ACADEMICIA: An International Multidisciplinary Research Journal
ISSN: 2249-7137 Vol. 11, Issue 11, November 2021 SJIF 2021 = 7.492
A peer reviewed journal

CONCEPT OF PLEA BARGAINING

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DOI: 10.5958/2249-7137.2021.02483.6

ABSTRACT

Plea bargaining was first adopted in criminal law as a way to avoid congestion in prisons, overloaded courts, and excessive delay. Its strategy has resulted in quicker processing of criminal cases and appeals, as well as easing the suffering of inmates awaiting trial. If a settlement is achieved, the victim may be compensated by the court. The state has a fundamental responsibility to protect people' lives, liberties, and property. PriyadarshiniMattoo, JesicaLall, and NitishKatara, the finest bakery, are evocative of major gaps in criminal justice enforcement systems that have a direct impact on the degree of infractions in our society. Plea bargaining is an agreement or negotiation between the prosecution and the defendant in criminal law. The defendant pled guilty after waiving his right to a fair trial. Plea bargaining's major disadvantage is that it is often utilized against the poor and the innocent. The present study goes into great depth on the benefits and drawbacks of plea bargaining, as well as the measures that need to be taken to enhance the existing legal system. Plea bargaining is an important aspect of criminal justice administration. This article solely serves the interests of the wealthy, making it irrational, since impoverished offenders avoid confessing because they know that even if they confess, they would not get the same benefits as a wealthy partner. The Supreme Court, on the other hand, found that plea bargaining was unconstitutional, unlawful, and often promoted corruption, collusion, and contamination of pure judicial methods in a historic decision.

KEYWORDS: *Crime, Coercive Bargain, Justice, Plea-Bargaining, Unfair Trials.*

1. INTRODUCTION

The goal of criminal law is to defend and preserve the rights of people and countries from foreign invasion; to protect the vulnerable from the powerful; to ban unlawful actions and to maintain peace in the face of violence. Citizens' lives, liberties, and property are safeguarded. It is the state's solemn duty. Cases like Best Bakery, PriyadarshiniMattoo, Jesica Lal, and NitishKatara highlight major flaws in criminal justice delivery systems that have a direct impact on the level of crime in our society. Plea bargaining is an important aspect of criminal justice administration. Most criminal cases are quickly and definitively resolved as a result of it **[1].**

It benefits both parties. A plea bargain is a legal agreement between the prosecution and the defendant based on the prosecutor's concession in a criminal case. Sentence bargaining and charge bargaining are the two major kinds of plea agreements. In the previous agreement, the defendant pled guilty and was given a reduced term. However, the defendant admitted minor

accusations against him while in charge of negotiating talks **[2].** Fact bargaining and count bargaining are two additional kinds of negotiating that are used. Bargaining takes place in the former when it comes to the facts of the case. The defendant agreed to plead guilty if some of the facts that made up his accusations were excluded from the trial. Count negotiation, on the other hand, is about the number or amount of charges. It eases the load on trial courts, saves money, improves the legal system, and eliminates time-consuming judicial processes, all of which are positive outcomes.

1.1 Definition of Plea Bargaining:

Plea bargaining is difficult to define. The word "plea" refers to the defendant's appeal, petition, request, or formal declaration, according to the Oxford Dictionary. Negotiation, settlement, agreement, contract, barter, or pact are all examples of the word "bargaining." As a result, a plea bargain may refer to an appeal or formal declaration that the defendant makes to the prosecution for a crime that he was involved in or committed.

It is defined as follows according to the Black Law Dictionary: In criminal cases, the procedure through which the defendant and prosecution work out a mutually acceptable case resolution that needs court approval. When there are several charges against the defendant, the defendant usually pleads guilty to a lower charge or punishment in return for a greater penalty than a graver offense or in exchange for a lesser charge.

Plea negotiating is an agreement struck between the prosecution and the defense in a criminal case. In return for any offer from the prosecution, the defendant alters his defense from innocent to guilty. When the court told him that if he pled guilty, the judge would reduce the defendant's punishment **[2].**

2. DISCUSSION

2.1 Plea Bargaining as a Concept:

The idea of plea bargaining is not completely foreign to Indian criminal law. However, numerous Supreme Court judgments in India show that there is a major shift in the country's criminal jurisprudence that will not be recognized in Indian law. Maharashtra v. Madan Lal Ram Chandra Daga is one of the first Supreme Court decisions, in which Hiddavatullah J. held that: If the Court believes that mercy is evident from the circumstances of the case, it may impose a lesser punishment. The Court should never be a party to a deal, even if the agent may collect the money for the appellant via this negotiating.

