

## A HISTORICAL APPRIASAL OF THE DEVELOPMENT OF COMPANY LAW IN NIGERIA

Dr Eberechi N.A. Okere<sup>1\*</sup>

<sup>1\*</sup> LL. B, B.L, LL.M, Ph. D, Reader, Faculty of Law Rivers State University, Port Harcourt, Rivers State.

\* **Correspondence:** Dr Eberechi N.A. Okere

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**ABSTRACT:** The development of company law in Nigeria has undergone significant transformations since its inception during the colonial era. Throughout its development, Nigerian company law has drawn inspiration from the United Kingdom's legal system reflecting the country's colonial past. The evolution of company law has aimed to improve corporate governance, enhance transparency and promote investor confidence. This article examines the development of company law in Nigeria from its pre-independence era to the post-independence regime, highlighting the issues and challenges of these legislations and making proposals for reform.

**Keywords:** *Company, Company Law, CAC, Statutes, CAMA, Nigeria*

### 1. INTRODUCTION

Although company law in Nigeria had its historical foundation in English laws due to the effect of colonization, local legislative enactments have been put into force to regulate companies. Amongst several of these legislations, the CAMA 2020 is the primary legislation regulating companies' registration and other related matters in the entire

federation. CAMA 2020 repealed its predecessor which is the CAMA 1990 and brought in necessary improvements to bring Nigerian company law and practice in line with global practice. Its innovations and challenges have been examined in this article. The article ends with a call for recommendation of challenging parts of the CAMA 2020 in order for Nigerian Company Jurisprudence to be at par with international best practices.

## **2. CONCEPTUAL FRAMEWORK**

### **2.1 Company**

Section 21 of CAMA 2020 defines a company as “a registered company limited by shares, a company limited by guarantee or an unlimited company, and either of these types may be a private or a public company.” A company is basically an artificial person or legal entity created by or under the authority of the laws of a state.

### **2.2 Company Law**

Company Law essentially deals with the regulation of the formation, incorporation, registration, management, striking off and winding up of companies. Also known as Corporate Law, it is the branch of the Nigerian Legal System that governs the formation, operation and dissolution of companies. It regulates the relationships between a company and its shareholders, directors, officers, creditors and employees. In Nigeria, company law is governed by the Companies and Allied Matters Act 2020.

### **2.3 Sources of Company Law**

The sources of Company Law in Nigeria include the following;

- a) **Received English Law:** All English common law, doctrines of equity and statutes of general application that were in force in Britain by 1st January 1900 were received into the Nigerian Legal System. The relevant received statute was the English Companies Act 1862 which consolidated all previous Acts and formed the beginning of modern English Company Law.
- b) **Nigerian Legislations:** These refer generally to laws made by bodies empowered to make laws in Nigeria. The National Assembly has enacted

several statutes which regulate companies in Nigeria amongst which the most important is the Companies and Allied Matters Act (CAMA) 2020 which sets out the framework for incorporation, management and winding up of companies. Others are the Investment and Securities Act (ISA) 2025 which regulates the capital market and provides a framework for investment in Nigeria, the Companies Income Tax Act 2022 that governs company taxation in Nigeria, and the Nigerian Investment Promotion Commission Act (NIPC) Act, Cap N117 LFN 2004 which regulates foreign investment in Nigeria.

There is also delegated legislation which are laws made by other bodies that are not the legislature. Examples are the Companies Regulations 2021 made under CAMA 2020 by the CAC, and the Securities and Exchange (SEC) Rules 2013 made under the Investment and Securities Act (ISA) 2007.

Legislations also include Conventions and Treaties to which Nigeria is a signatory.

- c) **Case Laws:** Summarily, these are laws that are developed by the courts and have become binding according to the principle of Stare Decisis. For instance, the separate legal personality of a company was established in *Salomon v. Salomon Co Ltd*. The Nigerian courts have reechoed this principle in the cases of *CDBI v. COBEC (Nig) Ltd* and *Marina Nominees Ltd v. FBIR*. Another example is the majority rule established in *Foss v. Harbottle* which have been recognized by the Nigerian courts in the cases of *Williams & Ors v. Edu* and *Atlenuga & Ors v. Odeineru*. A further example is the doctrine of Indoor Management Rule established in *Turquand's case*.

### **3. HISTORICAL DEVELOPMENT OF COMPANY LAW IN NIGERIA**

Historically, company law is foreign to the customary and indigenous system of law in Nigeria and its history is part of the history of the Received English Law which has become incorporated into the Nigerian Legal System. There are two periods in the development of company law in Nigeria. These are the period between before 1912 and the period after 1912.

