NNAMDI AZIKIWE UNIVERSITY, AWKA

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Journal OF PUBLIC & PRIVATE LAW

Vol 1. No 1

ISSN: 1752 - 0714

JOURNAL OF PUBLIC & PRIVATE LAW

Department of Public & Private Law
Faculty of Law
Nnamdi Azikiwe University
Awka.

THE JURISPRUDENTIAL IMPLICATIONS OF CORROBORATION UNDER THE NIGERIAN EVIDENCE LAW AND PRACTICE*

Abstract

The issue of corroboration raises a serious legal question in view of the requirements of standard of proof. This paper examined those cases in which the Nigerian Evidence Act requires corroboration of evidence for the prosecution or the plaintiff to succeed in its case and also attempted answering the underlying jurisprudential questions involved therein: What is corroboration? What is the essence and raison *d'etre* of corroboration in the Nigerian evidence law? What is the propriety of the requirements of corroboration in each of the specified cases? The methodology is critical and hermeneutical analysis of the Evidence Act and the relevant case law.

1. Introduction:

The need for solid probative evidence cannot be dispensed with in every adversarial or accusatorial legal culture.[1] According to this justice system, the disputing and opposing parties have to adduce enough evidence to prove their respective cases before an independent and a disinterested arbiter. Nigeria, due to its British colonial antecedents, *inter alia*, had to come into the web of this Anglo-American common law jurisprudence. However, the sufficiency of the evidence probative of a particular fact in issue has been a matter of evidence law and practice. It is the law and sometimes judicial practice that say whether or not a single credible and qualitative witness is sufficient to prove a case beyond reasonable doubt as in criminal justice or tilt the pendulum of the balance of probability in favour of a party in a civil suit. In Nigeria, the *Evidence Act*[2], which falls into the Exclusive Legislative List under the *Constitution of the Federal Republic of Nigeria 1999*[3] mainly provides for this substantive and procedural rule. The emergent body of case law on this point is only as a result of the

[1] This is a procedural system involving active and unhindered parties contesting with each other to put forth a case before an independent decision-maker. Cf. B.A. Garner (ed), *Black's Law Dictionary*, 7th Edition, (Minnesota: West Group, 1999), p. 54.
[2] Cap E14, Laws of the Federation of Nigeria, 2004.
[3] See *Constitution of the Federal Republic or Nigeria, 1999*, Second Schedule, Part I, Item 23.

interpretative role of the courts *vis- a- vis* the provisions of the Act and experience in adjectival practice.

The significance of this paper lies in the fact that it may be relevant to the much desired reform of the justice system via *inter alia* the review of the Evidence Act that has really come of age. It is reminisced that the Act was enacted in 1943 and became operative in 1945. Several decades after, it still remains one of the principal legislations that govern civil and criminal evidence and litigation in a nation that desires to compete with more developed countries in this era of globalization *vide* vision 20:2020.There is therefore the urgent need to bring the Act to the tunes of modern structure that would meet the legal justice needs of the Nigerian citizens. This paper seeks to consider just one item, namely, corroboration, which constitutes a no mean index in Nigerian evidence law and practice. The paper attempts to offer a critical analysis of the application of this provision and hand in some recommendations.

2. Meaning of Corroboration:

There is nothing technical about the term 'corroboration'; it simply means 'confirmation' or 'support'. This observation has long since been made in *DPP v. Kilbourne*[4] and recently confirmed in *Ogumbayo v. the State*.[5] In the later case, the Supreme Court holds, per Ogbuagu J.S.C., that "corroboration is not a technical term of art and means no more than evidence tending to confirm, support and strengthen other evidence sought to be corroborated". The Latin etymology of the word 'corroboration' may also be quite illustrative. The substantive verb stem '*roboro – are*' means to strengthen or make firm. '*Roboreus*' and '*robustus*' are adjectives stemming therefrom both meaning 'of hard wood' especially of oak and thus suggesting something strong, powerful, and firm.[6] In law this would only

[4] [1973] AC, 729 @ 758.
[5] [2007] 8 NWLR (pt 1035), p. 157.
[6] Cf. D. P. Simpson, *Cassell's New Latin-English English-Latin Dictionary*, (London: Cassell & Company Ltd), 1959, p. 524.

mean strong, firm and solid testimony. The joining of the prefix '*co*'- which literally means 'with' to form 'corroboration' all the more adds to the solidity of the evidence required to discharge the onus of proof (*onus probandi*) in the relevant cases.

Hence, "corroborative evidence is an independent testimony implicating the accused to the charge and supportive of the testimony requiring corroboration".[7] This corroborative evidence may be the testimony of another witness, or in a piece of real evidence tendered, or in the conduct of the accused himself or from what the accused said. Corroboration, therefore, implies the existence of more than one piece of evidence in which the corroborative evidence comes in to "confirm, ratify, verify or validate the existing evidence coming from another independent witness or witnesses".[8]

3. The Nature of Corroboration:

The question of the nature of corroboration is *in pari materia* with the question of what amounts to corroboration. Following a long line of decided cases, the recent case of *Iko v. The State*[9] held that in any evidence offered as corroboration, two conditions must be satisfied, viz: (i) that the offence was committed, and (ii) that the accused is implicated in it. Be that as it may, a detailed study of judicial attitude to what constitutes corroboration under the Nigerian law reveals that not less than six factors must be taken into consideration. We take them *seriatim*:

(i) "In order that evidence may amount to corroboration, it must be 'extraneous' to the witness who is to be corroborated". Lord Hewart C.J. in *R. v*

[7] *Hassan v. The State* [2001] 6NWLR (pt 309) @ 386; *Adetola v. State* [1992] 4NWLR (pt 235) @ 267; *Uyo v. A.G. Bendel* [1986] 1NWLR (pt 17) @ 418.
[8] *Igbine v. The State* [1997] 9 NWLR,(pt 519)p. 101 @ 108.
[9] [2001] 14 NWLR (pt. 732) @ 221. See also *Idiemo v. IGP* [1957] 2 F. S. C. 26; *R v. Ogala Nweze* [1957] 2 F. S. C. 27. But contrast with *R v. Griliopoulos & Ors* [1953] 20 NLR., 114; *Ben Okafor v. C.O.P.* [1964] NMLR. 89.