It is worth noting that Krishna Iyer J.'s opinion in MurlidharMeghrajLoya v. Maharashtra, which concerns the Prevention of Food Adulteration Act of 1954, which is related to a case of food adulteration, not only reflects the position of Indian law as it differs from 1976 US law, but also for the current amendment, as current plea bargaining regulations do not cover socio-economic crimes. The following are the Court's pertinent opinions: In criminal proceedings, many economic offenders resort to what Americans refer to as a "plea bargain," "begging for negotiation," "going out," and "compromising," with trial judges overburdened by light burdens agreeing. Instead of facing the agony and uncertainty of a jail cell, the perpetrator pled guilty, "led by example," agreed to plead guilty, and vowed "not to go to prison."

Now, rather than the remote victims, quiet societies, these all-ahead arrangements are beneficial to everyone. Prosecutors are relieved of time-consuming proving processes, legal knowledge, and long arguments, and the Court is relieved of cases that are overloaded. The Court groaned as one case was reduced, and torture was surrounded by a slew of papers and people. Even in the fight for the rule of law, the defendant is relieved that the prospect of abstract innocence for astrology in the costly legal system allows him to devote his spare time to his former career. Negotiating a criminal case in the United States has a lot of advantages. However, under our jurisdiction, this approach contradicts society's interests by contradicting societal choices as represented by pre-determined minimum sentence laws and covertly subverting legal requirements, particularly in hazardous economic crime and food crime **[3].**

The Law Commission's 154th report suggested that plea bargaining be included as a distinct chapter in Indian criminal law. The concept of integrating plea bargaining was mentioned in the 142 Law Commission report, which said that certain remedial legislative measures were required to minimize delays in processing criminal cases and appeals, as well as to relieve the suffering of trialed inmates awaiting trial. In 2001, the Law Commission attempted to add plea bargaining in Report No. 177.

According to the Committee on Reforms of the Criminal Justice System's 2003 study, the United States' experience has shown that plea bargaining is a method of processing accumulated cases and speeding up criminal justice enforcement.

The N.D.A. administration has formed a committee led by former Chief Justices of the High Courts of Karnataka and Kerala. To combat the rising number of criminal cases, the committee has issued suggestions. The Malimath Committee suggested that the Indian criminal justice system use a plea negotiating mechanism to speed up the processing of criminal cases and decrease the load on courts.

As a result, the 2003 Criminal Law (Amendment) Bill was presented in Parliament. The statement of purpose and rationale expressly states that criminal cases in courts take a long time to process. The trial did not begin in many instances until three to five years after the accused was placed in judicial custody. Despite the fact that it is not recognized by criminal law, it is regarded as another option for dealing with large debts in criminal situations. The law sparked a heated discussion in the public sphere.

Critics argue that acknowledging it would be against public policy in our criminal justice system. The Supreme Court has also reaffirmed the idea of plea bargains, stating that they are not permitted in criminal proceedings **[4].** The Criminal Law (Amendment) Act 2005, which modified the Criminal Procedure Code and put it into regulations including Sec.265A to 265L under a new Chapter XXI, established the plea bargain idea in India in the winter session of 2005. (A). On July 5, 2006, the agreement went into force. The Indians tried plea bargaining inside the nation after being inspired by the United States.

The delay in making the legislation available to people has become a barrier to crime prevention. Today, we observe that the rate of crime is increasing quicker than the amount of punishment meted out to these criminals. As a result, the needs of today must be a system for achieving a balance between crime and punishment. A plea bargain is one of the processes that will be used to relieve the Court of its load. The state of Karnataka was the first in India to implement the idea

of plea bargaining. HK Patil, the Karnataka Law Minister, thinks that the idea of a plea bargain would aid in the resolution of court case backlogs. Even Arvind Narain of the Alternative Law Forum thinks that this is often used to clear the backlog **[5].**

The criminal justice system in the United States has been plagued by long delays. Given the many delays that afflict the whole system, seeking justice is often a difficult and laborious procedure that leaves one with the unpleasant sensation of wasted time. Several judges, academics, and media outlets have voiced grave worries about the court system's idleness and inactivity. In Babu Singh v. State of Uttar Pradesh9, Jr. Krishna Iyer said in response to a bail request: Because the whole society is interested that offenders do their due diligence in a fair amount of time and are eventually punished, quick justice is a component of social justice. Simultaneously, in criminal procedures, innocent individuals are saved from torture.