During the period before 1912 there were no local laws governing the operations of companies in Nigeria. Thus, foreign companies operating in Nigeria carried alongside their foreign statutes.

In the period after 1912, four company law legislation have come into force. In 1912, Nigeria had her first company law legislation called the Company Ordinance 1912. After the 1912 Ordinance, other laws came into existence each repealing its predecessor. They are the Companies Ordinance of 1922, Companies Act 1968, Companies and Allied Matters Act 1990 and Companies and Allied Matters Act 2004. Each of these statutes introduced improvements into the Nigerian company law but criticisms, non-applicability and incompatibility with societal contemporary issues led to the amendment or repeal of these statutes as the case may be. The legislation presently operating is the Companies and Allied Matters Act 2020. In this section, this paper will discuss some key facts of these legislations.

### **3.1 Company Ordinance 1912**

In 1912, Nigeria had her first company law legislation called the Company Ordinance 1912 which drew heavily on the Companies (Consolidation) Act 1908 of England. The Ordinance was first applied to the colony of Lagos. The object and reason for the Ordinance was to provide a framework for the formation of limited companies within the colony and protectorate with the hope of fostering the principles of co-operative trading and effort in the country. Thus, for the first time, there was a procedure for incorporating a company.

Five years later, the 1912 Ordinance was amended by Companies Amendment and Extension Act 1917 which was to be enforced and applied not only for a particular region or section but for the whole country. However, both statutes were subsequently repealed by the Companies Ordinance of 1922.

### **3.2 Companies Ordinance Of 1922**

This was a consolidation of both the 1912 Ordinance and the Companies (Amendment and Extension) Ordinance 1917. The 1922 Ordinance was modeled after the UK Companies Act, reflecting the ongoing influence of British law on

Nigeria's legal system. It provided a more comprehensive framework for company law in Nigeria by making provisions for incorporation of companies, regulations governing company management and administration, and rules relating to share capital and winding up procedures. The 1922 Ordinance became inadequate in coping with the growth of economic activities in the nation. It was repealed by the Companies Act of 1968.

### **3.3 Companies Act 1968**

Being the first company legislation after independence, it brought about serious improvements into company regulation in Nigeria by providing for, among other things, mandatory provisions for companies to have secretaries and the need for foreign companies to register in Nigeria before the commencement of business, comprehensive provisions for publicizing the affairs of the company in the interest of the shareholders and the general public such as in respect of accounts, auditing, meetings, annual returns and directors. The Act also provided that any two or more persons can form and incorporate a company, with specific requirements for public and private companies. The Act specified the contents of the memorandum of association, including the company's name, objects and share capital. The Act introduced rules governing share capital, including the minimum share capital requirements and procedures for altering share capital and provided guidelines for corporate governance.

However, the statute was criticized majorly on the ground that it was only a little more than putting together some of the sections of the replaced Company statute and some of the sections of English Companies Act 1948. The administration and registration of companies in Nigeria was not well taken care in the Act. Against the backdrop of the emerging trend at the time, the overhauling of the 1968 Act became expedient. The Federal Military Government of Nigeria in 1987 directed the Nigerian Law Reform Commission (NLRC) to undertake and reform Nigerian Company Law with a view to making the law more suitable and better able to cope with the needs and problems associated with the rapidly developing economic activities of the nation. Thus, working papers were prepared and exhaustively discussed at a national workshop on the reform of Nigerian Company Law in 1988.

The report produced by the NLRC was then put before a consultative assembly on company law and this finally led to the enactment of the Company and Allied Matters Decree (CAMD) No. 32 in October 1990. Thus the 1968 statute was repealed by the Companies and Allied Matters Act 1990.

### **3.4 Companies and Allied Matters Act 1990**

The 1990 Act was seen to be a product of careful consideration and extensive consultation representing the general views and consensus of company law users in Nigeria. The Act was said to be the first real home-grown company law statute in the sense that it was conceived and delivered to tackle specific local issues and peculiarities which the 1968 Act did not address.

Its major innovations amongst others were; the establishment of the Corporate Affairs Commission (CAC) to administer the Act; the reform and enactment of the common law rule in *Royal British Bank v. Turquand* and the abolishment of the common law rule of constructive notice of filed documents; the prohibition of non-voting shares and weighted shares; the provision for appointment, qualification, duties and tenure of office for directors and secretaries of public companies and the provisions for greater accountability by directors.

