

Governance in the Legislative and Oversight Mechanisms in the United Arab Emirates

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Abstract

This study aimed to identify the role of governance in the legislative and oversight mechanisms in the United Arab Emirates. Governance is the method of work and the correct method of governing and managing the institution, including all departments, decision-making positions, law enforcement, fighting corruption, respecting public freedoms, establishing the foundations of democracy and equality, calling for people's participation in decision-making, as well as striving to achieve people's interests, develop society, and establish the values of oversight, accountability, and transparency. The study adopted the descriptive analytical approach to achieve its objectives. The study reached several results, the most important of which is that framework of governance in the United Arab Emirates is a mixture of traditional and modern elements, as it integrates Islamic principles and cultural traditions along with contemporary institutional structures.

Keywords: Governance, Legislation, UAE

Introduction

Governance has become one of the most important issues that impose itself on the agenda of international institutions and organizations, especially after the changes that the world witnessed in recent years, such as the financial and economic crises and the subsequent financial collapse of many companies due to manipulations, financial fraud, and administrative corruption in some giant international companies. This called for finding standards for better practices and procedures in management, organization, oversight, effective supervision of companies, and adherence to the internal and external regulations governing companies or what is called "corporate governance" (Rubasundram, 2019. P 3). In this regard, many economists and locals addressed the importance and extent of the impact of the concept of corporate governance on many economic, legal and social aspects aimed at the benefit of individuals, companies and societies as a whole, in a manner that works on sound economies to achieve comprehensive development in both developed and

developing countries alike (Schoeberlein, 2020). Therefore, study consumer behaviour is significant for this process (Alsharif et al., 2021a; 2021b; 2022; 2023).

Corporate governance receives great attention from regional and international institutions and organizations, especially after the current financial crisis, which led to a crisis of confidence in accounting information. Hence, governance has become a fertile field for research and study. For that, there was an urgent need to conduct research to explore the relationship between corporate governance and accounting information to benefit from its positive aspects, as it helps to eliminate the conflict and achieve harmony and balance between the interests of all parties related to the institution. There is also a need to address the relationship between governance and the provisions of oversight over the administrations of companies to prevent them from misusing their authority, enhance transparency, and restore confidence in accounting information by using internal and external governance mechanisms, the most important of which is the internal and external Audit. For this reason, this study will be divided into the following:

First: the nature of governance.

Second: the role of governance in the legislative and oversight work in the UAE.

Literature Review

The 1990s saw a strengthening of international institutions as well as the consolidation of global governance as a new paradigm in world affairs. In today's institutionalised system, new powers are beginning to emerge. New powers, which differ from traditional powers in terms of economy, politics, and culture, have altered the power dynamics that underlay global governance. In light of this, this study explores the effects growing powers are having on international governance. It lists six significant developments and discusses how they affect the new global governance that is currently emerging. The new global governance order is gradually displacing the old one because new powers are arising inside an already institutionalised system. Parts of global governance are becoming dysfunctional due to emerging powers, complicating it but not overturning it (Stephen, 2017).

The large multinational institutions that served as the initial framework for the postwar system of global governance are no longer the sole players or players in the game. An "a patchwork of international institutions that are different in their character (organisations, regimes, and implicit norms), their constituencies (public and private), their spatial scope (from bilateral to global), and their subject matter (from specific policy fields to universal concerns)" is what is meant by the "fragmentation" of global governance. There have been many regional and multilateral agreements, business sector-led efforts, and global social movements (Acharya, 2016. P 27). Also, it is significant to study the emotional of individuals (Ahmed et al., 2021a; 2021b).

Regional and multilateral agreements have multiplied, as have initiatives spearheaded by the business sector and global social movements, as well as diverse kinds of collaboration between the public, commercial, and civil society sectors. The prominence, legitimacy, and power of the international multilateral organisations, which have served as the cornerstone of the postwar system of global governance, are particularly affected by their consequences. Among its longtime supporters, this has caused confusion, unease, and fear about the future of global governance. Most pessimistically, some believe that this fragmentation will lead to "good enough" or inadequate global governance (Acharya, 2016. P 33).

