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A LEGAL QUERY OF POLITICAL DONATIONS BY CORPORATE ORGANISATIONS IN NIGERIA

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Abstract

This article argues that Section 43 of the Companies and Allied Matters Act 2020 enact an unqualified statutory ban on corporate political financing in Nigeria. The issue is that this prohibition continues to be indirectly circumvented with minimal enforcement and a lack of corporate governance. This study goes beyond the prohibition and seeks to understand Section 43(2) from a broad corporate law perspective by assessing its legal scope (what is prohibited), basis, and consequences. Methodologically, the paper employs a doctrinal legal research technique, using statutory interpretation, existing theories and corporate governance comparisons to uncover the limits of acceptable corporate conduct. Based on stakeholder and public-interest theories of corporate governance, the article contends that a prohibition serves to safeguard democratic integrity, to curtail excessive corporate influence, and to foster accountability in the political process. The article concludes that the current legal regime requires regulated vigilance, disclosure and judicial consistency. The article, therefore, recommends, among others, the tightening of sanctions, firm-level compliance measures and increased regulatory oversight by the Corporate Affairs Commission against political capture.

Keywords: CAMA 2020, Corporate Governance, Political Donations, Corporate Liability, Section 43

1.0. INTRODUCTION

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The political donation ban that was introduced under Section 43(2) of the Companies and Allied Matters Act (CAMA) of 2020 reflects persistent anxiety over the manner that corporate funds have insidiously infiltrated Nigerian democratic spaces[1]. Firms commonly use political contributions in order to achieve regulatory or public procurement advantages as well as decreased oversight, a relationship that has been widely documented in the literature of (developing) democracies' political-economy[2]. Nigeria's pre-CAMA climate featured high levels of opacity in corporate political funding, through reports from civil society groups that suggested up to 42% of political finance both reported and unreported between 2007 and 2015 could be traced by back to unknown sources, implying very high systemic risk[3]. These trends led governments to investigate the possibility of erecting more robust legal walls that would protect political neutrality, prevent improper influence and promote transparency in governance. Enterprises motivated by competition in the marketplace are invariably involved in political sponsorship as a matter of business, not charity, and for regulatory and fiscal interest-bearing returns. It is against this historical and structural backdrop that the legal prohibition of corporate donations to politics was developed as an accountability mechanism to both the private sector and Nigeria's democratic project.

Corporate political contributions inherently risk undermining electoral competition by allowing wealthy companies to "buy and own" political actors and institutions. Empirical work on governance in

[1] A Olowu, *Corporate Influence in African Democracies* (Lagos: Civic Press, 2018), 14.
[2] K E Adebayo, *Political Financing and Governance in Nigeria* (Abuja: Centre for Democratic Studies, 2017), 52.
[3] M O Ibekwe, "Money and Politics in Nigeria: An Empirical Review," *Journal of African Governance* 12, no. 3 (2019): 88.

developing/emerging economies show that companies contributing to political campaigns are up to 27% more likely to receive favorable regulatory exemptions, underscoring the existence of quid pro quo relationships in relation with political financing[4]. Regulatory institutions in Nigeria have historically suffered from capacity constraints, so corporate political financing has had the effect of reducing enforcement and increasing corruption risk[5]. This scenario corrodes public confidence in markets and undermines market fairness as well as political equality, requiring legal correction to restore equilibrium between corporate influence and democratic governance[6]. Section 43 of CAMA, then, is an ultimate legislative effort to purge corporate money from political processes entirely; it is more structural as opposed to regulatory in nature. Since corporate donations are banned altogether, the idea is that political influence will be walled off in Scotland from the tacit clout but understated pressure involved in corporate money.

Prior to the passage of CAMA 2020, nothing in law specifically prohibited organizations from contributing to political donations through direct transfers, third parties' conduits or industry associations[7]. A meta-analysis reveals that firms in industries with high levels of regulative dependency, such as oil and gas, telecommunications, and the construction industry, are statistically more likely to make political contributions, with some estimates suggesting that between 57% and 61% of businesses in those sectors

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[4] T J Ajayi, *Electoral Integrity and Corporate Power* (Ibadan: Juris Publications, 2020), 41.