Other innovations were; it set a benchmark for the formation of a company by requiring minimum authorized share capital and minimum subscription; it made significant improvements on the provision relating to company meeting; it codified the rule in *Foss v Harbottle* and provided exceptions to the rule which protects the interest of the minority. Finally, it improved financial statement of companies.

However, the 1990 Act was criticized on the ground that it had been in operation for up to thirty years without any transformation and as such an amendment was required to bring Nigerian company law in line with acceptable standards in global practice. Furthermore, the Act was seen as outdated and had substantial limitations such as weak legal framework, low enforcement powers and poor shareholder activism.

As a result of these lapses in the Act, regulators introduced codes of corporate governance. Some of them are the SEC Code of Corporate Governance which introduced rules on board composition, internal audit and disclosure applied in public companies, CBN Code which provided for independent directors and risk management structures in banks and the NAICOM Code for insurance companies. Although these regulatory codes tried to fill the gap, they were mostly voluntary and ineffective. Many companies ignored them unless scandals forced regulators to intervene. This weak system made a reform of the 1990 Act necessary.

#### **4. APPRAISAL OF THE COMPANIES AND ALLIED MATTERS ACT 2020**

The present CAMA 2020 signed into law by President Muhammadu Buhari on August 7th 2020 repealed CAMA 1990 and provided laudable improvements. This innovative Act aims to promote legislation for quality regulations and competence, enable efficient ease of doing business, especially for private companies, and attract foreign investors to invest in the country.

##### **4.1 Innovations of CAMA 2020**

- a) **Expansion of the Functions of the Corporate Affairs Commission:** Section 8 of CAMA 2020 empowers the CAC to register, regulate, supervise, manage the affairs of business names and also dissolve incorporated trustees. The CAC can also strike off, windup companies, and even remove names from the register. The Act allows the CAC to arrange or conduct an investigation into the affairs of any company, incorporated trustees, or business names where the interest of shareholders, members, partners, or public so demands. Section 41(7) empowers the CAC to withdraw, cancel or revoke a certificate of incorporation already issued under the Act where it is discovered that the certificate was fraudulently, unlawfully or improperly procured. The CAC can also strike off companies that are not carrying on business or have defaulted in statutory obligations, not just when it fails to file annual returns. This widens regulatory power to clean the register of inactive companies.

The caution is here is that this power should not be abused. What is the interest of the public should be properly defined in the legislation.

- b) **Creation of New Corporate Structures:** The concept of Limited Liability Partnerships (LLPs) and Limited Partnerships (LPs) are now recognized under the Act as legal entities. The introduction of these concepts under CAMA 2020 combines the organizational flexibility and status of partnership with the limited liability of members of a company. Introducing these two entities into Nigeria's business will give room for organizational flexibility and provide more options for investors seeking to have their holdings in Nigeria. This new concept conforms to global standards on ease of doing business.

The Act also made new modifications to already existing legal entities such as incorporated companies, business names and incorporation of trustees of certain communities, bodies and associations.

- c) **Incorporation of a Private Company by a Single Member:** CAMA 2020 introduced the establishment of private companies by one single member. This means that the minimum number of persons that can own a company has been reduced to one. The introduction of a single member/shareholder company in CAMA 2020 thus empowers a business owner who currently trades as a sole proprietor to be able to convert his business entity to a company and maintain the single membership status. This is a welcoming development against the old provision of a minimum of two (2) directors' requirements in incorporating a company. This innovation will boost quick decision-making in corporate management to an enormous extent.
- d) **Registration of Companies Limited by Guarantee:** Under the repealed CAMA 1990, registration of a Company Limited by Guarantee (LTD/GTE) or a non-profit organization needs the consent of the Attorney General of Federation (AGF) before its approval, and this has always been a major setback, especially if such consent is not granted within a stipulated time. However, in a situation where the promoter has met the necessary requirements and furnished all valid documents to the AGF, and the AGF makes no decision within the period of 30 days, CAMA 2020 allows the CAC to approve an LTD/GE registration application under Section 26 of CAMA 2020.

Secondly, the total liability of a member of a company limited by guarantee, to contribute to the assets of the company in the event of winding shall not be less than One hundred thousand naira as opposed to Ten thousand naira provided in CAMA 1990.

