Plea Bargain as an Instrument of Fast-Tracking Criminal Justice Delivery under the State Administration of Criminal Justice Law of Benue State, 2019

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Abstract

It is pedestrian to opine that justice delivery in Nigeria in general and Benue State in particular is marred with avoidable delays. The need to improve the effectiveness and efficiency of the judicial system with a view to engendering quick administration of justice has necessitated the enactment of the State Administration of Criminal Justice Law 2019 (the SACJL) by the Benue State House of Assembly. The SACJL, among other things, provides for plea bargain. Spurred by the desire to examine the extent to which the SACJL has enhanced speedy dispensation of justice through plea bargain, this article adopted the doctrinal method of research in which reliance was placed primarily on the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and the SACJL as well as judicial authorities. Reliance was also placed on secondary sources of information such as opinions of eminent scholars expressed in books and journals. It was found that though plea bargain is a veritable catalyst for speedy trial, its effective utilization is hamstrung by absence of a provision stipulating timelines within which to conclude the plea bargain process, insufficient legal practitioners in the Ministry of Justice and the legal department of the state police command to prosecute offences, especially as the SACJL now makes the duty of prosecution the exclusive preserve of lawyers, the non-inauguration of the Administration of Criminal Justice Monitoring Committee (the Committee), and so on. It is advocated that the SACJL should be amended to provide 30 days within which to conclude the plea bargain process, more lawyers should, as a matter of urgency, be employed by the State Government and the police authority so as to make the process of plea bargain seamless and that the State Criminal Justice Monitoring Committee should be inaugurated without delay, among others.

Key words: Delay, fast track, plea bargain, criminal justice, administration

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Introduction

This article examines the relevance of plea bargain in enhancing quick administration of justice under the State Administration of Criminal Justice Law of Benue State, 2019 (SACJL). The main purpose of the SACJL is to ensure that the system of administration of criminal justice promotes efficient management of criminal justice institutions, speedy dispensation of justice, protection of the society from crime and protection of the rights and interests of the suspect, the defendant, and the victim.[1] In pursuance thereof, law enforcement agencies and other authorities or persons involved in criminal justice administration shall ensure compliance with the provisions of the SACJL for the realisation of its purposes.[2] It is against this backdrop that the provisions on plea bargain are justified. This article examines the provisions on plea bargain and further highlights the shortcomings therein.

The article begins with an introduction after which the relevant concepts to the theme of the article are delineated under conceptual clarification. The Evolution of Plea Bargain in Nigeria is also examined, followed by Plea Bargain under the Benue State Administration of Criminal Justice Law, 2019 as regards the Power to Offer or Accept Plea Bargain and Conditions to be fulfilled. The article further treats the Mode and Contents of the Plea Bargain Agreement as well as the Provision as to Participation of the Judge or Magistrate. The Defendant's Right to Resile from the Agreement is equally examined, after which the challenges that exist under the present regime are x-rayed. The article finally proffers recommendations and thus concludes.

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1 SACJL, s 3 (1); *Bello & Ors v Attorney General of Oyo State* (1986) 1 SC 1 at p. 70 paras. A-B.

2 Ibid, s 3 (2).

Conceptual Clarifications

Plea Bargain

The word plea connotes an accused person's formal response of 'guilty' or 'not guilty' or 'no contest' to a criminal charge.[3] It is an accused person's formal answer to a criminal charge which may be a plea of guilty or not guilty. Plea taking represents the commencement of criminal proceedings and it is part of arraignment.[4]Plea is so fundamental that without it, there is no trial.[5] It is pertinent to note that plea is personal and no one can plead on behalf of another. Bargain connotes an agreement between parties for the exchange of promises or performances.[6] It is a negotiation process.[7]

The concept of plea bargain is said to be of American origin[8] and became established in the celebrated case of *Robert M. Brady v United States*.[9]This means the process in criminal proceedings whereby the defendant and the prosecution work out a mutually acceptable disposition of the case; including the plea of the defendant to a lesser offence than that charged in the complaint or information and in conformity with other conditions imposed by the prosecution, in return for a lighter sentence than that for the higher charge subject to the court's approval.[10] This is known as sentence bargain. A sentence bargain is the type or class of plea bargain which involves the exchange of a guilty plea for a promise of leniency.[11] In this type of bargain, the prosecutor need not press for a lesser charge but rather, even though the charge remains as it is, the prosecutor would, based on the agreement, recommend a lighter sentence.[12] Under Nigerian law, the judge has power to give a sentence lower than the

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3 Bryan Garner, *Black's Law Dictionary* (9th edn, Thomson Reuters, 2014), 1268; *Amuzie v State* (2014) LPELR-22830(CA).

