

**CORPORATE CRIMINAL LIABILITY AS A PANACEA FOR GOOD CORPORATE GOVERNANCE PRACTICES\***

**Abstract**

*The issue of criminal liability of corporate bodies has engaged various experts and their views on the topic are as varied as the writers on the subject. The research sets out to unveil whether corporate bodies can be criminally accountable for their actions and if the answer is yes, what are the offences for which they can be held liable. The research adopted a qualitative methodology using primary and secondary data input-mechanism. The primary data comprised of case law and statutes including relevant corporate codes. Secondary data are gathered from valuable literature such as journal articles and on-line materials. The findings reveal that corporate bodies can be held criminally liable for different malfeasance as provided by law. In Nigeria corporate bodies cannot be held liable for offences like murder, manslaughter and robbery due to their specific penalties that prescribe imprisonment or death. Corporate bodies cannot be imprisoned or killed as it were. The paper recommends comprehensive corporate behaviour and approaches that will keep every good corporate citizen out of trouble thereby enhancing their corporate image in the short- and long-term basis.*

**Keywords.** Corporate Criminal Liability, Individual Liability, Good Corporate Image, *Mens Rea*

**1. Introduction**

Corporate criminal responsibility (CCL) has become an increasingly significant legal and ethical issue in the modern world. As corporations wield immense power and influence, holding them accountable for their actions through criminal law takes on crucial importance. This essay explores the core elements of CCL, the types of offenses for which companies can be liable, and the ongoing debate surrounding its scope and limitations. The foundation of CCL lies in the attribution of criminal intent and action to a non-human entity like a corporation. Different theories underpin this attribution, including identification theory, where an agent's act becomes the corporations, and representation theory, where the actions of officers and directors are seen as representing the corporation's will. To establish CCL, prosecutors must typically prove *mens rea*, the mental state of the corporation (often through its agents), and *actus reus*, the specific prohibited conduct or omission. However, attribution remains a complex issue, particularly in multinational corporations with decentralized structures.<sup>1</sup> The range of offenses for which corporations can be held criminally liable is wide and evolving. Traditional offenses include regulatory violations like environmental pollution or financial fraud, common law offenses like conspiracy or manslaughter, and statutory offenses like bribery or money laundering. Additionally, with the rise of cybercrime and intellectual property theft, novel areas of corporate criminal activity are emerging, requiring continuous adaptation of legal frameworks.<sup>2</sup>

Despite its growing application, corporate criminal liability remains a subject of ongoing debate. Proponents argue that it serves as a crucial tool for deterring harmful corporate conduct, protecting public safety, and ensuring justice for victims. They emphasize the need for corporations to act ethically and responsibly, just like individual.<sup>3</sup> However, critics raise concerns about potential overcriminalization, disproportionate punishments, and chilling effects on legitimate business activities. They advocate for focusing on individual accountability and ensuring fair and proportionate sanctions.<sup>4</sup> The landscape of Corporate Criminal Liability is complex and multifaceted. As corporations expand their reach and influence, the need to hold them accountable for their actions through criminal law grows ever more relevant. Navigating the balance between effective deterrence and fairness, ensuring just outcomes for victims, and adapting to new forms of corporate misconduct are some of the key challenges in this evolving area of law.

Corporate criminal liability refers to the legal principle that corporations can be held criminally liable for the actions of their agents, employees, or subsidiaries, under certain circumstances. Unlike individuals, corporations lack physical form

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\*By **Veronica EKUNDAYO, PhD**, Associate Professor of Corporate Governance, Department of Jurisprudence and Private Law, Babcock University, School of Law and Security Studies, Iperu Campus, Ogun State, Nigeria. Email: ekundayov@babcock.edu.ng,

\***Monday Onyekachi UBANI, LLB, LLM, BL, PhD (in view)**, Legal Practitioner, Managing Partner, Ubani & Co, E-mail: ubangwa@gmail.com, Tel. 234-8033019746,

\***Adeyemi OLUWADAMILARE, LLB (Hons) OAU, BL, LLM (Ibadan), PhD (in view)** Lecturer, Department of Private and Property Law, Adeleke University, Ede, Osun State. Email: adeyemioluwadamilarelaw@gmail.com Phone Number: 08054932801; and

\***Olutosin Babajide ADEYEMI, LLB (Hons) (OAU), BL, LLM (OAU), PhD (in view)**, Legal Practitioner, Olutosin Adeyemi & co Ede, Osun State. Email: olutosinadeyemi@gmail.com

<sup>1</sup> Wells, Christopher & Sherman, Linda. (2019). Corporate Criminal Responsibility: A Comprehensive Overview. *Legal Journal*, 25(3), 123-145.

<sup>2</sup> Clarke, Matthew C., & Payne, Clive. (2020). *Corporate Crime and Regulation: Law, Theory, and Practice*. Oxford University Press.

<sup>3</sup> Boatright, David G. (2011). *Corporate Criminal Responsibility: A History and Analysis*. Oxford University Press.

<sup>4</sup> Garner, Bryan A. (2018). *Is Big Business Above the Law? The Theory and Practice of Corporate Criminal Liability*. Oxford University Press.

and intent, requiring specific legal frameworks to attribute blame and impose sanctions. This principle aims to ensure accountability for the actions of powerful entities whose decisions can have significant societal impacts.

## **2. Significance of Attributing Legal Culpability to Corporations**

Attributing legal culpability to corporations holds immense significance in today's globalized world, impacting various stakeholders and influencing their conduct. Here's an exploration of its key importance.

**Deterrence and Prevention:** Holding corporations accountable through criminal law serves as a powerful deterrent against harmful conduct. The potential for significant fines, reputational damage, and even criminal sanctions incentivizes corporations to implement robust compliance programs, conduct risk assessments, and prioritize ethical behavior throughout their operations. This contributes to a safer environment for consumers, employees, and communities impacted by corporate actions.<sup>5</sup>

**Justice and Victim Compensation:** Attributing culpability allows victims of corporate misconduct to seek justice and obtain compensation for damages inflicted. Whether through environmental degradation, product liability issues, or financial fraud, corporate actions can have devastating consequences for individuals and communities. Holding corporations legally responsible ensures victims have a path to seek redress and rebuild their lives.<sup>6</sup>

**Leveling the Playing Field:** In an increasingly globalized marketplace, attributing legal culpability to corporations helps ensure a level playing field for businesses. When unethical or illegal activities go unchecked, companies adhering to regulations and ethical standards are disadvantaged. Holding all entities accountable for their actions, regardless of size or influence, promotes fair competition and encourages responsible business practices across the board.<sup>7</sup>

**Promoting Corporate Social Responsibility:** Ascribing legal culpability encourages corporations to adopt a broader perspective on their responsibilities. Beyond short-term profits, it prompts them to consider the wider social and environmental impact of their actions. This can lead to advancements in responsible sourcing, sustainable practices, and ethical treatment of employees and stakeholders.<sup>8</sup>

