

**TRANSPLANTING CORPORATE SUSTAINABILITY INTO THE CODE OF
CONDUCT FOR PUBLIC OFFICERS: A NIGERIAN PERSPECTIVE**

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Abstract

Recent events in the public sector have shown that the Public officers' code of conduct has been flagrantly violated by Public officers at all levels. The reason could be one of two things- either the officers do not understand the code or there is just no political will for the Government to implement the provisions of the code effectively. The Nigerian Code of Corporate Governance 2018, promulgated by the Financial Reporting Council of Nigeria, sits alongside the code of conduct for public officers to regulate entities and businesses in the public and private sectors.

The issue discovered is that the public sector has ignored this code of corporate governance while the private sector is still struggling to imbibe and abide by its tenets. The study examined the similarities in both codes, determined their inter-relationship, and proposed how to improve good conduct of public officers through the integration of relevant sections of both codes. The study adopted the doctrinal methodology in discussing the subject matter.

The study found that a proper review of both codes reveals some similarities in their objectives. The central argument of this study therefore was that both codes are relevant to the proper conduct of public officers and should be integrated to avoid multiplicity of codes. The study also prescribed measures and guidelines, which should be adopted in order to guarantee the sustainability of the country, especially the economy.

Keywords: *Code of Conduct, Code of Corporate Governance, Good Governance, Public Officer, Sustainable Governance.*

Introduction

The Nigeria economy is divided into the public and private sectors. The private sector comprises of corporations, companies and businesses with the sole aim of profit maximization for the shareholders. The public sector is made up of government institutions, agencies, commissions, departments and parastatals with the sole aim of service delivery to the citizenry. Prior to 2018, the conduct and governance of the public and private sectors were regulated by different codes. The public sector was governed by the Public officers' code of conduct which involved state and federal government owned entities, while the private sector which involved companies and corporate organizations was governed by the Governance Code 2003. Although the private sector has codes for specific industries¹, the code of corporate governance is the mother code regulating the administration and management of the different industries in the private sector.

In spite of the code of conduct regulating the activities of public officers, the public sector has continued to be marred with corruption, and poor service delivery which has eaten deeply into the system; this has negatively influenced the sustainability of good governance in Nigeria. In a bid to address the lackluster attitude of public officers and the mismanagement of public sector entities, the Federal Government through the Minister of Trade and Investment gave a directive in 2013 on corporate governance to develop an umbrella code of corporate governance for both the public and private sectors in Nigeria.² This resulted in the Financial Reporting Council of Nigeria's Code of Corporate Governance 2018 which is an improvement over the 2003 corporate governance legislation, which only applied to publicly traded firms, listed and unlisted. Although the code is meant to regulate both public and private sector organizations, the public sector is yet to fully incorporate the code of corporate governance in the control and management of public entities/institutions. Perhaps a tool to the reduction of the never ending cases of misconduct by public officers seems to be embedded in the provisions of the code of corporate governance.

¹ For example, Investment and Securities Act, Banking and other financial institutions Act, and other laws that have been established to regulate specific sectors like the capital market and the banking industry.

² Gabriel Omoh, 'FG inaugurates committee on code of corporate governance' (2013) *Vanguard News* <<https://www.vanguardngr.com/2013/01/fg-inaugurates-committee-on-code-of-corporate-governance/>>

Conceptual Clarification

Corporate Sustainability: Corporate sustainability is simply conducting an organization or business in a way that sustains the organization and its environment for future generation³. It is the act of making sure the environmental resources are protected in a way that enables the company to keep operating into the foreseeable future.⁴ The idea is not only for the organization to meet the needs of the present generation but also to plan to meet the needs of the generation unborn.⁵ With regards to the challenges the world faces presently, the focus of any organization on social and environmental positive impact would be to ensure it can create lifelong benefit. Corporate sustainability reduces the possibility of risks; it builds the company's reputation, increases the revenue, reduces cost and attracts investment opportunities in the global market. A business that incorporates in its policies principles of corporate sustainability practice is securing a place in the future and the economy of the future.⁶ Also, where companies are sustained in a country, it has positive ripple effect in the state's economy. For instance, youth restiveness would be curbed and even totally eliminated where the youths are gainfully employed and where the companies give back by being socially responsible by augmenting the social amenities provided in the host communities by the state government.

Public Officer: A public officer is defined by the amended 1999 Constitution of the Federal Republic of Nigeria as “a person holding any of the offices specified in part II of the fifth schedule of the constitution. They include; the President of the Federation, The Vice-President, all members and staff of the Legislative house, all judicial officials and staffs of the court, the Attorney-Generals, all ministers, members of the law enforcement agencies, etcetera as highlighted in the fifth schedule of the Constitution.”⁷

Good Governance: This is an idea that encompasses effective and efficient management of both public and private corporations with the sole purpose of achieving sustainable growth and development of the corporations through sound decision making process that ensures

³ David Olatunji, (2019), ‘Sustainability: Understanding Your Ecological Footprints’ *Journal of Corporate Governance and Administration (ICSAN)*. Vol 2, pg 19-24.

