

Corporate Governance: Roots and Concept in Islamic Classical Literature

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Abstract

Since, the inception of Islamic financial institutions, researchers have drawn attention to the topic of corporate governance in the context of *Sharī'ah* (Islamic Law). Owing to nascent in nature, the importance of governance is manifold for such institutions. *Sharī'ah* is not limited to religious rituals but it also deals with politics, social issues, economics, banking, contractual law and routine matters of one's life. Therefore, whether the word governance is alien in *Sharī'ah*, or is it deeply rooted? We tried to address the question, to profoundly mine the classical and contemporary literature on conventional and Islamic mechanism of corporate governance. The concept of governance is deeply rooted in Islamic law. General principles of governance are found

in the *Quran*, *Hadīth*, and in classical literature of *fiqh*. In the *Quran*, it is ordained to fulfill the obligations, deliver the trust, do justice, testify truth, and not to eat others' property unjustly. In same lines, Prophet Muhammad ﷺ asked Muslims to show honesty, do not take things unlawfully, and everyone is responsible for his guardianship. Moreover, the concept of *Shūra*, mutual cooperation, *Hisbah* for accountability, *Maqāsid-e-Sharī'ah*, and legal maxims of *Sharī'ah* also provide guidelines to decision-makers for the protection of the rights of stakeholders. Hence, the concept of governance is not alien in Islam rather it is deeply embedded. This study might provide some comprehension to control, organize, and direct economic activities in the context of principles of governance in *Sharī'ah*.

Keywords: Corporate Governance, *Sharī'ah*, *Maqāsid-e-Sharī'ah*, *Hisbah*, *Shūra*, Legal Maxims

Introduction

Concept of corporate governance is not very nascent, although it first came into vogue in the United States in the 1970s. Afterward, within a quarter of the century, it became an icon for debate among investors, regulators and executive around the globe¹. The concept of corporate governance exist since, the inception of corporate form, which created the possibility of conflict of interest between mangers and investors². Some

¹ Brian R. Cheffins, *The Oxford Handbook of Corporate Governance* (Oxford: Oxford University Press, 2013), 46-64.

² Harwell Wells, "The birth of corporate governance." *Seattle UL Rev.* 33 (2009): 1247.

researchers traced back the history of corporate governance in the 17th century, when the major companies like the Hudson's Bay, East India, the Levant Company and some other companies launched.¹

However, the idea of contemporary corporate governance could be considered relatively newer.³ In the decades of the 1980s and the 1990s the term corporate governance got prominence⁴. It came into spot light in the 1990s, when some corporations in the United the States and the United Kingdom did not perform well and shareholders were left dissatisfied with the performance⁵. Then East Asia crisis in late the 1990s and financial crisis in the 2007 resulted the failure of giant companies and big organizations Bear Stearns, Lehman Brothers and etc.⁶. These crises made corporate governance as an area of interest and concern for the regulators, governments, and for academics globally. Other factors which contributes toward the importance of corporate governance in modern era are substandard monitoring, slow growth, aspect of institutional investors

³ Guhan Subramanian, "Corporate governance 2.0." *Harvard Business Review* 93, no. 3 (2015): 17.

⁴ Zingales, "Corporate Governance." *The New Palgrave Dictionary of Economics and the Law*, 1998." other sources 1 (1998).

⁵ Karim Ginena and Azhar Hamid, *Foundations of Shari'ah Governance of Islamic Banks* (John Wiley & Sons, 2015).

⁶ Peter Eigner and Thomas S. Umlauf. "The Great Depression (s) of 1929-1933 and 2007-2009? Parallels, Differences and Policy Lessons." *Hungarian Academy of Science MTA-ELTE Crisis History Working Paper* 2 (2015).

and increased concern of stakeholders rather shareholders (Anglo Saxon vs. European Model of CG).⁷

Financial sector playing role of intermediation is considered as backbone of the economy⁸. Keeping in view the importance of financial sector, effective corporate governance is very important for smooth operation of this sector in particular and economy as a whole⁹. For the growth of any economy, the role of financial sector, is very crucial and central due to its function of channeling funds from savers to the enterprises. Weak governance therefore is attributed to create sequence of hitches for the sector itself and for the whole economy, as evidenced by the recent financial crises.

