

BALANCING THE SCALES: AN IN-DEPTH EXAMINATION OF THE ADMINISTRATION OF CRIMINAL JUSTICE ACT 2015 AND CORPORATE LIABILITY FOR HOMICIDE*

Abstract

The Administration of Criminal Justice Act (ACJA) 2015 represents a significant milestone in Nigeria's legal system, significantly improving procedural efficiency and aligning with international standards. Despite this progress, outdated substantive laws, such as the Criminal and Penal Codes, inadequately address corporate liability for homicide, presenting a significant challenge. This paper thoroughly examined the issues arising from this disparity, particularly the obstacles in prosecuting corporate entities for homicide. Through a comprehensive analysis of primary and secondary data, the paper identified substantial gaps in Nigeria's legal framework, including the lack of explicit statutory provisions on corporate homicide. It revealed that while the ACJA improved procedural processes, the absence of corresponding reforms in substantive law severely limited the effectiveness of prosecuting corporate entities. The current legal framework's failure to define corporate liability for homicide created legal ambiguities that undermined corporate accountability and justice. Consequently, the paper stressed the urgent need to harmonise Nigeria's procedural and substantive laws, proposing a comprehensive legal reform approach. Key recommendations encompassed amending the Criminal and Penal Codes to explicitly address corporate liability for homicide, closing legal loopholes, and developing a cohesive legal framework that integrates procedural advancements with substantive clarity. These proposed reforms are crucial for enhancing corporate accountability and ensuring a fairer, more effective legal system in line with international standards.

Keywords: Corporate Responsibility, Corporate Criminal Liability, and Corporate Homicide

1. Introduction

The pursuit of justice within any legal system reflects a society's commitment to accountability, particularly when the gravest of offences, such as homicide, are at stake. Traditionally, legal systems have focused on individuals as perpetrators of crimes, but with the rise of corporate entities as powerful actors, the notion of corporate criminal liability has gained increasing prominence.¹ In Nigeria, this concept has evolved beyond legal theory into an ethical imperative, where law, ethics, and justice intersect in complex ways, underscoring the profound moral weight of the issue.² In Nigeria, individuals and corporate entities can be held accountable for actions resulting in loss of life.³ However, prosecuting corporations for such acts under the current legal framework poses significant challenges.⁴ The Administration of Criminal Justice Act⁵ represents a crucial milestone in Nigeria's legal history, as it updates procedural laws to align with international standards. Despite these improvements, the coexistence of these procedural reforms with outdated substantive laws, such as the Criminal and Penal Codes,⁶ creates a disjointed legal framework that complicates the effective prosecution of corporate homicide.

This paper highlights a critical gap in Nigeria's legal framework: the urgent need to align procedural and substantive laws to enforce corporate accountability for homicide. While the ACJA introduced crucial procedural reforms, the failure to amend substantive laws to define corporate liability for homicide has created a significant loophole in the accountability framework. This omission has resulted in some ambiguity in the legal framework, impeding efforts to hold corporate entities fully accountable for their actions. Through a detailed analysis of the interaction between the ACJA and Nigeria's traditional substantive laws (Criminal and Penal Codes), this study aims to shed light on the challenges involved in prosecuting corporate entities for homicide and to provide insights into the urgent need to address these challenges through legal reform. The paper explores several vital questions: How does the misalignment between Nigeria's procedural and substantive laws impact the prosecution of corporate homicide? What challenges arise from the absence of substantive law amendments concerning corporate liability for homicide? How can Nigeria's legal framework be reformed to align procedural and substantive laws better, ensuring justice and corporate accountability? The paper aims to clarify the evolving legal dynamics related to corporate liability for homicide in Nigeria and to explore potential pathways for legal reform that would enhance the efficacy of the country's criminal justice system in holding corporations

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¹Linus Ali, *Corporate Criminal Liability in Nigeria* (Malthouse Press Limited Lagos 2008) 6 - 11

²*Ibid*

³KO Akanbi, 'The Legal Framework for Corporate Liability for Homicide: The Experience in Nigeria and the United Kingdom' *IJUMIJ* (2014) 22(1) 125 - 132 <<http://doi.org/10.31436/ijumlj.v22i1.118>> accessed 19 August 2024

⁴*Ibid*

⁵Administration of Criminal Justice Act, 2015 subsequently, the Act or ACJA when properly defined.

