ECONOMIC ANALYSIS OF THE EFFECTIVENESS OF PLEA-BARGAINING AGREEMENTS IN TANZANIA LAW AND PRACTICE

Written by ***Erasto Anosisye***

Master of laws (LLM), St. Augustine University of Tanzania, Tanzania

ABSTRACT

This study aimed at making an assessment on the law and practice on the economic analysis of the effectiveness of plea bargaining agreements in Tanzania where the case study is Mwanza and Geita region. Thus this study examined the laws, policies, regulations and rules governing plea bargaining agreements in Tanzania and identifies the legal challenges facing the same. The Plea bargaining procedures were introduced in our criminal jurisprudence way back in 2019 through the Written Laws (Miscellaneous Amendment) Act, which made reforms and accommodated Plea Bargaining as part of the Criminal jurisprudence by making significant amendment to the Criminal Procedure Act, the same were followed by the introduction of the Chief Justice rules which were intended to regulate the procedure during negotiations. The study was qualitative in nature and hence analytical as it analyzes the laws and then assesses the legal challenges which face the plea bargaining agreements in Tanzania. The study provide an introduction to the study which gives the meaning, the brief origin of plea bargaining tracing from the USA legal regime and also the adoption of the same in the Tanzania criminal justice system.

INTRODUCTION

In the administration and management of criminal justice, Economics provides on scientific theory which predicts effects of legal penalty on human behaviors. Economists' postulate that rules of penal acts as motivator for changing conduct or behavior (inherent prices) and as device for policy objectives (efficiency and distribution).[i] In analyzing economics and law, Criminal penalties are compared with prices. In a sense that people reacts to these penalties much as wouldbe responding to price in other goods. This implies that people would normally responds to high prices by cutting down consumption of the higher priced items and also responds to many intense judicial sanctions by doing little of the criminalized activity.[ii]

In criminal jurisprudence, myriads penal sanctions have the ultimate goal which is crime deterrence[iii]. It is desired that the penal sanction should serve both deterrence and also should be economically effective. A crime renders the state to incur cost of arresting suspects, investigations, prosecutions and also upkeep of convicts in prisons.

Plea bargaining which entails settlement negotiations between a public prosecutor and a criminal defendant in exchange of some lesser penalty or sentence, is among of the myriads Penal sanctions which though serves as a tool towards relieving the states with costs born with crime but should also serve the purpose of crime deterrence.

Ideally, Plea bargaining agreement entails the process of negotiating a verdict and sentence without a complete trial. Practically Plea bargaining is designed in the form of alternative settlement of a criminal case without adhering to intricate procedures of a full trial[iv]. Technically, plea bargaining is argued to be an introduction of alternate form of amicable resolution of dispute in the criminal justice system.

Normally with plea bargaining, parties convene a friendly but purposive discussion to deliberate and agree on charges to be preferred over the accused, the facts to be adduced in Courts, the number of counts and finally the conviction to be given by the Court. Initially, the sentence part was left to be absolute discretion and prudence of the court under the assumption that parties cannot prescribe the sentence to the court.

THE CONCEPT OF PLEA BARGAINING

Plea bargaining refers to an agreement or contract where an accused entered with a Republic whereby the accused accepts to plead guilty to a minor offence and receives a lighter punishment, rather than facing the trial on a serious offence with the possibility of harsher punishment or sentence.[v] Different assertion have been given with regard to the concept of plea bargaining to entail alternative system of resolving criminal trials which is applied in order to reduce case overloads before the courts ,one of the scholar Kevin[vi] , observed that plea bargaining is just like a contract which is between two parties where the courts will protect and require the parties to fulfill and perform their obligations as agreed between them at the time of concluding the contract.[vii]

Humanity cries for justice when an offence is committed. It cries more when criminal trial does not commence on time and it loses its belief when the victim is left without justice because of the delayed trial and non-conviction of the guilty. The Supreme Court of India declared in ***Hussainara Khatoon v State of Bihar***[viii], that speedy trial is a fundamental right of the citizen. The courts are well aware of the fact that speedy trial is *sine qua non* for correct administration of justice. Regardless of various judgments of the Supreme Court, speedy trial has become almost impossible due to escalating arrears in the courts and the courts getting overloaded because of them. As a consequence, fair dealing has become the biggest casualty.