Corporate governance protects the interests of different stakeholders of an entity i.e. shareholders, prospective investors, depositors, policy makers, managers, employees, customers, regulators, suppliers and government for a long term success¹⁰. Corporate governance refers to, an

⁷ Anglo-American model of corporate governance usually focused on the shareholders returns and capital growth. Shareholders' interest considered paramount on other stakeholders' interest. However, in European Model shareholders' interest is not the only priority rather other constituency of stakeholders are important as well.

⁸ Truong Trinh, Thai TT Duyen and Nguyen T. Thao. "The Impact of Corporate Governance on Financial Risk in Vietnamese Commercial Banks." *International Journal of Economics and Finance* no. 7 (2015): 123.

⁹ Bank of International Settlement Annual Report, 2015.

¹⁰ Financial Reporting Council, "The UK Corporate Governance Code." *London September*, (2012).

allocation of authorities and responsibilities by which affairs of the business are carried out by the board of directors and higher management. The researchers like Daniel¹¹ considered that corporate governance is important due to many factors, firstly, it increases the growth and economic activity. Secondly, it increases the capacity of firms to absorb the risk of crisis, and for the robustness of economy. Thirdly, it is important for market economy.

In *Shari'ah*, the notion of corporate governance is not new. At the time, when Muslim civilization was on peak, financial system of Islam succeeded for centuries. However, after the decline of Muslim civilization and infiltration of conventional economic system, it leads toward misplacement of Islamic civilization. In Islam, leading sources of guidance are *Quran* and *Sunnah*. These sources are binding and Persuasive for legislation. Therefore, every aspect of the life of Muslims i.e. private and societal, is based on guidance ordain in said sources, including governance of joint stock companies.¹²

Some features of Islamic economy are same like conventional one. However, Islamic economy differs in principal, on the primary features, like objective of this system is to give a balanced society with just, honest

¹¹ Daniel Bouton "Experiences with the OECD corporate governance principles." *In Middle East and North Africa Corporate Governance Workshop*. 2003.

¹² Sulphey M M. "Corporate governance in Islam VIS-A-VIS the modern corporate world." *Management & Accounting Review (MAR)* 14, no. 1 (2015): 81-97.

and fair system in line with the ethical values of Islam.¹³ Activities which are harmful to the wellbeing of society are prohibited.¹⁴ Islamic economic system is based on divine laws which are balanced, ethical and moderate¹⁵. Manipulation in any form and activities which are against the wellbeing of individuals and society as a whole are strictly prohibited.

We tried to contribute in the existing body of knowledge in different ways. First, we construct the basic understanding of governance in contemporary scenario and further in *Shari'ah*. Moreover, we tried to explore the building block of governance in *Shari'ah* in order to streamline the governance framework of Islamic Financial institutions in line with *Shari'ah* guidelines. Furthermore, to create understanding regarding the *Shūra*, *Hisbah* and related concepts for the governance in *Shari'ah*. This research is based on inductive qualitative methodology. Rest of the paper is planned in a way that first we will discuss the concept of corporate governance in conventional perspective. Afterward, we will dig up the literature regarding notion of governance in the perspective of *Shari'ah*. Conclusion is given in section four.

Concept of Corporate Governance from Conventional Perspective

¹³Abbas Mirakhor, "General characteristics of an Islamic economic system." *Anthology of Islamic banking, institute of Islamic banking and insurance, London* (2000): 11-31.

¹⁴ Asyraf, W. D. "Stakeholders' expectation toward corporate social responsibility of Islamic Banks." *In IIUM International Accounting Conference (INTAC) III*. 2006.

¹⁵ Azaddin Salem Khalifa, "The Multidimensional Nature and Purpose of Business in Islam, Accounting, Commerce & Finance." *The Islamic Perspective Journal* 7, no. 1/2 (2003): 1-25.

Corporate world in current scenario has emerged as a dominant institution in lives of individuals and societies around the globe. Joint stock companies are the great inventions, which revolutionized the societies through creation of jobs, wealth and building of economies. Corporate power cannot be denied in contemporary environment, as some of the corporations have greater revenues than gross national income of the some nations. Even, in the discussion circles, it is argued that the corporations have substituted the Church as a dominant social power.¹⁶

Corporate governance plays a crucial role toward the company success, which is the predominant factor in business economy. Many interrelated factors contribute toward performance, however, corporate governance is in the center of all performance drivers¹⁷. OECD¹⁸ define corporate governance "set of relationships between a company's management, its board, its stakeholders and other stakeholders".

