BLOGS

Plea Bargaining Mechanism: Definition, Scope and More

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Plea bargaining is a legal procedure in criminal law wherein the defendant negotiates with the prosecutor to admit guilt to a reduced offence in exchange for a more lenient punishment. Read more about it here!

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Introduction

Plea bargaining is a legal procedure in criminal law wherein the defendant negotiates with the prosecutor to admit guilt to a reduced offence in exchange for a more lenient punishment.

This approach helps to reduce the backlog of cases in the judicial system by expediting the proceedings. It is not employed for highly grave offences, such as those that carry the penalty of death or life imprisonment.

Plea bargaining was incorporated into India's criminal justice system by the Criminal Procedure Code, notably in **Sections 265A to 265L of Chapter XXIA**. The Criminal Law (Amendment) Act, 2005, introduced a modification that permits plea bargaining for offences meeting specific criteria:

- Carry a maximum penalty of 7 years' imprisonment.
- Do not affect the socio-economic state of the country.
- They do not target women or children under the age of 14.

The Bharatiya Nagarik Suraksha Sanhita (BNSS) of 2023 also allows plea bargaining as a way for an accused to plead guilty to a lesser offense or receive a reduced sentence. In section 290 of BNSS, plea bargaining has been made time bound and application can be made within 30 days from date of framing of charge.

The concept originated from the Law Commission's 154th Report, which proposed its implementation to address the accumulation of pending cases. Subsequently, the Malimath Committee, operating under the NDA government, endorsed this viewpoint, acknowledging the effectiveness of this approach in the United States.

The group contended that plea bargaining would expedite case resolution and alleviate the court's workload. The system was formally implemented on July 5, 2006, following the enactment of the Criminal Law (Amendment) Bill, 2003, which also introduced amendments to the Indian Penal Code and the Indian Testimony Act.

These amendments specifically addressed concerns such as dealing with uncooperative witnesses and the admissibility of expert testimony in court proceedings.

Plea Bargaining under Sections 265-A to 265-L of CrPC

Section 265-A (Application of Chapter) states that plea bargaining applies to offences that do not include the death penalty, life imprisonment, or a sentence exceeding seven years. The Central Government compiles a list of offences that have a significant impact on the country's socioeconomic situation but are not eligible for plea bargaining.

Section 265-B allows accused individuals to submit applications for plea bargaining in ongoing proceedings. The application should contain comprehensive information about the case and an affidavit confirming the plea's voluntary nature. Subsequently, the court will inform the prosecutor, investigating officer, and victim and establish a date for the hearing.

Section 265-C, also known as the "Guidelines for Mutually Satisfactory Disposition," provides instructions on the proper procedures for the court to follow to reach a mutually agreeable resolution of the matter through discussions. The court dispatches notifications to all parties concerned with the aim of convening a discussion and reaching a mutually acceptable conclusion on the issue.

If the parties involved in a legal matter reach an agreement, the court will create a report that all parties sign, according to Section 265-D, also known as the "Report of the Mutually Satisfactory Disposition." If no consensus is achieved, the court duly documents this, and the matter continues in the usual manner.

Section 265-E, also known as “Disposal of the Case,” pertains to the finalisation of a matter in court. Once an agreement is reached, the court proceeds to deliberate on the appropriate sentence or potential probation. The court has the authority to grant the accused probation or impose a less severe sentence, depending on the agreement.

The court issues a judgement under Section 265-F, based on the plea bargaining agreement.

According to Section 265-G, judgements resulting from plea bargaining are considered final and cannot be appealed through conventional means. Nevertheless, it is possible to pursue a review via a special leave petition for a writ petition.

Section 265-H of the law provides the court with distinct authorities in the process of plea bargaining, such as making decisions about bail and other procedural matters.

Section 265-I, commonly referred to as the Period of Detention Set Off, allows for the deduction of the time an accused person has already spent in detention from their eventual sentence.

Section 265-J (Savings) states that the regulations in this chapter take precedence over any contradictory statutes in the Code.

Section 265-K, also known as the “Statement of the Accused,” states that any statements made by the accused during plea bargaining applications can only be utilised for the specific purposes outlined in this chapter and cannot be utilised for any other legal concerns.

Section 265-L states that the concept of plea bargaining does not apply to individuals who are considered minors or children according to the Juvenile Justice Act.

