

PLEA BARGAINING

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ABSTRACT

An agreement is reached after a debate between the prosecution and defence that resolves a criminal case, typically in exchange for more lenient punishment. In exchange for a less sentence, than they would receive if found guilty at trial, the defendant may frequently enter a plea of guilty to a lesser crime or to fewer counts than were first brought against them. It is considered a win-win situation for all sides since the offender receives a sentence that is less serious than the possibility of a greater one at trial, the defence has a specific conviction on their record, and the judge is free to go on to other cases and issues to resolve.

INTRODUCTION

In legal terms, plea bargaining is the process of negotiating a resolution between the defence as well as prosecutors in which the defendant agrees to enter a guilty plea to a lesser charge or, in the case of numerous crimes, to any or all of the accusations in return for a shorter sentence, recommendations for a smaller sentence, or the acquittal of more charges. Supporters of request trading claim, that it quickens the judicial process and results in a conviction, while opponents agree because it precludes a fair judgement from being reached. In US, a significant portion of criminal cases involve some form of pleading. Sometimes it can be challenging to distinguish between plea deals. Deals with suitable arrangements as a result are referred to as "unequivocal request deals." Since once they don't offer a guarantee of mercy, some request transactions are categorized as "implied supplication deals". The more significant of the two is the explicit deals. The deals that follow generally differ from what might have occurred if similar cases had gone to preliminary. When a defendant enters into a plea agreement, their sentence is lowered. The

majority of people who go to trial are found not guilty, but everyone who makes a guilty plea is by definition found guilty.¹

The accused sees it as a trade-off between conviction and a potential less punishment and a protracted, expensive, and complicated process of going through preliminary proceedings. In reality, given the busy criminal courts and case dockets, there is more "mutual recognition" of the advantages and disadvantages of the accusations and defences than "mutual pleasure." Because of this, it necessitates an active bargaining process where the accused enters a guilty plea and waives the liberty to a trial as a substitute for penalties or reductions on the penalty. The legal phrase for a deal to resolve a criminal case is a plea bargain. The accused, the investigating officer, the prosecutor, and the innocent party are all parties to a resolution in an instance that was sparked by a report from the police. The accused cannot enter a plea of guilty to the continuing offence until the criminal case has been resolved by unanimous agreement. In other instances, the parties to the agreement are held accountable together with the subject of the investigation. They must consent to the accused entering a guilty plea in order to resolve the criminal case. Any arrangement to resolve the dispute must be supervised and directed by the Court.

LEGALITY

Every legally enforceable agreement must, as is common knowledge, pass a legality examination. It suggests that any agreement involving wrongdoing is null and void, and as a result, no activity may result from such an agreement. The Latin proverb "Contractually, there is no action" expresses this.² The inference is that each subject must be lawful for a contract to be binding. In the case of a plea agreement, we contend that it is likewise legitimate for the defendant to select his or her own plea. Similar to this, it is acceptable for the indictment to decide whatever accusations to bring against a person under suspicion. Additionally, it is legal for the designated authority to decide whether to hand down the harshest punishment or exercise mercy in light of the presence of mitigating or aggravating factors. We argue that leniency is warranted by the guilty plea alone.

TYPES OF NEGOTIATIONS

¹ Robert E. Scott and William J. Stuntz, "Plea Bargaining as Contract", 101 Yale L. J. 1909 (1992), available at: <http://www.jstor.org/stable/796952>.

² This means no action arises from a wrongful contract.

Plea-bargaining is used, but not frequently, in India. In fact, demand bartering is the norm in the United States of America, where it is used to resolve 75% of criminal cases. The three different sorts of plea discussions are charge negotiating, sentence bargaining, and fact bargaining. Each uses fewer inferred sentences, but the methods used to obtain those fewer sentences vary.

SENTENCE BARGAINING³

Sentence Bargaining is a charge that may be reduced from one that is more serious to one that is less serious through bargaining, such instance from murder to manslaughter, etc. The prosecutor promises to suggest a particular punishment, a bargained penalty, or to deal directly with the trial judge after admitting guilt. The option of entering a guilty plea and receiving a less sentence is available to the accused. To accomplish this, the accused must be informed of the potential penalties that could be imposed if he refuses to accept responsibility. However, if the defendant decides to admit guilt, the prosecutor may ask for a more lenient punishment than he had first asked to prove the defendant's innocence or to speed up the proceedings. In the United States, they can only be allowed if the trial judge approves of them. Sometimes, especially in high-profile cases, the examiner refuses to reduce the charges against the responder out of obsessive concern for how the papers would react. The prosecution may be able to secure a conviction for the most serious charge while guaranteeing the defendant a favourable sentence through a sentencing deal.