4 James Atta Agaba, *Practical Approach to Criminal Litigation in Nigeria* (2nd edn, Law Lords Publications, 2014), 589; *Amuzie v State* (Supra).

5 *Adeyemiv State* (2013) LPELR-20337(SC); *Edibo v State* (2007) LPELR-1012(SC).

6 (n, 3) 169.

7 (n, 4).

8 AM Adebayo, *Administration of Criminal Justice Act, 2015 Annotated with Cases and Comprehensive Notes* (Princeton Publishing Co. Ltd, 2016), 399.

9 397 U.S 742 (90 S. Ct. 1463, 25 L.Ed. 2d 747).

10 (n, 1) s 2.

11 (n, 4) 590.

12 Ibid.

sentence prescribed by law unless it is a mandatory sentence or a minimum sentence is prescribed by law.[13]

It is also seen as a negotiated agreement between a prosecutor and a criminal defendant whereby the defendant pleads guilty to a lesser offence or to one of multiple charges in exchange for some concession by the prosecutor, usually a more lenient sentence or a dismissal of the other charges.[14] This is known as charge bargain. A charge bargain arises where the prosecutor agrees with the defendant to press a lesser charge than that originally filed.[15] It is the practice of arranging more lenient treatment by the court in exchange for the accused's pleading guilty to the crime or turning State's evidence, etc.[16] To have a plea bargain, therefore, there must be a prosecutor and an accused person/defendant; a negotiated agreement between the prosecutor and the defendant; a negotiation which must have ended in an agreement with concessions and compromises from the prosecutor and the defendant; a plea, that is, a plea of guilty to the charge or to a lesser charge; the involvement of the court and an acceptance of the plea by the court.[17]

This underpins that plea bargain is a negotiation between the defendant and his lawyer on the one side and the prosecutor on the other, in which the defendant agrees to reveal the identity of other offenders or whereabouts of evidence relevant to a case or pleads guilty to the offence charged or a lesser offence in return for reduction of the severity of the charges, dismissal of some of the charges or the prosecutor's willingness to recommend a particular sentence or some other benefit to the defendant. For the bargain to be effective, it must be approved by the court.

Administration of Justice

The word 'administration' is the noun form of the verb 'administer.' To administer means 'to manage, govern or direct (one's affairs, an organisation, *et cetera*); to give out something

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13 *Slap v Attorney General of the Federation* (1968) NMLR 326.
14 (n, 3), 1270; *PML (Securities) Co. Ltd v FRN* (2018) LPELR-47993(SC).
15 (n, 4).
16 Mairi Robinson, *Chambers 21st Century Dictionary* (Allied Chambers (India) Ltd, 2007), 1065.
17 (n, 4), 589 and 590.

formally, for instance, to administer justice'.[18] Administration means the directing, managing or governing of a company's affairs, *et cetera.*[19]

Justice, on the other hand, entails the quality of being just; just treatment; fairness; the law, or administration of or conformity to the law.[20] It is also the fair and proper administration of laws.[21] It can be gleaned that justice refers to the state or characteristic of being just or fair or impartial, *et cetera,* especially with regard to the punishment of wrongdoing or a state of living honestly, not hurting another and giving each other his due. Justice is also defined as just conduct, fairness, especially in the exercise of authority or maintenance of right, reward of virtue, and punishment of vice.[22] Simply put, justice is the fair and proper administration of laws.

Administration of justice connotes the maintenance of right within a political community by means of the physical force of the state; the state's application of the sanction of force to the rule of right.[23] From the above, it can be gathered that administration of justice means the faithful interpretation and application, by the courts, of the law to the parties before them without bias for, or against them and in good time.

