ALGERIAN CORPORATE GOVERNANCE: LEGAL FRAMEWORK ANALYSIS

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Abstract:
The interest of countries and international institutions in corporate governance and its formulation according to legislative or guidance methods is a practical embodiment of the theory of corporate governance. These principles align with the legal rules that govern commercial companies, complementing rather than conflicting with them. This synergy has transformed governance into an effective system aimed at enhancing the protection of all stakeholders related to the company. This study aims to explore the characteristics of corporate governance within the legal framework governing commercial companies in Algerian legislation. The assessment will focus on their alignment and suitability for implementation in consideration of internationally desired corporate governance principles.
Keywords: *Corporate Governance, Joint-Stock Company, Transparency, Stakeholders, Responsibility.*

INTRODUCTION:

Corporate governance holds immense significance in the business domain due to the benefits it brings to companies, shareholders, and all relevant stakeholders by ensuring effective management and superior performance. Further, corporate governance enhances efficiency by establishing rules that regulate relationships between companies and their stakeholders, and it fosters confidence among stakeholders by safeguarding their rights. The principles of corporate governance also involve creating regulatory and legal frameworks that enable companies to define their objectives and achieve them. These frameworks facilitate global market access and attract investors for project financing. Ultimately, the application of transparent corporate governance rules helps institutions mitigate financial and administrative corruption risks.

The paramount importance of corporate governance has captured the attention of numerous countries and international institutions, albeit with variations in legislative enactment and implementation. Many nations have aligned themselves with the global trend by enacting legislation that facilitates and supports the application of corporate governance principles. This strategic alignment aims to harness the positive climate for the benefit of companies, ultimately elevating governance to a fundamental element in assessing corporate fundamentals and financial capabilities.

Undoubtedly, all commercial companies, regardless of their nature, provide a conducive environment for the application of corporate governance principles. However, financial companies serve as an effective model for implementing these principles. Specifically, joint-stock companies and institutions adopting the joint-stock company structure play a pivotal role. These companies distribute ownership among a large number of shareholders, necessitating the clear delineation of the relationship between ownership and management, or which directly impact the public sphere.

With the above in mind, it is worth noting that despite the absence of a clear and specific framework for corporate governance, the Algerian legislator has not left the regulation and management of companies to mere discretion or divergence. Instead, a set of mechanisms has been put in place to prevent deviation from the fundamental purpose of the company: safeguarding its interests and those of its shareholders.

In the same context, although the Algerian legislator has not formally adopted corporate governance as a management system for companies, it has nevertheless regulated the management of joint-stock companies through a set of jus cogens. This regulatory approach aims to strike a balance between the diverse interests of relevant stakeholders. Additionally, a series of principles has been established to safeguard the interests of all parties involved in joint-stock companies.

The objective of this study is to elucidate the position of Algerian legislation regarding corporate governance principles and the legal prerequisites for implementing governance within the Algerian legal framework. Specifically, we seek to identify the alignment of legal rules governing joint-stock companies in Algeria with internationally desired corporate governance principles. To address this issue, it is essential to first delve into the concept of corporate governance and derive its characteristics. Then, we can compare these characteristics with the legal rules governing joint-stock companies in Algerian legislation using an analytical and comparative methodology.

In accordance with the aforementioned, we will first delve into the concept of governance and derive the criteria and characteristics of governance. Then, we will explore the current state of governance within Algerian legislation as our second focus.

1- THE CONCEPT OF CORPORATE GOVERNANCE

Corporate governance emerges as a response to the financial crises witnessed by certain companies due to financial and administrative corruption within their ranks, which negatively impacted their sustainability and continuity. Furthermore, it directly affects the interests of all stakeholders engaged with the company, including clients, employees, shareholders, creditors, suppliers, and banks.

In light of the aforementioned, scholars and researchers, each with their unique perspectives and areas of expertise, have diligently sought to devise mechanisms akin to an immune system and protective shield, so their efforts aim to yield effective corporate governance.