Corporate governance is based on three models in context of capital markets of western world, Anglo-US model, the German model, and

¹⁶ Abdul Rahim Abdul Rahman, "Issues in corporate accountability and governance: An Islamic perspective." *American Journal of Islamic Social Sciences* 15, no. 1 (1998): 55.

¹⁷ Van Den Berghe, "Beyond corporate governance". *European Business Forum*, 5. (2001).

¹⁸ Organization for Economic Cooperation and Development." *OECD Yearbook* (1999).

Japanese model¹⁹. Agency, stewardship and resources dependency theories among others have also been propounded with respect of corporate governance.²⁰ Maximizing the wealth of shareholder is focused in Anglo-US model, it has a well-developed legal framework which define the duties and rights of three main players i.e. shareholders, management and board of directors. Commonly, financing is raised through equity in USA and United Kingdom.

The main component of Japanese model is higher level of block ownership by affiliated companies and banks. Directors are mostly from inside, whereas, outside directors representation is very low. Equity financing is major component of Japanese corporations, mostly held of insiders and affiliated firms. Representation of outsiders is very low in Japanese firm. However, German model is different from previous two models, up to certain extent, it focuses on the protection of interest of stakeholders. It differs on three dimensions from other two models, such like, composition of the board i.e. supervisory board and management board. Second, size of the board is set by law and third one is about the restrictions on voting rights are legal.²¹

It cannot generalize that to select one of these models and apply it in a given scenario. Market enjoiment is very dynamic, corporate governance

¹⁹ Ewmi, P. F. "Three models of Corporate Governance from developed capital markets." *Lectures on Corporate Governance, December* (2005): 1-14.

²⁰ Sulphey M M. "Corporate governance in Islam VIS-A-VIS the modern corporate world." *Management & Accounting Review*: 81-97.

²¹ Ewmi, P. F. "Three models of Corporate Governance from developed capital markets." *Lectures on Corporate Governance*: 1-14.

is structured according to the specific requirement of the country's environment. Since, the globalization each of the above mentioned model is opening to accept the change, while retaining its basic characteristics. Framework of corporate governance is there to ensure the efficient use and stewardship of these resources²².

Some international standards setting bodies like World Bank has devised its own recommendation and principles for corporate governance. In the same vein, OECD principles, are the notable work on setting principles of corporate governance with consultation of all the stakeholders including governments of different countries. These principles were originally followed by 30 countries which were members of OECD²³. The Organization for Economic Co-operation and Development is a forum which developed principles regarding corporate governance. The main areas of the Principles developed by OECD are the basis of an effective CG framework, rights of shareholders, role of stakeholders and etc.

In summary, the main purpose of these principles are to devise the mechanism for the business ethics, decision making, ensure the transparency and adequate disclosure and, mechanism of final account and book keeping. However, all of these principles and the models of corporate governance are constructed on the manmade principles and law

²², Masudul Alam Choudhury and Mohammad Nurul Alam, "Corporate governance in Islamic perspective." *International journal of Islamic and Middle Eastern finance and management* (2013).

²³ Abdussalam Mahmoud Abu-Tapanjeh, "Corporate Governance from the Islamic Perspective: A Comparative Analysis with OECD Principles." *Critical Perspectives on Accounting* 20, no. 5 (2009): 556-567.

of land. Since, there are limitations on human logic and reasoning, therefore, these principles cannot be perfect. However, Islam is considered one of the divine religions. Consequently, the principles laid down in Islam are divine in nature. We will discuss about the divine principles of governance in next section.

Corporate Governance from Islamic Perspective

Islamic principles of corporate governance became in debate among scholars, since the inception of Islamic financial institutions. The major pillars of economic activity in Islam are to give a level playing field combining with fairness, justice and honesty to all concerned parties regarding their rights and duties²⁴. The dimensions of corporate governance in Islamic perspective have broader horizon and we cannot compartmentalize the aspects in respect of role and responsibilities to limited extent like OECD principles and other models of corporate governance.

