

THE PRACTICE OF PLEA BARGAINING AND ITS EFFECT ON THE ANTI-CORRUPTION CRUSADE IN NIGERIA

BY

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INTRODUCTION

Nigeria is a country with enormous natural resources. It is the wish of our creator that we should live in abundance and not in abject poverty. This is why one of the scriptural books had declared thus:

And indeed, we have honoured the children of Adam, and we have carried them on land and sea, and we provided them with lawful good things, and have preferred them above many of those whom we have created with a marked preferment.¹

The above excerpt is just the natural order. The world we live in is just one of the worlds. The world of the animals has never been faced with the shortage of means of sustenance. Hence, our present conundrum is a product of our machinations. The brain behind our present predicament is the evil corruption which has eaten deep into the fabrics of our society. Corruption is every where². It is clearly and visibly written in the air. We are all victims of one corrupt practice or the other.

Corruption is not peculiar to Africa. It is common to all governments and countries of the world. Its effects are more visible here simply because, the rate at which it is operated is beyond imagination and the enforcement machinery has been compromised especially recently with the increasing instances of plea bargaining introduced into its prosecution.

This work will analyze the incidence the incidence of corruption in Nigeria, the havoc it has caused on the society and the attempts made by government at curbing it. The insurgence of plea bargaining in our criminal justice system will be considered and its effect on the anti-corruption crusade

MEANING OF CORRUPTION

The term corruption has evaded an all encompassing definition. The reason is not far fetched. The term has no static or fixed meaning. It develops with time. Some definitions offered in yesteryears do not match-up with series of modern day practices. As time develops and human affairs and governance become more sophisticated so also man continues to device means to cut corners and enrich himself at the expense of the public good.

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¹ See The Holy Qur'an chapter 17 v 70

² No wonder the Holy Qur'an also confirms this when it says "Evil (corruption and sins) has appeared on land and sea because of what the hands of men have earned... chapter 30 v 41

The following are some attempts put forward by philosophers, social thinkers and international bodies to define the term corruption.

The OECD³, the Council of Europe and the UN conventions do not define “corruption”, but establish a range of corrupt offences. The OECD Convention establishes the offence of bribery of foreign public officials, while the Council of Europe adds trading in influence and bribing domestic public officials too⁴

The Corruption Perception Index focuses on corruption in the public sector and defines corruption as the abuse of public office for private gain. The surveys used in compiling the CPI ask questions that relate to the misuse of public power for private benefit, with a focus, for example, on bribe-taking by public officials in public procurement. The sources do not distinguish between administrative and political corruption or between petty and grand corruption⁵

The term corruption means an abuse of a public office for personal gain or other illegal or immoral benefit⁶. Osoba adds that corruption is an “anti-social behaviour conferring improper benefits contrary to legal and moral norms, and which undermine the authorities” to improve the living conditions of the people.⁷

A review of all the definitions offered above suggested that the idea of corruption is pinned to public offices. However, this is not necessarily so. Corruption goes beyond public office. This writer posits that any form of unjust enrichment, be it from public or private purse is corruption. Hence, what goes-on on our roads everyday qualifies for corruption. The forceful extortion of money by police officers from commuters is corruption. We can continue to mention them. It must be noted that corruption is not limited to the public sector; the private sectors are also not excluded. This point has been noted by a number of international agencies⁸.

³ Organization for Economic Cooperation and Development

⁴ OECD Observer N°260, March 2007

http://www.oecdobserver.org/news/fullstory.php/aid/2163/Defining_corruption.html

⁵ http://www.icgg.org/corruption.cpi_2005_faq.html

⁶ <http://www.wisegeek.com/what-is-corruption.htm>

⁷ Osoba O., ‘Corruption in Nigeria: historical perspectives’, *Review of African Political Economy*, 1996 cited by Mulinge M.M and Lesetedi G.N: ‘Corruption in sub-Saharan Africa: Towards a More Holistic Approach’, *Africa Journal of Political Science* (2002), vol. 7 No.1