Considering that corporate governance is a relatively modern concept, originating from the insights of scholars and researchers, we shall endeavor in this chapter to explore various perspectives on its definition. Subsequently, we will attempt to derive its key characteristics and distinguishing criteria that set it apart from other related concepts.

1.1- Corporate Governance Definition

Firstly, there has been a divergence of opinions within the field of jurisprudence regarding the precise definition of corporate governance, and there exists variability in describing it to the extent that one can discern the intended meaning of corporate governance. Based on this variation, we shall attempt to explore the most widely accepted definitions that closely align with the essence of corporate governance.

Some scholars have attempted to define corporate governance as the system through which an organization's operations are directed and monitored at the highest level to achieve its objectives while adhering to the necessary standards of responsibility, integrity, and transparency. This definition takes a pragmatic view of corporate governance. However, it has not escaped criticism and scrutiny, as it tends to adopt an economic perspective; some of its terminology is inappropriate for scholarly research, such as its use of the term "organization's operations are directed … at the highest level."

Some other scholars posit that corporate governance is a state, a process, a direction, and a current; simultaneously, it embodies a blend of both this and that. It serves as a vital and dynamic factor, akin to an immune system, a protection and an activation mechanism, which governs movement, regulates direction, safeguards all actions, and ensures the code of conduct within companies. It constructs an effective safety barrier and a protective shield.

However, several observations can be made regarding the aforementioned definition from various angles. Firstly, the definition lacks clear technical language that unequivocally indicates its association with either legal science or economics. Instead, it disperses its intended meaning between these two realms.

At an international level, studies have delved into the concept of corporate governance, elucidating its meaning and essence. The Organization for Economic Co-operation and Development (OECD) defines corporate governance as "The set of relationships that regulate the interactions between the executive management, the board of directors, shareholders, and other relevant stakeholders within the company." However, it is worth noting that this definition does not fully capture the clear implications of the effectiveness and performance of the corporate governance

system through the company's economic activities and legal operations. Particularly, the mentioned definition categorizes corporate governance as an emerging relationship between the executive management, the board of directors, shareholders, and other relevant stakeholders.

Corporate governance, in essence, constitutes a comprehensive system that activates and safeguards these relationships, providing the necessary assurances for each of them when faced with other legal relationships and positions. Thereby, preserving the creditworthiness and integrity of the commercial environment, which reflects the underlying purpose of establishing a governance system. Notably, the relationships referred to in the aforementioned definition are inherently present within the systems of all companies engaged in commerce, particularly those operating as joint-stock entities. However, as credit risks emerged, threatening the stability of these legal relationships, corporate governance systems were established to activate and protect them.

The Cadbury Committee broadly defined corporate governance as a well-established and globally renowned system. It defined corporate governance as a system through which companies are directed and controlled. Despite its concise nature, this definition effectively reflects the true purpose of corporate governance – to serve as a system for managing and controlling companies. Importantly, this does not imply that it diverges from existing management and control systems within companies; rather, its aim is to enhance and activate those systems.

Some people define corporate governance as a set of contractual relationships that bind company management, shareholders, and stakeholders. This shall be achieved through the establishment of procedures and structures used to manage company affairs and guide its operations to ensure performance enhancement, disclosure, transparency, and accountability within the company, and maximizing long-term benefits for shareholders while considering the interests of various parties.[1]

In the absence of a specific agreed-upon definition, the concept of corporate governance remains evolving and formative. Many of its rules are still in the review and development stage, and conferences and seminars are held to discuss it. Despite the differences among scholars regarding the concept of corporate governance, they almost unanimously agree on its objectives and characteristics, as well as its ultimate purpose.

Through the aforementioned definitions, we will attempt to address the most important criteria of corporate governance that must be present in any legislation or system aimed at governance.

1.2- Corporate Governance Standards

Despite the jurisprudential differences regarding the concept of corporate governance, there is consensus among scholars regarding its purpose and characteristics. Corporate governance aims, despite the variation in expression, to consider the interests of various stakeholders and enhance communication among them. It seeks to achieve justice, transparency, and combat corruption. Furthermore, it improves the competitive capacity of economic entities, increases their value, imposes effective oversight on their performance, and reinforces accountability.