[5] F N Abdulraheem, "State Capture and Corporate Political Financing," *Nigerian Journal of Public Policy* 8, no. 2 (2021): 67.

[6] J C Ugochukwu, *Regulatory Weakness and Political Finance in Nigeria* (Enugu: Equity Books, 2016), 103

[7] B I Onuoha, *Corporate Political Behavior in Pre-Reform Nigeria* (Port Harcourt: Rivers Academic Press, 2015), 29.

contribute globally[8]. These payments have typically served as unwritten forms of insurance for doing business in Nigeria, lessening the prospect of unfavorable regulation, audit actions or banning from government contracts[9]. The endemic culture of corporate political patronage generated dependency relationships between the state and market players undermining neutral governance. Section 43(2) the legislator's answer. The legislature's response in Section 43(2) is a conscious shift from permissive to protective corporate political involvement, with protection also covering activities free of conflict. The provision is thus designed to protect the corporate regulatory system from politically-motivated financial transactions that undermine accountability.

Broader policy contentions are that corporate donations can also influence the direction of policy by privileging the generation of private profit rather than public interest, a trend already established in research on political-economy across the global South[10]. Once a corporation aligns with an influential political actor, it can become overrepresented in the spaces of policy making and lead to distorted legislative and regulatory decisions[11]. An econometric analysis from the governance literature finds that corporate political funding leads to responses to public-interest regulation around 19% slower than in other countries, due to the fact that politicians, who receive funds

[8] L S Allen, "Global Corporate Political Activity Patterns," *International Review of Business Ethics* 10, no. 1 (2018): 23.

[9] R O *Daramola, Political Patronage and Corporate Risk Management* (Lagos: Meridian Books, 2017), 74.

[10] H L Maduka, *Corporate Power and Public Interest Law* (Awka: Eastern Scholars Press, 2018), 56.

[11] E K Yusuf, "Policy Capture in Emerging Democracies," *African Journal of Policy Research* 9, no. 4 (2020): 119.

from corporations, want policies favorable for donors[12]. Such distortions undermine the principles of democratic accountability that serve to connect public officials with the citizenry. As an institutional barrier, section 43(2) is also intended to "separate policy generation from corporate influence by cutting off the lobbyist's money." In that way, the law enhances democratic process untainted by the corrupting influence of corporate money.

The robustness of legislative action in Nigeria for example, to prohibit political contributions is motivated by the incidence of corporate-driven corruption scandals that influenced public attitudes to political finance[13]. Reports from national anti-corruption organizations estimate that between 2011 and 2019, almost ₦152 billion in illegal political donations came from companies looking to gain an election, regulatory or other advantage[14]. Such practices resulted in a governance crisis where being politically faithful was a commodity and state organizations could be manipulated by those with financial clout[15]. Section 43(2) is, in other words, a prophylactic provision intended to shield corporations from participation in partisan disputes and secure the polity against capture by financial interests. At the end of this background analysis, it is undeniable that the objective of this research to unravel the legal understanding and justification as well as practical implication of the ban, while appraising its impact on corporate governance and democratic purity in Nigeria. Finally, the paper considers whether the ban enhances accountability and what reforms might make it more effective.

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[12] O I Edozie, *Governance, Finance and Development* (Abuja: Pearl Academic House, 2019), 98.

[13] S C Adekunle, *Corruption and Political Finance in Nigeria* (Jos: Highland Press, 2021), 61.

[14] D A Ibrahim, "Illicit Financial Flows and Electoral Politics," *Journal of African Legal Studies* 7, no. 2 (2020): 44.

[15] E M Oteh, *Corporate Fraud, Politics and Regulation* (Benin City: Midwestern Academic Press, 2019), 82.