Administration of justice can either be in civil or criminal matters regulated by the civil justice system and criminal justice system, respectively. The word civil relates to private rights and remedies that are sought by action or suit, as distinct from criminal proceedings.[24] Civil justice connotes the methods by which a society redresses civil wrongs.[25] Civil justice system contemplates a situation where a plaintiff who feels aggrieved by the conduct of a defendant sues the latter to court and seeks the redress of such wrong by way of compensation or damages, specific performance, *et cetera* or a

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18 (n, 16), 16.
19 Ibid.
20 Ibid, 736.
21 (n, 3), 995; *Bassey v AG AkwaIbom State & Ors* (2016) LPELR-41244(CA).
22 AU Kalu, 'Speedy Dispensation of Justice through Effective Case Management in Nigeria.' Retrieved from www.nigerianlawguru.com.pdf. Accessed on 11-4-2020.
23 (n, 3), 53.
24 Ibid, 279.
25 Ibid, 280.

system of justice which utilises variety of methods by which a society redresses civil wrongs..

Equally worthy of clarification is criminal justice system. The word crime is defined as 'an act that the law makes punishable; the breach of a legal duty treated as the subject matter of a criminal proceeding'.[26] Criminal justice entails the methods by which a society deals with those who are accused of having committed crimes.[27] Zuanah opines that criminal justice is '…the proper administration of the laws or legal system to punish people who have committed crime(s) in a fair and reasonable manner within a reasonable time'.[28]

Criminal justice system means 'the collective institutions through which an accused or offender passes until the accusations have been disposed of or the assessed punishment concluded'.[29] The system typically has three components: law enforcement (police, sheriff, marshals), the judicial process (judges, prosecutors, defence lawyers), and corrections (prison officials, probation officers, and parole officers). It is the free, fair and dispassionate manner in which this institution handles and or disposes of cases within a reasonable time that ensures societal cohesion.

The Evolution of Plea Bargain in Nigeria

Plea bargain is a recent innovation in Nigeria.[30] The class or type of plea bargain adopted in the prosecution of economic crimes is charge bargain whereby there is out of court settlement through negotiation between the prosecutor and the defence pursuant to the Economic and Financial Crimes Commission (Establishment) Act (the EFCC Act).[31] It is provided that the Commission may compound any offence punishable under the Act by accepting such sums of

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26 Ibid, 451.

27 Ibid, 456.

28 DV Zuanah, 'The Role of the Nigerian Police in the Administration of Criminal Justice'. A Paper Presented at the 2010/2011 Legal Year of the Benue State Judiciary, held at the Benue Hotel, Makurdi from September 19-21, 2010, 3.

29 (n, 3), 431.

30 Isiaka A.A., 'The Legal Framework for Plea Bargain under Kaduna State Administration of Criminal Justice Law, 2017: An Appraisal' [2018] (Vol 18) (No 1) *Benue State University Law Journal,* 285.

31 Cap E.I., Laws of the Federation of Nigeria, 2004, s 14 (2).

money as it thinks fit, exceeding the maximum amount to which that person would have been liable if he had been convicted of the offence.[32]

It can be gleaned from the above that the procedure to be adopted in the arrangement in the said section 14 (2) of the EFCC Act is not set out and it appears that the exercise is at the discretion of the prosecutor. This uncertain approach is liable to abuses, and can lead to questionable deals being brokered under the guise of plea bargain or compounding offences as used under the Act.[33] This is true in that there is a very high propensity, for instance, for the prosecutor to receive gratification from the defendant and compromise the plea bargain arrangement by completely sidelining the victim or his representative in the negotiation, especially as the EFCC Act does not mandatorily require the presence and participation of the victim or his representative in the plea bargain process. In fact, section 14 (2) of the EFCC Act only mentions the prosecutor and defendant as parties to the plea bargain process.

An example of a plea bargain case by the Economic and Financial Crimes Commission is *FRN v Ibru.*[34]The defendant was arraigned for contravening the law.[35] The law stipulates an imprisonment for the term not exceeding five years without the option of a fine.[36] The defendant was sentenced to 18 months imprisonment without an option of fine.

