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EXAMINING THE ABUSE OF NAIRA NOTES IN NIGERIA:

A LEGAL AND COMPARATIVE PERSPECTIVE



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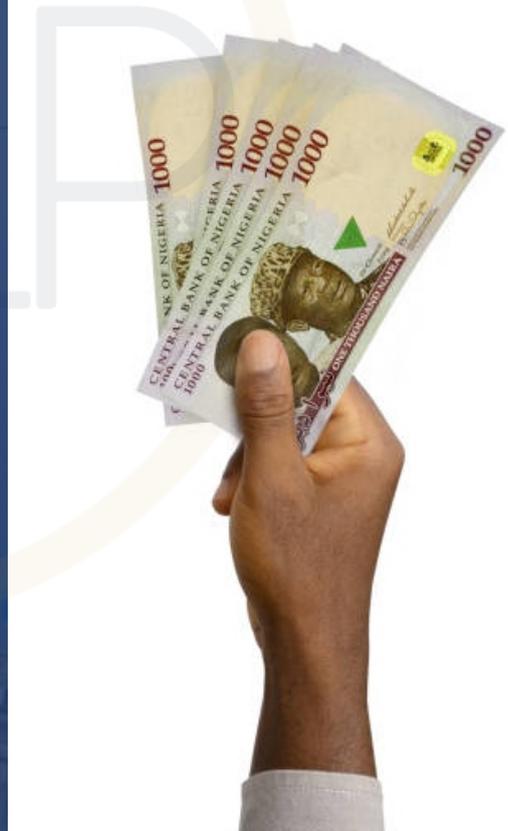
INTRODUCTION

Currency serves as the lifeblood of any nation's economy, embodying its value and facilitating economic transactions. In Nigeria, the Naira stands as a symbol of national pride and economic stability. However, despite its significance, the abuse of Naira notes has become a pervasive issue in the country, undermining its integrity and the respect it commands. Recent high-profile cases, such as the arrest, prosecution, and conviction of socialites – Idris Okuneye, popularly known as “Bobrisky,” and Nollywood actress Oluwadarasimi Omoseyin, for their involvement in Naira note abuse, highlight the seriousness of the issue. Additionally, the arrest and pending trial of another socialite – Pascal Okechukwu, popularly known as “Cubana Chief Priest”, further underscore the prevalence of this illicit activity.

This article delves into the various facets of Naira note abuse in Nigeria, examining its legal framework and contrasting it with the regulatory landscape governing currency abuse in the United States of America (USA). We shall also analyze the effect of the plea of the socialites (mentioned earlier) before the Federal High Court and their impacts on the enforcement of the law in combating Naira note abuse and preserving the integrity of Nigeria's national currency.

UNDERSTANDING NAIRA NOTE ABUSE

The word abuse is defined to mean a departure from legal or reasonable use; or misuse.¹ Comparing this definition with the prevalent practices among some Nigerians during social occasions or events, it becomes evident that the abuse of Naira notes extends beyond mere cultural practices. It encompasses a spectrum of actions that deface, mutilate, or otherwise compromise the physical integrity and economic value of the



¹See the definition of Abuse in Black's Law Dictionary, Ninth Edition.

EXAMINING THE ABUSE OF NAIRA NOTES IN NIGERIA: A LEGAL AND COMPARATIVE PERSPECTIVE



currency. These actions can include spraying or matching,² among other forms of mistreatment. While some may view these actions as innocuous or even culturally acceptable, they pose significant challenges to the Central Bank of Nigeria (CBN) and the broader economy.

Providing a better context to the above, spraying Naira notes at Nigerian parties is a widespread practice across the nation, rooted in the country's Owambe³ culture and influenced by the extravagant lifestyles of celebrities. This practice involves showering celebrants with Naira notes as a display of generosity and celebration.

In Nigeria, the abuse of Naira notes is governed primarily by the Central Bank of Nigeria (CBN) Act 2007 and this statute confers upon the CBN the authority to regulate the issuance, distribution, and handling of currency within the country. Section 21 of the CBN Act specifically prohibits the abuse of Naira notes, prescribing penalties for offenders, including fines and imprisonment. **SECTION 21 (1) – (3) OF THE CBN ACT** provides that:

“21 (1) A person who tampers with a coin or note issued by the Bank is guilty of an offence and shall on conviction be liable to imprisonment for a term not less than six months or to a fine not less than N50,000 or to both such fine and imprisonment.