Types of Plea Bargaining

There are three primary types of plea bargaining:

1. Sentence Bargaining: The defendant admits guilt to the initial accusation in return for a reduced punishment.
2. Charge Bargaining: This is the most prevalent kind of bargaining, in which the defendant admits guilt to a less serious offence in exchange for the dismissal of more serious charges. For instance, the defendant might choose to plead guilty to the charge of manslaughter instead of murder.

3. Fact bargaining is an infrequently employed strategy where the defendant consents to acknowledge specific facts in exchange for the exclusion of other facts from being presented in court.

Landmark Cases on Plea Bargaining

In the case of Murlidhar Meghraj Loya versus the State of Maharashtra (1976), the Supreme Court expressed disapproval of plea bargaining, stating that it is detrimental to the interests of society.

In the case of Kasambhai versus the State of Gujarat (1980), the Supreme Court ruled that plea bargaining is contrary to public policy. The court also criticised a magistrate for accepting plea bargaining, deeming it illegitimate and unconstitutional.

In the case of Thippaswamy versus the State of Karnataka (1983), the Supreme Court explicitly declared that it is unconstitutional to force a guilty plea from an accused individual. The superior courts should overturn the conviction and initiate a new trial if they coerce a plea.

In the case of Uttar Pradesh versus Chandrika (2000), the Supreme Court reaffirmed that plea bargaining is unconstitutional. The court emphasised that matters should be decided based on their merits and the law rather than through plea bargaining.

Challenges with the Plea Bargaining Mechanism

1. In India, the accused can only initiate plea bargaining as a voluntary procedure, if they so choose. Nevertheless, the statute fails to specify the consequences if the plea bargain undermines the objectives of the legal system. This discrepancy can result in plea bargains that may not effectively uphold justice.
2. The police's involvement in the plea negotiating process is a topic of controversy, primarily because of allegations of custody abuse in India. There is apprehension that plea bargaining could exacerbate these problems by granting the police excessive sway over an accused individual's choice to engage in a plea bargain.
3. Victims participate in plea bargaining, which has the potential to result in corruption. This participation could potentially undermine the impartiality of the procedure, negating the fundamental objective of plea bargaining, which is to efficiently attain justice.

4. The existing plea negotiating system lacks an autonomous judicial body to supervise and verify the equity of plea deals. In addition, the confidential discussion of plea offers during private (in camera) proceedings might contribute to public distrust. Furthermore, if rejections of plea bargains are not kept hidden, it has the potential to create bias among the public and the judiciary against the accused.
5. Insufficient as a comprehensive solution Concerns like jail overcrowding, high acquittal rates, and the mistreatment of convicts awaiting trial led to the introduction of plea bargaining. Nevertheless, these concerns arise from more extensive systemic flaws such as lengthy court proceedings, ineffective investigative organisations, and personal interests embedded within the legal field. This process fails to address the underlying causes of the issue. What is required is a comprehensive overhaul of the judicial and legal institutions to expedite trials and enhance the overall administration of justice.

Positive Effects of Plea Bargaining

1. Plea bargaining expedites court proceedings resolution, benefiting both prosecution and defence. It mitigates the likelihood of complete defeat in a legal proceeding and alleviates the burden on the judicial system. By expediting the resolution of cases, courts can conserve resources for more intricate legal matters.
2. Plea bargaining in India enables individuals to admit guilt for less severe offences, considering the significant influence of social stigma on one’s life. This implies a less serious violation on their official record, potentially lessening the impact if they commit another offence in the future.
3. In India, court trials often last for extended periods, infringing upon the rights of the individuals involved, particularly if the accused remains incarcerated beyond the duration of their alleged offence. Plea bargaining offers an expedited and streamlined procedure that obviates the necessity for considerable legal counsel, thus alleviating the strain and financial strain associated with a protracted trial.
4. Lengthy legal proceedings frequently generate undesirable public scrutiny. Plea bargaining expedites case resolution, resulting in reduced publicity. This is especially advantageous for those whose reputations are vital to their careers or those who desire to evade public scrutiny and censure. Although plea deals have the potential to become public, they often receive less media coverage and have a shorter duration in the press compared to trials.

Conclusion

Plea bargaining is a legal process that can ease court workloads and save resources, yet it remains contentious. Critics argue that it may pressure defendants into pleading guilty to avoid a potentially harsher punishment, even if they are not guilty. In essence, it involves a defendant agreeing to admit guilt for a reduced charge or fewer charges, often in exchange for a lighter sentence. This negotiation, conducted between the defense and the prosecution, can occur at various stages, either before or during a trial.