⁴ ibid

⁵ ibid

⁶ Sphera's Editorial Team, (2020). What Is Corporate Sustainability? Sphera <<https://sphera.com/glossary/what-is-corporate-sustainability/>>

⁷ Constitution of the Federal Republic of Nigeria 1999 CAP, C23, Laws of the federation, 2004

accountability, corporate disclosure and the protection of the rights of the corporations, its shareholders and other stakeholders. The concept of "good governance" comes to light as a model to compare an economy or political body that is ineffective with viable economies and political bodies.⁸

The United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) identify eight (8) major elements of good governance. Participatory, consensus-oriented, accountable, transparent, responsive, effective and efficient, egalitarian, inclusive, and law-abiding governance are all characteristics of good governance.⁹ It ensures that corruption is limited, minorities' perspectives are considered, and the voice of society's most vulnerable are heard in decision-making. It also responds to society's current and future requirements.¹⁰

Conflict Of Interest: This arises in a decision-making setting when a person's personal interest interferes with his official responsibilities. It occurs where an individual has competing interests and loyalties and the fulfillment of one adversely affects the other. A conflict of interest occurs if the conditions are fairly regarded to present a threat that a choice would be overly impacted by other secondary interests, rather than whether a single individual is influenced by a secondary interest, based on prior experience and objective evidence.¹¹

Disclosure: Disclosure is the timely communication of relevant information that may impact or influence stakeholder's decision in a company. It requires revealing all news, data, and operational details either positive or negative that impacts the business. The concept of disclosure is that in the interest of fairness, all persons should have timely access to the relevant information concerning the company.¹² Disclosure and accountability are critical components of corporate success and long-term performance.¹³ It also aids in the enhancement of shareholder capital because increased disclosure practices will help in bridging information gap between the firm and its shareholders.¹⁴ When applied to the public

⁸ Wikipedia, 'Good governance' <https://en.wikipedia.org/wiki/Good_governance>

⁹ Mr. Yap Kioe Sheng, 'What is Good Governance' (unescap.org) <<https://www.unescap.org/sites/default/files/good-governance.pdf>>

¹⁰ ibid

¹¹ Wikipedia, 'Conflict of Interest' <https://en.wikipedia.org/wiki/Conflict_of_interest>

¹² Troy Segal, (2020) 'Disclosure' (Investopedia, 13 March) <<https://www.investopedia.com/terms/d/disclosure.asp>>

¹³ Ibid

¹⁴ Pankaj M. Madhani, (2019) 'Corporate Disclosure: Concept And Practices', Research Gate. <https://www.researchgate.net/publication/45072531_Corporate_Disclosure_Concepts_And_Practices>

sector, declaration of assets is a major form of disclosure and increase disclosure aids the citizens in evaluating the performance of Public Sector Entities/Establishments (PSEs) and helps in building an environment of trust and confidence in the PSEs.

Code of Conduct: A code of conduct is a standard that specifies an individual's or an organization's duties or proper practices.¹⁵ The importance of a code of behavior for public officials cannot be overstated. The main purpose of a country's laws and regulations is to handle concerns of ethics, integrity, and leadership. A code of conduct is required to prevent officials from acting in ways that jeopardize their ability to perform their obligations. Conflicts of interest, greed, and corruption are a few of the issues amongst others that need to be addressed. These challenges are experiences that encourage the need for a code to guide, create and maintain a balance in the system. The code is usually accompanied by punishments or sanctions for any breach that may occur. There is also the code of conduct tribunal that serves as the body that adjudicates on matters relating to any breach and enforces the punishment prescribed in the code against offenders.

Code of Corporate Governance (Governance code): The Corporate governance code establishes the requirements and expectations that corporate boards must meet in order to protect shareholder assets and investments.¹⁶ The Nigerian Code of Corporate governance 2018 (Governance code) aims to institutionalize good corporate governance in both the commercial and government (public and private) sector of the Nigerian economy. The governance code is also intended to raise public knowledge of good governance and values that will engender corporate sustainability.¹⁷ The governance code intends to restore public trust and confidence in Nigeria, particularly in the economy, by codifying good corporate governance norms, encouraging increased trade and investment.¹⁸

Sustainable Governance: This refers to measures that maintain or improve the condition of life for both current and future generations without imposing an undue burden on future generations.¹⁹ There are policies from decision makers in both private and public sector corporations/institutions which are aimed at maintaining or improving the standard of the

¹⁵ Wikipedia, 'Code of Conduct' <https://en.wikipedia.org/wiki/Code_of_conduct>

¹⁶ Nicholas J. Price, (2019) 'What is the Corporate Governance Code?' Diligent Insights <<https://insights.diligent.com/corporate-governance/what-is-the-corporate-governance-code>>

¹⁷ Nigerian Code of Corporate Governance 2018 (NCCG 2018)

¹⁸ Ibid

¹⁹ Daniel Schraad-Tischler and Laura Seelkopf, (2015) 'Concept and Methodology: Sustainable Governance Indicators' <https://www.sgi-network.org/docs/2019/basics/SGI_Concept.pdf>

corporations. This can be achieved through implementation and compliance with the provisions of the code. The structure of the governance code provides parts, principles and practices recommended to effectively implement those principles. Amongst them is the principle of sustainability which when paid attention to encourages longevity in state economies and businesses. Sustainable governance is seen in a situation where by the policies and laws from a state is planned and implemented in such a way that it engenders the peace and prosperity of the state's economy. This builds the confidence and trust of the citizens and stakeholders of the state; they go extra length to serve as they see the positive impact of their actions in the private and public sectors. According to King Solomon, 'Righteousness (moral and spiritual integrity and virtuous character) exalts and sustains a nation, but sin is a disgrace to any people'.²⁰

The Origin and Purpose of the Code of Conduct for Public Officers (The Code)

In reaction to an increase in misconduct and malfeasance formalized codes to guide ethical conduct began to gain importance in corporations and governments in the 1980s.²¹ The Code of Conduct for Public Officials was first incorporated in the repealed 1979 Constitution of Nigeria. Since then, the provisions of the code have remained in the Fifth Schedule of all successive constitutions.

