SUSTAINING CORPORATE GOVERNANCE IN NIGERIA: LEGAL ISSUES AND PROSPECTS*

Abstract
Presently, many governments of the world react seriously to corporate failures because much depends on the corporate power of a country. The universality of unrestrained management power encouraged the creation of many company governance rules and guidelines to control the hedonisms of corporate management. Corporate governance is very significant concerns for economic growth and productivity. In Nigeria, corporate governance is not without its challenges. This paper discusses these challenges, legal protection for the corporate sector and the future of corporate governance in Nigeria. The paper employed the doctrinal approach through the use of primary and secondary materials. At the end, it concluded that despite good legal and institutional frameworks to govern the corporate sector in Nigeria, the major challenges lie in the lack of transparency and political influence in the corporate sector. It made certain recommendations which include that every stakeholder must join hands to fight corruption in every sector of the economy and corporation should expand beyond the urban areas to include the rural areas, among other things.

Keywords: Corporate governance, shareholders, Directors, companies, corporate world, accountability

1. Introduction

Corporate governance is one of the burning issues in many nations of the world. This is because it has much to do with the economy of that nation. Thus, the increase in corporate failures is of great concern to all.[1] The ubiquitous nature of unrestrained management power of the corporate world has encouraged the creation of copious corporate governance rules and guidelines of operation to control the excessive powers of corporate management. Corporate governance plays an important role in economic competence and development. Much of world economy leans so much on it and many nations have put measures in place to prevent corporate failure and bankruptcy due to abuse in the sector.[2] Nigeria is not left out in the corporate governance predicament. There have been reforms in corporate governance in recent times.[3] There are many corporate governance contentions swaying business practices in the country. These include political uncertainties, regulatory slackness, corruption and fraud, partial disclosure and lack of transparency, etc.[4] All of these stand as obstructions to an operational corporate governance exercise in Nigeria. Besides discussing these barriers, this paper intends to look into the legal framework for regulating a hitch free operation of corporate governance in Nigeria. To achieve this, the paper is divided into Part I, which is this introduction; Part II which is the contextual framework upon which the paper is based; Part III is the legal framework for the regulation of corporate governance in Nigeria; Part IV discusses corporate governance in Nigeria; Part V looks at the various challenges of corporate governance in Nigeria; Part VI recommended different modalities to achieve better corporate governance experience in Nigeria and Part VII is the conclusion.

2. Contextual Framework

Corporate Governance

This is a system by which corporations are regulated or controlled.[5] It symbolizes the whole procedure for safeguarding good corporate practice among shareholders.[6] Owing to the significant nature of corporate governance to the economy and domestic advancement of the nation, bilateral organisations at various times[7] have suggested uniform rules to regulate corporations.[8] The Central Bank of Nigeria (CBN) gave a concise definition that corporate governance is ''a process by which corporations are governed and controlled with a view to increasing the values and expectations of shareholders.''[9]

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[1] Adebola Adeyemi, 'An Evaluation of corporate Governance Practices in Nigeria; Challenges and Recommendations' available at https://papers.ssrn.com accessed 31/1/23.
[2] *Ibid.*
[3] Alo, O. (2003) *Issues in Corporate Governance* Financial Institution Training Centre, Lagos.
[4] Adebola Adeyemi, note 1, p. 2.
[5] Cadbury, A. (1992) Report of the Committee on the Financial Aspect of Corporate Governance London, U.K.: Gee & Co. Limited.
[6] Inyang, B.J. (2004) Corporate Planning & Policy: Concepts and Application. Calabar, Nigeria: Merb Publishers.
[7] These organisations include the Commonwealth Association of Corporate Governance (CAGG, 1999); Organisation of Economic Corporate and Development (OECD, 1999); the World Bank (1999); Global Corporate Governance Forum (GCGF, 1999); and the Pan African Consultative Forum on Corporation Governance (PACFCG, 2001).
[8] Roe, M.J. (2003), Political determinations of corporate governance: Political content, corporate impact, Oxford, U.K. Oxford University Press.
[9] Central Bank of Nigeria-CBN (2006) Code of Corporate Governance for Banks in Nigeria Post Consolidation.

Corporate Governance Code/Rules

These are Codes or Rules put in place to enhance or complement existing corporate laws.[10] They serve as good corporate governance reforms for the country.[11] As stated earlier, corporate governance is a procedure by which companies are governed and controlled in other to ensure values and the expectations of stakeholders are actualized, these codes/ rules govern such companies appropriately.[12] Many of these rules are introduced by professional bodies with the approval of government agencies for adoption and implementation by Board of Directors.[13] It is the responsibility of the Board of Directors directly to adopt and bring down these codes to the various stakeholders.[14] The rules enhance corporate performance, safeguard shareholders' interests, encourage shareholders' value, preserve the corporate environment, encourage accurate financial reports, and add to the wellbeing of the general public.[15]

Corporate Governance Environment

The corporate governance environment controls the economic, political and socio-cultural elements which encourage good corporate governance and discourage corruption or misconducts.[16] It comprises the economic, political, social, legal, and technological organizations, which inspire the moral natures of private corporations.[17]