CHARGE BARGAINING

Fact bargaining, the least common type of bargaining, involves acknowledging certain information as a condition for a promise not to use other widely known facts as evidence in court. In fact-bargaining, the prosecutor agrees not to challenge an accused person's version of events or alert the jury to aggravating factors. When an aggravating circumstance would require a mandatory minimum sentence or a heavier penalty that complies with the guidelines for sentencing, this kind of discussion is likely to take place. Furthermore, an investigator may consent to spare a charge's accomplices, hide damaging data from the jury, change the charge's rebuke date, set up for the imposed to go to a particular recovery facility, the need that a charge obtain credit for a time acted in jail while awaiting trial, consent to help the imposed apply for probation, work to have

³ People v. Killebrew, 330 N.W.2d 834, 838 (Mich. 1982), wherein a sentence bargaining is defined as 'bargaining as the offer of reduced sentence or favourable sentence recommendations from the prosecutor in exchange for a guilty plea'

allegations in other areas dismissed set up for the condemned person to serve time in another court system, and more.⁴

It suggests that if the defendant enters a guilty plea, one or more charges will be dropped. The accused party has the choice of entering a plea of guilty to all of the charges against him or to a single charge that is less serious. A defendant might be accused of theft, rape, and sodomy, for example. If the state drops the sodomy charge, the person being charged may agree to the charges of rape and theft.⁵ Charge negotiating may take place with the prosecution's agreement and the accused's admission of guilt, although this is entirely at the prosecution's discretion. The prosecution can accept it or decide to disregard it. After the charges are negotiated, the defendant will be held accountable for a specific charge.

ACCUSED RIGHTS

The Accused may receive immutable rights recognized by the Constitution and regarded as fundamental rights as a result of plea bargaining. These rights apply to everyone, including people who are being tried for a crime. Human rights essentially encompass the rights of the accused. No one would be protected from the authoritarian rule of the state if these rights were not recognized by law or respected and observed even if they were. and the constitutional guarantees of personal liberty and freedom would remain nothing more than pious declarations. The following are three fundamentals of criminal law:

- The accused is given an advantage of the suspicion and the protection against self-incriminating.
- The prosecution is largely responsible for establishing an accused person's guilt, and must do so beyond a reasonable doubt.
- Until he is shown to be guilty, every individual is made to seem harmless.

PROSPECTIVE IMPACT

In general, plea bargaining deals are advantageous for the government, the court, and the defendants in question. Due to the efficiency with which criminal matters are resolved and the

⁴ K.P. Pradeep, "Plea bargaining- New horizon in criminal jurisprudence", available at: <http://kja.gov.in/article/PLEA%20BARGAINING.pdf>

⁵ A.O. Alubo, "Plea Bargain and the Anti-Corruption Crusade in Nigeria" 8(2) University of Jos Law Journal 7

preservation of public assets, plea bargaining also helps the general public. Plea agreements can result in defendants' vital assistance in the prosecution and investigation of other participants of a criminal organization, which is a huge advantage for authorities in instances involving organized crime. Both public defenders and private defense lawyers view plea bargaining as a crucial part of the criminal justice system. In this section, we examine how the practice of plea bargaining impacts the law enforcement framework, as well as the subject of the case.

CONCLUSION

Request Fundamentally, haggling refers to discussions between the accusation and the protection in which the accused agrees to make a concession in exchange for a certain concession from the Public Investigator. Plea negotiating is a distinct approach to avoiding the drawn-out and unpleasant court trial procedure. It has been put in place to ensure quick case settlement and lessen prison congestion. A person charged with an offence for which the maximum punishment is shorter than seven years in prison may, in line with the Criminal Procedure Code, make a plea-bargaining request to the court where the case is being tried. The accused has to present a request in response to the court's suo moto proposition for the request of plea bargaining, presuming that he accepts it. As soon as it gets the request, the court will undertake an in-camera initial review to make sure the accused filed it voluntarily. Additionally, it will look at the examiners and the victimised party; if it concludes that the accused was forced to make a settlement, it will reject the request for reconsideration. The person lodging the complaint and the Public Prosecutor will then get a notice from the court directing them to negotiate a resolution to the matter that would satisfy both sides.