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# PLEA BARGAINING: A MISFORTUNE OR A PRIVILEGE TO THE INDIAN LEGAL FRAMEWORK

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## ABSTRACT

Many nations have acknowledged the notion of plea bargaining and have included it in their criminal procedural laws. The phrase "plea bargaining" refers to a pre-trial agreement between the prosecutor and the accused in which the accused agrees to plead guilty and the prosecution promises to make some concession or lighter sentence in exchange for the accused's guilty plea.[423] "Justice is delayed, justice is denied," by Sh. V.S. Sarwate declared during constituent assembly deliberations.[424]. Plea bargaining is an American notion of a speedy trial in which the defendant pleads guilty in exchange for a lesser sentence. This procedure appears to be beneficial in speeding up the trial process, but it is not without criticism. This paper aims to discuss the origin, birth, whether it is a compromised mockery or silvery lining in the Indian legal framework along with the pro and cons of the concept of Plea Bargaining. The paper aims to provide an in-depth study of the concept of plea bargaining along with research on its limitation and benefits.

**KEYWORDS** - PLEA BARGAINING, LIMITATIONS, SILVER LINING, COMPROMISED MOCKERY, PRE-TRIAL AGREEMENT.

[423] Jeevalaya V., A COMPARATIVE STUDY ON PLEA BARGAINING IN INDIA AND OTHER COUNTRIES, V7,India Journal of Research, 2018

[424] Constituent Assembly Debates on 6 June, 1949 Part I.

## INTRODUCTION

Plea bargaining involves the exchange of legal contracts for a defendant's act of self-condemnation. These permissions may be related to a sentence handed down by the court or recommended by the prosecutor, charged case, or various other circumstances; 11 may be obvious or vaguely; and they can proceed to any value officer. The benefit provided by the defendant, however, remains the same: the entry of the defendant's application. This definition does not apply to the prosecution of one side of the prosecutor or judicial choices, such as dismissal or reduction of improper redress charges. Nor does it include legal exchanges for deeds without filing a lawsuit, such as restitution to the victim's crime, providing information or evidence about other alleged offenses-or resigns due to allegations of misconduct.

Negotiation of a sentence involves confirmation of simple or different sentences for the defendant to plead guilty. One of the most obvious ways to negotiate a sentence occurs when defendants plead guilty to murder to avoid the death penalty. Sentencing agreements also occur in less serious cases, such as pleading guilty to receiving a "fixed-term" sentence, meaning that the defendant will be released immediately. any defendants facing multiple charges may not be allowed to plead guilty to multiple charges. The charges should not be the same: the prosecutor may dismiss any case or charges to plead guilty to the remaining charges. Because counting negotiations only apply to defendants facing multiple cases, it is a rare form of negotiation.

Plea bargaining is a key tool in which judges, prosecutors, and defense attorneys work together to achieve their individual and collective goals. The main advantage of your trial is both prosecution and defense that there is no risk of a complete loss in the trial. In cases where the evidence of the defendant or against the defendant is doubtful, bargains may represent a possible way for attorneys to minimize potential losses by resolving an equally acceptable outcome. Plea bargaining can be a way for courts to keep the rare resources of cases they need the most.

Plea bargains allow prosecutors to avoid trials, which are shunned because they are time-consuming, labor-intensive, and costly but carry no guarantee of success. Through the rational use of plea bargaining, prosecutors can ensure some penalty for offenders who might be acquitted on technicalities. Although prosecutors cannot negotiate every case (because that would incur public ire), they can bargain away routine cases or those characterized by weak evidence or other difficulties, saving their time and resources for cases that demand more attention.

### Chronicles of Plea Bargaining

History is consistent with current application negotiation issues. Social scientists who define plea bargaining according to the general principles of sometimes bureaucratic interactions provide historical support for their interaction's conclusions, 3 and in the same way, their theories of stadium flexibility are often less likely to be subject to historical opposition. Similarly, the idea that the plea bargaining "economic need" can make sense if it does conclude that this shortcut method was used for as long as there have been trials, and more clearly, economic claims the need would be difficult if one concluded that it was Anglo-American The legal system had survived without much deliberation presence.

Perhaps more important than any meaningful history the current issue is the mystery and significance of the feelings of the past. Ideas opponents want warmth in earlier times and seem to oppose each other they claim their positions are indigenous. In thinking about what kind of the criminal justice system we should have, it may not matter whether you plead guilty negotiation is the latest. However, this is a historical question it often creates an emotional response.