In order for governance to be a comprehensive system, certain characteristics must be present that can be considered indicative of its presence. When governance is implemented within an organization or entity, these characteristics serve as guidelines that must be adhered to in order to achieve governance. Furthermore, any legislation related to governance cannot be formulated without the presence of these essential characteristics. These characteristics primarily focus on regulating and organizing corporate activities to ensure compliance with contractual obligations and the laws governing their operations. Hence, this enhances stability in business dealings and ensures creditworthiness.[2]

1.2.1-Transparency and Disclosure:

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[1] Muthafar Jaber Al-Rawi, "The Application of Corporate Governance Standards and Their Legal Impact on Safeguarding the Rights of Minority Shareholders," Journal of Dafater al-Siyasa, Issue 11, 2014, University of Merbah Kasdi Ouargla, p. 190.

[2] Zakaria Younes Ahmed, "The Legal Regulation of Corporate Social Responsibility," Dar Al-Kutub Al-Qanuniya, Egypt, 1st ed., 2017, p. 252.

Transparency is one of the fundamental pillars necessary for achieving a robust governance system. It enhances the credibility of companies in the eyes of the public with whom they interact and contributes to building a positive reputation. This, in turn, restores trust[1]. Commitment to disclosure and transparency is an aspect of trust and goodwill in commercial life, which governance aims to establish among investors, employees, consumers, and shareholders.[2]

Transparency standards can only be achieved through adhering a commitment to proper disclosure. All relevant information related to profit and loss data, the company's financial position, and the principles and rules of the rewards and incentives system must be easily accessible. Engaging all governance parties with this information and understanding how to handle it is as well essential for achieving transparency.

Disclosure is the means, and transparency is the ultimate purpose. Transparency refers to companies to provide information and data related to their activities, making it available to shareholders and stakeholders and allowing anyone interested to access it[3]. As for disclosure, it is the company's commitment to publish reports and information, which means communicating with the external world through various means to reveal essential information to investors, shareholders, the financial market, and other interested parties. This also includes disclosing all facts about the company, whether they are periodic or non-periodic, financial or non-financial.[4]

The principles of disclosure and transparency are among the most important principles adopted by the Organization for Economic Cooperation and Development (OECD), as they are extensively elaborated in detail compared to other principles. Additionally, all other principles inherently encompass disclosure and transparency within their content. This is due to their significance in providing stability, transparency, and protection for all parties involved.

The Organization for Economic Cooperation and Development (OECD) did not underestimate the contribution and elaboration of disclosure and transparency. It focused on ensuring equal and timely availability of both material and non-material disclosure. The OECD stated, 'Within the framework of corporate governance, proper and accurate disclosure should be ensured in a timely manner for all general matters related to the company, including financial position, performance, ownership rights, and corporate governance.'[5]

Adhering to the principles of corporate governance is of utmost importance, especially for the company and its stakeholders. These principles are designed to reinforce what is stipulated by the regulations governing companies and to activate them, rather than conflicting with those laws.[6]

Disclosure must occur in a timely manner, encompassing all data related to the company. The company should issue annual reports that include financial statements along with all information relevant to shareholders and stakeholders. Additionally, the language used in these reports should be simple and straightforward, allowing stakeholders to easily understand the content. Furthermore, the company should have websites on information networks through[7]. These platforms facilitate the disclosure of relevant information and provide channels for stakeholders to access it conveniently, allowing users to access information at minimal cost and in a fair manner.

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[1] Ben Baïch Widad, "Disclosure and Transparency to Improve the Business Environment in Algeria," Academic Journal of Legal Research, Volume 11, Issue 02, 2020, p. 120.