Islam is a religion that deals with all spheres of life, including commerce and trade²⁵. *Shari'ah* (Islamic Law) is not limited to religious rituals but it also deals with politics, social issues, economics, banking, contractual law

²⁴ Abdussalam Mahmoud Abu-Tapanjeh, "Corporate Governance from the Islamic Perspective: A Comparative Analysis with OECD Principles." *Critical Perspectives on Accounting*, 556-567.

²⁵ Abdussalam Mahmoud Abu-Tapanjeh, "Corporate Governance from the Islamic Perspective: A Comparative Analysis with OECD Principles." *Critical Perspectives on Accounting*, 556-567.

and routine matters of one's life²⁶. Muslims are ordained to conduct their economic activities i.e. business according to the *Sharī'ah*. The paradigm of accumulation of wealth is different in *Sharī'ah* and accumulation of wealth is allowed with certain constraints imposed by the Lawgiver²⁷. Humans are vicegerent of Allah (S.W.T.) on earth and status of wealth given to them is a trust. It is detrimental, if he fails to use it wisely²⁸.

The prohibitions related to management, economic activities and use of wealth include *Riba*, *Gharar* & *Qimār*. Business is needed to be arranged in a particular way for a particular result. Islamic law provides a larger concept and guidelines of corporate governance ranging from individual action to the social environment²⁹. Islamic concept of corporate governance has some unique features in comparison with European and Anglo-Saxon models. In *Sharī'ah* model the concept of *Tawhūd* (Oneness of God), *Shūra* (Concept of Consultation), rule of *Sharī'ah* and maintaining

²⁶ Dr. Hafeez and Malik Muhammad. "An Analysis of Corporate Governance in Islamic and Western Perspectives." *International Journal of Business, Economics and Law* 2, no. 3 (2013).

²⁷ Abdussalam Mahmoud Abu-Tapanjeh, "Corporate Governance from the Islamic Perspective: A Comparative Analysis with OECD Principles." *Critical Perspectives on Accounting*, 556-567..

²⁸ Abdullah Saeed, *Islamic Banking and Interest: A Study of the Prohibition of Riba and Its Contemporary Interpretation*. (Vol. 2. Brill, 1996)

²⁹ Abdussalam Mahmoud Abu-Tapanjeh, "Corporate Governance from the Islamic Perspective: A Comparative Analysis with OECD Principles." *Critical Perspectives on Accounting*, 556-567.

the element of personal goals without ignoring the social welfare are important features³⁰.

Financial and economic attributes are discussed by Ibn Ashūr i.e. he discussed different aspects like preservation, circulation of wealth, equity (*adl*) and documentation of transactions³¹. The features pointed out by Ibn Ashūr about economic activities include the circulation of wealth by investing in trade i.e. marketability (*rawāj*) and formulation of different contracts³² for financial transactions like *Mugharasah*, *Salam*, *Muzarah*, and *Qirad*. Furthermore, wealth circulation among members of the community through distribution to next of kin, needy, traveler and orphan³³. The encouragement of economic activities i.e. as advised in *Hadīth* of Khyber's dates³⁴. Purification (*wudūh*), and avoidance of *Gharar* and to document each and every thing in financial transactions³⁵, forbidding of taking property unlawfully³⁶. Inputs of Ibn Ashūr is also recognized by Auda³⁷ in

³⁰ Abdurrahman Raden Aji Haqqi. "Shari'ah Governance in Islamic Financial Institution: An appraisal." *US-China L. Rev.* 11 (2014): 112.

³¹ Muhammad al-Tahir ibn Ashur, *Ibn Ashur Treatise on Maqasid al Shari'ah*. (Translated by Tahir el-Mesawi). Virginia: International Institute of Islamic Thought (IIIT). (2006)

³² Al-Ma'idah 5:1.

³³ Al-Hashr 59:7.

³⁴ Malik Ibn Anas, *Muwatta - Hadith 1312*

³⁵ Al-Baqarah 2:282-283.

³⁶ An-Nisa 4:29.

