4-5)	G(4-6)	G(5-6)
Q8a	0.909	0.288	0.832	0.242	0.335	0.211	0.729	0.165	0.367	0.372	0.979	0.049	0.319	0.235	0.036
Q8b	0.591	0.009	0.026	0.017	0.000	0.001	0.003	0.002	0.000	0.441	0.593	0.648	0.795	0.139	0.241
Q8c	0.012	0.675	0.098	0.055	0.498	0.012	0.368	0.614	0.054	0.069	0.041	0.317	0.732	0.307	0.187
Q8d	0.079	0.301	0.853	0.973	0.035	0.010	0.048	0.095	0.541	0.375	0.296	0.006	0.830	0.021	0.044
Q8e	0.002	0.585	0.140	0.002	0.001	0.029	0.079	0.804	0.498	0.439	0.024	0.010	0.064	0.025	0.697
Q8f	0.008	0.001	0.000	0.000	0.815	0.179	0.113	0.163	0.012	0.892	0.979	0.001	0.866	0.000	0.001
Q8g	0.008	0.001	0.272	0.106	0.626	0.233	0.000	0.364	0.001	0.000	0.064	0.000	0.007	0.529	0.034
Q8h	0.922	0.009	0.024	0.835	0.042	0.004	0.010	0.750	0.020	0.538	0.019	0.412	0.046	0.812	0.076
Q8i	0.000	0.000	0.000	0.001	0.000	0.012	0.027	0.869	0.002	0.780	0.059	0.699	0.104	0.509	0.022

Groups are: 1 = academic staff, 2= external auditors, 3= investment advisors of banks, 4= company employees, 5= government officials, 6= investors.
The MW test explains which particular pairs of group means are significantly different from each other.

Regarding Table 7.14, there was strong agreement among groups about this statement; however, the Kruskal-Wallis (KW) test showed significant differences in the answers between the groups (p= 0.033). Again these differences were in terms of degree of agreement; using the Mann-Whitney (MW) tests to investigate where the difference was, table 7.14 revealed statistical differences between both the external auditors group and the academics and bank investment advisors, with the academics and bank investment advisor groups producing higher means (4.81 and 4.86 respectively). At the same time, there was a difference between the bank investment advisors group and government officials group, where the first group was more supportive. This evidence might reflect the possibility that academics are concerned that disclosure practices should reveal any foreseeable risks which might be ascribed to their knowledge; bank investment advisors might owe their responsibilities towards their banks, and their benefits from the full disclosure practice. On the other hand, the external auditors group provided the lowest support, with a mean score of 4.51. This result, although still highly supportive, can be attributed to the requirement for them to extend their investigation to ratifying a company's annual reports.

The main theme of question eight was disclosure practice, including disclosure of all issues of interest to employees and other stakeholders **(Q8d)**. The aim of the statement was to poll respondents' perceptions regarding whether Libyan companies should provide more disclosure. In order to make it as comprehensible as possible, the question was accompanied by some examples clarifying what might be included in this question.

As can be seen from Table 7.13, it is obvious that the six groups which participated in the survey believe that the companies should disclose all issues regarding employees and other stakeholders during the fiscal year. Even though this issue ranked sixth out of nine items, the overall mean was high, with a score of 4.54.

Analysis of answers indicates that the bank investment advisors group gave the strongest, support with a mean score of 4.76, followed by company employees, with a mean score of 4.65, whereas the least support was from the investors, with a mean of 4.32. Even with the high mean from the six groups the Kruskal-Wallis test showed statistically significant differences between the groups (p=0.015).

Table 7.13 showed that these differences were in terms of level of agreement, not between agreement-disagreement, because the groups' mean scores were never less than 4.32. The Mann-Whitney test (Table 7.16) picked up significant differences in average responses between the investors group and the academics, bank investment advisors, company employees and government officials groups, and between the auditors group and bank investment advisors and company employees groups. This result may be explained if stakeholders require more information which Libyan companies do not disclose, yet the legal system does not require this information. This finding is in line with suggestions of the OECD (2004) Principles, para (V.A, 8) that:

> "Disclosure should include, but not be limited to, material information on: issues regarding employees and other stakeholders".

Furthermore, it can be said that the background, roles, involvement and self-interests of the groups surveyed may have contributed to the significant differences in their perceptions concerning whether the companies should disclosure information related to stakeholders and employees.

In order to determine stakeholders' attitudes towards the different types of information Libyan companies should disclose and disseminate, they were asked to give their opinion about whether Libyan companies should fully disclose on issues regarding the impact of the company's activities on the society and environment. This question aimed to elicit their perception of an issue that attracts considerable attention in the world these days, where global warming has become a big issue for all countries and many companies. Especially the energy sector is aiming to become more responsible regarding this issue. Concerning Table 7.14, it was surprising that this item ranked as the second highest, with a mean score of 4.68, and with high support from all participants. This can be attributed to the environment and pollution being considerable issues for all stakeholders, which may suggest they are concerned with changes in the climate, not least given Libya's location in a particularly hot area where any increase in overall temperatures will have adverse effects upon them.

The Kruskal-Wallis test revealed statistically significant differences between the participants ($p= 0.001$); however, these differences were in terms of agreement. The Mann-Whitney test results (Table 7.14) indicate that there were differences in the responses made by academics and bank investment advisors groups and external auditors, government officials and investors groups, with academics and bank investment advisors in strongest agreement with mean scores 4.91 and 4.86 respectively. Also, the same table indicates differences between the company employees and investors groups with the company employees group strongest in favour, with a mean score of 4.77. This result supported the result of question **Q3e** which concerned the relationship between introducing corporate governance and improved corporate social responsibility in Libya, and with **Q5g** which asked about whether Libyan companies should act in a responsible manner and protect the rights of society.

Q8f was about the disclosure of ownership structures, and table 7.13 showed that the statement was ranked relatively lower on the list with a mean score of 4.35, and with most support from academics and investors groups (mean scores of 4.66 and 4.63 respectively).

The results of the Kruskal-Wallis test, however, point to significant differences in the respondents' views on whether ownership structure information should be disclosed in the annual report (when $p<0.001$) and these differences were in terms of agreement since all groups' mean scores were more than 4.11 and no statistical difference between the groups' answers existed.

The Mann-Whitney test (Table 7.14) demonstrated significant differences in the averages between the academics and investors groups and external auditors, bank investment advisors and government officials groups. The academics and investors groups scored highest with mean scores of 4.66 and 4.63 respectively. This result can be explained by the view that academics may support this due to their education and their hope to improve the disclosure and transparency practice in Libya. In respect to investors, this result is quite logical reflecting their wish for more disclosure and transparency practice to make their investments safer and decrease fraud opportunities for top management.

Question **(Q8g)** sought to determine Libyan stakeholders' opinion in respect of disclosure concerning the remuneration policy for members of the board and key executives. Table 7.13 indicates that all participants showed their agreement with this statement, and the mean score was 4.63. The strongest support came from company employees and investors groups, whereas the lowest support was from the bank investment advisors with a mean score of 4.29. Although, there was high agreement from all groups in the study, the Kruskal-Wallis test in Table 7.13 revealed statistically significant differences between the groups. However, these differences were in the levels of agreement rather than agreement- disagreement levels. The Mann-Whitney test identified this significant difference being between the academics, company employees and investors groups with external auditors and bank investment advisors groups, where the academics, company employees and investors groups revealing the highest levels of support, with means of 4.75, 4.86 and 4.80 respectively. Also, there was a significant difference between the company employees group and government officials group with the company employees group scoring higher support. This result could reflect the interests of full and complete disclosure and transparency practice regarding issues that face the company.

Moreover, this question revealed that Libyan stakeholders are consistent, or at least desire to be consistent, with the recommendations contained in the international codes such as the Combined Code in the UK and OECD Principles (2004). This result is confirmed by the Libyan Stock Market and Libyan central bank disclosure requirements when their voluntary Codes of corporate governance recommend more disclosure practice and come close to the OECD (2004) Principles.

Q8h focused on this issue and Table 7.13 revealed strong support from all groups regarding this issue since the mean score of all groups was 4.65. It is apparent from Table 7.13 that this statement received the highest mean score in the five-point scale of 4.79 from the external auditors group, as might be expected. Behind the external auditors group in the terms of agreement were the academics and government officials groups, with mean scores of 4.78 and 4.76 respectively. Overall, there was also strong support from the remaining groups when their means were 4.43, 4.51 and 4.45 for the bank investment advisors, company employees and investors respectively. This was a clear manifestation of the study participants' agreement with the importance of disclosure and transparency in the Libyan context. The additional questionnaire that was distributed on listed companies revealed that the external auditor does not provide any other service to company. Also, the additional questionnaire revealed that in all listed companies the external auditor attends the annual meeting.

The main pillar of prepared, audited, disclosed and then disseminated company information is adherence with the international standards of accounting and auditing, when the unification of accounting standards is crucial for better disclosure and transparency (RCGWG, 2003). Also, La Porta et al (1998) and Dyck and Zingales (2004) consider the quality of disclosure standards as measured by the quality of accounting standards important. Therefore, the last statement of the question asked the participants to indicate their opinion about whether the information in Libyan companies should be prepared, audited and disclosed in accordance with international standards of accounting and auditors, in the absence of Libyan standards of the profession.

The analysis of this question in Table 7.13, interestingly, reveals that even though there was a general consensus amongst the respondents on **Q8i** (with a mean score of 4.25), and the participants ranked this statement lowest among the provided statements.

The table revealed that the groups of academics, external auditors and government officials were the strongest supporters, with mean scores 4.81, 4.35 and 4.30 respectively, whereas, the bank investment advisors, company employees and the investors groups gave less support, with means 3.94, 4.00 and 3.88 respectively.

The Kruskal-Wallis test revealed significant differences between the groups' answers (p=0.001) which means there is at least one group difference. The Mann-Whitney test in Table 7.14 reflected the academics group expressing higher support than all other groups, with a mean score of 4.81. Moreover, the test indicated also that the external auditors group provided strong support, which was significantly greater than the support from bank investment advisors, company employees and investors groups. The test identified significant differences between the government officials group and investors where the first group supported this statement more than the second group (the mean score was 4.30 for the government officials group and only 3.88 for the investors group). Also, the significant differences were between academic staff and all other groups since academics supported the statement more than others. External auditors were also different with other groups except the government officials group. This conclusion was expected, since there are no Libyan accounting standards and the weakness of Accountants and Auditors Association role in developing the profession. The analysis of this question revealed the weakness of disclosure practice in Libya where all listed statements related to disclosure practice received high agreement from participants. This result was in the line with that found by Habib (2008) who stated:

> "Financial transparency measure is higher in countries with low state ownership of companies, low risk of state expropriation of firms' wealth and low state ownership of banks. This evidence suggests that corporate transparency, particularly financial disclosure transparency, is strongly influenced by a country's institutional structure."

The agreement amongst the groups involved in this survey about the need for full disclosure practice might reflect the purpose of preparing the annual reports in Libya, which is only to provide information to the Tax Authorities rather than meet the needs of investors. However, after the economic liberalisation, stakeholders believe that more disclosure practice is needed. This conclusion was in the line with the findings of question two when the participants' groups gave their strongest support to the definition of corporate governance as an organisation's relationship with all stakeholders who are affected by or affect the company's operations and decisions.

In summary, it was apparent that the participants favour wider disclosure. The current limited disclosure practice may be because of the influence of other factors on disclosure practice such as the economy, capital markets, accounting and regulatory frameworks, enforcement mechanisms and culture (Cooke and Wallace, 1990). This study revealed that Libya has shortcomings in respect of disclosure practice; therefore, it is suggested improvements in the quality and quantity of companies' annual reports can lead to full and appropriate disclosure awhile at the same time increasing the accountability process. The additional questionnaire revealed that 66% of listed companies (4 companies) have a web site to disclose and disseminate information to the public and **Q17** revealed that four companies disclose their annual reports and the date and place of the general meeting.

7.3.5.2 The Board of Directors Responsibilities

The literature review highlighted the importance of the Board of Directors' structure, including board size, the board composition and compensation, and the CEO's role in the board's decisions, in developing corporate governance mechanisms. Sternberg (2004) argues that the most obvious means by which corporations are controlled is through the powers and obligations of the Board of Directors.

Since the separation of ownership and management, the Board of Directors has become one of the key internal governance mechanisms, to ensure the interests of shareholders, owners and managers are closely aligned, and to discipline or remove ineffective management teams (Kang et al 2007).

There is a general consensus that when other corporate governance mechanisms are weakened, an inefficient board can be costly to companies and, in turn, to society. Therefore, in recent times, much debate around corporate governance has focused on the activities of the Board of Directors (De Andres et al, 2005).

In Question nine, respondents were asked to express the extent of their agreement with statements regarding the Board of Director's responsibilities. Table 7.15 showed that the respondents agreed that boards should have all nine of the responsibilities mentioned. Regarding this question, the researcher firstly sought to understand to what extent Libyan stakeholders are in agreement with the international views of board responsibilities. These agreements were consistent with the recommendations in the OECD Principles (2004) and Cadbury Code (1992) of corporate governance best practice. The findings were not surprising because the Libyan stakeholders do not live in a vacuum.

As seen in Table 7.15, the six groups surveyed presented strong support for the overall responsibilities suggested in this question. In **Q9a,** board members should act on a fully informed basis and in good faith: this received the highest mean score of 4.69 and ranked as the first statement between the listed statements. As depicted in Table 7.15, the academics and auditors groups were the strongest supporter of the statement with mean scores of 4.88 and 4.84 respectively, whereas investors and company employees groups were the lesser supporters, with mean scores of 4.44 and 4.49 respectively. The bank investment advisors and government officials groups equally supported this statement, with a mean score of 4.76.

Although the study participants provide high support for the statement in **Q9a**, the Kruskal-Wallis test in Table 7.15 showed statistically significant differences between the perceptions of respondents about this question (p= 0.000). However, the results did not represent significant differences between groups in terms of agreement-disagreement but in terms of the level of agreement where some respondents agreed more strongly with the statement than others. The Mann-Whitney test in Table 7.16 revealed that there were significant differences between company employees and investors groups with other groups, when they were weak supporters with mean scores of 4.49 and 4.44 respectively. The finding was even significant between groups which might reflect their different backgrounds and their varying involvement in business activities, confirming the importance of information availability to board members in order to achieve their responsibilities.

Q9b endeavoured to elicit the respondents' opinion in terms of whether the board members should take into account the interests of shareholders and stakeholders when making decisions. This statement ranked as the third statement out of nine statements regarding the directors' responsibilities, with a mean score of 4.52. The strongest agreements were the government officials and investors groups, with mean scores 4.62 and 4.60 respectively, and the lowest agreement was the company employees group, with a mean score of 4.40. The finding might be ascribed that company employees group think they should be responsible for maintaining these interests. It possible that respondents consider that the maintenance of interests of shareholders with stakeholders to be part of the day-to-day management of company, and would see board achieve its main roles.

The Kruskal-Wallis test did not reveal any statistically significant differences between groups (p=0.0553). A possible explanation for that result may be that a consensus exists among Libyan stakeholders that the role of organisations is to improve stakeholders' interests. In addition, this result was in the line with the finding from question one (Q1) that the respondents supported the wider definition of corporate governance.

Table 7.15 Group means and Kruskal-Wallis Tests showing respondents' answers regarding the possible responsibilities of the Board of Directors

Statement	Group means						Kruskal-Wallis Test			
	1	2	3	4	5	6	Overall mean	Rank	P-value	Result
Q9a- Board members should act on a fully informed basis and in good faith.	4.88	4.84	4.76	4.49	4.76	4.44	4.69	1	.000	Significant*
Q9b- Board members should take into account the interests of shareholders and stakeholders when making decisions.	4.50	4.50	4.52	4.40	4.62	4.60	4.52	3	.553	Not-significant
Q9c- The board should exercise objective independent judgement on corporate affairs.	4.84	4.70	4.38	3.91	4.00	3.69	4.26	4	.000	Significant*
Q9d- Board members should improve the compliance with the law and relevant standards in the company.	4.28	4.45	4.19	4.14	4.07	3.94	4.19	6	.005	Significant*
Q9e- Board members should be required to disclose any material interests in transactions or matters affecting the company.	4.44	4.53	3.90	4.26	3.86	4.06	4.22	5	.000	Significant*
Q9f- Board members should have access to accurate, relevant and timely information.	4.78	4.74	4.43	4.54	4.62	4.38	4.60	2	.003	Significant*
Q9g- Board members should devote sufficient time to their responsibilities	4.41	4.12	4.05	4.20	3.97	3.97	4.12	7	.005	Significant*
Q9h- Board members should be responsible for monitoring key executives.	4.81	4.10	3.95	3.89	3.69	3.79	4.05	8	.000	Significant*

Groups are: 1 = academic staff, 2= external auditors, 3= investment advisors of banks, 4= company employees, 5= government officials, 6= investors.
The KW test shows whether there are any differences in the means of responses given by the groups for each question.

Table 7.16 The Mann-Whitney probabilities: regarding responsibilities of the Board of Directors

Questions	G(1-2)	G(1-3)	G(1-4)	G(1-5)	G(1-6)	G(2-3)	G(2-4)	G(2-5)	G(2-6)	G(3-4)	G(3-5)	G(3-6)	G(4-5)	G(4-6)	G(5-6)
Q9a	0.649	0.288	0.001	0.242	0.001	0.472	0.001	0.412	0.001	0.044	0.979	0.032	0.027	0.804	0.018
Q9b	0.842	0.739	0.414	0.347	0.414	0.868	0.307	0.452	0.535	0.309	0.637	0.730	0.081	0.097	0.867
Q9c	0.146	0.001	0.000	0.000	0.000	0.016	0.000	0.000	0.000	0.065	0.004	0.002	0.877	0.212	0.110
Q9d	0.131	0.612	0.403	0.095	0.019	0.091	0.032	0.004	0.001	0.810	0.382	0.135	0.541	0.176	0.347
Q9e	0.322	0.001	0.299	0.000	0.032	0.000	0.054	0.000	0.004	0.039	0.792	0.388	0.007	0.261	0.210
Q9f	0.663	0.007	0.028	0.122	0.002	0.011	0.048	0.211	0.002	0.412	0.183	0.810	0.533	0.236	0.086
Q9g	0.014	0.018	0.094	0.001	0.004	0.580	0.445	0.151	0.311	0.267	0.526	0.731	0.043	0.118	0.810
Q9h	0.000	0.000	0.000	0.000	0.000	0.325	0.506	0.007	0.053	0.964	0.253	0.509	0.244	0.489	0.617

Groups are: 1 = academic staff, 2= external auditors, 3= investment advisors of banks, 4= company employees, 5= government officials, 6= investors.
The MW test explains which particular pairs of group means are significantly different from each other.

Q9f asked the respondents if the board members should have access to accurate, relevant and timely information. With the second highest agreement between groups, the statement gathered a mean score of 4.60. The strongest supporters were from groups with high levels of qualifications: academics and auditors groups have mean scores of 4.78 and 4.74 respectively, and the investors group showed less support, with a mean of 4.38.

The Kruskal-Wallis test revealed statistically significant differences (p=0.003). Again, though, variations were only in terms of level of positive support.

The finding confirms the fact that since the board become as the main corporate governance, members should have access to the relevant information to can achieve their responsibilities. This finding was in the line with the United Nation guidance on good practice in corporate governance disclosure (2006) which suggests that almost all corporate governance codes describe the basic responsibility of the board as reviewing financial statements, approving them, and then submitting them to shareholders. Moreover, although question **23** in the additional questionnaires revealed that all board members have access to accurate, relevant and timely information, the possible explanation for this difference might be attributed to the weakness of understanding of the role and responsibilities of the Board of Directors in the Libyan context, where business activities and economic liberalisation is still in the first stage. Moreover, those who were likely to have higher professional qualifications (academics, auditors and government officials) were aware of the role of board members in overseeing top management on behalf of stakeholders; through having access to accurate, relevant and timely information.

The Mann-Whitney test in Table 7.16 depicted significant differences between academics, external auditors and government officials groups, with bank investment advisors, company employees and investors groups. The significant differences were not in the level of agreement-disagreement but in level of agreement reflected greater support from the first three groups.

Q9c attempted to elicit the respondents' opinion on whether the board should exercise objective independent judgement on corporate affairs. Table 7.15 revealed agreements with this statement from all respondents, with a mean of 4.26, and ranked as the fourth statement out of nine. Almost all respondent groups supported this statement, with a mean over of 4.00; only two groups had mean scores below 4.00 (the company employees group was 3.91 and the investors group was 3.69). The strongest supporters were academics, with a mean score of

4.84, external auditors, with a mean score of 4.70 and bank investment advisors, with a mean score of 4.38.

The results of the Kruskal-Wallis test (Table 7.15), interestingly, revealed that there was no general consensus amongst the respondents on this statement (p= 0.000). The results, however, did not represent significant differences between groups in terms of agreement-disagreement but depicted disparity in the agreement level as some respondents agreed more strongly with the item than others. This could be explained on the grounds that senior company employees and investors were least likely to accept the statement according to their interest since the fundamental decisions are taken by them. Other groups believed that judgement on corporate affairs, especially on the significant decisions, should be shared between Board members and others such as with management in their meetings and shareholders in the General Meeting

The Mann-Whitney test in Table 7.16 demonstrated that the respondents from groups of academics, external auditors and bank investment advisors seemed to be the stronger supporters of this statement compared to other groups. Once again, the differences between the groups could be due to the interests of the group.

The fifth statement, **Q9e**, concentrated on whether board members should disclose any material interests in transactions or matters affecting the company. With a mean score of 4.22, the statement ranked as the fifth statement. Although it was supported strongly by respondents, the Kruskal-Wallis test in Table 7.15 revealed a statistically significantly difference between the groups. However, this difference was not between the agreement / disagreement but in the level of agreements.

The Mann-Whitney Test in table 7.16 indicated that the academics and external auditors groups' perceptions significantly differed from those of bank investment advisors, government officials and investors groups, since respondents in the first two groups expressed stronger agreement. Also, there were significant differences in the perceptions among the company employees with those of the bank investment advisors and government officials where the majority of company employees articulated more agreement with the statement, with a mean score of 4.26. This difference in response is probably due to the fact that academics and external auditors in Libya are more likely to be aware of the importance of full disclosure practice.