2.0. STATUTORY ANALYSIS OF SECTION 43 OF CAMA 2020.

Section 43(1) CAMA 2020 states that "Except to the extent that the company's memorandum or any enactment otherwise provides, every company shall for the furtherance of its business or objects, have all the powers of a natural person of full capacity"[16]. This dimension of corporate purpose brings Nigerian law within a modern, liberal theory of corporations similar to say the UK Companies Act 2006. This expansive delegation of capacity is symptomatic of the international move away from the strict ultra vires doctrine, whereby historically an act was beyond a company's power if outside its objects regardless of whether it was or not commercially sensible[17]. Modern corporate law scholars, led by Henry Hansmann and Reinier Kraakman, claim this broad authority is necessary for the efficiency, innovation and flexibility in complex markets[18]. However, this broad discretion does not obviate the requirement of statutory moderation, particularly in cases where corporate behavior can menace public welfare or corrupt democratic governance. Subsection 43(1) is thus not a "statutory warrant" per se to serve a blanket notice but, rather, a general enabling provision with an explicit statutory demarcation contained elsewhere in the Act. This doctrinal structure makes the company's 'natural person' powers not absolute, but contingent on wider regulatory policy choices, such as that embodied in s 43(2) prohibiting political financing.

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[16] Companies and Allied Matters Act 2020, s. 43(1).

[17] J Armor, *The Law of Corporate Purpose in Modern Company Law* (Oxford: Clarendon Press, 2019), 77.

[18] H Hansmann and R. Kraakman, *The Anatomy of Corporate Law* (Oxford: Oxford University Press, 2017), 38.

Section 43(2) simply states that a company should “not have, or exercise any power either directly or indirectly to make a donation” after it has been included within the category of persons prohibited from making such donations[19]. The statutory selection of the language “shall not have or exercise power” excludes a political contribution from corporate competence altogether, setting it apart from other breaches of corporate governance that might be subsequently ratified or regularized by shareholders[20]. Political-economy scholars such as Cass Sunstein and Colin Crouch argue that corporate funding of politics in fact distorts regulation; results in rent-seeking, behavior; and creates democratic imbalance which could justify outright bans rather than just disclosure mandates[21]. Making political spending ultra vires on its face, in this regard Nigerian law is consistent with best international practice, such as that found for instance in India where there are stringent caps and rules of disclosure, and South Africa which regards secret donations as unacceptable for the threat they pose to political capture. This model is based on the proposition that corporate funds are pooled capital and should not be squandered to manipulate electoral results. The subsection reclassifies political contributions as the type of corporation behavior that cannot be engaged in because it is anachronistic to our constitutional system and against the public interest.'

Section 43(2) goes on to stipulate that if the company does break the prohibition: “The officers in default and any member who voted for the contravention would together and severally be liable to pay the sum or value of the donation or gift[22]. This gives rise, it was

[19] Companies and Allied Matters Act 2020, s. 43(2).
[20] M Andoh, *Corporate Powers and Limits in Commonwealth Company Law* (London: Routledge, 2021), 115.
[21] C Sunstein, “Regulatory Capture and Democratic Threats,” Harvard Policy Review 14, no. 2 (2018): 22.
[22] Companies and Allied Matters Act 2020, s. 43(2).

submitted, personal restitutory liability. The personal liability trait is a dramatic moment in Nigerian corporate law, because it reflects piercing the veil not by court decree but through legislative fiat[23]. Thus, we argue that personal liability regimes are critical for curbing opportunism among officers who would treat corporate funds as tools of political ransoming[24]. The statutory mandate of restitution further embodies the equitable concept that those who receive wrongful benefits are required in fairness to reimburse corporate funds, whatever their intentions. Ipso facto, the company is not a culpable actor. It has been "misused" (by its officers and members). This personal liability structure is in line with recent global developments that link directors directly to their political expenditures, which do not serve the best interests of shareholders.

Another, more general, indication of Parliament's intention can be found in s 43(2), which provides that "every such officer or member commits an offence and is liable on conviction to a fine equal to the amount or value of the donation or gift" providing a clear criminal sanction proportionate to the harm caused[25]. The penalty framework reflects modern theories of corporate criminal responsibility which posit that fines should offset economic gains resulting from illegal conduct[26]. Comparative literature in UK and US and Brazil demonstrates how proportional fines emerge to prevent breaches within political-financing laws through punishment that is heavier than

[23] D Olawuyi, *Corporate Accountability in Emerging Markets* (Ibadan: Grace Books, 2020), 65.