The study of Woo (2008) aims to investigate if good governance has a positive impact on happiness and whether both wealthy and developing nations experience increased levels of

happiness as a result of good governance. It uses multi-level analyses on WVS happiness data to look at how personal traits interact with national context. This study discovers that strong governance raises happiness levels exclusively in high-income countries, in contrast to earlier evidence that argues that effective government is crucial for both richer and poorer countries. The effect of technical or delivery quality of governance is specifically restricted to very wealthy nations, indicating that increase of technical quality of governance or efficiency-oriented restructuring of government does not necessarily lead to a better level of satisfaction (Woo, 2018. Pp 37-56).

Methodology

Due to the nature of this study, which focuses on discussing the role of governance in the legislative and oversight mechanisms in the United Arab Emirates, it adopted the descriptive analytical approach, which is used to analyse the different conditions of the subject under study in terms of characteristics, forms, relationships, and factors influencing them (Elayan, 2001. P. 47). This approach is also concerned with analysing the problem of the study and interpreting its outcomes in order to reach the conclusions (Al-Hamoudi, 2019). The researcher used this approach to describe and analyse the role of governance in the legislative and oversight mechanisms in the United Arab Emirates based on the several circumstances surrounding the variables, and the process through which these mechanisms were applied.

First: The nature of governance

Definition of Governance

The administrative and accounting literature dealt with a number of definitions of this term, which were discussed by a number of experts, researchers, and organizations, some of which are as follows:

1. Governance can be defined by some international bodies as follows:

The Organization for Economic Cooperation and Development defined it in 2004 as “the set of relations between the company’s administration, its board of directors, shareholders, and other stakeholders, which provide frameworks and mechanisms for defining the company’s objectives, methods of implementation, and performance monitoring mechanisms (Jihad, 2007).

The International Finance Corporation (IFC) defined it as “the system through which companies are managed and their business is controlled.”

The Institute of Internal Auditors (IIA) defined it as “processes through which procedures are used by representatives of stakeholders to provide oversight and management of risks by managing and monitor company risks and ensuring the adequacy of controls to avoid these risks. This leads to a direct contribution to the achievement of objectives and the preservation of company values.”

In 1992, Cadbury report described it as “a system by which companies are managed and controlled”.

Second: Definitions of governance by some researchers:

Governance has been defined by a group of researchers from several perspectives, some of which are presented as follows:

- Monks and Minow defined it as a relationship between a number of parties and participants that leads to determining the direction and performance of the company.
- Corporate governance can also be defined as follows:

It is necessary to highlight the confusion between the terms “Government” and “Governance.” The term “governance” has been used as a synonym for the term “government” by some, which has negative repercussions towards what each of the two terms means in terms of dimensions at the governmental and societal levels (Ferguson, 2019). So, governance is “a set of laws, rules, systems, standards, and procedures that regulate the relationship between the company’s management and the owners in order to achieve quality and excellence in performance.”

It is also defined by Tariq Abdel-Al Hammad as “the system through which the work of the organization is directed and monitored at the highest level in order to achieve its objectives and meet the necessary standards of responsibility, integrity, and transparency.” (Tariq, 2005. P. 22).

1. The Emergence and Development of Governance

- The term governance appeared in the French language in the third century as a synonym for the term (government) and then as a legal term in 1978.
- This term was first used in financial institutions, and then gradually the interest entered the political aspect, as it has become one of the major concerns in political discourses, especially in the field of comprehensive development and combating corruption.
- The concept of governance appeared in the writings and reports of the World Bank in 1989 on how to achieve economic development and fight corruption in African countries (where government administrative efficiency and economic growth were linked).
- From the beginning of the nineties until the present day, governance has become a study indicator concerned with participation, accountability, transparency, human and sustainable development.