Based on Table 7.15, all six respondents groups agreed that it is advisable for board members to improve the compliance with the law and relevant standards in the company. The vast majority of respondents held this view, with a mean scored 4.19. The statement was ranked sixth out of nine. However, overall groups do not share similar views on the statement. While investors showed weaker support, with a mean score of 3.94, other groups would like to see this responsibility being applied strongly in the Libyan context, since there is poor adherence to the law and that needs to improve. The lower support for this statement comes from investors group which might be attributed to their ambitious to achieving the compliance and enforcement of the legal system and regulation through a comprehensive system in the country. The Kruskal-Wallis test in the same table revealed that there was a statistically significantly difference between groups' perceptions ($p = 0.005$). Yet these differences should be viewed as indicating the presence of diversity in agreement level, not in agreement-disagreement. The Mann-Whitney test in Table 7.16 revealed that academics' and external auditors' perceptions significantly differed from those of the investors group. Most respondents in the first group expressed strong agreement, with a mean score of 4.28. Also, there was a significantly difference in the perceptions among the external auditors group from those of the company employees, government officials and investors, where the external auditors group articulated more support, with a score of 4.45.

The statement in **Q9g** was about whether the board members should devote sufficient time to their responsibilities. Although it seems to be very important and a basic point for fulfilling their duty, the respondents presented relatively low support for this statement compared to the previous statements (a mean score of 4.12). The finding also revealed that all six respondent groups viewed the suggestion in a similar manner: that the board members should devote sufficient time to their responsibilities towards the company.

The Kruskal-Wallis test revealed a statistically significantly difference between groups' perceptions of this statement ($p = 0.005$), which implies that at least one group is different from the others. Although these differences were in the terms of agreement level, the Mann-Whitney test in Table 7.16 showed that the academics group expressed the strongest agreement amongst the respondents with the statement that the board members should devote sufficient time to their responsibilities.

There was a significant difference between the company employees and government officials when the first group strongly supported the statement, with a mean score of 4.20, whereas the mean score of government officials was 3.97.

It would appear that the six groups supported the statement. The overwhelming majority of academics and company employees believed that the board members should devote sufficient time to their responsibilities in the company. This finding might reflect their higher educational levels, beside their belief that the responsibilities of the board cannot be achieved unless members devote sufficient time, especially in the case of non-executives. Similarly, company employees understand that without sufficient time from board members, the top managers can mislead and pursue their personal interest instead of achieving the benefits of all stakeholders. Practically, regarding question **Q21** in the additional questionnaire, the numbers of meetings of board member in listed companies was between 4 and 9 for normal meetings in the previous year (2006). However, the number of meetings may mean adequate time is devoted, and even if it did, the length of meeting might be still an issue for Libyan companies.

The lowest support for questions in this section was for **Q9h**, that board members should be responsible for monitoring key executives. The results reported in table 7.15 indicate that, in general, respondents from all groups agreed in principle with this statement (a mean score of 4.05). The strongest supporters were academics and external auditors with means scores of 4.81 and 4.10 respectively, while others held scores of less than 4.00 (bank investment advisors, company employees, government officials and investors groups scored 3.95, 3.89, 3.69 and 3.79 respectively). These differences in mean score average might reflect that academics and external auditors are more widely educated and less directly involved and more detached from the business activities.

The Kruskal-Wallis test revealed significant differences between the six groups at the 5% level (p=0.000). However, these significant differences indicate the presence of variety in the level of agreement responses, with most respondents from the academics and external auditors groups expressing stronger agreement with this statement. This finding could be explained on the grounds that these groups consider the board to be the best way to control management.

The Mann-Whitney test in Table 7.16 confirmed the significant differences between the respondent groups. Mainly, the academics' perceptions significantly differed from those of all other respondent groups' perceptions; most respondents in the academic group expressed stronger agreement with this statement, whereas others were less supportive. In addition, there was a significant difference in the level of agreement among the external auditors group with government officials group, where the majority of the external auditors group expressed more agreement with the statement, with a mean score of 4.10, whereas the government officials group scored a mean of 3.69. This difference in responses is probably due to the fact that academics and external auditors are more likely to be aware that members should monitor top management and work in favour of stakeholders since they are a main mechanism of corporate governance in Libya and other developing countries. Therefore, the result of the table regarding this issue was in the line with the result from Kang et al (2007) when they argued that the Board of Directors is one of a number of internal governance mechanisms that are intended to ensure that the interests of shareholders and managers are closely aligned, and to discipline or remove ineffective management teams.

According to the analysis of question nine, it was evident that the six groups share similar perceptions towards all of the listed statements. Therefore, there is a clear consensus among the respondents about the responsibilities of the board. However, the Academic group is more concerned with the board's formal responsibilities, whereas the investors group seemed to be less familiar with the responsibilities or they think boards are quit so influential, possibly because they were not closely involved with working of board. Also Q18 of the additional questionnaire showed that members of a company board vary between 5 and10 members.[38] Questions 19 and 20 indicated that all members were elected by shareholders. Interestingly, question 22 revealed that there were no female members of the board in listed companies. This may be explained on the grounds of a cultural effect more than the lack of qualified women since the society is still conservative and dominated by men. It is, therefore, fair to say that in the Libyan context the problem might be in the practice of these responsibilities rather than the legislation.

7.3.5.3 The Importance of Other Aspects in Introducing Corporate Governance

To elicit more details about the future of corporate governance in the Libyan context, question ten in the questionnaire (part six) aimed to investigate the respondents' opinions about several aspects that influence the implementation of a good corporate governance framework. The analysis of responses regarding this question helps to illustrate the whole range of obstacles to the implementation of corporate governance in Libya. Therefore, this question undertook to determine some other factors that might inhibit the effective practice of corporate governance framework.

Again, respondents from all groups involved in this study were asked to provide their opinions on factors they perceived as important in introducing an effective corporate governance in Libya, indicating their level of agreement to areas on a five-point scale, where 5 represented very important and 1 reflected not important at all.

[38] The size might reflect the size of listed companies.

Table 7.17 revealed, in general, that respondents across all groups showed agreement that all the listed statements in this question were important, since all statements recorded mean scores of 3.98 or higher.

Question **10b**, (the chairman and CEO positions should be separate) was ranked as controversial. Surprisingly, the separation between the role of CEO and Chairman achieved the highest mean score as shown in the table (mean score = 4.58); whereas, **Q7g** (the dual role played by same person as CEO and Chairman) did not receive as much shared support, being ranked as eighth out of nine statements with a mean score of 3.66.

Concerning **10b**, while there was high agreement across all groups, the strongest agreement was the government officials group with 4.76, whereas the lowest supporter was the investors group with a mean score of 4.34. The result was in the line with Cadbury Report (1992) when it stated in para 4.9 that "if the two roles are combined in one person, it represents a considerable concentration of power". Furthermore, additional questionnaire questions **26**, **27** and **28** revealed that five companies out of six separated the roles of CEO and chairman. Further, all listed companies in the Libyan Stock market have an internal audit department, and it sends its reports to the chairman of the Board.

The rotation of the external auditor (**Q10d**) ranked as a second most important statement in respect to improving the corporate governance in Libya.

The Cadbury Report (1992) in para (5.1) suggests that the annual audit is ‘‘one of the cornerstones of corporate governance’’. The literature review demonstrated that considerable research has explored the effect of the length of the auditor-client tenure on audit quality (Jackson et al, 2008). Also, the objectivity and effectiveness of the audit process also has been questioned in recent years. For example, a number of studies have highlighted audit users' lack of confidence with the audit process, and the difficulties encountered by audit users in making auditors responsible for the accuracy of audited financial statements (O'Sullivan, 1993; Humphrey et al, 1993). The case of Enron revealed that the close involvement of the external auditor with the top management and the conflict of interest in receiving extensive consulting and auditing fees were one of the failings in corporate governance (Clarke, 2005). Therefore, in order to ensure the independence of the external auditors, both the auditors and the auditing firm should be changed periodically (Hilb, 2005).

Table 7.17 Group means and Kruskal-Wallis Test showing respondents' answers regarding the following factors introducing a corporate governance in Libyan context.

Statement	Group means						Kruskal-Wallis Test			
	1	2	3	4	5	6	Overall mean	Rank	P-value	Result
Q10a- Increase the number of non-executive directors.	4.03	4.28	3.95	4.16	4.21	3.81	4.09	4	.013	Significant*
Q10b- Clearer separation between the role of CEO and Chairman	4.72	4.65	4.48	4.54	4.76	4.34	4.58	1	.019	Significant*
Q10c- Establish board committees on the Board Of Directors.	3.97	3.95	3.62	3.91	4.66	3.08	3.98	5	.000	Significant*
Q10d- Rotate the External auditor from time to time with definition of his responsibilities.	4.28	4.26	3.90	4.29	4.50	3.85	4.20	2	.000	Significant*
Q10e- Improve management behaviour through external control.	4.44	4.12	4.10	3.97	4.21	4.07	4.15	3	.052	Not-significant

Groups are: 1 = academic staff, 2= external auditors, 3= investment advisors of banks, 4= company employees, 5= government officials, 6= investors.

The KW test shows whether there are any differences in the means of responses given by the groups for each question.

Table 7.18 The Mann-Whitney probabilities regarding factors in introducing corporate governance in Libyan context.

Questions	G(1-2)	G(1-3)	G(1-4)	G(1-5)	G(1-6)	G(2-3)	G(2-4)	G(2-5)	G(2-6)	G(3-4)	G(3-5)	G(3-6)	G(4-5)	G(4-6)	G(5-6)
Q10a	0.088	0.651	0.424	0.279	0.161	0.033	0.318	0.616	0.001	0.195	0.130	0.382	0.689	0.017	0.011
Q10b	0.538	0.078	0.190	0.726	0.007	0.184	0.423	0.335	0.019	0.566	0.042	0.451	0.108	0.145	0.003
Q0c	0.887	0.022	0.640	0.000	0.037	0.035	0.752	0.000	0.062	0.071	0.000	0.619	0.000	0.127	0.000
Q10d	0.860	0.021	0.913	0.085	0.002	0.025	0.776	0.051	0.003	0.023	0.001	0.783	0.114	0.003	0.000
Q10e	0.023	0.860	0.002	0.154	0.030	0.923	0.271	0.532	0.777	0.440	0.562	0.887	0.118	0.516	0.437

Groups are: 1 = academic staff, 2= external auditors, 3= investment advisors of banks, 4= company employees, 5= government officials, 6= investors.

The MW test explains which particular pairs of group means are significantly different from each other.

Table 7.17 indicated that the six groups which participated in the survey believe that the rotation of the external auditor and clear definition of his responsibilities should be used to improve and become part of the corporate governance in Libya. Respondents agreed that this statement should be prominent in introducing and improving corporate governance in Libya (the mean score was 4.20).

The strongest supporters were government officials, company employees, academics and external auditors groups, with mean scores of 4.50, 4.29, 4.28, and 4.26 respectively. The lowest supporters were investors and bank investment advisors groups, with mean scores of 3.85, 3.90 respectively.

The additional questionnaire elicited more details about the relationship between a company and its external auditor in questions 12, 13, 14 and 15. These questions revealed that all listed companies rotate their external auditor. Also, the external auditor is always in attendance at the annual meeting to explain his/her report about the company's financial annual reports. External auditor does not provide other advice to companies. This finding can be explained on the grounds that the role of auditors in Libya is still only for approval the financial reports, and other roles such as providing advice on the investment and other consultancy services may be absent in the Libyan context.[39]

The findings, based on the Kruskal-Wallis test (see Table 7.17), also showed that the respondents do not share the same perceptions towards the statement as the test revealed statistically significant differences between the six groups at the 5% level (p=0.000). This difference, however, was not between the important / not important at all but between the levels of importance, revealing there was at least one group difference from others in the level of agreement.

The Mann-Whitney test in Table 7.18 indicated that the bank investment advisors' and investors' groups perceptions significantly differed from those of other groups; respondents in the first two groups expressed lower agreement with this statement, when their mean scores were 3.90 and 3.85 respectively. This difference in response is probably due to the fact that the bank investment advisors and investors groups are less likely to be interested in this statement, whereas other groups might be interested and, therefore, they understand the effect of this factor on introducing a good sound, corporate governance in Libya. This finding could be explained on the grounds that the rotation of auditors will improve the competition between the

[39] Question 13 in the additional questionnaire was answered NO from all listed companies in the Libyan Stock Market.

auditors to win the tender and distinguish themselves in terms of service and improving the audit quality.

In terms of Libyan laws and regulations, auditors are appointed by shareholders; however, managers may exert an influence over auditor appointments. For instance, auditors could be dismissed by managers without consulting shareholders, with the shareholders merely voting on whether to accept their recommendation regarding the appointment of a new auditor or the re-appointment of the current auditors. Thus, this statement may reflect the need to improve Libyan legislation. Also, the periodic rotation of lead audit partners is now obligatory under much legal system in the world, in Libya currently there is no legal requirement for external auditor rotation.

The statement in **Q10e** concerned whether improvement of management behaviour through external control could lead to introducing better corporate governance in Libya. Management behaviour seems to be very important for improving the corporate governance; the respondents expressed their high agreement with this statement (a mean score of 4.15).

As depicted in Table 7.17, the Kruskal-Wallis test showed that the six groups share similar perceptions towards the statement since there was no statistically significant difference in the respondents' views concerning this point. Thus, the stakeholders in Libya tend to favour the improvement of management behaviour through external control as a factor leading to improving corporate governance system. The responses demonstrated that all groups were very conscious about the effect of external control on management behaviour.[40] On last page some respondents suggested that the institutional investors and the government should be the best means of external control of management behaviour in Libya along with (NGOs) such as the Businessmen Board.

Another factor that may help to improve the corporate governance system is non-executive directors. The main objective of the next question is to determine the importance of non-executive directors in Libyan companies. According to **Q10a,** in table 7.17, respondents from all groups agreed in principle with the importance of non-executive directors in introducing good corporate governance, with a mean score of 4.09 and ranked as the fourth statement. Regarding the same table, the most supportive groups seemed to be the auditors, government officials and company employees, with mean scores of 4.28, 4.21, and 4.16 respectively. On the same hand, bank investment advisors and investors produced a mean of less than 4 (3.95

[40] Interviewees in the next chapter pointed out some of the preferred external controls that should monitor management behavior in Libyan companies.

and 3.81 respectively). It was not surprising for these groups to support this statement; however, the surprising point is that the academics ranked as the fourth supporter, where was supposed to support this statement. A possible interpretation of this finding is that the key point is not to increase the number of non-executive directors but their influence on the corporate decision.

The Kruskal-Wallis test revealed statistically significant differences in answers between respondents (p=0.013). The results, however, did not represent significant dispersions between responses in terms of agreement-disagreement, but represented variance in the agreement level with some respondents agreeing more strongly than others.

Regarding the additional questionnaire (questions 24 and 25), the non-executive directors in listed companies represent approximately 40% of the board members, and their remuneration policy is by attendance session compensation or by salary.

Moreover, Table 7.17 indicated statistically significant differences of opinions of the statement, since the p-value was less than 5% (p=0.013). The Mann-Whitney test in Table 7.18 indicated that there was a significant difference between the investors and both of external auditors, company employees and government official when the investors mean score of this group was 3.81. The test also revealed significant differences between the external auditors group and bank investment advisors group with the first group providing more support, with a resultant mean of 4.28, whereas the second group's mean score was 3.95.

An important aspect of recent governance discussions relates to the role and composition of board sub-committees (O'Sullivan and Diacon, 1999), because the use of committees by the board is expected to have a positive effect on company performance (Kula, 2005), since the role of these committees is to carry out various activities that the board delegates (Mallin, 2004). Therefore, in the UK, the Cadbury Report (1992) and Hampel Report (1998) argue that the existence of audit and remuneration committees is expected to result in improved confidence in the overall system of governance. The Libyan Stock Market (LSM) requirement is in the line with most corporate governance codes in terms of requiring the establishment of these sub-committees, such as audit, remuneration and nomination committees.

Surprisingly, answers to the statement related to establishing board committees received lower support amongst all the ranked factors, since the mean score of **Q10c** was 3.98. Table 7.17 shows respondents' opinions about this statement. The strongest supporters were the governmental officials group, with a mean score of 4.66, whereas, academics and external auditors groups seemed to share similar levels of support, with mean scores of 3.97 and 3.95

respectively. This finding can be explained on the grounds that the Libyan legal system does not require Libyan companies to establish these committees, except for the “dogwatch” committee.

7.3.6 Approaches that can be used as a basis to Introduce Corporate Governance

An important part of corporate governance is the approaches to the introduction of the good corporate governance system. Question eleven endeavoured to elicit the participants’ opinions about the approach that should be used to introduce a corporate governance system in Libya. Three different possible approaches were given to the respondents: namely by quasi-laws[41] beside existing laws and regulations (**Q11a);** through adjusting international codes requirements (**Q11b**); or through new laws and regulations (**Q11c**).

The perception of the respondents was considerably different between these methods. **Q11a** and **Q11b** reflect a voluntary introduction of corporate governance, whereas **Q11c** suggests introducing corporate governance by law.

The present study endeavoured to elicit if Libyan stakeholders think Libya should following the applicable international regulation of corporate governance.

Table 7.19 illustrates that the study participants appear to have a propensity to agree with statements two and three (**Q11b** and **Q11c**). However, they tend most strongly to support the law as a key source of introducing corporate governance in Libya since **Q11c** was ranked first amongst the statements, with a mean score of 4.54. The six groups, therefore, seem to believe that legislation would offer the preferable means by which corporate governance can be introduced since their mean scores were located between 4.66 and 4.46 (the academics’ mean score was 4.66 and investors’ 4.64). The Kruskal-Wallis test showed there were no significant differences in the respondents’ opinions reported by the test.

The statement in **Q11b,** which was about introducing corporate governance through adjusting international codes requirements, received the second highest agreement with a mean score of 4.14. The strong support came from academics, government officials and investment advisors of banks groups (their mean scores were 4.41, 4.31 and 4.29 respectively), whereas the least support came from companies’ employees (mean score = 3.80).

[41] The quasi-legal rights and responsibilities are those enshrined in codes of conduct, statements from authoritative bodies to whom the companies subscribe, plus other 'semi-binding agreements'-possibly from the organisations themselves or national strategies.

The Kruskal-Wallis test revealed statistically significant differences in the answer between respondents (p=0.005). However, the differences were in terms of level of agreement, as some respondents more agreed strongly than others.

The Mann-Whitney test in Table 7.20 revealed significant differences between the academics and both the company employees and investors groups where they were less supportive, with mean scores of 3.80 and 4.03 respectively, compared to the academics' mean of 4.41. Also, the table indicates a statistically significant difference between company employees and both the bank investment advisors and government officials groups since the group of company employees seemed to be less optimistic about this statement (mean = 3.80).

A possible explanation for this difference may be the background and educational level of the groups surveyed and their awareness of international standards which may have contributed to the significant differences in their perceptions concerning whether adjusting international codes requirements could provide a good introduction of corporate governance.

Table 7.19 Group means and Kruskal-Wallis Tests regarding the approaches to establishing Corporate Governance

Statement	Group means						Kruskal-Wallis Test			
	1	2	3	4	5	6	Overall mean	Rank	P-value	Result
Q11a- By quasi-laws beside existing laws and regulations	2.63	2.56	3.48	3.06	2.86	2.45	2.79	3	.002	Significant*
Q11b- Through adjusting International Codes requirements	4.41	4.12	4.29	3.80	4.31	4.03	4.14	2	.005	Significant*
Q11c- By new laws and regulations	4.66	4.47	4.52	4.46	4.52	4.64	4.54	1	.453	Not-significant

Groups are: 1 = academic staff, 2= external auditors, 3= investment advisors of banks, 4= company employees, 5= government officials, 6= investors.

The KW test shows whether there are any differences in the means of responses given by the groups for each question.

Table 7.20 The Mann-Whitney probabilities regarding approaches to establishing the Corporate Governance system

Questions	G(1-2)	G(1-3)	G(1-4)	G(1-5)	G(1-6)	G(2-3)	G(2-4)	G(2-5)	G(2-6)	G(3-4)	G(3-5)	G(3-6)	G(4-5)	G(4-6)	G(5-6)
Q11a	0.773	0.002	0.050	0.248	0.576	0.001	0.019	0.137	0.723	0.095	0.018	0.002	0.379	0.028	0.147
Q11b	0.059	0.410	0.001	0.584	0.007	0.347	0.086	0.217	0.500	0.015	0.790	0.082	0.007	0.233	0.050
Q11c	0.102	0.340	0.142	0.274	0.868	0.662	0.963	0.666	0.140	0.713	0.964	0.416	0.722	0.187	0.347

Groups are: 1 = academic staff, 2= external auditors, 3= investment advisors of banks, 4= company employees, 5= government officials, 6= investors.

The MW test explains which particular pairs of group means are significantly different from each other.

The statement concerning introducing corporate governance through quasi-laws beside existing laws and regulations found general disagreement across all groups, except the bank investment advisors group, who supported it but with less than strong agreement (mean score = 3.48).

The results reported in Table 7.19 indicate that, in general, respondents from all groups disagreed in principle with the statement since the mean score was 2.79 and, therefore, it ranked lower than the other two approaches. The bank investment advisors group was the highest supporter of the statement, with a mean score of 3.48, and with an almost neutral result (3.06), the company employees appeared to be split fairly evenly over this statement. The rest of groups were in disagreement with this statement, with the strongest disagreement coming from investors group, with a mean score of 2.45.

The perceptions of respondents are consistent with the fact that the legal system in Libya needs more development. Therefore, it might be difficult to develop the corporate governance system with only quasi-laws.

The Kruskal-Wallis test revealed that there is a significant difference between the groups at the 5% level, (p= 0.002), which reflected that at least one group differed from the others.

The Mann-Whitney test indicated that the bank investment advisors' responses were significantly different from those of all other groups except the company employees. The test also indicated that the company employees group were relatively supportive, whereas the external auditors and investors groups were less enthusiastic about the statement.

Finally, this finding was expected because the legal system in Libya needs more development to become consistent with international requirements and so that Libya can join the WTO. Also, the results support the finding of question six (**Q6b**), when respondents strongly agreed with the statement that a lack of legal and regulation systems to govern companies' activities is an important factor which might affect the practice of corporate governance in Libya. On the other hand, results statistically revealed significant differences among groups' responses regarding the possible approaches that can be used as a basis to introduce and improve corporate governance in the Libya regarding to the quasi-laws and adjusting international codes. However, introducing corporate governance through improving the legal system did not face any significant between groups, which might reflect the weakness of the system in Libya.

7.4 Conclusion

The questionnaire survey was carried out in order to explore the views and perceptions amongst different groups of Libyan stakeholders regarding corporate governance in Libya. The groups were academics, external auditors, investment advisors of banks, company employees, government officials and investors.

The data were analysed by using the SPSS package, and the Kruskal-Wallis (KW) test to identify any significant differences between groups, with the also Mann-Whitney (MW) test to identify which of the differences were statistically significant.