[2] Zarqouq Abdel-Jalil: "The Principle of Disclosure and Transparency in Joint-Stock Companies." Journal of Human Rights and Public Liberties, University of Mostaghanem, Issue 05, 2018, pp. 372-386

[3] Hadi bin Ali Al-Yami: "Compliance with Disclosure and Transparency in the Saudi Corporate Governance System." Library of Law and Economics, Riyadh, 1st Edition, 2017, p. 52

[4] Hadi bin Ali Al-Yami, same reference, p. 52

[5] Ahmed Khedr: "Corporate Governance." Dar al Fikr al jami'i', Alexandria, 1st Edition, 2014, p. 125

[6] Salmi Warda: "Protection of Third Parties within the Framework of Joint-Stock Companies." Doctoral thesis, University of Mentouri, Constantine, 2015-2016, p. 156

[7] Elias Nassif: "Corporate Governance in Comparative Law and Legislation of Arab Countries." Published by Halabi Legal Publications, 1st edition, 2017, p. 114

Transparency creates an atmosphere of reassurance and trust, both internally and externally. It also plays a significant role in decision-making and understanding a company's circumstances. Therefore, transparency is one of the fundamental pillars on which companies rely. It is not an end goal in itself but rather a preliminary stage for decision-making.[1]

1.2.2-Identifying of the Interests of Related Parties

Identifying of the Interests of Related Parties is one of the characteristics of corporate governance. As we observe in the definitions that the company's interests extend not only to shareholders, but also encompass the interests of stakeholders. Oversight and management are no longer confined solely to shareholders; they now encompass every party with a vested interest.

It is worth noting that stakeholders encompass a group of individuals, organizations, and institutions that influence and are influenced by the decisions made by the company. This group includes all parties related to the company, such as shareholders, bondholders, and creditors.

The identifying of the rights and interests of stakeholders is one of the fundamental pillars of governance upon which corporate governance is built. Corporate governance aims to ensure and enhance the rights of stakeholders within companies.[2] Legal obligations within the framework of governance extend beyond protecting shareholders' interests to providing legal protection for employees, bondholders, banks, and clients who are associated with the company's interests. It is essential to establish legislation that ensures to provide them with legal, financial, and social guarantees, and implementing mechanisms that indetify their rights is crucial for wealth creation, employment opportunities, and sustainable projects based on solid financial foundations.[3]

Based on that, it is essential to ensure that the principles of governance safeguard the legal rights of stakeholders, and compensation should be provided in cases of rights violation. Additionally, within the framework of practical administration, stakeholders should have access to company-related information, ensuring integrity and transparency[4]. Furthermore, it should guarantee their active participation in decision-making within the administrative bodies of joint-stock companies by empowering them to express their opinions freely.[5]

1.2.3-Mitigating Conflicts of Interest:

Recognizing the plurality of interests within a company as part of corporate governance implies acknowledging their conflicts and divergences. For instance, creditors are concerned with the company's ability to repay their debts, while employees are concerned with wages and the company's continuity.

Furthermore, the size of joint-stock companies in terms of the number of shareholders, which often exceeds hundreds or thousands. In terms of their activities and investments, these companies may create an environment conducive to disputes, conflicts, and a center of conflicting interests. This latter may take various forms. For instance, conflicts of interest can arise between shareholders and the board of directors, or between the interests of employees and the company itself. It's worth noting that conflicts not only occur between different categories but also within the same category, such as conflicting interests among shareholders only. Each party seeks to achieve its own interests, prompting various legislations to regulate the relationship between shareholders and all parties dealing with the company.

Governance has been introduced to achieve preventive measures aimed at reducing the phenomenon of conflict[6]. It also seeks to find mechanisms for reconciling and balancing various

[1] Elias Nasseif, same reference, p. 112.

[2] Mohamed Samer Hassan Ahmed Sultan: "Corporate Social Responsibility of Joint-Stock Companies in Light of Management Regulations." Doctoral thesis, University of Alexandria, 2018, p. 84

[3] Muthafar Jabir Al-Rawi, the previous reference, page 189.

[4] Muthafar Jabir Al-Rawi, the same reference, page 198.

[5] Lahmar Khaled, the role of corporate governance principles in protecting shareholders, doctoral thesis, Djillali Liabes University, Sidi Bel Abbès, 2020-2021, page 89.

