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Jalan Srijaya Negara, Palembang, South Sumatra, 30139, Indonesia.  
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E-mail: [sriwijayalawreview@unsri.ac.id](mailto:sriwijayalawreview@unsri.ac.id) | [sriwijayalawreview@gmail.com](mailto:sriwijayalawreview@gmail.com)  
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## The Legal Impact of Plea Bargain in Settlement of High Profile Financial Criminal Cases in Nigeria

Paul Atagamen Aidonojie,<sup>a\*</sup> Anne Oyenmwosa Odojor,<sup>a</sup> and Patience Omohoste Agbale<sup>b</sup>

<sup>a\*</sup> Corresponding author. Faculty of Law, Edo University, Iyamho, Nigeria. E-mail: [aidonojie.paul@edouniversity.edu.ng](mailto:aidonojie.paul@edouniversity.edu.ng)

<sup>b</sup> Faculty of Law, Ambrose Ali University, Edo State, Nigeria. E-mail: [paulaagbale@yahoo.com](mailto:paulaagbale@yahoo.com)

Article	Abstract
<p><b>Keywords:</b> <b>Financial Criminal Cases; Plea Bargain; Public Funds; Nigerian Criminal Justice System.</b></p> <p><b>Article History</b> Received: Sep 30, 2020; Reviewed: Jun 26, 2021; Accepted: Jul 19, 2021; Published: Jul 31, 2021.</p> <p><b>DOI:</b> 10.28946/slrev.Vol5.Iss2.852.pp161-174</p>	<p>Plea bargain has been globally accepted as a useful criminal prosecutorial tool in accelerating the prosecution of minor criminal cases. However, it has been observed that the introduction of a plea bargain into the Nigerian criminal justice system tends to aid the ruling class in looting from the public treasury and escaping justice. Given these legal anomalies, the study used online survey questionnaires sent to four hundred and five respondents (randomly selected) residing in Nigeria in ascertaining the Nigerian citizens view on the legal effect of using a plea bargain in resolving high profile financial crime cases. Descriptive and analytical statistics were used to analyse the respondents' responses. The study, therefore, found that though plea bargain is a useful criminal prosecutorial tool in resolving minor criminal cases, it is unsuitable in resolving high profile criminal financial cases as it tends to involve a hide and seek game which makes a mockery of the Nigeria Legal System. It is, therefore, concluded and recommended that the concept of a plea bargain in Nigeria legal system should not be used in resolving high-profile criminal financial cases, as it tends to give leverage to those looting public funds.</p>

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### INTRODUCTION

The right to trial by the court is considered a central part of the justice system in most countries.<sup>1</sup> However, in the 19<sup>th</sup> century, there was an overwhelming influx of cases in some familiar and civil law countries, which led to channelling the mounting caseload into non-trial plea bargaining procedures. Plea bargaining usually occurs before trial. The parties negotiate a plea rather than go through another trial; in some jurisdictions, it may occur any time before a verdict is rendered;

<sup>1</sup> Akintunde Adebayo, "A Review of Plea Bargain Concept in the Anti- Corruption War in Nigeria," *Brawijaya Law Journal* 5, no. 1 (2018): 10–11.

it is often negotiated after trial.<sup>2</sup> Currently, a plea bargain is an essential part of the criminal justice system in most countries, and it has been found more suitable in resolving minor criminal cases.<sup>3</sup> The majority of criminal cases (over 90%) in several jurisdictions are resolved through the various types of a plea bargain because of its essential nature, ranging from decongesting prison, accelerated resolution of criminal cases, cost-effective and reduction of judicial workload.<sup>4</sup>

Traditionally Crimes are regarded as fundamentally immoral acts deserving of punishment.<sup>5</sup> The relevance of criminal law has been argued that it regulates public order and decorum,<sup>6</sup> to guard the citizen from what is offensive or harmful and discourage crimes.<sup>7</sup> However, interestingly there has been an alarming controversy over using a plea bargain in the Nigerian criminal justice system.<sup>8</sup> This is because plea bargain is being used to resolve elite cases involved in high profile criminal financial cases.<sup>9</sup> The act of embezzling public funds have now become the order of the day, concerning the fact that whenever they are caught, they can quickly request a plea bargain and get a lighter sentence. If they are not caught or no reliable evidence to prosecute them, they will prefer to go into criminal trial with the hope of escaping justice.<sup>10</sup> In this regard, using the concept of a plea bargain in resolving high-profile criminal financial cases makes a mockery of the Nigerian criminal justice system. It introduces the idea of a “hide and seeks game” to resolve a heinous crime.

Given these legal anomalies, this study embarked on an empirical study of using a plea bargain in resolving high-profile criminal financial cases and their legal effect. Furthermore, given the relevance of a plea bargain, it suffices to state that this study will investigate the following questions that call for concern which are; is plea bargain a reliable prosecutorial tool

<sup>2</sup> S. E. Idhiarhi, “A Synoptic Appraisal of the Practice and Procedure for Plea Bargaining under The Administration of Criminal Justice Act 2015,” *Africa Journal of Law and Criminology* 6, no. 1 (2016): 12.

<sup>3</sup> M. Kerscher, “Plea Bargaining in South Africa and Germany” (Faculty of Law at Stellenbosch University Supervisor, 2013).

<sup>4</sup> I. Abubakar, “The Impropriety of Combating Graft by Way of Plea Bargaining in Nigeria,” *ABU.J.P.I.C* 1, no. 2 (2008): 87.

<sup>5</sup> P. A. Aidonojie and P. Egielewa, “Criminality and the Media: Perception and Legality of the Amotekun Security Agency in Nigeria,” *International Journal of Comparative Law and Legal Philosophy* 1, no. 3 (2020): 47.