<http://www.africaeconomicanalysis.org/articles/gen/corruptiondikehtm.html>

See: Victor E. D., Corruption in Nigeria: A New Paradigm for Effective Control, www.africaeconomicanalysis.org/articles/gen/corruptiondikehtm.html

for further details on different approaches to defining corruption

⁸ African Development Bank (ADB) in particular, has gone a long way towards articulating a common definition of corruption by arguing that corruption is a cross-sectoral and cross-boundary activity, and involves practices such as theft, fraud, bribery, extortion, nepotism, patronage, and laundering of illicit proceeds. Private sector corruption is as serious as public sector corruption, and the costs are just as great. The ADB also points us to the reality of Grand Corruption, that stems from the interface between the

CORRUPTION IN NIGERIA HISTORICAL PERSPECTIVE

Corruption is an international scourge. It is not an African affair. It is prevalent in every country of the world. It is the way it is addressed and managed in every country that differs.⁹

The idea of corruption is alien to the Nigerian society and nay, Africa. Our people so treasured virtues and public morals that every household see its inculcation in every child as part of developmental process. Hence every single person acquires it as he or she develops. This is not to say that the indigenous people are wholly virtuous. However, the incidence of corruption is at its lowest ebb and individual culprit cannot go Scot free.¹⁰

Large scale corruption began to be evident in the Nigeria society with the advent of colonial rule¹¹ and the destruction of the indigenous value system. The first set of incidences of corruption could be traced back to the era of slave trade wherein the Portuguese and other western nations came to the shores of Nigeria to exchange our people for items like mirrors, walking sticks, umbrellas, hot drinks, breads, shoes, shiny brass to mention few.¹²

The local chiefs became corrupt. The white men who later turned the administrators of the country never relent on their corrupt practices even after the abolition of slave trade. They colluded with the local chiefs in squandering public treasury. Unfortunately, when the struggle for nationalism started, the nationalists were only interested in securing independence for the country. They pay little or no attention to the menace of corruption which was gaining ground in that period¹³.

At independence, corruption was already part and parcel of the government because it was part of the legacy that was bequeathed by the colonial masters. Due to the sincerity

private and public sectors. See: 'Towards A Common Understanding Of Corruption In Africa' Draft Speech for Minister Fraser-Moleketi presented at the African Forum on Anti-Corruption 28 February 2007, <http://www.nacf.org.za/events/SPEECH%20BY%20MPSA%20AFRICA%20FORUM.pdf>

⁹ United State seems to be conventionally agreed as the leader of the developed countries. However, this country has also been noted with series of high level corruption cases. The Water Gate scandal is still fresh in our memory.

¹⁰ In the traditional societies, no one is above the law. The king who happens to be the traditional ruler has for instance in the Yoruba community the 'Oyo Mesi' who check the powers of the king. Where on any occasion the Oyo Mesi based on an allegation committed by the king presents him with an empty calabash or parrot's eggs, that is a sign that he must commit suicide (although the *Alafin* could not be deposed, he could be compelled to commit suicide). For details of the Checks and balances in the Yoruba traditional setting, see: Yunusa K. S., 'The Democratic Structure of Yoruba Political-Cultural Heritage', *The Journal of Pan African Studies*, vo.1, no.6, December 2006. This could be accessed on http://www.jpanafrican.com/docs/vol1no6/DemocraticStructureOfYorubaPoliticalCulturalSociety_vol1no6.pdf.

¹¹Oyibo E., 'The Scope of Bribery and Corruption in Nigeria', <http://www.nigeriavillagesquare.com>
Generated: 10 July, 2008, 10:34. see also: Mulinge M.M and Lesetedi G.N (supra)

¹² ibid

¹³ Oyibo E. O, op cit

of those in power then, high level corruption was played down and it seems as if those in public office at that time were honest.

This scourge was launched back into the society with the emergence of the military regimes¹⁴. In fact, corruption became institutionalized during the successive military regime we had between 1966 and 1999¹⁵

CURRUPTION AND PRESENT DAY NIGERIA

Since independence, corruption has continued to grow its tentacles. It is now more or less like an endemic disease. Corruption today is a usual thing. In some instances, it is an 'offence' for one not to be corrupt¹⁶. The leaders no longer have the passion to serve. Most public officers have as their primary aim, 'the stealing of public funds'