The questionnaire was divided into seven related sections where each section consisted of one or more questions. In general, most questions in the questionnaire were supported by respondents. However, this varied between agreement and strong agreement. The main results of this part of the study indicate that most Libyan stakeholders believe that strengthening the corporate governance system will benefit both Libyan companies and the Libyan economy.

The first part of the questionnaire concerned understanding of the term of corporate governance and its importance. This question sought to examine whether respondents consider corporate governance to be focussed on the interest of shareholders or stakeholders. Generally, the respondents agreed with the stakeholders’ perspective when most of them defined corporate governance as an organisation’s relationship with its shareholders and all other stakeholders who are affected by or affect the company's operations and decisions. However, this finding highlighted the need to clarify the term stakeholders in the Libyan context since respondents were split between those who thought corporate governance is a relationship between the organisation and its stakeholders who are affected by or affect the company's operations and decisions, and those who believe it is a relationship between the organisation and all members of society, regardless of whether they affect or are affected by the organisation’s operations and decisions.

Respondents agreed with the statements presented in the questionnaire which were related to the possible purposes of implementing corporate governance in Libya. However, their level of agreement was different and some statements produced significant differences between the groups. In addition, the study revealed that, in general, the Libyan stakeholders are in consensus that corporate governance is significant to all listed groups of stakeholders mentioned in question four in the questionnaire.

Regarding stakeholders' rights, the results suggested that, in general, respondents believed that not all of the rights in the questionnaire survey exist in Libya. Also, they considered that companies do not act in a responsible manner and protect the rights of society (when respondents were less supportive of this issue in the question five).

In terms of factors that might affect the practice of corporate governance, the results suggested that all of the listed factors in part three (question six) were considered as important except the form of company ownership, since respondents disagreed with this statement (mean= 2.55). This might reflect that Libyan stakeholders consider corporate governance is not affected by ownership and, therefore, must apply in all companies regardless of the form of ownership[42].

For the current practice of corporate governance in the Libyan context, respondents were asked to give their opinion about possible reasons that might prevent good corporate governance practice in Libyan companies. In general, respondents showed strong agreement with almost all of the listed reasons.[43]

Part six of the questionnaire was about disclosure and transparency practices in Libya. The results suggested that, in general, all of the listed statements relating to disclosure and transparency practice which respondents were asked gained high support since the mean scores were not less than 4.25. This result may reflect the low practice of disclosure and transparency. This result supported the transparency organisation reports in 2007 and 2008 when it ranked Libya at the bottom of the transparency list. The statement that companies should provide timely and accurate disclosure on the financial and operating results of the company was considered as an important statement, whereas preparing, auditing and disclosing the information according to international standards of accounting was considered as the least supported statement in this question.

In the same part, respondents were asked to give their perceptions about the Board of Directors' responsibilities. Generally, all responsibilities listed in question eight seem to be viewed as important, since each mean score was 4.05 or higher. This question reflected significant differences among groups, but these differences were in the level of agreement, not between agreement and disagreement.

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[42] Respondents argued that introducing corporate governance should be in both state-owned and private companies, to achieve the best benefits.

[43] Except for the good relationship between external auditor and a company where it received less than a neutral level of agreement (mean score 2.35).

Question ten in part six endeavoured to elicit the selected groups' opinions about other factors that might affect the improvement corporate governance in Libya. Results indicated that the majority of respondents agreed with the listed factors since the mean scores were all 3.98 or over. This question indicated that, although there was a considerable agreement, there were statistically significant differences between groups in terms of agreement level. There was strong support for a clear separation between the role of CEO and Chairman since the mean score was 4.58. The additional questionnaire revealed that almost all listed companies do separate the roles of CEO and Chairman. In addition, the statement about establishing sub-committees on the board ranked as the least supported of five statements in this question, which is attributed to the weakness of the understanding and the absence of legal requirements to establish committees.

In part seven, **Q11** was about how corporate governance should be introduced. The results indicated that, in general, respondents strongly supported introducing corporate governance by new laws and regulations (legal system) as that statement ranked as highest with no statistically significant differences between respondents and with a mean score of 4.54.

The other statement also supported was introducing corporate governance by adjusting international codes requirements of corporate governance practice. The existing law and regulations and quasi-laws was not supported (the mean score was under the neutral level at 2.79). This result might reflect the weakness of the legal system to govern the companies.

The question exposed the effect of the background and interest of groups, since differing and interesting views emerged. For instance, in **Q11b**, there were significant differences between the groups in agreement, which possibly reflected knowledge and education.

During the analysis of data, generally most statements did not reveal any statistically significant differences between the respondents' answer; however, some statements revealed significant differences in their answers. This means that there is at least one group different. The next table summarises which group or groups differed significantly in the respondents' answers. It can be seen that both academic staff and investors revealed significant differences in their views compared with others regarding the listed statements. These differences might be ascribed to their interests and they are more concerned for the development of the practice or because they are not involved in the business activities and therefore do not know how complicated the realty of business practice is.

Table (7.21) the summary of the groups' trends of answers

The question number	Strong agreement **4.5-5**	Agreement **3.5- 4.5**	Neutral **2.5- 3.5**	Disagreement **1.5- 2.5**	Strong disagreement **1-1.5**
Q2a		6	1-2-3-4-5		
Q3e	1	2-3-4-5-6			
Q3f		1-2-3-4-5-6			
Q4a	6	1-2-3-4-5			
Q4d	1-2-4-5	3-6			
Q5a	1-2-3-4-5-6				
Q5b	1-2-3-4-5-6				
Q5e		1-2-3-4-6	5		
Q5f		4	1-2-3-5-6		
Q5g		4	1-2-3-5-6		
Q6b	1	2-3-4-5-6			
Q6e		1-2-3-4-5-6			
Q6g		1-2-3-4-5-6			
Q7c		1-2-3-4-5	6		
Q7d			3-5-6	1-2-4	
Q7f		1-3-4-5-6	2		
Q7i		1-2-4-5-6	3		
Q8b	1-2	3-4-5-6			
Q8c	1-2-3-4-5-6				
Q8d	1-2-3-4-5	6			
Q8e	1-2-3-4-5	6			
Q8f	1-6	2-3-4-5			
Q8g	1-4-5-6	2-3			
Q8h	1-2-4-5	3-6			
Q8i	1	2-3-4-5-6			
Q9a	1-2-3-5	4-6			
Q9c	1-2	3-4-5-6			
Q9d		1-2-3-4-5-6			
Q9e	2	1-3-4-5-6			
Q9f	1-2-4-5	3-6			
Q9g		1-2-3-4-5-6			
Q9h	1	2-3-4-5-6			
Q10a		1-2-3-45-6			
Q10b	1-2-4-5	3-6			
Q10c	5	1-2-3-4	6		
Q10d	5	1-2-3-4-6			
Q11a			1-2-3-4-5	6	
Q11b		1-2-3-4-5-6			

1= academic staff; **2=** external auditors; **3**= investment advisors of banks; **4**= company employees; **5**= government officials; **6**= investors.

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CHAPTER EIGHT

Analysis of the Interviews

8.1 Introduction

To complement discussions in the previous chapter, this chapter focuses on the analysis of semi-structured interviews which were carried out in Libya during July and August 2007 (the sample of interviewees was explained in section 6.8). The interviews aimed to investigate the extent to which Libyan stakeholders, especially policy-makers, perceived the framework, the current corporate governance practice and changes on the horizon. Therefore, these interviews will help to shape and build a more complete picture of corporate governance in the Libyan context.

In order to achieve the research aims, the researcher endeavoured to prepare and conduct interviews at a convenient time for the interviewees through sending a copy of the covering letter, supervisor letter and a copy of the interview questions to every interviewee, then arranging the interview time with those who had agreed to participate in this study.

Moreover, to conduct the interviews smoothly the researcher followed the wishes of interviewees on the place and time of the interviews.

As mentioned, the main aim of the study is to investigate the corporate governance. Therefore, the guidelines' instruction of the interviews was seeking to explore the following elements:

- The acceptable definition of the term corporate governance and its importance in the Libyan context.
- The corporate governance issues that are related to the Libyan transitional economy.
- The effect of the legal system and social and cultural values on the current practice and the efforts to develop governance practice in Libya.
- The states of disclosure and transparency practice in the Libyan context which includes information that requires more disclosure.
- The performance of current Boards of Directors in Libyan companies

- The role of the external auditors and financial institutions in improving the practice of corporate governance in Libya.
- The best way to introduce corporate governance in Libya.

8.2 The Concept and the Importance of Corporate Governance

8.2.1 Definition of Corporate Governance

This question seeks to examine whether respondents understand corporate governance as being focussed on the interests of only shareholders or on those of all stakeholders.

Generally, it can be said that the results of the interviews, on balance, confirmed the questionnaire survey result when almost all interviewees defined corporate governance as a system of accountability and responsibility to all stakeholders. For instance, one of the interviewees stated that:

> "Corporate governance for me is the proper practices that should exist within a company, according to or derived from its standard operating procedures, the laws that govern conduct in the employees in the company. But most importantly this should be verified by regular checks the aim of which is to make sure that the practice and the behaviours of those responsible for decision making across the country comply with those rules that sort out compatibility between practices the legal structure in the country." (A1)

Another interviewee defined the term of corporate governance as:

> "Corporate governance in my opinion is the package of procedures and practices, instruments which aim to achieve the companies' adherences to the laws and regulations, and which in the end deliver in the interest of both shareholders and all other stakeholders that is those who have contact with the company and this means any one affected by or who affects the company's operations and decisions." (A5)

A further interviewee said that:

> "I think the term is new and old at the same time, old in terms of content (meaning) and new in terms of terminology which confirms that research tends to generate and improve the existing terms in business sciences. According to the meaning of corporate governance it consists of elements which eventually tend to reduce the malpractice of top management and pursues the interests of managers and shareholders. Corporate governance in my opinion is the last resort of companies to exist and grow in the globalisation era where companies should provide evidence that they are working according to the ethics and for the benefit of all stakeholders in the long term. This does not mean it should not pursue the interests of shareholders, those who provided the finance for the company and therefore should get a return on their investment." (A3)

Others concluded that corporate governance is a set of mechanisms that exist to protect shareholders and other stakeholders who affect or are affected by the company against top management expropriation. The definitions suggested by the interviewees focused on the following aspects of corporate governance: Corporate governance is the system by which companies are controlled to make benefits for all its stakeholders, through improving the internal and external mechanisms to give companies chances to exist and growth by providing confidence to investors that the company is a good place for investment and deal with.

Regarding whether the interviewees were aware of any occasions when a failure of corporate governance practice had led to problems, it was notable that almost all of them highlighted the case of the Enron Company as the most infamous company regarding corporate governance practice in developed economies. In this direction, one interviewee said:

> "The corporate governance has become more important and has received increased attention after the financial crises swept the Far East economy during 1997 and particularly following high-profile financial scandals and corporate failures such as Enron and WorldCom in the United States." (A3)

For instance, one interviewee (A4) said

> "In the case of the Enron collapse I have spoken to the member of SEC who investigated the problem in the company and he told me the biggest issue with the company was the weakness of the corporate governance practice where there was trickery, fraud and vagueness of the responsibilities lines between the managers. Therefore, now the World Bank is working to prepare to establish a law of corporate governance and there are many groups working with the bank. For instance, in Arabic countries, there are six countries working with the bank to prepare this law not just a Code which means international organisations will recognise corporate governance practice." (A4)

It can be concluded that all interviewees thought that corporate governance is a mechanism to achieve the benefit of stakeholders beyond the interests of shareholders. Also, they are aware that most companies which collapse did so because of the weakness of corporate governance practices. This result was in line with the findings provided by Allen (2005), whose study analysed corporate governance in emerging economies. His results showed that, because markets are more imperfect and incomplete in these economies, the focus on all stakeholders rather than just shareholders may lead to a fairer allocation of resources than if the company just focused on the interest of shareholders and equitable income distribution.

In respect of the importance of corporate governance to companies and macro-economics, the interviews sought to investigate the interviewees' views about the underlying importance of corporate governance in the Libyan context.

All interviewees openly recognised that corporate governance is important in the Libyan economy at this stage where the Libyan economy is in first stage of opening up to the world. For instance, one interviewee stated that:

> "The importance of corporate governance can be outlined as improvement of the investors' confidence, attraction of foreign investment, reduction of capital escaping abroad and as a useful mechanism of fighting corruption. Corporate governance is the best mechanism to improve the competitiveness between companies and recovery of the economy." (A5)

In addition, interviewees believed that the importance of corporate governance is to help Libya to integrate into the global market, join the WTO and improve transparency, as Libya was at the bottom of the transparency ranking in 2007 (International Transparency Report 2007), and improve disclosure practices. A number of interviewees suggested that applying effective corporate governance would strengthen internal control and management systems in Libyan companies and will help an external auditor to provide an honest report of the company's activities. This was in line with Solomon and Solomon (2004) when they argued that without an effective system of internal control, companies can undergo substantial financial losses as result of unanticipated disasters. The Enron collapse has been attributed in part to a failure of the company's system of internal control.

During the interviews, one of the interviewees made an interesting remark about the importance of corporate governance when he said that:

> "Good corporate governance helps the economy to secure growth by improving and attracting more investment in the globalisation era where the competitiveness is fierce." (A6)

In the same vein, one interviewee emphasised that:

> "Because good corporate governance will ensure the company's survival for a long time, the related parties should adopt a positive role to improve the practice especially the board of directors, top management, shareholders and other stakeholders." (A10)

Interestingly, there was a comment from one interviewee emphasising the benefit of corporate governance in the banking sector when he said:

> "Practising corporate governance in the banking sector will provide large benefits where this sector can lend to other sectors and therefore encourage investors to deposit their capital in banks which finally will give a good (wealthy) return to all society." (A9)

Moreover, interviewees were asked to give their opinions on groups that would benefit from establishing good corporate governance practice in Libya. According to them, all stakeholder groups which are mentioned in the interview guidelines would achieve benefits from the corporate governance practice since it pays attention to all groups associated with a company. More precisely each group generated some useful comments from the interviewees as follows:

- **Shareholders**: through good corporate governance practice shareholders can make sure that their investment has been managed and invested properly. Interviewees supported the idea that corporate governance must support and encourage the shareholders as the providers of the company's capital. This argument was in line with OECD (2004) which stated that corporate governance should protect shareholders' rights as well as ensuring that all shareholders are practising their rights.
- **Employees:** since an improved corporate governance system should result in company sustainability and economic wealth, employees will have greater job stability and job opportunities in a safer working environment.
- **Institutional Investors:** they will have an appropriate rate of return on their investment and corporate governance will encourage them to reinvest their earnings in the economy which in the end will create more jobs and increase the country's GDP.
- **Society at large and Government**: interviewees distinguished between the society's and the government's benefit. In respect of society, better corporate governance practice will improve corporate social responsibilities through companies' contribution in the field of developing a community when companies invest some their profits in social activities such as subsidies to health care, the education system and other youth activities. On the other hand, the government can benefit from good corporate governance practice, by increasing the productivity and enhancing the overall economy which finally leads to raising the country's GDP, reducing the unemployment rate and increasing tax revenues.

The benefits of corporate governance practice in Libyan companies according to the interviews were summarised by one of interviewees as follows:

> “Corporate governance is more than business issues affecting company performance or the protection of the interests of stakeholders. It is more than that by having or reaching economic, social and political implications. Good corporate governance promotes a more open, free, transparent and uncorrupted society and eventually improves the country’s economy.” (A1)

Interviewees’ responses were clear that Libya should adopt an effective corporate governance framework to release the potential opportunities of economic activities to the Libyans and help Libya to join the global market.

However, some in their interviews supported Libya in developing its economy by creating consistency between its economic activities through transferring good (profitable) state-owned companies and economic units to the private sector and building a strong stock market. This comment typified many of them:

> “The Libyan government should sell and transfer the profitable companies to the public.” (A7)

In contrast, one interviewee stated that:

> “At this point in time, Libya should concentrate on developing its economy by liberalising the wages and prices and diluting the government control on the economic activities rather than on the corporate governance practice.” (A8)

The Libyan economy, like many developing economies, depends to a large degree on small and medium companies, and almost all interviewees remarked that corporate governance is a useful mechanism for growing the company; therefore, small and medium companies should install corporate governance. This argument was in line with Abor and Adjasi (2007), who argued that developing countries are now increasingly embracing the concept of good corporate governance, because of its ability to impact positively on sustainable growth. It is believed that good governance generates investor goodwill and confidence. In addition, this result agrees with Hampel’s view (1998) that corporate governance is as important for small companies as for large ones. Also, this result was in line with the findings provided by La Porta et al (1997), and La Porta et al (2000). They highlighted the importance of corporate governance in emerging markets for attracting more local and international investors. Their results indicated that across countries, corporate governance is an important factor in financial market development and company value. Finally, it can be concluded that stakeholders’ rights have been considered as the important aim of good corporate governance in the Libyan context.

8.2.2 The Rights of Shareholders and Other Stakeholders in Libyan Context

(1)- The shareholders' rights

The OECD (2004) emphasised that:

> "The corporate governance framework should protect and facilitate the exercise of shareholders' rights." Para (II).

Also in para (III) they stated that:

> "The corporate governance framework should ensure the equitable treatment of all shareholders, including minority and foreign shareholders. All shareholders should have the opportunity to obtain effective redress for violation of their rights."

In Libya, the shareholders have the legal right to attend the AGM and vote on any issue or matter belonging to the company.[44] The interviewees were asked to give their view about the current shareholders' rights practice and implementation.

All interviewees confirmed the weakness of shareholders' rights in both theory and in practice. For instance, one interviewee argued that:

> "Libya should protect the right of shareholders on its reforms agenda since starting to transfer its economy and establishing stock market." (A9).

In the same vein, 7 of the 10 interviewees argued that Libya should emphasise the role of protecting shareholders rights through revising and developing its legal system and encouraging the large shareholders and institutional shareholders to respect the rights of minority and foreign shareholders. One of them remarked that:

> "Libya is a unique case, as it has a special complexion because business activities had been practised by the government for a long time which affects private business practices. After opening the door to the private sector and changing to a liberal market, we need to change the state-owned philosophy where the people depend on the government for everything. We need to liberalise the inventiveness of the Libyan people so they can create and innovate" (A3)

An interviewee (A1) said that:

> "Without changes in the corporate culture, it may be difficult to achieve good practice of corporate governance, and unlikely to go through the transferring period without economic problems such as stolen stated-owned companies assets, malpractice of sales. These companies' corruption and collapses of companies will eventually lead to adverse results from the changes and people will stop the process." (A1).

[44] According to Libyan commercial law (1954) in Article (516) the shareholders have the rights to: (1) Attest on the annual report. (2) Appoint the board members, and watchdog committee. (3) Determination of the board members' remuneration. (4) Any other issue related to the company.

These comments were in line with studies such as Regional Corporate Governance Working Group (RCGWG, 2003) which found that although shareholder rights are clearly identified in the rules and regulations in MENA markets, there is a gap between what the law states and what is practised. Also, Muranda (2006) argued that in developing economies the introduction of sound corporate governance principles in banking institutions has been partially hampered by poor legal protection, weak information disclosure requirements and dominant owners.

Moreover, some interviewees confirmed that there is a weakness in relation to shareholders' rights in the Libyan context since they identified many other rights to shareholders that should exist in Libya, such as their rights to full disclosure and the treatment of all shareholders, including minority and foreign shareholders fairly. Also they argued shareholders should have the opportunity to obtain effective redress for violation of their rights. In this direction, one of them said that:

> "Listen, if we need to join the WTO and improve our opportunity to benefit from the globalisation we need to take account of and adhere to the international codes and create a code for best practice. Here if you look at the OECD Principles you will find that the shareholders' rights occupied the first principle, which mean they are the important base in the company and therefore they should receive fair treatment. More clearly they should as financial providers have all their rights which is emphasised by OECD and other international organisations and also the management, laws and regulation must maintain and encourage them to invest, not put their capital under their mattresses." (A8)

Finally, although some rights of shareholders are protected by Libyan law, interviewees are aware that shareholder rights practice in the Libyan context is weak and needs more improvement. The researcher attributes this to the long period of state-owned policy and monopoly of business activities by the government which makes the shareholders a new concept in the Libyan context.

After the liberalisation of the economy, a new phenomenon of the domination of majority shareholders in taking the decisions in the AGM has arisen. For instance, one interviewee said:

> “There is a wrong method in taking decisions in AGMs in Libyan companies. This is because shareholders can give votes to candidates equal to their shareholding to more than one candidate but the correct use of this rule is that shareholders divided their vote between candidates or give votes to only one- but not give their whole vote to one candidate and then to another.” (A4).

Also, these comments revealed that company ownership in Libya, as in many countries in the world, is dominated by large shareholders such as the government and institutional investors or sometimes by individuals. Therefore, a conflict of interest exists between controlling shareholders on the one hand and minority shareholders on the other hand who face a lack of financial sophistication. This supports the findings and suggestion from Mallin (2004) and Shleifer and Vishny (1997).

(2)- The stakeholders' rights

To achieve the research aims and objectives the researcher in the interviews undertook to elicit the policy-makers' opinion about to what extent they believe that the rights of stakeholders exist in the Libyan context. All interviewees were asked about to the extent of their agreement that stakeholders' rights exist in Libya.

The majority of interviewees (8 of 10) indicated that some of the rights of stakeholders are stated and protected by the legal system and regulation in the Libyan context; however, the problem is in the practice of these rights. Moreover, they argued that the main aim of corporate governance in the Libyan context is to stimulate and refresh the rights of stakeholders. For instance, they emphasised that Libya needs to strengthen the culture of the product guarantee, intellectual property rights and to promote social responsibility in both the state-owned and private sectors. In this way, one interviewee pointed out that:

> "I can say to you that some stakeholders groups suffer from the weakness of their rights. For example, employees, creditors and so on, this is because of the incomplete legal system and the low enforcement which affect stakeholders' rights." (A10).

Some interviewees indicated that subordinates are afraid to disagree with any decision made by CEOs. For example, one of the interviewees stated that:

> "Generally any decision made by the CEO is accepted by all levels of managers and the company. The reason behind that is the excessive power of the CEO and sometimes the dual position of him." (A6).

Different stakeholders may have different concerns about the activities of a company. In seeking more details about the stakeholders' rights, all interviewees were asked to give their opinion about specific groups and the current practice of their rights, and how these can be improved. The comments were as follows:

1- Employees: They do not have the right to get a percentage of profits as in many other countries.[45] Also, the labour unions in Libyan companies are weak and cannot improve the employees' rights. In this way, one interviewee said that:

> "Although the government policy is to sell or sometimes provide free shares to employees, the actual practice demonstrates that employees' rights face some obstacles which affect the employee activity. This is clear in the courts where many employees litigate against their company about their rights which includes the wages, promotion problems or retirement rewards. This epidemic exists in state-owned companies and unfortunately transfers to private companies." (A3).