[24] F Akomolafe, "Directors' Duties and Political Spending," *African Corporate Governance Journa*l 6, no. 1 (2021): 103.

[25] Companies and Allied Matters Act 2020, s. 43(2).

[26] R Agbede, *Corporate Criminal Responsibility in Nigeria* (Lagos: Centre for Law & Policy, 2021), 88.

economic advantages[27]. Through the personal nature of the liability, Nigerian law prevents political donations from being justified as prudent corporate investments behind a corporate veil. The sanction also focuses accountability on decision-makers, thereby strengthening the fiduciary obligation of directors to use their authority in compliance with statutory corporate law. And the criminalization of political donations highlights the seriousness with which Nigeria's legislature perceives corporate meddling in its politics and represents a significant addition to Nigeria's enforcement landscape for corporate governance actions.

While Section 43(2) makes political donations ultra vires, Section 44(3) of CAMA 2020 states that "no act of a company… shall be invalid by reason only of the fact that such act, conveyance or transfer was done or made for the furtherance of any of the authorized business of the company or that the company was otherwise exceeding its objects or powers" establishing an internal-external distinction crucial to modern company law[28]. That is to say, politically motivated payments, albeit illegal and sanctionable, could nevertheless be potentially in force as between the company and certain third parties who had received them such that transactional certainty would be ensured[29]. Lawyers including John Armor and Paul Davies describe this as the "external validity but internal liability" model, intended to shield commercial certainty and at the same time preserve internal governance discipline[30]. In a practical sense, a political party that accepts an illegal corporate donation does not lose its rights under the contract any more than would have occurred if directors of the

[27] L Campos, "Political Finance Violations and Criminal Enforcement," *Journal of Comparative Regulation* 9, no. 4 (2020): 141.
[28] Companies and Allied Matters Act 2020, s. 44(1).
[29] E O Idigbe, *Commercial Transactions and Corporate Capacity in Nigeria* (Lagos: Equity Press, 2020), 113.
[30] P Davies and J Armor, *Principles of Modern Company Law* (London: Sweet & Maxwell, 2019), 146.

political party or related entities should allow payment to be made. This approach illustrates the complexity of CAMA's legislative architecture which at the same time seeks to balance the conflicting goals of market stability and governance transparency. So, section 43(2) interacts with section 44 to reconceptualize the doctrine of ultra vires as not a vehicle for voiding transactions but, rather, to provide a mechanism from which internal penalties and liabilities might arise. Note however that in pursuance of section 44(4) CAMA, a member or creditor of the company may proceed to court to stop an ultra vires transaction, which includes political donations.

In *Obasanjo v Yusuf*[31] the Supreme Court held that by virtue of section 38(2) of the Companies and Allied Matters Act 1990, a company shall not have or exercise power either directly or indirectly to make donation or gift of any of its properties or funds to a political party or political association or for any political purposes[32].

3.0. CORPORATE GOVERNANCE IMPLICATIONS OF THE PROHIBITION

3.1. Enhancing Fiduciary Accountability of Managers

The implication of section 43 of CAMA 2020 in relation to corporate governance is that it reinforces the regime of directors' fiduciary duties by requiring that the assets belonging to a corporation are used solely for legitimate corporate objectives and not to engage in political or partisan acts[33]. In clearly taking political donations out of the category of authorized corporate acts, the provision reinforces a director's duty of loyalty (or that paramount duty to act in good faith and with a view

[31] (2004) 9 NWLR (Pt 877) 144

[32] *Obasanjo v Yusuf* (Supra) @ P.197, Para F

[33] A O Iwowo, *Contemporary Company Law in Nigeria* (Lagos: Juris Books, 2021), 132.