Subsequently, Lagos State amended her law to make provision for plea bargain.[37] This was followed by Anambra State.[38] In 2015, the National Assembly enacted the Administration of Criminal Justice Act.[39] Thereafter, other states toed the same line including Benue State. The procedural lacuna noticed in section 14 (2) of the EFCC Act has been filled by the SACJL.[40]

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32 Ibid.
33 (n, 30), 286.
34 Charge No. FHC/L/297C/2009 (unreported).
35 Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Act, 2004, s 15 (1).
36 Ibid, s 16 (1) (a).
37 Administration of Criminal Justice Law, Lagos, 2007 (repealed) 2011, s 72.
38 Anambra State Administration of Criminal Justice Law, 2010, s 167.
39 2015, s 270.
40 (n, 1), s 272.

Plea Bargain under the State Administration of Criminal Justice Law, 2019

In an attempt to expedite criminal trials, the SACJL provides for plea bargain and entrenches a procedure to be followed. The ensuing discourse is an x-ray of the said provisions on plea bargain.

Power to Offer or Accept Plea Bargain and Conditions to be fulfilled

Plea bargain is provided for in section 272.[41]It is provided that notwithstanding anything in the SACJL or in any other law, the prosecutor may (a) receive and consider a plea bargain from a defendant charged with an offence either directly from that defendant or on his behalf or (b) offer a plea bargain to a defendant charged with an offence.[42] It is pertinent to note that the SACJL gives the defendant the latitude to either initiate the process of plea bargain directly (himself) or through his representative such as his counsel. In the same token, the prosecutor is permitted to also approach the defendant for plea bargain. This is quite salutary. However, by simply referring to 'an offence' without any qualification, the SACJL gives vent to plea bargain in respect of all offences. It is submitted that this blanket cheque is unhealthy. It is contended that very serious offences such as offences that attract imprisonment of 7 years and above and capital offences should be taken out of the contemplation of this provision. This is because these are serious offences and thus bringing them within the cocoon of plea bargain will open the flood gate for criminality since the defendant can confidently walk away with a lighter sentence under the guise of plea bargain, negating the philosophy of deterrence.

Regarding the stage at which plea bargain may be entered into, the SACJL provides that the prosecutor may enter into plea bargain with the defendant, with the consent of the victim or his representative during or after the presentation of the evidence of the prosecution, but before the presentation of the evidence of the defence.[43]This means that the option of plea bargain is eclipsed once

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41 (n, 1).

42 Ibid, s 272 (1) (a) and (b); this is a departure from the decision of the Court in *Igbinedion v FRN* (2014) LPERL-22766(CA).

43 Ibid, s 272 (2).

the defendant enters his defence. The SACJL provides conditions to be fulfilled before the plea bargain takes place, to wit: (a) where the evidence of the prosecution is insufficient to prove the offence charged beyond reasonable doubt; (b) where the defendant has agreed to return the proceeds of crime or make restitution to the victim or his representative or (c) where the defendant, in a case of conspiracy, has fully cooperated with the investigation and prosecution of the crime by providing relevant information for the successful prosecution of other offenders.[44]

The SACJL provides additional conditions. It provides that a plea bargain can only be offered or accepted by the prosecutor where doing so is in the interest of justice, public interest, public policy and the need to prevent abuse of legal process.[45]It is further provided that the prosecution and the defendant or his legal representative may, before the plea to the charge, enter into an agreement in respect of (a) the term of the plea bargain which may include the sentence recommended within the appropriate range of punishment stipulated for the offence or a plea of guilty by the defendant to the offence charged or a lesser offence of which he may be convicted on the charge, and (b) an appropriate sentence to be imposed by the court where the defendant is convicted of the offence to which he intends to plead guilty.[46]The discretion to enter into plea bargain is made subject to the prosecutor's further duty to consult with the police responsible for the investigation of the case and the victim or his representative and to consider the nature and circumstances relating to the offence, the defendant and public interest.[47]