<sup>6</sup> S. A. Ogunode, “Criminal Justice System in Nigeria: For the Rich or the Poor?” (2015) 4(1) *Humanities and Social Sciences Review*, Page 28; M. C. Ogwezzy, “Restorative Justice and Non-Custodial Measures: Panacea to Recidivism and Prison Congestion in Nigeria,” *Nnamdi Azikiwe University Journal of International Law and Jurisprudence*, no. 7 (2016): 69–78.

<sup>7</sup> L. C. Opara, “The Law and Policy in Criminal Justice System and Sentencing in Nigeria,” *International Journal of Asian Social Science* 4, no. 7 (2014): 887–88.

<sup>8</sup> I. A. Olubiyi, “Nigerian Criminal Justice System: Prospects and Challenges of the Administration of Criminal Justice Act 2015,” *African Journal of Criminal Law and Jurisprudence*, no. 1 (2018): 79.

<sup>9</sup> J. O. Baiyeshea “SAN warn against misapplication of plea bargain” Reported by Punch, on Saturday 4, May 2013 <http://mobilepunchng.com/output.php?link=http://www.punch.com/news/sans-warn-against-misapplication-of-plea-bargain/>, accessed 4<sup>th</sup> May, 2019

<sup>10</sup> J. A. Oluwagbohunmi, “Equal before the Law, Unequal before Men - Explaining the Compromising Use of Plea Bargaining in Nigeria,” *Fountain Journal of Management and Social Science* 4, no. 2 (2015): 52–60. However, a plea bargain was first used in the trial of the retired inspector General of Police Tafa Balogun. He entered into a plea bargain because of his ill-health during his trial. He was said to have agreed to forfeit money, stock and property worth 17 billion to mitigate punishment. Since then, it has now been employed to conclude some high profile cases such as former Bayelsa state Governor Drepseye Alamiyeseigha, Cecilia Ibru and former Edo State Governor Lucky Igbinedion.

in Nigeria?, what are the relevance and importance of a plea bargain?, is plea bargain a reliable prosecutorial tool in resolving high profile corruption financial cases in Nigeria? What are the possible legal challenges of using a plea bargain to resolve high profile financial cases?

## RESEARCH METHOD

The study made use of doctrinal and non-doctrinal survey research methods of approach. The theoretical session aims to analyse and theorise the concept of a plea bargain in the Nigerian criminal justice system. Furthermore, the authors use descriptive and analytical quantitative research methods to gather objective, statistical, mathematical, and numerical data. These data were obtained through online questionnaire surveys. In using a quantitative method, the authors were able to collect and analyse extensive data (respondents' responses to the questionnaire) to reach a specific generalisation in ascertaining the Nigerian citizens' perception of the concept of a plea bargain in resolving high profile criminal financial cases and its legal effect, as well as the need to halt the process of using plea bargain in resolving high profile criminal financial cases in Nigeria.

## ANALYSIS AND DISCUSSION

### The Practice of Plea Bargain

Plea bargain as a prosecutorial tool was used before the 19<sup>th</sup> century; it has existed for centuries in older legal systems, convictions were at the time routinely procured by confession, and laws existed covering such criminal confessions. However, the very emergency and development of plea bargaining found its pace in the united state of America.<sup>11</sup> According to Mike McConuvicce and Chester L Mirsky, by 1829, there existed a mechanism; the court adopted a recipe formula for disposing of minor criminal cases through pleas to a lesser offence by an accused person. They further stated that the practice became dominant in disposing of lesser offence cases after the middle of the century due to a guilty plea's positive result.<sup>12</sup> The view of Mike on the origin of a plea bargain and the essence of it was further corroborated by Gutierrez when he opines that the concept of the plea bargain was effectively utilised in the twentieth century, that early guilty plea was not common in the late eighteenth century like the plea bargain that currently being used in United States criminal justice system. He further stated that the reason for introducing a plea bargain is due to an influx of criminal cases, cost, and length of litigation, the desire for the truth and justice to prevail.<sup>13</sup>

As a result of the development of a plea bargain in the American criminal justice system, the vast majority of criminal cases in the United States were settled by plea bargain rather than by a jury trial. According to George Fisher, "The frequency of resolution of criminal cases has risen from 84% of Federal cases in 1984 to 94% by 2001".<sup>14</sup> However, in the United States of America,

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<sup>11</sup> George Fisher, *Plea Bargaining's Triumph: History of Plea Bargaining in America* (Stanford University press, 2003).

<sup>12</sup> Mike McConuvicce and Chester L Mirsky, *Jury Trails and Plea Bargaining: A True History* (Oxford: Hart Publishing, 2005).

<sup>13</sup> Guetierrez A. "The sixth Amendment. The operation of plea bargaining in contemporary criminal procedure" [www.law.du.edu/./Gutierrez.pdf](http://www.law.du.edu/./Gutierrez.pdf), accessed 26th September, 2020.

<sup>14</sup> Fisher, *Plea Bargaining's Triumph: History of Plea Bargaining in America*.

plea bargaining mainly was limited to cases in which prosecutions could unilaterally dictate a defendant's sentence. In some severe and high profile financial cases, judges were reluctant to apply the term plea bargaining. Currently, a plea bargain is an essential part of the criminal justice system in most countries, such as Britain,<sup>15</sup> Canada,<sup>16</sup> Ghana, South Africa, and China. A great majority of charges, over 90% in these jurisdictions, are resolved through the various types of plea bargain because of its essential nature and recognition by law, which is part and parcel of the superstructure of the society.

