



THE IMPACT OF CORPORATE GOVERNANCE PRINCIPLES ON THE SUSTAINABILITY OF COMPANIES IN NIGERIA: ISSUES, CHALLENGES AND LEGAL IMPLICATIONS

Alikor, Zinnah Ogechi*

Abstract

Corporate governance has emerged as a fundamental mechanism for promoting accountability, transparency, ethical business conduct, and long-term corporate sustainability. In recent decades, recurring incidents of corporate scandals, financial mismanagement, regulatory infractions, and corporate failures across various sectors have intensified global concern regarding the effectiveness of corporate governance frameworks. In Nigeria, despite the existence of extensive legal and institutional frameworks regulating corporate governance, many companies continue to face significant sustainability challenges arising from weak governance practices, regulatory inefficiencies, boardroom conflicts, corruption, inadequate disclosure mechanisms, and poor enforcement of corporate accountability standards. This article examines the impact of corporate governance principles on the sustainability of companies in Nigeria. It explores the conceptual foundations of corporate governance and corporate sustainability, analyses the positive contributions of effective corporate governance practices to organizational survival and growth, and evaluates the adverse consequences associated with governance failures. The article further investigates the major issues and challenges affecting the implementation of corporate governance principles within Nigeria's corporate environment, including regulatory fragmentation, weak enforcement mechanisms, inadequate shareholder activism, board deficiencies, institutionalized corruption, poor disclosure practices, judicial delays, and political interference. Adopting a doctrinal research methodology, the study relies on statutes, judicial authorities, corporate governance codes, scholarly literature, and relevant policy documents. The article finds that effective corporate governance remains indispensable to the sustainability, competitiveness, credibility, and long-term viability of companies. It further finds that while Nigeria possesses a relatively comprehensive regulatory framework, deficiencies in implementation, enforcement, institutional coordination, and corporate culture continue to undermine the realization of corporate governance objectives. The article concludes that sustainable corporate growth cannot be achieved without a strong commitment to good corporate governance principles and recommends stronger enforcement mechanisms, enhanced board independence, improved shareholder participation, judicial efficiency, institutional reforms, and a renewed commitment to ethical corporate conduct as measures for strengthening corporate sustainability in Nigeria.

Keywords: *Corporate Governance, Corporate Sustainability and Company.*

1. INTRODUCTION

The survival, growth, and continuous relevance of an incorporated enterprise within any market-based economy depend fundamentally on its management structure and behavioral alignment.¹ Under Nigerian company law, an incorporated entity enjoys separate legal personality, standing

¹ A Ajogwu, *Corporate Governance in Nigeria: Law and Practice* (2007) 24.



completely distinct from its promoters, directors, and shareholders.² However, because this statutory creation is an artificial construct, it relies entirely on human agency its corporate gatekeepers to articulate and execute its commercial objectives.³ This operational reality creates an inherent separation of ownership and control, giving rise to classic agency conflicts where the self-serving motivations of managers frequently diverge from the collective interests of stakeholders.⁴ Consequently, corporate governance emerged as the regulatory, institutional, and ethical framework designed to supervise decision-making, mitigate agency risks, and align the running of corporations with the long-term expectations of society.⁵ In the contemporary commercial landscape, effective corporate governance serves as the direct catalyst for corporate sustainability.⁶ Sustainability transcends basic, short-term accounting profitability; it encapsulates the institutional resilience of a firm to maintain economic prosperity while honoring its ethical, social, and environmental responsibilities indefinitely.⁷

Despite the universal acceptance of these principles, the corporate world has been routinely shaken by systemic failures of unprecedented proportions.⁸ Globally, the collapses of Enron, WorldCom, and Parmalat demonstrated that no corporation is too large to implode when governance safeguards are willfully bypassed.⁹ In Nigeria, the commercial terrain has suffered identical trauma, manifested in the historic distress of Cadbury Nigeria Plc and systemic failures in the banking sector involving institutions like Oceanic Bank International and Intercontinental Bank Plc.¹⁰ These failures were not triggered by external market forces, but by internal institutional pathologies, including creative accounting, reckless insider abuses, and a total collapse of internal control systems.¹¹

2. CONCEPTUAL CLARIFICATION

To construct a rigorous legal analysis of how corporate structures survive and thrive, it is first necessary to establish clear conceptual boundaries. Legal doctrines do not operate in an institutional vacuum; their efficacy depends entirely on a precise understanding of the components that form the corporate ecosystem. This section unpacks the corporate triad the company, corporate governance, and corporate sustainability demonstrating how these distinct legal ideas intersect. By clarifying these definitions under Nigerian law, we can transition from theoretical abstractions to a practical assessment of how regulatory frameworks directly impact corporate longevity.

² *Marina Nominees Ltd v FBIR* (1986) 2 NWLR (Pt 25) 532; *Salomon v Salomon & Co Ltd* [1897] AC 22.

³ *Trustees of Dartmouth College v Woodward* 4 Wheat 518 (1819); SL Sanusi, 'Global Financial Meltdown and the Reform of the Nigerian Banking Sector' (2010) 4.

⁴ A Ajogwu (n1)12.

⁵ CAC, Nigerian Code of Corporate Governance (2018) Rule 1.1.

⁶ Oyejide and Soyibo, 'Corporate Governance in Nigeria' [2001] 14 Journal of Corporate Law 32.

⁷ World Commission on Environment and Development, *Our Common Future* (1987) 43.

⁸ J Rwegasire, 'Is Corporate Governance Relevant for Africa?' [2000] 9 International Journal of Commerce 51.

