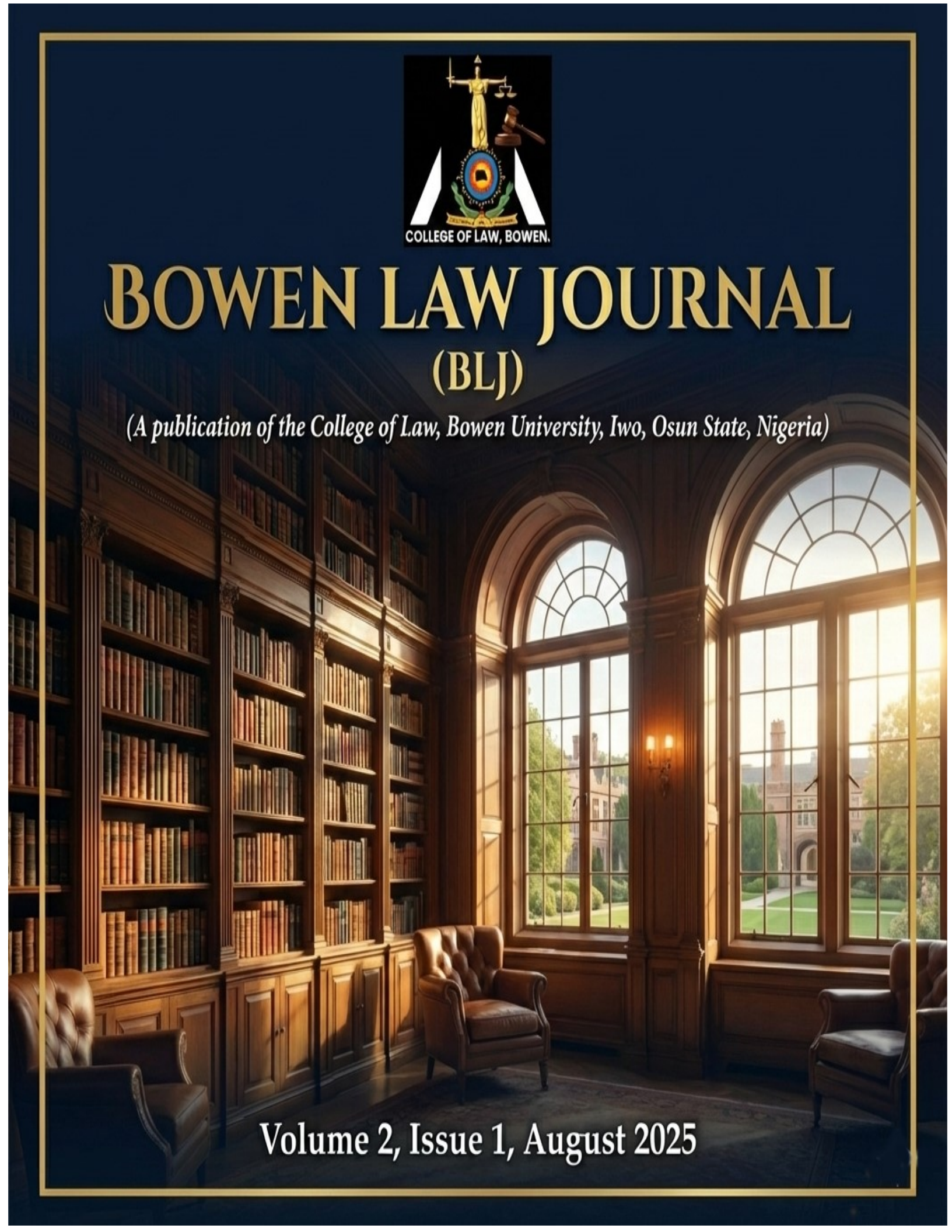
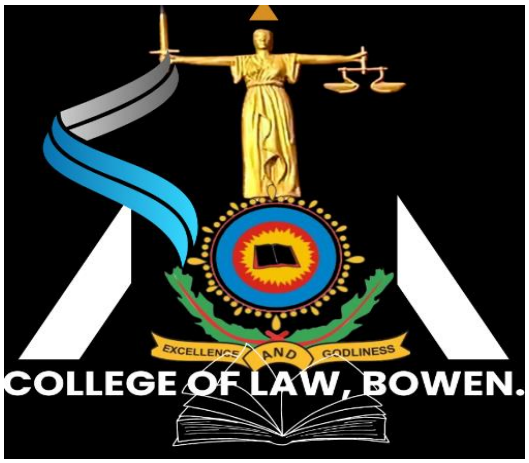

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Editorial

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This edition of *Bowen Law Journal* is not only a resuscitation of the publication but its first online edition. It is appearing at a time that the world has become a global village, interconnected and observable by technological means. The journal, the content of which is peer reviewed, is therefore purposed for global impact through the projection of the dignified visibility of its contributors.

The journal accepts contributions on all areas of the law as is apparent from the present contents that span the areas of criminal law and criminology, human rights, employment law, law and medicine, security, peace, and tourism as well as business law generally, including taxation.

The thematic coverage of this journal accommodates impactful and scholarly contributions towards the advancement of the knowledge of law and its application in society. Significantly, the journal is interested in contributions that ensure that law addresses the intricacies of human relations and dealings as well as order in the world we live in.

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2. The standard British citation method should be adopted.
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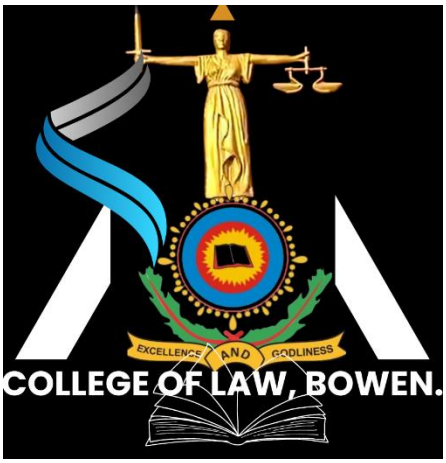
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BLJ