In the plea bargaining procedures the accused must waive some of his rights which are enshrined under the Constitution to include the right to remain silent, the right to call witnesses for the defense, the right to jury trial and is allowed to be convicted without the prosecutor proving all the elements of the offence as required by law.[ix] Parties in the plea bargaining must commit and sign the terms and conditions of the agreement and non-performance by any of the parties will lead to a breach and the courts will provide a remedy to the aggrieved party.[x] One of the best critique of the practice of plea bargaining is that the procedures can be said to be constitutional or legal only once the accused is not forced into pleading guilty and he understands the effect or consequences of pleading guilty.[xi]

In Tanzania Plea bargaining agreements were introduced in the criminal justice system in 2019, following the amendment of the Criminal Procedure Act[xii], through the Written Laws (Miscellaneous Amendment) Act.[xiii]The idea behinds the introduction of plea bargaining was

to curb the expenses incurred by the Government following the surging of prison cells and costs in running the prisons, to save time spent in litigating cases some of which could take long time to be determined(reduction of case backlogs).

Plea bargaining normally falls in two distinct categories depending upon the type of prosecutorial concession that is granted. The first category is "charge bargaining" in which the prosecutor agrees to drop some of the charges brought against the accused in return to pleading guilty of some charges.[xiv] The second category is "sentence bargaining" in which prosecutor will promise to recommend a specific sentence or to refrain from making any sentence recommendation in exchange for a guilty plea.[xv] All the two methods affect the dispositional phase of criminal proceedings by reducing accused's ultimate sentence.[xvi]The concept of Plea Bargaining refers to various practices which are charge bargaining, fact bargaining and sentence bargaining.

The Conditions Essential for the Plea Bargaining

The jurisprudence behind the application and acceptance of Plea bargaining procedures and the plea of guilty, the court shall accept a plea of guilty only if the following four criteria are fulfilled; *One;*The guilty plea must be voluntary as the rules under the provision of Guideline 1.3 (b) of the Plea Bargaining Guidelines, provide that the accused person must first show intention which signifies that he consented to the plea bargaining.[xvii]*Two*;The plea of guilty must be informed, as in accordance to the Rule 14 of the Criminal Procedure (Plea Bargaining Agreement) Rules,[xviii] provide that the court is duty bound to ensure that the accused understand the criteria under the plea bargaining including waiver of his or her rights. *Three*; The guilty plea must be unequivocal, the requirement is that the court of law has to inquire and ensure that the guilty plea during plea bargaining is not equivocal but unequivocal one.[xix] For example the content of the admission of guilty during the plea bargaining must not amount to a defense contradicting the plea itself. The trial court has the duty to check, inquire and confirm whether the accused person's acknowledgment and explanation of the facts and his involvement in them do not constitute a legal defense.[xx]*Fourth*; A factual basis must exist for a valid plea of guilty in the plea bargaining procedures as it is the duty of the court that a valid guilty plea is the one whose content is substantiated by facts, in any plea bargaining agreement thus an admission of guilt is not in itself a sufficient basis for the conviction of an accused as the magistrates or the

judges have to check and ensure if there is enough evidence to base the conviction both in law and in fact[xxi] .The mere admission may not be proof of guilt and thus it is far from being proof as it must itself be proven before the court.[xxii] In the case of *Kercheval vs United States,*[xxiii]the US Supreme Court stated that *"a plea of guilty differs in purpose and effect from a mere admission or an extrajudicial confession; it is itself a conviction…More is not required; the court has nothing to do but give judgment and sentence*". also the Supreme Court of Canada, in the case of *Adgey vs The Queen*[xxiv] and *Brosseau vs The Queen*,[xxv] the court held that a trial court has no duty to hold further inquiry into the factual circumstances of the case following a guilty plea.

ECONOMIC ANALYSIS OF PLEA BARGAINING

A plea bargain entails voluntary and free exchange of concessions in which an accused person waives his right to a full criminal trial in return for the prosecutor's guarantee of a lesser sentence than would be expected after a conviction at trial. In most of adversarial legal systems the plea bargaining procedures are made possible by the provisions of law's which allocates most of valuable, tradable assets to both sides, the accused persons' right to accept conviction by pleading guilty and thus abort a full trial, and the prosecutor's discretion over the precise charges lodged against the criminal defendant, which enables him to specify the power which are in the statutory limits, the sentence imposed after a conviction, however it is obtained.[xxvi]

Plea bargaining rules were made necessary by the high and uncertainty resource costs of criminal trial procedures and the pressure of heavy caseloads, which together strongly incline prosecutors, magistrates and judges to cooperate in maintaining the steady flow of guilty pleas that account for the vast majority of convictions in most common and adversarial jurisdictions.[xxvii] Looking on the mutuality of advantage afforded by bargained pleas, the US Supreme Court in 1970 explicitly endorsed the offer of leniency to a criminal defendant who in turn extends a substantial benefit to the State.[xxviii]
This categorization invited the need to analyze the economic approach to understanding plea bargains and their place in the criminal process based on assumptions of rational behavior on both sides, with defendants trying to minimize their jeopardy and prosecutors seeking to maximize some measure of success in dealing with large caseloads in the face of budget and time constraints.