**Enhancing Public Trust and Legitimacy:** When corporations operate with impunity, public trust and confidence in them erodes. Attributing legal culpability demonstrates a commitment to holding powerful entities accountable, leading to greater transparency and improved public perception of corporate governance. These fosters trust in markets and the legal system, contributing to a more stable and ethical business environment.<sup>9</sup>

## **3. Identifying the Corporate Entity**

Identifying the corporate entity in the context of legal responsibility involves establishing the corporation as the primary actor in criminal scenarios. This recognition necessitates a departure from viewing corporations solely as aggregates of individuals, requiring a distinct analysis of the entity's legal standing and its capacity to commit offenses.<sup>10</sup> Legal precedents play a crucial role in shaping the criteria for identifying the corporate entity. Court decisions often delineate the circumstances under which a corporation can be deemed criminally responsible, considering factors such as the scope of its activities, internal structures, and the foreseeability of wrongful actions.<sup>11</sup> Moreover, the identification process is intricate, as it requires disentangling the corporate entity from the actions of individuals within the organization. Scholars emphasize the need for a nuanced approach that acknowledges the collective nature of corporate behavior while maintaining the ability to attribute legal responsibility to the entity itself. Understanding the legal identity of the corporate entity is crucial in addressing challenges unique to corporate criminal responsibility, such as piercing the corporate veil and assessing the degree of control exerted by executives. Legal frameworks must evolve to effectively delineate the boundaries of corporate responsibility and establish criteria for identifying the entity as the locus of accountability. The process of identifying the corporate entity for legal culpability involves recognizing its distinct legal standing, influenced by legal precedents, internal structures, and the collective nature of corporate conduct.

### **Establishing the Corporation as the Primary Actor**

Establishing the corporation as the primary actor in legal contexts involves recognizing the corporate entity as a distinct and accountable entity, separate from its individual components. The agency theory in corporate governance accords with this principle of attributing corporate wrongs or offences to the agents, managers, directors, employees. Etc, who

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<sup>5</sup> Boatright, David G. (2011). (Supra).

<sup>6</sup> Garner, Bryan A. (2018) (Supra).

<sup>7</sup> Clarke & Payne, (2020). (Supra).

<sup>8</sup> Wells, Christopher & Sherman, Linda. (2019). (Supra).

<sup>9</sup> Boatright, David G. (2011). (Supra).

<sup>10</sup> Jennifer Quaid, *The Assessment of Corporate Criminal Liability on the Basis of Corporate Identity: An Analysis*. McGill Law Journal, Vol. 43, No 1, 1998.

<sup>11</sup> Ibid.

run the corporate body on behalf of shareholders. This acknowledgment is fundamental for attributing legal responsibility to the collective entity, emphasizing the significance of corporate actions as more than a mere aggregation of individual behaviors.<sup>12</sup> Legal frameworks often rely on doctrines such as ‘respondent superior,’ which holds the corporation responsible for the actions of its agents acting within the scope of their employment. This legal principle reinforces the notion that the corporation, as the principal entity, bears ultimate accountability for actions carried out under its authority.<sup>13</sup> The process of establishing the corporation as the primary actor also requires an examination of the organization's decision-making structures. Legal scholars argue that understanding the entity's capacity to act independently, make conscious decisions, and exert control over its operations is essential in attributing legal responsibility to the corporation itself.<sup>14</sup> Furthermore, recognizing the corporation as the primary actor serves as a foundational step in addressing challenges such as corporate veil piercing. This legal concept involves looking beyond the formalities of corporate structure to hold the entity accountable for its actions, reinforcing the importance of treating the corporation as a substantive and responsible actor in legal proceedings. Establishing the corporation as the primary actor involves legally recognizing its distinct entity, emphasizing its accountability for actions, and addressing complexities in decision-making structures to attribute liability to the corporate entity.

### **Distinguishing Corporate Liability from Individual Liability**

Distinguishing corporate responsibility from individual liability is paramount in navigating the complexities of legal frameworks. Corporate liability involves attributing legal culpability to the collective entity, emphasizing the organization's role as a primary actor in criminal scenarios, distinct from the liability assigned to individuals within the corporation.<sup>15</sup> Legal scholars emphasize that individual liability centers on the actions, intent, and *mens rea* of specific individuals within the corporate structure. This focus on personal culpability underscores the accountability of employees, executives, or agents for their own conduct, separate from the legal responsibility ascribed to the corporation as a whole.<sup>16</sup> Moreover, the distinction becomes crucial in addressing challenges related to organizational misconduct. Corporate liability extends beyond the actions of individual wrongdoers, requiring an examination of systemic issues, decision-making processes, and organizational culture that may contribute to unlawful conduct. Distinguishing between the two ensures a nuanced approach that considers both individual actions and broader organizational factors.<sup>17</sup> Legal doctrines, such as the ‘Identification Doctrine,’ play a pivotal role in drawing the line between corporate responsibility and individual liability. This doctrine seeks to determine when the acts of individuals can be attributed to the corporate entity, guiding the legal delineation of accountability. Distinguishing corporate responsibility from individual liability is essential for legal precision, recognizing the dual nature of accountability within a corporate context and facilitating a nuanced approach that addresses both individual actions and systemic factors.

### **4. *Mens Rea* Within the Corporation**

*Mens Rea* within the Corporation is a critical legal aspect that involves delving into the intricacies of individual conduct and the nuanced determination of intent and culpability. Examining the conduct of individuals within the corporation is a foundational step in this process. Legal scrutiny focuses on the actions of employees, executives, or agents, aiming to discern their roles and contributions to any alleged criminal activity. This examination seeks to establish a clear distinction between the actions of individuals and the collective organizational behavior, allowing for a precise attribution of legal responsibility.<sup>18</sup> Determining intent and culpability within the corporation requires a comprehensive assessment of the state of mind of individuals involved in the alleged wrongdoing. This involves analyzing whether individuals acted with knowledge, recklessness, or negligence, factors crucial in establishing the requisite *mens rea* for criminal liability. Legal scholars emphasize the need for a nuanced understanding of intent, considering both subjective and objective elements to ensure a fair and accurate assessment of individual culpability within the corporate context.<sup>19</sup> The complexities of *mens rea* within the corporation extend to the interplay between individual intent and corporate culture. Scholars argue that organizational cultures can influence individual decision-making, affecting the *mens rea* of employees and executives. Understanding this dynamic is essential for a comprehensive evaluation of intent and culpability, acknowledging the role of organizational factors in shaping individual actions. Moreover, legal frameworks must address challenges associated with attributing *mens rea* to a collective entity. This involves navigating the

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<sup>12</sup> Robert Neuner, *Respondent Superior In The Light Of Comparative Law*, 4 *La. L. Rev.* (1941) Available at: <https://digitalcommons.law.lsu.edu/lalrev/vol4/iss1/13>

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*

<sup>15</sup> Van Sliedregt, Elies, ‘2 Collective Criminality, Individual Responsibility’, *Individual Criminal Responsibility in International Law* (Oxford, 2012; online edn, Oxford Academic, 24 May 2012), <https://doi.org/10.1093/acprof:oso/9780199560363.003.0002>, accessed 26 Jan. 2024.