Corruption has rocked every walks of life. From the presidency down to the local development council. The lawmakers are corrupt¹⁷. The law enforcement agencies are not left out¹⁸. The political parties are guilty¹⁹. The presidency is the hub of corruption²⁰. The intellectuals are culprit²¹. The judiciary is a party²². We can continue to mention on and

¹⁴ The military regime started in Nigeria with the successful staging of the first Military Coup in January 16 1966. It lasted till May 29 1999. however, within this period, Nigeria had a civilian regime in 1983-85 and an interim civilian regime for three months in 1993

¹⁵ Omotoso F., 'Corruption, Private Accumulation and Problem of Development in Nigeria'—*The Social Sciences* 1 (4):335-343, 2006 - <http://www.medwelljournals.com/fulltext/TSS/2006/335-343.pdf> . SEE ALSO: 'Nigerians' Poor Status', Nigeria Tribune, Friday 25th Jan. 2008 <http://www.tribune.com.ng/25012008/edit.html>

¹⁶ For instance where a police officer stops a commuter for the usual money they extort, it is grievous for such a commuter to not to cooperate with them.

¹⁷ The Nationally Assembly in the recent times was bedeviled with series of corruption cases. The leadership of both houses at various times has been reported with corrupt practices. For the details on these, see: Oduyela S., 'What a Country!' <http://www.dawodu.com/oduyela4.htm> , Akintokunbo A. A, 'Nigeria's Senate Presidency And A Whiff Of Corruption', <http://nigeriaworld.com/articles/2007/jun/113.html>

¹⁸ Recently, the Inspector-General of the police was convicted of stealing the Nigeria Police fund See: Onagoruwa O., 'BEYOND Tafa Balogun's Conviction' <http://www.dawodu.com/onagoruwa4.htm>

¹⁹ Recently, PDP National Chairman and four others were recommended for trial by the Investigations Unit of the Independent Corrupt Practices and Other Related Offences Commission over alleged N104million fraud in the National Economic Intelligence Committee. <http://www.thenationonlineng.com/dynamicpage.asp?id=57076>

²⁰ Oyibo E. O., 'President Obasanjo's War on Bribery and Corruption in Nigeria a Success or Failure?: It is a Collosal,Unmitigated Falure and a Lost Cause!' <http://www.nigeriavillagesquare.com> Generated : 10 July, 2008, 10:34. Apart from this source, the revelations of the various probe panels reveal that there were so many shoddy deals in the presidency. The Power Sector, Transport, FCT and Energy probes are evidence that buttressed this point.

²¹ Notable professors have been involved in a number of cases. They include: Prof Grange, the minister of health, Prof Fabia Osuji, the minister of Education, Prof Aborishade, a former Minister of Aviation

²² Sam N.I., 'Nigeria: Judges and Divine Responsibility', 21 July 2008, <http://allafrica.com/stories/200807211158.html>. see also: 'Corrupt' Nigerian judges held' <http://news.bbc.co.uk/1/hi/world/africa/3648895.stm>

on. One would wonder if this country has not been doomed to fail²³. All these incidences culminated into Nigeria's position as the most corrupt in the world²⁴.

ANTI CORRUPTION MEASURES

In a bid to curb the menace of corruption, the government has at various times enacted various laws and established series of agencies to tackle corruption. Notable among these are discussed below:

THE POLICE FORCE

Prior to the establishment of Economic and Financial Crimes Commission (EFCC) and Independent Corrupt Practices and Other related Offences Commission (ICPC), the Nigeria Police Force has the responsibility of combating crimes in the land. They arrest and prosecute offenders²⁵. There are copious provisions of the Criminal Code²⁶ which deals with the issue of bribery and corruption.

The act makes it a felony for any body in public office to ask for, receives or obtains any property or benefit for any service done in the course of his duty. Any public officer guilty of this is liable to seven years imprisonment²⁷. It is generally agreed that the criminal code has not been effective at curbing corruption due to a number factors²⁸.

THE CODE OF CONDUCT BUREAU²⁹

The code of conduct was first introduced in Nigeria under the 1979 constitution³⁰. It further established a bureau to see to the implementation of the code. The provisions were retained in the 1999 constitution. The Bureau has the mandate to establish and maintain a high standard of morality in the conduct of Government business and to ensure that the actions and behaviour of public officers conform to the highest standards of public morality and accountability³¹.