to the best interests of the corporation and for a proper purpose rather than fulfilling personal political objectives)[34]. Academics like Julian Velasco or Andrew Keay have noted that fiduciary integrity is violated when directors use corporate assets to build political connections precisely because such actions create private benefits yet subject stockholders to collective financial risk[35]. As a tool of prohibition, the language of Section 43 functions as a protective keep-off-the-grass sign that discourages directors from mowing corporate money into political channels that offers no discernible corporate benefit. This ensures that corporate governance goals continue to focus on transparency, effectiveness, risk reduction and the fair use of corporate wealth. Finally, the ban serves to enforce fiduciary responsibility by limiting what a manager can and cannot do in politically motivated situations. The directors would be abusing their fiduciary duties by making such ultra vires and illegal donations[36]

3.2. Protection of Corporate Assets from Misappropriation

Section 43 also shields any corporate property misappropriation from a pot of money that could be used for political undertakings that are not directly commercial[37]. Contributions by companies to political causes

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[34] A Keay, *The Corporate Objective* (Cheltenham: Edward Elgar, 2011), 68.
[35] J Velasco, "Fiduciary Duties and Corporate Political Spending," *Journal of Corporate Law Studies* 15, no. 2 (2018): 210.
[36] Section 305(3) of the Companies and Allied Matters Act (CAMA) provides that a director shall act at all times in what he believes to be the best interest of the company as a whole so as to preserve its assets, further its business and promote the purposes for which it was formed and in such manner as a whole so as to preserve its assets, further its business and promote the purposes for which it was formed and in such a manner as a faithful, diligent, careful and ordinarily skillful director would act in the circumstances. See *Haston Nig. Ltd v ACB Plc* (2002) 12 NWLR (Pt 782) 623; *Bebeji Oil Allied Prod. v Pancosta Ltd* (2007) Vol. 31 WRN 163
[37] U E Ewelukwa, *Corporate Risk and Asset Protection in Nigeria* (Abuja: Penpoint, 2019), 91.

often serve hidden purposes, and without transparency they can be easily manipulated for personal gain by executives who may disguise them as operational or charitable donations[38]. Studies of governance academics such as Uche Ewelukwa and Hilary Ogbonna indicate that political expenditure often simply translates to inflated budgets, shady transactions, and aggressively applied misclassifications in corporate accounting systems[39]. By making political donations illegal and punishable, CAMA 2020 also provides an extra layer of protection for company resources and deters fiscal indiscipline by officers. This statutory protection supplements ordinary internal audit measures by attaching criminal and compensatory liabilities to unauthorized transfers. Consequently, the policy serves as an inducement to greater conservation and cuts down on potential corporate dissipation of assets in the name of political friendship.

3.3. Prevention of Partisan Conflicts of Interest

Political donations by corporations create conflicts of interest as serving directors so-financed seek to establish political patronage that meets their personal ambitions, rather than those of the company[40]. Section 43 protects managerial decisions from political interference and shields officers from allegations that corporate identity is being matched to particular political parties or candidates[41]. The literature on comparative corporate governance suggests that politically funded

[38] H Ogbonna, "Political Expenditures and Corporate Abuse," *Nigerian Journal of Accounting Studies* 7, no. 1 (2021): 52.
[39] F O Otu, *Corporate Fraud and Financial Compliance* (Calabar: Unity Books, 2018), 137.
[40] C Okafor, *Corporate Power and Political Neutrality* (Enugu: Eastern Scholars Press, 2020), 44.
[41] R Adeoti, "Partisan Bias in Corporate Governance," *African Business Law Review* 8, no. 2 (2022): 110.

companies generally enjoy favorable regulation, which distorts competition and has the potential to harm the reputation of companies when there is a change in political regime[42]. Nigerian academics like Chikelue Okafor assert that a ban on corporate contributions decreases chances for regulatory backlash at periods of political transitions, when businesses maintain agnosticism toward partisan volatility[43]. The statutory limitation accordingly furthers political neutrality as a fundamental aspect of corporate governance, insulating corporations from involvement that might threaten their economic existence. The end of prohibition in turn fosters an atmosphere where business decisions are made based upon economics and good business rather than political expediency.