Whitehead[10] enunciated this long ago. In this case where the accused was charged with unlawful carnal knowledge of a girl under 16, it was held that the testimony of the girl's mother resulting from the complaint made to her by the daughter shortly after the alleged assault cannot amount to corroboration. This is particularly reasonable as such a testimony originally as it were from the girl is tantamount to the girl corroborating herself.[11] In Nigeria, the West African Court of Appeal in *R.v Sekun & Ors*[12] gave an indication of what to look for in most cases where the issue of corroboration arises. The question is to be asked: "Is there independent testimony which affects the accused by tending to connect him with the crime?" Therefore, the independence of the corroborative testimony is a *conditio sine qua non* for its admissibility as such. In *Ogumbayo v. The State*[13] the court held that this independent testimony may be direct or circumstantial.

But there is a problem. If by independent testimony it is meant testimony not originating from the person whose evidence needs corroboration, which reasoning constituted the *ratio* for not admitting as such the so-called corroboration in *Sekun* and other cases[14], then such an understanding would appear inconsistent with the provisions of *section 214* of the Evidence Act. The section provides thus:

> In order to corroborate the testimony of a witness, any former statement made by such witness relating to the same fact or about the same time when the fact look place, or before any authority legally competent to investigate the fact, may be proved.

But the fact however remains that if this section 214 of the Act is applied literally by the court, then a violence will certainly be done to yet another provision of the

[10] [1929] 1KB 99.
[11] *R.v. Whitehead* (supra).
[12] [1941] 7 WACA 10.
[13] [2007] 8 NWLR (pt 1035) p. 157.
[14] Eg. *R. v. Christie* [1914] AC 545. Here, the accused was charged with indecently assaulting a little boy who gave unsworn testimony. The boy's mother and a police man testified to the terms in which the boy had described the assault shortly after it occurred when he identified the accused. The House of Lords held the latter evidence not to be corroboration of the boy's testimony.

Act at section 92 (2) dealing with the weight to be attached to a piece of evidence. It provides that:

> For the purpose of any rule of law or practice requiring evidence to be corroborated, or requiring the manner in which uncorroborated evidence is to be treated, a statement rendered admissible as evidence by this Act shall not be treated as corroboration of evidence given by the maker of the statement.

It has often been opined however that where such evidence under section 214 is admitted, it is usually admitted in certain cases to demonstrate the consistency of the complainant's story, not as corroboration. But a thorough community reading of the two sections, which nevertheless are on the same subject, namely, corroboration, will not fail to show a remarkable inconsistency and inelegance in drafting. It is, therefore, suggested that an amendment be made in that regard.

(ii) "Evidence of one requiring corroboration cannot serve as corroborative evidence of another requiring corroboration".[15] It has long since been established that the unsworn testimony of a child, for instance, cannot corroborate the unsworn testimony of another child.[16] However, the testimony of a child unsworn may be corroborated by the sworn testimony of another child.[17] In the same vein, accomplice's evidence cannot corroborate another accomplice's evidence.[18]

(iii) The corroborative evidence must implicate the person charged with the offence charged. This has been held in a long line of cases[19] and recently reaffirmed in *Ogumbayo v. The State.*[20] In the latter, the Supreme Court held thus:

> Evidence in corroboration must be an independent testimony direct or circumstantial, which confirms in some material particular not only that an offence has been committed but that the accused person committed the offence....

[15] *Omisade v. R.* [1964] 1All NLR 233.
[16] *R. v. Manser* [1934] 25 CR, APP. R 18.
[17] *R. v. Campbell* [1956] 2QB 432.
[18] *Ogola Nweze & 16 Ors v. R.* [1957] SCNLR, 328.
[19] See *Sambo v. The State* [1993] 8 NWLR (pt 300), 399; *Emodi v The State* [2000] 8 NWLR (pt 670), 604 @ 612; *Upahar v. The State* [2003] 6 NWLR.(pt 816), 230.
[20] *Supra.*

Therefore, the emphasis is that corroborative evidence must be one, which, *inter alia*, connects the accused with the offence charged, or otherwise implicates the accused in the commission of the offence charged.

(iv) Corroboration may be found in the 'conduct' or behaviour of the accused before or at trial. Hence, conduct must be clearly distinguished from 'statements' mentioned in both sections 92 (2) and 214 of the Act. 'Conducts' therefore and for the purpose of our subject matter means acts other than statements. They can serve as corroborative evidences. Hence, in *Johnson Ereko v. R*,[21] corroboration of accomplice testimony was found in the action of the accused in stopping the prosecution of the accomplices (the driver and owner of the car) for operating and permitting the vehicle to be operated without a licence and a certificate of roadworthiness.

There is however a controversy as to whether silence of an accused in the face of allegations can amount to a conduct for the purpose of corroboration. This controversy, no doubt, is propped by the fact that right to silence of an accused in criminal cases is a fundamental right guaranteed in the Constitution. Thus, section 36(11) provides that "no person who is tried for a criminal offence shall be compelled to give evidence at the trial".[22] Yet, silence of the accused vis-à-vis the particular circumstances of any particular case may be quite corroborating. This uncertainty may be the reason why Odesanya J in *The State v. Gabriel*[23] holds that "the law on this point is in a most fluid state". But far back as 1941 in Nigeria, the West African Court of Appeal in *R v. Joseph Afolabi Lagos*[24] leaning on many

[21] [1959] WRNLR, 77.
[22] See also *Sugh v. The State* [1988] 2NWLR (pt. 77) p. 475. See also K. O. Amusa, "The Right of Silence of an Accused Person in Nigeria – An Overview", *Nigerian Law and Practice Journal*, vol. 3 No. 1 March 1999, cited by Z. C. Anyogu, *Evidential Perspectives on the Defence of Alibi in Nigeria*, (Enugu: Okechukwu Communications, 2006), pp. 27 – 28.
[23] Judgment of the High Court of Lagos State in IK/60/71 (Unreported).
[24] [1941] 7 WACA 123.