⁶The Criminal Code Act, 1916, Cap C.38 LFN 2004, and Penal Code Act, 1960, Cap 53 LFN 2004. Subsequently as Criminal and Penal Code.

accountable as the scales of justice must be balanced and seen to be so, particularly in cases where the ultimate human cost is at stake.

2. Corporate Criminal Liability and Homicide

Corporate homicide, also known as corporate manslaughter or corporate killing, occurs when a corporation's actions or negligence result in the death of an individual, leading to criminal liability for the corporation.⁷ This legal concept is essential as it ensures that corporations are held accountable for fatal consequences arising from their activities, promoting ethical and safe practices. Corporate criminal liability for homicide occupies a critical juncture where law, ethics, and corporate governance intersect. It asserts that corporations, much like individuals, should be held accountable for wrongful acts that result in loss of life,⁸ thus emphasising that legal entities bear responsibility for their actions.⁹ In Nigeria, however, the legal framework addressing corporate criminal liability for homicide is both complex and inadequate, highlighting broader challenges in holding corporate entities accountable and underscoring the urgent need for reform.¹⁰ The potential of corporate criminal liability for homicide to deter negligent or reckless behaviour within organisations is significant. This legal tool is not just about punishment but prevention, ensuring that the pursuit of profit does not overshadow the safety and well-being of individuals. Holding corporations accountable for grave offences underscores their ethical obligation to protect human life, reinforcing that corporations must adhere to moral and legal responsibilities.

Nigeria's legal framework for corporate criminal liability is primarily based on the Criminal and Penal Codes, originally designed to address individual liability.¹¹ However, these codes do not explicitly accommodate the unique nature of corporate liability in homicide cases.¹² As a result, prosecuting corporate entities for homicide presents substantial challenges. The absence of specific statutory provisions means that prosecutors often have to rely on general tort law principles such as vicarious liability or stretch the interpretation of existing laws beyond their intended scope.¹³ This creates a legal environment where holding corporations accountable for homicide becomes challenging and inconsistent, with case outcomes heavily dependent on judicial discretion and the specific circumstances of each case.

Several obstacles complicate the prosecution of corporate homicide cases in Nigeria. First, the legal distinction between individual and corporate liability complicates establishing intent or negligence, crucial elements in homicide cases. Unlike individuals, corporations do not possess a singular mind, making it difficult to prove the requisite mental state for criminal liability.¹⁴ Second, the procedural complexities of bringing a corporation to trial, including evidentiary challenges and enforcing penalties, further impede effective prosecution.¹⁵ While individuals convicted of homicide face severe penalties such as imprisonment or death,¹⁶ penalising a corporation is less straightforward. Fines, often the go-to penalty, do not always carry sufficient weight, especially for large corporations with vast resources.¹⁷ Furthermore, the inconsistent application of the law significantly exacerbates the challenges associated with prosecuting corporate homicide cases. In practice, these cases in Nigeria are often hindered by legal ambiguities, such as unclear definitions of corporate liability and procedural complexities, including difficulties in establishing corporate intent and the appropriate standards for liability. Additionally, political or economic pressures can play a substantial role, with influential corporations potentially exerting power over legal proceedings, undermining the pursuit of justice and leading to outcomes favouring corporate interests over accountability. These challenges are further compounded by the political influence of the Attorney General's office, which holds the dual role of Chief Law Officer and Minister or Commissioner for Justice.¹⁸ As a political appointee of the President or Governor, the Attorney General wields significant influence over

⁷KO Akanbi, 'The Nigerian Corporate Manslaughter Bill: A Thousand Steps to Nowhere' *Coventry Law Journal* (2022) Vol 27 <<http://publications.coventry.ac.uk/index.php/clj/article/view/874/927>> accessed 19 August 2024.