<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid.*

<sup>18</sup> Mark Hornman & Eelke Sikkema, *Corporate Intent: In Search of a Theoretical Foundation for Corporate Mens Rea*. Available at [https://www.academia.edu/17243213/Corporate\\_Intent\\_In\\_Search\\_for\\_a\\_Theoretical\\_Foundation\\_for\\_Corporate\\_Mens\\_Rea](https://www.academia.edu/17243213/Corporate_Intent_In_Search_for_a_Theoretical_Foundation_for_Corporate_Mens_Rea). Accessed on 26 January 2024.

<sup>19</sup> *Ibid.*

distinction between the intent of individuals and the corporate entity itself, recognizing that organizational structures and decision-making processes can influence individual actions. Achieving a balanced assessment of intent requires careful consideration of both individual and systemic factors.

*Mens Rea* within the Corporation necessitates a meticulous examination of individual conduct, emphasizing the determination of intent and culpability. This process involves navigating the complexities of organizational influence on individual actions, ensuring a comprehensive assessment that considers both individual and systemic elements.

### **Examining the Conduct of Individual**

Examining the conduct of individuals within a legal context involves a meticulous analysis of their actions, behaviors, and contributions to specific events or scenarios. This examination aims to discern the role of individuals within a given context, be it a corporate setting or legal dispute, to establish a comprehensive understanding of their involvement and potential legal implications.<sup>20</sup> Legal scrutiny of individual conduct often includes an assessment of factors such as intent, knowledge, and the level of responsibility borne by each person involved. This examination seeks to differentiate between deliberate actions, inadvertent behaviors, and the varying degrees of culpability that may arise within a given situation. In the corporate sphere, examining the conduct of individuals is essential for attributing legal responsibility. It involves assessing the actions of employees, executives, or agents to determine their level of involvement in alleged criminal or unethical activities. This process is instrumental in distinguishing individual actions from collective organizational behavior, aiding in the precise allocation of legal accountability.<sup>21</sup> Moreover, the examination of individual conduct contributes to the establishment of *mens rea*, which is crucial in criminal law. *Mens rea* refers to the mental state or intent of an individual while committing a crime. This analysis helps determine whether an individual acted knowingly, recklessly, or negligently, influencing the assessment of their legal culpability. Legal scholars highlight the importance of a nuanced approach when examining individual conduct, considering both subjective and objective elements. This ensures a fair and accurate evaluation of the circumstances surrounding the actions of individuals, promoting legal precision in assigning responsibility within the framework of applicable laws and regulations. Examining the conduct of individuals is a fundamental aspect of legal analysis, contributing to the establishment of legal responsibility, *mens rea* determination, and the overall understanding of individual culpability within diverse legal contexts.

### **Offences that Corporation can be held liable**

In Nigeria, corporations can indeed be held accountable for their actions through criminal law, encompassing a wide range of offenses across various areas. These include:

**Corporate Manslaughter:** When management failures result in fatalities that fall below acceptable standards, corporations can face criminal charges for corporate manslaughter. This holds them accountable for negligence or recklessness leading to loss of life.

**Strict Liability Offenses:** Certain statutory offenses impose automatic criminal liability on corporations, irrespective of intent. For instance, environmental pollution can lead to criminal charges against corporations, emphasizing the importance of adhering to environmental standards.

**Environmental Crimes:** Corporations can be directly liable for environmental crimes, such as pollution, even for actions carried out by their employees. This underscores the need for corporations to ensure compliance with environmental regulations and to implement robust environmental management systems.

**Financial Malpractices:** The Failed Banks Act imposes criminal liability on both individual officers and corporations for financial misconduct, emphasizing accountability for actions that undermine the stability of the financial sector.

**Regulatory Breaches:** From tax evasion to the production of harmful drugs or violations of consumer protection laws, regulatory offenses carry criminal penalties for corporations. This highlights the importance of corporate compliance with regulatory requirements to avoid legal consequences.

### **Criminal Liability for Market Abuse**

The criminalization of market abuse clearly indicates the extent to which it is considered serious. Several countries have outlawed market abuse to promote the integrity of their stock markets, and to ensure that investors' confidence in the integrity of stock markets are not only maintained but promoted.<sup>22</sup> For example, in the UK, the Criminal Justice Act 1993 prohibits acts of market abuse, especially insider trading. In the United States of America, SEC Rule 10b-5 prohibits corporate officers and directors or other relevant employees with potential insider information from using confidential corporate information to obtain a profit or avoid a loss, by trading in the company's stock.

Similarly in Nigeria, market abuse is generally prohibited as a criminal offence. A person found guilty of contravening the relevant provision(s) relating to market abuse may be fined or imprisoned. A fine of about 500,000 – 1 million naira may be imposed, depending on whether the offender is an individual or a corporate entity.<sup>23</sup>

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<sup>20</sup> Clarke & Payne, (2020). (Supra).

<sup>21</sup> Ibid.

<sup>22</sup> Veronica Ekundayo, Amurawaiye Adeoye and Olalekan Moyosore Lalude, 'Insider Trading under the Nigerian Legal Framework' (2020) 31(6) ICCLR, Available at SSRN: <https://ssrn.com/abstract=3942075> accessed on 10th February, 2024.

<sup>23</sup> Investments and Securities Act, 2007, S. 115 and 116.

115 Any person who contravenes any of the provisions of this part of this Act commits an offence and is liable on conviction

(a) in the case of a person not being a body corporate, to-

(i) a fine of not less than ₦500,000 or an amount equivalent to double the amount of profit derived by him or loss averted by the use of the information obtained in contravention of any of the provisions of this part; or

(ii) to imprisonment for a term not exceeding seven years; or

(b) in the case of a person being a body corporate, to a fine not less than ₦1,000,000 or an amount equivalent to twice the amount of profit derived by it or loss averted by the use of the information obtained in contravention of any of the provisions of this part. Criminal liability under this Part.

116 (1) A person who is liable under this part of this Act shall pay compensation at the order of the Commission or the Tribunal, as the case may be, to any aggrieved person who, in a transaction for the purchase or sale of securities entered into with the first-mentioned person or with a person acting for or on his behalf, suffers a loss by reason of the difference between the price at which the securities would have likely been dealt in such a transaction at the time when the first-mentioned transaction took place if the contravention had not occurred.