Corporate Governance Mechanism

These are the different machineries through which a country's corporate laws and corporate governance rules are applied for the good of all.[18] The machineries include the various avenues for checking compliance.[19] As Dabor and Adeyemi rightly put it, the efficiency of a state's corporate governance machinery is determined fundamentally on its supervisory structure and communal governance systems.[20] The corporate governance rules are best supervised by experts in partnership with government agencies and the capital market supervisory body.[21] It is not how much corporate machinery that makes good corporate governance but it is the implementation of the corporate governance rules by the private sector that encourages good corporate governance. The private sector must conform to these codes through a comprehensive ethical corporate practice.[22] The Security and Exchange Commission (SEC) noted through its survey mechanism that only 40% of companies in Nigeria have implemented the country's corporate practice rules.[23] This explains the lack of accountability, social responsibility, integrity, transparency, and poor environmental sustainability, which characterise the corporate sector in Nigeria.

3. Legal and Institutional Framework for the Advancement of Good Corporate Governance Practice in Nigeria

Nigeria has some good laws and institutional provisions to encourage good corporate practice and which if adequately and strictly complied with, will bring the Nigerian corporate practice to world best standards. The foremost law is the CAMA.[24] It is the main law which regulates the activities of companies in Nigeria. This is followed by the ISA,[25] CBN Act[26] and the NDIC Act,[27] all of these play their respective roles for an effective corporate sector. There is the Code of Corporate

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[10] Dabor, E.L & Adeyemi, S.B. (2009) Corporate Governance and the credibility of Financial Statements in Nigeria, *Journal of Business Systems, Governance and Ethics* 4(1) pp. 13-24; also, Scott, D.H. (2007) Strengthening the governance and performance of state-owned financial institutions. Policy research Working Paper 4321, 2007, The World Bank.

[11] Ugoji, & Isele (2009) 'Stress management & corporate governance in Nigerian Organisations' *European Journal of Scientific Research* 27 (3) 472-478; also, Classens, S. & Bruno, V.G. (2007) Corporate Governance and regulation: can there be too much of a good thing? Policy research Working Paper 4140, 2007, World Bank.

[12] Okhealam, C.C. & Akinboade, O.A. (2003). A review of Corporate Governance in Africa: Literature issues and challenges. Paper presented to the Global Governance Forum 15 June 2003, pp. 1-34; also, Andreasson, S (2009) Understanding Corporate Governance Reform in South Africa: Anglo-American Divergence, The Kings report and Hybridization, Business & Society. Available at http://bas.sagepub.com/cgi/rapidpdf/0007650309332205vl accessed 5th April 2023.

[13] Sanusi, J.O. (2003) Embracing good corporate governance practices in Nigeria. Keynote address by Governor of the Central Bank of Nigeria during the 19th Annual Director's Seminar organized by the Financial Institutions Training Centre in Abuja, Nigeria on June 17, 2003. And Soludo, C.C. (2004) Consolidating the Nigerian banking industry to meet the development challenges of the 21stCentury. Addressed by Governor of the Central Bank of Nigeria at the special meeting of the Bankers' Committee in Abuja on July 6, 2004.

[14] *Ibid.*

[15] Elebute, K. (2000) 'Corporate Governance reporting and Shareholder Value,' *Business and Management Journal* 3(1) 8-19.

[16] Li, S. & Nair, A. (2009) 'A Comparative Study of Economic Reforms in China and India: What can we learn?' Global *Economic Review* 36 (2) 147-166.

[17] Amao, O. & Amaeshi, K. (2008) Galvanizing shareholders' activism: a prerequisite for effective corporate governance and accountability in Nigeria. *Journal of Business Ethics* 82:119-130.

[18] Reed, D. (2002) 'Corporate Governance Reforms in Developing Countries', *Journal of Business Ethics* 37, 223-247.

[19] *Ibid.*

[20] Dabor, E.L & Adeyemi, note11.

[21] Reed, note 19.

[22] Gatamah, K. (2008), 'Corporate Governance in the African Context'. Economic Reform Feature Service, 1-6 http://www.cipe.org/publications/fs/pdf/033108.pdf accessed 5th April, 2023.

[23] Amao, O. & Amaeshi, K. note 18.

[24] Companies and Allied Matters Act, cap. C20, Laws of the Federation of Nigeria (LFN), 2004.

[25] Investments and Securities Act, Cap. 124 LFN, 2004, as amended by Act No. 29, 2007.

[26] Central Bank of Nigeria Act, Cap. C4 LFN, 2004, as amended by Act No. 7, 2007, applicable to all banks operating in Nigeria.

[27] Nigeria Deposit Insurance Corporation Act, Cap. N102 LFN, 2004, as amended by Act No. 16, 2006, applicable to all banks operating in Nigeria.