2- Creditors: With respect to creditors as one of the stakeholder groups, there was a question about whether there is a balance between reorganisation and liquidation of the companies and the rights of creditors such as banks. Most interviewees agreed that there are problems during the enforcement of transfer, reorganisation and liquidation and sale of companies.

This is because the processes remove or ignore the creditors' rights. In this connection one interviewee said:

> "I agree that during the economic transformation many problems may arise in the practice, because during the practice some stakeholders' rights can be abused. However, the General Peoples' Committee always tries to reduce this problem and compensate for any damage to stakeholders' rights." (A2)

3- Consumers: The main problem with consumers in the Libyan context is the lack of a culture of giving product guarantees. This leads companies to pursue profit at the expense of consumers. One interviewee summarised that:

> "In Libya the relationship between companies and their clients is, sometimes, not clear. For example, bank clients may hate to deposit in banks. The reasons are low respect of them, and the complicated procedures in terms of depositing and withdrawing.'' (A6)

4- Society: Companies should not pursue profit without regard to the impact on the wider societal interests, according to Mallin (2004). Therefore, social responsibility has become as a factor of companies' growth and development.

Eight from ten interviewees indicated that the current efforts of Libyan companies to improve society are weak because the culture and the law do not encourage that. One comment was this:

[45] In Egypt for instance, the employees have the right to the lower of either 10 % of the profits or the equivalent of one annual salary each year when the profits are distributed (RCGWG, 2003).

> "Now all companies regardless of their size or activity are fighting to exist in a rapidly and ongoing economic environment. The social responsibility is very important to keep a company successful. These responsibilities include responsibility to the environment (through reducing all sorts of pollution and participating in extending the green belt) and to society through enhancing the company contribution in education, health system and youth activities to improve society." (A10).

Another interviewee said that:

> "Companies in my opinion pursue their interest; see for example foreign companies especially in the oil sector: big capital and huge profit. But these companies do not participate to improve the social activities because there is no motivation to do that such as tax privileges." (A8)

Some interviewees (4 from 10) argued that the law, especially the tax law, is not in line with social responsibilities. The law does not play a role in encouraging social responsibility and enabling companies to work as socially responsible companies. For instance, one interviewee stated that:

> "All companies, Libyan or foreign would help the society via contribution to social development. However, the law prohibits that, yes prohibits. See the tax law for example which I can remember now the maximum donation is 2% from the net profit. This percentage is not enough to encourage a company to contribute to social activity. So if any company pays more than that the tax authority does not admit to that and therefore does not allow reducing the amount from the income before the tax." (A9)

Interestingly, one of them said that:

> "Always increasing the shareholders rights will improve stakeholders' rights in the long term. So there should not be any separation between the interest of shareholders and stakeholders' benefit in the company. Also, a stakeholder is a broad term and I can argue with you about the definition of that so we should determine this terminology and then ask companies to take account of their stakeholders which I suppose many companies do." (A7)

Analysis of the interviews indicates that there is a difference of interest between the stakeholders in Libyan companies. In addition, some argued that the shareholders' interest is not clear because Libyan companies were state-owned, which were aimed to maximise the community benefit such as reducing the unemployment rate and offering the services and products. Libya now should push private companies to take account of all stakeholders and participate in social activities, both locally and nationally. These findings support what the OECD (2004) stated:

> "Corporate governance should protect the rights of other stakeholders, such as Banks, Bondholders and Employers. Corporate Governance should also encourage active cooperation between the corporation and stakeholders so as to enhance the performance of both Corporate Governance and the market".

It was notable that all interviewees highlighted that the stakeholder approach with less intervention by government is applicable within a proper corporate governance framework in Libya. This framework should concentrate on the rights of both shareholders and stakeholders, increasing the attraction to institutional investors, a high level of disclosure and transparency practice for both financial and non-financial information and improvement of the investment climate. For instance, one of the interviewees highlighted that:

> "In my opinion, good corporate governance will attract the investment and therefore reduce the pressure on government to find more jobs for graduates and at the same time increase the tax revenues which the government can spend on the infrastructure and to establish a good business climate." (A2)

The rights of stakeholders have not reached a satisfactory level in the Libyan context where many of these rights are still absent or not recognised. This result is in line with the recommendation made by the OECD (2004) that the corporate governance should recognise the rights of stakeholders established by law or through mutual agreements and encourage active co-operation between corporations and stakeholders in creating wealth, jobs, and the sustainability of financially sound enterprises.

On this point, one of the interviewees said that:

> "The best companies are those which can improve the society and environment by more donations in social activities and therefore can improve their profitability and attract more investment from individual and institutional investors." (A3)

8.3 Factors Affecting the Practice of Corporate Governance in the Libyan Context

The interviewees were asked about the following factors that might have affected the framework of corporate governance in Libya.

8.3.1 The Legal System

Nganga et al (2003) argued that the key issues in evaluating a corporate governance system are legal protection of investor rights, trustworthy accounting and disclosure standards, effective boards, and preferably an active market for corporate control.

La Porta et al (1997) found significant differences in the capital markets of countries which have different forms of legal system. This difference is mainly between countries with a French civil law system and those with British common law. In addition, the OECD Principles of Corporate Governance (2004) emphasised the importance of the legal system in establishing good corporate governance when they said: "The corporate governance framework also depends on the legal, regulatory, and institutional environment".

Therefore, participants from all groups involved in this study were asked to give their opinions about the influence of the law on corporate governance practice in Libya. The questionnaire participants strongly agreed that the legal system has a considerable influence on a good corporate governance framework.

The interviewees' viewpoints which emerged were that there is a strong relationship between corporate governance and the legal system. They stressed that the interaction between the legal system and corporate governance is very strong since laws and regulation regulate economic and social activities.

All of interviewees believe that the legal system in Libya is weak and needs to be developed to encompass the current practices of economic activities. Their viewpoints have highlights two main problems.

- **The Weakness of the Legal System**

The first point from a majority of the interviewees (9 from 10) was the strong relationship between the legal system and corporate governance. In this point, they believe that the legal system should contain the most important principles of corporate governance since they consider that there is a lacuna in the Libyan legal system. For instance, one of them said:

> "Libya now is an opening market and its economic activities are showing ongoing improvement, so we need to change dramatically our laws and regulation which I think now are out of date. This weakness comes in both quantity and quality of existing laws and regulation." (A1)

In the same vein, almost all interviewees emphasised the absence of some laws such as company law and comprehensive labour law. One of them said that:

> "Yes I can say that there is a weakness and a lack of a legal system in Libya through the absence of some laws such as company law and some laws need to be improved such as commercial law and Investment Code Act (1997). This lack exists because the country was a controlled economy and recently has changed to a free economy which needs to change the legal framework as well." (A7)

On the other hand, one of them said that:

> "The legal system should be revised to cover all aspects of the economy and to harmonise with the global economy to attract more investment. We should understand that capital is timorous and goes to the safest place. This means we need to introduce confidence for the investors by a complete legal system which covers all aspects of economic activities." (A10).

This result supports Mallin (2004) when she argued that the legal system is a key influence on the type of ownership and control structure. Further, a study by La Porta et al (1998) on publicly owned companies showed that family control is more common in countries with poor shareholders' protection, while the widely owned company is more common in countries with good shareholders' protection.

Some of the interviewees argued that Libya should render a judgment quickly in business litigation by finding specialist judges who can handle all the pending cases and issues expeditiously in specialist courts.[46] Regarding other legal issues, one interviewee said that:

> "We need to protect the right of employees by determining the minimum wages (the hourly or monthly wages) so the companies' owners cannot exploit the employees which is common in developing countries; also we should improve the culture of temporary jobs[47]." (A5)

Some of interviewees argued that, although Libya had enacted its commercial law more than fifty-five years ago, the law has faced many changes and amendments during that time and sometimes the government had partly stopped or ignored many parts of this law during the period of prevention of commercial activity by individuals. In this direction, one of the interviewees said:

> "Now we need to renew the commercial law and its amendments and then enact new commercial law which should include all of what we need for economic activities." (A1)

- **The Weakness of Enforcement**

The other problem related to the legal system is enforcement, according to many interviewees. In this respect, one of interviewees said:

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[46] In Libya there is a court of economic issues; however, the judgement of these issues sometimes takes a long time.

[47] During the preparation of this study there has been an attempt to renew and enact new laws regarding economic activities.

> "The problem is not enacting the laws and regulation, which we may have much of, but the problem is the implementation of laws and regulation and the continuation of these laws and regulations. For example, we have the longest traffic law in the world but at the same time Libya has a serious problem with traffic accidents: it is easy to see cars cut the red traffic light in the midday. In respect of business activities, although the legal system recognises some but not all of the business issues such as the rights of shareholders and stakeholders, the practice of these rights is weak and sometimes their rights can easily be violated by the management." (A1).

Almost all interviewees (9 out of 10) argued that the implementation and acceleration of the enforcement is more problematic than establishing laws and regulation.

This result supports Berglöf and Claessens, 2004 when they argue that:

> "Enforcement more than regulations, laws-on-the-books or voluntary codes is key to effective corporate governance, at least in transition and developing countries. Corporate governance and enforcement mechanisms are intimately linked as they affect firms' ability to commit towards their stakeholders, in particular towards external investors…When the general enforcement environment is weak and specific enforcement mechanisms function poorly, as in many developing and transition countries, few of the traditional corporate governance mechanisms are effective."

The discussion is in the line with RCGWG, (2003) when they argued that in the MENA region the important challenge lies currently in the effectiveness of its enforcement and implementation. Also, it is in line with the findings and the argument made by Alajlan (2004) that Arab markets in general are poorly regulated, and laws governing insider trading and financial disclosures simply are not thoroughly enforced.

Other interviewees (4 from 10) considered the relationship is not just between the legal system and the corporate governance system but it is more complex since the legal system is as a result of the culture and social norms because it is made by people. One of them remarked:

> "Corporate governance is an ongoing process that endeavours to develop the country's legal, cultural and economical activities systems. So, we do not need to import or transfer the corporate governance system from others. We need to improve corporate governance mechanisms that suit our current culture and business activities to achieve our ambitions." (N4)

This comment was in line with the argument made by Berglöf and Claessens (2004) when they argue that the wholesale transfer of governance standards from developed market economies may discourage investors from taking controlling positions and thus undermine potent corporate governance mechanisms in less-developed economies.

It is also in line with Nganga et al (2003) when they argued that legal protection depends on the enforcement (and quality) of laws, while ownership concentration leaves minorities exposed to expropriation by larger shareholders.

Moreover, the result was in line with the pioneering works by La Porta et al (1997, 1998, and 1999) which emphasised the importance of law and legal enforcement on corporate governance and a company's behaviour and market development.

Interestingly, interviewees believe that Libya has an adequate court and judicial system but the problem lies with the incomplete legal system and poor enforcement. In this connection, one of interviewees said:

> "The jurisdiction system is great and the judges can make adjudications fairly and I think they are qualified. However, the problem is the incompleteness of some parts of the legal system. See for example the arbitration law; intellectual property rights, accounting auditing standards and company law etc are inadequate and sometimes absent. So, after developing the legal system and improving the enforcement we can join the WTO and world economy and the good governance mechanisms." (A7)

From the above discussion, it can be said that the laws and regulation that govern corporate governance in the Libya were perceived as being inadequate or as being outdated and needing revision. Also, enforcement is still major issue and a barrier to improvement of the corporate governance system.

8.3.2 The Social and Cultural Norms

Participants involved in the interviews were asked to give their opinions about the influence of social and cultural issues on corporate governance in Libya. This question tried to elicit more details about the relationship between corporate governance practice and the influence of social and cultural factors[48]. Therefore, policy-makers were asked about how these factors affect the practice.

Interviewees' perceptions indicated that corporate governance is influenced by a variety of factors related to culture and society. In general, this argument was in line with Agnaia's (1997) study when he stated that Libya is a developing country and the Libyan social environment is characterised by the extended family clan, tribe, village and the Islamic religion. Interviewees also argued that to achieve good corporate governance, we need to be aware of the constraints imposed by the Libyan environment such as cultural and social

[48] The questionnaire analysis suggests a linkage between the culture and the corporate governance practice.

norms and economic and political factors. In this regard, many Libyan researchers have found that personal relations and family ties play a most important role when choosing managers rather than practical or academic qualifications. Also, managers are more concerned about the creation of social relationships at the workplace than the job itself since the social environment in Libya is characterised by the extended family clan, tribe, village and the Islamic religion (see, for example, Agnaia 1997 and Kilani, 1988).

Regarding the relationship between a good corporate governance system and social and ethical factors, one interviewee said that:

> "Corporate governance cannot be practised and understood as being independent from other community activities; it can be influenced by many activities which reflect the community environment. Therefore, a substantial issue is to adapt the corporate governance in order to adhere and work in this environment. In Libya the increasing of corporate governance mechanisms such as managers' effectiveness, a good board of directors' role, increasing the external auditors' function and planting the governance culture, in my opinion are important factors in order to achieve the best practice." (A1)

Another interviewee remarked that:

> "It is important to analyse the factors influencing organisations, human attitudes and behaviour, before we choose which mechanism of corporate governance should apply. In my opinion, culture is an important factor that affects the good governance in economic activities since it makes a set of constraints on the organisation's activities." (A2)

The interviewees argued that the state-owned sector has found a new culture which affects the economic environment. They mentioned corruption and bribery, the absence of a merit system for choosing the top managers as the most significant factors discouraging good corporate governance practice.

This result was in line with the result by Agnaia (1997) when he said that the difficulties that face Arab organisations regarding management training and development programmes result from the characteristics of Arab managers which concentrate on seniority rather than merit, on centralisation rather than decentralisation, and on nepotism rather than fairness. These characteristics can be considered as one of the reasons why management training and development in Arab countries faces difficulties.

Regarding corruption, most of interviewees believed that the public sector management was the main reason for corruption and the proliferation of bad managers and weakness of the Board of Directors when the appointment of management and the Board of Directors does not depend on the merit system but on personal interests and the low remuneration policy. This was in line with the argument by Ahunwan (2002) that corruption was the result of majority government ownership in Nigeria, where this situation has adversely affected the management of public sector corporations. Also, the increase of corruption had led the Libyan leader to propose the abolition of most of the General Committees (ministries) especially the services one, and to distribute the oil and gas revenue to the nation directly.[49] Regarding Islam, all interviewees believed that Islam can improve the practice of governance since Islam has formulated a comprehensive ethics governing how business should be run and how accountability ought to be achieved. The interviewees confirmed that Islam requires a high degree of trust in business dealings and financial affairs. For instance, one of the interviewees said:

> "In real life we cannot separate between Islam and the daily activities, since Islam as a religion regulates all aspects of life and also it is proper for all times and places. See for example the economic activities; Islam prohibits misleading, stealing and lying. So, managers should discharge their responsibilities according to Islamic practices, where all bad behaviour is unacceptable, and therefore everything we do in this life must please Allah." (A5)

Another said:

> "Libya was a poor country, but it was impossible to hear about bribery, maybe because of the Islamic influences on real life. So, bribery as an epidemic in the world is the side effect from globalisation. So, we need to improve the Islamic culture to eliminate bad behaviour." (A1).

These comments were in line with Lewis (2006) when he argued that the aim of the Islamic economic system is to allow people to earn their living in a fair and profitable way without exploitation of others, and therefore the whole society may benefit. In addition, they were in line with Bonn and Fisher (2007) when they argued that corporate governance and business ethics should help organisations to implement high standards of ethical behaviour throughout the organisation. In the same way, interviewees emphasised that the Islamic culture leads to improvements of life in every aspect which, therefore, improves the practice of corporate governance.

[49] This announcement was in the General People's Congress Meeting in March 2008.

Interviewees also explained that Islam emphasises the welfare of the community since corporate governance in Islam takes account of all stakeholders and the corporate governance exists over the individual.[50] In the same vein, another interviewee said:

> "…Islam imposes trust, accountability and also other values such as honesty, sincerity, justice. Also, a Muslim must maintain these values in his real life and also should be a pious individual in the community. Managers and other policy-makers should be pious and respectable in carrying out their duties towards the community..." (A1)

In the context of Islam, a company manager should surely try his best to manage the company in a way that it can benefit not only the shareholders or owners of the company, but also that the fruits are also enjoyed by the whole society.

All interviewees supported the influences of culture and social norms on corporate governance. They argued that cultural tradition opens the door to supporting social connections, such as tribal loyalties, affecting management decisions and, therefore, leading to poor governance.

In this vein, one of the interviewees said that:

> "Without changes in the corporate culture, the intended purpose of the recent corporate governance reforms will be unlikely to be achieved." (A10)

In addition, there are some aspects of negative culture in Libya as a result of the economic system and the centralisation of the economic activities, such as internal politics, bureaucracy, lack of willingness to respond to change, lack of markets and low productivity and low of enforcement.

Interviewees appeared to see a link between corporate governance practice and ethical factors. In this connection, one of them said:

> "The ethical values held by a society and most especially by the policy-makers in any level of a country or company are influencing the ethical practice of real life rank and file employees in their duties. In Libya we need only to improve and stimulate the Islamic culture on the economic activities. Islam is involved in these activities and there is many verses promoting the economic activities. We need training of managers and an excellent education system in business schools." (A2)

One ethical factor raised by interviewees was the difficulty of integrating any good governance practices without changing cultural and ethical traditions, such as malpractice, attitudes towards a job as (only) a right, corruption, lack of transparency, greed dominating the minds of many managers, lack of enforcement, cronyism and nepotism, lack of a merit

[50] For more information about the Islamic perspective on corporate governance and the difference between the Islamic approaches and conventional approaches, see Lewis, 2006

system, weakness of board members appointment procedures, government interference in economic activities, and unacceptability of women at top levels or high positions in a company even if she is competent. Therefore, interviewees supported and sought to encourage the new corporate culture which promotes ethical corporate behaviour and inhibits bad behaviour.

On the other hand, almost all interviewees also pointed out that weak managerial incentives and low compensation are perceived as an important issue related to serious ethical problems in Libya. It seems to have a negative impact on the practice of corporate governance and undermines the moral codes. For instance, one of them said that:

> "The labour law and poor wages system are the biggest factors affecting the ethical standards and lead to the breaking of these standards by employees especially in the public sector where there has been no improvement of the salaries system since 1981. At the same time inflation has hit the entire world. Also the central bank of Libya has changed the rate exchange of the Libyan currency against the US Dollar." (A9)

This argument was in line with Haniffa and Cooke (2005) when they argued that the culture of decision makers within and without an organisation is important in many countries because the traditions of a nation are instilled in its people and might help explain why things are as they are. As such, how a company operates and reports will be influenced by the social values of the relevant society within which it exists.

Interviewees also pointed out that management fraud and management manipulation are the most common malpractices in Libya as in most developing economies. These malpractices cause investment to flee to other economies, especially to developed economies.

Although Libya has made some improvement in their corporate governance practices over the last few years, particularly in the areas of the free market and free competition and dilution of government ownership, the overall infrastructural environment is still not conducive to achieving best governance standards. Generally, the respondents were concerned about the ethical standards in business and the lack of an appropriate corporate culture. Therefore, the researcher believes that a Libyan corporate governance system must be based on a foundation of ethical beliefs and behaviour which adheres to Islamic principles.

8.3.3 The Economic and Financial System

The legal system is not the only part of the whole corporate governance framework scene. Other factors that influence the framework are the maturing of markets, corporate control and financial structure. Corporate governance reforms take place through legal and regulatory reforms, and high standards of economic and financial regulation.[51]

Regarding Libya, it was clear that policy-makers believe economic factors such as the level of inflation, ownership and the compensation policy (salary policy) have an effect on corporate governance. For example, most of them believed that the tax system could be encouraging management to evade taxes by under-declaring their profit or increasing their expenditures or sometimes affecting the integrity of annual reports. One interviewee said:

> "You cannot ask for a good economic system unless you have created concrete infrastructures for the business activities, which start from the legal, the economic and finance systems and the culture. On the finance issue, the major issue is the tax rate and the finance policies such as the rate of currency exchanges." (A6)

In addition, interviewees emphasised that changing the financing mechanism and banking system in Libya is important, and they suggested developing a healthy banking system and reconstructing the corporate finance system by encouraging finance through equities and bonds rather than by banks loans.

Related to the last point, the instability of the economic and organisational system is considered by interviewees as one of the obstacles to establishing good corporate governance. In addition, they argued that the absence of a completely free market with full disclosure and transparency practice may be regarded as the biggest obstacles to developing economic activities and, therefore, sound corporate governance practice. Interestingly, the interviewees believed that poverty is not a factor generating governance weakness.

Confirming this view, one of the interviewees made the following remark:

> "Poverty does not affect good corporate governance practice; it should be a cause to develop corporate governance to reduce the level of poverty. Libya was a poor country but it was impossible to hear about bribery. Bribery as an epidemic in the world is the side-effect of globalisation." (A1)

Many of interviewees argued that the country's economic system has been characterised by an unstable economic environment and unstable managerial system which requires enacting

[51] Such as stock market regulation, investors' activism and managerial discipline

new laws and regulation. Therefore, these circumstances created a fear among investors in an uncertain economy.[52]

Perhaps the most important point here is that the Libyan economy in late 2004 showed positive signs including consistent growth in GDP which was a result of the lifting of UN sanctions and increases in energy prices. However, Libya is still dependent almost entirely upon the export of raw materials, especially gas and oil, which creates a lacuna in the economic structure.

Libya has made some progress towards a market economy; yet there are numerous structural obstacles in the transfer to the market economy such as the weakness of economic structures and the legal system. In addition, one interviewee emphasised that inflation has also negatively influenced the practice of corporate governance in terms of increasing living expenses at the same time when salaries (labour compensations) are low and consistent with the average salary being 250 LD monthly (equal roughly to $190).

Despite, these optimistic developments in the Libyan economy, there is still a significant weakness in productivity and competitiveness compared with other developing economies. The need for more foreign investment and the partnership of management with developed economies is the most important mechanism of the economy and corporate governance developments.

The interviewees pointed out that company ownership is another factor in introducing corporate governance. The ownership structure differs between economies according to the economic, legal and cultural systems. Mayer (2002) concluded that concentration of ownership is higher on the Continent of Europe than in the UK. High levels of ownership concentration have also been reported in the Far East and South America and ownership is as dispersed in the US as it is in the UK. In addition, he found that, in the UK and US, the shares of listed companies are primarily held by institutions, such as pension funds, life insurance firms and mutual funds, and individual investors.

In Libya, there has been a movement to liberalise the economy through opening the door to the private sector and transferring state-owned companies[53]. The majority of the interviewees (8 out of 10) remarked that the transfer of profitable state-owned companies

[52] This result was in line with the result by Agnaia (1997) in his study of the management training and development within its environment.