The SACJL clearly spells out the factors to be considered by the prosecution in determining whether it is in the public interest to enter into a plea bargain. These include: (a) the defendant's willingness to cooperate in the investigation or prosecution of others, (b) the defendant's history with respect to criminal activity, (c) the defendant's remorse or contrition and his willingness to assume responsibility for his conduct, (d) the desirability of prompt and

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44 Ibid, s 272 (2) (a-c).
45 Ibid, s 272 (3).
46 Ibid, s 272 (4).
47 Ibid, 272 (5) (a-b).

certain disposition of the case, (e) the likelihood of obtaining a conviction at trial and the probable effect on witness, (f) the probable sentence or other consequences if the defendant is convicted, (g) the need to avoid delay in the disposition of other pending cases, (h) the expense of trial and appeal, and (i) the defendant's willingness to make restitution or pay compensation to the victim where appropriate.[48]

Furthermore, the prosecution shall afford the victim or his representative the opportunity to make representation to the prosecutor regarding the content of the agreement and the inclusion in the agreement of a compensation or restitution order.[49] It is submitted that this provision is salutary in that it ensures that the victim is not kept in the dark and is fully aware of the nature of the agreement reached. In fact, by employing the word 'shall' in couching the provision, the intendment of the legislature is clear to the effect that where the victim or his representative is not carried along, whatever agreement purportedly reached is a nullity. Put differently, the repercussion for not following the procedure or failure to consult the victim is that the purported agreement reached is not binding and the court cannot give effect to such ab agreement, especially as the word employed by the legislature is 'shall'. More so, it is trite that where a statute provides a particular procedure for doing a particular thing, only that procedure shall be followed or adopted in doing that thing. An objection by the victim to the purported agreement will be upheld by the court without much ado.

Mode and Contents of the Agreement

On the mode of the agreement, it is provided that the agreement shall be in writing. Regarding the contents of the agreement, it is provided that the agreement shall (a) state that, before conclusion of the agreement, the defendant has been informed (i) that he has a right to remain silent (ii) of the consequences of not remaining silent, and (iii) that he is not obliged to make any confession or admission that could be used in evidence against him;

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48 Ibid, proviso thereof.
49 Ibid, s 272 (6).

(b) state fully, the terms of the agreement and any admission made; (c) be signed by the prosecutor, the defendant, the legal practitioner and the interpreter, as the case may be. A copy of the agreement is to be forwarded to the Attorney General.[50] This entails that a plea bargain cannot be consummated orally no matter how brief, straightforward or simple the terms of the agreement may appear to be. It is submitted that the requirement of writing is apposite as it engenders certainty.[51]

Provision as to Participation of the Judge or Magistrate

It is provided that the Judge or Magistrate before whom the criminal proceedings are pending shall not participate in the discussion.[52] It is submitted that this provision is of doubtful utility. This is rationalised against the backdrop that albeit the non-participation is in respect of the discussion, the acceptance of the agreement by the Judge or Magistrate and the concomitant imposition of sentence are necessarily made subject to the Judge's or Magistrate's satisfaction with the agreement.[53]In the same token, the presiding Judge or Magistrate shall ascertain whether the defendant admits the allegation in the charge to which he has pleaded guilty and whether he entered into the agreement voluntarily and without undue influence.[54]

This entails that where the agreement is not the product of the defendant's free will, then the Judge or Magistrate shall not give effect to or accept same. Thus, where the Judge or Magistrate is empowered to, before accepting the plea bargain, inquire into the voluntariness *vel non* of same, does this not amount to participation? Participation entails 'the act of taking part or being involved in something'.[55]It is also construed as 'the act of taking part in something, such as a partnership, a crime, or a trial'.[56]The trial process contemplates the gamut of activities that take place from

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50 Ibid, s 272 (7).
51 *Igbinedion v FRN (Supra)*; *Romrig Nigeria Ltd v FRN*(2014) LPERL-22759(CA).
52 (n, 1), s 272 (8).
53 Ibid, s 272 (9).
54 Ibid, s 272 (10).
55 (n, 16), 1005.
56 (n, 3), 1229. Underlining for emphasis.

commencement to the point where judgment is given.[57]It is pertinent to note that whatever agreement reached between the prosecutor and the defendant is still subject to the Judge's or Magistrate's inquiry, which inquiry is undoubtedly part and parcel of the trial process. It is contended that this amounts to participation since the law does not place the Judge or Magistrate in a helpless position of a rubber stamp arbiter to just accept any agreement (even when made under duress and undue influence) brought before the court by the prosecutor. Further, this provision of the SACJL (s 272 (10), is superfluous and ought to be expunged.