⁹ I Wilson, 'Regulatory Responses to Global Corporate Collapses' (2006) 3 Journal of Business Ethics 112.

¹⁰ B Soludo, 'Consolidation and Beyond: Remedying Systemic Vulnerabilities in Nigerian Banking' (2004) 8.

¹¹ S L Sanusi, 'The Nigerian Banking Sector and Governance Failures' (2010) 11.



2.1 Corporate Governance

Corporate governance structure generally spells out the rules and procedures for making decision on corporate affairs. It also provides the structure through which the company objectives are set, as well as the means of attaining and monitoring the performance of those objectives. It also defines the accountability of those charged with the responsibility of steering the company's affairs,¹². Furthermore, the concept of "Corporate governance" is uniquely a complex and multifaceted subject, which in view of the inherent disparities in firm structures, cultural, social economic, legal settings of nations as well as the individual researchers' perspectives, regulators and practitioners, corporate governance does not have a universally accepted concept and this has generated a great deal of comments and debate. Consequently, corporate governance, by its definition, its purpose and objectives, has been articulated and viewed by different authors, both from narrow and broad perspectives.

In the words of Rwegasire,¹³ "corporate governance, in its narrow perspective, is viewed merely as being concerned with the structures within which a corporate entity or enterprise receives its basic orientation and direction". In contrast, Sullivan,¹⁴ who is a proponent of the broader perspective arrived at the conclusion that "issues of institutional, legal and capacity building as well as the rule of law, are at the very heart of corporate governance". Emeka Anyaoku,¹⁵ adopting a wider definition of corporate governance as advanced by the Common Wealth Association for Corporate Governance maintains that "corporate governance is basically about leadership for efficiency, for probity, with responsibility and leadership which is transparent and accountable". According to Schwartz,¹⁶ "from a narrow stand point, corporate governance concerns the relationship between corporate managers, directors and varied stakeholders".

In a broader sense, corporate governance includes the debate on the appropriate management and control structure of a company and the rule relating to the power relations between owners, the board of directors, management, auditors and last but not least stakeholders such as employees, suppliers, customers and the public at large. Oyejide and Soyibo,¹⁷ view "corporate governance as being the structure within which a corporate enterprise receives its basic orientation and direction, and in a broader perspective, it is regarded as being the heart of both a market and democratic society". Adrian Cadbury,¹⁸ "described Corporate Governance as the system by which companies

¹² F Ajogwu, *Corporate Governance in Nigeria: Law and Practice* (Center for Commercial Law Development Mbeyi and Associates Lagos 2007) 28.

¹³ K Rwegasira, 'Corporate Governance in Emerging Capital Markets: Wither Africa' [2000] (8) (3) *Journal of Imperial Research –Based Papers*, 258.

¹⁴ J.D Sullivan, *Corporate Governance: Transparency between Government and Business* being Paper presented to the Mediterranean Development Forum 3, World Bank Meeting, Cairo Egypt, March 2000, 13

¹⁵ E Anyaoku, 'Corporate Governance and the Enterprise Culture' [2010] *Journal of Commercial Law and Practice*, 41-45.

¹⁶ D E Schwartz, 'Federalism and Corporate Governance' [1984] (45) (545) *Heinonline Ohio State law Journal*, 5.

¹⁷ T A Oyejide and A Soyibo, 'Corporate Governance in Nigeria' A Paper Presented at the Conference on Corporate Governance Accra Ghana (2001) 4.

¹⁸ A Cadbury, Foreword to *Corporate Governance and Development* [2003] (1) *Journal of the Global Corporate Governance Forum Focus*, 24.



are governed, directed and controlled” with the objective of enhancing long-term shareholders value, while protecting the interest of other stakeholders within the context of their corporate mission”.

Ajogwu,¹⁹ expressed the view that, “Corporate Governance is about how companies are directed and controlled. He posit that, the term, is a field in law and business, which studies many issues, arising from the separation of ownership and control”. Oladimeji,²⁰ is of the view that, “corporate governance is a system by which companies are directed and controlled. It involves the inter-relationships among shareholders and all other stakeholders, with accountability, transparency and protection of stakeholders interest as the main goals”. The world Bank,²¹ gives one of the most comprehensive definitions: For them, “corporate governance attract financial and human capital, perform efficiently, by generating long-term economic value for its shareholders, while respecting the interest of stakeholders and society as a whole”. To Sifuna and Pacy,²² “corporate governance is a system of law by which corporations are directed and controlled with the intention of monitoring the actions of management and directors and mitigating agency risks which may stem from the misdeeds of corporate officers”.

2.2 Corporate Sustainability

The word sustainable is derived from sustain or sustained. It signifies prolonged and steady sustainable corporate development that entails meeting the present needs without compromising the ability of the future generations to meet their own needs, while at the same time operating in a responsible and ethical manner. The Australian Government defined corporate sustainability as encompassing strategies and practices that aim to meet the needs of stakeholders while seeking to protect, support and enhance the human and natural resources that will be needed in the future. Corporate sustainability is also defined as the capacity of an enterprise to maintain economic prosperity in the context of environmental responsibility and social stewardship, accountability, the capacity of an organization to continue its activities indefinitely, having taken due account of the impact on natural, social and human capital.