[53] In this point there is a broad consensus in Libya that the public companies suffer from weakness of accountability and are a place of proliferation for corruption. This point has been repeated many times by the leader of revolution.

and supporting the private sector will find other mechanisms of governance and improve the management by improving the competitiveness. On this point, one interviewee suggested:

> "Reforming the ownership and opening the door to establishing strong private companies will lead to separate company ownership from its management. This undoubtedly leads to improving the corporate governance by improving the mechanisms such as accountability and disclosure practices." (A9)

On the other hand, 3 of the 10 interviewees argued that the privatisation process does not help to develop the economy. One of them remarked that:

> "The problem with privatisation is that it does not encourage professionalism in running the companies and does not encourage competent and skilled managers since the privatisation takes a new way through selling the companies to employees. Management is still the same, so privatisation is only the way to eliminate losing (unprofitable) companies." (A6).

The interviewees' observations were in line with the International Monetary Fund (IMF) report (2005) which remarked that the authorities are committed to privatising most state-owned public enterprises. However, their strategy remains constrained by two main objectives: protecting employment and broadening the ownership base to avoid concentrated ownership. Therefore, the World Bank recommended enacting a privatisation law that would give the privatisation agency an independent legal existence and an explicit mandate, and allow investors to acquire a significant share of capital and have corporate control over the privatised companies. Also, the interviewees' arguments supported the RCGWG (2003) remarks that the MENA region is characterised by majority or concentrated ownership, where complete separation between ownership and control might not be realistic and it might hinder further development of the family business environment. Finally, it can be concluded that a good ownership structure may overcome the credit constraint, managerial incompetence and improve good corporate governance. Interviewees also remarked that the unstable managerial regulation has influenced economic and business activities. For instance, one of them stressed that:

> "Corporate governance as a set of regulations and internal processes in the company needs more stable laws and regulations, economic activities and also stability of organisational structure to improve." (A4)

Political interference, which was related to the socialist ideology adopted in the country with its emphasis on production rather than profit and market value, affected the practice of corporate governance. On this point, interviewees argued that the monetary policy, fiscal policy and tax system are the obvious political interference in economic activity. However, interviewees did not appear confident of government interference in fighting bad and unethical behaviour such as corruption. They believe that the government should play a positive role in developing economic and governance principles.

8.3.4 The Management and the Board of Directors

Respondents were asked to express their opinion about the main role of management and the responsibilities of the Board of Directors.

Respondents in the questionnaire agreed that Boards should have all eleven of the responsibilities listed in the questionnaire. In practice, the interviewees believed that these roles were not always fulfilled. The results of the interviews in general tended to confirm that the Board of Directors is the most important internal control mechanism. For instance, one interviewee stated that:

> "Although the roles of the Board of Directors are very important to maintain the stakeholders' rights and some rights are determined and recognised in the legal system, in practice their duties are not applied properly in many companies. This deficiency of duty was because of the excessive power of the CEO and other top managers. Also, sometimes it is because of the absence of the cooperation between the board members and management." (A4)

On the other hand, one of the interviewees stated that:

> "The composition of the board should depend on the competence of its members and the Libyan government should use the merit system to appoint the board members, while in private companies the shareholders should require qualifications and experience of them." (A10)

In this vein, almost all of the interviewees (9 out of 10) argue that the Board of Directors is an important mechanism of corporate governance in Libya since other mechanisms may be not effective. The results support Sternberg (2004) when she stated that "the powers and obligations of the Board of Directors are the most obvious means by which corporations are controlled". Also, they also support Brennan (2006) when he remarked that the Board of Directors is the official first line of defence against managers who would act contrary to shareholders' interests.

Board diversity has become a major issue within corporate governance where a number of studies seek to explore the impact of diversity on company performance (Rose, 2007).

Therefore, diversity may result in more innovative and creative board processes and decisions (Burke, 1994). Jamali et al (2007) suggested that women are important board member candidates and that the low representation of women on boards in Lebanon is related to glass-ceiling type impediments. They also believed that female board representation can reflect positively on the status of women at work and that government intervention is needed to 'level the playing field' for women in management and at the boardroom level.

Regarding the Libyan context, additional questionnaires did not reveal any females as board members of listed companies. The majority of interviewees (7 from 10) supported the questionnaire findings when they indicated that culture hinders the appointment of women in top management and boards of directors in Libyan companies.

One of them pointed out that:

> "Appointing women in top management and to Board of Directors faces many obstacles from the society, since the society is still conservative and many women do not prefer to get a high position in the company or in the local authority." (A8)

There were concerns that management has an over-powerful role in the system and practice of corporate governance. The power of the CEO might encourage the pursuance of his/ her own interests rather than company objectives. These findings may be due to low compensation policy (salaries system) and the weakness of accountability practices. One interviewee argued that:

> "In my opinion, successful corporate governance needs good board of directors' composition and experience. In term of composition the board should contain non-executive directors who have experience in the industry. The role of non-executive directors is to maintain accountability within companies. Moreover, they should not concentrate on the friendship of the management." (A4)

This argument is in line with Luan and Tang (2007) when they argue that board members can not only control and monitor the management adequately but also guide the direction of a company's strategy, and the appointment of outsiders to the board suggests better corporate governance, which builds the trust of investors with more transparent financial statements.

A most interesting comment in the interviews was that;

> "Good corporate governance does not only need independent, qualified board members, an internal audit department to oversee the top management, or any other

> external and internal mechanisms of corporate governance, because the thief beats the warder. However, it needs all parties to do what's right." (A3)

Generally, the interviewees agreed that governance reforms should encourage managers and the Board of Directors to practise more accountability and responsibility to stakeholders. Further, some of interviewees suggested that management fraud and management manipulation are the causes of investment fleeing to developed economies. Executive shareholding can play a positive role in reducing management malpractice, since they are owner and manager at the same time. On this point, one of interviewees said that:

> "Libya needs to encourage its companies in both public and private sectors to accelerate their efforts to modernise their management by providing short and long courses of training and to adopt the merit and competency system without interference from government or social connections. At the same time, managers should have a portion of company capital which encourages them to pursue the company interest more than their interest." (A3)

8.3.5 Disclosure and Transparency Practice

Disclosure and transparency are important principles in corporate governance practice. The full disclosure of financial and non-financial information is required by shareholders and other stakeholders. For instance, the interests of owners are not always the same as the interests of managers who are involved in day-to-day management and have a different level of information compared to owners (Mallin, 2004). Also, many other groups which have a long-term association with the company expect to benefit from the disseminating of information.

Regarding the Libyan context, all interviewees supported the view that there must be more disclosure and transparency. This result is consistent with the questionnaire results where respondents highlighted the weakness of disclosure in Libyan companies. On this point, one interviewee remarked that:

> "Good corporate governance practice rests on the issue of transparency because all stakeholders need to know as much information as may be useful without abusing company planning or affecting the competition between the companies." (A2)

Also, almost all interviewees believed that the size and the number of companies in the same sector are the important elements that determine the level of disclosure practice. Others argued that the Libyan Stock Market should improve the disclosure practice. This finding, in general, is in line with the findings of Adhikari and Tondkar (1992); Doupnik and Salter (1995) and Archambault and Archambault (2003) where they found that disclosure improves with capital market size. Therefore, companies from countries with large capital markets disclose more information than companies from countries with small capital markets.

Interviewees mentioned the improvement of disclosure practice through disclosing all issues regarding employees and other stakeholders (e.g. programmes for human resource development and training and employee share ownership plans), and disclosure of the impact of the company's activities on society, the environment and foreseeable risk factors (e.g. industry risks, interest rate risks).

The culture affects disclosure practice and impacts on preparing the annual reports. For instance, in Germany and the Netherlands there is a high emphasis on providing financial information to the long-term stakeholders whereas the central position in the U.S. and the U.K. is on providing information to short-term investors. The need for more disclosure was recognised by a number of the interviewees who believe that disclosure practice in Libya is weak due to the Libyan economic structure. However, Libyan companies are now required to carry out more disclosure practice than before because of the recent economic reforms. For instance, one of the interviewees commented on Libyan companies' current disclosure practices by stating that:

> "Disclosing information to the public is important...In Libya, we were a socialist and public sector and there were no private shareholders. Therefore, the public was not interested in information. However, now we are gradually moving to a liberal economy where shareholders need more disclosure practice." (A6)

Interviewees believed that the absence of accounting standards in Libya was the other reason for low disclosure practice in Libya. Therefore, accounting bodies such as the Chamber of Accounting and Auditing should establish and tighten the accounting standards which are suitable for the Libyan context in order to avoid the manipulation of accounts. For instance, one of interviewees remarked that:

> "Although there is compliance with the mandatory requirements, such as Balance Sheet, Income Statement, and External Auditor Report, there is low compliance in other requirements of disclosure such as: ownership structure, key executives and their remuneration, Cash Flow Statement, Directors' Report." (A4)

Another one stressed that:

> "If investors are not confident with the level of disclosure practice, they will transfer their investment to another place." (A5)

From the above findings it can be seen that most respondents agreed that the current practice of disclosure and transparency in Libya is weak and more disclosure and transparency practice is required. The association between the level of disclosure and companies' attributes, such as ownership structure, and size, has been reported (Tsamenyi et al, 2007). Other studies extend the culture-disclosure research to institutional factors including national systems (political and legal systems, press), economic systems (economic development, inflation and capital markets), corporate systems (financial systems, ownership, exchanges listings, dividends, auditor and leverage) and operation systems (company size, industries). Empirical evidence not only further strengthens the relationship between culture and disclosure practice of a nation, but also demonstrates that culture and other environmental factors which also influence the level of corporate disclosure interact with each other (Archambault and Archambault, 2003).

Due to the absence of Libyan accounting standards and principles[54], a variety of accounting practices are found in the Libyan context due to differences in accountants' educational and professional backgrounds and skills. Bengharbia (1989) found that the Libyan accounting profession was not organised and common accounting and auditing standards did not exist. This result may be because of the low levels of professionalism, which are due to the weakness of accounting education. Also, Bait El-Mal et al (1988), in their survey of accounting standards and principles applied by Libyan companies, concluded that Libyan companies applied different accounting principles, procedures and methods and employed a different accounting standard which makes comparison between companies difficult.

The statutory power of the Tax Office to require financial statements that are prepared in accordance with the Tax Law has led Libyan companies to prepare one set of financial statements for both internal and external purposes (Bait El-Mal et al, 1988).

Interviewees also highlighted that, although the Libyan Accountants Union is responsible for establishing, developing and monitoring accounting standards and practices, practically

[54] There are attempts to prepare standards that are applicable to the Libyan environment.

it has failed to monitor and develop the accounting professional. For instance, one of interviewees said that:

> "The weakness and sometime the absence of the role of the Libyan Accountants Union to monitor and develop the accounting and auditing profession have weakened the practice of the profession." (A3)

Also, an interviewee expressed the following reservation about voluntary disclosure:

> "Voluntary disclosure and corporate financial disclosure policies and practices are driven in part by differences in cultural, economic and political environments, therefore, we should improve these factors and then full disclosure will be improved." (A8)

Foreign investors have a key role in improving disclosure and transparency practice. Haniffa and Cooke (2002) found a significant positive relationship between the proportion of foreign ownership and the level of voluntary disclosure by listed companies in Malaysia. In the Libyan context, almost all interviewees supported this point. For example, one of them remarked that:

> "An open market with multi-national investors will help Libya to develop its economy since the foreign investors need more strict rules and a comprehensive legal system and disclosure practice." (A4)

The internal audit needs to play a significant role to ensure company internal systems are working properly. On this point, there was agreement between the interviewees about the role of internal audits in the company in enhancing the disclosure practice and reliability of annual reports of Libyan companies.

The researcher believes that the low level of disclosure practice is not only due to the competitive weakness between companies, since the economic system is different from that in a free market, but also is due to the ambiguity of information users' objectives and needs, the cost of disclosures, the absence of mandatory disclosure requirements, and the low level of awareness of the importance of information to decision makers.

8.3.6 The External Auditors and Financial Institutions

The OECD (2004) in para (V, C) highlighted that:

> "An annual audit should be conducted by an independent, competent and qualified, auditor in order to provide an external and objective assurance to the board and shareholders that the financial statements fairly represent the financial position and performance of the company in all material respects''.

Most of the interviewees believed that developed accounting standards and full disclosure practice provide a mechanism for investors to monitor their investment by accessing information about a company's activities. For instance, one interviewee stated that:

> "An accounting standard is an important tool to regulate business activities, and without an external auditor, how can investors trust the disseminating information. A qualified and independent auditor provides evidence to investors about the reliability of financial reporting and internal control." (A6)

Further, they agreed with the point that external auditor fees should be tied to the level of adherence to corporate governance best practice, such as the existence and independence of an internal audit department and the separation between the CEO and chairman of the board.

Regarding the role of banks and other financial institutions, interviewees believed that the role of financial institutions, both to lend money and become stakeholders or to invest and become shareholders, is essential to improving the corporate governance practice through developing the accountability and responsibility practices of companies. For instance, one of them argued that:

> "Since financial institutions pursue their interest and will oversee the top management and Board of Directors to achieve the company's objectives..., these institutions are responsible for developing corporate governance and the economic environment since the individual shareholders are not developed enough in the Libyan context." (A1)

8.3.7 The Development and Improvement of Corporate Governance

This question sought to determine who should be responsible to monitor and develop effective corporate governance practice in Libyan companies. The findings were divided into two themes.

Regarding the monitoring and controlling function of corporate governance, most interviewees believed that it should be undertaken jointly by the government bodies, the investment board, external auditors and the Libyan Stock Market. Moreover, the majority suggested that the responsibility for supervision and development of the framework of corporate governance should be shared between the universities and the Libyan Businessmen Board. In the case of universities, they argued that the educational strategy within universities and high educations institutions within Libya should include comprehensive education of corporate governance mechanisms, as it would be a major driver for promoting best practices. Collaboration between business organisations and educational institutions should be based on initiatives to improve corporate governance mechanisms within companies complemented by actions for increasing the companies' representation of graduates. Also, universities and training centres should benefit from successful managers, by invited them to seminaries, workshops and to share their experiences with others. One of them stated that:

> “The universities, especially business schools, and training centres should take responsibility for developing and adapting the Libyan economy through improving their subjects and courses and the business education.” (A3)

Regarding foreign investors[55] and their role in developing the practice of corporate governance, almost all interviewees believed that the corporate governance system should be developed locally. However, foreign investors should play a positive role in improving and harmonising the practice with the international standards. Confirming this view, one of interviewees offered the following remark:

> "The foreign investors should play a significant role in driving the recent corporate governance reforms in Libya. In my opinion we can benefit from foreign investment through learning how to manage a company by developing management practice and behaviour. Also, they could provide guidance for an integrated corporate governance approach that incorporates principles relating to ethical conduct." (A2)

On the other hand, some interviewees (4 out of 10) argue that substantial increases in foreign investment may not occur until some of issues which are concerning potential investors, such as corruption, changes to the legal system and improving the enforcement are dealt with. Interestingly, one of interviewees stated that:

> “We cannot rely on the foreign investments to improve the corporate governance practice because the Libyan context is not an attractive area for foreign investment except in the raw materials. Therefore, we have to establish a good system of corporate governance which is proper to our context and culture.” (A4)

Okike (2007) argued that the government has a big role in improving corporate governance practice by ensuring companies operate in the best interest of the various stakeholders. In this connection, all interviewees agreed and emphasised the role of the government in the implementation and improvement of corporate governance practices in Libya. For instance, one of them said:

55 According to the Libyan Investment Board, which monitors and analyses developments in foreign investments, the number has increased from 256 million Libyan dinars to 2765 million Libyan dinars during 2003-2008.

"In my opinion, the General Peoples Committee and other government bodies should play a significant role in developing the practice through encouraging and enacting regulations which lead to improving the practices." (A1)

Related to the last point, one of interviewees concluded the discussion as follows:

"Yes, the economic activities affect the corporate governance framework. For example, since we cannot transfer the corporate governance mechanism from others, the government, universities, auditors, NGOs, foreign investors and the Libyan stock market are responsible for introducing and monitoring corporate governance practice."(A10)

Regarding international pressures, almost all interviewees believe that Libya should benefit from international institutions such as the World Bank, the International Monetary Fund and the OECD. Interviewees believed that the other factor that will improve the framework of corporate governance in Libya is the participation in international organisations such as the WTO. Also, participation in conferences, seminars, and visits of experts to Libya from developed economies will push the practice of corporate governance.

The interviewees also agreed that international guidelines should be used as a guide to establishing sound and comprehensive guidelines for a corporate governance framework. For example, one of them said that:

"As a result of globalisation we should adopt the OECD principles and other international codes to establish a good corporate governance framework. In these economies the most superior economic performance and fast productivity growth are predominant. Therefore, we should benefit from them to strengthen our economy." (A7)

The Stock Market can be considered as a part of the governance reforms in Libya. Therefore, interviewees argued that the Libyan Stock Market Authority and other economic institutions should enhance the qualitative and comparative dimensions of financial reporting between companies. Also they should provide training opportunities for companies' management to introduce new management techniques and risk assessment methods and strategies.

Regarding the previous discussion, the researcher believes that sound corporate governance practice in Libya may be largely absent in most companies. Libya has lagged behind its neighbours such as Egypt in corporate governance practice. The reason for this may be that the government still holds a high proportion of shares, which enables the government to dominate the company and to elect managers and Board members. Other reasons are an incomplete legal system, poor enforcement practice and the absence of accounting and auditing standards. Therefore, in both cases the government could play a key role to act to improve these issues, thereby developing the practice of corporate governance.

CHAPTER NINE

Synthesis of the Main Finding of the Questionnaires and Interviews

9.1 Introduction

This study focused on exploring the perception of stakeholders regarding corporate governance in the Libyan context, using both quantitative and qualitative methods. The discussion was related to the theoretical argument that the corporate governance practice which has been developed mainly in liberal market economies has expanded and increased throughout the developing world. Therefore, the study set out to evaluate and investigate the main factors affecting corporate governance in Libya.

This chapter summarises the key findings from the questionnaire and interview surveys of the study.

9.2 The Understanding of the Concept of Corporate Governance

This part of survey seeks to examine whether respondents' views on corporate governance focussed on the interests of shareholders or more widely on the stakeholders' benefits. The responses received from the questionnaire survey described with a high level of agreement corporate governance as an organisation's relationship with all those stakeholders who are affected by, or who affect, the organisation's decisions and activities. Also, the respondents expressed a fair agreement on the definition that corporate governance is a relationship with all members of a society, irrespective of whether they are affected by the operations of the organisation. Contrastingly, describing corporate governance as a relationship with shareholders received least support.

Interviewees defined the term as the system by which companies are controlled to generate benefits for their all stakeholders, through improving the internal and external mechanisms to provide confidence to investors that the company is a good place for investment.

This concern with wider stakeholders implies that companies should pay more attention to society in their decisions and operations and go beyond their current stakeholders to the next generation. This evidence is consistent with the Islamic view that the role of companies and individuals is to act in a manner that enhances the well-being of society.

Also, the result may reflect the influence of the Libyan economy which was centralised and socialist and being run in the interest of the society.

This result was in line with the findings provided by Allen (2005), whose study analysed corporate governance in emerging economies. His results also showed that, because markets are imperfect and incomplete in these economies, the focus on all stakeholders rather than just shareholders may lead to a better allocation of resources than if the company just focuses on the interest of shareholders and equitable income distribution.

Regarding the importance of corporate governance in the Libyan context, the results of both questionnaires and interviews indicated that corporate governance is a useful mechanism for the transitional phase of the economy through improving accountability and responsibility. It can also eliminate some economic problems, for example corruption. The result reflects the view that corporate governance has become a cornerstone of economic growth, since providing trust and confidence to the market attracts more investment.

Interviewees also agreed that better companies' governance in both the state-owned and private sectors helps the country to integrate into the global market, including joining the WTO. Therefore, it can become a growth factor in the economy.

Since the main aim of the company is to exist for a specific goal, therefore; companies operate and relate to various stakeholders. On this point, companies should maintain and respect stakeholders' rights to gain their trust and, therefore, grow.

In this study, the stakeholders' rights have been investigated to clarify who is deemed appropriate to be protected by the corporate governance framework. A key distinction exists between shareholders' and stakeholders' rights.

Questionnaire respondents broadly agreed in principle that all the items listed in the questionnaire should be included in shareholders' rights since most items obtained high mean scores. The items included that shareholders should approve the annual accounts; distribution of profits, have the right to participate and vote at the general meeting and have the right to be informed on decisions concerning fundamental changes. These items obtained mean scores 4.86, 4.85 and 4.61 respectively. In addition, all groups expressed agreement with the rights of shareholders listed in the questionnaire survey with no significant differences of opinion between groups.

This agreement may be ascribed to the statements' focus on the standard rights of shareholders.

Interview findings indicated the weakness in shareholders' rights in theory by the weakness of the legal system that governs a company's activities, and in practice since the ownership of companies was held by the government during 1970s and 1980s.[56] Therefore, the vague ownership structure has led to weak practice of shareholders rights and misappropriation of company investments.

This finding supports the questionnaire finding which is not surprising since Libya, as a developing economy, shares some typical characteristics with other developing economies such as inapplicable ownership structures which allows domination by large shareholders, and a conflict between controlling shareholders and minority shareholders (Mallin, 2004; Shleifer and Vishny, 1997).

In terms of other stakeholders' rights, the participants strongly agreed that businesses are perceived to be accountable not only to shareholders but also to other stakeholders such as employees, suppliers, customers and others who affect, or are affected by the companies' activities. Supporting the results, the majority of interviewees indicated that even though some stakeholders' rights are stated and protected by the legal system, the lack of laws and enforcement are still major problems in applying good corporate governance. On this point, respondents argued that, in general, the rights of stakeholders have not reached a satisfactory level. Therefore, effective implementation of the corporate governance system will overcome this problem and strengthen links between the company and stakeholders. Also, interviewees believed that economic policies, and an unstable managerial system have affected management practice and moral values and, therefore, good governance.[57]

From the research findings, it may be concluded that restoring confidence in the Libyan business environment and building trust in corporate financial reporting are factors in raising the awareness of the theme of corporate governance. However, these benefits would differ from one company to another depending on the size and sector of the company.

[56] After mitigating the government control and establishing a private sector, many private banks collapsed as a result of poor management practice, which obligated the central bank to intervene and aid some of them. Recently the General People's Committee (Minsters Council) has obligated these banks to combine together in professional management to control them.

[57] This result supported the study by Agnaia (1997) when he found that the circumstances of Libya in the 1990s had been characterised by an unstable environment, with many new laws, rules and regulations and the organisational structure.