The role of the Judge or Magistrate is further provided for in respect of sentencing. It is provided that where the defendant has been convicted; the presiding Judge or Magistrate shall consider the sentence as agreed upon and where he is (a) satisfied that such sentence is an appropriate sentence, impose the sentence; (b) of the view that he would have imposed a lesser sentence than the sentence agreed, then impose the lesser sentence; or (c) of the view that the offence requires a heavier sentence than the sentence agreed upon, he shall inform the defendant of such heavier sentence he considers to be appropriate.[58]It can be gleaned that the entire discussion leading to the agreement is subject to review by the Judge or Magistrate even at the stage of sentencing if he deems it fit**.** Again, this confirms the Judge's or Magistrate's participation.

Again, the presiding Judge or Magistrate shall make an order that any money, asset or property agreed to be forfeited under the plea bargain shall be transferred to and vested in the victim or his representative or any other person as may be appropriate or reasonably feasible.[59] The prosecutor shall then take reasonable steps to ensure that any money, asset or property agreed to be forfeited or returned by the offender is transferred to or vested in the victim, his representative or any other person lawfully entitled to it.[60] To give venom to the powers of the prosecutor, it is provided that any person

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57 *Durinya v Commissioner of Police (COP)* (1962) NNLR 73; *University of Ilorin v Oyalana* (2001) FWLR (Pt. 83) P. 2193 at 2198.

58 (n, 1), s 272 (11).

59 Ibid, s 272 (12).

60 Ibid, s 272 (13).

who, wilfully and without just cause, obstructs or impedes the vesting or transfer of the said money, asset or property commits an offence and is liable on conviction to imprisonment for seven (7) years without an option of fine.[61] It is submitted that these provisions are salutary in that they aim at ensuring that the transfer to or vesting in the victim or his representative of the money, asset or property is seamlessly done.

Defendant's Right to Resile from the Agreement

It is gratifying to note that the SACJL permits the defendant to resile from his agreement. Where this happens, the trial shall proceed *de novo* before another Judge or Magistrate, as the case may be.[62] It is submitted that this provision is apt in that it has the propensity to check the situation where the defendant's agreement is not voluntary. Similarly, the provision has the proclivity to put on check the Judge's or Magistrate's discretion to impose a heavier sentence other than the one agreed upon in the agreement, especially where the defendant is convinced that such discretion was not exercised judicially and judiciously.

It is also provided that where the defendant resiles from his agreement and the trial proceeds *de novo,* no references shall be made to the agreement, no admission obtained therein or statements relating thereto shall be admissible against the defendant; and the prosecutor and the defendant may not enter into a similar plea and sentence agreement.[63] This provision is apposite as it is intended to protect, shield or insulate the defendant from the adverse effect of the earlier agreement. The SACJL still permits the parties to enter into a fresh plea bargain if they deem fit, especially as the SACJL employs the word 'may' which imbues discretion.

Application of the Defence of Autre Fois Convict or Autre Fois Aquit and Finality of Judgment

The SACJL provides that where a person is convicted and sentenced, he shall not be charged or tried again on the same facts for

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61 Ibid, s 272 (14).
62 Ibid, s 272 (15).
63 Ibid, s 272 (16).

the greater offence earlier charged to which he had pleaded to a lesser offence.[64] This provision is undoubtedly against double jeopardy and it is in consonance with the Constitution.[65] To further crystallise or concretise the efficacy of the plea bargain, it is provided that the judgment of the court entered upon a plea bargain shall be final and no appeal shall lie in any court against such judgment, except fraud is alleged.[66] This means that barring fraud, the said judgment is final and conclusive and cannot be the subject of an appeal. It is submitted that this provision is apt and congruous with the SACJL's objective of expeditious trial of criminal cases through plea bargain.