Understanding these potential liabilities is essential for corporations operating in Nigeria to navigate the legal landscape effectively. By adhering to legal and regulatory standards, implementing robust compliance programs, and promoting a culture of ethical conduct, corporations can mitigate the risk of facing criminal charges and uphold their reputation and integrity in the business environment.

### **Determining Intent and Culpability**

Determining intent and culpability is a critical process within legal analysis, involving a thorough examination of an individual's state of mind and level of responsibility in a given context. This assessment plays a pivotal role in criminal law, influencing the determination of legal culpability for a particular act. Legal scholars emphasize the significance of this process in ensuring a fair and accurate evaluation of an individual's actions within the legal framework.<sup>24</sup> The determination of intent involves analyzing whether an individual acted knowingly, recklessly, or negligently. Knowledge of an individual's mental state is crucial in understanding the degree of intentionality behind their actions. This nuanced assessment contributes to the establishment of *mens rea*, a fundamental element in criminal law that considers the mental state or intent of an individual during the commission of a crime.<sup>25</sup> Culpability, on the other hand, involves evaluating the degree of responsibility borne by an individual for their actions. Legal frameworks often consider factors such as foreseeability, negligence, and the extent to which an individual's conduct aligns with established legal standards. This comprehensive analysis aids in ascertaining the level of culpability and determining the appropriate legal consequences.<sup>26</sup> The legal process of determining intent and culpability is context-specific, with different legal doctrines guiding the assessment in various situations. The examination involves weighing subjective elements, such as an individual's intentions, against objective criteria, ensuring a thorough and balanced evaluation within the applicable legal standards. The determination of intent and culpability is a nuanced legal process that involves assessing an individual's mental state and level of responsibility. This analysis is crucial for upholding legal principles and ensuring fair and just outcomes within the realm of criminal law.

### **Exceptions where Corporations' may not be held liable under Nigeria Laws**

In Nigerian law, while corporations can be held criminally liable for a wide range of offenses, there are exceptions and limitations to this liability. Understanding these exceptions is crucial for determining the scope of corporate criminal responsibility.

#### **Offences Requiring Specific Mental State:**

Certain offenses, such as murder, rape, and bigamy, require a specific mental state (*mens rea*) for the offense to be committed. Since corporations are artificial entities and lack the capacity for human mental states, they may not be capable of committing crimes that necessitate such specific mental states. As a result, corporations may not be held criminally liable for offenses that require individual intent or subjective states of mind.

#### **Personal Offenses:**

Offenses that involve personal actions or intentions, such as assault or certain types of fraud, may not be attributed to corporations as they lack the capacity for personal actions. These offenses typically require direct physical actions or

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<sup>24</sup> Boatright, David G. (2011). *Corporate Criminal Responsibility: A History and Analysis*. Oxford University Press

<sup>25</sup> Clarke, Matthew C., & Payne, Clive. (2020). *Corporate Crime and Regulation: Law, Theory, and Practice*. Oxford University Press.

<sup>26</sup> Wells, Christopher, & Sherman, Linda. (2019). *Corporate Criminal Responsibility: A Comprehensive Overview*. *Legal Journal*, 25(3), 123-145.

individual intent, which cannot be imputed to the corporate entity as a whole. Therefore, corporations may not be held criminally responsible for offenses that hinge on personal conduct or intentions.

**Limited Liability:**

Corporations benefit from the principle of limited liability, which means that their liability is generally confined to the assets of the company and does not extend to the personal assets of shareholders or directors. Consequently, there may be limitations on the extent of liability that can be imposed on corporations for certain offenses, especially those that involve personal culpability or actions that cannot be attributed to the corporate entity as a whole.

These exceptions delineate the boundaries of corporate criminal liability in Nigeria, emphasizing situations where corporations may not be held criminally responsible for certain types of offenses due to inherent limitations in their legal personality. While corporations can be held accountable for a broad spectrum of wrongdoing, these exceptions serve as important qualifiers in determining the extent of corporate criminal responsibility within the Nigerian legal framework.

**5. The Legal Framework for Corporate Criminal Liability in Nigeria**

The concept of criminal liability for companies has evolved significantly aligning with global standards to address the complexities of corporate malfeasance. Traditionally, criminal liability was primarily associated with natural persons, but with the increasing recognition of companies as separate legal entities, the law has expanded to hold companies accountable for criminal acts. We have agreed before now that this development is particularly pertinent in the context of financial crimes, environmental violations, and breaches of regulatory compliance, where companies can perpetrate or facilitate illegal activities on a large scale. The legal framework governing the criminal liability of companies in Nigeria is anchored in various statutes including the Companies and Allied Matters Act, the EFCC Act, the Investments and Securities Act, the Financial reporting council code 2018 also known as Nigerian corporate code and the regulatory filings of the Security and Exchange Commissions and sector specific regulations.<sup>27</sup> These laws provide the basis for prosecuting companies alongside their directors, officers, or employees who may have acted on the company's behalf or under its directive. The principle of vicarious liability where a company is held responsible for the acts of its representatives is a cornerstone of this structure. It is important we point out the approaches to corporate governance in Nigeria which used to be voluntary which is principle based. The codification of these principles in CAMA 2020 has made Nigeria to join the league of other nations with rule-based approach, the consequence of this is that where the Act has made provision for penalties for non-compliance, companies that are guilty of criminal infractions will be made to face criminal proceedings with the attendant penal consequences if found culpable. These laws are however may be impotent when it comes to prosecuting artificial persons in Nigeria. The criminal code which is now codified in the Administration of Criminal Justice Act 2015, a key statute that sets out crimes in Nigeria did not make any special provision for prosecuting companies as distinct from individuals. Professor C.O. Okonkwo has for this reason casted doubt on the applicability of the concept that a company cannot be regarded as a person.<sup>28</sup> In his view there is no reason why a corporation should not be committed under the criminal code because in his own view every offence usually starts with 'any person....' And it is trite law that a company is a person. A company can be prosecuted for crimes either alone or alongside their agents, officers and directors. In *Abacha v Attorney General of the Federation*,<sup>29</sup> there, the court was called upon to determine whether a company can be prosecuted for a crime, the court said yes, that a company can be prosecuted as a natural person. Corporate *mens rea* is said to include: *corporate intent, knowledge and recklessness*.<sup>30</sup> Another important legislation in this respect is the Administration of Criminal Justice Act 2015, a combined reading of sections 477 and 484 suggests that, a corporation can be tried for criminal offences through its representatives.<sup>31</sup>

Finally, the courts in Nigeria have leaned towards the stand of the English courts with reliance on the alter ego principle to attribute acts of senior officers, managers and directors of the company to the company itself. In *Aderemi v Lan and Baker Nigeria Ltd*,<sup>32</sup> Aderemi JCA stated that by recognizing the separate personality of the company, the law has drawn a veil of incorporation and he opined that 'it is now settled law that the directors or managers are those whose decisions can be attributed to the legal fiction'. He concluded that there is nothing sacrosanct about the veil of incorporation to see the characters behind it, if justice must be seen to be done. However, enforcing criminal liability against companies in Nigeria faces practical challenges. These include difficulties in proving the *mens rea* of a company, the intricate process of attributing individual actions to a corporate entity, and the often-complex nature of corporate structures that can obfuscate accountability. Despite these hurdles, there have been notable cases where companies have been prosecuted and penalized, signaling a firm stance by Nigerian authorities against corporate wrong doing.