9.3 Factors Influencing Corporate Governance in Libya

The literature shows that each country has different factors affecting the practice of governance. Regarding Libya, questionnaire respondents identified the following factors which affect good governance practice in companies: poor enforcement of the legal system; the weakness of the legal system that governs companies' activities[58], and the poor leadership within a company. For instance, respondents' opinions were strongly in agreement that the tax system prevented good disclosure practice. This finding was in the line with Coates et al (1988) when they argued that the existing tax structure in Britain may be the reason for low levels of investment by encouraging paying out dividends rather than retaining profits.

The result also is in line with the OECD Principles of Corporate Governance (2004) when they emphasised the importance of the legal system to establish good corporate governance:

> "The corporate governance framework also depends on the legal, regulatory, and institutional environment".

To eliminate poor management and poor company leadership, Libya has decided to allow foreign investors to be CEOs in companies where they have invested.[59]

Along with previous reasons, respondents agreed that political interference, social connections, culture and the company ownership were other factors affecting good governance in Libya. On the other hand, privatisation, the stock market and the development of the Libyan economy are factors helping to improve the practice of corporate governance.

Also, respondents provided comments in the last page about the absence of a merit system in the appointment of managers and boards of directors, weakness in their training and the intervention of social connections into economic activities as other factors of weakness of corporate governance mechanisms, such as accountability and responsibility.

Interviewees believe that the legal system governing companies is weak and outdated; therefore, the development needs to encompass the current changing of the economy. They believed the legal system should contain the principles of corporate governance since they considered there is a lacuna in the Libyan legal system which affects the practice of corporate governance.

[58] Respondents identified some absent laws such as company law, arbitration law and property rights law.

[59] Currently foreign investors have the CEO position in two banks and one manufacturing company.

Interviewees mentioned other cultural problems, such as bureaucracy and the lack of willingness to respond to change, the low disclosure practice, cronyism and nepotism behaviour as other factors discouraging good practice of governance.

The majority of the interviewees thought there was a strong relationship between the legal system and good corporate governance. They emphasised non-compliance with the law governing companies is still the main obstacle to corporate governance.

It can be argued that there is congruence between the interviewees' and participants' opinion in respect of the role of the legal system and the enforcement in improving corporate governance.

On the other hand, responses of interviewees did not support the result of the questionnaire survey regarding the effect of ownership structure on corporate governance practice, since they considered that the ownership structure affects the corporate governance mechanisms more than the establishing of corporate governance. Therefore, they believed that large shareholders can overcome the issue of the incomplete legal system and suitability of the ownership structure. Their argument was partially in line with Solomon and Solomon (2004) when they argued that investors can overcome weak legal shareholder protection by being significantly large. Also, it is in line with McKinsey (2000) when they found in a survey of institutional investors that corporate governance is perceived as adding value to a company according to the widely cited Investor Opinion Survey on corporate governance.

Respondents believe that although Libya has established a Stock Market and enacted local and foreign investment law, it will be difficult to integrate good governance practices without changing the adverse aspects of the culture such as malpractice, attitudes towards jobs, managers' behaviour and the need to improve ethical and moral attitudes by improving the educational system. They believe that Islam can improve the practice of governance since Islam has formulated a comprehensive code of ethics and instils in people accountability, responsibility, and fairness.[60]

Moreover, interviewees believed that the culture and the policy issues affect corporate governance in the micro-economy. For instance, they argue that the culture affects the structure of companies, such as board composition and the distribution of power among the company's employees. Libyan society is identified as a collectivist culture, where

[60] Although Baydoun and Willett (2000) argued that the form and content of Islamic financial statements was based on full disclosure and social accountability, the practice of disclosure and transparency in this study did not support the criteria of full disclosure in Baydoun and Willett's study. This difference may be due to the weakness of disclosure requirements in legal systems and the absence of accounting standards.

interpersonal relationships and group affiliations are strong. The result was in line with Li and Harrison (2008) when they found that the national cultures of the home countries of multinational corporations have powerful influences on their governance structures.

Finally, the synthesis of findings from both questionnaires and interviews confirmed Letza et al (2004) arguments that the business process of corporate governance cannot be isolated from social and other non-economic conditions and factors such as power, legislation, culture, social relations and institutional contexts. The corporate governance framework is constantly changing and flowing and its changes are always driven by both internal processual impetuses and external environmental dynamics.

Also, responses received from both questionnaires and interviews believed that the unstable system of economic activities and the government monopoly during the1970s and 1980s have affected the accountability and responsibility practice of management and Board of Directors. Further, respondents mentioned that the relevant General Committees (ministries) which are supposed to oversee the sector, failed to control the sector through the relationships and social connections which lead to appointing weak candidates as board members and senior management.

9.4 Future Plans to Improve Corporate Governance

Respondents were asked to express their view about future plans to improve corporate governance. The role of management and the responsibilities of the Board of Directors were used as factors for this development.

The responses received from the questionnaire survey agreed that boards should have all eleven of the responsibilities listed in the questionnaire, since the mean scores for all were between 4.05 and 4.69. All ranked responsibilities received strong agreement from academic staff and external auditors, whereas other groups' opinions swung between agreement and strong agreement. This difference in responses suggests greater awareness from stakeholders of the role of the Board of Directors as the main mechanism of governance in the Libyan context in achieving better governance practice, and reducing management malpractice, since other factors, such as shareholders' activism and mature markets are weaknesses.

Also, interviewees believed that the application of the responsibilities is weak, even if the boards consist of executive and non-executive members.[61] The finding was in line with Chahine and Safieddine (2008) when they argued that the Board of Directors are considered to be an effective internal corporate governance device when external structures such as the legal environment, enforcement and market discipline are not sufficiently developed to ensure sound corporate governance.

The result confirms the criticism of Enron's Boards of Directors by Senator Carl Levin, a member of the Senate Investigations Subcommittee investigating the collapse of Enron when he said: "we think the Enron board was asleep at the switch and fell down on the job." (Petra 2006)

In respect of the role of management, the result of the questionnaire analysis revealed agreement on the powerful Chief Executive Officer (CEO) as a reason deterring good corporate governance in Libya, since the statement recorded a mean score of 3.72.

Interviewees also agreed with the questionnaire result that top management should run the company in favour of stakeholders and under the control of the Board of Directors which should deter any pursuit of self-interest. Also, they emphasised a separation between the Board of Directors and top management to achieve the best control of management. Further, they argued that linking managers' compensation to company performance would encourage top managers to improve company performance. This result was in line with Petra (2006) who argued that the lack of director separation from the CEO has led to corporate boards being aligned with management, rather than shareholders, notwithstanding the presence of outside independent directors.

Responses received from the questionnaire survey agreed that all listed statements regarding disclosure and transparency practice should be achieved, since mean scores were not less than 4.25. The result may reflect the fact that the level of disclosure practice in Libya is low and needs more development[62].

More information was gained from interviews in terms of improving disclosure practice. Interviewees indicated that foreign investors have a positive role in improving disclosure practice. The accounting and auditing profession also has been identified as an important mechanism for developing disclosure practice. However, the professions of accounting and

[61] Regarding the non-executive directors, some interviewees were worried about their independence or the pursuit of their self interest or from the lack of sufficient time.

[62] According to the Transparency International Organisation, Libya ranked 126 out of 170 in 2008 corruption perception index (www. Transperncy.org)

auditing are observed as weak because of the absence of common standards of accounting and auditing in Libya. The finding is consistent with Bait El-Mal et al (1988) when they found that Libyan companies applied different accounting principles, procedures and methods and employed a different accounting standard, which makes comparison between companies difficult. However, interviewees believed that the Libyan Stock Market has developed disclosure practice by requesting more disclosure practice in listed companies.

9.5 Elements of Introducing Corporate Governance

The external auditor and financial institutions are recognised as key factors affecting corporate governance. Respondents in the questionnaire survey expressed strong agreement regarding the external auditor statement in the questionnaire. Respondents ranked the need for an annual audit to be conducted by an independent, competent and qualified auditor as the fourth statement, with a mean score of 4.65. Results also revealed significant differences in opinion between the selected groups; however, this significance was in terms of level of agreement and not of disagreement.

Responses from the questionnaire survey in table 7.11 revealed that there is no relationship between companies and their external auditors, since the statement received an overall mean of 2.35. Also, questionnaire respondents mentioned in table 7.17 that corporate governance improves with the rotation of the external auditor.[63]

Interviewees agreed that the external auditor plays an important role in improving corporate governance. Moreover, they thought that auditor fees should be tied to the level of the company's loyalty to good corporate governance. In respect of the role of banks and other financial institutions in developing corporate governance, respondents believed that since banks and other financial institutions either lend money and become stakeholders or invest in the stocks issued by companies and become shareholders, they should play an active role in corporate governance.

9.6 Introducing Corporate Governance

This part of the research sought to elicit respondents' views on how corporate governance should be introduced, monitored and developed.

[63] In this point, the Cadbury Committee in the UK has emphasised the importance of auditor independence as both a professional and ethical matter.

The questionnaire survey results indicated that “new regulation and/or legislation” was the most important approach that could be used to introduce and improve corporate governance in Libya. There were no significant differences in answers across groups and a high overall mean score (4.54). Adjusting international codes requirements was also well supported (4.04), but the use of quasi-laws, alongside existing laws and regulations, was the least favoured means for introducing a corporate governance framework (2.79). This confirms that the dominant view is that the corporate governance framework should be legally introduced.

Interviewees seemed to support the opinions of the questionnaire respondents that the best method for introducing a strong corporate governance system is through a complete legal system and by a participation in conferences, and seminars held by international organisations such as the World Bank. Also, interviewees believed that international guidelines of good practice should be used as a guide to establishing sound and comprehensive guidelines for corporate governance.

This is in line with Okike (2007) when he argued that the government has a major role in improving the corporate governance practices by ensuring companies operate in the best interests of the various stakeholders. Consequently, there is agreement across both questionnaire and interview findings regarding the approach of introducing corporate governance in Libya. Both results indicated that the best method of introducing the optimal framework of corporate governance is a new legal system and by cooperation with international organisations, such as OECD and World Bank. Also, respondents believed that corporate governance should be developed locally; however, the benefit from partnership with others should go through to improve the international corporate governance mechanisms and oversee management.[64]

The respondents in both the quantitative and qualitative surveys believed that monitoring and controlling effective corporate governance should be undertaken jointly by government bodies and the Libyan Stock Market[65].

The responsibility for supervising and developing the corporate governance framework should be shared between the General Libyan Congress, the General People’s Committee,

[64] Libya started with the kind of partnership with international companies especially in terms of improving the management behaviour when two banks became a joint company with foreign investors and the CEO is not Libyan.

[65] The example for agencies are; the Economic General Committee, Investment Board, whereas, independent agencies include professional agencies such as accounting and auditing associations.

universities, economic research centres, and the Businessmen Board. For example, interviewees observed that the educational system within universities and higher educational institutions within Libya should be a major driver for promoting corporate governance best practices. Collaboration between organisations and educational institutions should be placed on initiative to improve governance mechanisms within companies, and universities and training centres should benefit from the successful managers, by inviting them to seminars, workshops and to share their experiences with others.

It was argued that the content of subjects in business schools needs to be developed to reflect the changes in economic activities by concentrating on issues such as business ethics, and corporate social responsibilities and corporate governance. Moreover, interviewees argued that in the transitional period the government should provide confidence to investors by becoming one of the owners of a company's capital. However, the government's ownership should not be dominant, and the Libyan economic authority should be pro-active in implementing corporate governance reforms.

9.7 Relevance of Western Models of Corporate Governance

Corporate governance has been developed in western countries, especially in the US and the UK; therefore, the literature is dominated by western models. Respondents in this study were asked to give their view about which models are appropriate to the Libyan context.

Responses from both questionnaires and interviews principally agreed that since corporate governance has emerged and developed in western economies, international guidelines would require adaptation to establish Libyan corporate governance. Moreover, interviewees mentioned that international principles and codes should be used only as a benchmark for a local framework. Interviewees revealed that transferring and adopting a whole western model of corporate governance was not applicable to Libya, regarding the differences in environment, ownership structure and the culture in developing countries which is dominated by extended families and tribes. Furthermore, they argued that co-operation with international organisations will help Libya to establish good governance system. For instance, they observed that Libya could benefit from the OECD Principles of Corporate Governance, since these principles were designed with widespread applicability in mind, and with the understanding that they could be adapted to fit the specific circumstances of different countries. Alternatively, they agreed strongly that the Libyan corporate governance should benefit from the Islamic perspective which instils in people accountability, responsibility, and fairness. Good conduct in the Islamic economic system allows people to earn their living in a fair and profitable way without exploitation of others, and emphasises the welfare of the society. Libya should also benefit from international principles in terms of disclosure and transparency as universal principles in the globalisation era.

9.8 Summary

The study found that corporate governance has not completely emerged in the Libyan context; therefore, respondents recognised that good corporate governance requires wide participation and co-operation of all stakeholders groups including support from government and non-governmental organisations. The next table illustrates the main findings of the study.

Table (9.1) the main study findings

Statement	The most support
The appropriate definition of corporate governance in	The organisation's relationship with its stakeholders to ensure that it acts in accordance with their interests.
The importance of corporate governance	1. Useful to the Libyan economy by enhancing confidence in the business environment and building trust in corporate financial reporting. 2. Improve accountability mechanism and improving the corporate social responsibility 3. Useful to all stakeholders groups
The main factors affecting the practice	1. Poor enforcement of laws 2. Lack of a legal and regulation system that governs company activity 3. Poor leadership within the company 4. Poor financial and non-financial disclosure 5. Low disclosure and transparency practice 6. Weakness of the power and composition of Board of Directors. 7. The absence of accounting and auditing standards
The main factors can improve the practice of corporate governance	1. Improve management behaviour through external control 2. Increase the number of non-executive directors
The approach to introducing corporate governance	1. By new laws and regulations

CHAPTER TEN

Conclusion and Policy Issues

10.1 Introduction

Both international and domestic pressures have combined to bring the corporate governance debate to the forefront in Libya. Hence, the corporate governance debate in Libya has drawn the attention of stakeholders and policy-makers to linkages between the corporate governance system, the sustainable development of the economy and rapid integration with the global economy. These developments and the crisis-prone macroeconomic environment inspired the researcher to start questioning the current corporate governance practice in Libya.

Given the interest in corporate governance, the study was carried out to focus on corporate governance in Libya, and, also, to locate the corporate governance debate in Libya within the global debate, develop a comparative context and help avoid oversights that may hamper the success of corporate governance reforms. Therefore, the first purpose of this chapter is to collate and explain the key findings, in line with the research aims and objectives.

This chapter is organised into five sections. The first section reviews the economic environment in Libya; the second section focuses on the main factors favouring corporate governance developments in Libya. Section three concludes the challenges of improved corporate governance. These challenges were the state of the economy and the role of culture and ethical norms; the legal system and the enforcement; the disclosure and transparency practice and the role of Board of Directors. This chapter also summarises other findings that emerge in this study regarding how to improve the corporate governance in Libya. The main contribution to knowledge and policy are summarised in this chapter. The opportunities of further studies and the limitation of this study are provided in this chapter.

10.2 The Economic Environment and Corporate Governance in Libya

The Libyan economy was characterised as agriculture-based until the early 1970s, when the government began a drive for economic development (Agnaia, 1997). Over the past 30 years, the expansion in the hydrocarbon sector has driven the country's economy, with the contribution of oil to GDP at over 50% in the 1970s and early 1980s. While the economy has largely depended on oil as the main source of wealth, the country has allocated a large amount of money to establishing industrial companies in non-oil sectors over the last two decades. Thus, the non-oil sectors increased significantly, contributing over 70% of GDP. Nevertheless, the country still faced difficulties in not being able to produce enough capital goods and consumer goods to achieve 'self-sufficiency' and 'self-reliance' (Agnaia, 1996).

The upgrading of the Libyan economy and Libyan capital markets to mature market status and the global competition for capital after the lifting of the UN sanction has boosted the corporate governance debate in Libya. The Libyan economy has sustained its high growth rate, despite the international economic slowdown since 2004 after the lifting of the UN sanction and increasing of the oil price.

The Libyan economy, after a long period of state ownership of all business activities, has improved steadily over the last decade, as the government has tightened policy with the goal of achieving fiscal discipline and price stability. Since 2000, the Libyan economy has continued to perform quite strongly and real GDP grew by 5.6 percent in 2007 and 6.1 percent in 2008. Non-hydrocarbon GDP growth reached 7.1 percent in 2008 (Central Bank of Libya Report, 2008).

A number of structural reforms such as simplification of the tax system, continuation of the privatisation of state-owned companies, reform of the public administration and encouraging both local and foreign investors has improved the functioning of markets, competitiveness and enhancing the capacity of the Libyan economy.

The period of 2004-2009 was quite encouraging, since the forecast of economic activity is expected to remain optimistic, by opening the door for private investments. Libya in this period witnessed a huge re-building of its infrastructure after the lifting of the UN sanction and the increase in oil prices. However, historically Libya has a poor culture of corporate governance. The most significant change of the economy was in the late 1990s, when the liberalisation and privatisation practice began. Corporate governance was introduced for the first time in Libya in 2005 through an introductory paper published by the Governor of

Central Bank of Libya, and covered the practice of corporate governance in the financial sector. In 2006, the Libyan Stock Market published a voluntary code of corporate governance harmonised with the guidelines and directives of the international organisations such as the OECD Principles.

10.3 Factors Favouring Corporate Governance Development in Libya

Regarding the literature and the findings of the questionnaires and interviews, the following factors work in favour of introducing and developing corporate governance in Libya:

1- The government encouraging the improvement of corporate governance practice. This is shown through their efforts such as:

- The call from the people in the top positions in the country to eliminate the stated-owned sector and open the door to an effective private sector in order to increase accountability and reduce the spread corruption.
- Transforming companies from public to private sector, establishing the Stock Market and opening the country to foreign investments.[66]

2- The Islamic culture is based on the respect for human rights and property rights which could help to introduce and develop the corporate governance framework.

3- The most critical factor favouring corporate governance is the availability of financial resources and the desire for the economic development after the long period of world sanctions.

10.4 The Challenges of Improved Corporate Governance in Libya

The following factors are recognised as impediments to building a corporate governance system in Libya;

10.4.1 The State of the Economy and the Culture Norms

Libya has witnessed impressive economic development. The volume of foreign investment was 256 million Libyan dinars in 2003 and reached 2765 million in the first six months of 2008 (153 projects)[67]. Also, the number of transferred companies' capital reached approximately two billion Libyan dinars and about 19818 shareholders.[68] Listed companies are applying some corporate governance principles through adherence to the

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[66] Libya has established a board for accelerating the privatisation and established the law No 5/1997 on foreign investment

[67] The Libyan Investment Board Reports from 1/1/2003 to 31/7/2008

[68] For more information see Privatisation and Investment Board (http:// investinlibya.ly/PDF/LIBActivities.pdf)

Libyan Stock Market requirements. However, Libyan companies are still dominated by banks in terms of finance which might build a long-term close relationship and affect external finance.

The shareholders’ right to vote in the general meeting corresponds to the shares they possess. One-tier boards predominantly govern companies in Libya, where shareholders directly elect the directors through the shareholders’ general meeting. Until the end of 1980s, the stated-owned companies in Libya were operated under a totally protected regime. However, in the early 1990s, the door opened to private companies but there are still many problems to be solved.

Contemporary corporate governance mechanisms such as board committees, competent directors, and performance-based compensation schemes have not been effectively introduced yet and reduce international investment attractiveness.

The economy is affected by social and cultural aspects. For instance, the absence of a merit system for appointing top management and board members, the lack of manager training and intervention of social connections into the economic activities were clear examples of the influences of social and cultural factors on economic activities. The power of the extended families, clan, tribe cronyism and nepotism with bureaucracy and lack of willingness to respond to change are the most significant factors discouraging good practice of governance in companies. However, the following suggestions would enhance the chance of introducing good system of corporate governance:

- Encouraging the awareness of the benefit of corporate governance practice in medium and small companies. This is a significant challenge in Libya.
- Improving corporate governance by a healthy banking system that is not burdened with non-performing loans resulting from excessive lending.
- Eliminating the unethical culture by improving curricula in schools and compliance with the merit system on appointing managers and board members.
- Encouraging the private sector and reducing the bureaucracy can be seen as a factor in developing the economy, and improving the corporate governance practice.
- Supporting the government’s agencies and NGOs to play a role in monitoring and developing the framework of corporate governance.

10.4.2 Legal System and Enforcement

La Porta et al (1998) classified countries into these favouring common law or civil law, and she found that common law is more protective of minority shareholders than civil law. Libya as a civil law country affords low legal protection to shareholders, and exhibits low efficiency in the judicial system. Also, the slowness of the judicial process makes it more attractive for people to solve problems outside the courts. However, the findings revealed that laws and regulations that govern corporate governance in the Libyan context were perceived as being inadequate or outdated and needing revision. Also, the enforcement of the legal system is weak and encourages the solving of problems outside of formal channels such as courts. Therefore, the following points would improve the legal system and, therefore, corporate governance in Libya:

- Enacting missing laws such as company law, labour law, arbitration law and the intellectual property rights law, besides modernising the existing ones.
- Enhancing the enforcement of the legal system by a qualified judiciary and accelerating the judicial processes.
- The regulatory framework of the Libyan economic structure and financial sector should be co-ordinated with the international standards such as International Accounting Standards, International Financial Reports Standards and the OECD Principles, and in the same time should meet most Islamic Principles, such as Mudarabah and Musharakah.

10.4.3 Disclosure and Transparency Practice

Results indicated that the disclosure framework in Libya is quite weak. The reasons for the weakness are the absence of accounting standards and the legal requirements for disclosure, which have become the main impediment to introducing a corporate governance system. Although the legal system governing companies requires preparing annual reports, the absence of Libyan accounting standards and non-adopting of the IAS allows significant differences in the content and methods of preparing these reports, making comparisons between the companies more difficult. Also, disclosure of activity on societal and environmental impacts was considered low. Disclosure of issues regarding employees and other stakeholders, the ownership structure and disclosing company objectives also received less support from respondents. Stakeholders distinguished between issues regarding employees and issues regarding the society and environment, which might be ascribed to the fact that Libya pays attention to improving the human resources by training, health and safety and pays less attention to societal and environmental issues such as pollution to improve the society. Also, the findings of low disclosure practice are ascribed to the lack of the role of the Libyan Union of Accountants and Auditors in developing the profession.

Therefore, the following points would accomplish better development of disclosure and transparency practice in Libya:

- Establishing an independent Council under the control of the General People's Congress to enhance the professions of accounting and auditing. This council would be responsible to review and develop the profession.
- Establishing Libyan accounting and auditing standards that derived from International Accounting Standards and encouraging the partnership with international auditing companies.