From the aforementioned, we can say that governance is the method of work and the correct method of governing and managing the institution, including all departments, decision-making positions, law enforcement, fighting corruption, respecting public freedoms, establishing the foundations of democracy and equality, calling for people’s participation in decision-making, as well as striving to achieve people’s interests, develop society, and establish the values of oversight, accountability, and transparency (Abeer, 2007).

2. Characteristics of Good Governance

- There is a legitimacy of the authority empowered by the people.
- The presence of citizens at the heart of the decision-making process.
- The existence of community-centered programs based on listening to citizens and providing the best services.
- Rapid adaptation by the public administration to the needs of citizens in determining public funding and spending trends.

3. Principles of Governance

They are the basic elements on which governance is based in any organization or society. The judiciary plays a major role in promoting the principles of governance through the independence of the judiciary and the guarantees that the legislator provides to the judiciary to achieve justice within society, maintain security and internal order, and enhance political

participation and other measures. The governance principles that we can mention in some details are as follows:

- **Transparency:** It is the ease of accessing adequate and correct information for all concerned members of society. The information is uncomplicated and without cost for ease of understanding with that information being subject to an accounting control system. The importance of transparency stems from its work on empowering those concerned with decisions issued from outside and inside the institution. Transparency also aims to meet the needs of the public through sharing information. Integrity is an essential principle for the good performance of the judiciary. It stipulates that people are equal before the judiciary, and every person has the right to appear before an impartial and fair court that guarantees access to his rights. The judiciary has an effective role in ensuring transparency through the issuance of binding decisions by enabling those concerned to obtain the information they need.
- **Accountability:** the ability to assume responsibility for all actions, policies, and decisions taken by the decision-makers in the state and that government institutions and all officials and decision-makers are subject to the principle of accountability before public opinion and its institutions without exception. Accountability can be legal, financial, and moral. The judiciary is of great importance in consolidating and strengthening accountability within the state through the Public Prosecution apparatus of the judicial authority, where it is entrusted with the task of questioning the perpetrators of legal, financial, and other crimes. There is a prosecution called the Money Crimes and Anti-Corruption Prosecution within the Public Prosecution apparatus. The judiciary is also specialized in imposing penalties on persons accused of embezzlement crimes, bribery and squander of public money. This falls within the framework of strengthening the principle of accountability within society, as the person holds responsibility before the judiciary for the actions that he commits.
- **Participation:** Creating appropriate ways and mechanisms for citizens (individuals, groups, men, and women) in order to contribute to the decision-making process, either directly or through elected local councils that express their interests, so that citizens can participate in elections and political life. The judiciary has a great contribution to consolidating political participation. The administrative judiciary is specialized in electoral appeals according to the provisions of the Judicial Authority Law. In the event of any dispute over the election results, any person who suffers harm from this result has the right to resort to the administrative court to cancel the elections.

The rule of law: it means that all rulers, officials, and citizens are subject to the law and nothing is above the law, and that the provisions of the law shall be applied fairly without discrimination between members of society.

Second: the role of governance in the legislative and oversight work in the UAE

- The role of governance in oversight work in the UAE.

The UAE has made serious and continuous efforts to combat all forms of corruption in all public and private institutions and improve the level of transparency and integrity. This made it the leading Arab country in various international anti-corruption indicators, and in an advanced position globally (Hatem, 2017). To achieve the above-mentioned objective, the

UAE followed a package of measures and policies to reduce and eliminate corruption, among the most important are the following

- Legal mechanisms

The UAE has a strict legal system. To confront corruption and to fully control it from the legal and legislative sides, some amendments were made to the Penal Code No. 3 of 1987. These anti-corruption amendments were made during 2005 and 2006, as the amendments included increasing penalties for crimes related to corruption. Other amended laws are Federal Law No. 35 of 1992, which relate to legal procedures, and Federal Law No. 11 of 1992, which relate to civil procedures.