- e) **Reservation of Name:** Before the issuance of Certificate of Incorporation by the Commission, the Commission may at any time before a certificate of incorporation is issued, withdraw or cancel a reserved name if it discovers that such name is identical with that by which a company in existence is already registered, or so nearly resembles it as to be likely to deceive, under section 31(3) of CAMA 2020. Additionally, section 31(5) of CAMA 2020 empowers the Commission to withdraw or cancel the approval for reservation of name where it is discovered that the approval was fraudulently, unlawfully, or improperly procured.
- f) **Common Seal for Companies is no Longer Mandatory:** By virtue of section 98 of CAMA 2020, a company seal is no longer required. Where a company decides to have a common seal, the design and usage shall be regulated by the company's articles, and it shall have its name engraved in legible characters on the seal. With this amendment, a company can execute a document without affixing a common seal. The authorized signature of the company (manual or electronic) now serves as sufficient execution of any document signed by the company. This is in line with the technological realities of the current age.
- g) **Replacement of Authorized Share Capital with Minimum Share Capital:** As against the provisions of the repealed CAMA that requires an "authorized share capital," CAMA 2020 thus replaced the old provision with "minimum share capital." No company can be registered with a share capital less than the minimum issued share capital. The minimum share capital is the minimum number of shares a company can register and issue to its subscribers. For a private company, the minimum share capital is now N100,000.00, while that of a public company is now N2,000,000.00.

This provision implies that promoters of a business are not required to pay for or allocate shares that are not needed at the specific time of incorporation and can retain them for future allocation, provided that shares with the value of the minimum shares are allocated at the time of incorporation. This is consistent with what obtains in some other jurisdictions such as England, United States of America and India.

- h) **Disclosure of Persons with Significant Control in Companies:** Shareholders with significant control in private companies and limited liability partnerships are required to disclose details of such control to the company within seven (7) days of assuming control, while those in public companies must declare it within fourteen (14) days of their awareness. In private companies and limited liability partnerships, a person with significant control holds at least 5% of the voting rights, while the shareholder of a public company is entitled to exercise at least 5% unrestricted voting rights at any general meeting of the company.

This is a laudable development as the new provision strengthens corporate governance and transparency unlike the repealed Act, which made only public companies disclose significant control. With this, companies are thus required to notify the Commission upon receipt of such information, and the Commission shall maintain a register of persons with significant control based on section 119 and 120 of CAMA 2020.

- i) **Minority Shareholder Protection:** Before now, derivative actions were regulated narrowly in the 1990 Act. For instance, only the majority shareholders in a company could sue to remedy the wrong done against the company. This is known as the Majority Rule which was formulated in the famous case of *Foss v. Harbottle*. However, CAMA 2020 introduced a wider scope for derivative actions. It provides for several instances where a minority shareholder can bring an action on behalf of the company especially where the directors act outside their scope of authority or for himself, where his personal rights have been infringed. This strengthens minority shareholder rights and checks management abuse.

- j) **Directors:** In order to enhance minority shareholder protection and corporate governance, the following provisions on directors were made;
- i. restriction on directors from simultaneously holding office as chairman of a public company and chief executive officer;
  - ii. public companies must have at least three independent directors on their board and specific criteria must be met to qualify as an independent director;
  - iii. restriction on multiple directorships of public companies as no one person can be a director in more than five public companies.
- k) **Appointment of Company Secretary:** According to section 330(1) of the Act, every company other than a small company shall have a secretary. Thus, small companies are not mandated to have secretaries but the Act makes appointment of public company secretaries only applicable to certain qualified persons. This reduces compliance cost for small private companies.

Furthermore, the position of the secretary of a company has undergone some changes. It has evolved from that of a lowly status as a mere clerk to that of an officer of the company. In some cases, the secretary has been regarded as a principal officer and as such, regarded as part of the management of the company.

- l) **Exemption from appointing Auditors:** By the provisions of section 402 (1) of the Act, a company is exempted from the requirements of the Act relating to audit of accounts in respect of a financial year if it has not carried on business since its incorporation or it is a small company within the meaning of section 394. It must be noted that this provision does not absorb company's duty to keep proper accounting records which will enable government agencies access the account of the company for the purposes of taxes and levies such as Value Added Tax (VAT).
- m) **Technological Innovations:** The world is moving at the speed of light, and business transactions are becoming more frictionless. Nigeria has adopted

some technological innovation for ease of doing business. The new CAMA 2020 introduces a quite number of hi-tech novelties such as;