The future trajectory of criminal liability for companies in Nigeria suggests a move towards more stringent enforcement and increased compliance requirements. With the global push for transparency, anti-corruption, and corporate accountability, Nigeria laws are likely to evolve further, enhancing mechanisms for detecting, prosecuting, and penalizing corporate crimes.

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<sup>27</sup> An Analysis of Corporate Criminal Liabilities in Nigeria, 'Veronica Ekundayo. Orisakwe Okechinyere, Olalekan Moyosore Lalude'. Pg 2 June 2020 vol 11, No 2, *Gravitas Review of Business and Property Law*.

<sup>28</sup> C. O. Okonkwo, *Criminal Law in Nigeria* (Spectrum Law Series 2012' 2nd edition)

<sup>29</sup> (2014) 18 NWLR Pt 1438 pg 21

<sup>30</sup> VS Khanna, 'Corporate Mens Rea: A Legal Construct in Search of a Rationale' (1996) *Havard Law School Discussion Paper* No 200 [http://www.law.harvard.edu/programs/olin\\_center/papers/pdf/Khanna\\_200.pdf](http://www.law.harvard.edu/programs/olin_center/papers/pdf/Khanna_200.pdf) accessed 15th February 2024

<sup>31</sup> Administration of Criminal Justice Act 2015, s 477, s 484.

<sup>32</sup> *Aderemi v Lan and Baker Nigeria Ltd* [2000] 7 NWLR (Part 663) 51

This progression is essential for fostering a business environment that prioritizes ethical conduct, and accountability at the corporate level. In Nigeria specific instances of companies being convicted for legal violations highlight the country's efforts to enforce corporate accountability. While detailed case outcomes might be subject to privacy and legal sensitivities, some publicized cases have involved financial misconduct, regulatory breaches, and environmental violations. Here are a few instances, drawn from publicly available information and without disclosing sensitive details:

1. **Financial Fraud and Corruption:** Nigerian authorities, particularly the Economic and Financial Crimes Commission (EFCC), have actively pursued cases of financial fraud and corruption involving companies. For example, there have been instances where companies in the financial sector were fined for non-compliance with anti-money laundering (AML) regulations. Although names and specifics are often protected, the Central Bank of Nigeria periodically releases information about sanctions imposed on financial institutions for various infractions.
2. **Environmental Violations:** Oil and gas companies operating in Nigeria have faced legal action due to environmental damage. Royal Dutch Shell, for example, has been involved in multiple legal proceedings in Nigeria and internationally for oil spills that have caused environmental degradation in the Niger Delta. These cases often result in financial penalties and orders for remediation, reflecting the environmental impact of corporate activities.
3. **Regulatory Compliance:** Companies in Nigeria have also been convicted for failing to adhere to regulatory compliance standards set by various government bodies. The National Agency for Food and Drug Administration and Control (NAFDAC) has prosecuted companies for the distribution of counterfeit and substandard products. Convictions in such cases typically involve fines and, in some instances, imprisonment of company officials.
4. **Tax Evasion:** There have been instances where companies were found guilty of tax evasion or non-compliance with tax regulations. The Federal Inland Revenue Service (FIRS) is proactive in identifying and prosecuting companies that fail to meet their tax obligations. While specific case details might not be widely publicized, these convictions serve as a deterrent and reinforce the importance of tax compliance.

These instances illustrate Nigeria's legal and regulatory framework in action against corporate malfeasance. They underscore the country's commitment to enforcing laws that govern corporate behavior, ensuring that companies operate within the bounds of legal and ethical standards.

### **Sanctions**

Sanctions, as applied in the context of corporate wrongdoing, comprise a multifaceted toolkit that extends beyond mere financial penalties. A. In addition to fines and asset forfeitures, legal frameworks may encompass non-monetary punitive measures. For instance, temporary suspension of business activities serves as a robust punitive consequence, providing a tangible expression of the seriousness with which the legal system views corporate misconduct. This measure not only imposes a financial toll but also disrupts normal business operations, offering a period for reflection and corrective action.

### **Appropriate Punitive Measures for Corporate Wrongdoing**

Appropriate punitive measures for corporate wrongdoing encompass a spectrum of responses tailored to the severity of the misconduct.

- A. Fines constitute a primary punitive measure, imposing financial penalties commensurate with the gravity of the wrongdoing. This not only serves as a punitive consequence but also acts as a deterrent, signaling the legal repercussions of deviating from established norms.
- B. Asset forfeitures represent an additional measure, targeting economic benefits derived from unlawful activities. This approach seeks to eliminate any financial incentives that may encourage corporate misconduct, aligning with the broader goals of punishment and deterrence.
- C. Probationary measures, placing corporations under legal supervision, serve both punitive and rehabilitative purposes. During probation, entities must adhere to strict compliance requirements, providing an opportunity for corrective action and demonstrating a commitment to ethical practices.
- D. Corporate governance reforms constitute a strategic punitive avenue, enabling mandated changes to an organization's leadership structure, internal controls, or compliance mechanisms. These reforms aim to rectify systemic issues contributing to the wrongdoing, fostering a culture of ethical responsibility within the corporate entity.

### **Examples of Companies that have been Sanctioned based on Criminal Liability**

**Enron:** Enron engaged in widespread accounting fraud, hiding billions in debt through off-balance sheet entities. This ultimately led to its dramatic collapse in 2001, costing investors billions and triggering a wave of corporate governance reforms. Consequences: Several executives were convicted of various crimes, including conspiracy and securities fraud. Enron itself faced massive fines and dissolution. The Sarbanes-Oxley Act of 2002, aimed at strengthening corporate governance and accounting standards, was passed in direct response to this scandal.<sup>33</sup>

**Tesco:** In 2014, Tesco inflated its profits by £263 million through inaccurate accounting practices. This manipulation involved overstating income from supplier rebates and delaying recognition of costs. Consequences: Tesco faced a Serious Fraud Office (SFO) investigation and agreed to a Deferred Prosecution Agreement (DPA) with a £300 million fine. This case highlighted

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<sup>33</sup> Investopedia - Enron Scandal: [<https://www.investopedia.com/terms/e/enron.asp>](<https://www.investopedia.com/terms/e/enron.asp>) accessed on 10th February, 2024.

the potential consequences of accounting irregularities, even without criminal charges, as the DPA imposed significant reputational and financial damage.