²Section 21 (5) of the Central Bank Act, 2007 (CBN Act) defines “Spraying” to mean adorning, decorating or spraying anything or any person or any part of any person or the person of another with Naira notes or coins or sprinkling or sticking of the Naira notes or coins in a similar manner regardless of the amount, occasion or the intent and “Matching” to mean spreading, scattering or littering of any surface with any Naira notes or coins and stepping thereon, regardless of the value, volume, occasion or intent.

³According to wikipedia, Owambe is a Yoruba term for extravagant parties in Nigeria. The term “Owambe” is derived from the Yoruba expression “owan be,” meaning the presence of a celebration or party. Owambe parties mark various occasions, including weddings, birthdays, anniversaries, funerals, housewarmings, graduations, and chieftaincy titles. They are known for their opulence, style, and abundance of food, music, dance, and money - <https://en.wikipedia.org/wiki/Owambe>

EXAMINING THE ABUSE OF NAIRA NOTES IN NIGERIA: A LEGAL AND COMPARATIVE PERSPECTIVE

(2) A coin or note shall be deemed to have been tampered with if the coin or note has been impaired, diminished or lightened otherwise than by fair wear and tear or has been defaced by stumping, engraving, mutilating, piercing, stapling, writing, tearing, soiling, squeezing or any other form of deliberate and willful abuse whether the coin or note has or has not been thereby diminished or lightened.

(3) For the avoidance of doubt, spraying of, dancing or matching on the Naira or any note issued by the Bank during social occasions or otherwise howsoever shall constitute an abuse and defacing of the Naira or such note and shall be punishable under Sub-section (1) of this section.”

In contrast to Nigeria, the legal frameworks governing currency abuse in the USA are more nuanced and comprehensive. In the USA, 18 U.S.C. § 333⁴ prohibits the mutilation, diminution, and defacement of currency, with violators subject to fines and imprisonment. Americans are aware of the legal consequences and adhere to upholding the integrity and value of the Dollar note. This is because there is stringent enforcement in the US and public awareness campaigns that deter currency mistreatment.

Unfortunately, until recently, many Nigerians were unaware of the legal consequences associated with the practice of spraying Naira notes at social events, despite repeated warnings issued by the CBN under the administration of Godwin Emefiele. In a circular/press release dated 2nd February 2023, issued by Osita Nwanisobi, Director of Corporate Communications, Nigerians were explicitly cautioned, especially those attending social functions like birthdays, weddings, and funerals, to refrain from disrespecting the Naira, as doing so could lead to arrest and prosecution by law enforcement agencies.

In enforcing the provisions of the CBN Act and upholding the economic value and integrity of the Naira note, the Economic and Financial Crimes Commission (EFCC) arrested Nollywood actress Oluwadarasimi Omoseyin, Bobrisky and Cubana Chief Priest for abusing the Naira notes. When actress Omoseyin and Bobrisky were charged to court, they pleaded guilty and admitted the offence of abusing the Naira. Accordingly, the court convicted them and sentenced them to six (6) months imprisonment. However, Cubana Chief Priest who pleaded not guilty before the Federal High Court on 17th April 2024, was granted bail, and awaiting trial.

⁴United States Code Title 18, Section 333,

EXAMINING THE ABUSE OF NAIRA NOTES IN NIGERIA: A LEGAL AND COMPARATIVE PERSPECTIVE



THE IMPLICATION OF PLEA OF NOT GUILTY TO THE OFFENCE OF NAIRA ABUSE

While refraining from any commentary that might sway the outcome of the Cubana Chief Priest's case at hand, it is imperative to briefly explore the ramifications of pleading not guilty to the offence of Naira abuse. By pleading not guilty, the Defendant asserts either innocence of the crime or presents a legal excuse recognized by law as a defence, thereby denying all particulars of the offence charged.

This plea⁵ initiates a trial process where the court must determine the Defendant's guilt beyond reasonable doubt, placing the onus on the prosecution, such as the Economic and Financial Crimes Commission (EFCC), to present compelling evidence. It's imperative to note that Section 36 (5) of the 1999 Constitution of the Federal Republic of Nigeria, as Amended presumes the Defendant's innocence until proven guilty by the prosecution.