Section 1 to 13 of the code defines the standard by which public officials carry out their tasks and discharge their duties. The code established the Code of Conduct Tribunal (CCT), prescribes the code's composition, the chairman's qualifications, and the manner in which members are appointed and removed from office, and the penalty for breach of its provisions.²² The code operates as guideline for public officers in carrying out their official duties and to misconduct.

The Code of Conduct Bureau (CCB) is responsible for administering and maintaining compliance with the code of conduct, as well as enforcing the provision and any associated legislation when an allegation of misconduct is made.²³ The CCB on completion of its

²⁰ Amplified Version Bible, 'Proverbs 14:34' < <https://bible.com/bible/1588/pro.14.34.AMP> >

²¹ The Arthur W. Page Center, 'A (Brief) History of Codes of Ethics' (The Arthur W. Page Center) < <https://pagecentertraining.psu.edu/public-relations-ethics/professional-codes-of-ethics/lesson-1-some-title-goes-here/a-brief-history-of-codes-of-ethics/> >

²² Section 15-18, fifth schedule of the 1999 Constitution of the Federal Republic of Nigeria, Cap C23, Laws of the federation 2004 (CFRN, 1999)

²³ "23, Section 3 (d)

investigation refers matters to the CCT for prosecution where it is believed that there has been a breach of any of the provisions in the code. The CCT has the authority to try public officials for violating the Code of Conduct Bureau and Tribunal Act, and if found guilty, the official will be subjected to the prescribed punishment.²⁴

Challenges Faced in Implementing the Code of Conduct for Public Officers

Code of Conduct is reduced to a piece of paper that is presented or invoked when it is convenient, but discarded the rest of the time.²⁵ The public officers in carrying out their duties as servants of the state must operate within the ambit of the code. The code prescribes specific standards of conduct expected of public officers in carrying out their official duties. For the implementation of the code to be successful, it needs to be supported by other mechanisms such as transparency, accountability, professional ethics training, integrity, sustainability planning and anti-corruption agencies. Corruption, conflicting interest among officers, incompetence of leaders, lack of understanding /awareness of the code, insufficient enforcement; weak supervision and monitoring are all obstacles to the code's implementation. However, the two major challenges to the implementation of the code are weak monitoring/enforcement mechanism and corruption.

- **Weak Monitoring and Enforcement**

The CCB is the agency charged with monitoring and administering the code. Its major responsibility is to guarantee that the code's provisions are maintained and enforced²⁶. The CCB is responsible for receiving complaints regarding non-compliance with or breaches of the code's provisions, investigating them, and referring them to the CCT for trial if necessary. The Code of Conduct Bureau and Tribunal Act requires the CCB to uphold a high degree of public decency in the conduct of government activities, as well as to guarantee that public servants' acts and behavior adhere to high standards of good character and accountability.

Between 1999 and 2007, 1,235,318 asset declaration forms were issued to public officers as required by law. These forms were to be returned to the Bureau once assets have been declared. However, a total of 520,285 forms were not returned and the investigation report stated that the reason for this was that public officers did not see the need to declare their

²⁴ n²³ Section 18 (2) (a – c)

²⁵ Mike Nelson, 'The Challenge Of Implementing Codes Of Conduct In Local Government Authorities' (The 9th International Anti-Corruption Conference) < http://9iacc.org.s3-website.eu-central-1.amazonaws.com/papers/day4/ws3/d4ws3_mnelson.html >

²⁶ Part 1, Paragraph 3 (d to e), CFRN 1999

assets and failed to respond to the officials of the Bureau who tried to ensure performance.²⁷ This shows that majority of public officers including the public at large are oblivious to the code's importance. The fact that the number of assets declaration forms issued and the number returned is far less than the total number of the expected nominal roll indicates a high level of laxity and ineffectiveness on the part of the CCB.²⁸ The legal and administrative frameworks have essentially been established, but implementation remains a difficulty.

• **Corruption**

Corruption simply put is the misuse of office for private benefits. The Nigerian Public Service has been trailed with allegations of corruption for several decades. Corruption is a cankerworm which has nibbled its way deep into the fabric of society and tarnished Nigeria's international reputation. Nigeria is ranked 146th out of 180 countries for its level of corruption.²⁹ Where opportunities for corruption are controlled, it makes room for ethical practices to become established. For there to be an effective implementation of the Code, corruption in the system needs to be flushed out. In any civilization, corruption is a stumbling block to growth. It is a vice that hampers the growth and development of any establishment as it compromises the integrity of its members. Where the integrity of public officers is compromised, it leads to collapse of the system as officials are lax to perform their official duties unless there is something to be gained from such performance. Also, it leads to decay in the society as the populace get used to cutting corners in the belief that everyone has a price. In a society where corruption is rife, implementing a code of conduct will be almost impossible as the officials who are meant to implement the code are also in the business of contravening the provisions of the code.