BOWEN LAW JOURNAL

VOLUME 2, ISSUE 1

Table of Contents

TITLE PAGE ……..……..……..i
BOWEN LAW JOURNAL ii
EDITORIAL……..……....iii
EDITORIAL BOARD iii
ARTICLES vii

ARTICLES

Title	Authors	Page
ASSESSMENT OF CORPORATE GOVERNANCE AND BUSINESS ETHICS IN NIGERIA	Jonathan Gambo and Olumide Opeyemi Toyinbo	8
APPRAISAL OF THE IMPACT OF CYBERCRIME ACT ON ELECTRONIC TAXATION PRACTICE IN NIGERIA	Oguguo Paschal Olebara	24
REIMAGINING NIGERIA'S FUTURE: LEGAL FRAMEWORKS FOR ECONOMIC DIVERSIFICATION AND SUSTAINABLE NATIONAL DEVELOPMENT	Oluwatosin Elufowoja and Adetutu D. Aina-Pelemo	37
EVALUATION OF THE EFFECTIVENESS OF THE OF UNITED NATIONS CONVENTION AGAINST CORRUPTION IN COMBATING CORRUPTION IN NIGERIA.	OYEDOKUN Godwin Emmanuel, OMOPE Oyeyemi Juliannah, AKINDE Ibikunle Oladapo, AMUSAN Michael Kolawole & BABALOLA Wasiu Adeyemo	50
APPRAISIAL OF THE UNITED NATIONS PACT FOR THE FUTURE, 2030 AGENDA FOR SUSTAINABLE DEVELOMENT GOALS AND WOMEN'S CONTRIBUTIONS TO PEACE AND SECURITY.	Dr. Abiola Akiyode-Afolabi	65
MEDICAL TOURISM IN NIGERIA: CHALLENGES, CONCERNS, AND IMPLICATIONS FOR HEALTHCARE POLICY AND PRACTICE	Onyegbule Kelechi G, Awoke Gabriel Ugota	76

INTEGRATING CHROMOTHERAPY AS A MEASURE FOR THE CORRECTION OF OFFENDERS IN NIGERIA: A COMPARATIVE PERSPECTIVE	**Dorcas Adesola Thanni, Olorunmola Jide Joseph, Oyewusi Adegboyega**	89
PROMOTING ELDERLY RIGHTS AND COMBATING DISCRIMINATION: AN EXAMINATION OF THE LEGAL FRAMEWORK FOR SUSTAINABLE REFORMS IN NIGERIA[1]	**Cynthia Chukwufumnanya Izu, Olayide Oladipo Dara, Samson Akinlola Oyediran**	104
REGIONAL PROTECTION OF HUMAN RIGHTS IN AFRICA: SICK OR DEAD?	**Simeon Olaosebikan Oni**	119
REGULATING THE FRONTIERS OF MEDICINE: ETHICAL, POLICY, AND REGULATORY FRAMEWORKS FOR XENOTRANSPLANTATION	**Onyegbule Kelechi**	137

Towards Excellence: A Journal of the College of Law, Bowen University, VOL 2, ISSUE 1; Jonathan Gambo and Olumide Opeyemi Toyinbo. Page 8-23

BOWEN LAW JOURNAL

ASSESSMENT OF CORPORATE GOVERNANCE AND BUSINESS ETHICS IN NIGERIA

By

Jonathan Gambo and Olumide Opeyemi Toyinbo

*LL.B, B.L; Postgraduate Student, Faculty of Law, Usmanu Danfodiyo University, Sokoto; gambojona@gmail.com; +2347068920215.

*LL.B, B.L; Postgraduate Student, Faculty of Law, Usmanu Danfodiyo University, Sokoto; toyinboolumide@gmail.com; +2348103240364.

ABSTRACT

Corporate governance and business ethics are pivotal to the sustainable development of any economy. This article appraises the concept and legal framework of corporate governance and business ethics in Nigeria. It highlights their interconnection and role in fostering sustainable business practices. Using a doctrinal methodology, the study evaluates the adequacy of Nigeria's frameworks, including the Companies and Allied Matters Act 2020 and the Nigerian Code of Corporate Governance 2018, while incorporating global best practices. It identifies key issues, such as: weak enforcement mechanisms, insufficient stakeholder education and inadequate penalties for violations of corporate governance principles. To address these challenges, the study proposes stricter enforcement of governance laws, targeted education for stakeholders, enhanced whistle blowing policy, increased shareholder engagement, and prioritisation of sustainability in corporate practices. It further advocates for the establishment of a specialised monitoring agency to enhance corporate governance and business ethics in Nigeria. By addressing these gaps, this article contributes to the discourse on strengthening corporate governance for economic sustainability and ethical business practices in Nigeria.

Keywords: *Business Ethics, Corporate Governance, Codes of Corporate Governance, Shareholder, Sustainability.*

1. INTRODUCTION

Corporate governance and business ethics are foundational pillars of organisational management, guiding how businesses are directed, controlled, and conducted in alignment with moral principles and societal expectations. Corporate governance ensures that shareholders receive a fair return on their investments while meeting the broader expectations of other stakeholders.[2] Business ethics complements this by fostering integrity and accountability in decision-making processes, thereby shaping organisational behaviour to align with societal values.[3] Together, they form the bedrock of sustainable business practices and stakeholder trust.

Nigeria has taken significant steps to strengthen corporate governance and business ethics through legislative reforms, most notably the Companies and Allied Matters Act (CAMA) 2020. A key feature of CAMA 2020 is the establishment of the Corporate Affairs Commission (CAC), which oversees corporate activities and safeguards the interests of shareholders and other stakeholders. The Nigerian Code of Corporate Governance (NCCG) 2018 provides best-practice guidelines to enhance governance standards across different sectors. In addition to CAMA 2020, Nigeria has implemented various regulatory frameworks designed to promote good governance and ethical practices.[4] These legal and regulatory advancements reflect Nigeria's commitment to fostering a transparent and ethical business environment. By examining the interplay between corporate governance and business ethics, this article highlights their combined role in promoting sustainable business operations and maintaining stakeholder trust. Understanding these dynamics is essential for developing actionable strategies to further enhance governance and ethical standards in the Nigerian corporate sector.

2. Conceptual Clarification of Corporate Governance and Business Ethics

Corporate governance is a system by which business corporations are directed and controlled.[5] It involves balancing the interest of the company's stakeholders, such as shareholders, management, consumers, suppliers, government and the community. Hence, corporate governance is concerned with matters such as: in whose interest is a company or business entity governed? Who has the power to make decisions for a company? For what aim and purpose are these powers used? Who else might influence the governance of the company? And how are risks managed? Hence, corporate governance are codes of practices by which a business entity or a company is held accountable to its capital providers, with the core objectives of strategic focus, predictability,

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[2] N Khalid, 'Corporate Governance and Business Ethics' <https://www.ripublication.com/gjmbs_spl/gjmbsv3n10_08pdf> accessed on 23 September, 2024

[3] R Nainawa and R Meena, 'Corporate Governance and Business Ethics (2013) 3(10) *Global Journal of Management and Business Studies* 1085-1090.