³⁷ Jasser Auda, *Maqasid Al-Shari'ah as Philosophy of Islamic Law: A Systems Approach*. *International Institute of Islamic Thought (IIIT)*, 2008.

the field of *Maqāsid* to endorse freedom, equity, and preservation of *fitrah* and freedom of expression.

In Islamic perspective, concept of the institution of *Hisbah* represents an accountable institution. The concept of monitoring can be achieved through *Hisbah*³⁸. This concept is not limited to the state duties rather it is extended to the all members of the society that is commanding of good and hindering of evil (*Amr bi al-ma'rūf wa al-nahī un al-munkar*). Calling to good and forbidding evil is a common obligation (*fard kifāyah*).

In general the objective of *Hisbah* is the protection of people's religion, integrity, wealth, privileges, security, and public property, values and interests. In an economic perspective this is especially related to ensure equitable transactions, market supervision and averting corruption.

In one occasion, the Prophet Muhammad ﷺ dug his hand in a pile of grain that was sold in the market and from the inside it found slightly wet. He then asked ... and said "Anyone who cheats us is not one of us". Owing to wide-range of duties, Prophet Muhammad ﷺ appointed Umar (rta) to oversee the market of Medina and Makkah. After the death of the Prophet Muhammad ﷺ the caliphs continued performing the *Hisbah* functions³⁹. The outline for the corporate governance can be inferred from the literature written by Al-Māwardī (d. 450 ah/1058 ce), Al-Ghazalī (d. 505 ah/1111 ce), Ibn Taimiyah (d. 728 ah/1327 ce), and Al-Fasi (d. 1096 ah/1685 ce).

³⁸ Karim Ginena and Azhar Hamid, *Foundations of Shari'ah Governance of Islamic Banks* (John Wiley & Sons, 2015).

³⁹ Karim Ginena and Azhar Hamid, *Foundations of Shari'ah Governance of Islamic Banks* (John Wiley & Sons, 2015).

There is distress of the advocates of corporate governance, the separation of organization's management and ownership leads toward agency problem. This notion has been addressed in *Quran* and *Hadiths*, which put the light on the importance of accountability, ethics, fairness and justice in contracts. These ethics has clearly mentioned in *Quran* and *Hadiths*:

(i) Fulfillment of Obligations & Justice

“O ye who believe! Fulfill (all) obligations.”⁴⁰

(ii) Breach of trust& Fairness

“O ye who believe! Betray not the trust of Allah and the apostle, nor misappropriate knowingly things entrusted to you.”⁴¹

(iii) Prohibition of fraud, deception and manipulation -

“O ye who believe! Eat not up your property among yourselves in vanities. But let there be amongst you traffic and trade by mutual goodwill, nor kill (or destroy) yourselves; for verily Allah hath been to you Most Merciful!”⁴²

(iv) Undue advantage and bribery

“And do not eat up your property among yourselves for vanities, nor use it as bait for the judges, with intent that ye may eat up wrongfully and knowingly a little of (other) people's property.”⁴³

(v) Minimizing information asymmetry and record keeping

“And let not the witnesses refuse when they are called upon. And do not be [too] weary to write it, whether it is small or large, for its

⁴⁰ Al-Ma'idah 5:112.

⁴¹ Al-Anfal 8:27.

⁴² An-Nisa 4:29.

⁴³ Al-Baqarah 2:188.

[specified] term. That is more just in the sight of Allah and stronger as evidence and more likely to prevent doubt between you”⁴⁴

(vi) Fairness and Justice

Abū Humaid al-Sa‘dī narrated that *Allah's* Apostle Muhammad ﷺ asked a man named Ibn Al-Lutabiyya to collect the *Zakat* from the tribe of Banī Sulaim. Upon his returned, he was called to account. He said (to the Prophet Muhammad ﷺ, 'This is your money, and this I received as a gift.' *Allah's* Apostle Muhammad ﷺ replied, "Why didn't you stay in your father's and mother's house to see whether you will be given gifts or not if you are telling the truth?" Then the Prophet Muhammad ﷺ addressed us, and after praising and glorifying *Allah*, he said: "Amma Ba‘du", I employ a man from among you to manage some affair of what *Allah* has put under my custody, and then he comes to me and says, 'This is your money and this has been given to me as a gift. Why didn't he stay in his father's and mother's home to see whether he will be given gifts or not? By *Allah*, not anyone of you takes a thing unlawfully but he will meet *Allah* on the Day of Resurrection, carrying that thing. I do not want to see any of you carrying a grunting camel or a mooing cow or a bleating sheep on meeting *Allah*".⁴⁵

(vii) Status of Guardian

“Abdullah bin 'Umar had said, "I heard *Allah's* Apostle Muhammad ﷺ saying, 'All of you are guardians and responsible for

⁴⁴ Al-Baqarah 2:282.