English cases[25] formulated a test. According to this test, the question to be considered is whether by his silence, the accused was accepting that the allegations against him are true. If he was, his silence could be treated as corroboration, if it was not, it is no corroboration. Judicial and academic hermeneutics had however refined this test by marshalling out two broad classes of cases, namely, where an accused remains silent after he has been formally charged with a crime or cautioned, secondly where he does so following a mere accusation. With respect to the first scenario, Nwadialo puts it thus:

> If, on being arrested the accused is formally charged and cautioned, his silence cannot be construed like this (ie as corroboration), the accused may be taking advantage of the caution or may be merely reserving his defence which he is in anyway, not bound to disclose in advance. In fact, under the 1979 constitution (and also 1999 constitution), he has a positive right to remain silent....[26]

Aguda too submits in this regard, that the non-denial of an accusation where the accused has been formally charged and cautioned cannot amount to corroboration, nor indeed to an admission, since in that event, the accused would be exercising his undoubted right under the constitution to remain silent.[27]

Be that is it may, it must be noted that the exercise of the right to silence by the accused does not prevent a trial court from drawing any necessary inference from the evidence before it, the accused persons failure or refusal to give evidence notwithstanding.[28]

On the second situation, however, it has been held that where an accusation is made before any legal process has been set in motion and the accusation contains full particulars of the offence, failure by the accused to reply may be

[25] [1908] 2KB, 680@ 683; *R. v Whitehead* [1929] 1KB. 99; *R. v. Charavanamutu* [1930] 22 CAR 1.
[26] F. Nwadialo, *Modern Nigerian Law of Evidence*, 2nd Edition (Lagos: Univ. of Lagos Press, 1999), pp. 434-435. (Brackets and their contents are mine). see also *Ifenedo v. The State* [1967] NMLR, 200.
[27] T. A. Aguda, *The Law of Evidence*, 4th ed. (Ibadan: Spectrum Books Ltd, 1999), p. 353.
[28] *Sugh v. The State* (*supra*). see also the Supreme Court decision in *Nasiru v. The State* [1999] 2NWLR, (pt. 589) 102.

regarded as corroboration. Many a judicial pronouncement lends credence to this. In *Gira v. The State*,[29] the Supreme Court states thus:

> The law is that when a clear and direct accusation is made against a person in his presence in circumstances which should warrant instant denial, refutation or protest from him and he does not deny, refuse or protest against the making of the accusation, evidence of such could be given against him as evidence of admission by conduct....

Therefore, it may be safe to conclude that silence may or may not amount to corroboration by conduct depending on the particular circumstance of the issue at hand.

(v) A corroboration may be found in the statements made by the accused either extra-judicially or in testimony in court which statements amount to admission or confession. In *Eze & 2Ors v. Queen*,[30] the principal witness was a self – confessed accomplice whose testimony required corroboration as a matter of practice. The first applicant / appellant said he was invited to go to kill the deceased, that he went with the accomplice witness and the other applicants. He was present when the deceased was killed and thrown into the river. He denied taking part in the killing. The second applicant / appellant said he was asked to keep guard while the other did the killing. The third applicant / appellant confessed fully to taking part in the killing. The applicants' application for leave to appeal was accordingly dismissed as the applicants' confessions were regarded as sufficient corroboration of the testimony of the accomplice.

The judicial attitude in the above and other cases may seem to the undiscerning legal mind to appear consistent with the provisions of section 214 of the Evidence Act cited above. But there is still a yawning gag between the two. Let us once more state the provision of section 214.

[29] [1996] 4 SCNJ, 95 at 106 per Adio, JSC. See also *Uteh v. The State* [1992] 2NWLR @ 257; *R. v. Kumi* [1949] 12 WACA 338. But see also *Oke v. The Republic* [1967] NMLR 69; *Mbele v. State* [1990] 4 NWLR 484 @ 500 – 501.

[30] [1959] SCNLR 350. See also *Ugwu Olaba v. R* [1959] SCNLR 350. Contrast with *Eda Okonwu & Anor v. R* [1959] SCNLR 399.

> In order to corroborate the testimony of a witness, any former statement made by such witness relating to the same fact at or about the time when the fact took place, or before any authority legally competent to investigate the fact, may be proved.

There is no gainsaying that the corroboration in section 214 refers to the testimony of a witness by the statement of the same witness (the same person). This is not so in the judicial practice in *Eze & 2 Ors v. R.* In *Eze*, the evidence held as corroborated is that of the accomplice and by the statements of the accused person (different parsons). Therefore, section 214 is still regarded in many an academic circle as a monster[31] given the principle of independence and *extraneity* of the testimony that will serve as corroboration.

(vi) Corroborative evidence may also be in the form of real or documentary evidence. In *R. v. Ejim Onovo & Ors*[32], the accused persons who were charged with murder, after making statements to the police, escorted the police to the spot where the body of the deceased was found. It was held that the finding of the body, a real evidence, is corroboration of the confession contained in the statements of the accused. Again, in *Gabriel Efobi v. Commissioner of Police*[33], the accused persons were charged with offering a bribe to an Assistant Superintendent of police. During the interview at which the bribe was offered, a tape-recorder, which had been hidden in the room, recorded the interview. It was held that the tape-recorder, which was admissible as real[34] evidence, provided

[31] See F. Nwadialo, *Op. Cit.*, note 26, pp. 433 -434.

[32] [1958] 3 F.S.C. 26.

[33] [1963] NNLR 1.

[34] Tape-record like pieces of information in computer hard droves, CD – ROMs, removable flash drives, floppy diskettes, motion pictures recorded in video cassettes and CDs, etc, is still classified as real evidence under the Nigerian evidence laws. This is because the definition of 'document' in section 2 of Evidence Act does not include or cover all these. On the contrary, these have all been classified as documents under the recent English evidence enactments where document is defined to mean "anything in which any information of any description is recorded" (Cf section 134 (I) of *Criminal Justice Act 2003*; section 13 of the *Civil Evidence Act 1995*). Even before the enactments, the English courts had started applying a judicial discretion in relation thereto (Cf Or 31 R 4 of RSC of England; *Grant V. SW & Country PTY Ltd* [1994] 2 All ER 464; *Wallace Smith Trust Co. Ltd V. Delliotte Haskins & Sells* [1996] 4 All ER 403; *Derby & Co. Ltd V. Weldon* (No 9) [1991] 2 All ER 901). An amendment of the Nigerian Evidence Act is therefore, suggested especially in the light of recent development in cybernetics. See generally V. B. Ashi, *Documentary Evidence: Issues, Conflicts and Responses* (Lagos: Ginnai Nig. Ltd, 2007), pp. 3-4.

corroboration of the evidence of the accused, and may constitute sufficient corroboration against him.[35] Also admission of the offence to other persons may be enough corroboration. In *R. v. Kufi*[36], the accused was charged with indecent assault against a girl of ten years of age. It was held that the admission of the offence by the accused to the father of the girl was adequate corroboration.

Finally, any question on the nature of corroboration cannot afford to ignore the relevance of section 213 of the Evidence Act. The section states thus:

> When a witness whom it is intended to corroborate gives evidence of any relevant fact, he may be questioned as to any other circumstances which he observed at or near to the time or place at which such relevant fact occurred, if the court is of the opinion that such circumstances, if proved, would corroborate the testimony of the witness as to the relevant fact which he testifies.

This means that corroboration of any material evidence can be sourced even from cross – examination.