The concept of corporate sustainability therefore, refers to the company ability to operate in an economically responsible management and innovative manner to ensure success through long-term financial viability, engagement and collaboration with the stakeholders to understand their needs, implementation of transparent and accountable governance practices through strategic decision making that are beneficial to shareholders and all other stakeholders. Thus by prioritizing

¹⁹ F Ajogwu, *Corporate Governance in Nigeria: Law and Practice* (Centre for Commercial Law Development Mbeyi and Associates Lagos 2007) 29.

²⁰ A Oladimeji, *Issues in Corporate Governance* (Financial Institutions Training Centre Publishers Lagos. 2003) 164.

²¹ World Bank The Business Environment and Corporate Governance 1998 <<http://www.worldbank.org>>accessed 10November 2018

²² A P Sifuna, ‘Disclosure or Abstain: The Prohibition of Insider Trading on Trial’ [2012] (9) *Journal of International Banking Law*;36.



corporate sustainability, companies can create long-term value for the company itself, the shareholders and stakeholders, enhance corporate reputation, credibility and brand value, improve financial performance, attract top talents and have a higher employee engagement and retention, better prepared to comply with evolving corporate regulations, build trust with stakeholders. Companies that do not prioritize corporate sustainability, can face significant negative consequences such as: Reputational damage, financial losses, regulatory non-compliance issues, decreased investor confidence, missed opportunities for innovation, growth and new revenue streams, stakeholders mistrust- customers, employees and communities inclusive amongst other factors.

2.3 Company

Under the Nigerian Company Law, an incorporated company is a separate legal entity. Although this is a fundamental concept, it has proved extremely difficult to define and describe satisfactorily the term company as there is no consensus on the meaning of company. According to Buckley J, in *Re Stanley*,²³ “the term Company has strictly no legal meaning. Consequently, the absence of a precise legal definition of the term company has inevitably created a fertile ground for debate among, legislators, jurists, academics and writers”.

In the English case of *Cologuhour v Henddo*,²⁴ Palock B, stated that, “company means, a legal entity, the validity and the effect of which depends on the law of the country in which it is established”. In *Nigerian Civil Service Union, Western State v Allen*,²⁵ Per Justice Aguda Stated that, “a company is essentially a statutory creation”. Professor Gower,²⁶ asserts that, “a company is an association of number of people for some common object or objects”. The Halsbury Laws of England,²⁷ has also defined, “the term company as a collection of many individuals united into one body, having perpetual succession under artificial form and vested by the policies of law with the capacity of acting in several respects as an individual”. In *Marina Nominees Ltd v FBIR*,²⁸ the Supreme held that, “an incorporated company is a legal entity which must fulfill its own obligations under the law”. Also in *Sutton’s Hospital case*,²⁹ it was held that, “a company is a separate legal entity. It is invisible, immortal, and rests only in the intendment and consideration of the law”. Similarly in *C. B. D. I. v COBEC*,³⁰ the court of appeal held that: “Upon incorporation a company is regarded as a separate and distinct entity from any one of its shareholders, no matter how many shares they may hold”.

²³ (1966) 1(Ch) 131.

²⁴ (1890) 6 T L R 153.

²⁵ (1972) U I L R 316.

²⁶ L C B Gower, *Principles of Modern Company law* (Sweet and Maxwell 2003) 33.

²⁷ 4th edn.

²⁸ (1986) 2 NWLR (Pt 20) 40.

²⁹ (1613) 10 Co Rep 23.

³⁰ (2004) 13 NWLR (Pt 890) 376.



Law Encyclopedia,³¹ of the United States defined the company as, “artificial entities that are created by state statute and that are treated much like individuals under the law, having legally enforceable rights. The rights of a company are independent and distinct from the people who own it”. In *Trustees of Dartmouth College v Woodward*,³² the court described the company as, “an artificial being, invisible, intangible and existing only in contemplation of the law”. Also, Lord Macnaghten, in *Salomon v Salomon & Co. Ltd* in his definition of company stated that : “The company is at law a different person altogether from the subscribers,³³ and though it may be that after incorporation the business is precisely the same, the company is not in law, the agents of the subscribers”. In their definition of company, Adesanya and Oloyede,³⁴ asserted that the word “Company in its widest sense is used to designate different types of associations in which persons join together for the purpose of carrying on some business or undertaking”. Jan-Law, Angell and Ames,³⁵ opined that, “the corporation is a body created by law for certain purposes considered as natural person”. As clearly illustrated in Lord Shaw of Dun Fermline’s description of company, “It is a creation of law convenient for the purposes of management, of holding property of the association of individuals in business transactions”.³⁶

3 LEGAL IMPACT OF CORPORATE GOVERNANCE PRINCIPLES ON THE SUSTENANCE OF COMPANIES IN NIGERIA

The corporate governance principles encompass, the rules, policies, processes, initiatives and practices a corporation must adhere to, in order to attain effective corporate governance, determine the direction and magnitude of firm performance, accomplish its business goals and develop its infrastructure that will provide a framework for long term corporate sustainability. It also encompasses: How the objectives of the companies are set and achieved; How risk is monitored and assessed; How the board should develop effective strategic framework, take responsive and responsible actions and be held accountable. How corporate performance is optimized and, how companies function within their environmental guidelines and constraints which include, behaving in an ethical manner and in compliance with laws and regulations, while maintaining decision-making capability and efficiency at the highest level of the company. These principles are intended to guarantee transparency, accountability and a healthy balance of management and control in corporate organizations.

³¹ Volume 6.

³² (1819] 17 U S (4 wheat) 518.