⁴⁵ Al-Bukhari, Muhammad bin Ismail (256H), Al-Sahih Al-Sahih, (Dar Tauq al-Najat, 1422H), Kitab al-Hiyal, Bab Ihtiyal al-'Amil Li Yahdia Lahu, 9: 28.

your wards and the things under your care. The Imam (i.e. ruler) is the guardian of his subjects and is responsible for them and a man is the guardian of his family and is responsible for them. A woman is the guardian of her husband's house and is responsible for it. A servant is the guardian of his master's belongings and is responsible for them.”⁴⁶

Human beings are trustees of *Allah*, the ultimate owner of everything of this world. Therefore, the decision-making process should not only for the superior officials, but also for the fulfillment of the obligations of all stakeholders. This should lead ultimately towards the concept of *Falāh*, which can only be achieved to please *Allah*. Therefore, the concept of governance is broader in Islam than as in conventional institutions. This notion is also given in Holy *Quran* and *Sunnah*^{47/48}

In financial transaction, the contract of *Mudāraba* provides the authority to *Rabb al- Māl* that he/she can oversee the activities of *Mudārib*. Overseeing the activities is a part of the governance. The actual transaction is taking place through the *Mudārib*, but for the protection of *Rabb al- Māl* rights, the option of overseeing the activities is granted as described by great *hanafī* jurist Al-Marghīnānī.⁴⁹

⁴⁶ Al-Bukhari, Muhammad bin Ismail (256H), *Al-Sahih Al-Sahih*, (Dar Tauq al-Najat, 1422H), Bab al-Juma' Fi al-Qura wa al-Mudan, 2: 5.

⁴⁷ Ali 'Imran 3:159.

⁴⁸ Al-Bukhari- Vol. 1, Book 2, Hadith 13 & Muslims - Book 1, Hadith 72

⁴⁹ Al-Marghinani, Burhan al-Din Abu al-Hassan, *Al-Hidayah*, Kitab al-Mudarbah (Berut: Dar Ihya al-Turas al-Arabi), 3: 202

Objectives of *Sharī'ah* also laid down some guiding principles for the good governance. One of the objective of *Sharī'ah* is related to the capital and its ownership (*Hifz al-Māl*) i.e. protection of wealth (Al-Shātībī, 790H). The protection of capital and profit earning are also the objective of *Sharī'ah*, which in fact the underlying aim is to save the capital from destruction. This aspect is also goal of *Sharī'ah*⁵⁰.

Moreover, legal maxims of *Sharī'ah* also provide some outlines for the decision maker for the protection of the rights of stakeholders for the good corporate governance⁵¹. For instance, there are some maxims which would affect the decision making and policies of the organization, for instance, "Harm is to be removed" "Harm may neither be inflicted nor reciprocated" "Individual harm is to be tolerated to prevent public harm" and etc.

Sharī'ah maxims enshrine some broad criteria for the governance. These maxims are guiding principles in decision making for those who are appointed to run the company.

As mentioned earlier *Maqāsid-e-Sharī'ah* provide important basis to develop governance theory. Among others, one main objective of *Sharī'ah* is the protection from *mufسادah* which is an opposite word of *Islah*; means sound, good, and incorrupt and in a state of order (Lane, 1978: 2/216). *Dār al-mafāsīd* and *Jalb al-masālih* are the theme objective and

⁵⁰ Zahr al-Din 'Abd ul Rahman, *Maqasid al-Shariah Fi Ahkam al-Buyu'*, (Berut: Dar al-Kutub al-'Ilmiyyah, 2009)

⁵¹ Muhammad Tahir Mansoori and Abdul Azim Islahi, *Shari'ah Maxims Modern Applications in Islamic Finance*. (Shari'ah Academy, International Islamic University, Islamabad, 2nd edition, 2012).

fundamentals of *Shari'ah*⁵². Therefore, the prevention of harm (evil), should be one of the priority while setting rules for governance.