**Plea bargaining in the ambit of CRPC**

The popular saying that Justice is delayed justice is rejected is very important while the concept of Plea bargaining. Plea bargaining is a pre-trial discussion between a defendant and a prosecutor in which the defendant agrees to plead guilty to obtain certain agreements by the prosecutor. It is an agreement where the defendant pleads guilty to a minor fine and they do not prosecute in the background for more serious charges. Not available for all types of crime e.g. A person cannot declare a trial after committing a heinous crime or on a death sentence or life imprisonment.

Meaning of Plea Bargaining-

Sections 265A to 265L, Chapter XXIA of the Criminal Procedure Code discusses the concept of Plea Bargaining. It was included in the Criminal Law Amendment Act, of 2005. Allows negotiations:

When the maximum punishment is imprisonment for 7 years; Where cases do not affect the socio-economic status of the country.

If the offenses are not committed against a woman or a child under the age of 14 they are not included the judges have used this agreement to promote confession. Plea Bargaining is not a traditional concept of Indian criminal law. It is part of the recent development of the Indian Criminal Justice System (ICJS). It was focused on the Indian Criminal Justice System after considering the weight of long-standing cases in the Judiciary.

Criminal code and Plea Bargaining-

The quiet aspects of requesting a request are as follows:

We are working on these cases with a penalty of up to 7 years. It does not apply to cases where the case is against a woman or child under the age of 14 years. When a court issues an order in a court hearing, there is no appeal to any court against the order. Reduce tariff. Reduce multiple stats and press just one charge. It makes court recommendations about punishment or sentencing. The criminal code of the trial states that:

In introducing the concept of Plea Bargaining in the Criminal Procedure the purpose of the legislature is to: Reduce the pending case, Determine the number of inmates under trial, make compensation for the victim of the crime by the respondent, Reducing delays in the dismissal of criminal cases.

The legal provisions introduced by the criminal law act 2005 are as follows-

Article 265 A:

According to this Article, a civil trial must apply to a defendant who has not committed a crime under which the law provides for the death penalty or imprisonment for more than seven years. We also provide that Chapter XXIA of the Criminal Procedure Code, 1973 shall not apply to cases affecting the socio-economic status of a country or committed against a woman or child under the age of fourteen years.

The defendant can obtain three types of confession agreement. A defendant can apply for litigation when the prosecutor allows the defendant to plead guilty to a minor offense or other charges against him.

Second, an appeal can be filed if a defendant is notified in advance of the sentence to be imposed if he pleads guilty. Finally, there is a genuine discussion where the defendant agrees to state certain facts to ensure that certain facts are not included in the photograph to be taken as evidence, not used in the courts as it is believed to be inconsistent. Criminal Justice System. In India, a defendant can only apply for a sentencing hearing.

**Plea Bargaining and the Rulings are given in India.**

In the case of the *State of Uttar Pradesh vs Chandrika*[425], The Court dismissed the idea of

[425] AIR 1999 SC 164

litigation and considered the idea to be unconstitutional. The Court believes that the concept of litigation cannot provide a basis for the dismissal of criminal cases. Such cases should be decided only fairly. It also stated that the sentence imposed on the respondent must be under the law or the law.

In India, the Supreme Court of India has rejected the idea of negotiating a case through its various judgments.

While in the case of *Kachhia Patel Shantilal Koderlal v. the State of Gujarat and Anr*[426] the Supreme Court ruled that the practice of litigation is unconstitutional, illegal, and may promote corruption and cooperation.

In the case of *Thippaswamy v. State of Karnataka,*[427] the Court held that the act of soliciting and directing the defendant to plead guilty under a guarantee or promise would violate Article 21 of the Constitution of India. 5. Limitations of Plea Bargaining

LIMITATIONS OF PLEA BARGAINING

Removes the right to a fair trial by judges - In the United States, everyone has a constitutional right to a fair trial by judges. Granting permission to avoid this trial may seem like a compulsory attempt to revoke those rights. Pressuring the respondent to accept an admission of guilt agreement may be considered illegal. A defendant should always have the right to take his or her case to court for a trial so that it can be an effective tool.

It may lead to poor research processes- With 90% of cases in most venues going to negotiations instead of a trial, there is an argument that this concept leads to a vague investigation. Lawyers and lawmakers may not waste time remanding the case because they expect it to be denied. Instead of trying to defend justice, the goal is to agree, and it can be said that waiting for an agreement is not fair.