4. Instances where Corroboration is Needed:

There is no gainsaying that, as a matter of general rule, the court may attach whatever weight it chooses to any of the items of evidence it hears and does not necessarily have to look for corroboration. Thus, in Nigerian legal system, no number of witnesses is required for the proof of any fact in issue and a person can be validly convicted of any offence on the oath of a single adult witness just as a plaintiff in a civil suit can succeed on the evidence of a single witness without confirmation by the testimony of another person. The Evidence Act provides that "except as provided in this section, no particular number of witnesses shall in any case be required for the proof of any fact"[37].

[35] *R. v. Abuah* [1961] All NLR. 635.
[36] [1969] WNLR. 1.
[37] Section 179(1).

Corroboration of evidence is therefore not required except where the law demands it. This provision has received judicial blessings in a number of cases.[38] Oputa JSC in *Onafowakan v. The State*[39] holds that "it is trite that the evidence of one solitary credible witness can establish a case beyond reasonable doubt and that it is said that truth is not discovered by a majority vote". In *Oguonzee v. The State*,[40] the Supreme Court held that "in arriving at a conviction in criminal cases, the court is concerned with whether or not there is sufficient credible evidence of probative value and not the number of witnesses called on an issue". Thus, an accused person can be convicted on the evidence of a single witness whose evidence is material enough to be capable of being believed.[41] There is no doubt that this general principle is diametrically opposed to what prevailed during the compurgation era where more than the testimony of one person was always required to convict or exculpate an accused person[42]

However that may be, the above constitutes only a general principle of evidence law. The same section 179 of the Evidence Act introduces some exceptions when it begins with the expression: "Except as provide in this section...." These exceptions are contained in section 179 and other provisions of the Act. Also as we noted above, judicial practice has evolved other instances where corroboration is needed for a proper determination of a case. In what immediately follows, we shall adumbrate respectively these instances of corroboration.

[38] Cf. *Ohuka v. The State* (No 2) [1998] 4 NWLR (pt 86) 36; *Edamine v. The State* [1996] 3SCNJ 12; *Bassey v. The State* [1993] 7 NWLR (Pt 306) 467; *Amadi & Ors. v. The State* [1993] 11 SCNJ @ 71 – 72.
[39] [1987] 7 S C N J @ 233; [1987] 3 NWLR, (pt 61) 538; [1987] 2 NSCC, 1099 @ 1111.
[40] [1998] 5 NWLR (pt 551) @ 521; *Ali & Anor v. State* [1998] 1 NWLR @ 168.
[41] *Usufu v. The State* [2007] 3NWLR (pt 1020) @ 112-113, *Garko v. State* [2006] 6NWLR (pt 977) @ 524.
[42] Napoleon is quoted as stating that "the testimony of an honourable man is insufficient to convict a scoundrel but the testimony of two scoundrels can put behind bars an honourable man". This criterion by numerical capacity is not the law in Nigeria. See Z.C, Anyogu, *Unpublished Lecture Note on Corroboration*, Unizik, Awka, 2005.

4.1. Where Corroboration is required as a matter of Law –

Although a court of law needs not take the fact of the number of witnesses *per se* into account in deciding which side that would succeed, yet the Evidence Act creates some exceptions in relation thereto. Those instances are hereby taken *seriatim*.

4.1.1 Breach of Promise to Marry –

Breach of promise to marry is perhaps the only instance of civil cause in which corroboration is required as a matter of law for the plaintiff to recover a verdict. Section 177 of Evidence Act provides that "no plaintiff in any action for breach of promise of marriage can recover a verdict, unless his or her testimony is corroborated by some other material evidence in support of such promise...." The same section holds that "the fact that the defendant did not answer letters affirming that he had promised to marry the plaintiff is not such corroboration". However, under the *English Evidence Act 1869*, it was held that the defendant's constant reference to the plaintiff as his fiancée sometime before the alleged engagement was sufficient corroboration.[43] This English provision, nonetheless, does not bind the Nigerian courts. In any event however, the conduct of the defendant to the plaintiff will be sufficient because the provision of section 177 does not necessarily require the testimony of another witness but "some other material evidence in support of such promise...."[44] Failure to answer letters does not always imply consent.[45]

May we also note at this juncture that there has been no specific provision of the law for corroboration in any of the matrimonial offences though the courts have evolved certain rules in relation thereto.

[43] *Wilcox v. Jeffrey* [1872] 26 L.T. 481.
[44] See *Bessalar v. Stern* [1877] C.P.D. 265. Here the plaintiff told the defendant: "you always promise to marry me but you never keep your words". The defendant usually said nothing but gave her money to go away. The court held that the defendant's conduct here amounted to corroboration.
[45] Cf. *Wiedeman v. Walpole* [1891] 2 Q B. 534; *Dagar v. Kafas* [1979] 2 LRN 334.

In *Sowande v. Sowande*,[46] Dickson J. stated thus:

> Of course, it is quite plain that a court will not necessarily refrain from pronouncing a decree simply because the evidence is uncorroborated. But the court would hesitate to grant a divorce on the sole and unsupported testimony of a petitioner.

Nevertheless, divorce is more easily granted on the unsupported testimony of a petitioner in a defended suit than in an undefended one. This is because in the latter cases, the possibility of collusion is greater than in the former in which the need for corroboration is higher[47]

4.1.2 Treason and Treasonable Offences –

Section 179 (2) (a) of the Evidence Act provides that:

> No person charged with treason or with any felonies mentioned in section 40, 41 and 42 of the Criminal Code can be convicted except in his own plea of guilty or on the evidence in open court of two witnesses at least to one overt act of the same kind of treason or felony alleged, or the evidence of one witness to one overt act and one other witness to another overt act of the same kind of treason or felony.

This provision has always been interpreted to mean oral testimony in court of at least two witnesses testifying to the same overt act or giving 'snippets' of the overt act alleged in the indictment. In *R. v Omisade*[48], the Supreme Court held that it is not necessary that a witness must be able to testify to an overt act in its entirety but it is sufficient if a number of witnesses give evidence of 'snippets', which add up to proof of an overt act.

The rule that at least two witnesses are required in proof of treason does not extend to where the overt act of the alleged treason is the killing of the Head of State or a direct attempt to endanger the life or injure his person.[49]

[46] [1960] LLR.
[47] The Nigerian Law School, *Course Hand book on Law of Evidence*, 2006 – 2007. p. 111.
[48] (1964) NMLR @ 67; See also *Enahoro v. R* [1965] I NMLR 265.
[49] Section 179 (2) b of Evidence Act.

4.1.3. Perjury –

Section 179 (3) of Evidence Act provides thus:

> A person shall not be convicted of committing perjury or counseling or procuring the commission of perjury upon the uncorroborated testimony of one witness contradicting the oath on which perjury is assigned unless circumstances are proved which corroborate such witness.