⁸KO Akanbi, 'The Legal Framework for Corporate Liability for Homicide: The Experience in Nigeria and the United Kingdom, 118-119

⁹*Ibid*

¹⁰OE Smaranda and U Jacob, 'Corporate Manslaughter Law in Nigeria: A Comparative Study' *Beijing Law Review* (2020) 2(1) 371 <<http://10.4236/blr.2020.111023>> accessed 19 August 2024

¹¹Okonkwo and Naish, *Criminal Law in Nigeria* (2nd edn, Spectrum Books Limited 1992) 124

¹²KO Akanbi, 'The Legal Framework for Corporate Liability for Homicide: The Experience in Nigeria and the United Kingdom, 131 - 132

¹³*Ibid*. Corporate criminal liability has given rise to various theories based on general tort law principles and statutes. These theories include vicarious liability (previously in the UK), identification theory (used in Nigeria and other Commonwealth countries), senior management theory (currently in the UK), and corporate culture theory (in Australia).

¹⁴(n 11)

¹⁵Linus Ali, *Corporate Criminal Liability in Nigeria*, 96 -104

¹⁶Sections 319 and 325 of the Criminal Code and Sections 221 and 224 of the Penal Code

¹⁷Fines are often treated as a business expense by corporations, especially those with market power, and may be passed on to consumers.

¹⁸Sections 150 and 195 of the Constitution

the exercise of prosecutorial powers under Sections 174 and 211 of the Constitution.¹⁹ This political dimension can introduce biases that undermine the impartial administration of justice, thereby allowing influential corporations to evade accountability.

The current legal framework fails to adequately address these challenges, leading to situations where corporate entities can often evade full responsibility for their actions. The interaction between procedural and substantive laws further exacerbates these issues. Although the ACJA has introduced procedural changes to improve the criminal justice system's efficiency, these enhancements do not fully ensure justice without corresponding substantive legal provisions clearly defining corporate liability for homicide and specifying appropriate penalties for corporate offenders. The ACJA's procedural changes, such as the introduction of procedures for arraigning corporate defendants,²⁰ their representation and trial²¹ and avenue for victims' compensation,²² have indeed improved the efficiency of the criminal justice system. However, the lack of precise legal definitions and guidelines in the substantive laws results in significant loopholes that corporations can exploit to avoid prosecution. Ultimately, despite the critical importance of holding corporate entities accountable for homicide to uphold justice and prevent corporate misconduct, Nigeria's current legal framework is ill-equipped to effectively address the unique challenges of prosecuting corporate entities for homicide. The Criminal and Penal Codes' deficiencies and procedural complexities under the ACJA²³ present substantial obstacles to achieving corporate accountability, highlighting the urgent need for reform.

3. Administration of Criminal Justice Act 2015

The ACJA represents a significant reform in Nigeria's criminal justice system, aiming to modernise and standardise the procedural aspects of criminal law. Enacted on May 13th, 2015, the ACJA was introduced to address long-standing inefficiencies and inconsistencies within the system to provide a more efficient and effective legal process. One of its primary objectives is to align Nigeria's criminal procedure with international standards, thereby enhancing the overall administration of justice.²⁴ The Act has a broad scope, encompassing various aspects of criminal proceedings, from arrest and investigation to trial and sentencing. By integrating elements from both the Criminal Procedure Act (CPA)²⁵ and the Criminal Procedure Code (CPC)²⁶ that previously applied to the southern and northern parts of Nigeria, the ACJA establishes a unified procedural code that applies across the country,²⁷ thus eliminating regional disparities in criminal procedure.