Most importantly, the core idea of *Maqāsid* is to attain the justice in the society via promoting and preserving wellbeing of human being. This is also ultimate outcome of the process of governance. This spirit of the *Maqāsid* also found in Holy *Quran*⁵³ :

Indication of the concept of governance can be taken through the institutionalism approach by the classical scholars throughout the history. The institutions established during Abbasid period by Muslim rulers were administratively very efficient and effective, which reflect the notion of good governance. As suggested by Buraey⁵⁴, aforementioned examples of the institutions and the values on which these institutions were established, provide the guidelines in contemporary scenario for the Muslims. These institutions depicts the manifestation of Muslims rulers on how to do administration efficiently. Therefore, numerous pieces of work created by classical Muslims on given topic⁵⁵.

⁵² Muhammad al-Tahir ibn Ashur. *Ibn Ashur Treatise on Maqasid al Shari'ah*. (Translated by Tahir el-Mesawi). Virginia: International Institute of Islamic Thought (IIIT), 88-90. (2006)

⁵³ Al-Baqarah 2:177.

⁵⁴ Muhammad Al-Buraey, *Administrative development: an Islamic perspective*. (Taylor & Francis, 1985).

⁵⁵ Maszlee Malik, "Constructing the Architectonics and Formulating the Articulation of Islamic Governance: A Discursive Attempt in Islamic Epistemology." (PhD diss., Durham University, 2011).

There is a wide range of topics discussed in a book titled Governance of the Rulers (*Al-Aḥkām al-Sultāniyyah*) by al-Māwardī (circa 364 H/975 AD - 450 H/1058 AD), ranges from issues of political system to the finance, justice and administration of natural resources. The writer Al-Māwardī end up the book with the topic of *Hisba* institution, focusing on people and government accountability⁵⁶. He is considered to be the first author to write on this topic.

In same lines some other classical Jurists wrote immense amount of literature on good governance for instance, *Kitāb al-Kharāj* by Abū Yūsuf (circa 113H / 731-182H / 798), *Kitāb al-Kharāj* by Yahya bin Adam (130H / 752 AD - 204 H / 818 AD), *Kitāb al-Amwāl* by Abu ‘Ubayd al-Qāsim bin Sallām (150/4H/ 770 AD - 224H / 838 AD), *Siyasat Namah* by Nizām al-Mulk (408H/ 1017AD - 485H/ 1091AD) and *Nasihāt al-Mulūk* (Counsel for Kings) by Muhammad Abu Hamid Al Ghazālī (450H/ 1058AD - 505H/ 1111AD). These *fuqḥa* wrote on different topics which can be related to the good governance i.e. sovereignty of God, *Shūra*, institution of *Ḥisbah*, *Maqāsid-e-Sharī‘ah*, *Amānah* and accountability⁵⁷.

In classical literature two writings i.e. *al-Siyāsah al-Sharī‘ah* (Statecraft according to the *Sharī‘ah*) and *al-Ḥisbah fi al-Islam* (The Institution of *Ḥisbah* in Islam) by Taqī al-Dīn Abul Abbās Ahmad Ibn Abd al-Ḥalīm Ibn Taimiyyah,

⁵⁶ Alī Ibn Muḥammad Ibn Habīb al-Māwardī, *Al-Aḥkam al-Sultaniyyah* (The Law of Islamic Governance). (Translated by Asadullah Yate). (London: Taha Publisher, 2005).

⁵⁷ Maszlee Malik, "Constructing the Architectonics and Formulating the Articulation of Islamic Governance: A Discursive Attempt in Islamic Epistemology." (PhD diss., Durham University, 2011).

(661H/1263 AD-728H/1328 AD), focused on the concepts and working of *Shūra* and *Hisbah*. He emphasized that every citizen should play role in *Shūra* rather confining to a limited number of people. People must have a check and balance on government to exercise the power. He also asserts in his writing that effective governance is possible when there is no nepotism, incompetency and favoritism. In his second book *Al-Hisbah fi al-Islam*, he discussed about the *Hisbah* institutions. This function can only be performed with the presence of power⁵⁸.