Governance in Nigeria designed by SEC for all public companies registered in Nigeria. There is also the Code of Corporate Governance for Banks in Nigeria Post-Consolidation 2006,[28] which was handed out by the CBN and applicable to all banks operating in Nigeria. There is also the code of Corporate Governance for License Pensions Operators 2008, issued by the National Pension Commission (NPC) and which applies to all Pension Fund Administrations and Pension Fund Custodians in Nigeria. There is also a Code of Good Corporate Governance for the insurance sector, handed out by the National Insurance Commission (NAICOM) in 2009 for all insurance companies in Nigeria. There is the Financial Reporting Council of Nigeria Act,[29] handed down by the Nigerian Communications Commission (NCC). All of these control the corporate sector in Nigeria.

4. Corporate Governance in Nigeria

Corporate governance is legally provided for in Nigerian laws. It is in the Companies and Allied Matters Act (CAMA), 1990; Investment and Securities Act, 1999 (as amended); Bank and Other Financial Institutions Act, 1991 (as amended); and Securities and Exchange Commission Act, 1988 (as amended). All the laws require the CAC, CBN, and SEC to regulate corporate governance in the country.[30] The laws also replicate a few principles of the corporate governance as provided by the OECD in a bid to reflect international best practices. CAC, CBN, and SEC are to regulate corporate governance through cooperation among themselves.[31] For example, SEC while working with CAC initiated a seventeen member Committee to ascertain the various defects in the recent corporate governance practice in the country and to come up with possible modifications for a better corporate governance in Nigeria. The report of this Committee was later accepted by their respective Boards and published as Code of best practices on corporate governance for public companies, 2003.[32] The Code of 2003 provides responsibilities for Board of Directors, shareholders, audit Committee, etc. thus;

Board of Directors- is to be responsible for the affairs of the company. They are to direct and manage the business of the company.[33] It is the duty of the Board to define the company's tactical goals. It ensures that both human and financial resources are successfully organized to accomplish the set goals. It ensures its employees and shareholders are well provided for.[34] The Board comprises of a mixture of executives and non-executive directors, all are professionals in their various field of operations. And they must be noted men of integrity, compatibility, independent and always available for meetings. The Chairman of the Board must be a non-executive director. He is to effectively steer the Board towards accomplishing its goal. Though he is not involved in the everyday tasks of the business, he independently works with the Chief Executive Officer to achieve the overall objectives of the company. In other to avoid over concentration of power likely to lead to abuse and the prerequisite checks and balances which the Board needs to effectively function.[35] It is the duty of the Board to meet at least quarterly. On the Board should be executive and non-executive directors. The Executive Directors are to be part of the day to day running of the company while the non-executive Directors who are persons of great abilities, credible and experienced who should contribute their independent ideas and suggestions to the management of the company.[36] The executive directors are the management team of the company. They head departments and are answerable to the Board through the Chief Executive Officer or the Managing Director. They are not to be deliberate on how much salaries they are to earn and they must be vast in the operations of the company. Their remuneration is decided by the Board and approved by the shareholders in the general meeting. It is the responsibility of the Board to review salaries and other entitlements periodically.

Shareholders- shareholders must be treated fairly and equally irrespective of the amount of shares they own. Those with large shares should be accorded some special treatment like getting special privileged access to information and certain other privileges. For public companies, it is the shareholders that play the fundamental role in corporate governance. They influence and ensure that standard is maintained. It is their duty to ensure compliance with the Code and should be quick to detect and condemn non-compliance.

Audit Committee- Public companies are required to have an Audit Committee.[37] The Board ensures that the Audit Committee is created in the approved way required for its effective operations. The Audit Committee also assists in overseeing the effective management of the finance of the business. They make up the Board. The Board is responsible for the smooth performance of the company. It sets goals for the company and utilises both the human and financial resources of the company to achieve the set goals. The management of the company rests on the Board. The size of the Board depends on the operations and size of the company. It represents the brains and experience capacity of the company and must reflect

[28] The CBN 2006 Code.
[29] Financial Reporting Council of Nigeria Act No. 6 of 2011.
[30] Ejuvbekpokpo, S.A. and Esuike, B.U., 'Corporate Governance Issues and its Implication: The Nigerian Experience' *Journal of Research in International Business Management* Vol. 3(2) pp. 53-57, 2013.
[31] *Ibid.* at p. 54.
[32] *Ibid.*
[33] CAMA, section 244.
[34] *Ibid.*
[35] Nana, J. Omorokpe (2011). *Contemporary Issues in Professional Ethics and Social Responsibility,* Ribway Printers Limited. Benin City.
[36] *Ibid*.
[37] CAMA, sections 359(3) and 4.

integrity, compatibility, availability and independence. It is both the executives and non-executives. The majority are the non-executives, who are headed by the Chairman.[38]

The Chairman of the Board is a non-executive director of the company whose major obligation is to ensure active and efficient operation of the Board as it strives towards attaining the company's tactical objectives. He is not supposed to be part of the day to day running of the company. In other to avoid the over reliance of power on one individual, the Chairman is different from the Chief Executive Officer of the company. This encourages the needed checks and balances for the discharge of their duties.[39] The Board is expected to sit at least every quarter and every Director is mandated to attend 2/3 of the meetings.