However, in Nigeria, the concept of a plea bargain was unknown before the year 2015 (that is the year the Administration of Criminal Justice Act 2015 was enacted and therefore, section 270 of the act further legally provide for the procedure of the use of plea bargain in Nigeria legal system) which according to Yekini, the term plea bargain was unknown and alien to the Nigerian criminal justice system<sup>17</sup>, and it was mainly introduced to escape justice by those who control the whims and caprices of governmental power in Nigeria. Afe Babalola further stated that the concept of the plea bargain was mainly in existence in learned articles written by foreigners.<sup>18</sup>, and there was no existing legal framework in Nigeria. However, it suffices to state that the concept of the plea bargain was introduced into the Nigerian legal system by the Economic and Financial Crimes Commission (EFCC) to prosecute and conclude high profile financial corruption cases. According to Nwogwugwu, before 2015, there was no legal framework that provided for a plea bargain in Nigeria's legal system. However, the EFCC relied on section 14(2) of the EFCC Act.<sup>19</sup> and section 180 of the criminal procedures Act<sup>20</sup> in resolving high profile financial cases.<sup>21</sup> Oluwagbohunmi further stated that most criminal cases arbitrarily resolved with a plea bargain were mainly high profile cases.<sup>22</sup> Given the illegal introduction of a plea bargain by the EFCC, it was first used in the trial of the retired inspector General of Police Tafa Balogun. He entered into a plea bargain because of his ill-health during his trial and was said to have agreed to forfeit money, stock, and property to mitigate punishment. Since then, it has been

<sup>15</sup> Jon Lawrence Hardcore Bargains: what could plea Bargaining offer in UK criminal cartel cases?" [www.peterandpetership.com/sites/de](http://www.peterandpetership.com/sites/de) I accessed 26<sup>th</sup> September, 2020; Monty Raphael "plea bargaining and the role of the lawyers" [www.ecba.org/.../pleaBargmontypdf](http://www.ecba.org/.../pleaBargmontypdf) I accessed 26<sup>th</sup> September, 2020.

<sup>16</sup> Milica Potrebic Piccnato "plea bargain" [www.justice.gc.ca/.../pb/rpc.pdf](http://www.justice.gc.ca/.../pb/rpc.pdf). I accessed 15/4/2013; Simon M and D. Adamara A. "Victim participation in the plea Negotiation process in Canada: A Review of the literature and four models for law Reform" [www.justice.gc.ca/.../](http://www.justice.gc.ca/.../) accessed 15<sup>th</sup> September, 2020.

<sup>17</sup> A. O. Yekini, "The Practice of Plea Bargaining and its Effect on the Anti-Corruption Crusade in Nigeria" Electronic copy available at: <http://ssrn.com/abstract=1279003> accessed 31<sup>st</sup> of December, 2019, p. 8.

<sup>18</sup> Afe Babalolla "Legality and effects if plea bargaining in criminal prosecution in Nigeria" (Nigeria Tribune, Tuesday, December 25, 2012).

<sup>19</sup> EFCC Act *ibid*, one crucial point also to note about *section 14 (2) of the EFCC Act* is that though the National Assembly confer upon the EFCC the power to discontinue criminal proceedings by compounding offences and accepting money, from accused persons from which he stole. However, this power is subject to the constitutional guarantied power of the Attorney-General of the federation under *section 174 of the 1999 constitution* of the federal republic of Nigeria (as amended) 2011. It conferred on the Attorney General of the federation the powers to institute, take over or discontinue criminal proceedings against any person in any court of law in Nigeria except court-martial.

<sup>20</sup> Criminal procedure Act cap C41 LFN 2004

<sup>21</sup> U. C. Nwogwugwu and B. I. Uzoechina, "Impact of Economic Crimes on Nigeria's Economic Prosperity under A Democratic Framework," *International Journal of Business and Management* 10, no. 9 (2015): 163.

<sup>22</sup> Oluwagbohunmi, "Equal before the Law, Unequal before Men - Explaining the Compromising Use of Plea Bargaining in Nigeria."

employed to conclude some high profile cases such as former Bayelsa state Governor Drepseye Alamieyeseigha, Cecilia Ibru, and former Edo State Governor Lucky Igbinedion.<sup>23</sup> The most provocative use of plea bargain in resolving criminal cases was when Justice Abubakar Thaba of the Abuja High Court reduced the sentence of Mr John Yakubu to 2 years imprisonment and ₦750,000 for stealing ₦23 billion naira.<sup>24</sup> However, irrespective of the fact that the Administration of Criminal Justice Act has been enacted, yet the incidence of using a plea bargain to exonerate politicians involved in high profile financial cases is still the order of criminal prosecution in Nigeria.

Given the above, it will be apt to state that various authors have written a scholarly article concerning the concept of a plea bargain. However, this study tends to empirically study the Nigerian citizens' reaction concerning the use of plea bargain in resolving high profile cases, to what extent it is deemed acceptable in using the concept in resolving criminal cases, and what are the legal challenges that will likely emanate in using plea bargain in resolving high profile financial crime cases in Nigeria.

### **A Trace of Plea Bargaining in Nigeria Legal System before and after 2015**

The term plea bargain was reasonably alien to Nigeria and stakeholders in the country's criminal justice system.<sup>25</sup> The concept of a plea bargain in Nigeria only came across either in an article written by their foreign counterpart or most often in novels or films.<sup>26</sup> However, this is no longer the case as the Economic and Financial Crime Commission (EFCC) stated that the basis of a plea bargain in Nigeria<sup>27</sup> could be found in section 180 of the criminal procedures Act<sup>28</sup> and section 14(2) of the EFCC Act.<sup>29</sup> The sections provide are as follows:

#### **Section 180 of the Criminal Procedure Act**

“When more charges are made against a person, and a conviction has been had on one or more of them, the prosecutor may with the consent of the court withdraw the remaining charge or charges or the court of its own motion, may stay trial of such charge or charges.”