Case Studies of Misconduct of Public Officers

Former Chief Justice of Nigeria (CJN) Onoghen Issue

Justice Walter Samuel Onnoghen (Rtd), a former Chief Justice of Nigeria was sworn into office on the 7th of March 2017 and voluntarily retired from the office due to series of allegation of corruption and breach of the Code of Conduct for Public Officers. Justice

²⁷ Audu Jacob, (2012) 'An Assessment of the Code of Conduct Bureau and Code of Conduct Tribunal (Ccb And Cct)'S Public Ethics Practices (1999 - 2007)' [Ahmadu Bello University, emphasis added]

²⁸ Ibid

²⁹ Trading Economics, 'Nigeria Corruption Rank' (Trading Economics)
<<https://tradingeconomics.com/nigeria/corruption-rank>>

Onnoghen failed to comply with the constitutional obligation that public officials should register their assets every four years during their careers.³⁰ On receipt of the petition against Onnoghen, the Code of conduct bureau hurriedly launched an investigation to ascertain the truth of the allegation. The probe into Justice Onnoghen was a major embarrassment to the Nigerian judiciary and the Chief Justice's Office. His suspension on the 26th of January 2019 by President Muhammadu Buhari raised a lot of uproar both in the national scene and the international community. The British High Commission equally raised concerns over the suspension of Justice Onnoghen by the president so close to the general elections which was scheduled to hold 3 weeks later³¹ before its postponement.

The Nigerian Bar Association (NBA) rejected the suspension of Justice Onnoghen questioning its constitutionality and described it as a coup by the Executive against the Judiciary.³² The Code of conduct tribunal found Justice Onnoghen guilty of false assets declaration and stated that it was evident Justice Onnoghen fraudulently acquired the funds due to his inability to show how the funds were acquired.³³ Justice Onnoghen sent President Muhammadu Buhari a notice of retirement in accordance with the National Judicial Council's recommendation.³⁴

Police Pension Scam Issue

The police pension scam relates to the misdeeds, corruption, and mismanagement of retirees' funds in the police pension office. The Presidential Pension Reform Task Team (PPRTT) was tasked with resolving all outstanding issues relating to pension administration by purging the system of the dubious and fictitious names used by officials in diverting money from the government.

Investigation into the police pension scam began after several petitions against the PPRTT were sent to the National Assembly. The PPRTT, led by Abdulrasheed Maina, used the names of high government officials to mismanage about N140 million under the guise of

³⁰ Ikechukwu Nnochiri, 'Onnoghen: The Allegations, The Politics And The Unfolding Drama' (2019) Vanguard News < <https://www.vanguardngr.com/2019/02/onnoghen-the-allegations-the-politics-and-the-unfolding-drama/>>

³¹ Oak TV, (2019,) Timing of Onnoghen's suspension gives cause for concern – UK government (Oak TV, <<https://oak.tv/newstrack/timing-onnoghens-suspension-gives-cause-concern-uk-government/>>

³² Oak TV, (2019) NBA rejects Onnoghen's suspension, says it's a coup. Oak TV <<https://oak.tv/newstrack/nba-rejects-onnoghens-suspension-says-coup/>>

³³ Evelyn Okakwu (2019), 'CCT convicts Onnoghen of false assets declaration'. Premium Times, <<https://www.premiumtimesng.com/news/headlines/325953-breaking-cct-convicts-onnoghen-of-false-assets-declaration.html>>

³⁴ Evelyn Okakwu, (2019) 'Embattled CJN Onnoghen resigns' Premium Times, <<https://www.premiumtimesng.com/news/headlines/324122-embattled-cjn-onnoghen-resigns.html>>

travel expenditures to carry biometric data of police pensioners outside the nation this information was stated in the study prepared by KPMG and acquired by daily trust.³⁵

As per the report by The Nation, the Police Pension Office (PPO) spent N24 billion on high officials, officials from anti-graft agencies, and office staff between June and September 2011 under the pretext of biometric restructuring in the police force. In 2019 and 2020, the EFCC charged Abdurashheed Maina, Atiku Abubakar Kigo, Ahmed Inuwa Wada, Mrs. Veronica Ulonma Onyegbula, and Sani Habila Zira with criminal breach of trust and fraud in the Police Pension Scheme on a 12-count and 18-count charge, respectively.³⁶

Diezani Madueke Issue

Former Petroleum Minister the first female president of OPEC³⁷ showcases the gross misconduct and greed of a public officer going against the laid down rules in the code. Madueke has been accused with fraud and misappropriation of public funds in Nigeria and other countries since 2015.³⁸ The EFCC discovered substantial amount of gold, large amount of money³⁹ and other valuable items during a search of her properties she acquired through fraudulent means.⁴⁰ Her name has appeared in different corruption cases filed by the EFCC either as the main defendant or as an accomplice.⁴¹ The former minister who no longer lives in the country has stalled efforts to put her on trial, all efforts to extradite her has proven abortive.

Other Cases of Misconduct among Public Officers

In October 2018, the National Judicial Council (NJC) in a letter to President Muhammadu Buhari recommended the dismissal of some justices of the Federal High Court and of the National Industrial Court of Nigeria on allegation of misconduct filed by the EFCC against the two judges.⁴² One of the judges was accused of collecting huge sum of money from

³⁵ Ibid

³⁶ Kingsley Nwezeh, (2020) 'N20bn Police Pension Fraud: EFCC Amends Charges against Defendants' THISDAYLive, <<https://www.thisdaylive.com/index.php/2020/02/19/n20bn-police-pension-fraud-efcc-amends-charges-against-defendants/>>

³⁷ Organization of the Petroleum Exporting Countries (OPEC, 1960)

³⁸ United Kingdom, Italy, and the United States

³⁹ N47.2 billion and \$487.5 Million in cash

⁴⁰ Tony Orilade and Aishah Gambari, 'DIEZANI ALISON-MADUEKE: What an Appetite!' (EFCC Nigeria) <<https://www.efccnigeria.org/efcc/news/2706-diezani-alison-madueke-what-an-appetite>>