[4] These include the sectoral legal framework including Code of Good Corporate Governance for Public Companies, 2011, Code of Corporate Governance for Banks and Discount Houses, 2014, Code of Corporate Governance for Licensed Pension Fund Operators, 2008, Code of Corporate Governance for the Insurance Industry, 2009, Code of Corporate Governance for the Telecommunications Industry, Code of Corporate Governance for Capital Market Operators and their Employees, 2010 and Code of Corporate Governance for Other Financial Institutions in Nigeria, 2018

[5] A Cadbury. The Financial Aspects of Corporate Governance: A Report of the Committee on Corporate Governance. (1st ed. London: Gee and Co. 1992) p.15.

transparency, efficiency, and accountability.[6] Corporate governance is considered to be a means by which affairs of the firm are directed and controlled so as to protect the interest of all stakeholders.[7]

Business ethics refers to the principles, standards, and values that guide decision-making and behaviour in the business environment.[8] It entails applying ethical considerations to business practices and ensuring that actions align with societal norms and moral expectations. Business ethics encompasses the rules and guidelines that help individuals and organisations determine what is right or wrong in their professional conduct.[9] It involves implementing appropriate practices and policies in the workplace that promote accountability, fairness, and transparency. By adhering to ethical values, businesses can build trust with stakeholders, foster positive relationships, and enhance their reputation. Invariably, business ethics serves as a framework for achieving sustainable success while maintaining integrity and respect for societal and legal standards.

3 Nexus between Corporate Governance and Business Ethics

Corporate governance provides the structure and mechanisms that support ethical behaviour within a company, business environment or organisation.[10] Corporate governance also establishes the framework for decision-making, risk management, and the alignment of business objectives with ethical standards in a business environment. Corporate governance frameworks often includes codes of conduct and ethical policies that set out the expected behaviours and ethical standards for employees and managers. These standards outline principles such as integrity, transparency, social responsibility, fairness, compliance, and accountability, which all serves as the guiding principles for ethical decision-making. Stakeholder engagement is a crucial aspect of corporate governance and business ethics. When companies actively involve stakeholders, such as employees, customers, suppliers, investors and the local community in their decision-making processes, they enhance their ability to make informed and ethical choices.[11] Hence, ethical corporate governance fosters positive relationships with stakeholders by actively engaging them in decision-making processes. And any company that value stakeholder input and incorporate their perspectives into strategic planning are more likely to make ethical choices that align with broader societal values.

Effective corporate governance includes risk management mechanisms that identify, assess, and mitigate risks to the organization's reputation and ethical standing. By integrating ethical considerations into risks management processes, companies and other business entities can anticipate and address potential ethical dilemmas proactively.[12] Also, the board of directors plays a crucial role in corporate governance as well as business ethics by ensuring that ethical considerations are integrated into strategic decision-making. The board is responsible for

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[6] R Ruparelia and A Njuguna, The evolution of Corporate Governance and Consequent Domestication in Kenya (2016) 7(5) International Journal of Business and Social Science 153-163. At page 159.
[7] Ibid.
[8] M L Michael, 'Business Ethics: The Law of Rules' Working Paper No. 9 <https://www.hks.harvard.edu/sites/default/files/centers/mrcbg/programs/cri/files/workingpaper_19_michael.pdf > > accessed on 29 September, 2024.
[9] Cambridge Dictionary 'Business Ethics' <https://dictionary.cambridge.org/us/dictionary/english/business-ethics> accessed on 2 October, 2024.
[10] Ibid, (n7).
[11] Z. Othman and R.A Rahman, Exploration of Ethics as Moral Substance in the Context of Corporate Governance, (Asian Social Science Vol. 7, No. 8; August 2011) p.174. < www.ccsenet.org/ass >
[12] ibid, 175.

overseeing the actions of management and safeguarding the interests of various stakeholders.[13] Essentially, corporate governance serves as a critical foundation for promoting business ethics and responsible decision-making within organisations. Hence, companies and organisations that prioritise corporate governance and business ethics are more likely to thrive in the long run, as they build trust, enhance their reputation, and contribute positively to society.

4. Legal Framework for Corporate Governance and Business Ethics

The enforcement of corporate governance and business ethics in Nigeria is grounded in laws, corporate organs, regulatory institutions, and instruments. The primary legal framework are the CAMA 2020, the Nigerian Code of Corporate Governance 2018 and the sectoral corporate governance framework.

4.1 The Companies and Allied Matters Act 2020

The Companies and Allied Matters Act generally provides for the administration and governance of companies in Nigeria. It offers a number of mechanisms for effective corporate governance and business ethics, such as the company's appointment of directors, the ordinary resolution process for removal of directors, the responsibilities and liabilities of directors, provisions for the audit committee and auditors, disclosure requirements, and the requirement that shareholders participate in certain corporate decisions.[14]

The Companies and Allied Matters Act 2020 (CAMA) specifically outlined a number of directors' obligations in an effort to codify important common law principles. Important sections on this subject state that a director has a fiduciary duty to the company,[15] that he or she should always act in the best interests of the company,[16] that he or she should only use their authority for that purpose and not for personal gain,[17] that a director's duties should never conflict with their personal interests,[18] and that a director must carry out their duties honestly, in good faith, and with the level of skill and care that a reasonable and prudent director would use in a similar situation.[19] There is a common belief that a company's members in general meeting are its ultimate organ and that the board of directors is just the company's representative under their direction.[20] Subsequent decisions, however, seem to have reversed this position, stating that members at general meeting are no longer able to override the decisions of the directors unless they are in violation of the CAMA or the Articles.[21] This was the decision of the Court in *Longe v. F.B.N*[22] where it was held that while members in general meeting hold significant powers, including the removal of directors by ordinary resolution, their powers are subject to compliance with the articles of association and CAMA. Thus, the general meeting cannot override directors' decisions if such actions contravene

[13] ibid, 178.
[14] A O Akinpelu. *Corporate Governance Framework in Nigeria: An International Review* (1st ed. Bloomington: iUniverse, Inc. 2011) P.160.
[15] CAMA 2020, s. 305(1) and (2).
[16] CAMA 2020, s. 305 (3) and (4).
[17] CAMA 2020, s. 305 (5).
[18] CAMA 2020, s. 306.
[19] CAMA 2020, s. 308.
[20] Salomon v. Salomon & Co. Ltd. [1897] AC 22 (House of Lords)
[21] This is in line with the common law principle in *Automatic Self- Cleansing Filter Syndicate Co* v. *Cuninghame* [1906] 2 Ch.D, 34.
[22] (2010) 6 NWLR (pt 1189).

the articles or statutory provisions. Hence, the decision underscores that the board of directors exercises managerial powers and that members cannot interfere arbitrarily with these powers unless there is a breach of CAMA or the articles. The decision in Longe's case mark a clear evolution in Nigerian corporate governance, balancing the powers of shareholders and directors, and recognizing the board's critical role in company management subject to statutory and constitutional safeguards.