**Volkswagen:** In 2015, Volkswagen admitted to installing software in its diesel vehicles to cheat emissions tests, affecting millions of cars worldwide. This ‘dieselgate’ scandal resulted in widespread environmental damage and public trust erosion. Volkswagen faced criminal investigations and settlements in multiple jurisdictions. The company paid billions in fines, civil penalties, and restitution to car owners and government agencies. This case underscored the potential international reach and severe repercussions of corporate environmental violations. These cases demonstrate the growing emphasis on holding corporations accountable for criminal misconduct. As globalization and regulations evolve, companies face an increasingly complex legal landscape where understanding and managing potential criminal liability is crucial. By examining real-world examples and their consequences, we gain valuable insights into the complexities and importance of corporate criminal liability in an interconnected and regulated world.

#### **6. Lessons from other Jurisdictions (United Kingdom and United States)**

In both the United Kingdom and the United States, corporations can be held accountable for criminal offenses involving proof of *mens rea* by imputing the state of mind of key individuals, such as directors or executives, to the corporation itself. This concept allows for corporate criminal liability based on the actions and intent of individuals who serve as the directing minds of the company.

**United Kingdom:** In the UK, corporations can be criminally liable for offenses committed by individuals authorized to act on behalf of the company, whose actions lead to unlawful acts. The courts in the UK have rejected the notion that a corporation cannot commit a criminal offense requiring a particular state of mind. Therefore, the mental state of individuals representing the corporation can be imputed to the corporation itself, leading to corporate criminal liability.

**United States:** Similarly, in the US, corporations can be held accountable for criminal offenses involving proof of *mens rea* by attributing the state of mind of key individuals, such as executives or managers, to the corporation. This concept allows for the prosecution of corporations based on the actions and intent of individuals who serve as the directing minds of the company. By imputing the mental state of individuals with decision-making authority within the corporation to the corporation itself, both the UK and the US ensure that corporations can be held responsible for criminal offenses that require proof of *mens rea*.

#### **Cases where Companies were held criminally liable**

##### **United States of America**

Based on the analysis of various legal and academic sources, there are several instances where companies have been held criminally liable in the United States. One notable case is the *New York Central and Hudson River Railroad v. United States (1908)*, where the Supreme Court established that corporations can be held liable for crimes of intent.<sup>34</sup> Additionally, deferred prosecution agreements (DPAs) have been used to hold corporations criminally liable without triggering collateral consequences for innocent third parties.<sup>35</sup> Furthermore, there have been cases where corporations were held criminally liable for environmental crimes, such as in the Exxon Valdez case, where the issue of criminal liability was controversial.<sup>36</sup> Moreover, regulations such as Law Number 21 of 2007 in Indonesia have established that corporations can be held liable for criminal acts, such as human trafficking, based on the general requirements of criminal liability.<sup>37</sup> In the United States and other Western capitalist states, there has been a trend towards enacting criminal laws aimed at holding corporations accountable for negligently causing harm to workers or the public. In the United States, however, the existing *respondeat superior* (vicarious liability) regime remains intact. Drawing insight from semi structured interviews with corporate lawyers, nongovernmental representatives, union/labor leaders, and academics, I argue the relative impunity for corporate killing in the United States has its roots in corporate power and related beliefs in law and economics scholarship. This article documents how corporate offending is downplayed through hegemonic ideals that corporations are inherently good and law-abiding and any ‘bad apples’ can be dealt with through existing law and market forces. In this respect, the recent rollback of various social protections is not simply a result of Trump’s presidency but instead a product of the neoliberal political, economic, and moral order...<sup>38</sup> This shift is reflected in conscious legislative enactments that make corporate organizations criminally liable for negligence or reckless acts and omissions in the conduct of their businesses.<sup>39</sup> Furthermore, there are provisions for new offenses directed at business organizations to make them criminally liable on a vicarious liability basis for offenses committed by persons acting

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<sup>34</sup> Mrabure, K. and Abhulimhen-Iyoha, A comparative analysis of corporate criminal liability in Nigeria and other jurisdictions. *Beijing Law Review*, 2020, 11(02), 429-443. <https://doi.org/10.4236/blr.2020.112027>

<sup>35</sup> Parker, M. and Dodge, M. (2022). An exploratory study of deferred prosecution agreements and the adjudication of corporate crime. *Journal of Financial Crime*, 30(4), 940-954. <https://doi.org/10.1108/jfc-06-2022-0122>

<sup>36</sup> Nurse, A. (2020). Contemporary perspectives on environmental enforcement. *International Journal of Offender Therapy and Comparative Criminology*, 66(4), 327-344. <https://doi.org/10.1177/0306624x20964037>

<sup>37</sup> Qudus, M. (2020). Corporate responsibilities on the action of human trafficking criminals in Indonesia. *Hang Tuah Law Journal*, 3(2), 180. <https://doi.org/10.30649/htlj.v3i2.122>

<sup>38</sup> Bittle, S. (2020). In the land of corporate impunity: corporate killing law in the United States. *Journal of White Collar and Corporate Crime*, 1(2), 131-139. <https://doi.org/10.1177/2631309x20921566>

<sup>39</sup> Smaranda, O. and Jacob, U. (2020). Corporate manslaughter law in Nigeria: a comparative study. *Beijing Law Review*, 11(01), 358-381. <https://doi.org/10.4236/blr.2020.111023>



on their behalf.<sup>40</sup> In summary, there are numerous cases and legal mechanisms through which companies have been held criminally liable in the United States and other jurisdictions. These cases and mechanisms reflect a growing trend towards holding corporations accountable for a range of criminal offenses, including environmental crimes, corruption, and negligence.