⁴¹ Kunle Sanni (2021). \$153 million, 80 properties recovered from ex-petroleum minister Diezani – EFCC' (Premium Times < <https://www.premiumtimesng.com/news/headlines/461172-153-million-80-properties-recovered-from-ex-petroleum-minister-diezani-efcc.html>>

⁴² Dayo Aiyetan, 2018 'NJC dismisses Ajumogobia, Agbadu-Fishim over alleged corruption. ICIR. <<https://www.icirigeria.org/njc-dismisses-ajumogobia-agbadu-fishim-over-alleged-corruption/>>

plaintiffs under the false impression that he was grieving or that his salary had been delayed and the Code of conduct for public officers prohibits such conduct. Mr. Godwin Obla (SAN) was accused alongside Ofili-Ajumogobia with perverting justice by providing ₦5 million in bribes to Ofili-Ajumogobia.⁴³ The EFCC charged them with conspiracy, illicit enrichment, illegal concealment, corruption, and forgery, among other things.

Despite all the corruption allegations and charges against some public officers in addition to the ongoing court cases standing against them, there is still the desire to contest for public offices. For example, some governors and senators with pending court cases and under EFCC investigation have shown an intention of becoming the next chairman of the All Progressives Congress (APC), to be decided in February 2023. One is Senator Tanko Al-Makura⁴⁴ who was interrogated alongside his wife over allegations of criminal breach of trust and theft of monies which in total results to billions, during his eight-year administration as governor.⁴⁵

Another is George Akume who is the current minister of Special duties and Intergovernmental affairs. Between May 1999 and May 2007, he served as Governor of Benue State. Following that, he was elected to the Senate to represent Benue North-West. In 2006, he was charged with assaulting EFCC officers and destroying documents that could have been used as evidence against him. Recently, the Benue state government backed up by some groups of youths Forum and the members of the coalition government in Benue asked anti-corruption agencies to investigate and prosecute George Akume, over allegations of ₦4.56 billion fraud.⁴⁶

The high rate of misconduct among these public officers is either as a result of the belief that irrespective of the code of conduct in existence, it is not effective enough to convict and put them behind bars or that even if it is effective, the corrupt officers in charge of enforcing that punishment is meted out appropriately will give judgment in their favor because they would have had their share of ‘settlement’.

Concept of Ethical Conduct and Sustainability in Corporate Governance

⁴³ Joseph Onyekwere, (2019) ‘You are no longer a serving judge, court tells Justice Ofili-Ajumogobia’ (The Guardian, < <https://guardian.ng/news/you-are-no-longer-a-serving-judge-court-tells-justice-ofili-ajumogobia/>>

⁴⁴ The former Governor of Nasarawa State from 2011 to 2019

⁴⁵ Musliudeen Adebayo, (2021), ‘APC convention: Former govs, senators with corruption cases jostle for chairmanship. Daily Post <<https://dailypost.ng/2021/12/20/apc-convention-former-govs-senators-with-corruption-cases-jostle-for-chairmanship/>>

⁴⁶ The Cable, (2021) ‘Benue groups back call to probe Akume over ‘N4.6bn fraud’ Daily Post <<https://www.thecable.ng/democracy-youth-groups-back-call-to-probe-akume-over-n4-6bn-fraud>>

Principle 24 of the governance code establishes proper business and ethical standards, highlighting the principles for the company's protection and enhancement of its reputation while fostering good conduct and investors' confidence. This is to ensure a top-down commitment to the code of business conduct and ethics. When top management adheres to a set of rules or codes, there will be a high level of compliance from other employees of the establishment.⁴⁷

The goal of a code of business conduct and ethics is to foster an organizational culture of ethics and compliance, as well as to regulate how the company conducts its business.⁴⁸ Furthermore, focusing enough on sustainability concerns like the environment, social, occupational, and community health and safety ensures long-term business success and presents the company as a responsible corporate citizen contributing to economic progress.⁴⁹ It recommends that the Board create policies and procedures for its social, working conditions, health, and environmental responsibilities, as well as anti-corruption regulations⁵⁰. The Board should keep an eye on how sustainability policies are being implemented and report on how well they are being followed. When companies have a vision, one major question to be answered is how to sustain the plan for achieving the vision and mission set by the company.

The Board, CEO, Managing Director and the senior management are required to demonstrate their support and moral commitment to the code of business conduct and ethics by reflecting its tenets in their actions. From an ethical dimension, the key issue of corporate governance involves building relationships and trust both within and outside the organization. They need to demonstrate more morality and personal integrity, which must be nurtured from inside.⁵¹ Rules and laws enhance personal integrity and trust already cultivated by individuals who are in the board and senior management position of companies. Companies are important part of modern society and economic activities and while they were founded for economic interests, they have a responsibility to guarantee that these goals are pursued and achieved in an ethical and sustainable manner.⁵² The collapse of companies and short life span of organizations in recent times indicates that, regardless of one's personal views on morality and ethics, failing

⁴⁷ Nigerian Code of Corporate Governance 2018, Principle 24

⁴⁸ Nigeria Code of Corporate Governance 2018.

⁴⁹ Principle 26, Nigerian Code of Corporate Governance, 2018

⁵⁰ Principle 26, Nigerian Code of Corporate Governance, 2018

⁵¹ Prof. Hubert Rampersad and Abiodun Fawumi, (2015) 'Why Corporate Governance Fails and Lacks Sustainability' The Guardian < <https://guardian.ng/features/executive-briefs/why-corporate-governance-fails-and-lacks-sustainability/> >

⁵² DCSL. 2015 'The Role of Morals and Ethics in Corporate Governance' DCSL < <http://blog.dcs.com.ng/blog/2015/08/24/the-role-of-morals-and-ethics-in-corporate-governance/> >

to follow appropriate business ethics and a sustainability plan would not benefit all stakeholders.