The Code which the Bureau is established to enforce creates a boundary for the behaviour of public officers, it provides a direction for official decision-making, it draws a line

²³ This is so because where those who are meant to fight corruption and save guard the nation are the ones at the stirring the ship of corruption.

²⁴ '1997 Corruption Perception Index Transparency International', www.transparency.org/content/download/2913/18025/file/cpi1997.pdf

²⁵ AKOLOKWU G. O., 'Criminality and the Police Force in Nigeria: Obstructions to Administration of Justice in Nigeria'. SCHALESWORTHS JOURNAL OF DEMOCRACY AND DEVELOPMENT REVIEW Vol.1 No.1. 2005., <http://schalesworthscentre.org/CHAP3.htm>

²⁶ See generally: Chapter 12 of the Criminal Code, CAP 77 LFN, 1990

²⁷ S.98B(1)

²⁸ OKECHUKWU O., 'Subverting The Scourge Of Corruption In Nigeria: A Reform Prospectus', www.law.nyu.edu/journals/jilp/issues/34/pdf/34_2_h.pdf

²⁹ Cap C15, LFN 2004

³⁰ Constitution, Federal Republic of Nigeria, 1979. Schedule 5, pt. I

³¹ OKECHUKWU O., supra

between public and private interests. This, places a responsibility on the public officers as managers of the trust, as well as the public to insist on accountability and transparency³².

The Code focuses on discipline, moderation, contentment and professionalism among other principles of public office. It also serves as a check on extravagance and vulgar display of ill-gotten wealth, which is capable of attracting envy and offending, to the less privileged among us, who would most likely and rightly judge government by such displays³³.

The code of conduct bureau was bedeviled with similar shortcomings which were discussed under the Nigeria Police force³⁴.

INDEPENDENT CORRUPT PRACTICES AND OTHER RELATED OFFENCES COMMISSION

This commission was established in 2000 by the ICPC Act³⁵ owing to the failure of the above named agencies in curbing the menace of corruption. The law at its inception is faced with a legal tussle, however, the supreme court allowed it to stay considering the significance of its subject matter 'corruption'³⁶.

The mandate of the commission include the receiving and investigation of reports of offences as provided by the law; to look into the work of government bodies such as ministries and parastatals and guide the implementation of changes that will help prevent and eliminate corruption³⁷.

Economic and Financial Crimes Commission (EFCC)³⁸

The EFCC which is today the arrow-head in the fight against corruption in Nigeria was established in 2003 as part of a national reform programme to address corruption and money laundering and in answer to the Financial Action Task Force (FATF) concerns about Nigeria's Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) laws³⁹.

³² www.codeofconductbureau.com

³³ Kabiru I. D, 'The Constitutional Fight Against Corruption in Nigeria: Is It Enough?' <http://www.icgfm.org/documents/JournalFinalVIIIIno1.pdf#page=69>

³⁴ OKECHUKWU O, supra

³⁵ The Corrupt Practices and other Related Offences Act 2000, Act No 5, Laws of the Federation of Nigeria

³⁶ See: AG ONDO vs. AG FEDERATION and Ors (2002) 9 NWLR pt 772

³⁷ See: Citizens Handbook On ICPC and EFCC, Zero Corruption Coalition Publication, 2006

³⁸ Economic And Financial Crimes Commission (Establishment) Act, LFN 2004

³⁹ 'Nigeria's Struggle With Corruption', Paper presented by Mallam Nuhu Ribadu., Chairman, Economic and Financial Crimes Commission (EFCC) of Nigeria To The US Congressional House Committee on International Development Washington DC, May 18, 2006, p.4

EFCC is an inter-agency Commission comprising a 22-member Board drawn from all Nigerian Law Enforcement Agencies (LEAs) and Regulators. The Commission is empowered to investigate, prevent and prosecute offenders who engage in

*“Money laundering, embezzlement, bribery, looting and any form of corrupt practices, illegal arms deal, smuggling, human trafficking, and child labor, illegal oil bunkering, illegal mining, tax evasion, foreign exchange malpractices including counterfeiting of currency, theft of intellectual property and piracy, open market abuse, dumping of toxic wastes, and prohibited goods”*⁴⁰

The Commission is also responsible for identifying, tracing, freezing, confiscating, or seizing proceeds derived from terrorist activities. EFCC is also host to the Nigerian Financial Intelligence Unit (NFIU), vested with the responsibility of collecting suspicious transactions reports (STRs) from financial and designated non-financial institutions, analyzing and disseminating them to all relevant Government agencies and other FIUs all over the world.