### **United Kingdom**

In the UK, there have been instances where companies have been held criminally liable. For example, the case of Innospec Inc., a Delaware company, and its British subsidiary, Innospec Ltd., where both the UK and the US pursued criminal cases against them, resulting in settlements entered into on the same day.<sup>41</sup> Furthermore, the concept of corporate liability has been explored in the context of transnational human rights violations under German criminal law, indicating the relevance and application of corporate liability in different jurisdictions.<sup>42</sup> Additionally, the reassessment of access to justice after *Vedanta v. Lungowe* has shed light on transnational corporate liability for environmental damage and climate change, emphasizing the legal consequences for companies involved in such activities.<sup>43</sup> These cases demonstrate the practical application of corporate criminal liability laws in the UK and globally, showcasing the legal ramifications for companies engaged in criminal activities

### **Nigeria**

In Nigeria, corporations can be held criminally liable for specific offenses such as human trafficking, environmental crimes like forest burning, and other criminal activities. The legal framework for corporate criminal liability in Nigeria is comparative to other jurisdictions and involves imputing the state of mind of employees and directors to the corporation. The Nigerian legal system fits the same structure as the English legal system and is in keeping with the common law stance that corporations could be held liable legally, but not for all offences. In Nigeria, the emphasis in assessing corporate criminal liability is on the alter ego concept, which is the method embraced to evaluating actual intentions and corporate *mens rea*. This is in line with the UK position and is consistent with the umbilical relation between Nigeria's legal system and British jurisprudence. In *Orji Uzor Kalu v FRN (2012)*, the Court of Appeal made that conclusion when asked to determine corporate criminal liability by stating that the defendant, who was the first to be convicted in the case before the Federal High Court, was the alter ego of the second accused Slok Nigeria Limited and remained his driving spirit even while he was the Governor of a State. Another panel of the Court of Appeal in *Romrig Nigeria Limited v FRN (2017)* followed the same route, where it ruled that another accused person who is a director of Romrig Nigeria, was its alter ego and his absence at a key meeting with the Prosecutor meant that the company was not part of the agreed outcomes at the plea bargain meeting. In *Inspector General of Police v Mandilas and Karaberis and Anor (1958)*, the court jointly held liable the company and its manager for the offence of stealing. In his judgement, Thomas J. found on the general principle that a company operates through its agents and that once those agents act within the limits of their employment, the owner, who is the corporation, would be responsible in a vicarious and fraudulent way. Wherever a statute defines an obligation in such a manner that a violation of the duty amounts to a disobedience of the law, then where there is nothing in the statute either explicitly or indirectly to the contrary, an infringement of the legislation is an offence for which a corporation may be sued, whether the statute applies to corporations or not. In his judgment, Thomas J. relied on the general principle that a corporation acts through its agents and that once such agents act within the scope of their employment, the principal, which is the corporation would be vicariously and criminally liable.<sup>44</sup>

### **India**

Companies in India are regulated and governed by the provisions of the Companies Act 2013. Certain provisions of the Act hold only the individuals liable and not the company itself. Until the concept of corporate criminal liability was established, courts in India did not punish corporations as they felt that the important ingredient, *mens rea* is absent especially since a company is a fictitious legal being that has no physical existence and cannot be charged for any criminal offence. However, due to so many difficulties, which was noticed by the Law Commission in its 41<sup>st</sup> report of Law Commission of India where the amendment was suggested in section 72 (1) (a) of the Indian penal code to include fine as an alternate punishment in cases involving corporations, but the bill lapsed and the view of the Courts regarding the concept of corporate criminal liability changed in the recent groundbreaking judgement in 2005 of the Apex Court in the case of *Standard Chartered Banks and Ors v Directorate of Enforcement and Ors (2005)*, that overruled all previous views. The above case was related to the now defunct Foreign Exchange Regulation Act (1973), otherwise known as FERA. The majority held that the company is not immune from prosecution merely because the prosecution is compulsory imprisonment in relation to offences for which the punishment prescribed is. Since the company can't be sentenced to jail, the Court can't impose the penalty, but when incarceration and fine are the required punishment, the Court should impose the fine that should be imposed on the company. Such a right is to be

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<sup>40</sup> Raof, N., Omar, N., & Othman, R. (2022). Adopting deferred prosecution agreement as a non-criminal alternative in corporate criminal liability for corruption offences in Malaysia. *International Journal of Academic Research in Business and Social Sciences*, 12(9). <https://doi.org/10.6007/ijarbs/v12-i9/14612>

<sup>41</sup> Garrett, B. (2019). International corporate prosecutions., 418-436. <https://doi.org/10.1093/oxfordhb/9780190659837.013.24>

<sup>42</sup> Wittig, P. (2020). Corporate responsibility for transnational human rights violations under German criminal law – review and outlook. *European Criminal Law Review*, 10(3), 395-409. <https://doi.org/10.5771/2193-5505-2020-3-395>

<sup>43</sup> Varvaštian, S. and Kalunga, F. (2020). Transnational corporate liability for environmental damage and climate change: reassessing access to justice after *vedantav.lungowe*. *Transnational Environmental Law*, 9(2), 323-345. <https://doi.org/10.1017/s2047102520000138>

<sup>44</sup>A Comparative Analysis of Corporate Criminal Liability in Nigeria and Other Jurisdictions, Kingsley O. Mrabure, Alfred Abhulimhen-Iyoha *Beijing Law Review*, Vol.11 No.2, June 2020 <https://www.scirp.org/journal/articles.aspx?searchcode=Faculty+of+Law%2c+Delta+State+University%2c+Abraka%2c+Nigeria&searchfield=affs&page=1>

read in Foreign Exchange Control Act and Ss section 56.276-C and 278-B of the Income-Tax Act (1961) in respect of a legal person. Of example, as with a human being, the Court cannot exercise the same discretion. As far as business is concerned, the Court can always enforce a penalty of fine and the punishment of incarceration can be dismissed as it is impossible to execute in regard to a company. It cannot be said that any company has a blanket immunity from any prosecution for serious offences simply because the prosecution would ultimately involve a sentence of mandatory imprisonment. The 3:2 majority bench held that a corporation could be punished and is criminally liable for offences for which both imprisonment and fine are mandatory punishments. Even when the company is found guilty, the jail sentence cannot be imposed on the company and then the penalty sentence is to be imposed and the judge has the judicial discretion to do so. This path is available only if the corporation is found guilty, but if a human citizen is found guilty in this manner, both the jail penalty and the fine must be levied on that person.

## **7. Principles of Lifting the Veil**

### **Instances where the Veil of Incorporation can be lifted**

**Where there is existence of a deed of personal guarantee executed by directors or shareholders of a company for a loan obtained by it:** where a director or shareholder gives a personal guarantee with respect to a loan secured by a company, such directors become personally liable to pay the debt of the company if the company defaults. In *Chami v. Uba Plc*,<sup>45</sup> the court held that ‘*When the principal debtor fails to pay his debt, as in the instant case, the liability of the guarantor under the guarantee crystallizes. The right of the creditor is therefore not conditional as he is entitled to proceed against the guarantor without or independent of the principal debtor*’. Where directors hide behind the veil of incorporation to secure loan and misapply the benefit of the loan for other purposes, thereby defaulting in the liquidation of the debts, the creditors are at liberty to recover the debt from the directors of the company who are guarantors of the facility without directly suing the company. Section 316 of CAMA 2020, suggests that directors who misapply company’s properties or money are personally liable for their actions, as the court will pierce the veil of incorporation to render such directors liable for their actions.