The articles of association, unless otherwise specified in the Act, establish the division of powers between the members of the companies and board of directors.[23] The board of directors of a corporation may exercise its management authority under section 87(3) of the CAMA 2020, even in cases where the articles of association remain silent on the subject. To put it another way, the board of directors is responsible for managing the day-to-day affairs of the company. Although the Companies and Allied Matters Act 2020 has true corporate checks and balances to prevent the board from acting arbitrarily, these checks are typically ineffective and fall short of their intended purposes.[24]

Section 87(5) CAMA specifically provides for the members' residual duties with regard to the board's decisions and acts. These include the ability of the members in general meeting to take action in the event that the board is unable to act due to a deadlock or is disqualified, the authority to file a lawsuit on the company's behalf, the authority to approve or validate any decision made by the board of directors, and the authority to suggest actions to the board. Although the aforementioned principles seem very admirable on the surface, it is challenging to implement in reality since a complete impasse is necessary for the court to exercise its authority under the just and equitable clause, which is not always the case.[25]

The importance of shareholders in corporate governance is maintained strongly by the Companies and Allied Matters Act. It requires directors, at most, to strike a balance between the conflicting interests of shareholders and employees. The general meeting of public firms however, rarely serves as a watchdog over daily management decisions.[26] Even in situations where certain shareholders have the opportunity to closely observe the company's operations, their minority ownership in publicly traded companies prevents them from mobilising the support necessary to make their opposition to corporate choices significant. Proxy voting and annual general meeting locations have frequently been utilised as tools to deny shareholders their rights in the Nigerian corporate sector.[27]

[23] CAMA 2020, s. 87(2) to s. 87(4).
[24] M O Sofowora, 'Shareholders, Directors, Corporate Managers and the Balance of Power' (2000) 4 *Law and Business Quarterly* 122.
[25] J E Abugu 'Issues and Problems in Corporate Governance in Nigeria' (2015) 6(3) *The Gravitas Review of Business and Property Law* 4.
[26] M C Liem 'Corporate Governance in Banking Industry: An Explanatory Study' (2016) 7(6) *Research Journal of Finance and Accounting* 30-48. P.30
[27] L Oso and B Semiu. 'The Concept and Practice of Corporate Governance in Nigeria: the Need for Public Relations and Effective Corporate Commission' (2002) 3(1) *Journal of Communications* 1-16. P.12.

4.2 The Nigerian Code of Corporate Governance, 2018

The Code has its commencement date as January 15, 2019. The Code is aimed at providing a set of benchmark corporate governance standard in Nigeria. The entities that are required to adopt and comply with the Nigerian Code of Corporate Governance are:

a. All public companies, whether a listed company or not;
b. All private companies that are holding companies of public companies or other regulated entities:
c. All concessioned or privatized companies; and
d. All regulated private companies being private companies that file return to any regulatory authorities other than the Federal Inland Revenue Services (FIRS) and the Corporate Affairs Commission (CAC)[28]

Sections 11c and 51c Financial Reporting Council of Nigeria Act[29] confer on the Financial Reporting Council, created by the Act, the powers to ensure good corporate governance in the public and private sectors of the Nigerian economy and to issue the code of corporate governance. The Nigerian Code of Corporate Governance was issued by the Financial Reporting Council in 2018 to institutionalise corporate governance best practices in Nigerian companies. The Financial Reporting Council of Nigeria adopts a principle-based approach in specifying minimum standards of practice that Nigeria companies should adopt. The Council urge companies to adopt the "apply and explain" approach, which requires companies to apply all the principles and also explain how the principles are applied.[30]

The Nigerian Code of Corporate Governance (NCCG) 2018 provides a structured framework that guides the enforcement of corporate governance principles across Nigerian companies. It is designed to promote transparency, accountability, and ethical business practices by setting minimum standards that organizations are expected to follow. Rather than imposing rigid, inflexible rules, the Code adopts a principle-based approach, encouraging companies to apply the governance principles in a way that suits their specific circumstances and to explain how they have done so. This "Apply and Explain" methodology allows for flexibility while maintaining high standards.[31] The implementation of the Code is overseen by the Financial Reporting Council of Nigeria (FRC), which acts as the central regulatory body. The FRC works alongside various sector-specific regulators, such as the Central Bank of Nigeria and the Securities and Exchange Commission, to ensure that the Code's principles are integrated into industry-specific governance frameworks. Companies are required to align their governance structures, policies, and practices with the Code, covering areas such as board composition, ethical conduct, risk management, and transparency in reporting.

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[28] Y H Bhadmus, *Bhadmus on Corporate Law Practice.* (5th ed. Enugu: Chenglo Limited. 2021) 150. Also on Business Regulations Data Card Nigeria, accessed on https://pwcnigeria.typepad.com/files/pwc-2022-business-regulations-data-card.pdf

[29] No. 6, 2011.

[30] Ibid, n (27).

[31] Financial Reporting Council of Nigeria (Federal Ministry of Industry, Trade & Investment) circular dated 27th January, 2021.p.1.\bvmm, mb

To monitor compliance, companies must submit annual reports detailing how they have applied the Code's principles. These reports are reviewed by the FRC, relevant regulators, and stock exchanges for listed companies. Additionally, companies are expected to make these reports publicly available, fostering openness and accountability. The FRC and sector regulators have the authority to assess these disclosures, conduct audits, and enforce sanctions where there is evidence of non-compliance or persistent governance failures. This system of oversight ensures that companies remain committed to upholding good governance practices. Under the 2016 Code of corporate governance, the "comply or else" approach was incorporated and companies are required to strictly comply with prescribed rules or face mandatory sanctions or penalties. This approach leaves little room for flexibility or explanation; non-compliance typically results in enforcement actions without consideration for company-specific circumstances.