#### **Section 14(2) of the EFCC Act**

“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, takeover to discontinue criminal proceeding against any person in any court of law), the commission may compound any offences punishable under this Act by accepting such sums of money as it thinks fit, exceeding the maximum amount to which that person would have been liable if he had been convicted of that offence.”

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<sup>23</sup> G. O. Adeleke, “Prosecuting Corruption and the Application of Plea Bargaining in Nigeria: A Critique,” *International Journal of Advanced Legal Studies and Governance* 3, no. 1 (2012): 53.

<sup>24</sup> John Bulus "police pension fraud: A chronology of plea bargain compromises..." (The N750,000 awarded to former Director in the police pension office as fine against the embezzlement of 23 billion by an Abuja High court raised a question on the relevance of plea bargain concept in law in the now criminally infested society) <http://www.vanguardngr.com/2013/02/police-pension-fraud-a-chronology-of-plea-bargain-compromises/>, accessed 19<sup>th</sup> September, 2020.

<sup>25</sup> C. A Odinkalu, “Plea Bargaining and the Administration of Justice in Nigeria,” *Daily Trust Newspaper*, April 22, 2012.

<sup>26</sup> Afe Babalolla, “Legality and Effects If Plea Bargaining in Criminal Prosecution in Nigeria,” *Nigeria Tribune*, December 2012.

<sup>27</sup> Adeleke, “Prosecuting Corruption and the Application of Plea Bargaining in Nigeria: A Critique.”

<sup>28</sup> Criminal procedure Act cap C41 LFN 2004

<sup>29</sup> Economic and Financial Crimes Commission (Establishment) Act, No. 1 2004

With the above sections, the term plea bargain was formally introduced into our criminal justice system. However, the concept of the plea bargain was not expressly provided in the above sections, and the provisions of section 180 of the Criminal Procedure Act and section 14(2) of the EFCC Act was wrongly interpreted by the EFCC. In this regard, it is apt to state that section 180 of the Criminal Procedure Act and section 14(2) of the EFCC Act emphasise the retraction, discontinuance, and compounding of a criminal charge(s). Given this, it was a legal misnomer for the EFCC to have argued that the concept of a plea bargain was in existence in the Nigerian legal system. The essence of the wrong interpretation was aimed at helping the elites involved in high-profile financial cases to escape justice.

However, irrespective of the obscurity of the concept of a plea bargain in Nigeria legal system before the year 2015, the Administration of criminal justice law<sup>30</sup> in Lagos state duly provided for the concept of plea bargaining. Section 75 and 76 extensively regulate the use of a plea bargain in courts of Lagos state. While Section 75 of the Lagos State Administration of criminal justice law recognises the concept of a plea bargain in Lagos state, section 76 of the said law provides extensively for the procedure for obtaining plea and sentence agreement.

Given the criticisms from various legal scholars, the Nigeria Government decided to adopt the concept into the Nigerian legal system via the Administration of Criminal Justice Act 2015. Given the enactment of the Administration of Criminal Justice Act 2015, section 270 of the act<sup>31</sup> therefore provides for the process and method of applying a plea bargain.

### **High Profile Financial Cases Resolved through Plea Bargain**

The essence of the concept of a plea bargain is to reduce the court's workload, decongest prisons by disposing of minor criminal cases, and for a speedy resolution of criminal cases.<sup>32</sup> However, the concept of a plea bargain was first used by the EFCC in the trial of the retired inspector General of Police Tafa Balogun. He entered into a plea bargain because of his ill-health during his trial.<sup>33</sup> He negotiated via plea bargain with the prosecution, the seventy (70) counts charge for embezzling public fund to the tune of (N 10,000,000,000) ten billion Naira was reduced to eight (8) counts charged. Furthermore, his jail sentence was six (6) months instead of 5 years imprisonment. The government also dropped a criminal charge against Siemens Nig Ltd, on the excuse that they paid a fine of 7 billion to the government, representing three times the bribe given by the company, and it had also shown remorse and demonstrated renewed goodwill towards the country following its indictment for bribing some top Nigeria officials with 17.5 million euros in return for fat contracts.<sup>34</sup> In late General Sani Abacha's case, the family of

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<sup>30</sup> Administration of criminal justice (Repeal and Re-Enactment ) Bill 2009

<sup>31</sup> Administration of Criminal Justice Act, 2015

<sup>32</sup> F. A. Waziri, "Compliance to the Administration of Criminal Justice Act, 2015 in Prosecuting High Profile Corruption Cases in Nigeria (2015 – 2017)," *Journal of Law and Criminal Justice* 5, no. 2 (2017): 119–23.

<sup>33</sup> Adebayo, "A Review of Plea Bargain Concept in the Anti- Corruption War in Nigeria."

<sup>34</sup> Lemmy Ughegbe, "Govt Drops Charges against Siemens over Bribery Allegation," *The Guardian*, November 2010.

Abacha agreed via plea bargain to remit the sum of \$ 100 billion but on the ground that they will withhold \$ 1 billion.<sup>35</sup>

The most provocative plea bargain in resolving high profile financial case was in John Yusuf Yakubu (police pension scam) case. He entered into a plea bargain with the EFCC, and a sixteen (16) counts charge preferred against him was reduced to two (2) counts charge after he had entered a plea bargain with EFCC. The Federal High Court gave a judgment sum against him to return ₦ 750,000 against the stolen ₦ 23 million.