Corporate governance is not new in Nigeria. Although, the uncultured abuse of corporate governance is on the increase at the moment. There have been notable cases like the case of Lever Brothers Plc,[40] Cadbury Nigeria Plc,[41] Oceanic Bank, Union Bank, Intercontinental Bank, People's Bank, NAFCON, etc.[42] Though, the mismanagement of these companies were greatly publicized, the outcome of the investigating panels and supposed punishment was not made known to the public, nor was their level of culpability known. Although, it was largely reported that Cadbury was asked to pay some fine by SEC and whether this was paid or not is not known.[43] Many of the cases of abuse of companies were witnessed in 1990s and 2000s and they were mostly as a result corruption and various dubious and dishonest practices.[44] Whenever a company folds up, it invariably affects the society, especially, the stakeholders and Shareholders. Lately, the Directors-Generals of the Nigerian Securities and Exchange Commission (SEC) and the Nigerian Stock Exchange (NSE) were alleged to have committed severe breaches of corporate governance rules. The revised code of corporate governance was validated in 2004.[45] The Code provides six principles of corporate governance. These principles cover six key areas of corporate governance to ensure effective corporate governance framework. They include ensuring the basis for effective corporate governance;[46] rights and equitable treatment for Shareholders;[47] roles and responsibility of the Board;[48] integrity and ethical behaviours;[49] Code of Conduct;[50] and Disclosure and transparency.[51]

5. Challenges of Corporate Governance Reformations in Nigeria

An all-encompassing corporate governance practice will not only prevent misappropriation of funds but will encourage external investments, it reduces corruption and unprofessional conducts. It guards against accounting frauds, non-disclosures, abuses, etc.[52] The problems facing corporate governance in Nigeria are numerous but the major ones include:

Lack of Transparency and Non-disclosure

According to Adebola, transparency and disclosure are vital in corporate governance practice.[53] The Central Bank of Nigeria in their Code of Corporate Governance for Banks in Nigeria Post Consolidation, 2006, make public some hitches in the execution militating against the smooth implementation of corporate governance practice in the banking system.[54] The CBN emphasized that only 40% of cited companies had a recognized code of corporate governance in place and that the deplorable corporate governance was one of the main factors which encourage corporate failure.[55] In 2005, twenty five banks emerged after consolidation.[56] The CBN acknowledged the limited time given banks to amend their investment failures and other issues involved. The central bank went further to count these issues and challenges as lack of credible risk management system; technical incompetence; internal abuse; market manipulations; income mismanagement; fraudulent accounting system; discriminatory disclosure; etc. It expressed some optimism that the Corporate Governance

[38] Ejuvbekpokpo, S.A. & Esuike, B.U., note 25.
[39] *Ibid.*
[40] Led by Chief Rufus Giwa of blessed memory.
[41] Led by Mr. Bunmi Oni.
[42] The Nigerian was closed down in 1999 due to technical and management problems, and a series of attempts by the government to revamp it had failed. It was only just refurbished by the Houston-based Proplant Inc. with the help of local engineers. It has not fully recovered from over ten years of shutting down. See more by Tume Ahemba. 'Nigeria fertilizer plant'
[43] Ahmad, M.K. (2008). 'Corporate Governance in the Pension Industry,' A paper presented at the Adebayo Akerele Distinguished lecture series at the Faculty of Management Science, University of Benin, Benin City, Edo state, 25yh May, 2008.
[44] Sanusi, J.O. (2003). 'Embracing Good Corporate Governance Practices in Nigeria' A Keynote address at the 19th Annual Bank Directors seminar organized by the Financial Institute Training Centre, Abuja on June 19th 2003.
[45] The Organisation for Economic Cooperation and Development (OECD).
[46] OECD, Principle I
[47] OECD, Principle II.
[48] OECD, Principle III.
[49] OECD, Principle IV.
[50] OECD, Principle V.
[51] OECD, Principle VI.
[52] See <www.ecgi.org/codes/all_codes.php> for an index of various codes and guidelines on corporate governance, accessed 25/3/23.
[53] Adebola Adeyemi, note 4, p. 2.
[54] Corporate Governance Code, 2006. Available at <www.ecgi.org/codes/documents/cg_code_nigeria_2006_en.pdf.>
[55] *Ibid.*
[56] Central Bank of Nigeria, Banking Supervision Annual Report, 2005.

Code, 2006 would no doubts, check these challenges.[57] Through the Expanded Discount Windows (EDW), the CBN was able to grant these banks through the giving of credit facilities to assist them. This was the scandalous "Sanusi Tsunami'' of 2009, which saw the sack and prosecution of some bank Managing Directors for their financial mismanagements.[58] There has been a worldwide fiscal crunch since 2007. This critically affected many commercial banks in Nigeria and other third world countries. This was not due to a direct exposure in the international fiscal market but due to intrinsic flaws in the corporate governance practices and a missing risk management structure.[59] The Code is very helpful. It portrays the vital roles the banks play in the capital and liquidity of business connections and subsequently in economic growth. The importance of banks in the economy of every nation cannot be over stressed. Their good or bad performance, effects the economic wellbeing of the country. One way it affects the country is seen by the inflated interest rates on depositors.