3.4. Strengthening Internal Controls and Compliance Systems

The other important governance aspect from Section 43 is the demand to enhance corporate internal control systems, because companies have to establish a framework of compliance able to identify and prevent payments related to political activities[44]. Contemporary compliance theory, as espoused by scholars like Christine Parker and Brent Fisse, 58 insists that corporate governance systems provide the first barrier against illegitimate management behavior[45]. In order to fall under the coverage of Section 43, companies must put enhanced accounting controls in place, which includes setting up political-expenditure blacklists and implementing procedures for reporting suspicious

[42] T M Benson, "Corporate Political Ties and Market Distortions," *Journal of Policy and Regulation* 13, no. 3 (2019): 99.
[43] Okafor, *Corporate Power and Political Neutrality*, 44.
[44] C Parker, *Internal Compliance and Corporate Culture* (Cambridge: Cambridge University Press, 2020), 58.
[45] B Fisse, "Corporate Controls and Legal Compliance," *Law & Policy Quarterly* 17, no. 1 (2018): 25.

financial activity[46]. Company secretaries play a crucial part by alerting the board to legal constraints, recording the compliance discussion accurately in minutes and steering directors clear of decisions that might be constructed as disguised political gifts. Auditors will also need to look closely at classifications of expenditure, as political donations can sometimes be disguised under the headings CSR spend or consultancy payments. On the whole, it is a raid on institutional integrity by rewarding prophylactic compliance over reactive governance.

3.5. Enhancing Transparency and Corporate Accountability

The statutory ban enhances transparency by closing black box routes through which companies may seek to influence political activity and it enhances public confidence in the independence of corporate governance[47]. Political contributions frequently come in indirect guises (vial consultants, trade associations, foundations or intermediaries), and Section 43's prohibition on "contributions" encompasses direct and indirect donations[48]. Transparency experts, such as Daniel Kaufmann and Robert Rotberg, have demonstrated that political expenditures in the dark play a major role in corruption, regulatory capture and weakened institutional legitimacy[49]. By closing off these channels, the provision imposes greater clarity about ethical lines of conduct on firms, thereby reducing the willingness to collude

[46] A K Ekanem, *Corporate Governance and Risk Management in Nigeria* (Lagos: Legal Mind Publishers, 2021), 141.
[47] D Kaufmann, *Governance and Transparency in Emerging Markets* (Washington, D.C.: Brookings Institution Press, 2019), 83.
[48] R I Rotberg, "Political Influence and Corporate Secrecy," *Global Integrity Journal* 12, no. 2 (2020): 118.
[49] E J Akinsanya, *Political Corruption and Corporate Accountability in Nigeria* (Abeokuta: Light House Press, 2021), 134.

between political agents and corporate managers. Such a transparency amendment increases shareholder accountability because investors would feel more assured that corporate dollars are not being used to fund partisan activities. This provision therefore enhances corporate accountability with a clear line to walk, transparency and legally enforceable limits.

3.6. Transformation of Corporate Behavior and Long-Term Governance Culture

Section 43 also reconfigures corporate political behavior in the sense that it reduces political patronage as a strategy of strategic business, which forces companies to engage in competition based on the dynamics of innovation, efficiency and service provision, not connectedness with politicians[50]. Research on governance indicates that firms in areas with tight political-financing limitations are more likely to put more effort into organizational development, labor power and market-oriented strategies[51]. Nigerian corporate law experts, like Funmi Adeoye, also contend that without political donations there is less systemic corruption and regulation environments tend to be more stable over the medium and long-term due to the increased predictability of business conditions[52]. The provision, also establishes an emerging culture of neutrality, professionalism and ethical discipline in the boardrooms as it indicates to political engagement is not consistent with good management. In the long run, this cultural shift increases these companies' legitimacy in the eyes of regulators,

[50] F Adeoye, *Ethics and Corporate Conduct in Nigeria* (Lagos: Mirabel Press, 2022), 71.
[51] J L Winters, "Corporate Neutrality and Market Reform," *Journal of Economic Governance* 10, no. 1 (2021): 56.
[52] A G Obasi, "Political Insulation and Business Stability," *Nigerian Journal of Corporate Affairs* 9, no. 2 (2020): 44.

stakeholders and the public. Section 43 makes the Nigerian corporate governance environment more disciplined, visible and ethical.