In addition to any other law relating to economic and financial crimes, including the criminal and penal codes, EFCC is empowered to enforce all the pre- 1999 anti-corruption and anti-money laundering laws. Punishment prescribed in the EFCC Establishment Act range from combination of payment of fine, forfeiture of assets and up to five years imprisonment depending on the nature and gravity of the offence. Conviction for terrorist financing and terrorist activities attracts life imprisonment⁴¹.

PLEA BARGAINING IN NIGERIA

Plea bargaining or what is also called guilty plea. This occurs mainly in criminal proceedings. When we say plea bargaining, it simply means the practice whereby an accused person standing a criminal trial pleads guilty to a charge(s) in return for a lesser sentence or dropping of some charges or both. It is a concept that is relatively new in Nigeria criminal justice system. The concept has been aptly described as follow:

*“So long as defendants routinely expect to receive some form of sentencing consideration in exchange for an admission of guilt, the essence of a system of bargaining plea is present”*⁴²

The origin of plea bargaining seems unclear. One author has claimed that it is as old as public prosecution⁴³. The practice though not necessarily originated from

⁴⁰ Section 6 and 7, EFCC Establishment Act, 2004

⁴¹ S.15 EFCC Establishment Act, 2004

⁴² Thomas W. C Jr., ‘In Defense of “Bargain Justice”,’ 13 LAW & SOCIETY REVIEW, 509.512 (1979)

⁴³ Dirk O. , ‘Plea Bargain’, The New York Times Magazine, September 29, 2002 www.nytimes.com

the United States of America was however well developed in the American criminal Jurisprudence⁴⁴.

The jurists are divided as to the significance or otherwise of the practice of plea bargaining. Inks have almost been exhausted by both the pro-plea bargaining and the anti-plea bargaining.⁴⁵

Those who are in support of the practice are of the opinion that plea bargaining has come to ameliorate some of the problems of our criminal justice system. Most criminal justice systems just like ours are bedeviled with long periods of trials and congestion of the prisons. Hence, the practice is seen as a way of disposing of cases and the consequent attendance is that the workload of the judges is reduced, the prosecution need not go through the rigours of trial. In other words, justice is rendered as quickly as possible⁴⁶. Another reason adduced by this school is that the practice could be justified on penological grounds. They are of the opinion that offenders who are ready to plead guilty to their alleged crimes are more often willing to be rehabilitated. By pleading guilty, they become remorseful and such people may not necessarily be given full punishment⁴⁷. Other reasons are offered which may not be mentioned here for want of space⁴⁸.

The other school is of the opinion that it is against the whole essence of the criminal justice system. The essence of legislating against crime is to deter people from committing it. The only way people could be deterred is by punishment. If punishment is to be compromised, then the question of deterrence is jettisoned⁴⁹. This practice has also been said to be contrary to the age-long constitutional principle of the accused innocent until proven guilty. It is posited that the constitution requires proof and even where the accused enter a guilty plea, the onus still lies on the prosecution to prove his case beyond reasonable doubt⁵⁰.

PLEA BARGAINING: IS IT PART OF NIGERIA LEGAL SYSTEM

It was noted earlier that plea bargaining is a relatively new concept in Nigeria. No law has provided for it. In the words of Ayoola JSC, he puts it thus:

“No law set out any modality for Plea bargaining, it is not until recent

⁴⁴ Most cases where the doctrine has been well expounded are US cases. see: Balogun A.G, ‘Nolle Prosequi and plea bargaining: The Evasive Rule of criminal Prosecution?’, Unpublished, May 2008

⁴⁵ For a detailed account of the two divides, see: Scott W. H, ‘The Value of Plea Bargaining’, Oklahoma Law Review, Vol 58, Winter 2005, No.4, 599-636

⁴⁶ Kayode O., ‘Plea Bargaining: An Indispensable Tool in The Criminal Justice system’ Published 08/30/2007, <http://www.chatafrikarticles.com/articles/898/1/Plea-Bargaining-An-Indispensable-Tool-in-The-Criminal-Justice-system/Page1.htm>