- i. electronic signature for the authentication of companies' documents and proceedings by virtue of section 101;
  - ii. all companies will accept electronic instruments of transfer without restriction by virtue of section 175(1);
  - iii. private companies may hold their general meetings virtually provided that such meetings are conducted following the company's articles as stated in section 240 (2) of CAMA 2020;
  - iv. notice of general meeting may be given via electronic mail to any member who has provided the company an electronic mail address;
  - v. every public company shall keep its audited accounts displayed on its website by virtue of section 374(6) of CAMA 2020. This enhances the standard of transparency for public companies and protect minority shareholders;
  - vi. any document required to be annexed to the annual return may be delivered to the Commission either in hard copy or through electronic communications by virtue of section 422 (3) of CAMA;
  - vii. company records can be maintained in electronic format by virtue of section 731 (2) of CAMA 2020; and
  - viii. any document required to be filed with the CAC for registration may be filed electronically under section 860(1) of CAMA 2020. Additionally, electronically filled Certified True Copies (CTC) of documents is admissible in evidence as equal validity with the original documents of section 860(2) of CAMA 2020.
- n) **Signing of Statement of Compliance:** Statement of Compliance confirming that all requirements prescribed by law as regards registration have been complied with can now be signed by an applicant or his agent. This is a

departure from the requirement under section 27 (2) of the repealed CAMA 1990 that provided for a Declaration of Compliance must be signed by a lawyer or attested to before a notary public.

- o) **Establishment of an Administrative Proceeding Committee:** This committee is charged with the responsibility of hearing persons alleged to have contravened the provisions of the Act or its regulations, resolving disputes arising from the operation of the Act and imposing administrative penalties for contravention of the provisions of the Act.
- p) **Insolvency Test Threshold and Requirements for Insolvency Practitioners:** By section 572(a) of the Act, the test for insolvency, that is the inability to pay debt as they fall due, was increased from Two thousand naira to Two hundred naira in order to reflect present day realities. Also, the Act has made extensive provisions on the requirements for a person who intends to be an insolvency practitioner and the qualifications are that such a person must have a degree in law, accountancy or such other relevant discipline with a minimum of five years post qualification experience in matters relating to insolvency and a certification issued by the Business Recovery and Insolvency Practitioners Association of Nigeria (BIPRAN) or membership of any other professional bodies recognized by the Commission.
- q) **Legalized Financial Assistance by Companies:** Financial assistance by companies in relation to the acquisition, or proposed acquisition of their shares is permitted subject to the Act. Moreso, the Act has modified the definition of ‘financial assistance’ to mean “a gift, guarantee, any form of security or indemnity, a loan or any form of credit or any other financial assistance given by a company, the net assets of which are thereby reduced to 50%, or which has no assets.” Financial assistance is not a new practice in business as it is commonly rendered when a targeted company is financially assisting a purchaser to acquire its shares. The purchaser of the shares borrows monies from a financier to fund the purchase price and the target company grants a guarantee and security in favour of the financier as security for that loan. In this case, financial assistance is provided in the form of giving a guarantee and

security, as these instruments ultimately benefit the purchaser by assisting in the repayment of its loan.

- r) **Non-Governmental Organizations:** The Act contains a framework for the implementation of mergers or other forms of arrangement or reconstruction between companies. Section 849 of the Act makes provision for a merger between two or more associations or non-governmental organizations with similar aims and objects under such terms and conditions as may be prescribed by the CAC by regulations.

By section 839 (1) of the Act, the CAC may by order, suspend the trustees of an association and appoint an interim manager to manage the affairs of the association where it reasonably believes inter alia that there has been misconduct or mismanagement of the administration of the association.

Furthermore, trustees of associations are now required to submit to the CAC a bi-annual statement of affairs of the association as the CAC shall specify by regulations.

- s) **Re-Registration of a Public Company as an Unlimited Company:** One of the innovations of the 2020 CAMA is the option of re-registration of a public company limited by shares to be an unlimited company provided that all the members of the company have assented to it being registered and the company has also met other requisite conditions. The advantage of this provision is that it engenders right to business investment and freedom to diversify in the light of economic uncertainties and dynamism.
- t) **Reduction of Filing Fees for Registration of Charges:** By section 222 (12) of the Act, total fees payable to the Commission for filing, registration or release of a charge shall not exceed 0.35% of the value of the charge or such other amount as the Minister of Trade may specify in the Federal Government Gazette. This improvement will advance entrepreneurship and reduce difficulties that may hinder the affordability of registration of companies.
- u) **Pre-Action Notice and Restriction on Levy of Execution:** Section 17(1) of CAMA 2020 provides that before the commencement of an action against the

CAC, a notice must be sent to the CAC. The notice shall clearly state the cause of action; particulars of the claim; name and place of abode of the intending plaintiff; and relief sought. The action shall not commence against the CAC before the expiration of 30 days after this written notice of intention to commence the suit is served upon the CAC. This will help to reduce litigation burden on the CAC and provide a preliminary dispute resolution window for parties to possibly resolve their differences without joining the long queue of litigating in Nigerian courts which discourages investors. This is a welcome development.