Challenges

In addition to the shortcomings pinpointed above, there are yet other challenges hamstringing the realisation of the objective of speedy trial through plea bargain**.** First, it is pertinent to note that the plea bargain process does not have timelines within which to conclude same. As the law presently is, the Judge or Magistrate is helpless where the process of plea bargain takes long to conclude. Thus, the utility or philosophical underpinning of the entire plea bargain process (which is to fast-track criminal justice administration) is called to question.

In addition, the SACJL establishes the Administration of Criminal Justice Monitoring Committee (the Committee) with a view to realising its noble objective of expediting criminal trial.[67] Specifically, the Committee is to ensure the effective and efficient application of the SACJL by the relevant agencies. To this end, it is provided that the Committee shall ensure that (a) criminal matters are speedily dealt with; (b) congestion in criminal cases is drastically reduced; (e) the relationship between the organs charged with the responsibility for all aspects of the administration of justice is cordial and there exists maximum cooperation amongst the organs in the

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64 Ibid, s 272 (17).
65 Constitution of the Federal Republic of Nigeria, 1999 (as amended), s 36 (9).
66 (n, 1), s 272 (18).
67 Ibid, s 471.

administration of justice in the state, *et cetera.*[68] It is, however, regrettable to reckon that the Committee, as strategic as it is, is yet to be inaugurated in the State.

Furthermore, the SACJL provides that the prosecution of all offences in any court shall be undertaken by the Attorney General or a law officer in his Ministry or department; or a legal practitioner authorised to prosecute by the SACJL or any other law of the State House of Assembly.[69] This provision outrightly outlaws prosecution of cases by lay police prosecutors. This means that only a prosecutor who is a legal practitioner can offer or accept plea bargain. It is contended that the provision itself is salutary as it is intended to obviate the blunders committed by lay police prosecutors during trial as a consequence of lack of knowledge of the law, causing delay. The problem, however, is that, up till now; there are very few lawyers in the legal department of the state police command as well as Ministry of Justice.[70]Thus, the actualisation of the objective of speedy trial through plea bargain, in practical reality, is hazy and remains a tantalising mirage.

Recommendations

The following recommendations are hereby made:

1. The SACJL should be amended to exclude very serious offences like capital offences and offences that attract imprisonment of 7 years and above from the application of plea bargain;
2. The Committee should, as a matter of urgency, be inaugurated to enable the SACJL generally achieve the objective for which it was enacted and particularly assess the efficacy of the provisions on plea bargain in fast-tracking criminal justice administration in Benue State;

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68 Ibid, s 472.

69 Ibid, s 110.

70 For instance, in a bail application before the Chief Magistrate's Court 3, Makurdi in Case No. CMC/37/2019, Motion No. CMC/34/2019 between *Iorkaa Terkimbi & 1 Other v COP* filed and served on September 13, 2019 by one of the present writers, Bem Aboho, the respondent filed a counter affidavit on September 30, 2019 (17 days thereafter). The reason advanced by the police prosecutor was that the counsel that was to prepare the counter affidavit had several of such counter affidavits on his table to prepare and thus could not timeously prepare the one in the instant application.

3. The SACJL should be amended to provide the timeline of 30 days within which to conclude the plea bargain process;
4. More lawyers should be immediately employed by the state in the Ministry of Justice. The same thing should be done by the police authority.
5. Section 272 (10) of the SACJL should be expunged from the law since it is superfluous.

Conclusion

This article has confirmed or demonstrated that the effective utilisation or employment of plea bargain is a veritable tool for fast-tracking criminal justice administration under the SACJL. However, the full realisation of this noble objective is blurred by the absence of timelines for the conclusion of the plea bargain process, the non-inauguration of the Committee, insufficient lawyers in the Police Force and Ministry of Justice to undertake the prosecution of cases, among other bottlenecks. It is, however, hoped that if the recommendations above are faithfully implemented, the intention of the legislature in fast-tracking criminal justice administration through plea bargain will be achieved.