In addition, Federal Law No. 4 of 2002 regarding money laundering was issued, and Federal Law No. 8 of 2011 regarding the restructuring of the State Audit Bureau, in addition to assigning responsibility for oversight of corruption to the Bureau. Other laws are Law No. 11 of 2008 regarding the organization of human resources in the state, Law 07 of 2014 on combating terrorist crimes, Law 09 of 2014 amending Law 4 of 2002 on combating money laundering crimes, Law 39 of 2006 on international judicial cooperation in criminal matters, Law 21 of 2001 on civil service, Dubai Law No. 4 of 2016 regarding financial crimes, and Dubai Law No. 37 of 2009 regarding the recovery of public and private funds that were illegally obtained.

- Institutional mechanisms

-The Audit Bureau is the highest body for financial and accounting oversight in the UAE. The State Audit Bureau was established by Federal Law No. 7 of 1976, and its work was reorganized by Law No. 8 of 2011. The Bureau exercises an oversight role on all government and semi-governmental departments and institutions in the state. Since it is the supervisory authority specialized in combating corruption in the country; therefore, it enjoys a legal personality and financial and administrative independence. The Bureau has the authority to investigate financial violations, and whenever involvement is proven, he will be referred to the Federal Prosecutor. The Bureau also issues periodic reports on the auditing work of the Bureau, which are sent to the Federal National Council and the Prime Ministry. In 2011, the Bureau issued a guide to best practices in combating fraud, in which it reviewed the efforts of the State Audit Bureau in eliminating and combating corruption, the action plan, implementation mechanisms, and the authorities concerned with the necessary guidelines to improve the performance of the government sector and activate oversight (Majid, 2023).

- Abu Dhabi Accountability Authority: Under Abu Dhabi Law No. 14 of 2014, the Abu Dhabi Accountability Authority was established. It is concerned with public sector bodies as it monitors expenditures and revenues in all government departments, including the National Consultative Council and all government institutions in which the government of Abu Dhabi owns about 25% at least. It also controls the implementation of all lending and investment agreements and public financial records.

- Central Bank: The Central Bank of the UAE includes a special unit for combating money laundering and suspicious cases, which has a major role in detecting all corruption violations related to money laundering.

- Dubai Centre for Economic Security: The centre focuses on combating all forms of corruption, starting from bribery, embezzlement, squandering public property, forgery, money laundering, and terrorist financing.

- The role of governance in the legislative work in the UAE

It is well known that legislation is issued by the authority concerned with legislation and in accordance with the mechanisms specified in the constitution. Therefore, the process of controlling this legislation to ensure its quality and effectiveness needs to control and govern these mechanisms to ensure the quality of legislative outputs. The legislative process is a complex and overlapping process in which the executive authority contributes along with the legislative authority, this requires strengthening and control mechanisms of cooperation between the two authorities in the field of legislative initiatives. The process of enacting laws passes through a series of stages within Parliament that need to control its mechanisms, whether at the objective or technical level. All this is within the framework of transparency to allow the public to seriously participate in issuing legislation and holding Parliament that is accountable for its failures in exercising its legislative work, whether due to insufficiency in the organization, refraining from practicing its work, avoiding it, or mitigating its burdens by legislative referral or excessive generality when drafting laws, which empties them of their content and gives room for other authorities to interfere in the legislative competence (Muhammed, 2005).

Legislative governance means good or rational legislation that can be achieved by setting up competent mechanisms that ensure the effective participation of parliamentarians in legislative drafting, achieving the participation of social forces in the process of making legislation, and strengthening the rule of law through the issuance of impartial, balanced, applicable, and fair legislation. These mechanisms shall also include rules to ensure transparency, disclosure of the parliament's agenda and publicity of its sessions with the possibility of viewing and publishing data and statistics on draft laws and enabling the public to view the drafts before they are issued and express an opinion on them. These mechanisms shall also include what ensures access to and documentation of voting in the manual and electronic sessions of parliament. On the technical side, good legislation requires professionalism in drafting, sound logic, legislative policy, and awareness of the legislative reality.