This is on all fours with the provision of section 119 of the Criminal Code, which creates the offence of perjury. Section 119 of the Code states that "a person cannot be convicted of committing, counseling or procuring the commission of the offence of perjury on the uncorroborated testimony of one witness". Both provisions have been interpreted to mean that both the fact that the statement was made and the falsity thereof must be corroborated.[50]

4.1.4. Exceeding Speed Limit –

Section 179 (4) states that:

> A person charged under the Road Traffic Act with driving at a speed greater than the allowed maximum shall not be convicted solely on the evidence of one witness that in his opinion he was driving at such speed.

It should be noted that evidence relating to exceeding speed limits without reference to any mechanical device is opinion evidence. The implication is that such evidence would usually be inadmissible except where made so admissible under the provisions of sections 57 to 65 of Evidence Act.[51] However, in *Brighty v. Pearson*,[52] the evidence of opinion of two credible witnesses that an accused was driving at a speed in excess of that allowed under the law would be admissible and would be sufficient provided that the testimony related to the same stretch of road and at the same time. Again, in *Nicholas v. Penny*[53] the police officer's evidence that he followed the accused over a stretch of the road in a police car and

[50] *R. v Salome Ogunubi* [1932] 11 NLR 91 @ 93.
[51] Cf. Section 66 of Evidence Act.
[52] [1934] 4 All ER 127.
[53] [1950] 2 KB. 466.

intermittently consulted his ear speedometer was held sufficient to sustain a conviction. This is certainly opinion evidence supported by a mechanical device (the speedometer).

4.1.5 Sedition –

The provision of section 179 (5) of Evidence Act is to the effect that "a person shall not be convicted of the offence mentioned in paragraph (b) of subsection (1) of section 51 of the Criminal Code upon the uncorroborated testimony of one witness". Section 51 (1) (b) of the Code provides that:

> Any person who utters any seditious words.... shall be guilty of an offence and liable on conviction for a first offence to imprisonment for two years or a fine of two hundred naira or both such imprisonment and fine and for a subsequent offence to imprisonment for three years.

Let it be noted that while section 51 of criminal code makes offence conspiracy to do or act with seditious intention, printing, publishing, distributing, selling or reproducing seditious publication, or importing any seditious publication, section 179 (5) of Evidence Act is concerned only with uttering seditious words.

Further, section 52 (3) of Criminal Code provides that "no person shall be convicted of an offence under section 51 (1) (b) on the uncorroborated testimony of one witness". Therefore, both section 179 (5) of Evidence Act and section 52 (3) of Criminal Code are *ad idem* in requiring corroborative evidence for a conviction of anyone accused of uttering any seditions words.

4.1.6. Specified Sexual Offences –

The remaining provision of section 179 (5) of Evidence Act provides for corroboration in certain specified sexual offences. These named offences are created by the following sections of the Criminal Code:

(i) Section 218 - Defilement of girls under 13 years.
(ii) Section 221 - Defilement of girls between 13 and 16 and idiots.
(iii) Section 223 - Procuration.
(iv) Section 224 - Procuring defilement of women by threats fraud or administering drugs.

Section 275 of the *Penal Code* contains similar provisions. It is observed that each of these sections contains the evidential provision that a person shall not be convicted on the uncorroborated testimony of one witness. In view of these specified offences, corroboration is required as a matter of law. Failure to meet the requirement would be fatal to conviction.[54] But as regards other sexual offences, Nigerian courts have adopted the English attitude to insist on corroboration as a matter of practice.[55]

4.1.7. Unsworn Evidence of a Child –

Section 183 (3) of Evidence Act provides that a person shall not be liable to be convicted of an offence unless some other material evidence in support thereof implicating the accused corroborates the unsworn evidence of a child.[56] The jurisprudential reasoning is that a child who is unable to understand the nature of an oath and who is only able to give unsworn evidence is more likely to be younger than the one who understands the nature of oath. This is the basis for corroboration in such cases.

However, it should be noted that the emphasis is not necessarily on the age of the child but on the ability to understand the questions put to him and give rational answers thereto. A child of any age is a competent witness once it is perceived that the child can exhibit the acceptable degree of intelligence. Such a child can give evidence on oath if he understands the nature of an oath. He may give unsworn testimony if he is unable to understand the nature of an oath. But in either case, it must be clearly shown to the court that the child understands the duty of speaking the truth.[57]

Corroboration is only compulsory in the case of an unsworn testimony of a child. Hence, it was held in *Omosibe v. Commissioner of Police*[58] that a conviction

[54] *Ahmed v The State* ([1997] 10 NWLR (pt 526) 653.
[55] *The State v. John Ogwudiegwu* [1968] NMLR, p. 113; *I.G.P v. Summonu* [1957] WRNLR 23.
[56] *Okon v. The State* [1988] 1 NWLR (pt 69) 172; *R v. Kufi* [1960] NWLR 1.
[57] Section 182 (1) of Evidence Act; *Shazali v The State* [1988] 5 NWLR (pt 93) 164.
[58] [1959] WRNLR, 209.

could be had on the uncorroborated sworn evidence of a child. No corroboration is required although the court in acting upon such evidence must do so with great caution. The younger the child, the greater the risk of acting on such evidence. In the case where corroboration is needed, it is trite that an unsworn testimony of another child cannot provide the corroboration. The sworn testimony of a child or of an adult can serve as sufficient corroboration.

4.2 Where Corroboration may be required as a matter of Practice:

The following constitute instances where corroboration is required neither by the Evidence Act nor by any other statute. Here, the Nigerian courts demand corroboration only as a matter of judicial practice. They include:

4.2.1. Evidence of an Accomplice –

Section 178 (I) of the Evidence Act provides thus:

> An accomplice shall be a competent witness against an accused person, and a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice. Provided that in cases tried with a jury when the proof against a person charged with criminal offence is the evidence of an accomplice, uncorroborated in any material particular implicating the accused, the judge shall warn the jury that it is unsafe to convict any person upon such evidence. Though they have a legal right to do so and in order cases the court shall so direct itself.

Obviously, the above provision does not require corroboration of accomplice evidence. In fact, in clear terms, it holds that a conviction would not be unlawful merely because the evidence leading thereto is uncorroborated. However, failure to give the statutory warning required by the proviso to the section would be fatal to the conviction. Presently, where jury trial had been abolished in Nigerian justice system, the statutory warning is directed only to the judge by the judge.[59] The net effect is that judges who demand corroboration of accomplice evidence do so only as a matter of conventional practice.