In contrast, the Nigerian Code of Corporate Governance (NCCG) 2018 adopts a principle-based "Apply and Explain" approach rather than a strict "comply or else" regime. Under the NCCG 2018, companies are expected to apply all the governance principles but are allowed to tailor the practices to their particular context. They must explain how they have applied these principles to achieve the intended governance outcomes. This approach encourages transparency and accountability while providing flexibility for companies to adapt governance practices to their size, sector, and growth phase. Enforcement is carried out through monitoring by the Financial Reporting Council (FRC) and sectoral regulators, who can impose sanctions for deviations, especially if they recur, but the emphasis is on explanation and continuous improvement rather than rigid compliance alone. Thus, "comply or else" approach mandates strict adherence with direct penalties for non-compliance, whereas the NCCG 2018's "Apply and Explain" approach promotes adherence through principles with room for contextual adaptation, supported by transparent reporting and regulatory oversight.[32]The policies focus on building long-term shareholder value by ensuring that adequate systems and procedures are in place to safeguard the company. The principles are as follows: whistle blowing policy and procedure, risk governance policy, secure trading policy and business continuity management policy.[33] All stakeholders are expected to comply with these standards in the discharge of their duties.

5 Sectoral Legal Frameworks

Sectoral legal frameworks for corporate governance are legal instruments specifically made for some industries. They include: Code of Good Corporate Governance for Public Companies, 2011; Code of Corporate Governance for Banks and Discount Houses, 2014; Code of Corporate Governance for Licensed Pension Fund Operators, 2008; Code of Corporate Governance for the Insurance Industry, 2009; Code of Corporate Governance for the Telecommunications Industry; Code of Corporate Governance for Capital Market Operators and their Employees, 2010; and Code of Corporate Governance for Other Financial Institutions in Nigeria, 2018. While these sector-specific codes were designed to cater to the distinct regulatory and operational needs of their respective industries, their multiplicity has led to overlaps and inconsistencies. The Financial Reporting Council of Nigeria (FRCN), empowered by the Financial Reporting Council of Nigeria Act 2011, has sought to harmonize these codes through the Nigerian Code of Corporate Governance 2018 (NCCG 2018), which aims to institutionalize best practices across all sectors by

[32] Ibid.

[33] NCCG 2018, Part D, s. 24.

adopting an "apply and explain" approach, thereby allowing flexibility and scalability for companies of varying sizes and industries.

The SEC's Code for Public Companies, for example, emphasizes transparency, accountability, and alignment with international best practices but has been critiqued for certain shortcomings that necessitated its 2011 revision and continuous review to enhance enforceability and compliance. Similarly, the CBN's 2014 Code for Banks and Discount Houses was developed to address governance weaknesses in the banking sector but has since been superseded by the NCCG 2018, which the CBN has adapted for its regulated institutions to ensure consistency with national standards. The sectoral codes, while comprehensive within their domains, have been criticized for creating a fragmented regulatory environment. The Steering Committee on the National Code of Corporate Governance highlighted that no other nation has adopted such a multiplicity of sectoral codes, which often contain conflicting provisions on similar governance issues, thereby complicating compliance for companies operating across sectors.

Though the sector-specific codes were necessary responses to sectoral governance challenges, their adequacy is undermined by fragmentation and inconsistency. The move by the FRCN to unify these codes under the NCCG 2018 represents a critical step toward a more coherent, flexible, and effective corporate governance framework in Nigeria. This unified approach is expected to enhance corporate accountability, investor confidence, and economic growth by promoting consistent governance standards across all sectors. The Central Bank of Nigeria, in 2014, made the Code of Corporate Governance for Banks and Discount Houses and the Code of Corporate Governance for other Financial Institutions to govern corporate governance in the banking sector and other financial institutions in Nigeria. The National Pension Commission created that of the pension industry, which is the Code of Corporate Governance for Licensed Pension Fund Operators, 2008. The National Insurance Commission issued the Code of Corporate Governance for the Insurance Industry, 2009. The Nigerian Telecommunications Commission issued the Code of Corporate Governance for the Telecommunications Industry, 2014.

The Securities and Exchange Commission made the Code of Good Corporate Governance for Public Companies, 2011. The Code is applicable to: all companies whose securities are listed on any recognized securities exchange in Nigeria; all companies which seek to raise funds form the capital market through the issuance of securities or seek listing by introduction and all other public companies. Notably, based on the Code, the companies shall report for financial year ending after January 1, 2020 in the form and manner prescribed by the Financial Reporting Council of Nigeria.[34] The Nigerian Code of Corporate Governance 2018 (NCCG 2018) works as a general code of corporate governance across all sectors in Nigeria, however, where sectoral codes or guidelines exist, the approach is that the NCCG 2018 establishes the foundational principles and minimum standards, and sector regulators may publish additional guidelines in response to peculiar governance needs in their sectors. These sectoral guidelines are meant to augment the NCCG 2018 and are not to be inconsistent with its requirements. In the case of inconsistency between the general code and a mandatory sector guideline, the sector guideline shall override in respect of entities regulated within that sector. Hence, the Financial Reporting Council of Nigeria

[34] Paragraph 1(2) of the Regulation on the Adoption and Compliance with the Nigerian Code of Corporate Governance (NCCG) 2018.

promotes harmonization between the general code and sectoral guidelines to ensure consistency and eliminate potential for conflicting requirements where there is any inconsistency. Therefore, the NCCG 2018 serves as the basis, and sectoral guidelines complement it to address corporate specific issues, with mandatory sector guidelines prevailing in case of inconsistency.

6 OECD Principles of Corporate Governance

The G20/OECD Principles of Corporate Governance is the leading international standards for corporate governance. It aims to help policy makers and regulators evaluate and improve legal, regulatory and institutional frameworks for corporate governance, with a view to supporting market confidence and integrity, economic efficiency, and financial stability. This is primarily achieved by providing shareholders, board members and executives, the workforce and relevant stakeholders, as well as financial intermediaries and service providers with the right information and incentives to perform their roles and help to ensure accountability within a framework of checks and balances.[35] The Principles underwent a comprehensive review in 2021-2023 to be updated in the light of recent evolutions in corporate governance and capital markets.[36] The revised Principles was adopted by the Council of Organization for Economic Co-operation and Development (OECD) at Ministerial Level in June 2023. The Principles are embodied in the OECD Recommendation on Principles of Corporate Governance OECD/LEGAL/0413 and endorsed by G20 Leaders in September 2023.[37] The G20/OECD Principles of Corporate Governance are highly relevant, they offer internationally recognized standards for improving legal, regulatory, and institutional frameworks in corporate governance.