In the case of HussainaraKhatoon& Others v. Home Secretary, State of Bihar, it was ruled that "no process that does not guarantee a reasonable and speedy trial cannot be deemed "reasonable, fair, or just" and would breach Art. 21." There is no question that quick trials, by which we mean a trial that moves at a reasonable pace, are an essential element of the basic rights to life and liberty enshrined in Art. 21 **[6]**."

In theory, the plea bargaining process reduces criminal justice administration to a barter system, in which wrongdoers negotiate between legal penalty and receiving rewards. Second, even innocent defendants will accept erroneous concessions and convictions in order to avoid the agony of long and costly trials. Third, instances in which the accused may be exonerated in the future will be reclassified as wrongful convictions. The judicial distribution system is despised by such defendants. Finally, plea bargaining may be viewed as a breach of the Constitution's principle found in Article 21. No one's liberty may be taken away from them unless they follow the legal processes.

2.2 Plea-Bargaining: Constitutional Violation:

14th Article: Plea bargaining, in reality, establishes an artificial and unjustifiable distinction between two people in comparable situations. The sole criterion for making this difference seems to be one person's capacity to recompense the victim (via money if required) vs another person's ability to fail to do so. This is prohibited under Art. 14 of the Constitution since it is arbitrary and irrational.

This article is ridiculous since it exclusively caters to the demands of the wealthy. A poor criminal avoids confessing because he knows he will not be rewarded in the same way as a wealthy buddy if he confesses. Art.14 is violated by the distinction created by the idea of plea bargaining. Due to a lack of incentives, low-level criminals choose to go to trial rather than plead guilty, which tends to grow rather than reduce litigation, since incentives are primarily for the wealthy who can fulfill the victims' demands **[7].**

Artwork 20: Art. 20(3) of the Constitution also prohibits the notion of "bargaining." The defendant is protected against self-incrimination under Article 20(3), which states: "Any person accused of any crime shall not be forced to testify against himself." Physical threats or violence, psychological torture, atmospheric pressure, environmental coercion, a weary interrogative attitude, dominating, and intimidating tactics are all examples of coercion under Art.20 clause Although the defendant appears to be proposing under Sec's following conditions by voluntary

action on the application. 265-B, in reality, he was "forced" to file an application and plead guilty, and there was no mechanism to ensure voluntary action, so the concept of plea bargaining not only violated Art. 20(3), but also paved the way for fair and legalized extortion.

It is also worth noting that, even before the "plea bargaining" program was incorporated into the C.r.PC, and the S.C. S.C. harshly condemned it, the idea was seen as a breach of Art. 21 of the Constitution, which protects the right to life, personal freedom, and liberty.

2.3 The Plea Bargaining Procedure:

Plea bargaining is a simple process. In a pending trial, criminal law enables the defendant to submit a plea transaction application with the Court. The Court must interview the defendant without engaging other parties in the case after receiving an application with an affidavit to assess if the application was submitted freely, without fear or bias **[8].**

The Court then issued a notice to the public prosecutor or complainant, instructing them to prepare a case that would satisfy both sides. The prosecution, the victim, and the defendant are free to decide on negotiations that are acceptable to both sides. If a settlement is achieved, the Court may give the victim compensation and then hear the parties' perspectives on the penalty. If a minimum penalty is imposed for a crime, the Court may impose half of the defendant's minimum sentence; it may release the defendant on probation if permitted by law; or, if the crime committed does not fall within the above conditions, the defendant may be punished by a quarter of one punishment, i.e., 1/4, provided that such crimes are punishable.

The defendant may also take advantage of Section 428 of the C.r.P.C. 1973, which provides for the defendant's custody to be offset against his or her time in jail.Except for a written petition to the State High Court under Art. 226 and 227 of the Constitution or a S.L.P. request to the Supreme Court under Art. 136 of the Indian Constitution, the judgment of an appeal is final.