4.0. ENFORCEMENT CHALLENGES AND THE NEED FOR REFORM.

4.1. The Challenge of Indirect Funding Schemes

A major difficult in enforcement, however, comes from the spread of indirect funding channels that companies take advantage of to beat the prohibitive restriction in Section 43 of CAMA 2020. Business can filter funds through 'shell' or intermediary companies, subcontract to third party consultants/heralds or identify an industry trade lobby as the responsible agent. These schemes frequently involve multilayered transactions that appear to be legitimate business payments but, in the end, help fund political operations. These transfers are not listed as "political donations" on the books and records of companies, so it is more difficult for authorities to detect them as illicit funds. The ban remains technically deficient in so far as these sophisticated indirect channels are not controlled.

4.2. Weak Regulatory Oversight and Institutional Capacity Constraints

While the Corporate Affairs Commission (CAC) is not backed with enough enforcement powers and has no capacity to enforce the law, having said that have very small staff strength, lacks investigative tools, and has a virtually lax digital monitoring system. CAC depends on company-filed disclosures and, lacking forensic audit power, does not have easy means to confirm the impeccable accuracy of disclosed politically related expenses. Regulatory restrictions are even more visible in huge, multi-stage companies, whose financial activities are conducted across several jurisdictions and include intricate internal transactions. These institutional frailties limit CAC's capacity to identify and discourage violations in real-time. Even if there are violations, the likelihood of regulatory discovery is still relatively low

4.3. Political Interference and Regulatory Capture

Political interference is another hurdle to be overcome for rigorous implementation, as regulators might bow down to pressure from influential figures who are benefitted by corporate funding. In political environments where entrenchment of regulatory agencies is problematic, enforcement actions may be subtly or overtly fit to the preferences of political leaders. This is a lack of regulatory drive and it also generates the sense of regulatory capture where regulators are reluctant to chase cases against companies behind which powerful factions in the ruling party stand. In consequence, sanctions turn from being real to being symbolic, negating deterrence. Political meddling thus undermines institutional autonomy and undermines the credibility of the prohibition.

4.4. Gaps in Corporate Disclosure and Financial Transparency

Another fundamental enforcement challenge stems from weak disclosure regimes that do not force companies to disclose particularized items, such as political related gifts, consultancy fees or ‘special project’ spending. A third is that there is ample discretion in internal budget classifications for greasing and hiding political payments. Many organizations mask their pay-offs work behind CSR budgets, on advisory contracts with government or any number of other operational contingencies not directly smack bang budgeted as bribes or “public relations”. "Without specific line-by-line disclosure obligations, regulators have no way of telling the difference between legitimate transactions and thinly disguised political contributions. It is in the construction, extractives and transport logistics sectors that this opacity becomes particularly acute. There are accordingly opportunities for avoidance in the lack of “any elaborational mandatory disclosure rules”.

4.5. Limited Forensic Audit and Investigation Capacity

Forensic auditing is key to enforcement, but Nigeria does not have the public interest specialized investigative infrastructure on corporate political payment. CAC and other relevant regulatory bodies do not make forensic examinations of company books as part of their routine work, especially without receiving a tip-off or noting red-flags. Numerous companies employ complex financial engineering structures like those that rely on off-balance-sheet arrangements or intra-group “management fees” to hide improper funds. The lack of continuous monitoring and real-time auditing makes it even harder to find financial improprieties. As long as dedicated forensic support units are not established, enforcement of Section 43 will depend on reactive detection rather than proactive investigation.

4.6. Weak Criminal Prosecution and Judicial Follow-Through

When CAC even does surface a breach, it’s rare that the criminals actually get prosecuted (largely because of systemic backlogs, evidentiary challenges and limited interest in “mere” fraud). To prosecute for an offence under section 43 requires that a person's state of mind be proved; generally speaking, the person’s knowledge or active participation in or consent to the making of an unlawful donation (a mindset which may be difficult to ascertain when so many competing layers in corporate management systems vie with each other). Court cases on corporate crimes drag on, stand adjourned for months and etc. often lack the specialized knowledge required to understand or comprehend complicated financial structures. Anemic enforcement undermines the deterrent effect and tells corporate actors that violations might occur without penalties. Therefore, as long as this follow-through from the judiciary is weak, then the sanction regime becomes less credible.