This was the view opined by John Bulus when he stated thus:

"Is justice for sale in Nigeria? Does plea bargain still have a place in Nigeria's legal system? Does stealing "BIG" attract significant punitive measures and vice versa? Should judges in the temple of justice give a verdict on law templates or just at their discretion? In any case, how relevant is our penal code to the realities of modern times vis-a-vis criminal tendencies of some Nigeria? Outside the legal issues, what happens to the moral contents of both the judges and the "huge" offence committed? Indeed, these are some of the avalanches of questions that have been agitating the minds of many Nigerians in the wake of the judgment handed down by the justice Abubakar Thalba of an Abuja High court to Mr. John Yakubu Yusuf on Monday, January 18, 2013.<sup>36</sup>

The term plea bargain has never been generally accepted concerning the alarming controversy that has been going on in the country. This is regarding different interpretations and meanings attributed to the term plea bargain and its method of application.<sup>37</sup> Legal scholars criticise the EFCC for wrongly using a plea bargain in resolving high profile financial corruption cases.<sup>38</sup> According to most of these legal scholars, they view the use of plea bargain by EFCC to promote corruption and allow the get wealthy quick political elite to get away with their crime committed.<sup>39</sup>

### Sampling Technique and Sample Size

The researchers designed an online questionnaire (which suits the purpose of ensuring social distancing as a result of the Covid19 pandemic) distributed to respondents via various internet means of communication. Four hundred five respondents were randomly picked across the various states of the federation of Nigeria to ascertain predetermined options and free opinions responses, and the author used a simple random technique in selecting the respondents. The author considered a simple random sampling technique as best for this study to arrive at a general

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<sup>35</sup> Florence Masajuwa and Paul Atagamen Aidonojie, "Sustainability of Plea Bargain in Nigeria Legal System: A Comparative Analysis of the Past and the Present," *Nigeria Bar Association on Legal Practice Law Journal* 9, no. 1 (2020): 97–98.

<sup>36</sup> John Bulus "police pension fraud: A chronology of plea bargain compromises..." (The N750,000 awarded to former Director in the police pension office as fine against the embezzlement of 23 billion by an Abuja High court raised question on the relevance of plea bargain concept in law in the now criminally infested society) <http://www.vanguardngr.com/2013/02/police-pension-fraud-a-chronology-of-plea-bargain-comprimes/>. I accessed 19<sup>th</sup> September, 2020.

<sup>37</sup> Abubakar, "The Impropriety of Combating Graft by Way of Plea Bargaining in Nigeria."

<sup>38</sup> O. B. Oluwaseun, A. O. Olaniyan, and B. Ayodele, "In the Cesspool of Corruption: The Challenges of National Development and the Dilemma of Anti-Graft Agencies in Nigeria," *African Social Science Review* 7, no. 1 (2014): 73.

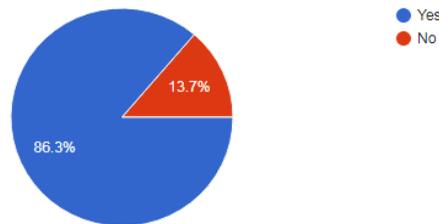
<sup>39</sup> Surajudeen Oladosu Mudasiru, "Democracy, Plea Bargaining and the Politics of Anti-Corruption Campaign in Nigeria (1999-2008)," *African Journal of Political Science and International Relations* 9, no. 9 (2015): 355–348.; J. O. Baiyeshea "SAN warn against misapplication of plea bargain" Reported by Punch, on Saturday 4, May 2013

conclusion. It is given the fact that the sample size focus is targeted at respondents within the various states of the federation of Nigeria, which is homogenous. The advantage of simple random sampling techniques is: 1) It is a hassle-free method of sampling population; and 2) There is no chance of a personal bias of the researcher to influence sampling.<sup>40</sup>

To successfully arrive at an unbiased general conclusion, this study used a sample size of four hundred and five respondents from the various states in Nigeria.

**Research Question One**

Do you agree that plea bargain is a viable criminal litigation tool in resolving criminal disputes? (401 responses)



**Figure 1:** Respondents’ response whether a plea bargain is useful in resolving criminal cases

**Table 1:** Valid response of respondents’ responses to question one

	Responses	Per cent
Valid Yes	346	86.3%
Valid No	55	13.7%
<b>Total</b>	<b>401</b>	<b>100%</b>

Figure 1 and table 1 reflects research question one, which requires respondents' to respond whether a plea bargain can be adjudged as a reliable litigation tool that can be used in resolving a criminal dispute.

**Research question two**

Which of the following best serves as the relevance and importance of plea bargain in resolving criminal disputes? You can tick more than one option (357 responses)



**Figure 2:** Respondents’ responses in identifying the relevance and importance of plea bargain

<sup>40</sup> GS Bajpai, Ms Maanvi Tiku (Content Writer/Author), Ranbir Singh (Principal Investigator), GS Bajpai (Co-Principal Investigator and paper coordinator) and V.K.Srivastva (Content Reviewer), "Law Research Methodology: 'Sampling Techniques" [http://epgp.inflibnet.ac.in/epgpdata/uploads/epgp\\_content/law/09\\_research\\_methodology/12\\_tools\\_and\\_techniques\\_of\\_data\\_collection/et/8171\\_et\\_et.pdf](http://epgp.inflibnet.ac.in/epgpdata/uploads/epgp_content/law/09_research_methodology/12_tools_and_techniques_of_data_collection/et/8171_et_et.pdf) accessed 3rd June, 2020; O. O. Oladele P. A. Aidonojie, O. O. Anne, "An Empirical Study of the Relevance and Legal Challenges of an E-Contract of Agreement in Nigeria," *Cogito Multidisciplinary Research Journal* 12, no. 3 (2020).; P. A. Aidonojie & O. A. Odojor "Impact and Relevance of Modern Technological Legal Educational Facilities amidst the Covid-19 Pandemic: A Case Study of Law Students of Edo University Iyamho", (2020) 5(4), *KIU Journal of Humanities*, 7-19

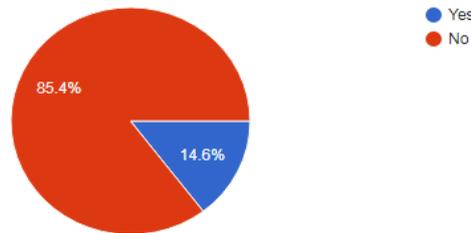
**Table 2:** Valid cluster of respondents' responses in identifying the importance of plea bargain

S/N	Cluster of Responses	Response	Percentage
1	It is suitable for resolving a minor criminal dispute	295	82.6%
2	It aids in the decongestion of prison	225	63%
3	It is faster in resolving a criminal dispute	215	60.2%
4	It helps in reducing the workload of the prosecution and the court	294	82.4%

Figure 2 and Table 2 reflect a cluster of respondents' responses identifying the importance of a plea bargain.