³³ *Salomon v Salomon and Co.*(1897) AC 22; *Dunlop Nigeria Industries Ltd v Forward Nigeria Enterprises Ltd* (1976) I A L R Comm 243; *Lee v Lee Farming Ltd* (1996) AC 12; *Ramachandani v Ekpenyou* (1975) 5SC 29; *Marina Nominees Ltd v FBIR* (1986) 2 NWLR 48 ; *Ebbu Vale UDC v South Wales Traffic Area Licensing Authority* (1951) 2 K B 366 ; *Charterbridge Corporation v Lyod’s Bank Ltd* (1970) Ch 62.

³⁴ M O Adesanya and E O Oloyede, *Business Law in Nigeria* (Africana Publishing Corporation; 1972) 227.

³⁵ J K Angell and S Ames, *Treaties on the Law of Private Corporation Aggregate* (10th edn Little Brown and company Publishers Boston 1875) 44.

³⁶ *Daimler Co Ltd v Continental Tyre and Rubber Co (G. B.) Ltd* (1916) 2 AC 307.



The main thrust of effective and good corporate governance principles and best practices is about: Commitment to values; Focusing on: Legal issues, corporate structures, culture of compliance with rules and regulations, effective recognition and exercise of shareholders' rights, individual competences of executive and non-executive directors, issues of board independence, stakeholder engagement, financial reporting, proactive, responsive, responsible accountable board and management; Vigorous protection of minority shareholders' interests; Building corporate credibility; Ensuring transparency as well as maintaining an effective channel of information disclosure that would foster good corporate performance and sustainability.

Basically, corporate governance principles, requires prudent management of resources and the preservation of assets of the company. Good corporate governance principles has major characteristics. Some of which are: It measures the profitability earnings and responsiveness of firm performance; It is accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law. It assures that corruption is minimized. It also briefly outlines the structure and process for judgment on matters related to the company dealings. Based on some fundamental reasons, the corporate governance principles hold its premise that the business should be conducted by the desires of all stakeholders. It identifies the distribution of rights and responsibilities among a variety of stakeholders in the company as it reassure shareholders and other stakeholders that their rights are protected, seeks to ensure customer satisfaction, high employee morale and the maintenance of market discipline, strengthens and stabilizes the company, helps the directors meet up with their duties and other functions expected of them which are of great value to a number of stakeholders' such as depositors, creditors, customers, shareholders, employees and society at large.

Charkam,³⁷ express the view that, "there are basic principles of corporate governance; Management must be able to drive the enterprise forward from undue constraint caused by government interference; Freedom- to use managerial power must be exercised within framework of effective accountability". In the view of Aggarwal,³⁸ "corporate governance principles lay down the framework for creating long-term trust between companies and stakeholder". SEBI,³⁹ believes that, "companies having good corporate governance system in place are rewarded by investors and markets with high valuations". For Aggarwal,⁴⁰ "good corporate governance principles are integral to the very existence of a company. It inspires and strengthens investor's confidence by ensuring firm's commitment to higher growth and profit". Consequently, strategic decisions making in regard to firm future profitability will not be effective without good corporate governance practices.

³⁷ J Charkam, *Keeping Good Company: a study of Corporate Governance in Five Countries* (Charendon Press. Oxford1994) 69.

³⁸ P Aggarwal, 'Corporate Governance and Corporate Profitability, Are They Related?: A Study In Indian Context.' [2013](3)(2) *International Journal of Scientific and Research Publications*, 1-8.

³⁹ SEBI Report of the SEBI Committee on Corporate Governance 2003.

⁴⁰ P Aggarwal, 'Corporate Governance and Corporate Profitability, Are They Related? : A Study In Indian Context.' (2013)(3)(2) *International Journal of Scientific and Research Publications*, 32.



Good corporate governance practices which come into play when sound corporate governance principles are adhered to, is the soul of corporate business.

Fredrick,⁴¹ Opined that the OECD,⁴² principles of corporate governance which represent the first inter-governmental attempt to develop international standards, are not prescriptive about board structure and operation, but rather provide a framework to assist countries in developing approaches to corporate governance that reflect their own, legal, institutional and regulatory environment. According to Gregory,⁴³ these principles of corporate governance were formulated in an extremely general manner, leaving it up to the various countries to apply them in accordance with their own, specific circumstances and to give more or less importance to some of the aspects. They even specify that there is no intention of imposing a universal model of corporate governance (as one size does not fit all), but the long term trend is to advance towards global standards.

Thomas Clarke,⁴⁴ “has identified that effective financial policy and good corporate governance are inexorably linked to best practice in corporate governance”. The Basel Committee on Banking Supervision in 1999, further enumerates basic components of principles of corporate governance to include: (a) A well-articulated corporate strategy against which the success of the overall enterprise and the contribution of individuals can be measured; (b) The clear assignment of responsibilities and decision making authorities, incorporating hierarchy of required approvals from individuals to the board of directors; (c) The establishment of mechanisms for the interaction and cooperation among the board of directors, senior management and auditors; (d) Strong internal control systems, including internal and external audit functions, risk management functions independent of business lines and other checks and balances; (e) Special monitoring of risk exposures where conflict of interests are likely to be particularly great, including business relationships with borrowers affiliated with the bank, large shareholders, senior management or key decisions makers within the firm; (f) The financial and managerial incentives to act in an appropriate manner, offered to senior management and employees in the form of compensation, promotion and other recognition; (g) Appropriate information flows internally and to the public.