[6] Idris Karkin, conflicts of interest in joint-stock companies, Al-Minbar Al-Qanuni Journal, issue 10, 2016, page 215.

interests, mitigating their conflicts and clashes. At the very least, it seeks to alleviate such conflicts.[1]

1.2.4- Justice and Equality

This criterion entails the necessity to maintain equality among shareholders within each category of shares. The principles of corporate governance, as established by the Organization for Economic Cooperation and Development (OECD), require ensuring equal treatment for all shareholders, including minority shareholders and foreign shareholders. Furthermore, opportunities should be provided for all shareholders to effectively seek compensation for any violations of their rights, while removing any obstacles that may hinder their exercise of these rights.[2]

1.2.5-Accountability

Accountability is the responsibility of management towards all stakeholders for all actions taken, decisions made, and results achieved. Corporate governance entails defining the responsibilities of the board of directors in a manner that ensures the principle of independence from the company's owners. The focus of corporate governance lies in delineating the authority of the board of directors in terms of rights, duties, benefits, allowances, salaries, and compensations.[3]

Where the principles of corporate governance for the Organization for Economic Cooperation and Development (OECD) indicated the responsibility of the board of directors, emphasizing the need for effective oversight of executive management by the board of directors, as well as accountability of the board of directors to the shareholders.

2- THE REALITY OF CORPORATE GOVERNANCE IN ALGERIAN LEGISLATION

In the present time, the concept of corporate governance has garnered significant attention globally due to its importance. Therefore, it is necessary to explore the features and characteristics of this concept within Algerian legislation. Since there are no explicit legal rules that fully establish the concept of corporate governance, we will attempt to identify its features within various laws related to commercial companies, labor law, company law, and bankruptcy.

2.1- The Algerian Legislator’s Stance on Corporate Governance

The approaches of different countries toward corporate governance principles have varied. Some countries have adopted a legislative model similar to that of Britain, while others have embraced these principles without making them mandatory, as seen in France. In this context, it is clear that there are differences among Arab legislations regarding the regulation of corporate governance. Many Arab nations have enacted necessary regulations to adopt governance into the operations of their companies, aiming to preserve their sustainability and continuous presence in commercial life. One of the most important legislations in this field is the Egyptian legislation, as the Egyptian legislator has issued a set of regulations governing corporate governance.

In Algeria, interest in corporate governance began in 2007 following an international conference on good governance for institutions. During this conference, the idea of preparing an Algerian charter for sound corporate governance emerged. A working group was formed under the supervision of the Ministry of Small and Medium-Sized Enterprises and Traditional Industries. Their efforts culminated in the issuance of the Charter for Sound Corporate Governance in Algeria in 2009. However, this charter remains merely a guide for preferential practices in the field of governance.[4]

This charter includes four fundamental principles of governance, each complementing the other in coherence. These principles are not optional and cannot be isolated from one another or applied

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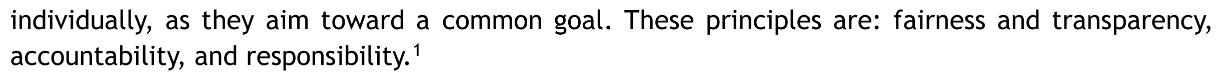
[1] Sami Ma’mar Shasha, conflicts of interest in Algerian business law, doctoral thesis, University of Algiers 1, 2019, page 94.

[2] Elias Nassif, the same reference, page 103.

[3] Muthafar Jabr Al-Rawi, same reference, p. 189.

[4] Charter of Good Governance for Institutions, issued by the Ministry of Industry and Small and Medium Enterprises, Algeria, 2009.



individually, as they aim toward a common goal. These principles are: fairness and transparency, accountability, and responsibility.[1]

On the other hand, it is worth mentioning that despite Algeria's efforts to develop laws related to investment; there has been significant delays in terms of charters regulating corporate governance overall. This is despite its significance when compared to more advanced countries, including even other Arab countries like Jordan and Egypt. The first issuance was in 2009. Additionally, we have not observed any legislative progress in this field up to the present day.[2]

In this context, despite the provisions contained in the charter, we will attempt to discern the characteristics of governance in some laws related to corporations.