In cases involving Naira abuse, the prosecution may be required to present substantial

evidence to the court. This could include the actual Naira notes alleged to have been abused or, in cases of video evidence, compliance with the provisions of Section 84 of the Evidence Act, 2023 regarding electronic evidence. The burden lies on the prosecution to demonstrate convincingly that the offence occurred.⁶

It's conceivable that a Defendant might raise a defence that the Naira note tendered in evidence by the prosecution was not genuine, potentially leading to charges of counterfeiting currency, an offence prohibited under Section 20 (4)⁷ of the CBN Act. However, this defence may be undermined by the definition of Naira spraying under Section 21 (5) (ii)⁸ of the CBN Act, negating the Defendant's intent which may be that he did not derive any value or profit from the counterfeited currency.

Moreover, the Defendant may contest the admissibility of video evidence, alleging tampering, editing, or manipulation, or even that it was fabricated through an advance use of technology. Ultimately, regardless of the strategies employed by both the prose-

⁵In **DADA & ANOR V. STATE (2012) LPELR-8037(CA) (PP. 23-24 PARAS. E)** the court enunciated on what a plea means when it held that "Plea is defined as "An accused person's formal response of "guilty", "not guilty" or "no contest" to a criminal charge"- BLACK'S LAW DICTIONARY, EIGHT EDITION, page 1189. In ordinary English Language, plea is an accused person's "answer to a charge in a Court of law, especially one stating that he or she is guilty or not guilty" - ENCARTA WORLD, ENGLISH DICTIONARY, page 1446."

⁶See the decision of the Court of Appeal in **SANSANI & ANOR V. STATE (2016) LPELR-40257(CA) (PP. 15-16 PARAS. F)**

⁷(4) It shall be an offence punishable by a term of imprisonment of not less than 5 years for any person to falsify, make or counterfeit any bank note or coin issued by the Bank which is legal tender in Nigeria.

⁸(ii) "Spraying" includes adorning, decorating or spraying anything or any person or any part of any person or the person of another with Naira notes or coins or sprinkling or sticking of the Naira notes or coins in a similar manner regardless of the amount, occasion or **the intent**.

EXAMINING THE ABUSE OF NAIRA NOTES IN NIGERIA: A LEGAL AND COMPARATIVE PERSPECTIVE



cution and the Defendant, the ultimate arbiter of guilt or innocence is the court. Only upon the conclusion of the trial will the court determine whether the prosecution has met the burden of proof beyond reasonable doubt or if there exists doubts to declare the Defendant not guilty. Hence, the outcome of Cubana Chief Priest's trial will provide insight into the court's rationale in adjudicating the Naira abuse allegation.

Alternatively, the EFCC Act, 2004 offers the concept of plea bargaining,⁹ as per Section 14 (2),¹⁰ which provides a pathway to resolution when compelling evidence is lacking. This mechanism enables settlement negotiation between the parties involved in criminal proceedings, potentially resulting in the dismissal or withdrawal of charges upon acceptance by the court.

In summary, the plea of not guilty to the offence of Naira abuse sets in motion a legal process where evidence and arguments are meticulously scrutinized, ultimately leading to a court Judgment. Whether through trial proceedings or plea bargaining, the pursuit of justice remains paramount in cases of alleged Naira abuse.

CONCLUSION

The consequences of Naira note abuse are multifaceted, one of which is that it compromises the durability of the currency, leading to premature deterioration. The desecration of a national currency (Naira) undermines its symbolic value and reflects poorly on the country's image domestically and internationally.

Despite the existence of legislation, enforcing laws against currency abuse remains a significant challenge in Nigeria. Limited resources, lax enforcement mechanisms, and cultural attitudes towards money contribute to the prevalence of Naira note abuse. Unlike in the USA, where stringent enforcement and public awareness campaigns deter currency mistreatment, Nigeria struggles to curb this practice effectively. Ultimately, the outcome of trials, such as that of Cubana Chief Priest, will provide insight into the court's interpretation of the law and its application in cases of Naira abuse following the plea of not guilty.

⁹According to Black's Law Dictionary, Deluxe Ninth Edition page 1270 "plea bargain" means: "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". According to Prof. Albert W. Alschuler, "Plea bargain consists of the exchange of official concessions for a defendant's act of self-conviction".

¹⁰This provision has been interpreted, recognized and applied by the Courts in plethora of cases.

PLEASE NOTE THAT THIS ARTICLE IS FOR INFORMATION PURPOSES ONLY AND DOES NOT CONSTITUTE LEGAL ADVICE

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