

plea bargaining

Introduction

Plea bargaining is a legal process in which a defendant agrees to plead guilty to a criminal charge, typically in exchange for a reduced sentence or lesser charges. It is a common practice in many legal systems, especially in the United States. The main goal of plea bargaining is to expedite the resolution of criminal cases, avoid lengthy trials, and reduce the court's caseload.

Meaning

The word 'plea' means "request" and the word 'bargaining' means "negotiation". So, in simple terms, it means a process under which a person who is charged with a criminal offence negotiates with the prosecution for a lesser punishment than what is provided in law by pleading guilty to a less serious offence.

This explanation covers several important points. First, this concept applies only to criminal offenses; victims in civil cases cannot use it. Second, the accused negotiates directly with the prosecutor. Third, both parties agree: the defendant will plead guilty in court, and the prosecutor will reduce the defendant's punishment. It's also important to note that the judge does not take an active role in this process; the judge simply supervises.

According to the Black's Law Dictionary, plea bargaining is "*an agreement set up between the plaintiff and the defendant to come to a resolution about a case without ever taking it to trial.*"

History and evolution of plea bargaining

India has a rich legal history with many practices from ancient and medieval times. People often used arbitration and mediation to resolve disputes without lengthy court trials. Under British rule, India's legal system changed as it adopted British common law. However, formal plea bargaining, as we know it today, did not exist then. Some early examples of plea bargains appeared, but the modern concept emerged in the 19th century, mainly influenced by the American judicial system.

India did not need plea bargaining because it had a jury system until the 1960s, when it allowed legal representation. In 1991, the 142nd report of the Law Commission of India proposed 'concessional treatment' for those who choose to plead guilty. It made it clear that this would not involve plea bargaining or negotiation with the prosecution. This idea was based on the successful American model and aligns with the Constitution and Fairness Principles. The report highlighted that most legal professionals supported this approach.

The Law Commission emphasized the need for plea bargaining in several reports. Its 154th report in 1996 called for quicker trials for under-trial prisoners. In 2001, the 177th report reinforced this need. The Justice Malimath Committee also supported plea bargaining in 2003.

The legitimacy of plea bargaining was confirmed in the case of **State of Gujarat v. Natwar Harchandji Thakor (2005)**, where the court stated that each "plea of guilt" should be judged individually.

The concept of plea bargaining is contained in Chapter XXI-A of the CrPC under Sections 265A-265L. This part was added by the Criminal Law (Amendment) Act of 2005. It allows plea bargaining for cases :
(Exceptions)

1. Where the minimum punishment is imprisonment for 7 years,
2. Where the offenses don't affect the socioeconomic condition of the country,

3. When the offences are not committed against a woman or a child below 14 are excluded.

Types of plea bargaining

- **Charge Bargaining-** In charge bargaining, the defendant pleads guilty to a lesser charge instead of facing more serious ones. This is allowed when the maximum punishment is up to seven years in prison.
- **Sentence Bargaining -** In sentence bargaining, the defendant pleads guilty to the original charges, expecting a lighter sentence than what they might receive if found guilty at trial.
- **Fact Bargaining -** Fact bargaining is generally not supported by the courts. Here, the defendant and the prosecution agree on specific facts or evidence to present or omit during the trial, which can weaken the case and lead to a more favorable outcome for the defendant.
- **Numerous charges -** In this form, the defendant pleads guilty to only some charges filed by the prosecution, while others are dropped. This is mainly prevalent when someone is facing many charges and thus agrees to admit only a few of them to avoid more serious consequences.
- **Unique charge -** A significant amount is dropped in exchange for a plea guilty to a less severe charge.

Benefits of plea bargaining

- Getting out of jail.
- Resolving the matter quickly.
- Having fewer or less severe offences on one's record.
- Avoiding hassles and publicity.
- Eliminating unreliability from the legal process.
- Bringing down occupier levels in local jails.

Drawbacks of plea bargaining

Some of the significant drawbacks of plea bargaining are:-

- It abolishes the right to have a trial by jury.
- It may lead to a poor investigatory course of action.
- It still creates a criminal record for the guiltless.
- Judges are not needed to follow a plea bargain agreement.
- Plea bargains remove the possibility of re-examination.
- It provides soft justice for the guilty.

Constitutionality

Section 265-A explains when plea bargaining is allowed. It can occur after a report under Section 173 of the CrPC or when a magistrate recognizes an offence. The magistrate reviews the complaint under Section 200 and issues a process under Section 204 for offences punishable with less than seven years in prison. However, plea bargaining is not permitted for offences affecting the socio-economic condition of the nation

or for crimes against women or children under 14. The Central Government will define relevant crimes under current laws.

Section 265-B explains how to request plea bargaining. The defendant must submit an application in the ongoing trial, briefly outlining their case. They must attach an affidavit confirming that they are applying voluntarily and understand the consequences, as well as stating that they have no prior convictions for the same offence.

The court will notify the complainant or public prosecutor after receiving the application. The accused must attend the hearing, where the court will privately record their statement to confirm that the application is voluntary.

If the court is satisfied, it will encourage a settlement where the accused compensates the victim, and a new hearing date will be set. If not, the case will proceed according to the Code of Criminal Procedure from that point.

State of Uttar Pradesh v. Chandrika (2000)

In this case, the Apex Court disparaged the concept of plea bargaining and held this practice as unconstitutional and illegal. The court determined that the primary objective of this concept was to accelerate the resolution of cases and relieve the strain on the judicial system, emphasising that it should not be utilised as a means to allow the guilty to avoid punishment.

Conclusion

Plea bargaining aims to reduce overcrowded jails, overloaded courts, and long delays. However, its effectiveness in India is unlikely to match that of the United States due to significant differences. Furthermore, the criminal law (Amendment) Act, 2005, lacks important elements necessary for success in India.