4. THE ATTRIBUTES THAT DETERMINES A SUSTAINABLE CORPORATE GOVERNANCE APPROACH

Corporate sustainability is imperative for business of today and also essential to long-term corporate success. Consequently, companies that prioritizes the application of effective corporate governance principles with corporate sustainability culture: Have robust growth in revenues; Strong balance sheets and healthy profits that reflect genuine business success, not phony book keeping. They also, share other important traits as well which include the following: They abide

⁴¹ R Frederick, *Corporate Governance and the OECD: Accounting and Business*, June 1999.

⁴² Organisation for Economic Cooperation and Development (OECD) (1999a), *OECD Principles of Corporate Governance*, Paris, France.

⁴³ J H Gregory, ‘The Globalization of Corporate Governance,’ *OECD Business Sector Advisory Group on Corporate Governance*, 2000.

⁴⁴ T Clarke, *Corporate Governance and Financial Reporting: Critical Perspective In Business Management*. (Vol. 1 London Routledge, 2005)32.



by high ethical standards, which is a key to their solid success; They do not obstruct the flow of information to shareholders, but rather view the shareholders as the ultimate owner. They choose directors on the strength of their abilities, character and capacity for independent judgment and select board of directors that go beyond the logic of compliance, towards a real passion for sustainability,⁴⁵ and that promote substantial convergence in governance by setting strategic sustainable goals. This is because, the first impulse for sustainable corporate strategies stems from the board of director- who are expected to be the leaders who raise followers' and should be committed to achieve the organizational mission and objectives,⁴⁶ . What really influences the company's approach to sustainability, is the substantial commitment of the board to the sustainability principles,⁴⁷ . Sustainability being a governance approach that molds the company's identity, values and organizational culture,⁴⁸ a sustainability-oriented board can really be a change agent. The principle of managerial discretion recognizes managers as moral actors who are obliged to exercise their actions for a sustainably responsible outcome.

To be sustainable, a business must be profitable and must prioritize the core principles of corporate governance. Meaning: Corporations must come on board with sustainability strategies and management models that are intended to foster accountability, transparency, and longevity. Companies must also take into account issues such as ethics; strategic relationships with all stakeholders; involvement with the community and strategic philanthropy; eco-efficiency and respect for the environment. The above are some of the attributes that determines a sustainable corporate governance approach directed towards the growth of corporate value and sustainability over time,⁴⁹

5. THE POSITIVE IMPACT OF THE APPLICATION OF GOOD AND EFFECTIVE CORPORATE GOVERNANCE PRINCIPLES AND BEST PRACTICES ON THE SUSTAINABILITY OF COMPANIES

The hallmark of best practices in corporate organizations is the adherence to sound principles of corporate governance to ensure the sustainability of companies through the observance of high degree of professionalism, transparency and accountability amongst other factors which are the fundamental components for building strong and stable corporate organizations and also public confidence. Financial scandals around the world and the collapse of major corporate institutions in the USA, Europe and Nigeria such as Lehman Brothers, Merrill Lynch, American International

⁴⁵ D R Marlow and others, Embedding Sustainability into a Utility's Business Culture [2012](104) *Journal of AWWA E121–E126*, 48.

⁴⁶ T Clarke and M Monkhouse, *Rethinking the Company*; Financial Times (Pitman: London, UK, 1994) 52.

⁴⁷ A M Harjoto, 'The Causal Effect of Corporate Governance on Corporate Social Responsibility' [2012] (16) *Journal of Business Ethics*, 53–72. ; R Eccles and others, ' The impact of Corporate Sustainability on Organizational Processes and Performance [2014] (60) *Management Science Journal*, 28–57. ; J E Ricart and M A Rodriguez, Sustainability in the Boardroom: An Empirical Examination of Dow Jones Sustainability World Index Leaders [2005](5) *Corporate Governance International Effective Board Performance Journal*, 24–41.

⁴⁸ W R Blackburn, *The Sustainability Handbook: The Complete Management Guide to Achieving Social, Economic and Environmental Responsibility* (Earthscan: New York USA, 2007) 61.

⁴⁹ B E Winston and K Patterson, An Integrative Definition of leadership [2006] (1) *International Journal of Leadership Studies* 6–66.



Group (AIG), Oceanic Bank, Savannah Bank amongst others, have brought to the fore the need for the practices of good and effective corporate governance principles.

The invisible power and the impact of good and effective corporate governance principles is not just in its definition but in its importance, relevance, benefits and objectives to the company. The primary objective of sound corporate governance principles is to contribute to improved corporate performance and accountability in creating long-term shareholder value by monitoring those parties within a company which control the resources owned by investors, while the sub-objectives of corporate governance principles are to control the controllers by increasing the amount of reporting and disclosure to all shareholders and stakeholders; increase level of confidence and transparency in company activities for all investors and thus, promote growth; ensure that the company is run in a legal and ethical manner.

Proponents of effective corporate governance principles,⁵⁰ say there's a direct correlation between good corporate governance practices and long-term corporate sustainability. In their view Good corporate governance practices convert principles into objective recommendations. aligning interests with the purpose of measuring and enhancing the organization's value, facilitating its access to capital and contributing to corporate longevity. Some of the key benefits of adhering to espoused principles of effective corporate governance according to them include: High performance Boards of Directors; Accountable management and strong internal controls; Increased shareholder engagement; Better managed risk; and effectively monitored and measured performance amongst others. Lee⁵¹ underscores the relevance of corporate governance principles based on empirical research findings that show that investors are keener to invest in well-governed companies. In arriving at the conclusion that effective corporate governance can be a powerful development tool, Lee foresees developing economies receiving a substantial boost from the additional investment and economic performance that good corporate governance can bring. In the same vein, Okeahalam,⁵² posit that, "when fully implemented, good corporate governance principles will ensure that large corporations are well-run institutions that earn the confidence of stakeholders, ensure safeguards against corruption and mismanagement".