[59] See also *Okosi v. The State* [1989] NWLR 642 (pt 100); *Adebayo v. The State* [1987] 2 NWLR (pt 57) 468. See however Niki Tobi's criticism against this practice of a judge warning himself. He asks the following questions in relation thereto: What is the practical effect of the law expecting the trial judge to warn himself of the danger of convicting without corroboration? If he does not warn himself, is our adjectival law not pretentious here? And how can law afford to be pretentious? Cf *Ogumbayo v. State (supra)* 157; *Iko v. State (supra)* 221.

Be that as it may, over the years the fundamental question that has agitated the minds of jurists and scholars is: Who is an accomplice? The Evidence Act unfortunately does not define the term 'accomplice'. However, in *R v. Okoye & anor*,[60] the court states that "a witness is only an accomplice if he is a person who might on the evidence be convicted of the offence with which the accused is charged". Similarly, in *Idahosa v. R*[61] the Supreme Court adopting the definition in *Halsbury's Laws of England* states thus: "Persons are accomplices who are *participes criminis* in respect of the actual crime charged whether as principals or accessories before and after the fact in the case of felonies or misdemeanors". In *Ishola v. The State*[62] the court held that persons who are to be regarded as participants or parties to a crime are classified in section 7 of the Criminal Code. In *Wanchi v. The State*[63] the term *participes criminis* was extended to include participants in other crimes alleged to have been committed by the accused where the evidence of such other crimes are relevant and admissible to prove system, intent or to negative accident.

In search of a proper definition of an accomplice, our courts have associated and compared accomplices with other persons connected in one way or another with the accused, and used that as an opportunity to decipher whether or not the evidence of any such person requires corroboration as a matter of practice. We shall take those instances *singulatim*.

4.2.1.1A Person who has mere Knowledge that an Offence will be Committed and does nothing to Prevent it –

The law is quite straight on this point. The mere fact that a person knows that another was going to commit an offence but does not prevent its commission does not make that person an accomplice. Hence, no warning as to corroboration

[60] [1950] 19 NLR 103.
[61] [1965] NMLR, 85; *R. v. Ezechi* [1962] All NLR 113 @ 116.
[62] [1978] 9 – 10 SC 81.
[63] [1976] 9 – 10 SC 107.

need be given by the judge to whosoever.[64] In other words, the testimony of such a person need not be corroborated.

4.2.1.2Agent Provocateurs

The *Black's Law Dictionary* defines an agent provocateur as "a person who entraps or entices another to break the law and then informs against that other as a lawbreaker".[65] In *R v. Mullins*[66] the term is defined as:

> ... one, usually a police officer, secretly engaged as a spy to join in the perpetration of a crime by inducing or inciting an offender or offenders to commit it, the real purpose being to procure evidence against the offender or offenders through him.

Be these definitions as they may, the primary responsibility of an agent provocateur is to assist in the detecting of crimes using some deceptive tactics (detection by deception). This is the hallmark of the doctrine of entrapment in American criminal jurisprudence. Ordinarily such a person could be said to have assisted in the commission of the offence and thus an accomplice and whose evidence the provisions of section 178 of Evidence Act would therefore affect. In law, however, emphasis is usually laid on the degree of involvement of the agent provocateur. The test is that if the principal suspect had manifested a clear intention to commit a crime and the police and their aides facilitate the commission of the offence in order that the suspect is apprehended, these police officers and their aides cannot and should not be regarded as accomplices whose evidence requires corroboration. Corroboration, if required at all, is done only as a matter of judicial practice and not of law.

Where, on the other hard, the agent provocateur incited, provoked and actively participated in the commission of the offence, the court should warn itself of the danger of convicting on the uncorroborated evidence of such a witness. In *R*

[64] See *R v. Okoye & anor* [1950] 19 NLR 103; *Ogunlana v. The State* [1995] 55 CNJ 189.
[65] B. Garner, (ed.), *op. cit.*, note 1, p. 65.
[66] [1848] 3 Cox 526 @ 527.

v. Israel David & Ors[67], a native doctor, to whom the accused persons wanted to sell a boy, informed the police. The police officers pretended to be buyers and after the price had been fixed at £30 disclosed their identity. The trial judge took the view that the evidence of the native doctor and the police officers required corroboration.

Let it be noted however that the continued use of this 'defection by deception' technique in Nigeria justice system has recently come under severe criticism.[68] This is normally premised on the fact that apart from being unfair on the persons on whom it is paractised, in most cases, it amounts to calling a dog a bad name in order to hang it. Besides, it is diametrically opposed to the basic *axiomata* on which the duties of the police are founded, namely prevention of crime, *inter alia*. It is argued that in participating in the commission of a crime, which he instigated as an agent provocateur, the police officer would have failed in his duty to prevent the commission of the offence, and other kindred tasks. In our view, this practice should rather be deprecated.

4.2.1.3Participators in Negotiations Leading to a Crime –

It is trite that an intermediary in the asking and receiving of bribe is an accomplice.[69] He is an accomplice of both the giver and the receiver.[70] In *Johnson Obi v. I.G.P*[71], a police corporal had threatened to arrest two court messengers and a councilor for illegally investigating a case of attempted murder. The messengers reported this to the village chief who summoned a meeting at which the accused demanded £60 if he was not to arrest the messengers and the councilor. The chief suggested £50 which was agreed to and given to the accused corporal. The accused was charged with demanding with menaces contrary to the provisions of

[67] [1960] WRNLR, 170.
[68] See for instance, E.O.C. Obidimma, "Agent provocateur – Devil's Agent: A Criticism of the Role of the Police as Agent Provocateur in our Criminal Justice System", *Unizik Law Journal*, Vol. 4 No. I, 2004, Pp. 103 – 111.
[69] *Johnson Ereku v. R.* [1959] WRNLR, 77.
[70] *Ogbu v. R.* [1959] NRNLR, 22.
[71] *Johnson Obi v I.G.P* [1959] WRNLR, 68.

section 406 of the Criminal Code. It was held that the chief and another witness who took part in the negotiation were accomplices and thus their testimonies were caught in the web of provisions of section 178 of the Evidence Act.