In recent time Al-Buraey's work is considered valuable on the subject of governance. His book titled "Administrative Development: an Islamic Perspective" is a valuable addition on subject matter. Although his focus is on "administrative development" nevertheless, he discussed lot of relevant issue regarding governance.

Since, corporate governance is novel concept, therefore no specific literature found in classical Islamic law, nonetheless, a sound basis found for the good governance as discussed in aforesaid literature. Therefore, above citations from *Quran*, *Sunnah* and *fiqh* enshrine some important and crucial directions for the good corporate governance. The directions derived from *Quran* and *Sunnah* are universal in nature and can be applied equally everywhere in the world.

The above mentioned citations clearly emphasized on consultation, accountability, just and fairness, and equity in decision making, keeping in view the benefits of all stakeholders. It encourages to work together and to rely on *Allah*. The establishment of institution called *Hibah* by Abbasides (750 a.d onward) is an example for good governance. The

⁵⁸ Ibn Taimiyyah, Ahmad A Halim, *Public Duties in Islam* (al-Hisbah fi allsLaam). (Translated by Muhtar Holland). (Leicester: The Islamic Foundation. 1985).

purpose of is to ensure accountability and *Shari'ah* compliance particularly in business affairs. Like keeping free market, prevention of hoarding of necessities, fair trading rules, correction of measures and weight etc.⁵⁹. Therefore, the concept of governance in Islam is not new.

The concern regarding Islamic principles of corporate governance is escalating in contemporary scenario. To ensure the rights and duties of concerned parties and, provide justice and fairness in economic activities, are the major components of Islam. Islamic finance institutions require some additional arrangements for the good corporate governance to be adhered to *Shari'ah*⁶⁰. Thus, some standard setting bodies have issued governance standard to ensure the *Shari'ah* in routine activities of the business. These include Islamic Financial Services Board (IFSB) and Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI), as well as, the prudential regulations issued by the country's central bank.

Conclusion

This paper is aimed to find the concept and roots of corporate governance in *Shari'ah*. Due to industrialization the nature of economic activities have been changed. The structure of managing the organizations had took a paradigm shift from direct supervision to principal-agent relationship. Therefore, controlling power shifted from owners to managers. This shift cause agency problem i.e. principal-agent phenomenon. Therefore, in contemporary scenario different principle have been devised to ensure the corporate transparency, efficient and

⁵⁹Abdul Rahim Abdul Rahman, "Issues in corporate accountability and governance: An Islamic perspective." *American Journal of Islamic Social Sciences* 15, no. 1 (1998): 55.

⁶⁰ Sulaiman Abdullah Saif Alnasser & Jorah Muhammed. "Introduction to corporate governance from Islamic perspective." *Humanomics* (2012).

effective management, monitoring and risk management through the competent agents i.e. board of directors, who possess good expertise in relevant field⁶¹. Thus, the main principles of corporate governance are transparency, effective management, fair reporting and disclosure and long term sustainability.

The concept of good governance in Islam is deeply rooted in *Quran*, *Sunnah* and *fiqh* literature. In Islam, human beings are the vicegerent of *Allah*, ultimate ownership is belongs to *Allah* Almighty⁶². In *Quran*, it is ordain to fulfill the obligations, deliver the trust, do justice, testify truly, and not to eat others property unjustly. In same lines, Muhammad ﷺ asked Muslims to show honesty, do not take things unlawfully, and everyone is responsible for his guardianship. Moreover, in Islam there is a concept of *Shūra* and mutual cooperation. There is also a concept of *Hisbah* for the accountability. Furthermore, *Maqāsid-e-Sharī'ah* and legal maxims of *Sharī'ah* also provide guidelines to decision maker for the protection of the rights of stakeholders. Hence, the concept of governance is not alien in Islam rather general rules for the good governance are deeply embedded. Therefore, the principles on which conventional models of corporate governance are built are also a subset of good governance is Islam.

⁶¹ Lewis Mervyn, "Islamic Corporate Governance" *Review of Islamic Economics*, 9(1) (2005):5-29.

⁶² Al-Baqarah 2:284.