The implementation of good corporate governance principles, determines the fate of individual companies and entire economies. It is also responsible for the establishment of an appropriate legal, economic and institutional environment that allows companies to thrive as institution for advancing long-term shareholder value, while remaining conscious of their responsibilities to stakeholders,

⁵⁰ L. Brown and M Caylor, Corporate Governance Study: The Correlation Between Corporate Governance and Company Performance. Institutional Shareholder Services (ISS). Retrieved from: <http://www.stybelpeabody.com>>Accessed July 4 2024.

⁵¹ P Lee, 'The Relationship between Corporate Governance, Transparency and Financial Disclosure' [2003] (3) Selected Issues in Corporate Governance: *Regional and Country Experiences*, UNCTAB/ITE/TEB/2003 Journal, 1- 10.

⁵² C Okeahalam 'Corporate Governance and Disclosure in Africa: Issues and Challenges'[2013] (12) *Journal of Financial Regulation and Compliances*, 217.



the environment and the society in general. The analysis done by Sanusi,⁵³ shows that, “the impact of good corporate governance practices on the society and national economy is that, it brings about growth that is positively related to the size of investment, its efficient allocation and a framework of accountability and transparency”. The Global Corporate Governance Forum,⁵⁴ underscores the fact that, “best practices in corporate governance is an issue of importance as they are the engine of growth. Well governed corporations play vital roles in promoting economic development internationally, thus making its issues important in the international agenda”.

6. THE NEGATIVE IMPACT OF NEGLECTING OR WILLFUL DISREGARD OF THE PRACTICES OF GOOD AND EFFECTIVE CORPORATE GOVERNANCE PRINCIPLES ON THE SUSTAINABILITY OF COMPANIES

The practices of the application of effective corporate governance principles represents the cornerstone of corporate integrity. It embodies a framework of rules, practices, and processes by which companies are directed and controlled in order to achieve corporate objectives and sustainability, while balancing the interests of shareholders, management, and other stakeholders. However, when the foundation pillars of corporate governance principles are neglected through lack of its application, which are manifested through the willful disregard of effective corporate governance and superficial compliance, they eventually culminate into negative vices such as : Weak institutional regulatory enforcement, falsification of returns,⁵⁵ high level of insider dealing , managerial opportunism, opaque disclosure practices, ineffective board oversight functions, override of internal control measures- weak internal control systems, corruption and bribery-kickbacks- systemic corruption, aggressive management earnings, absence of risk management processes, poor corporate culture-unethical practices, unskilled and inefficient management, inadequate regulatory surveillance/ Regulatory non-compliance, Whistleblower victimization: Suppressing internal whistleblowers prevents early detection of malpractices. All the above factors combine to destroy corporate credibility and create an environment where corporate malfeasance thrives.

7. ISSUES AND CHALLENGES AFFECTING THE APPLICATION OF CORPORATE GOVERNANCE PRINCIPLES ON THE SUSTENANCE OF COMPANIES IN NIGERIA.

Corporate governance serves as the cornerstone of sustainable business operations globally. In Nigeria, however, the adoption, implementation, and impact of corporate governance principles have faced persistent friction due to contextual realities unique to the Nigerian socio-political, legal, and economic landscape. The effectiveness of these principles in ensuring the sustenance of companies is often undermined by systemic, institutional, and compliance-based challenges. This section identifies and discusses the core issues inherent in evaluating the impact of corporate

⁵³ J Sanusi, ‘Promoting good Corporate Governance’. A key Note Address on Issues in Corporate Governance”(ed.) Oladimeji Alo, (Lagos FITC Publishers, 2003) 5.

⁵⁴ The Global Corporate Governance Forum Mission Statement.

⁵⁵ G A Ogunleye, ‘ Manifestations and Management of Distress in the Financial Services Industry ‘. A paper presented at the Financial Institutions Training Centre’s 2nd Bank Directors Workshop held at the Lagos , Sheraton Hotel 1993, 17.



governance principles on Nigerian companies. It further examines the extent to which these challenges affect the functionality, accountability, and sustainability of companies operating within Nigeria's corporate regulatory environment.

7.1 The Identified Issues and Challenges

1. Weak and Regulatory Overlap; Institutional Fragmentation in the Enforcement of Regulatory Frameworks.

The Nigerian corporate governance framework has evolved through the legal and institutional regulatory frameworks and judicial pronouncements,⁵⁶ to enhance corporate governance principles and ensure best practices and corporate sustainability. However, there are persistent issues and challenges affecting the sustenance of companies predicated upon the fact that, despite the existence of these frameworks, robust enforcement mechanisms, remains ineffective, lax and inconsistent due to : The multiplicity of regulatory agencies; Institutional inertia ; Lack of independence or political interference because the regulatory bodies lack autonomy or are perceived to be politically compromised; Conflicting corporate governance directives and weak enforcement⁵⁷; Enforcement of sanctions for non-compliance is inconsistent, sporadic and sometimes perceived as politically motivated or influenced by vested interests, leading to “paper compliance.” This fragmentation hinders a unified approach to corporate governance, making it difficult for firms to adhere to consistent standards. The fragmentation and inconsistency of the regulatory frameworks; Regulatory overlap and gaps which often result in regulatory ambiguity, confusion, duplication, and lack of harmonized standards, even with the issuance of the Code of Corporate Governance 2018 which by its provisions is perceived as the harmonized code of corporate governance in Nigeria, the board and management of corporate organizations for selfish benefits,⁵⁸ breach, circumvent and/ or overlook the intendment of its provisions.