4.2.1.4Tainted Witness –

The expression 'tainted witness' is not defined in the Evidence Act. It is neither defined in any other statute nor in the *Black's Law Dictionary*. Anyogu however notes that this lacuna is not a justification for the impossibility of defining the term.[72] It is a judicial creation having been first introduced into the Nigerian legal system in the treasonable felony trials involving Awolowo in which four Supreme Court Judges thought a particular witness was not an accomplice. The fifth Judge, Mbanefo, Ag JSC thought the particular witness was an accomplice or at least a tainted witness. This witness had been attending meetings for 9 months in which the issue of overthrow of the government *vi et armis* was discussed. No longer enthused with the idea, the witness asked to be released from further participation at the meeting. This request was granted after an oath of secrecy had been taken, and the witness in fact kept this secret for 10 months thereafter.[73] In the instant case, Mbanefo Ag JSC opined that:

> Even if he (the witness) could not be regarded as an accomplice in the strict sense (although I am of the opinion that he is), he is one of those whose evidence it would be unsafe to act without corroboration.

Thus, Mbanefo Ag. JSC was of the view that he was an accomplice or at least a 'tainted witness' as has been suggested by one of the counsel for the defence.[74] Recently, Niki Tobi J.C.A (as he then was) defined the term tainted witness thus:

> A tainted witness is a person who may not strictly be an accomplice but one who has some purpose of his own to serve. The evidence of such a witness ought to be regarded with considerable caution and the trial court should be

[72] Z. C. Anyogu, *Evidential Perspectives on the Defence of Alibi in Nigeria, op. cit.*, note 22, p. 116.
[73] See *R v. Omisade & Ors* [1964] WNLR 67.
[74] See also *Okosi v. The State (supra).*

wary in reaching a verdict of guilt on the uncorroborated evidence of such a witness....[75]

Hence, because the utmost ambition of a tainted witness is to project his own purpose or interest for which he is not even bothered about the veracity or authenticity of the evidence he gives, the judicial process in Nigeria subjects such evidence to the provisions of section 178 of the Evidence Act. Thus, it is quite desirable that the warning as to corroboration of his evidence be appropriately given.

4.2.1.5A Person Present at the *Locus Criminis* –

There is no gainsaying that mere presence at the scene of crime does not make one a party to the crime and therefore such a person may not properly be regarded as an accomplice.[76] In *Onyikoro & Ors v. R*[77], a witness and the appellants were members of a gang whose objective was to try thieves in the house of the first appellant. If found guilty, the thief would be fined and if the convict failed to pay the fine, he would be executed. Here, the appellants were convicted of the killing of one of such convicts. The witness did not participate in the killing but stood outside watching through the door. The next day, he was fined £5 for not assisting in the killing. He was still a member of the gang at the time of the trial. Without considering whether he was a tainted witness, the court held that he was not an accomplice. In our considered view, this decision is particularly good as the appellants neither commissioned the witness to be on the watch out for them through the door nor did they consider him of any help to them in the course of killing the man. That is certainly the reason why the witness was fined. Thus, he was neither a principal actor, an aide nor one who abetted. But if on the other hand, the presence of the witness in any way had encouraged the commission of the offence, he would be regarded as an accomplice whose evidence may either require corroboration or subject to the statutory warning in section 178 of

[75] *Ikwunne v The State* [2000] 5 NWLR (pt 658) 550 @ 562. See also *Idahosa v. The State* [1965] NWLR, 85.
[76] *R v. Ukpe* [1938] 4 WACA, 141; *R v Ukut & Ors* [1960] 7 SC 183.
[77] [1959] NRNLR, 103.

Evidence Act. However, it is our opinion that if the witness had been considered a 'tainted one', his testimony might have needed to be corroborated though at the time of *Onyikoro* (1959), the term 'tainted witness' has not entered into the Nigerian judicial lexicography. It took extra five years in *Omisade* (1964) for the expression to emerge.

4.2.1.6Victims of Offences –

Generally, victims of offences are not usually accomplices. But on a more profound consideration, a victim, depending on the particular offence and surrounding circumstances may be adjudged an accomplice. Thus, while a victim of the offence of rape cannot be regarded as an accomplice, parties to homosexual and similar offences are certainly accomplices. The giver of tribe may or may not be an accomplice. He would not be one if the case were more of extortion than bribery *simpliciter*. But a person, who has voluntarily acceded to a request for money in order to obtain a favour or preference not ordinarily open to him, cannot be regarded as a victim in giving what he must have known was a bribe for that purpose.[78] He is an accomplice whose evidence is subject to the relevant laws and practice.

4.2.1.7A Co-Accused –

Section 178 (2) of Evidence Act provides:

> When accused persons are jointly tried and any one of them gives evidence on his own behalf, which incriminates a co-accused, the accused who gives such evidence shall not be considered to be an accomplice.[79]

The net effect of this provision is that the evidence of a co-accused requires no corroboration as a matter of law though such evidence should be suspiciously regarded and cautiously accepted.[80] Thus, it is essential for the trial court to properly direct itself that the evidence of an accused person, which incriminates a

[78] *Nwanchi v. The State (supra).*
[79] See also *Okoro v The State* [1988] 5 NWLR (pt 94) 255; *Ozaki v. The State* [1990] All NLR. 94.
[80] *R.v. Rufai Alli & Anor* [1949] 12 WACA 432; *IGP v. Akinbayode* [1958] WRNLR 161.

co-accused, should be suspiciously regarded and carefully scrutinized. Corroboration may be required as a matter of practice.

4.2.2 Retracted Confession –

It is pointed out in *Egboghonome v. The State*[81] is that it is desirable, where an accused person retracts his confession, to have some evidence outside that confession, which would make it probable that the confession was true.

4.2.3 Evidence in Previous Proceeding (Section 34) –

Although evidence in previous proceedings under section 34 of the Act is admissible without corroboration[82], before admitting it, the judge has to be cautious. He has to appreciate that he will be relying on the evidence of a witness he did not see, whose veracity he cannot personally vouch for. Thus, it is desirable to look for corroboration or to warn himself. In *Iko v. The State*[83] Iguh JSC offered the following instructive explanation. It is worth quoting in *extenso:*

> On the issue of the warning, it is settled that no particular form of words need be used by the court but the judge must use simple and plain language that will, without doubt, convey to the jury that there is a danger in convicting on the complainant's evidence alone, the jury should then be told that bearing that warning in mind, they must look at the particular facts of the case and if, having given full weight to the warning that it is dangerous to convict, they came to the conclusion that, in the particular case, the complainant is, without any doubt, speaking the truth, then the fact that there is no corroboration cannot be any matter of great moment and they will be entitled to convict accordingly.[84]

4.2.4 Other Cases –

Other instances where corroboration is required merely as a matter of practice include sexual offences other than those, which have been specified herein, the sworn evidence of a child,[85] matrimonial causes other than the breach