The following are some of the most important court judgments on plea bargaining: The Supreme Court held in Uttar Pradesh State v. Chandrika that plea bargaining was unconstitutional, unlawful, and fostered corruption, collusion, and judicial contamination. Because of the sluggish and unsatisfying character of our legal system, it may lead to an innocent person pleading guilty and accepting a moderate and harsh sentence rather than going through a long and laborious criminal trial **[9].** It not only takes a long time and costs a lot of money, but the outcome is also unclear and unexpected. The judge has the authority to stray from the path of justice. He has the option of accepting the guilty plea or convicting the innocent person. As a result, the legal process was subverted, and the social goal was defeated. This approach also encourages collaboration and corruption, as well as lowering judicial standards **[10].**

Additionally, in Kachhia Patel ShantilalKoderlal v. Gujarat, the defendant was found guilty of adultery, and the Court ruled that plea bargaining was unconstitutional and unlawful, since it would jeopardize judicial processes as well as the anti-adulteration statute's societal objectives and purposes.

3. CONCLUSION

Plea bargaining was presented as a possible solution to problems such as jail overpopulation, high court costs, and unreasonable delays. Its method may assist expedite criminal trials and appeals, as well as relieve the suffering of inmates awaiting trial. If a settlement is achieved, the

victim may be compensated by the court. The Supreme Court, on the other hand, decided in a historic decision that plea bargaining was unconstitutional and unlawful, and that it often encouraged corruption, collusion, and contamination of the judicial process.

It goes on to say that no court has the authority to override the law's minimum punishment. Plea bargains may be a good way to get rid of the backlog of court cases. Its effectiveness, however, is contingent on the offender's willingness to plead guilty and the victim's willingness to accept a reduced sentence. Indeed, remuneration has been creatively included into the plea negotiating framework. We'd also want to point out that simple reforms, suggestions, and procedural and substantive legislation changes aren't enough to accomplish the noble objective of a fair trial for everyone. It is a great concept that must be safeguarded and maintained in the thoughts of those charged with delivering justice to citizens.

REFERENCES

1. Garbatavičiūtė S. Tracing the Instances of Plea Bargaining in the Lithuanian Criminal Justice System. Teisė, 2018;1060:130-143. doi: 10.15388/teise.2018.106.11657.

2. Jain H, Rautela M. Overview of Plea Bargaining in India,. SSRN Electron. J., 2018, doi: 10.2139/ssrn.3151302.

3. Karabaev TE. Comparative Analysis Of The Concept Of Plea Bargaining In The Criminal Legislation Of Kyrgyzstan And The United States Of America. Theor. Appl. Sci., 2018, doi: 10.15863/tas.2018.04.60.27.

4. Maulana A. Konsep Pengakuan Bersalah Terdakwa Pada 'Jalur Khusus' Menurut Ruu Kuhap dan Perbandingannya Dengan Praktek Plea Bargaining di Beberapa Negara. J. CITA Huk., 2015;3(1). doi: 10.15408/jch.v2i1.1840.

5. Olokooba SM, Adebayo MK. Plea Bargaining: A Panacea Towards Prison Decongestion In Nigeria. Agora Int. J. Juridical Sci., 2014;8(4);139-148, doi: 10.15837/aijjs.v8i4.1613.

6. Esoimeme EE. Has the Concept of Plea Bargaining Been Abused in Nigerian Criminal Justice System? SSRN Electron. J., 2014, doi: 10.2139/ssrn.2462307.

7. Caldwell HM. Coercive plea bargaining: The unrecognized scourge of the justice system. Cathol. Univers. Law Rev., 2011;61(1):63-96.

8. Surajudeen OM. Democracy, plea bargaining and the politics of anti-corruption campaign in Nigeria (1999-2008). African J. Polit. Sci. Int. Relations, 2015;9(9):335-348 doi: 10.5897/ajpsir2014.0759.

9. Danjuma I, Chuan GC. The Extent of Voluntariness in Plea Bargaining for Economic and Financial Crimes in Nigeria. IIUM Law J., 2015;23(2):1-17. doi: 10.31436/iiumlj.v23i3.185.

10. Kshetarpal A. A Deviation from the Former Adversarial Trial: The Concept of Plea Bargaining and its Contemporary Relevance. SSRN Electron. J., 2013, doi: 10.2139/ssrn.2329501.