Regarding corporate criminal liability, the ACJA introduced several provisions directly impacting how corporate entities are treated under the law. For instance, the Act makes provisions for the arraignment of corporate defendants²⁸ and modes for compelling their appearance through the service of summonses,²⁹ allowing for legal proceedings to be initiated against corporations. This is a significant development, as it ensures that corporations can be held accountable in court for criminal offences, including those involving serious crimes such as homicide. Moreover, the ACJA acknowledges their conceptual nature, allowing corporations to be represented in court by their directors or legal representatives.³⁰ This facilitates the prosecution of corporate entities and ensures that they are subject to the same legal processes as natural persons.³¹

The impact of the ACJA on corporate homicide cases is intricate and multi-layered. On the one hand, the Act has established a more robust procedural framework for prosecuting corporate entities, thereby improving the legal system's capacity to hold corporations accountable for their actions. This procedural modernisation is essential for addressing the complexities involved in prosecuting corporate homicide, as it provides more specific guidelines on how such cases should be handled. However, the effectiveness of the ACJA in prosecuting corporate homicide is significantly constrained by the lack of corresponding reforms in Nigeria's substantive laws. While the Act streamlines the procedural aspects, it does not amend the Criminal or Penal Codes to address corporate liability for homicide explicitly. This gap presents significant challenges in prosecuting such cases, as the substantive law remains outdated and unsuitable for dealing with the realities of modern corporate entities. The absence of explicit provisions for corporate homicide under substantive

¹⁹The constitutional powers of the Attorney General are absolute and unfettered and so cannot be challenged in court see *Ezea v State* [2014] LPELR-23565(CA) (Pp. 21-25 paras. E), *Sadiku v State* [2013] LPELR-20588 (SC), and *FRN v Adewunmi* [2007] 10 NWLR (Pt. 1042) 399, 404 – 405.

²⁰Part 47 of the Act

²¹*Ibid*

²²Part 32 of the Act

²³This complexity largely stems from the inadequacy of substantive law on corporate homicide.

²⁴Section 1(1)

²⁵Cap C41 LFN 2004

²⁶Cap. 30, Laws of Northern Nigeria 1963

²⁷Section 493

²⁸Sections 477 – 485

²⁹Sections 114, 117, 122 and 123

³⁰Section 477

³¹Section 482 and 484(1)

law means that prosecutors often struggle to apply the existing legal framework to cases involving corporate entities, leading to legal ambiguities and difficulties in securing convictions.

In addition to its progressive elements, the ACJA does not entirely address the inherent conflict between procedural and substantive law concerning corporate liability for homicide. The continued reliance on outdated substantive laws that inadequately capture the complexities of corporate criminality compromises the procedural improvements brought about by the Act.³² This disjointed legal framework poses a significant barrier to achieving justice in cases where corporate actions lead to loss of life. While the ACJA has made significant advancements in modernising procedural aspects of criminal law, its impact on corporate homicide cases is limited by the constraints of existing substantive law. The Act lays the groundwork for prosecuting corporate entities, but without corresponding reforms to the Criminal and Penal Codes, the full potential of these procedural innovations cannot be realised. This underscores the pressing need for a more comprehensive legal reform approach that harmonises procedural and substantive law to ensure that corporations are held fully accountable for their actions, particularly in cases involving the most serious offences, such as homicide.