⁴⁷ Brady vs. United State, 397 U.S 742, 753 (1970)

⁴⁸ Scott W. Howe, supra

⁴⁹ Ajibola B., ‘Plea bargain is corruption’ www.punchng.com/Articl.aspx?theartic=Art200708052363678

⁵⁰ See s.36 of the constitution, 1999

times that it became a Matter of public discussion”⁵¹

Some commentators have made reference to a provision in the EFCC Act as authority for plea bargaining in our laws. The section reads thus:

“Subject to the provisions of section 174 of the constitution of the federal republic of Nigeria 1999 which relates to the power of the Attorney General of the federation to institute; continue or discontinue criminal proceedings against any provisions in any court of law, the commission may compound any offence punishable under this Act by accepting such sums of money as it thinks fit, not exceeding the amount of the maximum fine to which that person would be liable if he had been convicted of that offence”⁵²

It is contended that this section is not an authority for plea bargaining. In fact, the section has nothing to do with plea bargaining strictly speaking.

Plea bargaining as we have said earlier has to do with negotiation of sentence during a trial. It has its own actors. The prosecutor offering the consideration; the defense attorney (on behalf of the accused) accepting the consideration in exchange for pleading guilty and the judge who has the discretion of accepting the plea or not⁵³.

In other words, the plea bargaining does not rest with the EFCC alone or both the EFCC and the accused. Where the judge refuses, then there is no case of plea bargaining. The section perhaps only allows the EFCC to weigh the option of recovering any amount which might have been squandered in lieu of prosecution or otherwise. This is not stricto sensu a plea bargain⁵⁴.

Having established that the law has not in any statute provided for this practice, we however admit the fact that it is an idea that was developed from judicial practice. The practice in reality, is gaining grounds in the Nigeria criminal justice system because of its frequent adoption in notable cases in recent time. It has been employed in a number of cases including Tafa Balogun’s case⁵⁵, Wunmi’s case⁵⁶, Alamesiagha’s case⁵⁷ and many more.

⁵¹ quoted by Danlami A W., ‘BARGAIN: ESCAPE ROUTE?’, http://www.amanaonline.com/Articles/art_4522.html

⁵² See: Balogun A.G supra, Victor N., ‘Nigeria: The Problem With Plea-Bargain’, Vanguard News Paper, 10 October 2007

⁵³ See The Interview of Judge Micheal McSpadden on Plea Bargaining, www.pbs.org/wgbh/pages/frontline/shows/plea/interviews/mcspadden.html also cited by Balogun A.G., supra

⁵⁴ ibid

⁵⁵ Kawonise S., ‘ Here, The Thief Is Hero’, Sat. 19th Jan. 2008, <http://www.tribune.com.ng/19012008/myriad.html>

⁵⁶ ‘Drug Actress Wunmi Sent To Jail’, <http://www.naijarules.com/vb/stars-celebrities-nigerian-movies/20777-drug-actress-wunmi-sent-jail.html>

⁵⁷ Olajide B., ‘Plea bargaining and its economic implications’ <http://www.guardiannewsngr.com/moneywatch/article03//indexn3.html?pdate=190308&ptitle=Plea%20ba>

PLEA BARGAINING AND ANTI-CORRUPTION WAR IN NIGERIA

For want of repetition, I will not want to mention the wreck that corruption has done to our country. It is apposite to start with the ethical basis for plea bargaining itself. The essence of criminal justice is to see to the peaceful co-existence in the state. Where there is no law, anarchy will definitely take over. For the society to move forward, some standard must be laid. Some acts are threat to the continual existence of the state. This is why there is the need to criminalize some activities and appropriate sanctions are usually offered to such actions.

Corruption has been said to be a deviation from the standards that have been laid down⁵⁸. Where the law says that anybody who is liable for an offence shall be sentenced to say, seven years imprisonment, except in rare cases, such a culprit must be made to face the consequences of his actions. This is the whole essence of the criminal justice system.

Variations exist in different offences because of the nature of such offences. While some offences are classified as misdemeanor, others are called felony with stricter punishment. The wisdom behind this variation is not far fetched. There is a need to attach severe punishment to some offences because of their gravity. This is the only way others could be deterred. The severity attached is not for fun. It definitely has a purpose.