Interrelationship between Code of Conduct and Corporate Governance Code

The Nigerian public service is governed by the Code of Conduct for Public Officers contained in the Constitution of the Nigeria⁵³, while the private sector is governed by the Nigerian Code of Corporate Governance (Governance code) 2018, as mentioned earlier. It is imperative to see how these codes are related and to figure out the similarities between them. This is to determine whether it is necessary to keep both codes as they are or merge them to become one, addressing the issues in the public and private sector (companies and the government).

Section 1 of the conduct for public officers explains that any member of the public sector should not place himself in a condition where their personal interest would interfere with their official obligations and responsibilities. In the performance of their official obligations, public officials must always act in good faith. They must avoid situations that are likely to place them in a conflict of interest situation where their personal interest competes with their official duties.⁵⁴ This provision is also related to the principles of business conduct with ethics in the governance code.⁵⁵ The board and members of a company are required to establish and conduct their activities in a professional business manner by imbibing ethical standards and establishing policies and mechanisms for monitoring conflict of interest and corrupt practices. When this is done, it is certain that the adverse effect conflict of interest and other related abuses would have on a company would be mitigated and such policies would further promote good ethical conduct and raise the confidence of investors and the public⁵⁶.

Section 2 of the code of conduct for public officers' states that any full-time employed public officer is prohibited from participating in the management or operation of any personal business, profession, or trade, except in farming activities.⁵⁷ This is to avoid distractions and conflicting loyalties among public officials. So does the governance code provide that the managing director should not allow any other appointments engaged in, pose as a threat or be

⁵³ Constitution of the Federal Republic of Nigeria 2011 as amended, Part 1 Fifth Schedule.

⁵⁴ Section 1, fifth Schedule, CFRN (1999)

⁵⁵ Principle 24, Nigerian Code of Corporate Governance (NCCG)

⁵⁶ *ibid*

⁵⁷ , Constitution of the Federal Republic of Nigeria 2011 as amended Para 2 section 2, fifth Schedule

detrimental to his responsibilities to the company and must be carried out in accordance with the approved policy of the Board.⁵⁸

Section 6 bans public officials from seeking or accepting advantages of any type on the basis of anything done or omitted by them in the course of their duties, from commercial firms, business enterprises, or other entities. The goal is to stop corruption in its tracks and close the loopholes that allow public officials' integrity to be harmed. Section 8 works in tandem with section 6 and forbids anybody from presenting any property, gift, or benefit of any type to a public officer as an incentive or bribe in exchange for the granting of any favor or the discharge of the public officer's duties in their favor.⁵⁹ All these sections in the code of conduct for public officers mentioned have been similarly provided in the principles encapsulated in the governance code which addresses the business conduct and expected behavior of the board and members of the company.⁶⁰ The directors owe a fiduciary duty and therefore must carry out all their duties by acting in good faith. Some of the actions prohibited are; not taking advantage of their position for personal gains, must not engage in fair dealings with the customers of the companies, must not accept bribe or any form of compensation that is likely to discredit the company's image.⁶¹

Public officers must file a formal statement of all their assets, obligations, and properties immediately after taking office, as well as every four years and at the end of their term of office.⁶² The aim of asset declaration is to curtail corruption and to ensure that the public officers live within their means and do not illegally enrich themselves by virtue of their official position. This can be likened to the principle of transparency in the governance code.⁶³ The board is encouraged to adopt a communication policy that ensures that all material information and reports issued to the public and stakeholders are clear and easily understood.⁶⁴ It further states that there must be timely and accurate disclosure of material information that relates to all the activities of the company, financial and non-financial matters.⁶⁵ The governance code prescribes that the company's annual report which is similar

⁵⁸ Principle 3 of the Nigerian Code of Corporate governance, 2018

⁵⁹ Fifth schedule, CFRN, 1999

⁶⁰ Principle 24, NCCG 2018

⁶¹ *ibid*

⁶² Fifth Schedule, CFRN (1999)

⁶³ Principle 27, NCCG 2018

⁶⁴ *ibid*

⁶⁵ *Ibid*, principle 28

to the asset declaration of public officers and other finance related information that is considered a public document must provide a clear information on the structure, policies and practices of the company.⁶⁶

One important provision in the governance code is contained in Principle 2. The Chairman of the Board of Directors' office and the CEO/Managing Director's office are to be separated. This is to avoid overconcentration of power in the hands of a single individual. Some of the factors leading to the fall of huge corporations in the world is the over concentration of power in a single individual which most times leads to arbitrary decisions that negatively impacts the growth of the corporation. Similarly, in public corporations or parastatals, there is an excessive concentration of power in the hands of the Ministers leading to the over interference of the ministers in the workings of the Board which inadvertently affects the output of the Board. Although the Board of directors is very vital to governance, the auditors provide an external objective assessment of the directors' financial statements. This is to keep an eye on the directors' activities, encourage accountability, and safeguard the interests of the shareholders.