Creates a criminal record for the innocent- An innocent person may accept compensation to cover his loss. That agreement means that they will have a criminal record. They may be asked to serve a prison sentence. There may be a fine or refund that you must pay. Even if the compensation agreement is not accepted, there may be legal costs of payment that may be greater than the costs of what the agreement provides, leading to the acceptance of the agreement.

Judges are not required to comply with the plea bargain agreement-The prosecutor and the defendant may agree to an admission of guilt agreement, but the judge may set aside that agreement. Usually, a judge is not required to follow a compensation agreement. They can impose longer sentences or decide that no sentence should be imposed. The judge may also need to have the case heard if he or she feels that the application for the contract is in bad faith.

Compensation agreements eliminate the possibility of a complaint- If the case goes to court and the defendant loses, there may be a few reasons why an appeal may be lodged. Because the plea agreement requires the defendant to plead guilty, although reduced, it eliminates the power to file a complaint in almost any case.

It gives fair justice to the guilty-In most cases, the application for a hearing provides a simple sentence for a person, even if he or she may be guilty of wrongdoing. It can be considered a way to escape from the prosecutor. Some may argue that a plea and a verdict are not the same as a guilty verdict.

The advantages and disadvantages of litigation can get criminals off the streets, but it can also put innocent people in jail. It opens the court system, but it changes the effectiveness of the criminal justice system.

[426] 1980 0 AIR(SC) 854 ; 1980 0 BBCJ(SC) 26 ; 1980 0 CriR(SC) 332 ; 1980 0 CrLJ 553 ; 1980 0 GLR 614 ; 1980 0 MLJ(Cri) 480 ; 1980 3 SCC 120 ; 1980 0 SCC(Cri) 556 ; 1980 1 SCJ 549 ; 1980 2 SCR 1037 ; 1980 0 Supreme(SC) 73 ; 1980 1 UJ 571

[427] AIR 1983 SC 747, 1983 CriLJ 1271, 1982 (2) SCALE 1398, (1983) 1 SCC 194

**PLEA BARGAINING A BANE OR A BOON.**

When it comes to plea bargaining as a Boon one of the reasoning that can be given is that it helps the courts and prosecutors lessening down the casework. Plea bargaining helps the prosecutors to the number of cases set for trial so that cases don't get dispersed.

Without Plea Bargaining it is often said that the American Justice System will cease to function, plea Bargaining forms an outline in which the accused and his accusers come to an agreement that settles the case with the hope that it will impart fairness.

One of the reasons why plea Bargaining is considered to be a boon is because it allows criminals who accept their crime to receive consideration and not cause limited resources to be expended in further investigation and litigating their case[428]. In some cases, it might happen that defendant may be culpable in a criminal matter but have information that would help in prosecuting a broader or more significant matter. In such cases, prosecutors may agree to reduced charges or sentencing in the first matter, in exchange for the defendant's cooperation in prosecuting the large matter.

Although prosecutors may be certain of the defendant's guilt in a case, the admissible or available evidence may not be enough to persuade a jury of the defendant's guilt. This could be due to the death of a witness or victim before the trial or the loss or inadmissibility of specific evidence. In some cases, a plea bargain can benefit both the prosecutor and the defendant; the prosecutor avoids the possibility of the defendant being found not guilty, while the defendant avoids the possibility of being found guilty of more serious crimes or receiving harsher punishment.

However, it is critical to have experienced competent defense attorneys, experienced competent prosecutors, and a judge overseeing the proceedings to ensure that everything is done properly. For the plea-bargaining system to function successfully, the human element must constantly be present.

Plea bargaining has increased as a result of the increased number of crimes and petty violations that are now criminalized offenses such as failing to pay a bus fare. Plea bargains are a reasonable alternative for the criminal justice system because going to trial is more expensive and time-consuming. As previously stated, a guilty plea decreases the uncertainty around the outcome of a trial and is seen as providing the accused with a degree of freedom of choice.

One of the basic rules of the universe is that nothing is perfect.[429] Similarly, Plea Bargaining also has some its drawbacks. Some of the challenges faced in terms of plea bargaining are that Plea bargaining is highly likely to produce outcomes that are inconsistent with the underlying principles of criminal justice systems, which are to seek the truth and find a just conclusion by reaching an agreement with offenders for the benefit of investigators and the prosecution. It may result in a difference in sentences between individuals who accept plea bargaining and those who do not. In multi-person criminal instances, the most responsible individuals may receive lower penalties, while the less culpable are punished harshly.