The Principles are pertinent and applicable to Nigeria as they present an internationally accepted framework that informs the development and implementation of good corporate governance practices. It is trite that Nigerian firms have a practice of offering shareholders rights such as sharing profit, voting at meetings, and access to information before purchasing shares, there remain sufficient areas of lacunae relating to full disclosure of capital structure, financial, and operating accounts.[38] Transfer of ownership between the shareholders is often not well facilitated, and minority shareholders are sometimes unfairly treated. Hence, the Nigerian corporate governance framework, including regulator-issued codes from the Securities and Exchange Commission (SEC) and Financial Reporting Council (FRC), has incorporated most of the OECD Principles to promote accountability, transparency, and board responsibilities. However, full implementation is still a work in progress, with observers noting that boards are likely to give highest priority to shareholder interests at the detriment of broader stakeholder interests. The OECD Principles provide a foundation for Nigeria to strengthen its corporate governance practices, restore investor confidence, and facilitate sustainable economic growth by supporting enhanced disclosure, fair treatment of shareholders, and more effective board oversight. The OECD instrument is therefore

[35] Harvard. 'Corporate Governance Factbook' <https://corpgov.law.harvard.edu/2024/02/03/the-2023-oecd-corporate-governance-factbook/> accessed 7 November 2024.

[36] OECD. 'G20/OECD Principles of Corporate Governance' <https://www.oecd.org/content/dam/oecd/en/publications/reports/2023/09/g20-oecd-principles-of-corporate-governance-2023_60836fcb/ed750b30-en.pdf> accessed 6 November 2024.

[37] Harvard. 'Corporate Governance Factbook' <https://corpgov.law.harvard.edu/2024/02/03/the-2023-oecd-corporate-governance-factbook/> accessed 7 November 2024.

[38] O. Simon-Oke, O.Olugunwa, and T. Egbetunde, The Implementation of OECD Corporate Governance Principles in Nigeria: Evidence from Stakeholders' Perspectives, *International Journal of Business and Management Vol. VII, No. 1 / 2019* . P.90.

relevant to Nigeria and plays a significant role in informing reforms for the alignment of Nigerian corporate governance to best practice. Nigeria's growing corporate sector and capital markets can benefit from adopting these standards to improve governance practices. Implementing the OECD Principles can help Nigerian companies attract investment, protect investors, and foster sustainable business practices, which in turn supports economic development and financial stability. Therefore, the OECD Principles provide a valuable framework for Nigerian policymakers, regulators, and companies to align with international best practices and strengthen corporate governance in the country.[39] Notably, the OECD Principles for corporate Governance provides about six recommendations for the advancement and development of the corporate sector as follows:

6.1 Ensuring the Basis for an Effective Corporate Governance Framework[40]

The OECD Principles emphasize the role of corporate governance framework in promoting transparent and fair markets, and the efficient allocation of resources. It focuses on the quality and consistency of different elements of regulations that influence corporate governance practices and the division of responsibilities between authorities. In particular, new emphasis is placed on the quality of supervision and enforcement.

6.2 The Rights and Equitable Treatment of Shareholders and Key Ownership Functions[41]

The recommendation identifies basic shareholder rights, including the right to information and participation through the shareholders' meeting in key company decisions. Further also deals with disclosure of control structures, such as different voting rights. New issues in this chapter include the use of information technology at shareholder meetings, the procedures for approval of related party transactions and shareholder participation in decisions on executive remuneration.

6.3 Institutional Investors, Stock Markets and Other Intermediaries[42]

This addresses the need for sound economic incentives throughout the investment chain, with a particular focus on institutional investors acting in a fiduciary capacity. It also highlights the need to disclose and minimize conflicts of interest that may compromise the integrity of proxy advisors, analysts, brokers, rating agencies and others that provide analysis and advice that is relevant to investors. It also contains new principles with respect to cross border listings and the importance of fair and effective price discovery in stock markets.

6.4 Disclosure and Transparency[43]

This principle identifies key areas of disclosure, such as the financial and operating results, company objectives, major share ownership, remuneration, related party transactions, risk factors, and board members among others.

[39] Ibid, 95.
[40] G20/OECD Principles of Corporate Governance, p. 9
[41] Ibid, p. 14
[42] Ibid, p. 22
[43] Ibid, p. 27

6. 5 The Responsibilities of the Board[44]

It provides guidance with respect to key functions of the board of directors, including the review of corporate strategy, selecting and compensating management, overseeing major corporate acquisitions and divestitures, and ensuring the integrity of the corporation's accounting and

financial reporting systems. New issues include the role of the board of directors in risk management, tax planning and internal audit. There is also a new principle recommending board training and evaluation and a recommendation on considering the establishment of specialised board committees in areas such as remuneration, audit and risk management.

6.6 Sustainability and Resilience[45]

It also provides a framework to enhance transparency, accountability, and sustainability in corporate practices. They emphasise effective governance, equitable shareholder treatment, stakeholder engagement, and environmental, social and governance (ESG) alignment to strengthen trust and stability in financial markets.

7 Implication of Corporate Governance and Business Ethics

A good corporate governance and business ethics is a tool for socio-economic development.[46] It ensures the integrity of corporations, financial institutions, and markets which is particularly central to the health of our economies and societies and their stability.[47] Hence, good corporate governance practices have significant implications for companies. By its internal control mechanism, corporate governance helps to ensure that an adequate and appropriate control system exists in the company.[48] This ensures that transactions are properly recorded; assets are safe guarded and not misappropriated. The directors are responsible for the implementation of an appropriate internal control mechanism. Every year, a company has an annual audit and a key aspect of the auditor's job is to access whether the internal controls are properly functional.[49] The directors are responsible for ensuring that there are risk assessment procedures in place to identify the risks that companies face in today's business environment.

The Board of Directors by their position is to ensure that the company remunerates fairly, responsibly and transparently so as to promote the achievement of strategic objectives. When the salaries/ wages of a company's workers are fair and commensurate with the labour they put in the company, this will no doubt lead to a better standard of living for the employees/ workers as well as motivate them to achieve higher performance.[50] Whereas the salaries of the employees/workers are poor, and not commensurate with the work they do, it leads to exploitation of the workers. Meetings are important platforms for the company and the board to engage shareholders to

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[44] Ibid, p.34
[45] Ibid, p. 44
[46] L R Mohamed Albdour, 'Principles of Corporate Governance and Ethics for Sustainable Business', (2017) 6(4) *International Journal of Business and Management Invention* 01-07.
[47] C C Itsede, 'The Challenges of Good Corporate Governance for Effective Risk Based Banking Supervision' (2008) 46(4) *CBN Economic and Financial Review* 169-181.
[48] N Uzoka, 'Corporate Governance and Socio-Economic Development in Nigeria: Tracing the Nexus' Nigerian Bar Journal <https://www.ajol.info/index.php/nba/article/view/254197/240186> accessed 30 November 2024.
[49] CAMA 2020, s. 377.
[50] Ibid, n (43).

facilitate greater understanding of the company's business and performance.[51] Meetings provide shareholders with an opportunity to exercise their ownership rights and express their concerns and views to the board on any area of concern.