From the foregoing, we can see that the code of conduct for public officers has been properly drafted to enable good governance on the country and its economy. In spite of this, the sector is still on a battle field with gross misconduct, abuse of office, corruption, inefficiency and moral decadence, because the provisions of the code have been ignored. On the other hand, from practice experience, we see more companies and corporate organization striving to adhere to the principles in the governance code. This is leading to companies paying attention to ethical conducts, transparency, and other principles to ensure sustainability in the business. If the current pattern continues to be the mode of operation among public officers, it will affect the country across all sectors; lead to stunting development especially in the economy and in no time the entire country will begin to disintegrate. All the acts of misconduct and corruption are against the guidelines needed to ensure the sustainability of the country. Therefore, in a bid to combat this menace, it is important that corporate governance practices be fully imbibed and embraced in the public sector. When this is achieved, what we would then see and experience in the public sector would be good governance. This would lead to the consistent growth and development including certainty of sustainable governance. Implementing the governance code is important in order to achieve accountability, prosperity

⁶⁶ *ibid*

and longevity. The public officer is viewed as the trustee of the citizens of the country who is elected to work for the overall interest of the citizens. Thus, they are held accountable by the public for their decisions and acts.

The code of conduct for public officers created the Code of conduct Tribunal which is the body that ensures the compliance with its provisions.⁶⁷ They investigate issues of misconduct and met out punishments where necessary. One should think this body in place is sufficient enough to address the challenges of implementing the code of conduct in the public office but in reality and from the various cases of misconduct discussed, it does not seem to be the case. On the other hand, the Financial Reporting Council (FRC) monitors the compliance of companies especially listed companies with the governance code through sectorial regulators. These regulators have the authority to apply appropriate penalties where there is a breach in the governance code.⁶⁸ The FRC may also conduct evaluations of the code's implementation where there is recorded persistence in the breach of the code.⁶⁹

The FRC provides an approach that companies must use when reporting on compliance with the provision of the code. This approach is the "Apply and Explain" approach. The 'Apply and Explain' technique assumes that all principles are implemented and that company/organization explains how they are used. This involves firms proving how the specific operations they have done best fulfill the corporate governance principles established in the code. As organizations examine how they have (or have not) achieved the targeted goals, this will help to prevent a "box-ticking" process.⁷⁰

Summarily, the interrelationship between the code of conduct for public officers and the Nigerian code of corporate governance cannot be over emphasized. The governance of corporations is as important as the governance of state economies. This is so because of the impact of corporate collapses on the economy of a state. This has necessitated the need for corporate accountability, efficiency and trust. Although, Public Sector Entities/Institutions (PSEs) do not have shareholders, they have stakeholders whose interests they protect and render services to. Whilst private organizations and corporations are profit oriented, PSEs are service oriented. A country can be likened to a multinational corporation where all the

⁶⁷ Constitution of the Federal Republic of Nigeria, Part 1, fifth schedule, section 15, 18

⁶⁸ Section 11c, 15c of the Financial Reporting Council of Nigeria Act, No 6 A53, 2011

⁶⁹ Part c & d of the Nigerian Code of Corporate Governance, 2018

⁷⁰ Ibid

citizens are the stakeholders in the corporation. Thus, the tenets of corporate governance in the public sector would be accountability, transparency, trust, diligence, responsibility, integrity, best practices etc.⁷¹ Where the public sector adheres strictly to the tenets of corporate governance and the provisions of the codes are implemented, the aim to achieve corporate success and economic growth, including building confidence in the stakeholders will thrive. There would be sustained growth in the economy of Nigeria, what is in the best interest of country as a whole will be determined and achieved and the confidence of the citizens who are the stakeholders will remain solid.

Incorporating the Code of Corporate Governance to the Code of Conduct for Public Officers

The development and economic growth of a country can only be achieved and sustained if both the private and public sectors incorporate good governance practices in their administration. Due to the important values accrued in imbibing corporate governance in the public sector, it could be suggested that the code be merged and renamed as ***'The code of corporate and public governance administration.'***⁷² This is to subsume the public sector into the tenets of corporate governance, because the governance code emphasizes good governance which is the best form of governance, both in a company, state or a country. Therefore, it is advisable that both the public and private sector be regulated by a single code of governance. This is more so because for the development of any country to be attainable and sustainable, both the private and public sectors of the country have to be properly administered and governed. If the transplanting is properly done, it will reduce redundancy and corruption and lead to an improvement in the service delivery of the public officers, as well as curtail the excesses in the corporate sector and among corporate workers which the provision in the public sector code addresses.

The Federal Government created the governance code. The governance code was created with the hopes that the government would recognize the benefits and consequences of corporate governance and formally accept it. Regrettably, this never came to pass. The FRC act specifies that the governance committee assess the need for corporate governance in the

⁷¹ Abiri S (2013). The code of conduct for public officers. Review, Reforms and Implementation [Unpublished Matters dissertation]. University of Lagos

⁷² Rasheed Sobowale, (2020 'Why public sector must adopt corporate governance – Ayeku,Former ICSAN President' Vanguard <<https://www.vanguardngr.com/2020/03/why-public-sector-must-adopt-corporate-governance-ayeku-icsan-president-2/>> accessed 2 March 2020

public and private sectors and produce a code of corporate governance and recommendations. The Federal Government, having decided that corporate governance should be implemented in the public sector, has a responsibility to insist on strict adherence to the Code of corporate governance 2018 by public officers.

Despite the fact that Nigeria's public service is overworked, it is easy for public officers to steal public service accessories and use them for unscrupulous purposes.⁷³

One of the major factors which have made corruption fester in the PSEs is the lack of independence of the members of the Boards.⁷⁴ The quality and mix of a Board's membership, as well as the degree of operational independence, have a significant impact on its efficacy in corporate governance. Ministerial influence and the preponderance of Government personnel on PSE Boards tended to diminish the autonomy of these Boards to the point where they seemed to be just Ministerial Departments.⁷⁵

The draftsmen of the Public Sector Governance Code 2016 suggested that the government reconsider and restructure this ministerial and supervisory relationship, leaving an acceptable administrative gap for maintaining board independence. It should be based on external independent board oversight (professional citizens acting as independent non-executive directors) rather than insider board dominance (resulting from the preponderance of civil servants).⁷⁶ Although these PSEs are established by Acts of the National Assembly, the National Assembly should revisit the enabling statutes and amend them to reflect the governance structure provided in the Code of Corporate Governance 2018 or should merge the code of conduct for public officers and the Nigerian code of corporate governance to become 'The code of corporate and public governance administration'.