Supervisory Permissiveness

There are good laws to regulate corporations in Nigeria but the executives have always found ways to compromise these laws.[60] In Nigeria, the elites disregard the law with impunity.[61] They lack control and work outside the international best practices. This weakens corporate governance and produces an inefficient corporate sector.[62] New opportunities have emerged in the corporate sector following the upsurge of a borderless world and the information technology. These, though, encourage good corporate practice but they also attract higher risk in the form of deception and stealing contrary to the ability of any country to invite foreign investments. No investor would like to commit resources in an uncertain and fraudulent system. In August 2008, the then CBN Governor, Sanusi Lamido, in exercise of his statutory powers, comprehensively audited 25 banks. A year after that, only 15 of the banks came out strong, 8 were distressed while 2 were totally under-funded. This saw the sack of some Board directors for gross abuse and financial impropriety. The CBN went on to prosecute these directors for various crimes. It was agreed that the inability of the CBN to effectively apply its corporate governance rules and to monitor the strict compliance of these rules.[63]

There is need for adequate regulation and supervision to check the excesses of the executives. Unfortunately, this is lacking in Nigeria. Rather than adequate supervision, there is complexity in corporate governance resulting in many abuses and unethical conducts witnessed in the corporate sector.[64] Until 2011 when the Evidence Act 1954 was amended, doing justice in corporate matters was difficult due to its obsolete provisions.[65] For example, not until the amendment of 2011, the admissibility of computer generated evidence was not allowed. This had been an object of great controversy and debate among learned scholars.[66] The amendment of the Evidence Act in 2011 was a good step in the right direction. This has given a legal authority to online financial services and transactions. It is good to note that the principles of corporate governance in Nigeria are available on both hard and soft legal methods. They are adequately protected in hard copies and in soft copies in the form of policy documents and guidelines.[67] All of these require strict compliance for good corporate practice. No matter how well couched, these laws and rules can achieve nothing. These laws are merely a starting point to good corporate governance. Without adequate supervision and a deliberate change in the economic environment, especially, among company managers, the much needed changes would not be achieved. A weak legal and economic framework, coupled with poor supervision would result in weak and failed corporate world. The regulatory bodies include SEC, CBN, CAC, EFCC, ICPC, the Nigerian Police Force, etc. These bodies play a supervisory role in corporate practice in Nigeria. But, they play into each other's space most times due to their overlapping or similar tasks. They are not harmonised and do not effectively exchange information. According to Adebola, these regulatory bodies themselves need a singular supervision, which could stop them from having excessive powers as well as remove avoidable delays and costs

[57] *Ibid.*

[58] Google 'The Sanusi Effect: Banking Tsunami Wipes out Corporate Fraudsters in Nigeria' available at <htpps://books.google.com> accessed 30/4/23; also, allAfrica.com 'Nigeria: When Sanusi's Tsunami Caught Nigerian Economy Unawares' available at https://allafrica.com accessed 30/4/23.

[59] Central Bank of Nigeria, Banking Supervision Annual Report, 2005.

[60] Example of such Laws include the Company and Allied Matters Act (CAMA), the Security and Exchange Commission (SEC) Code of Best Practices on Corporate Governance 2003 (SEC Code 2003 available at <https://www.sec.gov.ng/lawandrules.htm, the Corporate Governance Code 2006, etc.

[61] Ayodele Adelaja Adekoya, 'Corporate Governance Reforms in Nigeria: challenges and Suggested Solutions' Journal of Business Systems, Governance and Ethics Vol. 6 no.1 2011.

[62] Okhealam, C.C. and Akinboade, O.A., note 13.

[63] Sanusi, J.O. (2003), note 39.

[64] Assuncao, R.R., Luca, M.M., & Vasconcelos, A.C. (2017) 'Complexity and corporate governance: An analysis of companies listed on the BM&FBOVESPA' available at https://doi.org/10.1590/1808-057x201702660 accessed 30/4/23; also, Bushman, R., Chen, Q.I., Ellen Engel, and Abbie Smith 'Financial accounting information, organizational complexity and corporate governance systems available at <https://www.sciencedirect.com accessed 30/4/23.

[65] Evidence Act 1945 Cap 112 LFN 1990 now Evidence Act 2011, available at http://www.nigeria-law.org/EvidenceAct.htm accessed 30/4/23.

[66] Osibanjo, Y., 'Admissibility of Computer Generated Evidence under Nigerian Law', JUS, Vol. 1 No. 1 pp. 11-17, 1990; also, Osipitan, T., 'Admissibility of Computer Print Out under Nigerian Law, Lawyers Bi-Annual Vol. 2 No. 2 pp. 236-248, 1995.

[67] The mandatory (hard copies) include the CAMA, Banks and other Financial Institutions Act 2004 (Cap B3 LFN, 2004), Investment and Securities Act 2007, and the Corporate Governance Code 2006.

of enforcement.[68] This is what obtains in the western world and in line with world best practices.[69] The United Kingdom (UK) Financial Services Authority (FSA) is a fantastic watchdog which uses a collaborative and counselling approach, without obstructing the financial sector but ensuring a strict compliance to the rules.

