

# Plea bargaining



**ASSIGN  
BUSTER**

Much of the criticism leveled at the legal system in general and the criminal justice system in particular is well-deserved, but one feature of the criminal justice system poorly understood and thus unfairly judged by both the public and the media, is the process of plea bargaining.

Because criminal defendants have no incentive to plead guilty as charged, and because the number of cases that would otherwise need to be tried vastly exceeds the resources available to try them, plea bargaining is a strategy for avoiding total gridlock. Definitions of Plea Bargaining The process of negotiating an agreement among the prosecutor, defense attorney, and the court as to what an appropriate plea and associated sentence should be in a given case (Criminal Law Today).

A preconviction deal-making process between the state and the accused in which the defendant exchanges a plea of guilty or nolo contendere (which means plea of no contest to charges) for a reduction in charges, a promise of sentencing leniency, or some other concession from full, maximum implementation of the conviction and sentencing authority of the court (Criminal Courts: Structure, Process, and Issues). Benefits from Plea Bargaining The defendant benefits in that a sentence is accepted, which is much shorter and less severe than a sentence that may have been imposed had the case proceeded to trial and the person had been convicted.

The criminal justice system benefits in that a trial involves considerable preparation and expense. Juries do not always convict guilty defenders and plea bargains avoid trials and the often difficult burden of proving defendants guilty beyond a reasonable doubt. Plea Bargaining and the

Defendant's Rights According to Champion, " the plea agreement process may lack sufficient guarantees to ensure proper application of the law and sentencing options. Many defendants are ignorant of the law. Those with some knowledge of the law may lack the foresight to appreciate and understand the seriousness of the guilty plea they enter.

Naive defendants may enter into plea agreements with prosecutors not knowing that they have the right to litigate fully any charges against them. " However, according to the Fifth and Sixth Amendments of the United States Constitution, no person shall be compelled in any criminal case to be a witness against himself (self-incrimination), and in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury, to be confronted with witnesses against him.

**Advantages of Plea Bargaining** There are several advantages for plea bargaining. Some include; reducing the uncertainties of criminal trials, fewer trials and trial delays, more convictions, and reducing the costs of trials. Some other advantages of plea bargaining are that victims are spared either the trauma or inconvenience of testifying, according to the nature of the case, and the prosecution is spared the risk of acquittal.

**Disadvantages of Plea Bargaining**

The concrete disadvantage is that there is some reduction in the conviction offense or sentence or both, although the outcomes of responsible plea bargaining are not dramatically different from probable outcomes absent plea bargaining. The most significant disadvantage of plea bargaining, however, is the abstract one - it involves negotiating with criminals and

rewards their refusal to accept responsibility. The Position To take a for or against position of plea bargaining is difficult in that on some level if it were a family member on trial a plea agreement would be sked for regardless of the nature of the offense. However, if one were the victim, he or she would want all charges and evidence allowed in court and a maximum sentence imposed on the defendant because he or she did not give the victim a choice. Both the sentence imposed and the absence of an opportunity to participate meaningfully frustrates victims and plea bargaining undermines society's efforts to punish the guilty appropriately and provides criminals with excessive leniency.

There is much outrage at the thought of bargaining with criminals, many say that offenders are let off too lightly as a result of plea bargaining, and that many bargains are unjust and socially harmful. Society cannot expect laws to deter people from crime when criminals know that by copping a plea they can greatly reduce the penalty for their conduct. Conclusion In conclusion, plea bargaining has been introduced as a prescription to the problem of overcrowded jails, overburdened courts, and nonstandard delays.

It cannot be denied that the practice may result in faster disposal of cases; because delayed trials are problematic in many aspects. As a result there will always be a significant number of cases that cannot or should not be resolved via the plea bargaining process.