The primary issue with plea bargaining is that it compels the party to guess what the evidence is, about how strong the case might be, and they have to make that guess against the backdrop of extremely harsh sanctions if they guess incorrectly. Defendants are under great pressure to play the odds and accept a plea, even if their defenses are strong and they are innocent.

As a result, the system as a whole fails to achieve what we expect it to do, which is to separate the guilty from the innocent. It doesn't work that way since both the guilty and the

[428] Uses and Abuses of Plea Bargaining, Vinay Ranjan, Symbiosis Law School, Pune.

[429] Stephen Hawking

innocent are under the same pressure to plead guilty.

**PLEA BARGAINING – INDIA v. THE US**

In the United States, the accused can enter one of three pleas: Guilty, Not Guilty, or Nolo Contendere. The plea is viewed as an implicit confession of guilt or that the Court will rule on the question of his guilt under the Nolo Contendere concept. However, the Court is not obligated to accept the accused's plea. The Court has the option to accept or reject such a plea, based on the facts and circumstances of each case brought before it[430]. The Court is responsible for ensuring that the accused enters the plea willingly and without pressure or compulsion. The accused must be shielded from public scrutiny. Plea Due to overpopulation in US jails, bargaining gained traction.

In the case of *State exrel Clark Adams,*[431] The Court articulated the theory of 'Nolo Contendere' in this decision. The Court determined that the plea of 'Nolo Contendere,' also known as 'Plea of Nolvut,' indicates that the defendant does not desire to contest the charges.

While in the case of *United States Risfield*[432] The Court pointed out that in a criminal case when a plea-bargaining application has been filed, the Court's judgment of the guilty plea is not required. The Court, on the other hand, has the power to punish the accused individual right away.

In the United States, there is no law prohibiting plea bargaining for some offenses. Plea Bargaining is an option for everyone who has been charged with a crime. However, there are exceptions in India, as outlined in Section 265A. In India, the following accused people are not eligible to participate in plea bargaining

When the accused is charged with an offense that has the punishment of death, life imprisonment, imprisonment of more than 7 years, an offense against women, offense against a child below fourteen years of age.

In Indian law, the victim plays a major part in plea bargaining processes. If a mutually suitable resolution cannot be reached, the victim has the right to decline or veto. In the United States, however, the victim has no active involvement in the plea-bargaining process.

In the United States, a plea-bargaining application is only filed once the accused and prosecutor have completed their negotiations. In India, however, the bargaining process with the accused does not begin until the application for Plea Bargaining is made, to guarantee that the application for Plea Bargaining is filed willingly by the accused. As a result, there is less risk of the accused being pressured or hidden deals being made to file a Plea-Bargaining application.

Plea Bargaining is used in approximately 90% of criminal cases in the United States, whereas it is used in less than 10% of criminal cases in India. This discrepancy emerges owing to disparities in the concepts of plea bargaining in the United States and India.

**PLEA BARGAINING – A SILVER LINING**

There is no minimum time limit for case disposal; it might be two, three, five, or 10 years; nothing can be said. The accused is subjected to the mental anguish of a long and arduous trial, and he will spend the rest of his life paying legal fees since lawyers charge exorbitant fees from their clients. These forms of torture and agony are not part of the punishment that someone accused must endure[433].

The main benefit is that there are higher possibilities that the guilty plea will be accepted by the court; the judge will not be hesitant to reject the plea due to minor concerns, which is considerably more favorable to the accused. Finally, it benefits public prosecutors by lowering

[430] Muskan Sharma, Plea Bargaining in India and USA- A Comparative Study, Enhelion Blogs, February 18, 2021
[431] 363 US 807
[432] 340 US 914
[433] 154th Report, Law Commission of India, the Code of Criminal Procedure, 1973 154.70 (1996).

their burden, as well as relieving the court of the increasing number of cases.[434]

According to the 142nd Law Commission report, the weight of trial and prosecution caused the complaint to regress from the Criminal Justice Delivery System, a dark mark on our judicial system. The courts are a place where the wealthy toy with justice; plaintiffs from lower socioeconomic backgrounds are unable to think of justice because the wealthy prolong and complicate the trial, making it difficult for the poor to stand and fight for justice. Plea bargaining is a beam of light in the profound darkness of this type of justice delivery system. Plea bargaining is the sunshine of justice rather than a candle for justice, based on the high number of acquittals in criminal cases.

Plea bargaining is a win-win situation for all sides rather than a Win-loss one since in court, either the criminal was acquitted or the complainant was successful in convicting the accused.