2.2-Features of Governance in Algerian Legislation

2.2.1-Disclosure and Transparency Rules in Joint-Stock Companies

As mentioned earlier, governance necessitates the company's commitment to accurate disclosure of all matters concerning the company and transparency in providing information. This commitment is established for the benefit of shareholders and stakeholders in the joint-stock company, creating an atmosphere of trust and credibility among them and ensuring their continued engagement with the company[3].

According to Articles 677 of the Commercial Law, the Algerian legislator granted shareholders the right to access company documents, emphasizing the necessity for shareholders to review necessary documents to enable them to express their opinions and make informed decisions regarding the company's management and operations[4]. Articles 678 and 680 also stipulate the documents that shareholders must be informed of or have access to, which are provided as examples without specifying their content and substance by the Algerian legislator. Instead, it left it to the discretion of the management, which may lead them to withhold certain critical documents and important information.

Moreover, the procedures for presenting documents may not serve the purpose adequately. Adopting the company's headquarters as the location for accessing documents may weaken the level of disclosure and transparency. In light of technological advancements, company documents can be made available on a company-specific website, thus obviating the need for shareholders to visit the headquarters.

In order to achieve transparency towards stakeholders, the Algerian legislator obligated companies to deposit their articles of association and amended articles with the National Commercial Registry Center, as stipulated in Article 548 of the Commercial Code.

In order for the third parties to engage with the company, it is essential that this legal entity is informed and aware of any developments that may occur, which can only be achieved through compliance with the legal disclosure formalities imposed by the Algerian legislator.[5]

Therefore, it can be argued that while the Algerian legislator has mandated disclosure of company information to achieve transparency, the restriction on the documents available for inspection and the lack of adoption of electronic advertising may weaken the level of disclosure and transparency, rendering it ineffective.

2.2.2-Rules Related to Identifying the Interests of Relevant Stakeholders in The Joint-Stock Company

[1] Lahmar khaled, previous reference, p. 98.

[2] Derbal Siham. "Corporate Governance of Joint Stock Companies from a Legal Perspective," Journal of Legal Studies and Research, Issue Nine, Abi Bakr Belkaid University, Tlemcen, Issue 2018, p. 340.

[3] Ibrahim Belaid Munir, "The Supervisory Role of General Meetings of Shareholders in Joint Stock Companies," Master's Thesis, Mansoura University, Egypt, 2018, p. 56.

[4] Law No. 05-02 dated February 6, 2005, Journal No. 11, amended and supplemented by Order No. 75-59 containing the Commercial Law.

[5] Salmi Warda, same reference, p. 14.

The Algerian Charter for Good Governance explicitly acknowledged the interests of external parties dealing with the organization, indicating that the organization bears full economic and social responsibility towards external stakeholder partners, which include public administrations, customers, competitors, employees, suppliers, service providers, banks[1]. Despite what the Charter of Good Governance contains, we will try to assess the extent to which the joint stock company cares for the interests of its relevant stakeholders in the Algerian legislation.

It has been noted that the principles of corporate governance are founded upon acknowledging and protecting stakeholders' rights and interests. This is embodied through empowering their oversight function in managing and directing joint stock companies. The Algerian legislator's explicit reliance upon the contractual theory becomes evident through Articles 416, 427 and 428 of the Civil Code. The contractual theory primarily holds that a company's interests are confined to partners' interests alone, as shareholders who establish it and assume all risks. However, this contravenes the philosophy underlying governance theory. Governance theory bases itself on a system of stakeholder interest representation in the company management.

It is worth noting that the Algerian legislator has adopted a contradictory stance regarding the system of interest representation in managing joint stock companies. Within the Commercial Law, representation is restricted solely to shareholders, and it referred to the system of representing stakeholders in the board of directors in other laws.

It specifically emphasized the mandatory representation of employees on the Board of Directors. This is articulated in:

- Article 95 of Law 90-11 related to Labor,
- Article 04 of Order 01-04 related to Public Economic Institutions,
- Article 25 of Order 95-25 related to managing state-owned commercial capitals.