Widespread Corruption and Deception

Corruption is endemic in Nigeria. No sector is particularly free of the menace. The corporate sector is bedeviled by so much corruption and deception. Nigeria ranked 130 out of 180 countries of the world in the International Global Corruption Perception Index in the 2009 survey by the Transparency International (TI).[70] The outcome indicates that despite surplus laws against corruption,[71] the plague continues. The corporate sector cannot be different from the corruption which characterizes the society wherein they operate, especially, in a weak corporate governance environment like Nigeria.[72] One of the effects of colonialism and prolonged military rule in Nigeria is the inherited corruption which politicians built upon to destroy every facet of the economy. Till date, the ruling class institutionalized corruption and formed an atmosphere of impunity from legal prosecution, more so, when the judiciary seems to be under their control and influence.[73] The politicians appoint their allies as board members of government agencies to advance their corrupt agenda.[74] The private sector, on the other hand, must play along to service the agenda of the same politicians if they must be allowed to survive.[75] A good example is the naira scarcity from January to March, 2023 following the change to a new currency. The efforts of the CBN to stop the cash flow in other to stop vote buying and rigging in the 2023 election was disillusioned as the same politicians were seen with bags of the new currency while there was none for the masses, which means the banks compromised the politicians who are their biggest and surer customers against the needs of the masses who they are supposed to be servicing. The despicable romance between the politicians and the corporate sector has further deepened the menace of corruption in the country. Many politicians and their families own more than 80% of registered companies in Nigeria.[76]

There are many cases of corruption in the corporate and political sectors. For instance, the former Governor of Delta State, Mr. James Ibori was indicted for money laundering of about twenty million pounds from state funds into his private accounts in the UK in 2002.[77] Mrs. Cecilia Ibru was jailed for fraud, which led to the inevitable collapse of Oceanic National bank.[78] She was fined one billion euros along with a jail term of 6months. Oceanic National bank became distressed and acquired by Eco bank 2011.[79] There are many other cases of corruption in the corporate sector. Corruption discourages investors and limits meaningful economic schedule. We are not in doubt of the laws against corruption in Nigeria. They are all of international approval. All that is needed is strict implementation and observance. There are also anti-graft agencies that can collaborate by sharing information and exchanging technical ideas to manage the social jeopardy. Closely following corruption is fraud. This is common all over the world and indeed in Nigeria, although, some economies have devised some effective means to handles it. Fraud is rampant in Africa.[80] It is the major reason why the continent is under developed. The corporate sector in Nigeria is characterized by fraud along corruption. Not even the CAC can effectively monitor SMEs. The politicians are a check on the CAC because board members are political appointees who must protect the cause of their godfathers. Politicians influence the award of contracts in the country and those without political godfathers must be prepared to bribe their way through. Despite, the efforts of the EFCC and ICPC who are the giant bodies created to fight corruption, corruption seems to have come to stay in Nigeria. These two anti-corruption agencies seem powerless in the fight against corruption in Nigeria because it is mainly a fight against the ruling elites in the country. These problems have become so prevalent in Nigeria and nothing seems to be done to curb the menace, especially, in the corporate sector. Such abuses abounds where the Board is too powerful and members too weak or ignorant of the running

[68] Adebola Adeyemi, note 48, p. 6.

[69] For instance, the United Kingdom has this kind of regulatory framework. The UK has the Financial Services Authority (FSA) which is responsible for financial activities. Their duty is as outlined in section 2 of the Financial Services and Marketers Act, 2000. They are in charge of all financial establishments in the UK. Available at www.opsi.gov.uk. Accessed 30/4/23.

[70] Available at <http://www.transparency.org/policyresearch/surveys_indices/ci/2009/cpi_2009_table> accessed 28/4/23.

[71] Such laws include the Penal Code, Criminal code Act Cap 77 LFN 1990, Economic and Financial Crimes Commission Act 2004, Money Laundering Act 2004, Advance Fee Fraud Act 1995, Miscellaneous Offences Act 1985, etc. Available at http://www.nigeria-law.org/LFNMainPage.htm> accessed 20/1/23.

[72] Wilson, I. (2006), 'Regulatory and Institutional Challenges of Corporate Governance in Nigeria Post Banking Consolidation' *Economic Indicators Nigerian Economic Summit Group* (NESG) April-June 2006.

[73] Bakre, O., (2007) Money Laundering and Trans-organised Financial Crime in Nigeria: Collaboration of the Local and Foreign Capitalist Elites WP 07/03 Department of Accounting and Finance, University of Essex, UK.

[74] Afigbo, A.E. (1989) 'Federal Character: Its Meaning and History' in Ekeh, P.P. & Osaghie, E. (eds) *Federal Character in Nigeria,* Ibadan, Nigeria: Heinemann.

[75] Okuaru, (2006), 'EFCC raises alarm over money laundering' The Guardian March 2.

[76] Oyejide, T.A. and Soyibo, A. (2001). Being a paper presented at the conference on Corporate Governance Accra Ghana 29-30 January 2001.