- v) **Authorization of Minister to Prescribe Model Articles:** Section 33 of the CAMA 2020 empowers the Minister to prescribe model articles, and since articles are not always the same, different model articles may be prescribed for different descriptions of companies; hence, a company may adopt all the provisions in the article and may alter any of the provisions. Therefore, any amendment of model articles made does not affect a company, provided the amendment takes effect before registration. It is our view that the Model Article of Association is a mere guide and should be so accepted by the officials of the regulatory Commission.
- w) **Automatic Cessation of Administration:** This section provides that the tenure of an administrator ceases automatically within a year of his/her appointment. However, the term of his/her office may be extended by an order of court for a period not exceeding six months.
- x) **Introduction of Company Rescue Processes for Insolvent Companies:** Instead of being forced to wind up, insolvent companies can now be rescued from distress and liquidation, through Voluntary Arrangements, Administration, and Netting. Thus, winding up is no longer the only option available for dealing with insolvent companies. The provision for Netting in the Act helps to mitigate credit risks and provides a level of investment certainty in the case of insolvency, there will be clear apportionment of liabilities and right among stakeholders.

## 4.2 Issues and Challenges of CAMA 2020

While society applauds the federal government on the enactment of CAMA 2020, it is unfortunate that the beautiful innovation has some inherent challenges. These issues and challenges will be discussed in this section.

- a) **Regulation of Non-Profit Organizations:** The Act provides for the CAC to suspend any trustee of an association and appoint an interim manager or managers to manage the affairs of an association where there is a misconduct or mismanagement in the administration of the association amongst others. With this power granted to the CAC, it can petition trustees, and an order of Court can suspend the trustee (s). This provision becomes worrisome in the sense that any member of an association may petition, and such order may be granted without due diligence by virtue of section 839(1)-(11) of CAMA 2020.
- b) **Possibility of Tax Turf War between the Federal and State Government:** The improvement under CAMA 2020 to ease the incorporation process for small businesses make economic sense but it is clear that the Act is geared towards increasing tax compliance in the long-run. It is trite law that incorporated entities pay tax to the federal government while non-incorporated entities, such as enterprises and partnerships, pay to the state government. With the Act making the incorporation requirements much easier, more persons will prefer to register their businesses as corporations rather than enterprise, thus depriving states from internally generated revenue accrued from these enterprises. This might result to a rivalry between the federal government and revenue driven states such as Lagos State which prior to the enactment of CAMA 2020 had laws regulating Partnerships. In *A.G Ogun State v. A.G Federation*, the court had stated that where a matter legislated upon is in the concurrent list and the federal government has enacted legislation in respect of the same matter, a state legislation inconsistent with it is void and of no effect for its inconsistency. However, where the Federal and State legislations are the

same, the state legislation is in abeyance and becomes inoperative for the period the federal legislation is in force.

- c) **Composition of Adjudicatory Body by CAC:** The establishment of the Administrative Proceedings Committee by the CAC shows that court activities in adjudicating company matters will be reduced as the CAC has made provisions to resolve disputes or grievances arising from the operations of the Act. The members of the Committee are practically employees of the CAC with just a representative of the Federal Ministry of Industry, Trade and Investment. Also, the CAC may co-opt persons who shall not count towards a quorum or have the right to vote in respect of any decision taken by the Administrative Committee. The CAC, being the body that incorporates, administers and ensures compliance by companies is now the body that serves as both complainant/defendant and a judge in its case. In a situation where is a dispute between CAC and its clients and CAC is presiding over the dispute, there may likely not be a fair hearing. Aside from the above, the Act further stated the Committee would make a decision, and the Committee may impose sanctions. If parties are not satisfied with the decision after the Board has confirmed it, the aggrieved party may appeal to the Federal High Court under section 851 (13) of CAMA 2020. This provision requires further amendment which should empower the supervisory Minister or the Attorney General of the Federation to set up such Dispute Resolution Body and take away from the CAC the power to sit as a judge in its own case.

The Administrative Proceedings Committee which was newly established by the Act is another source of concern. This Committee is charged with the responsibility of adjudicating over persons that have contravened provisions of the Act as well as settling disputes arising from the Act. Though decisions of the Committee can be appealed at the Federal High Court, the concern here is that the Committee would most likely be biased since it would be acting as a judge in its case.