2. Boardroom Conflicts and Abuse of Power

Board boardroom conflicts and abuse of power from every indication does no good for any corporate organization where they exist as they disrupt the smooth functioning of board operations and relegate performance and team work to the background. Such board in their activities are usually embedded in deep-seated and substantive disagreements /clashes and other forms of conflicts of interest such as: Director standing on both sides of a transaction; Policy/strategy conflicts between shareholder-majority vs minority; Role conflict between chairman and CEO over control; All of which may give rise to actual legal conflict-of-interest issues. Furthermore corporate board may abuse its powers when they deliberately exercise such powers for collateral/personal objectives which means that the director or board is using its formal powers for an improper

⁵⁶ *Eletu v. Africa Independent Television* (2018) LPELR-45772(CA).

⁵⁷ *Federal Republic of Nigeria v. Nwude & Ors* (2005) 4 NWLR (Pt. 916) 184 .

⁵⁸ *Ojukwu v. Yar'Adua* (2009) 12 NWLR (Pt. 1154) 50.



purpose,⁵⁹ or deliberate misuse of board position for personal gain or factional benefit,⁶⁰ or to benefit insiders at the expense of the company or its members such as self-dealing, expropriation of company assets, or otherwise acting in breach of fiduciary duty,⁶¹ diverting corporate opportunities, oppressive conduct toward minorities such as excluding minority shareholders from participation,⁶²; Factionalism- directors forming blocs aligned to different shareholders,⁶³; Using board majority to pass self-serving resolutions.

3. Boardroom Deficiencies; Ineffectiveness and Lack of Board Independence:

These factors collectively compromise oversight. It weakens governance structures; Erodes and undermines the independence and functionality of board committees, especially audit and risk committees; Stifles dissent and sometimes leads the boards to operate as “rubber- stamp boards” for dominant shareholders or management. Also, there is weak board evaluation and inadequate training limit oversight which creates inefficiency in the discharge of duties Furthermore, boards tend to lack expertise, gender and skill set diversity because board members are often politically appointed or chosen based on loyalty, tribalism and nepotism rather than competence. Even playing field based on merit were not considered as an option.

4. Passive Shareholder Activism and Inadequate Minority Shareholder Protection

The lack of vibrant shareholder activism in Nigeria limits the ability to hold management accountable. Unlike in developed economies, shareholder associations in Nigeria are less active, and the market for corporate takeovers is non-existent or corrupt, reducing external pressures for good governance. The institutional shareholders (investors) who are uninformed and sometimes unaware of their rights are often sidelined and rarely hold the boards accountable. The minority shareholders are frequently disenfranchised and remain largely disengaged, hindered by informational asymmetry, legal complexity, and fear of reprisal. This undermines effective shareholder activism even where structures exist. This shareholder passivity and apathy, weakens the system of checks and balances on the management and executive actions and limits corporate accountability, intended to underpin good corporate governance. Although under the law remedies for minority shareholders such as derivative actions exist, they are not only costly and slow to enforce, such remedies as applied in Nigeria are underutilized due to procedural hurdles. The foundational rule that the company, not individual shareholders, is the proper plaintiff; exceptions apply where minority rights are violated⁶⁴. Also, minority shareholders often lack the voting power or resources to influence major corporate decisions’.

⁵⁹ *Howard Smith Ltd v. Ampol Petroleum Ltd* (1974) AC 821 .

⁶⁰ *ibid*, ss 310–313.

⁶¹ *Ibid*, s 305 : *Union Bank of Nigeria v. Ajagu* (2014) LPELR-23094(CA).

⁶² CAMA 2020, s 343.

⁶³ *Olawepo v. SEC* (2011) 15 NWLR (Pt. 1270) 547.

⁶⁴ *Foss v. Harbottle* (1843) 67 ER 189.



5. Entrenched Institutionalized Corruption: Lack of Ethical Corporate Culture

One of the challenges in corporate governance is the entrenched and institutionalized corruption which has remained a pervasive issue, deeply embedded in Nigeria's socio-economic and political systems. This affects corporate governance by fostering adverse practices such as bribery, nepotism and accounts falsification as was made manifest in high-profile scandals such as the Cadbury Nigeria, Intercontinental Bank, Afribank and underscores how fraudulent accounting practices and weak audit oversight have eroded public trust.

Unchecked corrupt practices are some of the reasons why the issues of bribery affairs and corruption will not just only remain entrenched and institutionalized both in the private and public sectors. They will continue to erode trust in governance structures and deter investor confidence, threatening company sustainability. There is no doubt that, corporate governance fail where there are ethical corporate culture violations such as: Insider trading, fraudulent reporting, related-party transactions and where undisclosed beneficial ownership,⁶⁵ by directors are prevalent or commonplace and often either unpunished or inadequately sanctioned,⁶⁶. The case of *Union Bank of Nigeria Plc v. Ajagu*,⁶⁷ highlighted failures in disclosure and transparency. The court stressed the duty of directors to avoid conflicts of interest and disclose material dealings.