Conclusion

In order to ensure the challenges resulting to the failure of the public officers in delivering their duties is solved, and to fight for good governance, the authors suggest that the

⁷³ Ugochukwu Raymond Ogubuariri, (2012) 'The Pension Probe And The Audacity Of Corruption In Nigeria' Sahara Reporters. <[Http://Saharareporters.Com/2012/03/12/Pension-Probe-And-Audacity-Corruption-Nigeria-Ugochukwu-Raymond-Ogubuariri](http://Saharareporters.Com/2012/03/12/Pension-Probe-And-Audacity-Corruption-Nigeria-Ugochukwu-Raymond-Ogubuariri)>

⁷⁴ Ugochukwu Raymond Ogubuariri, (2012) 'The Pension Probe And The Audacity Of Corruption In Nigeria' Sahara Reporters. <[Http://Saharareporters.Com/2012/03/12/Pension-Probe-And-Audacity-Corruption-Nigeria-Ugochukwu-Raymond-Ogubuariri](http://Saharareporters.Com/2012/03/12/Pension-Probe-And-Audacity-Corruption-Nigeria-Ugochukwu-Raymond-Ogubuariri)>

⁷⁵ Public Sector Governance Code 2016
<<https://www.proshareng.com/admin/upload/report/PublicSectorCode.pdf>>

⁷⁶ Ibid

solution is to merge the code of conduct for public officers and the code of corporate governance. If the tenets of good governance as provided for under the private sector code of governance can be strictly implemented in the public sector, it could perhaps have a better outcome in curbing all the challenges of corruption and misconduct found among public officers. Also, when the spirit of service is understood by public officials that the ripple effects would lead to a sustainable economy with positive ripple effects in all sectors, public officials would begin to shun wrong practices. For the private sector, issue of profitability and reputation readily comes to mind when acts or issues of misconduct comes to the public glare as same way when issues of misconduct happen in the public sector, This has a ripple effect in the economy of a state and especially with its reputation amongst the comity of nations.

King Solomon as earlier mentioned explains that where the nation is led by leaders with moral, spiritual and virtuous character, the nation is exalted, but where sin such as corruption and wickedness is the order, it brings disgrace to its people. Where the officers in the public sector begin to act in accordance with the provisions of the codes especially the ethical principles, there is bound to be a change in the administration.

Therefore, the summary of this paper is that both private and public sectors need to incorporate good governance in the administration of the sectors. It is imperative that both sectors be regulated by a single code of governance with an effective development and implementation strategy. If this is not done, the status quo would likely remain the same and the existence of both laws will remain 'a mere piece of paper displayed or appealed to when convenient, but ignored the rest of the time'.

Recommendation

If correctly implemented, the following recommendation will assist in institutionalizing corporate governance standards in the public sector, allowing for long-term governance and economic development:

The government should direct and ensure that all PSEs restructure their governance model to reflect good governance practices. These include; internal auditing and the appointment of an external auditor to provide an impartial opinion on the honest and fair perspective of the PSEs' financial statements; grant independence to the Boards of PSEs by reducing the influence of ministerial involvement in the composition of the Boards and the management of the PSEs; put in place an effective whistle-blower

protection procedure that encourages the populace to report any illegal and unethical behavior from public officers.

The whistleblowing must be anonymously done to protect the identity of the whistleblower and also protect them from acts of reprisal; this will also ensure adequate protection for the reputations of both the government and innocent public officers by providing significant penalties for knowingly making false reportage.

All PSEs should implement a full and comprehensive disclosure policy that covers all issues relevant to the general public as well as those covered by the corporate governance code.

The government should strengthen existing mechanisms (such as the code of conduct tribunal) for monitoring public officials' acts and behavior to ensure that they adhere to the highest form of morality and ethical accountability just like the FRC. Public officials should be trained and developed on the substance and purpose of codes of conduct the application of ethical management principles, the right use of official power, and the demands of professional responsibility on a regular basis. Code of corporate governance should be inserted in the curricula of higher institutions of learning as a compulsory course so as to prepare and educate the youths who will take over the mantle of leadership on the importance and need of good governance practices.

Civil workers and public authorities should be required to disclose on time all cases of corruption and official misconduct, including substantial violations of both the Code and the Governance Code. Public officers' remuneration should reflect the cost of a decent level of living, both to reduce the temptation to commit corruption and to increase the ability of the public service to attract and retain outstanding people who can make a difference in their communities. In the forthcoming national and state elections, focus should be placed on persons who uphold the ethical principles that apply to public officers rather than past experiences or impressive manifesto.

The government should make sure there is a better linkage between policy creation, implementation, monitoring, reporting and sanctioning in different organizations and government parastatal, so as to further discourage misconduct and a provide a quick way to dealing with cases of misconduct.

LEGISLATIONS

Organization of the Petroleum Exporting Countries (OPEC, 1960)

Public Sector Governance Code 2016

The Constitution of the Federal Republic of Nigeria 1999, Cap C23, Laws of the federation 2004

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