The Companies and Allied Matters Act has made provisions for different meetings of companies to wit; statutory, annual general meeting and extraordinary general meetings. This is all geared towards establishing a system of regular dialogue and interaction with shareholders, so as to balance their needs, interests and expectations with the objectives of the company. Before now section 240(2) of CAMA made provisions for general meeting to be held electronically only by private companies. However, with the coming into effect of Business Facilitation Act of 2022 (BFA), all types of companies can now hold its general meeting electronically.[52] This provision will in no small measure facilitate the decision making process as well as increase efficiency and participation of all stakeholders. Before now the only valid means of voting at any meeting of the company was by show of hands or poll. This method has affected shareholder participation as well as limited the growth of some companies, as some foreign or institutional investors will not be willing to invest in Nigeria.

It is pertinent to note that for the body of shareholders who are so widespread and diversified, often across the globe, it may not be physically possible to oversee the management of activities. However, section 248(1) of CAMA was amended by the Business Facilitation Act 2022, to include electronic voting as a valid way of voting at general meeting of companies.[53] These provisions will attract quality foreign and local investors to invest in companies in Nigeria and ultimately improve the economy of the nation. Corporate governance and business ethics encourages both transparency and accountability, which investors are increasingly looking for in both corporate management and corporate performance. Good corporate governance facilitates access to capital (equity and debt capital) that consequently provides long term competiveness for the company.[54] Businesses that actively promote good corporate governance practice and that apply highest governance standards tend to attract more investors willing to provide capital at a lower cost, as a risk inherent to share investment is maximally reduced. The initiatives for self-governance at corporate level should include the following characteristic activities: make rules; regulations and procedures transparency; establish good information sharing system which should be well organised up to date; accurate content-wise internally and externally; benchmark and initiate business processes re-engineering; develop methods for continuous learning from experiences at internal; and international levels and establish rules on accountability among others.[55]

Corporate governance and business ethics helps the company to keep strategic interface with the external constituents like the State, the regulatory bodies, communities and the environment. Corporate bodies must clearly articulate in its policies and activities, their prime duty towards protecting the society and conserving the environment against the organisations' hazardous

[51] Ibid.
[52] BFA 2022, s.9(11).
[53] ibid, s. 13.
[54] International Finance Corporation, 'Corporate Governance' <https://www.ifc.org/en/what-we-do/sector-expertise/corporate-governance> accessed 20 December 2024.
[55] K B Ajide, 'Determinants of Economic Growth in Nigeria' (2014) 5(2) *CBN Journal of Applied Statistics* 147-170.

operations.[56] They use the natural resources of the community where they carry out the operations. Companies are no doubt, a source of strength for the society, because they provide opportunities for employment, they compensate handsomely for the jobs done and thereby contribute to the society's purchasing power. Health and well-being of a company has direct bearing on the social life of a nation. Hence, corporate governance and business ethics as practices influence investors' confidence, reduce compliance risks, and facilitate successful mergers and acquisitions.[57]On a more specific note, the following are the implications of corporate governance and business ethics in relation to business organisations in Nigeria:

7.1 Implication on Investors' Confidence

Strong corporate governance practices enhance investor confidence by ensuring transparency, accountability, and ethical conduct. Investors are more likely to invest in companies that demonstrate good governance practices, as these companies are perceived to be more stable and less risky. High standards of corporate governance provide assurance to investors that the company is well-managed and that their interests are protected.[58] Companies that adhere to robust governance practices are more likely to attract both domestic and foreign investment.

7.2 Implication on Compliance Risks

Effective corporate governance helps companies mitigate compliance risks by ensuring adherence to legal and regulatory requirements. Companies with strong governance frameworks are better equipped to identify and address potential compliance issues, reducing the likelihood of regulatory sanctions and reputational damage. By maintaining compliance with relevant laws and regulations, companies can avoid costly penalties and legal disputes. Proactive compliance management also helps companies build positive relationships with regulators and other stakeholders.[59]

7.3 Implication on Mergers and Acquisitions

In situation of mergers and acquisitions (M&A), corporate governance plays a crucial role by ensuring that transactions are conducted transparently and ethically. Companies with strong governance practices are more attractive targets for acquisition, as they are perceived to be well-managed and less likely to present unforeseen risks. Good governance also facilitates the due diligence process, making it easier for potential acquirers to assess the target company's operations, financial health, and risk profile.[60] M&A transactions involving companies with strong governance practices are more likely to succeed and deliver value to all parties involved. It is pertinent to state that the regulation of companies in Nigeria is central to solving antitrust matters that occur in the course of these mergers and acquisitions (M&A), pointing to the country's evolving legal and regulatory environment. The Federal Competition and Consumer Protection Act (FCCPA) of 2018, which governs antitrust matters in Nigeria, aims at preventing market dominance and anti-competitive conduct by ensuring that mergers do not effectively reduce competition or create

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[56] Ibid, n (43).

[57] K Akinsola, *Corporate governance and compliance in Nigerian business* <https://www.google.com/search?q=benefits+of+corporate+governance+and+business+ethics+in+Nigeria> accessed on 23 September, 2024

[58] D Meghan, *Why is Corporate Governance so important*? <https://www.diligent.com/resources/blog/why-corporate-governance-important-investors> accessed on 23 November, 2024.

[59] J Dhlamini, Corporate Governance and Business Ethics: An Assessment of Challenges and Developments (2023) 20(2) *Journal of Contemporary Management* 357-385.