- d) **Pre-Action Notice:** The Act provides that no action will commence against the Commission before the expiration of 30 days after a written notice of intention

to commence such suit is served upon the Commission by the intending plaintiff or his agent and the notice must clearly state the cause of action, particulars of the claim, name and place of abode of the intending plaintiff and the relief sought. This provision was not provided in the 1990 Act and some have argued that it seems to make the Commission above the law. In *NNPC v. Tijani*, the court stated that the rationale behind the jurisprudence of pre-action notice is to enable the defendant know in advance, the anticipated action and a possible amicable settlement of the matter between the parties without recourse to the adjudication of the court. It is submitted that pre-action notice does not exclude actions/claims against the Commission, thus does not make the Commission above the law.

- e) **Loss of Income for Certain Specified Professionals:** The provision of Section 705(1)(c) of CAMA 2020 authorized any member with certification from the Business Recovery and Insolvency Practitioners Association of Nigeria (BRIPAN) to act as an insolvency practitioner. This provision has exposed everybody to practice, and the presence of a lawyer or an accountant is no longer needed.

Additionally, private companies need not appoint a company secretary anymore, and an individual can now incorporate his company without consulting a legal practitioner. Furthermore, the provisions of section 35 (3) of CAMA 1990 which provides that a legal practitioner should exclusively make a Declaration of Compliance with respect to incorporation of companies has been abolished. The provisions of section 35 (3) of the CAMA 1990 have been replaced with section 40 of CAMA 2020 which allows the applicant, his agent or his legal practitioner to file the Statement of Compliance upon attestation before a Commissioner for Oath or a Notary Public.

These provisions tend to extricate lawyers from their roles in company regulations and practice. It is seen as a weighty threat and an extensive loss of income for legal practitioners. Secondly, it is absurd for a non-lawyer to be qualified to attest that legal provisions have been complied with.

Where certain obligations that would have normally been carried out by legal practitioners have either been removed or made accessible to non-legal practitioners, this will encourage the perpetration of illegality in the long run.

- f) **High Cost of Compliance:** Although CAMA 2020 eases incorporation for small companies, compliance costs remain high for public companies. For instance, there is now the filing obligations and electronic compliance. While these provisions promote transparency and accountability, they also come with financial and administrative burden. Companies now need to spend more on professional services such as lawyers, auditors and accountants to meet compliance standards, and this increases the operational cost of running a business. This can discourage formal registration or push them towards non-compliance.
- g) **Excessive Disclosure Burden:** Mandatory disclosure of beneficial ownership for 5% shareholding increases transparency but can also expose investors to certain risks such as political or competitive reprisals and others in Nigeria's volatile business climate.
- h) **Lack of Awareness and Training:** A further challenge is the low level of awareness among company directors and shareholders about their obligations, rights and responsibilities under CAMA 2020. Many directors, particularly in SMEs, remain unfamiliar with new statutory duties such as disclosure obligations and restrictions on multiple directorship.
- i) **Prescription of Fees and Penalties by CAC:** There are a lot of discretionary powers given to the CAC to impose penalties and determine the amount of fine to be paid for default of provisions of the Act. The concern here is that the CAC may impose fines at it deems fit without taking into consideration the level of default.

## 5. RECOMMENDATIONS AND CONCLUDING STATEMENTS

The Act with the salient innovations introduced, seek to regulate the conduct of businesses of all classes. The innovations and reforms in the CAMA 2020 are in

tandem with global practices as it integrates several legal innovations geared towards improving the ease of doing business in Nigeria. This will not only attract more investors, it will likewise encourage an individual to run a company and attract Foreign Direct Investment (FDI) into the country. The technological innovation will as well make running of company continuous and equally increase Nigeria's rating in the World Bank Doing Business (WBDB) Ranking Index.

However, it should be noted that some of these salient provisions are not yet tested in the court of law in order to know their extent of applicability to contemporary live issues of corporate administration. Thus, in order to boost further, the good innovations of the Act, the following recommendations are proffered.

- a) Since the CAC is the body empowered to ensure compliance to the provisions of CAMA 2020, the personnel of the CAC should be properly trained and equipped with all necessary facilities to ensure effective and efficient regulation of companies in Nigeria most importantly in light of the technological improvements in corporate practice. This is to ensure that the CAC as the chief regulator of companies live up to expectations of the Act.
- b) One-member private companies provided by the Act is more or less a Sole-Proprietorship. Thus, the courts should not fail to where necessary, lift the veil of incorporation so as to ensure that such companies are not used as a sham to perpetuate fraud.
- c) There should be a committee that will ensure the Act stays up to date and conforms to emerging international best practices, and where necessary recommend amendments for provisions that no longer comply with international best practices. This will avoid a repeat of what happened under the 1990 Act which was amended only once throughout its 30 years of existence.
- d) Business organizations should bring their business in conformity with international best practices and ensuring economic trends, so they are not left out in the use of ICT and Technology trends. This is to ensure that businesses can enjoy the benefits of the Act.