**Research Question Three**

Do you agree that a plea bargain should be used in resolving high profile (embezzlement of public funds) financial cases in Nigeria? (404 respondents)



**Figure 3:** Respondents' response whether a plea bargain is reliable in resolving high profile corruption cases

**Table 3:** Valid response of respondents' responses to question three

	Responses	Per cent
Valid Yes	59	14.6%
Valid No	345	85.4%
<b>Total</b>	<b>404</b>	<b>100%</b>

Figure 3 and Table 3 represent the respondents' response to question three, which requires respondents to respond yes or no, as to whether a plea bargain is an excellent criminal litigation tool in resolving the crime of loot public funds.

**Research question Four**

Which of the following legal challenges will emanate in using a plea bargain to resolve high profile financial criminal cases in Nigeria? (362 responses)



**Figure 4:** Respondents' responses in identifying the possible legal challenge of using plea bargain in high profile financial cases

**Table 4:** Valid cluster of respondents' responses in identifying the legal challenges of using plea bargain in resolving high profile financial cases

S/N	Cluster of Responses	Response	Percentage
1	It will encourage criminals in embezzling public funds, as criminals will always hope to get a light sentence or reduce charges when caught	306	84.8%
2	It will degenerate into ridiculing the Nigeria Criminal Justice System by allowing criminals to indulge in hiding and seek games instead of deterring them	263	72.9%
3	Using a plea bargain to resolve high profile financial criminal case will amount to abuse and personal gain by the prosecution and defendant	261	72.3%
4	It makes the Nigeria criminal justice system too flexible for criminals (big criminals) to operate with leverage, thereby providing soft justice for criminals	272	75.3%

Figure 4 and Table 4 represent respondents' responses in identifying the possible legal challenge that may occur in using plea bargains in resolving high profile financial cases.

Given the above data presentation, it is evident that the respondents' response, as represented in figure 1 and table 1, 86.3% (346) of the respondents representing an absolute majority of the respondents, agreed that plea bargain is a useful prosecutorial tool in resolving criminal litigation. This finding is in line with George Fisher's finding that the concept of plea bargain had been generally accepted as an excellent prosecutorial tool, given the fact that the level of resolution of criminal cases in the United States of America has risen from 84% of Federal cases in 1984 to 94% by 2001.<sup>41</sup> Furthermore, it is also a reflection of Masajuwa and Aidonojie's<sup>42</sup> recommendation in their research work that plea bargain, as provided for in the Administration of Criminal Justice Act,<sup>43</sup> is a viable litigation tool that should be sustained.

Having stated in research question one that plea bargain is a viable litigation tool in resolving a criminal dispute as represented in figure 1 and table 1, the respondents responded to question two, as represented in figure 2 and table 2, by identifying the legal relevance of plea bargain. 82.6% (295) of the respondents agreed that; It is suitable for resolving a minor criminal dispute. This study tends to propagate that plea bargain should not be used to resolve high profile financial cases. Furthermore, 63% (225) of the respondents agreed that plea bargain aid in decongestion of prison, 60.2% (215) of the respondents also identified plea bargain as a faster means of resolving a criminal dispute and also 294% (82.4) of respondents agreed that plea bargain helps in reducing the workload of the prosecution and the court. The percentage of the respondents' responses in identifying the relevance and importance of plea bargain is following the respondents' response in research question one, agreeing that plea bargain is a viable litigation tool.

Irrespective of the fact that respondents agreed that plea bargain is an excellent prosecutorial tool in resolving a criminal case as presented in figure 1 and table 1, however, in figure 3 and

<sup>41</sup> Fisher, *Plea Bargaining's Triumph: History of Plea Bargaining in America*.

<sup>42</sup> Florence Masajuwa and Aidonojie, "Sustainability of Plea Bargain in Nigeria Legal System: A Comparative Analysis of the Past and the Present."

<sup>43</sup> Administration of Criminal Justice Act, 2015.

table 3, an absolute majority of 85.4% (345) of the respondents agreed that it is legally and morally wrong to use plea bargain to resolve high profile financial case. This finding is under the idea of J. O. Baiyeshea<sup>44</sup> when he warns against the use and misapplication of a plea bargain in resolving financial crime that involves the looting of public funds by the political elite. Furthermore, the findings, as represented in figure 3 and table 3, are also in line with the statement of Onyeka.<sup>45</sup> when he describes the use of plea bargain in Nigeria as an animal farm. He describes the Nigerian politician as a pig in the novel *Animal Farm*, which was always treated as unique. He frowned against the use of plea bargains in exonerating individuals involved in high profile financial cases and further suggested stiffer sentences for high profile financial cases. Onyeka's view in this regard, therefore, complement the findings as contained in figure 3 and table 3 to the extent that plea bargain should not be used in resolving high profile financial cases.