10.4.4 Board of Directors

The board structure in Libya is dominated by the one-tier structure. The responsibilities of the board have been addressed in the legal system by providing stringent rules in respect of any breach of duty or trust on the part of a director or manager of a company. However, the legal system does not require explicitly the establishment of committees to the board except the watchdog committee, and other committees replaced by the internal audit department and the human resource management department. Recently, the Stock Market authority requires establishing committees to the board with independent non-executive members; however, the concern is still on the independence of the board and its committees. Consequently, a clear definition of the non-executive role and independence is needed.

Finally, the following suggestions might enhance the role of the Board;

- To deal with the power of CEOs the Board of Directors should get fair compensation, and appropriate composition by increasing the number of non-executive directors particularly those who have experience in accounting and business activities, until can achieve their responsibilities.

- To deal with the weakness of board members, it would be advisable to establish an Institute of Directors for training members and top managers as a way to enhance their responsibilities

10.5 Other Findings

With the previous main findings the following findings have emerged in this study as factors which might help to improve the corporate governance in Libya.

- Corporate governance in Libya is considered by respondents to require a stakeholders' perspective rather than that of shareholders' alone.
- Monitoring and control of effective corporate governance practice in Libya should be undertaken jointly by the government, the Libyan Accountants and Auditors Association and the Stock Market authority. On the other hand, the supervision and development of corporate governance should be shared between the Economic General Committee, universities, Businessmen Board and the Investment Board.
- The financial sector, such as banks, has a significant role in introducing corporate governance principles. Thus, banks should play an important role in impelling more compliance with corporate governance principles. Banks should consider sound corporate governance practices as a prerequisite of lending and encourage institutional investors to play a positive role as stakeholders.
- Key stakeholders need to be clearly identified in Libya by the legal system and company regulations, since their rights are a significant issue in the corporate governance framework.[69]
- The other challenges to corporate governance in Libya derive primarily from the deficiencies of the curricula in the educational system on the topic of ethics and in the business schools. Collaboration between business organisations and educational institutions should be emphasised to improve corporate governance mechanisms, incorporating business ethics and corporate governance courses in their programmes.

The next figure (figure 10.1) summarises the main factors that were identified in my research that need to develop in order to improve the practice of good governance. The

[69] For example the rights of employees and creditors as key stakeholders should be established by legal system such as labour law and arbitration law.

internal factors are derived from both the literature review and my empirical findings. The efficiency of governance practice will not be achieved unless these factors in the figure have improved and amended to take account of the pervious findings. The enforcement of legal system, encouragement of effective leadership, good composition of board of directors, developing accounting and auditing profession, high education system and stakeholders' activism are crucial factors to the successful of corporate governance practice in Libya. These factors will not improve unless other factors such as the political system, legal system, economic system and the cultural and social norms are developed.

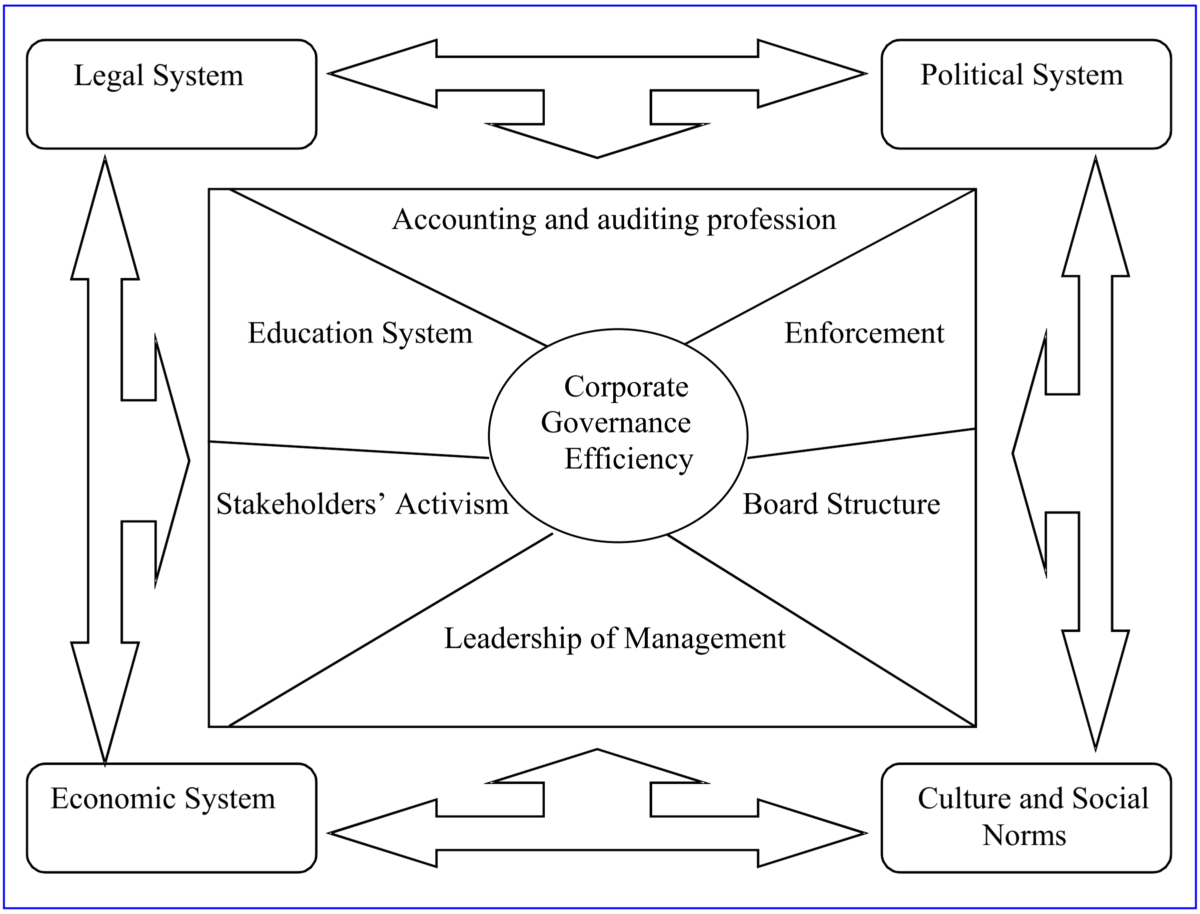

Figure (10.1) the main factors affect the practice of corporate governance in Libya.

10.6 Contribution of the Study

This study has contributed to knowledge and policy. The contribution to policy provides recommendations to develop the framework and practice of corporate governance. On the other hand, the contribution to knowledge by findings will assist to fill the huge gap in the literature regarding corporate governance practices in Libya and in the Middle East.

10.6.1 Contribution to Policy

Corporate governance in Libya is less developed. In fact, Libya has lagged behind its neighbours and the global economy in corporate governance[70]. This study has showed that the full practice of the principles of corporate governance has not developed in the Libyan context. However, some aspects of corporate governance exist such as the independence of external auditors and separation between CEO and chairman.

Good corporate governance depends on effective internal and external systems. Therefore, radical reform of corporate governance is still needed to solve a number of governance issues such as political cronyism and nepotism, weak minority shareholders protection, low disclosure and transparency practice and increasing the stakeholders' rights.

Based on the research findings, the following recommendations are made in relation to introducing and developing a framework of corporate governance in Libya:

1. As the stakeholders are the significant factor in corporate governance, Libya should take account of them when introducing corporate governance practice. For this purpose, merit and competence systems should be followed in appointments to top management and board membership in both the private and public sectors.
2. The legal system, especially relating to economic activities, should be reviewed in order to come in line with changing economic policies and with international conventions and best practices of the corporate governance requirements.
3. Enforcement of the legal system will remain a major challenge to developing the framework of corporate governance in Libya. Therefore encouraging and enforcing this system will build the principles of trust and confidence in the economy's activities.
4. Curricula in the business schools tend to be outdated and the inappropriateness of imported syllabuses to the peculiarities of the economy do not offer a foundation for

[70] Egypt is considered to be as a leader of corporate governance reforms among Arab countries since it has made corporate governance a central feature of its comprehensive economic reforms (Armstrong, 2003).

lifelong learning, which elsewhere is now considered as a fundamental objective of accounting education.

5. Libya should aspire to regain the cultural norms that are derived from Islamic history through education as a tool for the cultivation of Islamic ethics.
6. The lack of accounting and auditing professional standards is the major impediment to the quality and timeliness of disseminating financial and non-financial information.
7. Conferences, seminars, workshops and management training with the support of the World Bank and other international organisations are useful mechanisms to introduce a good framework of corporate governance.
8. The researcher believes that corporate governance in the Libyan developing economy, with a healthy and growing competitiveness between private and state-owned sectors, is soon to be realised. The change toward a more open market has seen gradual improvements recently and an effective governance system is pivotal to its future. Therefore, it will be fascinating and potentially lucrative to establish a code of good corporate governance practice. However, the Libyan policy-makers should understand the nature of the economy and the size of companies to meet all the needs of companies in the code, especially the small companies.
9. Finally, the political stability and the high level of safety should be used to develop the economy and attract more investment to Libya. Also, economic and managerial stability should be a priority since it is weak in both the macro-economic and micro-economic levels, along with establishing a rule-based system of governance instead of a relationship-based system.

10.6.2 Contribution to Knowledge

The main contribution of this study is in investigating corporate governance by exploring the key factors affecting the practice in response to the now-recognised need to develop economic activities. Also, a particular contribution has been considering how western models of corporate governance fit within the Islamic culture. A bibliographic search was conducted in both English and Arabic, and no specific study of corporate governance in Libya was identified. Therefore, it provides useful insights, policy implications and recommendations for government agencies on the need to introduce a good corporate governance framework.

Further, the study also provides a foundation for future research on the corporate governance system. Also, in the light of the study's observations, the following are the study's main contributions:

a. The study contributed to corporate governance literature which was considered to be limited on detailed case studies in developing economies especially in Africa (Okike, 2007; Tsamenyi et al 2007).[71]
b. Theoretically, the study contributed to knowledge by including in the corporate governance debate use of stakeholder theory to evaluate the current understanding of the corporate governance framework. The observations of this study complemented previous studies in their attempts to evaluate the practice of corporate governance in developing countries (Okike, 2007; Reed, 2002; Hassain and Mallin, 2002; Hassain and Mallin, 2003; Yakasai, 2001; Allen, 2005; Tsamenyi et al, 2007).
c. Empirically, this study reinforced the assertions that corporate governance and practice is not immune from internal and external influences and becomes a part of social and economic webs, which confirms that frameworks of corporate governance differ between countries. Therefore, the study's findings could be useful for developing corporate governance in Libya.
d. The study also provides a foundation for future research on the corporate governance system, in order to meet international requirements for establishing a corporate governance Code in Libya.

10.7 Limitations of the Study

Although the thesis makes a valuable contribution to knowledge by evaluating and investigating corporate governance in terms of the stakeholders' perspective, it has a number of limitations. It has been asserted that only a small number of stakeholders were used when 453 questionnaires were distributed and only 195 were returned. Therefore the generalisation of findings to represent all stakeholders' views may be misleading in evaluating and understanding corporate governance. Further limitation may be that only 10

[71] The scarcity of information about corporate governance in Africa led an editorial writer of Business Week Magazine on the 19th May 2003, to observe that the worldwide movement to improve corporate governance is nothing less than a cultural revolution transforming the investment landscape in the US, Europe, and Asia.

interviewees were conducted. However, the 10 interviewees that were chosen represent some of the most important policy-makers, and can provide very valuable insights to the challenges of corporate governance in Libya.

Other potential limitations concern the formulation and understanding of questions so that all respondents can understand the term of corporate governance as this is a new term in the Arabic language. Finally, access, time and cost constraints and the amount of work involved prevented the researcher from expanding the research setting.

10.8 Opportunities for Further Research

Despite this, the study makes an original contribution to knowledge about understanding corporate governance in the Libyan context; however, as mentioned above, research on corporate governance in developing economies is still limited and has only recently become a major focus of attention for academics, international organisations and governments. Further research is also needed to explore and illuminate the role and the influence of organisations' subculture on corporate governance practice in specific sectors such as the financial sector and small enterprises due to their importance in Libyan economy. The role and responsibilities of the Board of Directors and the obstacles to disclosure and transparency in Libya might be a fertile field of future research.

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Appendices

1- Questionnaire questions

Dear Sir

On behalf of my Supervisory team, Professor Colin Fisher, Professor Paul Whysall and myself, I am writing to ask for your assistance in completing this questionnaire as a requirement for obtaining a PhD degree in Accountancy at Nottingham Trent University, UK. This study is entitled “An Evaluation of Corporate Governance Practices in Libya: Stakeholders’ Perspectives”. The objective of the research is to investigate and evaluate the current situation practice of corporate governance in Libya as well as the obstacles to its implementation.

This questionnaire is designed to incorporate the principles of good corporate governance. The questionnaire should take approximately 20 minutes.

Would you kindly complete this questionnaire? Any information you provide will be analysed with other information and used purely for academic purposes. In addition, your entire responses will be handled anonymously and confidentially. Your identity will not be revealed in the thesis or anywhere else. The questionnaire does not request any personal information from respondents.

Thank you very much in advance for your assistance and co-operation and I am looking forward to receiving your response and comments.

Yours faithfully,

Mansor M Larbsh

PhD Student

Accountancy Department

Nottingham Trent University UK

Contact: mansor.larbsh@ntu.ac.uk

Please note that by completing and returning this questionnaire you are giving your consent to the information being used in this research project, according to the terms laid out in the participant information sheet.

Please note you do not have to sign or give your details in this questionnaire.

Part 1

Q1- Please tick the appropriate box or boxes (regarding your occupation)

1-Academic staff	☐	2- External auditors	☐
3- Investment advisor of bank	☐	4- Company employee	☐
5- Government official	☐	6- Investors	☐

Part 2- The concept of corporate governance

Q2- The following is a list of possible definitions of corporate governance. Using the scale below, Please identify the best definition that you think is proper to the Libyan environment.

(**1**= Strongly disagree, **2**= Disagree, **3**= Uncertain, **4**= Agree, **5**= strongly agree)

Statements	1	2	3	4	5
Q2a-Corporate governance refers to an organisation's relationship with its shareholders to ensure that it acts in accordance with the interests of shareholders.					
Q2b- Corporate governance refers to organisation's relationship with all stakeholders who are affected by or affect the company's operations and decisions.					
Q2c- Corporate governance refers to organisation's relationship with all members of society, irrespective of whether they affect or are affected by company's operations and decisions.					

Q3-The following is a list of possible purposes of corporate governance. Using the scale below, please identify the relative importance that you attach to each of these purposes:

(**1**=Not important at all, **2**= Unimportant**, 3**= Uncertain, **4**= Important**, 5**= Very important**)**

Statements	1	2	3	4	5
Q3a- Useful for the Libyan economy					
Q3b- Improve accountability mechanism					
Q3c- Reduce the level of corruption					
Q3d- Improve the investment climate					
Q3e- Improve corporate social responsibility in Libya					
Q3f- Protect stakeholders' rights					
Q3g- Others (please specify)					

Q4- Please indicate your view of the significance of corporate governance in Libya to each of the following groups.

(**1=**Strongly insignificant;**2**=Insignificant;**3**=Uncertain;**4**=Significant;**5**=Strongly significant).

Statement	1	2	3	4	5
Q4a- Shareholders					
Q4b- Creditors (suppliers, banks, others)					
Q4c- Employees					
Q4d- Government and its agencies					
Q4e – Auditors					
Q4f- Society at Large					

Part 3- Rights of Stakeholders

Q5- The following is a list of items relating to rights of stakeholders. Please state the extent to which you agree/ disagree about whether these rights exist in the Libyan environment (**1**= Strongly disagree**, 2**= Disagree, **3**= Uncertain**, 4**= Agree, **5**= Strongly agree).

Statements	1	2	3	4	5
Q5a- Shareholders approve the annual accounts, distribution of profits and appoint external auditor.					
Q5b-Shareholders have the right to participate, vote at the general meeting and treat fairly.					
Q5c- Shareholders have the right to be informed on decisions concerning fundamental corporate changes					
Q5d- Stakeholders have legal access to relevant information by their interests.					
Q5e- Stakeholders' rights are protected by law and regulation.					
Q5f-Stakeholders' rights that established by law are respected by companies.					
Q5g- Companies act in a responsible manner and protect the rights of the society.					

Part 4- Factors that affect corporate governance

Q6- Please indicate the extent of your agreement as to whether the following factors affect the practice of corporate governance in Libya.

(**1**= Strongly disagree**, 2**= Disagree, **3**= Uncertain**, 4**= Agree, **5**= Strongly agree).

Statement	1	2	3	4	5
Q6a- Poor enforcement of laws					
Q6b- Lack of legal and regulation system that govern companies' activity					
Q6c- The Libyan culture.					
Q6d- Social connections (family, tribe and others)					
Q6e- Poor leadership within the company.					
Q6f- The form of company ownership					
Q6g-The government interference in business activities (political interference)					

Part 5- The framework of corporate governance

Q7- The following is a set of possible reasons that might have prevented good corporate governance practice in Libyan companies. Please indicate the level of agreement you would accord to each reason?

(**1**= Strongly disagree**, 2**= Disagree, **3**= Uncertain**, 4**= Agree, **5**= Strongly agree).

Statement	1	2	3	4	5
Q7a- Poor financial and non-financial disclosure.					
Q7b- The companies' tax rate prevents good practice of corporate governance.					
Q7c- Not adopting the International Accounting Standards (IAS) and absence of the Libyan Accounting Standards lead to poor corporate governance practice.					
Q7d- Good relationship between company and external auditors.					
Q7e- Inappropriate composition of board of director in Libyan companies.					
Q7f- The powerful Chief Executive Officers.					
Q7g- Dual role played by same person as CEO and Chairman.					
Q7h- The state of the Libyan economy affects the practice of corporate governance practice.					
Q7i- Privatisation and creating stock exchange market have improved the practice of corporate governance.					

Part 6- Future plans of corporate governance

Q8- The following is a list of statements relating to disclosure. Please state the extent to which you agree about whether Libyan companies should disclose each of the listed statements in their annual reports

(**1**=.Strongly disagree, **2**= Disagree, **3**= Uncertain, 4= Agree, **5**= Strongly agree)

Statements	1	2	3	4	5
Q8a- The companies should provide timely and accurate disclosure of the financial and operating results of the company.					
Q8b- The companies should disclose the company objectives (e.g. policy related to business ethics).					
Q8c- The companies should disclose the foreseeable risk factors (e.g. industry risks, interest rate risks).					
Q8d- The companies should disclose all issues regarding employees and other stakeholders (e.g. programmes for human resource development and training).					
Q8e- The companies should disclose the impact of the company's activities on the society and environment.					
Q8f- The companies should disclose the ownership structure.					
Q8g- The companies should disclose the remuneration policy for members of the board and key executives.					
Q8h- An annual audit should be conducted by an independent, competent and qualified auditor.					
Q8i- Information should be prepared, audited and disclosed in accordance with international standards of accounting					

Q9- The following is a list of different possible responsibilities that the Board of Directors should achieve. Please state the extent to which you agree with each of these responsibilities.

(**1**=.Strongly disagree, **2**= Disagree, **3**= Uncertain, 4= Agree, **5**= Strongly agree).

Statement	1	2	3	4	5
Q9a- Board members should act on a fully informed basis and in good faith.					
Q9b- Board members should take into account the interests of shareholders and stakeholders when making decisions.					
Q9c- The board should exercise objective independent judgement on corporate affairs.					
Q9d- Board members should improve the compliance with the law and relevant standards in the company.					
Q9e- Board members should be required to disclose any material interests in transactions or matters affecting the company.					
Q9f- Board members should have access to accurate, relevant and timely information.					
Q9g Board members should devote sufficient time to their responsibilities.					
Q9h- Board members should be responsible for monitoring key executives.					

Q10- Within corporate governance please indicate the number you think is important with respect to introducing corporate governance in the Libyan companies.

(**1**=Not important at all, **2**= Unimportant**, 3**= Uncertain, **4**= Important**, 5**= Very important**).**

Statements	1	2	3	4	5
Q10a- Increase the number of non-executive directors.					
Q10b- Clearer separation between the role of CEO and Chairman					
Q10c- Establish board committees on the Board Of Directors.					
Q10d- Rotate the External Auditor from time to time with definition of his responsibilities.					
Q10e- Improve management behaviour through external control.					
Q10g- Others, please specify:					

Part7- Future introduction of corporate governance

Q11- The following is a list of different possible approaches that can be used as a basis to introduce and improve corporate governance in Libya. Please state the extent to which you agree with each of these approaches?

(**1**=.Strongly disagree, **2**= Disagree, **3**= Uncertain, 4= Agree, **5**= Strongly agree).

Statements	1	2	3	4	5
Q11a- By quasi-laws* beside existing laws and regulations.					
Q11b- Through adjusting International Codes' requirements.					
Q11c- By new laws and regulations.					

* The quasi-legal rights and responsibilities are those enshrined in codes of conduct, statements from authoritative bodies to whom the companies subscribe, plus other 'semi-binding agreements'-possibly from the organizations themselves-, national strategies, etc

In conclusion, please write here below any other comments that could assist in this research.

Thank you for your co-operation and support in filling out this questionnaire.

This part of questionnaire is for the listed companies (additional questionnaire).

Q12- Does the External Auditor in your company rotate from time to time? **Yes** **No**

Q13- Does the External Auditor provide other services to the company? **Yes** **No**

Q14- If the answer to ***Q13*** is yes, please describe these services?

-
-

Q15- Does the external auditor attend the annual meeting? **Yes** **No**

Q16- Does your company have a web site? **Yes** **No**

Q17- If the answer to **Q16** is yes, does your company disclose the following information on the web site?

Statements	Yes	No
a- Financial statements.		
b- Social responsibility		
c- The general meeting date and place		
d- Others (please specify)		

Q18- How many members does your company have on the Board of Directors?

Q19- How many of them are elected by shareholders?

Q20- How many of them are nominated?

Q21-How many times did the Board meet in the previous year?

Q22- How many women does your company have on the Board of Directors?

Q23- Do the board members have access to accurate, relevant and timely information about the company? **Yes** **No**

Q24- What percentage would you estimate of the board members to be non-executive directors in your company? **(%)**

Q25-What does your company adopt as the remuneration for non-executive directors?

Statements	Yes	No
a- Salary.		
b- Profit sharing		
c- Benefits (car, healthcare, etc)		
d- Attendance session's compensation		
e- Others (specify)		

Q26-Is the Chairman also the Chief Executive Officer in your company? **Yes** **No**

Q27- Does your company have an internal audit department? **Yes** **No**

Q28- If the answer to **Q27** is yes, then to whom does the internal audit department report?