4. Substantive Laws and Corporate Liability for Homicide

The substantive laws concerning corporate liability for homicide in Nigeria have notable gaps that hinder the effective prosecution of corporate entities.³³ The Criminal Code, which is applicable in the southern states, and the Penal Code, governing the northern states, which form the backbone of Nigeria's criminal law, were primarily crafted with individual offenders in mind and did not adequately address the unique nature of corporate liability,³⁴ especially in cases of homicide where establishing intent or negligence at an organisational level is inherently complex. Both codes lack explicit provisions for holding corporations accountable for acts resulting in death. This oversight indicates a broader issue within Nigerian law, where corporate actions leading to fatalities are not consistently recognised as criminal offences. Instead, the legal framework often requires attributing guilt to specific individuals within the corporation rather than the entity as a whole.³⁵ This approach presents a significant challenge in cases where corporate culture, policies, or systemic failures contribute to a fatal outcome, but no single individual can be solely responsible. Section 36(12) of the Constitution states that written laws must clearly define criminal offences.³⁶ This means that criminal liability, including for unlawful homicide, is strictly determined by statute. However, corporate homicide is not explicitly defined as a distinct offence in Nigeria. While the Criminal and Penal Codes recognise corporations as 'persons'³⁷ and hold them liable for offences outlined in these codes, including manslaughter, culpable homicide, and criminal negligence,³⁸ the absence of specific provisions for corporate liability in homicide cases forces prosecutors to rely on general principles of criminal responsibility.³⁹ This lack of clarity leads to legal uncertainty, making it challenging to prosecute corporate entities. Furthermore, the current laws do not adequately address the evolving nature of modern corporate operations, including global activities with far-reaching consequences.⁴⁰ The codes fail to consider the intricate decision-making processes within corporations or impose collective responsibility for negligent or intentional acts leading to unlawful homicide. As a result, despite the procedural advancements introduced by the ACJA, prosecuting corporate homicide remains challenging due to outdated substantive laws that undermine the effectiveness of these procedural innovations, therefore not aligning with the Act's goals regarding prosecuting corporate crime.

In the light of these challenges, there is a pressing need for significant reforms to Nigeria's substantive laws to address corporate liability for homicide effectively. Updating the Criminal and Penal Codes with provisions that explicitly define corporate liability, considering modern business practices and the complexities of attributing criminal responsibility to corporate entities, is essential. These reforms will bolster the legal framework and ensure that corporations are held accountable commensurate with their potential impact on public safety and the broader social good. Without these changes, prosecuting corporate homicide cases will continue to be hindered by legal ambiguities and procedural obstacles, leaving victims without justice and corporations without sufficient deterrents to prevent future harm.

³²ET Omonemu, 'The Basis of Corporate Criminal Responsibility in Nigeria' *Baltic Journal of Law & Politics* (2023) 16(3) 3252 – 3254 <[http:// DOI: 10.2478/bjlp-2023-00000246](http://DOI: 10.2478/bjlp-2023-00000246)> accessed 19 August 2024.

³³The primary issue is the lack of a clear definition of corporate criminal liability. See CN Iyidobi, 'Rethinking the Basis of Corporate Criminal Liability in Nigeria', *Nigerian Judicial Review (NJR)* (2015) (13) 103-130 <<http://law.unn.edu.ng/wpcontent/uploads/sites/12/2016/08/5.Rethinking-the-Basis-of-Corporate-Criminal-Responsibility-.pdf>> accessed 19 August 2024.

³⁴(n 11)

³⁵In *Barewa Pharmaceuticals Ltd v FRN* [2019] LPELR-47385(SC), two employees were convicted of strict liability offences related to the "My Pikin" teething medicine that killed 84 children in 2009.

³⁶The Constitution of Federal Republic of Nigeria, 1999 (As amended). Subsequently, the constitution or the 1999 constitution when properly defined.

³⁷See section 5 of the Penal Code and section 18(2) of the Interpretation Act Cap. I23, LFN 2004.

³⁸Sections 316 and 317 of the Criminal Code and Sections 220, 221 and 222 of the Penal Code

³⁹Such as the vicarious liability and identification doctrine of ascription of corporate criminal liability. See (n 33)