[60] Ibid.

monopolistic settings. Hence, corporate governance provides the institutional provisions through which companies can coordinate their M&A strategy with compliance needs to safeguard shareholder interests and promote fair market competition. Therefore, the corporate governance bodies, including boards of directors and executive management, are charged with the responsibility of managing the due diligence process, where potential antitrust risks need to be evaluated carefully. This involves looking at market share thresholds where 40% or more of a market might constitute dominance under the FCCPA and reflecting on how the merger might affect competitive forces.[61] Thus, corporate governance in Nigeria is a critical conduit that mediates between the interests of business expansion and the stringent requirements of antitrust law. Through the introduction of effective oversight, ethical practices, and risk projection into the mergers and acquisitions cycle, Nigerian businesses are more likely to successfully steer intricate competition regulations, foster competitive markets, and build investor confidence in line with both local and international expectations. Importantly, Corporate governance protects against agency conflicts and managerial opportunism in M&A deals, first and foremost. Governance frameworks reduce the dangers of value degradation, conflicts of interest, and poor decision-making by creating explicit supervision procedures, outlining roles and duties, and encouraging moral behavior. Throughout the M&A process, boards of directors are crucial in overseeing governance, analyzing potential transactions, determining strategic alignment, and defending shareholder interests. Furthermore, governance best practices cover risk management, stakeholder engagement, CEO compensation, and shareholder rights in addition to the boardroom. Aims for long-term value creation and integration must be matched by executive remuneration plans, and shareholder rights provide responsibility, equity, and openness in the M&A process.[62] Strong risk management procedures assist businesses in identifying, evaluating, and reducing the risks connected to mergers and acquisitions (M&A) in order to protect shareholder value and foster long-term growth. Effective stakeholder engagement also improves governance effectiveness and integration outcomes by managing expectations, fostering trust, and reducing resistance during M&A transactions.

7.4 Implication on Corporate Reputation

A company's reputation is one of its most valuable assets, and good corporate governance is essential for maintaining and enhancing that reputation. Companies with strong governance practices are perceived to be trustworthy, ethical, and reliable. This positive perception can lead to increased customer loyalty, improved relationships with suppliers and partners, and greater overall competitiveness.[63] A strong corporate reputation also provides a buffer against negative events, as stakeholders are more likely to give the company the benefit of the doubt in times of crisis.

7.5 Implication on Operational Efficiency

Effective corporate governance can lead to improved operational efficiency by promoting clear decision-making processes, reducing the likelihood of conflicts of interest, and ensuring that resources are used effectively.[64] Companies with strong governance frameworks are better able to implement strategic initiatives, respond to market changes, and achieve their business objectives.

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[61] A. Rawat, and A. Kukreja, The Role of Corporate Governance in Mergers and Acquisitions, (*International Journal of Legal Science and Innovation Vol. 6 Iss 4; 49)*P.50

[62] Ibid, 55.

[63] Ibid.

[64] Ibid.

Operational efficiency contributes to the overall success and sustainability of the company, enabling it to compete effectively in the marketplace.

8 Challenges of Effective Corporate Governance and Business Ethics in Nigeria

Firstly, compliance and enforcement of corporate governance pose major challenges, especially in the Nigerian setting. Most institutions are beset with problems emanating from the shallow appreciation of corporate governance precepts and limited resources available for successful application of the precepts. The deficiency is further exacerbated by enforcement procedures that are either weak or lacking an appropriate punitive component, thus compromising the deterrent aspect of non-compliance.

Secondly, the Nigerian Code of Corporate Governance is the principal corporate governance code but does not have specific compliance and enforcement mechanisms, thereby hindering its efficacy. Furthermore, regulatory institutions such as the Securities and Exchange Commission (SEC) and Corporate Affairs Commission (CAC) are confronted with institutional capacity constraints. These institutions do not possess the requisite resources, specialized expertise, and autonomy necessary to effectively regulate and supervise corporate institutions. In some cases, political interference and the burden of multiple responsibilities can undermine their focus and effectiveness, as is the case with institutions like the Central Bank of Nigeria (CBN), which oversees a very wide range of functions beyond regulation, thereby reducing its ability to regulate efficiently.

Thirdly, lack of capacity building which is a must. This involves not only the provision of adequate funds and human resources but also institution-building in technical capacity and institutional independence, the two necessary for effective oversight. Without them, regulatory institutions lack the strength to strictly discipline governance codes, and therefore they reinforce existing governance deficits. Political intervention and governance institution weakness can also undermine corporate governance practices, especially in government or politically powerful-dominated industries.[65] Thus, it is important that industry players in the Nigerian corporate sector engage industrious experts to properly aid in the enforcement of corporate governance and business ethics in their establishments.

9 Conclusion

Corporate governance and business ethics are fundamental pillars that ensure businesses operate responsibly, transparently, and sustainably. Together, corporate governance and business ethics contribute to the creation of a corporate culture that values responsibility and sustainability. Companies with strong corporate governance structures and ethical standards tend to build trust with stakeholders, leading to stronger reputations, improved financial performance, and resilience in the face of challenges. Moreover, these principles are increasingly seen as essential in addressing contemporary global concerns, such as environmental, social, and governance (ESG) issues, and in responding to public expectations for corporate accountability. To this end, the following recommendations are proposed to enhance corporate governance and business ethics in Nigeria.

[65] O Makinde, 'The Nigerian Corporate Governance Challenge: Inadequacy of Laws or Question of Enforcement' (2020) 11(4) *The Gravitas Review of Business and Property Law* 35-59.

First, it is important that the Nigerian Code of Corporate Governance is revised and integrated with definite and enforceable compliance tools to make corporations accountable with clear sanctions and penalties. Enhancing the institutional capacity of regulatory bodies like the SEC, CAC, and CBN is vital; these bodies must have sufficient resources, technical capacity, and independence to effectively regulate corporate entities without political interference or distraction by foreign mandates.

Secondly, capacity development must go beyond finance and human resources to include developing technical competencies and institutional autonomy so that regulators can enforce codes of governance with stringency and reduce overwhelming governance weaknesses. Equally important is infusing a deeper appreciation of corporate governance principles within organizations through the engagement of experts and continuous training that will transcend the current superficial knowledge of governance principles.

Furthermore, firms ought to have boards made up of independent and qualified members who are chosen based on merit and not on political or personal affiliations in order to enhance the quality of monitoring. Transparency and accountability must be provided through enhanced disclosure mechanisms and enhanced protection for shareholders' rights, thereby fostering investor confidence and corporate integrity. Lastly, promotion of a whistleblowing mechanisms, when properly structured and protected, create friction within organizations that can alert boards and compliance officers to misconduct before it becomes public. Thus, integrating whistle-blowers into formal governance structures can enhance proactive oversight and improve the effectiveness of compliance programs to expose unethical practices and ensure accountability and transparency in corporate governance. By tackling these interrelated challenges, Nigeria can establish a stronger and more effective corporate governance system that supports sustainable business development and ethical practice.