It has also permitted bondholders to form a body representing their interests, whereby this body can attend the general assembly meetings and participate in discussions. However, this body does not have voting rights or the right to intervene in managing company affairs, as outlined in Article 715 repeated 91 of the Commercial Law. The participation of bondholders therefore remains advisory in nature without rising to the level of decision-making involvement[2].

On another note, within the framework of corporate social responsibility, we identify through Law No. 09-03 on Consumer Protection and Combating Fraud, amended by Law No. 18-09, that the legislator obligated companies to necessarily consider the interests of consumers by requiring them to take into account the health aspect, safety of products, informing the consumer and not harming consumers' material and moral interests. Article 02 of Law No. 18-09 on Consumer Protection stipulates that services provided to consumers must not affect their material interests and must not cause them moral harm. In this way, the legislator mandated taking consumers' interests into account when making decisions and providing services.

Given the impact of corporate activities on the environment and the pollution they cause to water, air or soil, the Algerian legislator sought to limit the negative effects resulting from companies' practice of their activities by preserving the environment and protecting natural resources to guarantee the right of future generations to an equitable share of these resources, as outlined in Article 03 of Law 03-10 on Environmental Protection.

Through what has been discussed previously, we understand that the Algerian legislator has recognized the interests of corporate stakeholders in numerous specialized laws and the necessity of considering their interests when making decisions. However, this matter could potentially be ambiguous, particularly as the Algerian legislator adopted divergent approaches on one hand, and on the other hand, the level of stakeholder representation remains limited compared to shareholder participation, due to weak participation mechanisms.

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[1] Salmi Warda, same reference, p. 328.

[2] Law No. 05-02 dated February 6, 2005, Journal No. 11, amended and supplemented by Order No. 75-59 containing the Commercial Law.

2.2.3-Rules Related to Conflict-of-Interest Management in Corporate Governance Frameworks:
Conflict of interest is among the risks that threaten the proper management of institutions. Given the impossibility of encompassing all instances of conflict of interest in a joint-stock company, as well as its inevitability. The Algerian legislator has attempted to mitigate this phenomenon by relying on preventive measures aimed at reducing conflict of interest in joint-stock companies.
It is necessary to obtain prior authorization from the General Assembly to obtain a deal from the company by a member of the board of directors for the benefit of another company owned by him or his spouse, as stipulated in Article 628 of the Algerian Commercial Law.
Moreover, it is not permissible to pledge the assets of the company as collateral for transactions by a board member with third parties, or to obtain cash financing for any reason from the company, except after obtaining approval from the General Assemblies.
Despite the legislator's efforts to combat conflicts of interest in joint-stock companies, preventive mechanisms remain insufficient, and some are lacking the necessary effectiveness. This necessitates a reconsideration of the issue of conflicts of interest in commercial companies in general.
2.2.4-Rules Pertaining to the Liability of the Board of Directors of a Joint-Stock Company:
The Algerian legislator has established a comprehensive legal framework governing the liability of the Board of Directors in a joint-stock company. It has taken care to protect the interests of the company and shareholders from errors by managers. Some aspects of this protection include establishing stricter civil or criminal liability[1], as outlined in Articles 649, 638 and 715 repeated 21 and following.
The managers' liability may be personal or joint and several, proved through lawsuits filed by the company when it suffers harm due to violation of legislative or regulatory laws, violation of the company's statutes or decisions of the general assembly. In such cases, the general assembly has the right to file a lawsuit against the responsible member or the board of directors or board of managers according to the circumstances. Civil liability claims also differ according to the harmed party from managers' actions; the lawsuit may be filed by the company itself or by shareholders individually or collectively, and such lawsuits may also be filed by other parties.