⁴⁰*Ibid*

5. Challenges in Balancing Procedural and Substantive Laws

Finding the right balance between procedural and substantive laws regarding corporate liability for homicide in Nigeria poses a multifaceted challenge. The ACJA brought about substantial procedural reforms to modernise the criminal justice system and advance the prosecution of corporate crime. However, these changes have not been accompanied by corresponding updates to the substantive laws, especially those found in the Criminal and Penal Codes. This disconnect creates a significant barrier to effectively prosecuting corporations for serious crimes like homicide, leading to a disjointed and, at times, conflicting legal framework. One of the primary challenges in aligning procedural and substantive laws is the inherent inflexibility of the existing substantive legal framework.⁴¹ Crafted with individual offenders in mind, the Criminal and Penal Codes do not adequately account for the complexities of corporate behaviour, such as the diffuse decision-making processes and layered management structures. This gap is especially apparent in cases of corporate homicide, where the actions of a collective entity must be evaluated under laws that were not designed for such scenarios. The traditional legal concepts of *mens rea* and *actus reus*, which focus on the intent and actions of individuals, are challenging to apply to corporations with no single decision-making mind. While the ACJA has introduced procedural efficiencies to facilitate corporate crime prosecution, these improvements are significantly hindered by the outdated and insufficiently detailed substantive laws governing the nature of corporate criminal liability, leaving disconnect between procedural capabilities and substantive justice.⁴²

The tension between modern procedural advancements and antiquated substantive laws introduces complexities that further challenge legal proceedings. For example, while the procedural mechanisms outlined in the ACJA may streamline the prosecution process, they do not address the substantive issue of attributing criminal intent, or *mens rea*, to a corporate entity.⁴³ The lack of clear guidelines on corporate liability in substantive law means that even with available procedural avenues, the prosecution may struggle to establish the necessary elements of the offence. This lack of clarity impedes the trial and creates uncertainty in judicial interpretation, resulting in inconsistent outcomes in corporate defendants' cases. The distinct nature of corporate homicide cases further underscores the practical complexities of reconciling procedural and substantive laws. Unlike individual crimes, where intent and actions can be directly attributed to a single person, corporate crimes involve a network of decisions and actions made by various individuals within the organisation.⁴⁴ While the procedural tools provided by the ACJA may facilitate evidence gathering and trial proceedings, they do not simplify the substantive challenge of proving corporate criminal liability. This challenge is compounded by the fact that corporations, as legal persons, do not possess the same attributes as natural persons, making it difficult to apply traditional concepts of criminal responsibility.⁴⁵

Furthermore, the lack of alignment between procedural and substantive laws can create practical challenges in the courtroom. Judges and legal practitioners may encounter a complex and sometimes conflicting legal environment, where procedural rules aimed at efficiency may not be in sync with substantive laws ill-prepared to address corporate crime. This discord can lead to delays, legal disputes, and, occasionally, the inability to hold corporate entities responsible for their actions. Despite the well-intentioned procedural reforms of the ACJA, they may not fully address the deficiencies in substantive law, potentially compromising justice delivery. Adding to the complexity, Nigeria's legal system is diverse and often fragmented, with different legal codes coexisting across regions and a lack of comprehensive legislative reform, making it difficult to establish a unified approach to corporate liability.⁴⁶ This fragmentation impedes the establishment of a coherent legal framework, creating significant challenges in ensuring consistent legal standards nationwide for holding corporations accountable. As a result, the legal system is riddled with ambiguities and conflicts, complicating the pursuit of justice in cases involving corporate entities. These challenges emphasise the necessity of comprehensive legal reforms that harmonise procedural and substantive laws, equipping both to effectively address contemporary corporate behaviour and hold corporations accountable, particularly in cases involving loss of life.

6. Corporate Responsibility and Legal Frameworks

The oversight of corporate responsibility within the framework of legal regulations is a critical focus area, particularly when addressing matters related to corporate homicide. The alignment of legal standards significantly impacts corporate governance, directly influencing how companies shape their internal policies to ensure compliance with laws to prevent

⁴¹Sections 317 and 220(c) of the Criminal and Penal Codes define manslaughter and culpable homicide in a way that may not address deaths caused by corporate negligence, creating inflexibility and challenges in aligning with procedural reforms

⁴²For example, Section 24 of the Criminal Code was drafted with a focus on the criminal liability of natural persons, not corporations.