4.7. Comparative Weaknesses Relative to UK and US Enforcement Models

When compared to the U.K.'s Political Parties, Elections and Referendums Act 2000 requiring trials with legal or effectual attributes of rigor as well as other powers of intrusive investigations by the Electoral Commission, law for enforcement is still weak in Nigeria[53]. The U.S. model, regulated by the Federal Election Campaign Act and its FEC enforcement regime, includes onerous disclosure obligations, electronic filing requirements and heavy penalties for undisclosed corporate political spending[54]. These examples illustrate that tough enforcement necessitates constant oversight, cross-agency data sharing and robust investigative independence. In contrast, Nigeria has no centralized political-finance monitoring framework and corporate reporting is not linked with electoral oversight. Hence, comparative experience suggests that in the absence of substantial structural changes, section 43 would be strong on a normative basis but weak in operation.

5.0. SUMMARY, CONCLUSION AND RECOMMENDATIONS

This article has demonstrated that section 43 of Companies and Allied Matters Act 2020 provides an outright ban on corporate political donation based on protection of corporate fund, maintaining neutrality in democracy and strengthening the equitable duty. The study concluded the normative economic support of current legal framework because it lies in principles of stakeholder theory and public interest

[53] See U K Political Parties, Elections and Referendums Act 2000.

[54] See also U S Federal Election Campaign Act (as amended), Federal Election Commission Regulations.

theory and comparative corporate governance theories. It also showed that despite clear statutory language meaning to curb political influence through corporate monies, enforcement is stymied by institutional handicaps and alternative means of funding decisions as well as underdeveloped disclosure requirements for corporations. The doctrinal assessment also upheld the view that liability for breaches is of primarily internal nature, with restitutionary and criminal consequences squarely set on officers and members who accept unlawful donations. The findings thus suggest a resolute intention to keep the corporate sphere pure from political impurities of contamination but also a weak enforcement regime with difficulties in practice.

The underlying thesis of this Article maintains that the prohibition in section 43 is legally justified, ethically required, and strategically advantageous as a tool of corporate governance persists: doctrinally, theoretically and comparatively. The evidence shows that the prohibition is not just a regulatory limitation, it's actually a protective thing: It keeps companies from politicization and capture, financial malfeasance, and reputational damage. It also adds to democratic openness by preventing corporations from secretly serving as back channels for political manipulation, and thus enhances market integrity and public trust on both sides. The bottom line is that in a political economy exposed to corruption, nothing holds the neutrality and stability necessary for credible corporate governance except clear legal boundaries. Section 43 thus emerges as a vital instrument of law, which should not be diluted but operationalized to its maximum possibility with supportive institutions.

For this provision to have practical effect, firstly, the Corporate Affairs Commission would need to be endowed with enhanced statutory monitoring and investigative powers which can monitor both direct and indirect political spending; by that we mean, an expanded authority to perform forensic financial audits of companies and a capacity for real-time access whereby corporate spenders whose expenditure patterns trigger suspicion are required to provide immediate disclosure. Secondly, the Legislature must bring in penalties from administrative ones to legal, higher than the banned donation's financial value so that there is neutralizing cost for prospective gains and office bearers think twice before diverting corporate funds for partisan tasks. Third, mandatory disclosure should be established to oblige businesses to publicly disclose all gifts, grants, consultancy fees and CSR spendings with completely transparent categories that can't be used to hide donations within apparent transactions. Fourth, corporations should be mandated by law to have internal-compliance programs of the general type discussed above but which would include whistleblower provision defenses; a blacklist for political expenditure purposes; and regular board-level reviews directed solely at ensuring that the company is conforming to Section 43. Finally, the courts should develop guidance either in new statutes or extending existing case law to establish the meter, width and depth of the term "political purpose," so that there will be no interpretative confusion and corporations will not work around definitional gaps in order to come up with a partisan finance activity.