[81] *Egboghonome v. The State* [1993] 4 SCNJ, 95 See also *Kereem v.* FRN [2003] 16 WRN 114, 132.
[82] *Doka v. The State* [1968] NMLR 48.
[83] *Supra.*
[84] *Supra*, p 249. See generally C.C. Nweze, *Contentious Issues and Responses in Contemporary Evidence Law in Nigeria*, vol.2 (Enugu: Institute of Development Studies, 2006),pp 174-175.
[85] *Akpan v. The State* [1967], NMLR 185; *Mbele v. The State* [1990] 4 NWLR 484; *Onyegbu v. The State* [1995] 4 SCNJ 275 @ 290.

of promise to marry,[86] convictions based solely on the deposition of an absentee witness,[87] and confessional statements of the accused.[88]

5. Effect of Absence of Corroboration:

There are two limbs to this idea, namely, where corroboration is required as a matter of law, that is, under the Evidence Act or any other statute, and where corroboration is required as a matter of practice. In the former case, a conviction recorded without the requisite corroborative evidence will be quashed on appeal[89] since the requirement of corroboration is mandatory. To ensure a proper observance of this evidential rule, the adjudicating judge should show exactly what he regards as constituting corroboration.[90] If what the judge considers corroboration does not in fact amount to such, the conviction or the verdict will be quashed on appeal.[91] Again, if the judge wrongly holds that evidence, which needed corroboration, does not require it, a final decision based on such a wrong finding will be upturned.[92]

On the other hand, where corroboration is required only as a matter of practice, an accused may be convicted without any corroborative evidence provided that the court warned itself of the danger of convicting in the circumstance.

It should be noted however, that whether corroboration is required either as a matter of law or a matter of practice, the very question whether a piece of evidence can in law amount to a corroboration of another piece of evidence is an issue of law to be determined by the judge.[93] If this question is answered in the affirmative, another question is whether the first piece of evidence does in fact

[86] *Odunjo v. Odunjo* [1964] LLR, 43; *Ademola v.Ademola* [1957] WRNLR 208.
[87] *Doka & Ors v. The State* [1968] NMLR 487.
[88] *Onochie & Ors v. The Republic* [1966] NMLR, 307.
[89] *R. v. Okagbue* [1958] 3 F.S.C 27; *Oyediran v. The Republic* [1967] NMLR, 122.
[90] *Oke v. The Republic* [1967] NMLR 69.
[91] *Jibrin Okachi & Ors v. The State* [1975] 3 S.C. 135.
[92] *Obi v. Police* [1959] WRNLR 68.
[93] *Reekie v. R* [1954] 14 WACA 501 @ 502.

amount to corroboration of the second piece on the facts of the case. This is an issue of fact for the jury or the judge where he sits alone. In Nigeria where the jury trial had been abolished, it is solely for the judge to so determine.

6. Conclusion:

We conclude this paper by attempting to reflect on one important jurisprudential question raised in the introduction to this work, namely, what is the rationale for corroborative evidence in our justice system? In other words, why corroboration? As we noted above, corroboration is an exception created by law and judicial practice, the general rule being that one qualitative evidence is enough to found a conviction. Going through the respective instances adumbrated above, one will not fail to see the reason why corroboration is required in some cases, which mainly fall within the ambience where corroboration is required as matter of practice. For instance, an accomplice who is a party to a crime is most unlikely to feel obliged to tell the truth especially if it would implicate him. This also goes for the testimony of a tainted witness or of a co-accused who may have an interest or purpose of his own to serve. Again, an agent provocateur may develop a personal interest to share in the 'fruit' of an offence, and as such may not be concerned with the veracity or authenticity of his evidence. It is only reasonable that corroborative evidence be required for a proper and just determination of the issues. This paper strongly suggests that the question of corroboration should be made an issue of law, exclusively.

In the same vein, corroboration is rightly required in some civil cases. The reasons are not difficult to see. In matrimonial causes, for instance, a promise to marry another normally takes place mostly between the *promisor* and the *promisee*. In the Nigerian society, such a promise hardly comes in the open until the actual inter-family stages of negotiation *(matrimonium in fieri)* and the marriage ceremony itself *(matrimonium in facto esse)*. Given this confidential and secretive dispensation, one can falsely claim that a marriage had been promised

one. In view thereof, a demand for corroborative material evidence of such a promise becomes appropriate. In cases of dissolution of marriages, corroborative evidence is also rightly required because of the need for stability and sanctity of the marriage institution. Corroboration evidence will therefore be an index of a more serious testimony that will constitute a solid reason for the dissolution of such an important human institution. There is no need spilling much ink on the need for corroboration in relation to the evidence of children generally. Corroboration is surely required due to the possibility of insufficient intelligence of a child on account of being a minor. Therefore, if there is corroboration evidence coming from an adult or a child who was sworn to an oath, such may dispel the possible judicial fear that the first piece of evidence might be distorted due to age.

In matters of sedition, any seditious act is always aimed at inciting treason or some lesser commotion against public authority. In fact, the difference between sedition and treason is that preliminary steps commit the former, while the latter entails some overt act for executing the plan. It thus appears that the rationale for the need for corroboration with regard to sedition is in proving the 'seditious intent', which is an important ingredient of the offence. Intent is an unseen reality. "Not even the devil knows the mind of man" is an oft-quoted maxim accredited to Bryan, C. J. The intent of a man is probably known only to himself. Therefore, there is a dire evidential need for material corroboration of a piece of evidence in proof of uttering seditious words.

Similarly, the statutory need for corroboration in perjury matters is quite reasonable. Perjury means lying on oath. The court needs strong evidence supporting another piece of evidence given against a person charged of perjury. Certainly, this is not because one cannot easily tell lies, but because the court needs to be adequately convinced that the accused actually told lies while on oath. Furthermore, given the need for corroborative evidence in the matters of the

specified sexual offences adumbrated in the Criminal Code on account of perhaps the occult nature of the commission of those offences, one may suggest that corroboration even as a matter of law be extended to all sexual offences.

While the need for corroboration in the above instances is glaring, it is not immediately clear why corroboration is a peculiar statutory requirement for some specified cases. For instance, what is the reason for corroboration in cases of treason and treasonable felonies? Is it because they constitute a capital offence in Nigeria? But there are other capital offences such as murder, armed robbery, and culpable homicide punishable with death. Why is corroboration not required in these latter instances as a matter of law? Even in relation to treason, why is corroboration not needed when it concerns the killing or endangering the life of the President? Is our evidence law not pretentious and discriminatory? If corroboration is a *sine qua non* for grounding a conviction on a charge of treason because of its gravity, why is it not extended as a matter of law to other grievous offences mentioned above?

Finally, it is our hope that the ongoing process of review of the Evidence Act will take the issues raised in this paper into consideration.