[77] Report is available at http://www.timesonline.co.uk/toI/news/uk/crime/article2890961.ece. Accessed 20/1/23.

[78] BBC, 'Former Nigeria Bank CEO Cecilia Ibru jailed for fraud' available at https://www.bbc.com accessed 30/4/23.

[79] Available at https://www.crunchbase.com accessed 30/1/23.

[80] Ernest and Young Fraud Survey 2006 available t <http://www.resourceshelf.com/2006/06/30/recently-released-2006-ernest-young-global-fraud-survey/ accessed 30/1/23.

of the system.[81] This is one of the issues the amended CAMA tries to address. The new CAMA tries to moderate the powers of the different structures of the company. It tries to protect the interests of shareholders by imposing some fiduciary duties on the directors;[82] shareholders now have the powers to elect and remove directors, approve financial statements; appoint auditors; and alter memorandum and articles.[83]

Poverty, Greed, illiteracy and Complicit Legal System

Though, there are laws and rules to protect businesses in Nigeria, studies have shown that investors are reluctant to finance projects in the country. This is because the laws in Nigeria are regarded as weak and cannot protect in the real sense of the word due to non-implementation and corruption.[84] According to Report carried out in 2010, Nigeria ranked 57 out of 94 on investor protection and enforcement.[85] Investors' protection is vital in any economy. This is lacking in Nigeria due to weak supervision, corruption and fraudulent practices which characterize the Nigerian business sector. The greed in the corporate climes is due to the level of poverty in the land, poor governance, illiteracy and a complicit legal system in Nigeria. These have militated against the capability of shareholders to apply their legal might. Shareholders lack the incentive to seek their rights and many do not even know these rights. These, added to the fact that the judicial process in Nigeria is slow and frustrating. Pursuing a claim in a court of law in Nigeria is expensive, time consuming and very uncertain. At the end of litigation, the expected benefits are swallowed up by the expenses incurred in the cause of the litigation. In addition, shareholders lack adequate means of getting information on company policies. Such information ought to be made available in meetings but such meetings are not held at easily assessable locations and at generally agreed time. Many things in the corporate sector seem not right. Only deliberate efforts to right every wrong is required for the laws and rules to succeed. Shareholders deserve to be notified of meetings early. Shareholders voice must count in corporate practice and it is the duty of the company to encourage them to participate freely without any hindrance. Financial reports should be made as simple as possible for them to understand, especially, when many shareholders are not experts in accounting. It behooves on the company to employ the services of financial experts who could simplify the financial reports and provide regular tutorials for the benefit of the shareholders. It is the duty of this financial specialist to make public the company's financial report on regular bases. Poverty and unemployment encourage greed and corruption in the country. According to World Reports, over 70% of Nigerians live below poverty line of less than one dollar per day and about 50% of the population is unemployed.[86] Corruption undermines ethical standards.[87] The people's will does not count in Nigeria. Corporations would rather disregard the people's will by engaging in unethical conducts to sooth the ruling class.[88] The poverty and fear in the masses does not encourage whistleblowing. Even where fraud is reported to the appropriate government agencies, the whistleblower becomes the offender due to corruption.[89] So, people are not encouraged to speak out.

Breakdown of Moral Values

Another challenge of corporate governance is the breakdown of moral values.[90] Nigerians are highly spiritual. Almost all of its population believes in one religion or the other.[91] Yet, there is lack of transparency and accountability even among religious leaders.[92] Despite the strong influence of religion, Nigeria has no moral values, which characterized the culture of the people in previous times. Corruption has sipped deep into all facets of the country.[93] It is not uncommon to see religious leaders entangled in cases of fraud, and other financial crimes. Some religious organisations evade annual auditing of their financial statements nor do they submit their yearly reports to the CAC. These same religious leaders give more importance to fraudulent populations and the elites.

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[81] Adebola Adeyemi, note 60, p. 9.
[82] CAMA, S. 63(2).
[83] CAMA, S. 248, 345, 357, and 46.
[84] Esty, B.C., The Economic Motivations for Using Project Finance, Mimeo, Harvard Business School, Feb.2003.
[85] Doing Business Project Data (2010). The Report was put together by the World Bank Group. Available at www.doingbusiness.org/ExploreEconomies/?economyid=143 accessed 20/1/23.
[86] World Bank (1999) Corporate Governance: A Framework for Implementation (Overview), World Bank (2009) World Development Report. World Bank Group.
[87] Visser, W. (2006) Revisiting Carroll's CSR Pyramid, in: Predersen E.R. & Huniche, M. (eds.), *Corporate Citizenship in Developing Countries*, The Copenhagen Centre.
[88] Ite, U.E. (2004) 'Multi-National Corporations & Corporation Social Responsibility in Developing Countries: A Case Study of Nigeria. *Corporate Social Responsibility and Environmental Management*; also, Ite, U.E. (2005) 'Poverty reduction in resource –rich developing countries: what have multi-nationals got to do with it?' *Journal of International Development* 17(7) 913-929;
[89] Bakre, O., note 68.
[90] Tukur, M. (1999), Leadership and Governance in Nigeria: The Relevance of Values. London: Hudahuba/Hodder & Stoughton.
[91] Yinusa, M.A. and Adeoye, M.N. (2006) 'Religious Values: A panacea to corruption in Nigeria' *Ijagun Journal of Social and Management Science* 1(1) 1-14.
[92] Bello-Imam, 2004.
[93] Emenyonu, 2007; Tomori, 2010