Given the fact that an absolute majority of the respondents disagreed with the use of plea bargain in resolving high profile financial crime cases, in figure 4 and table 4, which is a representation of the respondents' response to question 4, the respondents were required to identify the possible legal challenges that may emanate from using plea bargain to resolve high profile financial crime cases. Given this, 84.8% (306) of the respondents agreed that one of the possible legal challenges is that it will encourage criminals in looting public funds, as criminals will always hope to get a light sentence or reduced charge when caught. 72.9% (263) of the respondents also agreed that it would degenerate into ridiculing the criminal justice system by allowing criminals to indulge in hiding and seek games instead of deterring them. These findings were following L. Y. Ankor's<sup>46</sup> statement when he disagreed over the usage of a plea bargain to set free big thieves involved in high profile criminal financial cases. He stated that rather than using a plea bargain setting big criminals free, which encourages more crime, it should be used fairly, just, and equitable manner in resolving minor criminal cases. Furthermore, 72.3% (261) of respondents also agreed that using a plea bargain to resolve a high profile financial criminal case will amount to abuse and personal gain by the prosecution and defendant. 75.3% (272) of the respondents further agreed that using plea bargains to resolve high profile financial crime cases will make the Nigerian criminal justice system too flexible for criminals (big criminals) to operate with leverage, thereby providing soft justice for criminals. Given the above findings, it is evident that using a plea bargain to resolve high profile financial crime cases in Nigeria is considered immoral and legally wrong.

## CONCLUSION

The concept of a plea bargain in Nigeria criminal justice system can be said to be alien before enacting the Administration of Criminal Justice Act in 2015. However, given the above findings of this study, it is pretty ascertainable that the usage of a plea bargain in resolving high profile

<sup>44</sup> J. O. Baiyeshea "SAN warn against misapplication of plea bargain" Reported by Punch, on Saturday 4, May 2013 <http://mobilepunchng.com/output.php?link=http://www.punch.com/news/sans-warn-against-misapplication-of-plea-bargain/> I accessed 4<sup>th</sup> May 2019.

<sup>45</sup> I. Onyeka, "Plea Bargaining: A Recreation of George Orwell's *Animal Farm* in Nigeria," *An International Journal of Language, Literature and Gender Studies Bahir Dar, Ethiopia* 2, no. 2 (2013): 190–91.

<sup>46</sup> L. Y. Ankor, "Plea Bargain and the Anti-Corruption Campaign in Nigeria," *Global Journal of Interdisciplinary Social Science* 3, no. 4 (2014): 116–22.

criminal financial cases had mainly been condemned as immoral and against the legal intentment of curtailing and prevention of crime within the society. It should be noted that the essence of the Nigerian criminal justice system and the function of EFCC is to combat and prevent crime. In this regard, the act of the EFCC indulging in plea bargains in resolving high-profile financial cases should be discouraged as it tends to encourage the political elites to steal more from the public treasury. It is advisable that a stiffer sentence should be recommended for crimes that seriously eat deep into the fabric of the society treasury.

However, despite the condemnation of the use of plea bargain in settling high profile financial cases, it can be gleaned from data presentation and analysis of this study that the concept of a plea bargain was deemed a useful prosecutorial tool resolving minor criminal cases. In this regard, the legal framework of the plea bargain as it is provided in the Nigeria Administration of Criminal Justice Act should be sustained, maintained, and nurtured in resolving minor criminal cases for the sole purpose of reducing the workload of court and prosecution, decongestion of prison, and disposing of minor criminal cases.

## REFERENCES

- Abubakar, I. "The Impropriety of Combating Graft by Way of Plea Bargaining in Nigeria." *ABU.J.P.I.C* 1, no. 2 (2008): 87.
- Adebayo, Akintunde. "A Review of Plea Bargain Concept in the Anti- Corruption War in Nigeria." *Brawijaya Law Journal* 5, no. 1 (2018): 10–11.
- Adeleke, G. O. "Prosecuting Corruption and the Application of Plea Bargaining in Nigeria: A Critique." *International Journal of Advanced Legal Studies and Governance* 3, no. 1 (2012): 53.
- Aidonojie, P. A., and P. Egielewa. "Criminality and the Media: Perception and Legality of the Amotekun Security Agency in Nigeria." *International Journal of Comparative Law and Legal Philosophy* 1, no. 3 (2020): 47.
- Aidonojie, P. A. & O. A. Odojor "Impact and Relevance of Modern Technological Legal Education Facilities amidst the Covid-19 Pandemic: A Case Study of Law Students of Edo University Iyamho", (2020) 5(4), *KIU Journal of Humanities*, 7-19
- Ankor, L. Y. "Plea Bargain and the Anti-Corruption Campaign in Nigeria." *Global Journal of Interdisciplinary Social Science* 3, no. 4 (2014): 116–22.
- Babalolla, Afe. "Legality and Effects If Plea Bargaining in Criminal Prosecution in Nigeria." *Nigeria Tribune*, December 2012.
- Baiyeshea, J. O. "SAN warn against misapplication of plea bargain" Reported by Punch, on Saturday 4, May 2013 <http://mobilepunchng.com/output.php?link=http://www.punch.com/news/sans-warn-against-misapplication-of-plea-bargain/> I accessed 4<sup>th</sup> May 2019.
- Fisher, George. *Plea Bargaining's Triumph: History of Plea Bargaining in America*. Stanford University press, 2003.
- Florence Masajuwa, and Paul Atagamen Aidonojie. "Sustainability of Plea Bargain in Nigeria Legal System: A Comparative Analysis of the Past and the Present." *Nigeria Bar Association on Legal Practice Law Journal* 9, no. 1 (2020): 97–98.