8 SUMMARY OF FINDINGS

Based on a comprehensive doctrinal evaluation of the legal and regulatory architecture governing corporate transactions in Nigeria, the following five core findings are established:

1. The Symbiotic Nexus Between Governance and Sustainability: The study establishes that corporate sustainability is the direct operational dividend of effective corporate governance. While adherence to sound governance practices systematically lowers capital costs, optimizes resource allocation, and enhances investor confidence, a willful disregard for these pillars transforms manageable business risks into terminal existential threats.
2. The Centrality of Statutory Mandates under CAMA 2020: It is found that sections 293, 379, and 385 of the Companies and Allied Matters Act 2020 explicitly codify the bedrock pillars of transparency, disclosure, and accountability by imposing unyielding duties on corporate directors. However, these sophisticated statutory provisions are frequently undermined in practice by a pervasive culture of executive override and compromised internal control mechanisms.
3. Commonality of Pathological Factors in Corporate Collapses: A comparative assessment of international collapses and domestic failures reveals an identical institutional pathology. The ultimate driver of corporate demise across both spheres is consistently traced to internal systemic manipulation, including creative accounting, deceptive financial reporting,

⁶⁵ CAMA 2020, s303, requires directors to disclose any interest in contracts.

⁶⁶ Ibid, s303, mandates directors to disclose interests, but enforcement remains weak.

⁶⁷ (2015) LPELR-24586(CA).



unbridled insider loans, passive board oversight, and a lack of professional skepticism by external auditors.

4. **Enforcement Paralysis via Regulatory Fragmentation:** The study finds that the implementation of the Nigerian Code of Corporate Governance 2018 is severely hindered by overlapping jurisdictional mandates and friction among multiple regulatory entities, such as the SEC, CBN, and CAC. This institutional fragmentation breeds regulatory ambiguity, allowing non-compliant corporate actors to exploit enforcement gaps.
5. **Socio-Legal Distortions and Judicial Impotence:** The research identifies that boardroom functionality in Nigeria is heavily compromised by deep-seated conflicts of interest, the overbearing influence of majority shareholders, and political interference. Furthermore, this internal decay is worsened by passive, uncoordinated shareholder activism and chronic systemic delays within the Nigerian judicial system, which frustrate the swift enforcement of corporate sanctions.

9 CONCLUSION

The assertion that a corporate institution without a sound system of corporate governance is merely “a body without a soul or conscience” summarizes the fundamental trajectory of this research. Corporate governance principles are not optional administrative technicalities; they constitute the structural and ethical framework essential for long-term corporate survival and national economic resilience. The Nigerian legal landscape is not deficient in statutory prose or regulatory design. The enactment of the Companies and Allied Matters Act (CAMA) 2020 and the Nigerian Code of Corporate Governance (NCCG) 2018 reflects a highly sophisticated legislative intent to institutionalize transparency, protect minority stakeholders, and curb managerial excesses. However, the transition from legislative text to operational reality remains paralyzed. The recurring multi-billion Naira scandals that have historically rocked both the financial and manufacturing sectors underscore a dangerous truth: no corporation is too large or too liquid to fail once its governance pillars are abandoned. Until the systemic friction caused by regulatory overlaps, boardroom politics, institutional corruption, and slow judicial enforcement is aggressively dismantled, corporate governance in Nigeria will remain largely an aesthetic exercise in paper compliance. For Nigerian companies to thrive competitively within the global economy. The enforcement architecture must be radically reformed to ensure that compliance is absolute, gatekeepers are independent, and violations attract immediate, unalterable legal consequences.

10 RECOMMENDATIONS

To bridge the enforcement gaps identified in the findings and ensure that corporate governance principles actively sustain companies within the Nigerian corporate regulatory environment, the following five targeted structural and legal reforms are recommended:

1. **Establishment of an Inter-Agency Regulatory Harmonization Committee:** To resolve enforcement paralysis caused by regulatory fragmentation and jurisdictional overlaps, the



Financial Services Regulation Coordinating Committee should be legally empowered to operate a unified oversight matrix among the SEC, CAC, and CBN. This will harmonize conflicting directives, eliminate regulatory blind spots, and present a single enforcement front against non-compliant corporations.

2. **Strict Codification of Criminal Liability for Financial Misstatement:** To curb internal systemic manipulations like creative accounting and deceptive financial reporting, the Federal Ministry of Justice should collaborate with the National Assembly to amend the penal provisions of CAMA 2020. This amendment must introduce mandatory, non-commutable custodial sentences for directors and chief executive officers who deliberately certify falsified or window-dressed accounts.
3. **Mandatory Disqualification of Compromised External Auditors:** To address the lack of professional skepticism among gatekeepers, the Financial Reporting Council of Nigeria must aggressively exercise its disciplinary powers by revoking the practicing licenses of external audit firms that collude with corporate management to conceal off-book liabilities, while strictly limiting audit tenures to a non-renewable five-year cap.
4. **Institutionalization of Independent Board Nomination Structures:** To dismantle socio-legal distortions such as boardroom nepotism, conflicts of interest, and political patronage, the CAC and FRCN should maintain a verified database of certified, independent corporate governance professionals from which independent non-executive directors must be chosen via a transparent, merit-based vetting process completely insulated from majority shareholder dominance.
5. **Creation of Specialized Corporate Courts and Active Shareholder Protection:** To overcome judicial impotence and passive shareholder activism, the National Judicial Council should establish dedicated fast-track Corporate Governance and Commercial Courts mandated to determine cases regarding director liability and insider trading within ninety days. Concurrently, legislation must provide absolute statutory immunity and financial incentives for internal whistleblowers who expose corporate fraud.