CONCLUSION:

Despite the novelty of corporate governance as a system for managing companies, its principles and applications in commercial and economic legislation are considered extensions of many theories and principles known to legal frameworks, such as the theory of abuse of rights and the theory of protection of the innocent third party, among others. Although Algerian legislation does not contain laws that explicitly mandate the application of corporate governance, the legislative reality in Algeria is more in line with the principles of governance through the provisions in economic and commercial legislation.
The rules governing the management of commercial companies do not inherently conflict with governance principles. Rather than discarding existing rules and mechanisms, it has become essential to update and activate them to align with the economic and commercial developments witnessed by countries.
Therefore, through this, we can propose a set of suggestions that would facilitate the implementation of corporate governance principles and activate the rules related to the regulation of commercial companies accordingly:

- The need to review Article 416 of the Civil Code, which is considered an obstacle to the application of governance principles.
- Amending the provisions of the Commercial Law and incorporating mechanisms that enable the participation of stakeholders in the management and oversight of the company.
- Carefully developing the disclosure system using modern technological means and tools.

[1] Derbal Siham. "Joint Stock Company and the Principles of Good Governance," PhD thesis, Abi Bakr Belkaid University, Tlemcen, 2018-2019, p. 271.

REFERENCES

[1] Law No. 05-02 dated February 6, 2005, Journal No. 11, amended and supplemented by Order No. 75-59 containing the Commercial Law.

[2] Charter of Good Governance for Institutions," issued by the Ministry of Industry and Small and Medium Enterprises, Algeria, 2009.

[3] Ahmed Khedr: “Corporate Governance.” Dar al Fikr al jami'i', Alexandria, 1st Edition, 2014

[4] Zakaria Younes Ahmed, "The Legal Regulation of Corporate Social Responsibility," Dar Al-Kutub Al-Qanuniya, Egypt, 1st ed., 2017

[5] Elias Nassif: “Corporate Governance in Comparative Law and Legislation of Arab Countries.” Published by Halabi Legal Publications, 1st edition, 2017

[6] Hadi bin Ali Al-Yami: “Compliance with Disclosure and Transparency in the Saudi Corporate Governance System.” Library of Law and Economics, Riyadh, 1st Edition, 2017.

[7] Ben Baïch Widad, "Disclosure and Transparency to Improve the Business Environment in Algeria," Academic Journal of Legal Research, Volume 11, Issue 02, 2020

[8] Derbal Siham. "Corporate Governance of Joint Stock Companies from a Legal Perspective," Journal of Legal Studies and Research, Issue Nine, Abi Bakr Belkaid University, Tlemcen, Issue 2018

[9] Idris Karkin, conflicts of interest in joint-stock companies, Al-Minbar Al-Qanuni Journal, issue 10, 2016

[10] Muthafar Jaber Al-Rawi, "The Application of Corporate Governance Standards and Their Legal Impact on Safeguarding the Rights of Minority Shareholders," Journal of Dafater al-Siyasa, Issue 11, 2014, University of Merbah Kasdi Ouargla.

[11] Zarqouq Abdel-Jalil: “The Principle of Disclosure and Transparency in Joint-Stock Companies.” Journal of Human Rights and Public Liberties, University of Mostaghanem, Issue 05, 2018.

[12] Derbal Siham. "Joint Stock Company and the Principles of Good Governance," PhD thesis, Abi Bakr Belkaid University, Tlemcen, 2018-2019

[13] Ibrahim Belaid Munir, "The Supervisory Role of General Meetings of Shareholders in Joint Stock Companies," Master's Thesis, Mansoura University, Egypt, 2018

[14] Lahmar Khaled, the role of corporate governance principles in protecting shareholders, doctoral thesis, Djillali Liabes University, Sidi Bel Abbès, 2020-2021

[15] Mohamed Samer Hassan Ahmed Sultan: “Corporate Social Responsibility of Joint-Stock Companies in Light of Management Regulations.” Doctoral thesis, University of Alexandria, 2018

[16] Salmi Warda: “Protection of Third Parties within the Framework of Joint-Stock Companies.” Doctoral thesis, University of Mentouri, Constantine, 2015-2016

[17] Sami Ma’mar Shasha, conflicts of interest in Algerian business law, doctoral thesis, University of Algiers 1, 2019