- GS Bajpai, Ms. Maanvi Tiku (Content Writer/Author), Ranbir Singh (Principal Investigator), GS Bajpai (Co-Principal Investigator and paper coordinator) and V.K.Srivastva (Content Reviewer), "Law Research Methodology: 'Sampling Techniques'" [http://epgp.inflibnet.ac.in/epgpdata/uploads/epgp\\_content/law/09.\\_research\\_methodology/12.\\_tools\\_and\\_techniques\\_of\\_data\\_collection/et/8171\\_et\\_et.pdf](http://epgp.inflibnet.ac.in/epgpdata/uploads/epgp_content/law/09._research_methodology/12._tools_and_techniques_of_data_collection/et/8171_et_et.pdf) accessed 3rd June 2020.
- George Fisher, "Plea bargaining's Triumph: History of plea bargaining in America" (2003) Stanford University Press, 397.
- Gueterrez, A. "The Sixth Amendment. The operation of plea bargaining in contemporary criminal procedure" [www.law.du.edu/~Guiterrez.pdf](http://www.law.du.edu/~Guiterrez.pdf) accessed 26<sup>th</sup> of September, 2020.
- Idhiarhi, S. E. "A Synoptic Appraisal of the Practice and Procedure for Plea Bargaining under The Administration of Criminal Justice Act 2015." *Africa Journal of Law and Criminology* 6, no. 1 (2016): 12.
- John Bulus "police pension fraud: A chronology of plea bargain compromises" (The N750,000 awarded to former Director in the police pension office as fine against the embezzlement of 23 billion by an Abuja High court raised a question on the relevance of a plea bargain concept in law in the now criminally infested society) <http://www.vanguardngr.com/2013/02/police-pension-fraud-a-chronology-of-plea-bargain-comprimises/>. I accessed 19<sup>th</sup> September 2020.
- Jon Lawrence "Hardcore Bargains: what could plea Bargaining offer in UK criminal cartel cases?" [www.peterandpetership.com/sites/de](http://www.peterandpetership.com/sites/de) I accessed 26<sup>th</sup> of September, 2020.
- Kerscher, M. "Plea Bargaining in South Africa and Germany." Faculty of Law at Stellenbosch University Supervisor, 2013.
- Mike McConvice, and Chester L Mirsky. *Jury Trails and Plea Bargaining: A True History*. Oxford: Hart Publishing, 2005.
- Milica Potrebic Piccnato "plea bargain" [www.justice.gc.ca/./pb/rpc.pdf](http://www.justice.gc.ca/./pb/rpc.pdf). I accessed 15/4/2013 accessed 26<sup>th</sup> of September, 2020.
- Monty Raphael "plea bargaining and the role of the lawyers" [www.ecba.org/./pleaBargmontypdf](http://www.ecba.org/./pleaBargmontypdf) accessed 26<sup>th</sup> September 2020.
- Mudasiru, Surajudeen Oladosu. "Democracy, Plea Bargaining and the Politics of Anti-Corruption Campaign in Nigeria (1999-2008)." *African Journal of Political Science and International Relations* 9, no. 9 (2015): 355–348.
- M. Simon and D. Adamara A. "Victim participation in the plea Negotiation process in Canada: A Review of the literature and four models for law Reform" [www.justice.gc.ca/./](http://www.justice.gc.ca/./) accessed 26<sup>th</sup> September, 2020.
- O. B. Oluwaseum, A. O. Olaniyan, and B. Ayodele. "In the Cesspool of Corruption: The Challenges of National Development and the Dilemma of Anti-Graft Agencies in Nigeria." *African Social Science Review* 7, no. 1 (2014): 73.
- Odinkalu, C. A. "Plea Bargaining and the Administration of Justice in Nigeria." *Daily Trust Newspaper*. April 22, 2012.
- Ogunode, S. A, Criminal Justice System in Nigeria: For the Rich or the Poor? (2015) 4(1) *Humanities and Social Sciences Review*, 28-42.

- Ogwezzy, M. C. "Restorative Justice and Non-Custodial Measures: Panacea to Recidivism and Prison Congestion in Nigeria." *Nnamdi Azikiwe University Journal of International Law and Jurisprudence*, no. 7 (2016): 69–78.
- Olubiyi, I. A. "Nigerian Criminal Justice System: Prospects and Challenges of the Administration of Criminal Justice Act 2015." *African Journal of Criminal Law and Jurisprudence*, no. 1 (2018): 79.
- Oluwagbohunmi, J. A. "Equal before the Law, Unequal before Men - Explaining the Compromising Use of Plea Bargaining in Nigeria." *Fountain Journal of Management and Social Science* 4, no. 2 (2015): 52–60.
- Onyeka, I. "Plea Bargaining: A Recreation of George Orwell's Animal Farm in Nigeria." *An International Journal of Language, Literature and Gender Studies Bahir Dar, Ethiopia* 2, no. 2 (2013): 190–91.
- Opara, L. C. "The Law and Policy in Criminal Justice System and Sentencing in Nigeria." *International Journal of Asian Social Science* 4, no. 7 (2014): 887–88.
- P. A. Aidonojie, O. O. Anne, O. O. Oladele. "An Empirical Study of the Relevance and Legal Challenges of an E-Contract of Agreement in Nigeria." *Cogito Multidisciplinary Research Journal* 12, no. 3 (2020).
- U. C. Nwogwugwu, and B. I. Uzochina. "Impact of Economic Crimes on Nigeria's Economic Prosperity under A Democratic Framework." *International Journal of Business and Management* 10, no. 9 (2015): 163.
- Ughegbe, Lemmy. "Govt Drops Charges against Siemens over Bribery Allegation." *The Guardian*. November 2010.
- Waziri, F. A. "Compliance to the Administration of Criminal Justice Act, 2015 in Prosecuting High Profile Corruption Cases in Nigeria (2015 – 2017)." *Journal of Law and Criminal Justice* 5, no. 2 (2017): 119–23.
- Yekini, A. O. "The Practice of Plea Bargaining and its Effect on the Anti-Corruption Crusade in Nigeria" <http://ssrn.com/abstract=1279003> accessed 31<sup>st</sup> of December, 2019