⁴³(n 32)

⁴⁴Alice Belcher, 'Corporate Killing as a Corporate Governance Issue', *Corporate Governance: An International Review* (2002) (10) 47-54 <<http://10.1111/1467-8683.00266>> accessed 19 August 2024

⁴⁵For challenges related to corporate criminal liability, see SS Beale, 'A Response to the Critics of Corporate Criminal Liability', *Criminal Law Review* (2008) 8, 89-90 <<https://doi.org/10.1525/nclr.2004.8.1.89>> accessed 19 August 2024

⁴⁶Nigeria's fragmented legal system and lack of comprehensive reform complicate corporate liability, prompting authors like Ali to recommend enacting a unified corporate criminal code to address the proliferation of laws regulating corporate crime. See Linus Ali, *Corporate Criminal Liability in Nigeria*, 314 -315

negligent or intentional acts leading to loss of life.⁴⁷ Effective legal harmonisation integrates procedural and substantive laws, creating a cohesive legal environment that enhances corporate accountability. In this environment, corporations are expected to adhere to existing legal standards and are encouraged to proactively implement measures to mitigate risks associated with potential criminal liability. Corporate compliance and accountability are central to preventing homicide within corporate settings.⁴⁸ Companies are increasingly held to higher standards of care, necessitating robust compliance programs that address ethical and legal obligations.⁴⁹ These programs must encompass a thorough understanding of the potential legal repercussions of corporate actions, particularly in industries where the risk of causing harm is significant. Accountability mechanisms, such as regular audits, employee training, and transparent reporting processes, are essential in fostering a culture of responsibility that can prevent incidents of corporate homicide. Legal practitioners must carefully consider ethical and strategic factors in this context. Handling corporate law requires a delicate balance between safeguarding the client's interests and upholding justice and public safety. It demands a thorough understanding of corporate liability frameworks and a firm commitment to ethical practice beyond mere compliance with the law. The role of legal professionals in advocating for legal reform is not just essential but crucial. Lawyers, judges, and policymakers are empowered to champion and implement changes addressing the deficiencies in current laws, especially those on corporate homicide. By advocating for reforms that align Nigerian law with international standards, legal professionals play an integral role in establishing a legal framework that holds corporations accountable, prevents future misconduct, and ensures justice for victims of corporate negligence.

7. Opportunities for Legal Reform

It is crucial to swiftly address legal reform opportunities in tackling corporate homicide in Nigeria, especially given the challenges stemming from outdated laws and the evolving framework of corporate accountability. Making legislative changes is essential to effectively prosecute corporate entities for acts of homicide, as the current legal framework lacks explicit provisions that acknowledge and tackle the complexities of corporate criminal liability. An important area for reform involves amending Nigeria's Criminal and Penal Codes to incorporate specific provisions addressing corporate liability for homicide. This consists of delineating the conditions under which a corporation can be held criminally accountable for actions or oversights leading to loss of life, defining appropriate penalties for corporate defendants such as corporate probation, community service, license revocation, publicity and remedial orders, and establishing the procedure for imposing these penalties to address current legal deficiencies. By explicitly acknowledging corporate entities as potential perpetrators of serious crimes, such reforms would enable the legal system to hold them accountable in a manner consistent with the principles of justice.

It is essential to ensure that Nigerian law aligns with international standards as part of legal reform. Numerous jurisdictions worldwide, such as Australia and Canada, have recognised the need to hold corporations accountable for criminal actions, including homicide.⁵⁰ They have implemented legal frameworks for corporate criminal liability, including detailed statutory provisions addressing corporate homicide and similar offences. By incorporating best practices from around the world, Nigeria can create laws that adhere to global standards while addressing the unique challenges of its legal and socio-economic environment. This alignment would not only bolster Nigeria's standing worldwide but also enhance the overall effectiveness of its legal system in addressing corporate crime. Therefore, legal and policy recommendations should concentrate on establishing a more coherent and comprehensive legal framework that encompasses both procedural and substantive elements. This may involve crafting dedicated legislation akin to those in the UK, Australia, Canada, and other jurisdictions, providing clear and specific legal grounds for prosecuting corporate homicide. Moreover, reforms should underscore the importance of corporate governance and compliance mechanisms, encouraging corporations to adopt practices that prevent harm and mitigate risks.⁵¹ Policymakers should also explore the possibility of establishing specialised courts⁵² and regulatory bodies or enhancing the powers of existing agencies to monitor corporate behaviour and ensure compliance with legal standards.