Statements	Yes	No
a- Board		
b-Chairman		
c- Chief executive officer		
d- Finance manager.		
d- Others (specify)		

الأخ/المحترم:

أصالة عن نفسي ونيابة عن مشرفى هذة الدراسة، اكتب اليك من اجل تعبئة هذا الاستبيان وذلك كجزء من متطلبات الحصول على درجة الدكتوراه في المحاسبة من جامعة نوتنجهام ترنت بالمملكة المتحدة.عنوان هذه الدراسة "تقييم حوكمة الشركات في ليبيا من وجهة نظر اصحاب المصالح". تهدف الدراسة الى فحص وتقييم الوضع الحالى لتطبيق نظام حوكمة الشركات في ليبيا ومعرفة معوقات التطبيق . الاستبيان صمم وفقا لمبادى حوكمة الشركات الصادرة عن (OECD) منظمة التعاون الاقتصادي والتنمية.

يحتوي الاستبيان على 11 سؤال وعلي صفحة اخيرة لكتابة اى ملاحظة تعتقد انها تخدم البحث. اجابة الاستبيان لاتتجاوز 20 دقيقة.

عليه نامل منكم التكرم بالاجابة عن الاستبيان مع التاكيد على ان المعلومات المقدمة سوف لن تستخدم الا لاغراض البحث العلمى، وكذلك كل الاجابات سوف تعامل بكل سريه، أيضا هذا الاستبيان لا يحتاج الى اى معلومات شخصية .عن المستجوب.

شكرأ مقدما على مساعدتكم وتعاونكم وكلى امل فى استلام ردودكم فى اقرب وقت.

الباحث
منصور محمد الاربش
قسم المحاسبة جامعة نوتنجهام ترنت / المملكة المتحدة
mansor, larbsh@ ntu.ac.uk

ملاحظة/ المعلومات التي سوف تقدمها في هذا الاستبيان سوف تستخدم للبحث العلمي فقط . هذا الاستبيان لايحتاج الي توقيع او تقديم معلومات عنك.

الجزء الاول /

س1- الرجاء وضع اشارة √ في المكان المناسب (طبقا لوظيفتتك)

عضوء هيئة تدريس	( )	**مراجع خارجي**	( )		
موظف بشركة	( )	**موظف بادارة الائتمان بمصرف**	( )		
موظف بسوق الاوراق المالية	( )	**مساهم**	( )		

الجزء الثانى / مفهوم حوكمة الشركات

للاجابه علي هذا الجزء الرجاء وضع علامة √ بالمكان الملائم

س2 حوكمة الشركات تعني

(1= غير موافق بشده- 2= غير موافق 3 =غير متاكد 4= موافق 5= موافق بشدة)

البيان	1	2	3	4	5
1- حوكمة الشركات تشير الى علاقة المنظمة مع مساهميها للتاكد من انها تعمل على تحقيق مصالحهم.					
2- حوكمة الشركات تشير الى علاقة الشركة مع كل اصحاب المصالح الذين يتاثرون ويوثرون على قرارات ونشاطات الشركة					
3- حوكمة الشركات تشير الى علاقة الشركة مع كل اصحاب المصالح بصرف النظر عن مدي او فعالية تاثرهم او تاثيرهم على قرارات ونشاطات الشركة					

س3 - التالى اهداف محتملة لحوكمة الشركات. الرجاء تحدد الاهمية النسبية لكل هدف يمكن ان يتحقق من خلال تطبيق نظام لحوكمة في ليبيا.

(1= غير مهم على الاطلاق، 2= غير مهم، 3= غير متاكد، 4 = مهم، 5= مهم جدآ)

البيان	1	2	3	4	5
1- تقوية اداء الشركات.					
2- الرفع من الية المساءلة					
3- العمل علي تخفيض والحد من المشاكل الاقتصاديه كالفساد					
4- تحسين مناخ الاستثمار					
5- تقوية المسئولية الاجتماعية للشركات					
6- المحافظة علي حقوق اصحاب المصالح					
7- اخري (الرجاء حدد)					

س4 - الرجاء تحديد اهمية تطبيق نظام للحوكمة في ليبيا على المجموعات التالية:

(1= غير مهم على الاطلاق، 2= غير مهم، 3= غير متاكد، 4 = مهم، 5 = مهم جداً)

البيان	1	2	3	4	5
1-المساهمين					
2- الدائنين					
3- العمال					
4- الدولة و الاجهزة التابعه لها					
5- المراجعون الخارجيون					
6- المجتمع ككل					

الجزء الثالث/ حقوق اصحاب المصالح

س5 - التالى مجموعة من الحقوق الاساسية لاصحاب الحقوق. الرجاء تحديد الى اى مدي توافق على وجود هذة الحقوق في البيئة الليبية.

(1= غير موافق بشده- 2 = غير موافق 3 = غير متاكد 4 = موافق 5 = موافق بشدة)

البيان	1	2	3	4	5
1- للمساهمين الحق في اعتماد والمصادقة على الحسابات الختاميه وتقرير كيفية توزيع الارباح المتحققة.					
2- للمساهمين بصرف النظر عن قيمة مساهمتهم الحق فى المشاركة والتصويت فى الاجتماع السنوي للشركة.					
3- للمساهمين الحقّ في المشاركة في القرارات التي تتعلّق بالتغييرات الاساسيه للشركة.					
4-أصحاب المصالح لديهم الحق في الحصول على المعلومات المتعلقه بمصالحهم.					
5- حقوق أصحاب المصالح بالشركات الليبية محمية بالقانون.					
6 - حقوق أصحاب المصالح بالشركات الليبية المشرعة بالقانون محترمة من قبل الشركات.					
7 - الشركات المساهمة تعمل بطريقة مسئولة و تقوم بحماية حقوق المجتمع ككل.					

الجزء الرابع/ عوامل تؤثر على نظام حوكمة الشركات

س6- الرجاء التكرم بتحديد الى اي مدى تتفق مع العبارات التالية كعوامل تؤثر على ممارسة حوكمة الشركات في ليبيا

(1 = غير موافق بشده 2 = غير موافق 3 = غير متاكد 4 = موافق 5 = موافق بشدة

البيان	1	2	3	4	5
1 ضعف او عدم فعالية تنفيذ وتطبيق القوانين					
2- وجود قصور في القوانين المنظمة للانشطة الاقتصادية					
3- ثقافة المجتمع.					
4- قوة العلاقات الاجتماعية (عائلية وقبلية اومن اطراف اجتماعية اخري)					
5- ضعف وسوء الادارة					
6- شكل الملكية للشركات					
7- التدخل السياسي (تدخل الدولة) في الانشطة الاقتصادية					

الجزء الخامس/ إطار حوكمة الشركات

س7- التالى مجموعة من الاسباب التى قد تعيق تطبيق حوكمة الشركات في ليبيا. الرجاء تحديد مستوي موفقتك على كل سبب.

(1= غير موافق بشده 2= غير موافق 3 =غير متاكد 4= موافق 5= موافق بشدة)

البيان	1	2	3	4	5
1- ضعف الافصاح المالى وغير المالى.					
2- سعر الضرائب المفروضة علي الشركات في ليبيا لا يودي الى التشجيع علي الافصاح وبالتالي يضعف من ممارسة الحوكمة.					
3- عدم تبني معايير المحاسبة الدولية وغياب معايير ليبية للمحاسبة يودي الى قصور في ممارسة حوكمة الشركات.					
4- العلاقة الجيدة بين الشركة والمراجع الخارجى.					
5- ضعف تركيب مجالس الادارة في الشركات الليبية					
6- قوة نفوذ المدراء التنفيذيين					
7- الجمع بين وظيفتي المدير التنفيذي ورئيس مجلس الادارة.					
8- حالة الاقتصاد الليبي توثر على ممارسة الحوكمة					
9- الانتقال من القطاع العام عن طريق تمليك الوحدات الاقتصادية وانشاء سوق للاوراق المالية رفع من الممارسة الجيدة للحوكمة في الشركات.					

الجزء السادس/ مستقبل تطبيق الحوكمة

س8- التالى اهم البنود التى يمكن الافصاح عنها. الرجاء تحديد الى اى مدى توافق على انه يجب على الشركات الليبية القيام بالافصاح عن هذة المعلومات فى تقاريرها السنوية

(1= غير موافق بشده- 2= غير موافق 3 =غير متاكد 4= موافق 5= موافق بشدة)

البيان	1	2	3	4	5
1- الشركات يجب ان تقدم افصاح دقيق وفى الوقت المناسب عن الوضع المالى والاداء للشركة					
2- الشركات الليبية يجب ان تفصح عن اهداف الشركة الموضوعة مثل الاهداف التجارية والسياسات المتصلة باخلاقيات المهنة					
3- الشركات الليبية يجب ان تفصح عن عوامل المخاطرة الملموسة فى الاجل المنظور مثل المخاطر المرتبطه بالصناعة ومخاطر اسعار الفائدة					
4- الشركات الليبية يجب ان تفصح عن المسائل الاساسية المتصلة بالعاملين وغيرهم من اصحاب المصالح مثل برامج تنمية الموارد البشرية والتدريب					
5- الشركات الليبية يجب ان تفصح عن تاثير نشاط الشركة على المجتمع والبيئة المحيطة					
6- الشركات الليبيه يجب ان تفصح عن هياكل الملكية بها					
7- الشركات الليبية يجب ان تفصح عن سياسة المكافات والحوافز لاعضاء مجلس الادارة والمدريين العامين بها					
8- المراجعة السنوية يجب ان تتم من خلال مراجع مستقل مؤهل و ذي كفاءة					
9- الشركات الليبية يجب ان تعد المعلومات وتفصح عنها وفقا للمعايير المحاسبية الدولية					

س9- القائمة التالية تتضمن اهم مسؤوليات مجالس الادارة. رجأ الى اى مدى تعتقد انه يجب ان تتحقق في البيئة الليبية.

(1= غير موافق بشده- 2= غير موافق 3 =غير متاكد 4= موافق 5= موافق بشدة)

البيان	1	2	3	4	5
1- يعمل اعضاء مجلس الادارة بناء علي اساس توافر كامل للمعلومات وايضا علي حسن النية والعمل علي تحقيق مصالح الشركة والمساهمين.					
2- مجلس الادارة يجب ان ياخذ في الاعتبار اهتمامات اصحاب المصالح عند اتخاذ القرارات.					
3- مجلس الادارة يجب ان يمارس حكم موضوعي ومستقل لشئون الشركة					
4- مجلس الادارة يجب ان يعمل على الرفع من التزام الشركة بالقوانين والمعايير ذات العلاقة بالشركة					
5- مجلس الادارة يجب ان يفصح عن اى مصالح شخصية مع الشركة او اى صفقات يمكن ان توثر على الشركة					
6- اعضاء مجلس الادارة يجب ان يكون لديهم امكانية الحصول على المعلومات الدقيقة وفي الوقت المناسب					
7- مجلس الادراة يجب ان يخصص الوقت الكافي لاداء التزاماتة.					
8- مجلس الادارة يجب ان يكون مسئول عن مراقبة المدراء التنفذيين بالشركة					

س10- ضمن إطار حوكمة الشركات، الرجاء إبدأء تقديرك لدرجة الاهمية للعوامل التالية ضمن تطبيق نظام الحوكمة بالشركات الليبية

(1= غير مهم على الاطلاق، 2= غير مهم، 3 = غير متاكد 4 = مهم، 5 = مهم جدآ)

البيان	1	2	3	4	5
1- زيادة عدد الاعضاء غير التنفذيين					
2- وجود فصل حقيقي بين وظيفة المدير العام ورئيس مجلس الادارة					
3- تكوين لجان فى مجلس الادارة					
4- تغيير واستبدال المراجع الخارجى دوريا					
5- تطوير السلوك الإدارى.					
6- اخري (الرجاء حدد)					

الجزء السابع / التقديم المستقبلى لنظام حوكمة الشركات فى الشركات الليبية.

س11- القائمة التالية تتضمن مجموعة من الوسائل التى يمكن استخدامها كاساس لتقديم وتطوير نظام حوكمة الشركات في البيئة الليبية. الرجاء تحديد الئ اي مدى توافق علي اى من هذة الوسائل.

(1= غير موافق بشده- 2= غير موافق 3 =غير متاكد 4= موافق 5= موافق بشدة)

البيان	1	2	3	4	5
1- بالقانون الحالى و بوسائل اخرى شبة القانون.+					
2- من خلال التاقلم مع متطلبات رموز الحوكمة بالعالم.					
3- من خلال قوانين جديدة.					

+ المسؤوليات شبة القانونية, يقصد بها تلك المسؤوليات المنبثقة عن مجموعة المبادى التى تحكم السلوك والتصرف، ومايصدر عن سلطة رسمية او اخرى متخصصة تكون المنظمة عضو فيها، الاتفاقيات شبة الملزمة و التى تصدر عن المنظمة نفسها، الاستراتيجيات المحلية، وما الى ذلك.

ختاماً الرجاء التكرم بكتابة اي تعليق او ملاحظة تعتقد انها تخدم البحث في هدة الصفحة.

شكراً علي التعاون معنا في الاجابة علي هدا الاستبيان

هذا الجزء خاص بالشركات المسجلة بسوق الاوراق المالية

س12- هل تتبع الشركة سياسة استبدال المراجع الخارجى من وقت الي اخر؟ نعم لا

س13- هل يقوم المراجع الخارجي بتقديم خدمات اخري للشركة؟ نعم لا

س14- اذا كانت اجابة السؤال السابق نعم الرجاء حدد هذة الخدمات؟

-
-

س15- هل المراجع الخارجي يحضر الاجتماعات السنوية للجمعية العمومية للشركة؟ نعم لا

س16- هل للشركة موقع علي شبكة المعلومات الدولية؟ نعم لا

س17- اذا كانت الاجابة بنعم عن السؤال السابق هل تفصح الشركة عن المعلومات التالية بالموقع؟

البيان	نعم	لا
الحسابات الختامية		
المسئولية الاجتماعية		
اماكن ومواعيد الاجتماعات		
اخري (الرجاء حدد)		

س18- كم عدد اعضاء مجلس الادارة بالشركة؟ ( )

س19- كم من هولاء تم اختياره من قبل المساهمين؟ ( )

س20- كم من هولاء تم تعيينة ؟ ( )

س21- كم عدد اجتماعات مجلس ادارة الشركة السنة الماضية؟ ( )

س22- كم عدد العنصر النسائى بمجلس ادارة الشركة؟ ( )

س23- هل مجلس الادارة لة كامل الصلاحية في الحصول والاطلاع علي المعلومات والبيانات الدقيقة عن الشركة في الوقت المناسب؟ نعم لا

س24- كم نسبة المدراء غير التنفذيين بمجلس الادارة (/)

س25- ماهي الطريقة التي تتبناها الشركة لمكافاة مجلس الادارة؟

البيان	نعم	لا
مرتب		
حصة من الارباح		
منافع اخري (متل سيارة, رعاية صحية,)		
مكافئة عن حضور كل جلسة للمجلس		
اخرى(الرجاء حدد)		

س26- هل رئيس مجلس الادارة نفسة المدير التنفيدي بالشركة؟ نعم لا

س27 - هل يوجد بالشركة قسم او ادارة للمراجعة الداخلية؟ نعم لا

س28- اذا كانت اجابة السؤال السابق بنعم, الي من تتم احالة تقارير هدة الادارة؟

البيان	نعم	لا	لا اعلم
مجلس الادارة			
رئيس مجلس الادارة			
المدير العام			
المدير المالي			
اخرى (الرجاء حدد)			

2- Interview questions

Dear Sir ----------------

On behalf of my Supervisory team, Professor Colin Fisher, Professor Paul Whysall, at Nottingham Trent University, UK and myself I would like to inform you that I am a Libyan PhD Student doing my research, and this study is entitled **"**An Evaluation of Corporate Governance Practices in Libya: Stakeholder's Perspectives**"**.

To carry out this research effectively I require a limited interviews sample with people who are conversant with the topic of corporate governance. You have been selected for the sample as policy-makers or as interested in business environmental performance and your participation is important and appreciated.

I kindly request you to give me an interview to fulfil my research purpose. Your participation is entirely voluntary. The interview will last approximately one hour at a place and time that is convenient to you. The topics to be covered are set out on the attached sheet.

I will ask for your written consent and permission to tape the interview to ensure that the information you give me is accurately recorded.

The interview will be analysed and integrated into my results. The interview information will be fully anonymised. The tape and any information that you will provide will be strictly handled by the researcher only in a confidential manner and will be destroyed at the end of the research.

Your identity will not be revealed in the thesis or anywhere else. I hope that you will find the interview interesting and will draw satisfaction from contributing to the knowledge of this increasingly important topic in Libya.

Please feel very welcome and do not hesitate to contact me at the following address for any enquires or questions regarding this study.

Yours faithfully,

Mansor M Larbsh

PhD Student, Accountancy Department

Nottingham Trent University UK

Contact: mansor.larbsh@ntu.ac.uk

Phone number --------------

Semi-structured interviews on the evaluation of corporate governance in Libya

Introduction

Since the last decade the term corporate governance has become the one of the most commonly used phrases in the current global business vocabulary. Also the perceived importance of Corporate Governance has changed markedly and it is now viewed as an essential feature of companies, hence the Organization Economic Co-operation Development (OECD) provided principles in 1999 and revised these in 2004.

In some developing countries Corporate Governance has been a part of the reform effort and widely claimed to be essential for the creation of a better and more attractive investment climate.

In North Africa and the Middle East there are some countries which have improved their Corporate Governance practice in the private and public sectors. For example, Egypt has established corporate governance codes for listed and public companies.

For the listed companies the Egyptian code covers the General Assembly, Board of Directors, Internal Audit Department, External Auditor, Audit Committee Disclosure of Social Policies, Avoiding Conflict of Interest and Corporate Governance Rules for Other Corporations.

This research will evaluate the current situation and the future development of corporate governance practice in Libya and the effect of related factors such as culture, economic stage and ethics.

Thank you in advance for your assistance and co-operation.

Mansor M Larbsh
PhD Student in Accountancy Department
Nottingham Trent University UK
E-mail for contact: mansor.larbsh@ntu.ac.uk

Interview guidelines

Q1- What do you understand by the term corporate governance?

Q2-Are you aware of any occasions when failure of corporate governance has led to problems? (Please explain)

Q3- What is the importance of corporate governance to Shareholders, Employees, Institutional investors, Creditors, Society at large and Government?

Q4- Are you satisfied with the corporate governance practices in Libya at this time when the Libyan economy is a transitional economy?

Q5- What Corporate Governance issues that are related to the transition of economy do you think are important in Libya and how can corporate governance help the economic growth, especially with Libya changing and developing its economy?

Q6- Do you think the laws support effective corporate governance in Libya at this time?

Q7- What is the effect of culture on the practice and development of the good Corporate Governance in Libya? (Positive or negative effects)

Q8- There is no corporate governance system which can be effective without public trust in the actions of company managers and boards of directors. How can we improve the role of the Board of Directors in the Libyan joint stock companies as one of the instruments of corporate governance? (The role of non-executives directors and the sub-committees)

Q9- Do you think that disclosure and transparency in Libyan companies are adequate to provide the information about these companies and what about the system of dissemination of this information?

Q10- What role do you think that external auditors and financial institutions play to improve the practice of the corporate governance in Libya? (With focus on the auditing fees and corporate governance)

Q11- How can we develop and improve Corporate Governance practice in Libya? And who is responsible to do that? (For the company who is responsible to improve it)

Q12- Would you like to explain or add any remarks that you think are related with the corporate governance?

Thanks

Consent form

Position of site ----------------------------

I confirm that I have read the covering letter with the interview guidelines that I received from PhD student Mansor Larbsh, and I understand my participation is entirely voluntary. I give my permission for the interview on ------------- at-------------

I understand that I may withdraw from the interview at any time and after the interview I may request the withdrawal of the notes from my interview from the research project at any time after the interview.

Position of respondent ---------------------------------

Date -------------------------

Signature ------------------------------

Consent code number ---------------------

(NB this consent form will be stored separately from the research notes so that the identity of the interviewee cannot be traced.

اسئلة استرشادية للمقابلة الشخصية

س- ماذا يعني لك مصطلح حوكمة الشركات ؟

س - هل لديك اي معرفة او دراية بحادثة ادي الاخفاق والفشل في ممارسة حوكمة الشركات الي حدوث مشاكل بالشركة او احيانا انهيارهأ ؟

س- حسب وجهة نظرك ما اهمية تطبيق حوكمة الشركات علي المجموعات التالية: المساهمين, العمال, المستثمرون , الدائنون, المراجعون الخارجيون, المجتمع ككل , اجهزة الدولة ؟

س- هل تشعر بالرضاء عن ممارسة حوكمة الشركات بالشركات المساهمة الليبية خلال هذة الفترة حيث تشهد ليبيا فترة تحول الاقتصادي ؟

س- ماهي مشاكل حوكمة الشركات المرتبطة بمرحلة التحول الاقتصادي والتي تعتقد انها مهمة, وكيف يمكن للممارسة الجيدة لحوكمة الشركات المساعدة في النموء والتطور الاقتصادي لليبيا ؟

س- حسب وجهة نظرك هل تعتقد بان التشريعات و القوانين المطبقة في ليبيا الان تساعد علي تطبيق حوكمة الشركات فى ليبيا ؟

س- ماهي تاثيرات الثقافية والعادات في ليبيا علي تطبيق وتطوير حوكمة الشركات في ليبيا (سلبيات وايجابيات) ؟

س- لانة لايمكن لحوكمة الشركات من ان تكون فعالة بدون ثقة اصحاب المصالح في الدور الدي تقوم بة الادارة التنفيذية للشركة ومجلس الادارة. كيف يمكن ان نفعل دور الادارات التنفيذية و مجالس الادارة في الشركات المساهمة؟

س حسب وجهة نظرك هل تعتقد ان الشفافية والافصاح في الشركات الليبية فعالة وكافية لتقديم معلومات عن الشركات وما هي وجهة نظرك ايضا بخصوص اسلوب والية نشر هدة المعلومات ؟

س- ماالدور الدي تعتقد انه يجب ان يقوم به كلا من المراجعون الخارجيون والموسسات المالية لتفعيل ممارسة حوكمة الشركات في ليبيا ؟

س- حسب وجهة نظرك كيف يمكننا من تفعيل وتطوير تطبيق حوكمة الشركات في لبيبيا, ومن المسئول عن ذلك ؟

س- هل ترغب في اضافة اي ملاحظة او تعليق تعتقد ان له علاقة بموضوع حوكمة الشركات ؟

شكرأ