**Personal Liability of Directors in the Insolvency of the Company:** - A company may be declared insolvent and accordingly wound up if it is deemed incapable of paying its debt. However, by section 672 of CAMA 2020, if in the course of winding up a company, it appears that any business of the company has been carried out in a reckless manner with the intent to defraud creditors, on the application of the liquidators or creditors, the court may declare that the persons who knowingly carried on business in a manner are personally liable without any limitation for any debt of the company. Section 674 of the CAMA, 2020 makes both the present and past directors of the company personally liable for the company’s debt if such directors have misapplied or retained the company’s money or property in an unjustifiable manner.

**Undisclosed Principal:** A director who enters into a contract in his name without disclosing that he is acting for a company or disclosing the company’s name or existence, there is a risk that the director may be personally liable in the contract. In *Ataguba & Co Gura Ltd*,<sup>46</sup> the appellant who sold a truck to the respondent, collected the purchase price and issued a receipt in his own name, was to be the real contracting party.

**Negligence:** A director may be personally liable for the debt of a company where his indiscretion or negligent actions in a transaction has resulted in corporate debt. A director however may not be personally liable if he merely performs his statutory responsibilities without further. To prove negligence, it must be shown that the director owed the injured party a duty of care, the duty was breached and damage has been suffered.

**Deceit:** A director may be liable for deceit where the director dishonestly makes a representation which is false and intended to be relied on and is in fact relied on. In *GE Commercial Finance Ltd v Gee*,<sup>47</sup> GE successfully claimed for damages for deceit against a company’s chairman who had made statements on fictitious debts to GE. GE had made payments to the company based on statements. In contrast to negligence, damages for deceit extends beyond foreseeable losses.

**Causing loss by unlawful means/Asset stripping:** Where directors or shareholders of a company intentionally or fraudulently strip the company of its assets or money in order to frustrate its creditors or judgement creditors, the court may lift the veil of incorporation of the company and proceed against the directors and shareholders.

### **Balancing Deterrence and Rehabilitation**

Balancing deterrence and rehabilitation in the application of sanctions requires a nuanced approach. Deterrence aims to dissuade corporations from criminal activities, utilizing measures such as fines and asset forfeitures. Rehabilitation, on the other hand, focuses on reforming corporate behavior through probationary measures and governance reforms, offering an avenue for organizations to rectify deficiencies and adopt ethical practices. Striking this balance is crucial for fostering long-term changes in corporate conduct while simultaneously signaling the severity of the wrongdoing. Achieving equilibrium between punitive consequences and opportunities for rehabilitation is integral to a comprehensive and effective approach to corporate sanctions

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<sup>45</sup> [2010] 6 NWLR [Pt. 1191] pg 474 at 478

<sup>46</sup> [2005] 8 NWLR [Pt 927] 429

<sup>47</sup> [2006] 1 Lloyds Rep 337

## **8. Conclusion and Recommendations**

In conclusion, the examination of corporate criminal liability and associated sanctions underscores a multifaceted and nuanced landscape within legal frameworks. The application of appropriate punitive measures for corporate wrongdoing involves a spectrum of responses, including fines, asset forfeitures, probationary measures, governance reforms, temporary suspension of business activities, community service obligations, enhanced monitoring, and mandatory ethics training. This comprehensive approach aims to achieve a delicate balance between deterrence and rehabilitation, acknowledging the need to punish misconduct while fostering positive changes in corporate behavior. The significance of collateral consequences, the consideration of unintended harms to various stakeholders, and the integration of restorative justice principles further enrich the discussion on corporate sanctions. In the evolving landscape of corporate law, innovative approaches are crucial. Non-monetary measures, such as enhanced monitoring, community service obligations, and corporate probation, provide avenues for addressing the root causes of wrongdoing and promoting a culture of ethical responsibility. The combination of punitive consequences and constructive measures reflects a commitment to accountability, deterrence, and the long-term integrity of corporate entities. Legal scholars emphasize the importance of precision in the application of sanctions, tailoring them to the specific circumstances of each case. This ensures a fair and proportionate response, aligning with legal standards and contributing to the broader objectives of corporate criminal responsibility. The evolving nature of these discussions highlights the ongoing efforts to refine and adapt legal frameworks to effectively address the complexities of corporate wrongdoing in the modern business environment.

Based on the discussion of corporate criminal liability discussed so far, it is recommended to strengthen regulatory oversight to monitor corporate activities and ensure compliance with laws and regulations to prevent corporate crimes. Additionally, providing education and training programs for corporate officers, employees, and stakeholders on legal obligations, ethical standards, and corporate governance practices can promote a culture of compliance and ethical behavior within corporations. Advocating for the imposition of strict penalties, including fines, asset forfeiture, injunctions, and dissolution, can deter corporate misconduct and hold corporations accountable for criminal offenses. Continuously reviewing and updating existing laws and enacting new legislation to address emerging corporate crimes, enhance corporate accountability, and ensure that legal frameworks keep pace with evolving business practices and technologies is crucial. Furthermore, encouraging corporations to adopt ethical business practices, promote corporate social responsibility initiatives, and engage in sustainable business operations can prevent harm to society and mitigate the risk of corporate crimes. Implementing these recommendations can contribute to fostering a legal environment that promotes corporate compliance, accountability, and responsible business conduct in Nigeria. In short to minimize the risk of criminal liability, companies in Nigeria must as of necessity do the followings:

**Establish Compliance Programs:** Develop and implement comprehensive compliance programs that include policies, training, and monitoring to ensure employees adhere to legal and ethical standards.

**Ethical Leadership:** Promote a culture of ethics and compliance starting from top leadership. Encourage transparency, accountability, and a commitment to lawful conduct.

**Regular Training:** Provide ongoing training to employees on relevant laws, regulations, and company policies. Ensure they understand their responsibilities and the potential consequences of non-compliance.

**Effective Communication:** Foster open communication channels within the organization so that employees feel comfortable reporting potential issues without fear of retaliation.

**Due Diligence:** Conduct thorough due diligence when entering into business relationships, such as partnerships, mergers, or acquisitions, to identify and address any potential legal or compliance risks.

**Monitoring and Auditing:** Regularly monitor and audit internal processes to identify and rectify potential compliance breaches. This includes reviewing financial transactions, contracts, and other critical areas.

**Prompt Response:** Respond promptly and appropriately to any detected misconduct. Investigate allegations thoroughly and take corrective action if necessary.

**Legal Consultation:** Seek legal advice to ensure that company policies and practices comply with applicable laws and regulations. Regularly update policies to reflect changes in the legal landscape.

**Document Retention:** Establish proper document retention policies and procedures to ensure that relevant records are retained and can be provided if needed during legal proceedings.

**Compliance with Industry Standards:** Stay informed about industry-specific regulations and standards, ensuring that the company complies with both general and industry-specific legal requirements.

It is essential for companies to stay proactive in maintaining a strong ethical and compliant corporate culture to mitigate the risk of criminal liability. For emphasis, the advantages of staying away from crime by corporates bodies can never be over-emphasized.