Legal practitioners and policymakers play a crucial role in driving these reforms. By advocating for legislative changes and promoting the adoption of international best practices, these stakeholders can significantly contribute to establishing a legal framework that is both fair and effective in holding corporations accountable for their actions. Providing educational and training programs for judges, prosecutors, and legal practitioners on the intricacies of corporate criminal

⁴⁷This fosters corporate accountability, encouraging companies to prioritize safety and diligence by understanding the legal consequences of fatal outcomes.

⁴⁸JW Harlow, 'Corporate Criminal Liability for Homicide: A Statutory Framework' *Duke Law Journal* (2011) (61) 123 - 116 <<https://scholarship.law.duke.edu/dlj/vol61/iss1/3>> accessed 19 August 2024.

⁴⁹*Ibid*

⁵⁰See For UK, see the Corporate Manslaughter and Corporate Homicide Act 2007, for Australia, see the Criminal Code Act 1995 and the Crimes (Industrial Manslaughter) Amendment Act 2003; for Canada, see the Criminal Code RSC 1985, c. C-46; and for the U.S., see Chapter 8 of the Sentencing Commission Guidelines Manual, §3E1.1 (Nov. 2021)

⁵¹As outlined in Chapter 8 of the US Sentencing Commission Guidelines Manual

⁵²It is recommended that these courts be equipped to handle complex corporate cases and staffed with judges and legal experts specialising in corporate law, criminal law, regulatory compliance, and industrial safety.

liability can further bolster these reforms, ensuring that the legal community is well-prepared to handle the complexities of such cases. These reforms are essential for upholding justice, fostering public trust in the legal system, and enhancing corporate responsibility.

8. Conclusion

The examination of corporate responsibility for homicide within the Nigerian legal system reveals a complex interplay between procedural advancements and the limitations of substantive law. Key findings emphasise the deficiencies in Nigeria's current legal framework, particularly the lack of explicit provisions in the Criminal and Penal Codes addressing corporate liability for homicide. The ACJA represents a significant step forward in procedural reform; however, it does not sufficiently bridge the gap between procedural efficiency and the substantive requirements needed to hold corporations accountable for the most severe offences, especially for fatalities caused by their recklessness or negligence. This disparity underscores the pressing need for legal reform to harmonise both procedural and substantive aspects of the law, ensuring that corporate entities are held accountable in a manner commensurate with the seriousness of their actions. Balancing procedural and substantive laws within the legal system is imperative. Failing to reconcile these two dimensions poses a significant risk to the pursuit of justice, especially in cases involving corporate homicide, where the stakes are exceptionally high. The procedural advancements established under the ACJA should be accompanied by substantive reforms that delineate corporate liability for homicide. This approach will establish a coherent legal framework capable of addressing the complexities of corporate misconduct.

It is crucial to direct future research and reform efforts towards a comprehensive overhaul of Nigeria's legal framework governing corporate liability. This involves amending existing legislation and aligning Nigerian law with international standards, ensuring the country's legal system remains relevant and effective globally. International alignment is essential to guarantee the effectiveness of Nigeria's legal system domestically and internationally. Furthermore, ongoing research should focus on the practical challenges of implementing these reforms, including the role of corporate governance and compliance in preventing corporate homicide. Legal practitioners, policymakers, and scholars must continue engaging in this critical discourse, advocating for reforms that will strengthen Nigeria's legal system against the unique challenges posed by corporate criminal liability. Nigeria is still on the path towards establishing a fair and impartial legal system. Finding the right equilibrium between procedural and substantive laws is essential to guarantee that justice is pursued and visible, particularly in cases where corporate behaviour leads to loss of life. The findings from this analysis emphasise the urgent need for extensive legal reforms that will balance the scale of Justice, ensure corporate accountability and strengthen the rule of law in Nigeria.