**PLEA BARGAINING A COMPROMISED MOCKERY**

There is no question that Plea Bargaining is extremely beneficial in the current sorry state of the Indian criminal justice system, but there are two sides to every coin. We addressed the benefits of Plea Bargaining before, but the other side highlights the disadvantages of Plea Bargaining. No innocent person should suffer, according to William Blackstone, although this view is gaining traction. There are no statistics on how many innocent people have been convicted as a result of this approach simply because they cannot afford a trial. This is a black stain on persons who wear black as a vocation. Innocent and underprivileged people are victims of a broken legal system.[435]

The Supreme Court stated in *State of Uttar Pradesh v. Chandrika*[436], "It is accepted law that one basis of plea-bargaining Court may not dispose of criminal matters." The case must be decided on the merits by the Court. If the accused admits his guilt, a suitable punishment must be given. Acceptance or acknowledgment of guilt shall not be used as a basis for a sentence reduction. The 142nd report of the Law Commission also indicated that while this concept is successful in the United States because of its high literacy rate, it has limitations in India since people are unaware of it and lawyers never seek a speedy trial.

The Indian judiciary is regarded as one of the most respected in the world, although this idea may influence judges' impartiality. This is a highly active problem in America since judges are predetermined to resolve cases through plea negotiating to minimize workload, resulting in 90 percent of cases in America being resolved by plea bargaining. Plea bargaining mocks the principles of jurisprudence behind the penal code to reduce the burden and hide the incompetence of the judicial system.

The IPC talks about punishment for crimes based on their deterrence and heinousness, but Plea-bargaining mocks the principles of jurisprudence behind the penal code to reduce the burden and hide the incompetence of the judicial system. This notion also encourages defendants to give up their right to a fair trial, which they have under the Indian constitution. They give up their right to a fair trial in exchange for a lighter punishment.

In *Madanlal Ramachandra Daga v. the State of Maharashtra*[437] and *Kasambai Abdulrahmanbhai Seikh v. State of Gujarat*[438], Justice P.N. Bhagwati concluded that plea bargaining is unconstitutional and illegitimate and that cases should be decided on the merits rather than the accused's guilty plea. In light of the aforementioned disadvantages, the idea of plea bargaining appears to be a compromised joke in many cases.

434 https://www.manupatrafast.com/articles/ Pop Open Article. Criminal.
435 Shubham Gupta, Kiran Chauhan, plea Bargaining – a silver lining or a Compromised mockery, IJLHB, Volume5 No.2, May-August 2019.
436 AIR 2000 SC 164
437 AIR 1968 SC 1267
438 AIR 1980 SC 854

## CONCLUSION

When the preamble of the Indian Constitution mentions justice in all of its forms: social, economic, and political, it symbolizes the desire and goal of humanity for justice. Those who have suffered physically, psychologically, or financially turn to the courts in the hopes of having their problems resolved. They avoid taking the law into their own hands because they think that justice will be served by the courts at some point.

It is because of this fear and the gaps in our legal system that the notion of plea bargaining has been borrowed. However, for such a strategy to succeed, we must be aware of the human factor involved in the process. A well-informed victim, a truthful defense, and an impartial judge are some of the prerequisites for this system to function well, which I worry we currently lack. People here still don't understand their basic rights, and the level of voluntariness required in bargaining might be catastrophic to him.[439]

Plea bargaining is, without a question, a god's gift in the current state of our justice delivery system. With a debt of more than $3 billion, it is impossible to administer justice in outstanding cases. Most of the world's great countries now adopt this model, and India can dispose of them quickly. Both sides save time and money, and they are both in a win-win situation.

However, not everything wonderful is perfect; some have flaws. This approach reduces the penalty just because the accused pleads guilty, which is unjust and shows a lack of understanding of deterrence, the heinousness of the act, and the pain felt by the accused.[440]

It is not appropriate to assess the effectiveness of Plea bargaining in India at this moment; everything needs time to adjust to the circumstances of a certain location. Even if this notion has yet to win the hearts of judges, there is no other choice than to implement it. This paper looks forward to the time when some change will be enacted to simplify the operation of this idea and eliminate its drawbacks.

[439] Muskan Sharma, Plea Bargaining in India and USA- A Comparative Study, Enhelion Blogs, February 18, 2021

[440] Shubham Gupta, Kiran Chauhan, plea Bargaining – a silver lining or a Compromised mockery, IJLHB, Volume5 No.2, May-August 2019