Falling Standard of Education

As Ayodele rightly observed, the educational system in Nigeria which is supposed to build up good morals of integrity, uprightness and honesty in the minds of the people has fallen short of expectations.[94] The educational sector is weighed down by lack of funding, corruption, incompetence in leadership, low staff strength, strikes, and extensive closure of schools.[95] The school system is full of examination practice, cultism, favouritism, prostitution, sex for grades, etc. which produce nepotism, unemployment, mediocrity, etc. All of these replay in the labour and business sector, it informs the kind of politicians to lead. Getting a job in Nigeria these days is through the ''back door'' and nepotism and political godfatherism, thereby, encouraging more mediocre in the system. Hard work and uprightness are no longer encouraged in the country. All of these play out in the corporate sector. They came into the system through political collusions and corruption, and unethical means.[96] These continue to recycle in the entire system.

6. Proposal for Good Corporate Governance in Nigeria

Divorcing Politics from Business

To succeed in reforming the corporate sector in Nigeria, there should be a clear cut demarcation between corporate world and politics. Corporations must be separated from politicians.[97] Government must not interfere with contracts, employments or appointments. The political class must be different from business owners.[98] Public servants and politicians must not be allowed to be directors. Politicians must seize from influencing contracts.[99]

People must be Encouraged to speak out

People should be encouraged to speak out if they notice any malpractice. The Corporate Affairs Commission should encourage this by providing a compliant office where shareholders and employees can run for help to report any irregularity.[100] It does not matter where the complaints are coming from. It could be signed or anonymous, all should be duly investigated and if found to be true, must be punished accordingly. Corruption is a harm to the public and everyone is a stakeholder in the fight against corruption. Any irregularity must be reported. The CAC must ensure such reporters are protected. The Commission must investigate all such cases thoroughly and handle complaints speedily. The public will be further encouraged to speak out if the law enforcement agencies are allowed to do their work without political influences.

Need for a Specialized Corporate Affairs Tribunal

There should be a special corporate affairs tribunal for violators of the CAMA. This tribunal is to ensure a prompt and speedy adjudication to corporate affairs. The era where violators are simply fined and almost immediately permitted to continue in business should be discouraged. Regular court adjudication is always extensive. CAC must learn to carry out its investigations speedily in other to encourage speedy justice. All technicalities should be removed. Lawyers must desist from conniving with auditors and accountants to violate corporate laws.[101] Such a specialized court must be independent of both the executives and politicians.

Enhancing Corporate Ethics in Moral Education

Moral values should be restored in our schools. Youths must be taught the importance of ethics in all spheres of life including the corporate sector. There should be a national platform where the public is taught some moral values in schools, churches, cultural organizations and mosques. Such moral values discourage crime.[102] Besides, the efforts of government agencies in the fight against corruption, Non-Governmental bodies should intensify efforts to ensure government officers are held accountable for their actions. They should also encourage the legislative to make laws to discourage corrupt practices.

Encouraging Rural Development

For there to be reform to the corporate sector, focus should not just be on the urban areas alone. Focusing only on the urban areas encourage corruption in the corporate sector. Efforts should be garnered towards decentralizing resources. One way to do this is by decentralizing resources, extending infrastructural amenities to the rural areas, and creating job opportunities to the rural people.

7. Conclusion and Recommendation

Corporate governance is no longer new to the world. It is a standard of corporate behavior and fulfilling expectations. Indeed, Nigeria lacks the political and official to impose good corporate governance. This research has confirmed the fact

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[94] Ayodele Adelaja Adekoya, note 56 at p. 45.
[95] Babalola, 2006.
[96] El-Rufai, 2003.
[97] Ayodele Adelaja Adekoya, note 95.
[98] *Ibid*. at p. 46.
[99] Wilson, I., note 73.
[100] *Ibid.*
[101] Bakre, 2007.
[102] Zekeri, 2008; also, Emenyonu, 2007.

that Nigeria has good and comprehensive laws to promote good corporate governance. However, these good intentioned laws and institutional efforts are not sufficient to promote good corporate governance. This is largely due to corruption, poverty, high levels of unemployment, collapse of moral values, falling standard of education, bad governance and non-implementation of laws. Regulatory bodies must sit up and monitor compliance of laws and codes by placing severe sanctions on violators of the law. All stakeholders and shareholders must be protected from mismanagement and exploitation.[103] Good corporate governance must be enforced and built by all not just government and the executives of the company. There must be transparency to encourage trust from the people. Nigeria needs the political and institutional structure to build an enforceable legal system. Government should build a National institute for the teaching of good corporate governance.

[103] Ajogwu, F. (2007) Corporate Governance in Nigeria: Law and Practice, Lagos, Nigeria: Centre for Commercial Law Development.