On the question of plea bargaining, this writer contends that the practice of plea bargaining itself is corruption. This position may look extreme. However, that is the pure truth. The mere fact that a person admits or confesses that he committed a crime should not affect his being punished for the crime in the absence of any defense as the case may be. After all, admission and confession are not new under our law⁵⁹. All that happens in a plea bargaining is not more than admission and confession under the law of evidence except that the accused has offered lesser sentence. Although a judge has discretion when it comes to sentencing, I am of the sound opinion that such discretion should not be based on a plea entered by the accused in return for a lesser sentence or reduced charge offered by the prosecution.

The matter becomes worst when it is applied to cases of corruption. In Nigeria today, plea bargaining is becoming an escape route to corrupt government officials no doubt⁶⁰. It is disheartening to see today in our country that these corrupt government officials after stealing billions of naira will end up entering a guilty plea and they would be asked to return what they declared to have stolen⁶¹ and bag a lighter sentence.

[rgaining%20and%20its%20economic%20implications&cpdate=260308](#)

⁵⁸ Osoba supra

⁵⁹ See s. 19-32 Evidence Act Chapter 112, Laws of the Federation of Nigeria 1990

⁶⁰ Bola Ajibola supra

⁶¹ The case of Alamesiagha cited above is an instance

Perhaps, the EFCC and other anti-graft agencies do not realize the nature of the offence of corruption. It is noted that plea bargaining is not applicable to cases of murder, manslaughter and rape⁶². If plea bargaining is not applicable to these cases, I do not see any reason whatsoever why it should be allowed for cases of corruption. Corruption is grievous than murder, manslaughter and rape if they were to be constituted into a single crime.

Where a man commits murder, rape and manslaughter, he has only ruined the live of a single person or say, his immediate family⁶³. If a person steals public fund, his action has affected the whole nation. In fact, corruption is no less a crime against humanity. It is disgusting when we see today that an ex-governor was guilty of billions of naira belonging to a state and at the end of the day only spent six month in jail! This plea bargaining itself is corruption at the highest level.

The image of the country has been battered every where in the world. Her at home, it is strike actions here and there. The conflict in the Niger Delta which is transforming to a civil war has corruption as its remote cause. All the money that was meant to develop the region is being embezzled. At the end of the day, they plead guilty and released just ‘a tip of an iceberg’ of what they have stolen. I think the disgrace they get at trial as some people have argued is nothing⁶⁴. These people are supposed to face the wrath of the law no matter the length of the trial. They should get the severest of punishment. It is only then that people would learn from their torment and every public office holder will definitely abhor corruption like a plague. I think anybody who has the interest of the nation at heart should support the abolition of plea bargaining for offences of corruption.

CONCLUSION

Nigeria is a country endowed with numerous resources. We have been destined to live in affluence but for the scourge of corruption which has penetrated into every nook and cranny of the state. The worst of men are the one appointed by the people to govern them. They use the resources of the nation to build mansions for themselves and their immediate family; chase young ladies here and there and to do all immoral things.

In the bid to stamp out corruption, the anti-graft agencies has suddenly celebrated the plea bargaining which could not but further encourage aspiring public office holders of the leniency and defects in the criminal justice system.

Some say the work load in our courts is the problem. If this is true, then it is recommended that specialized courts be created specifically to fight corruption. This has been done to investment disputes with the creation of Investment and Securities Tribunal (IST). This is yielding result. Investment cases are now disposed within a very short period of time. If we have such specialized court to administer corruption cases only, the idea of caseloads will become a forgotten issue.

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⁶³ Definitely, he is the bread winner of a number of people. These are members of his immediate family

⁶⁴ Victor N, supra

It has also been observed that difficulty improving some charges do lead to the offering of plea bargaining. It is further recommended that the anti-graft agencies should be equipped with lawyers trained in forensic advocacy, investigation tools such as analyses tools, financial transactions software and many more.

All these recommendations will go along way in resolving the problems of the criminal justice system as it affects the prosecution of corrupt officials. Plea bargaining is evil and itself corruption. Two wrongs will never make a right. It must be avoided.