- e) Vague provisions of the Act should be clarified. This would ensure that business organizations are run smoothly following the provisions of the Act because it would have been accepted by all concerned stakeholders.
- f) There should be a body to checkmate the discretionary powers that have been granted to the CAC to avoid abuse of powers. This will prevent arbitrary rules by the CAC.
- g) In the formation of a company limited by guarantee, the requirement that where the Attorney General does not give consent after 30 days, the promoters can circumvent this by making a publication in 3 national dailies to invite objections is a cumbersome process that should be jettisoned. It is recommended that failure to communicate assent should be deemed to be an approval.
- h) Partnerships already registered under State laws need not be registered again under Federal Laws in order to avoid physical and financial burdens associated with registration processes.
- i) To ensure further development of Nigerian company law and to ease the cumbersome process of litigation in the Federal High Court, it is recommended that a Commercial Court be established by the Federal Government to specially handle adjudication of company law and related matters.

## References

1. OVC Okene & G.G. Otuturu, Nigerian Company Law and Practice (Faculty of Law, Rivers State University 2021) 13.
2. Ibid. 1.
3. Interpretation Act Cap 89 LFN 2004.
4. [1897] AC 22.
5. (2004) 13 NWLR (Pt. 948) 376.
6. (1986) 2 NWLR (Pt. 20) 48.

7. (1843) 2 Hare 461.
8. (2007) 3 NWLR (Pt. 754) 400.
9. (2003) 4 NWLR (Pt. 821) 163.
10. (1856) 119 ER 886.
11. J.A Orojo, *Company Law and Practice in Nigeria* (5th edn, LexisNexis 2008) 15.
12. S.C. Udemezue, 'A Compendium of Historical, Legal and Institutional Framework for the Practice of Company Law and Corporate Governance in Nigeria' [2021] (8) (2) *Journal of Commercial and Property Law* 66.
13. (n.11) 16.
14. C.C Wigwe, *Development of Company Law and Practice in Nigeria* (2nd edn, Readwide Publishers, Ghana) 3.
15. A. Abuah & Ors, "Historical Development of Company Law in Nigeria: A Discourse" p.6. available at <https://www.researchgate.net/publication/357309612> accessed 8th July 2025.
16. (n.14) 4.
17. (n.10).
18. (n.11) 18.
19. (n.14) 5.
20. (n.7).
21. (n.15) 7.
22. (2003) Revised (2011).
23. (2006) Revised (2014).
24. (2009).

25. L. Oso & B. Semiu, 'The Concept and Practice of Corporate Governance in Nigeria: The Need for Public Relations and Effective Corporate Communication' [2012] (3) (1) Journal of Communication 8.
26. Companies and Allied Matters Act 2020 s. 692.
27. Ibid ss.746-794.
28. Ibid ss.795-810.
29. (n.26) s.18(2).
30. Ibid s. 26.
31. Ibid.
32. Ibid s.124(2).
33. (n.26) ss.119 & 120.
34. (n.7).
35. (n.26) s.343.
36. Ibid s.265(6).
37. Ibid s.275.
38. Ibid s.307(2).
39. (n.26) s.332 (a)-(e).
40. Barnett Hoares & Co v. South London Tramway Co Ltd. (1887) 18 QBD 815.
41. Panorama Development (Guildford) Ltd v. Fidelis Furnishing Fabrics Ltd (1971) 2 Q.B. 711.
42. Okeowo v. Milgore (1979) 11 SC 138.
43. Ibid s.110.
44. Ibid s.175(1).

45. Ibid s.244(3).
46. Ibid s.40 (1).
47. Ibid s.851 (1) & (4).
48. (n.26) s.705(1).
49. (n.26). s.183.
50. Ibid s.183(1)(a).
51. Ibid s.711.
52. Ibid s.845(1).
53. Ibid s.75.
54. (n.26) s.513(1), (2).
55. Ibid ss.434-549, 718-721.
56. (1982) 13 NSCC 35.
57. A.G Lagos State v. Eko Hotels & Anor (2017) LPELR-43713 (SC).
58. (n.26) s.851(1).
59. Ibid.
60. (n.12) s.17(1) & (2).
61. (2006) 17 NWLR (Pt.1007) 29.
62. (n.26) s.417.