The concept of legislative governance also includes addressing legislative development opportunities and strategies, expanding the use of modern means of communication and technology, exchanging legislative knowledge and experiences, and attempting to take advantage of opportunities for globalization of knowledge, integration, and adaptation to the universality of the idea of governance. Likewise, the governance of legislation requires the development of codes of parliamentary behaviour, as evidenced by facts in many democratic countries that it is not possible to rely on public opinion alone to deter parliamentarians from practicing unacceptable behaviours that affect the legislative process, and there must be standards that ensure the discipline of parliamentarians through a system of oversight and responsibility, so there shall be corrective rules of behaviour for parliamentarians to ensure the appropriateness, correctness, transparency, and integrity of parliamentarians. Parliamentary codes of conduct work to combat corruption by enhancing transparency and accountability of its members, whether for their personal behavior within the parliament or with regard to the mechanism of proposing, discussing, and voting on laws, especially since combating corruption has taken on a global dimension. Article (2/a) of the United Nations Convention against corruption defines "public employee" as any person who occupies a legislative, executive, administrative, or judicial position in the Parties of the Convention, whether appointed or elected, permanent or temporary, paid or unpaid, regardless of the seniority of that person. The aforementioned agreement called for the development of codes

or standards of conduct in order to combat corruption and promote integrity and professional responsibility in the performance of public functions (Muhammed, 2006).

From the aforementioned information, legislative governance can be defined as subjecting legislation, regulations and codes to rules and standards to achieve quality, effectiveness, and perfection in the legislative process and its outputs from good legislation emanating from it in a way that secures the achievement of the objectives of legislation, the participation of active social forces in the legislative industry, and the promotion of standards of transparency and accountability at the national and international levels.

- the rules of legislative governance

Legislative governance is a system of oversight and guidance to control the work of the legislative institution to ensure the quality of legislative outputs. It represents a pillar of good governance and the rule of law. From the aforementioned definition, the basic elements of legislative governance are as follows:

1. It is a system based on the existence of a set of legislation, regulations, and codes formulated with high quality. Good legislation leads to the existence of a good parliament, and thus the reproduction of legislation in a good way. Election laws that show how to exercise political rights through election, nomination, voting, distribution of seats, and the mechanism for counting votes affect the quality of candidates to gain access to the House of Representatives.

2. This system includes clear, precise, and transparent rules and standards to control the legislative process at the objective level and at the formative technical level.

3. These mechanisms, rules, and standards aim to achieve the quality and effectiveness of legislation. Good and effective legislation is a clear legislation that expresses social reality and can be understood by all social groups, regardless of their differences in scientific, linguistic, cultural, economic, and social skills. Therefore, legislation can live for a long period of time.

4. This system aims to achieve participation in making legislation. Participation is considered the cornerstone of good legislative governance through coordination and cooperation between the parties of the legislative process, including the masses. Democracy of that making would support legislative stability.

5. This system aims to achieve transparency by producing information, data, statistics, laws, issued laws, minutes of meetings, parliamentary debates, voting mechanisms, and voting percentages available to those addressed by the law. This enhances their participation in making legislation and monitoring and following up the extent to which the legislative body respects the rule of law from a legislative perspective with the possibility of giving opinions and proposals on draft laws and the participation of specialists in the field of law, including judges, lawyers and jurists, in the process of producing legislation and achieving its quality and effectiveness.

Conclusion

The framework of governance in the United Arab Emirates is a mixture of traditional and modern elements, as it integrates Islamic principles and cultural traditions along with contemporary institutional structures. Governance is a relatively recent term, especially in the Arabic language. This term refers to a set of means, mechanisms, and approaches that achieve quality and excellence in performance in accordance with standards and rules that guarantee quality and perfection in their field of application. This term appeared in the political, economic, and administrative field, and then the need arose later for the governance

of the legislation itself to be of a high degree of quality and proficiency to ensure that the objectives of the legislation are achieved in an effective, realistic, transparent, fair, and economic manner. To achieve legislative governance, there shall be strategies that are approved by Parliament, whether these strategies are related to the technical aspects of the formula or related to the institutional structure of parliament as the competent body for legislation.

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