The Neoclassical Foundations of Optimization and Efficient Equilibrium

This is the first economic analysis which majorly provides on the bargaining behavior of prosecutors and accused a person who aspires and relies on the mathematical precision which is either in predicting the actual outcomes of bargaining or in prescribing a hypothetical, systemically efficient allocation of resources across the entire criminal process.[xxix] The second attribute draws on the evolutionary tradition of institutional economics and its focus on the facilitation of individual transactions, considers existing institutions of criminal justice in historical context and proposes comparative analysis of how cases are resolved in different legal regimes as they struggle to allocate limited prosecutorial and judicial resources across crowded criminal dockets in pursuit of differing conceptions of criminal justice.[xxx]

Strain of Economic Analysis

The second theory is the strain of economic analysis which differs on self-consciously positive rather than normative, as the theory considers how caseload pressures and resource constraints are or could be accommodated by the adaptive evolution of existing institutional structures that are themselves shaped by core values of criminal justice that vary from system to system, and how these adaptations come about.[xxxi] This theory was developed by Adelstein,[xxxii] who provides that the phenomenon and issue of plea bargaining is within a larger framework that cuts across the criminal procedures and process as a network and chain of institutions and agencies that allow the completion of complex individual transactions between criminals and a large class of victims in environments where actual market exchange is precluded by prohibitive costs of contracting.[xxxiii]

THE LEGAL REGIME GOVERNING PLEA-BARGAINING AGREEMENT IN TANZANIA

The Constitution of the United Republic of Tanzania of 1977

Constitution is the mother law of the land. It is the genesis of all other laws of the land. The constitution is the supreme and the governing law in all matter which falls under the ambit of

criminal law. The rules under the criminal justice system in Tanzania originate from the provision under the constitution. It is the constitution under Article 13 which guarantees the right to personal liberty which determines the right to bail and other related rights which affect the liberty of the person from enjoying his or her rights. The Constitution guarantees every person the right to freedom and to live as a free person.[xxxiv]When a charged individual takes a plea bargain, he will not have to go through intricacies of a full trial. Thus Plea bargaining having aspects of amicable resolution is in line with the spirit of the Constitution which call upon the Courts of law to precipitate hearing of cases.[xxxv]

The Penal Code

The Penal Code[xxxvi] was enacted to provide for offences and prescribe punishments as it also set a range of criminal offences with their ingredients. The amendments to introduce plea bargain did not include amendment of the Penal Code. This means that until now the court and judges should be guided by what has been stipulated under section 194F as the said section provides for some offences which plea- bargaining cannot apply.[xxxvii]This is the code addressing areas of penal law involving offenses against persons, property and the state and punishment thereto. Plea-bargaining may generally be conducted in every offence provided in the Penal Code with exceptional specifically to those offences mentioned under the Criminal Procedure Act.[xxxviii]To make it clear, the researcher has attempted to review some offences in the penal code which plea bargaining agreement may be applied. However in practice section 25 [f] of the Penal code fully embodies aspects of Plea bargaining where the provision allows payment of compensations as a kind of punishment which can be passed to the convict by the Court. Thus initially when plea bargaining kicked off, the prosecutor was mandatorily required to include this provision as part of charging sections solely for conferring power to court to impose compensation to an offence which would ordinarily require custodial sentence in a traditional trials.

The Criminal Procedure Act

The Criminal Procedure Act,[xxxix] is an Act enacted to provide for the procedure to be followed in the investigation of crimes and the conduct of criminal trials and for other related purposes.

The Criminal Procedure Act, Cap. 20 were recently amended in section 3 whereby plea

agreement was added to mean an agreement entered into between the prosecution and the accused in a criminal trial.[xl] Meanwhile, "plea bargaining" was added to mean a negotiation in a criminal case between a prosecutor and the accused whereby the accused agrees to- (a) plead guilty to a particular offence or a lesser offence or a particular count or counts in a charge with multiple counts; or (b) cooperate with the prosecutor in the provision of information that may lead to a discovery of other information relating to the offence or count charged, in return for a concession from the prosecutor which may lead to a lenient sentence or withdrawal of other counts.[xli]

The amendment[xlii]has further defined plea agreement to means an agreement entered into between the prosecution and the accused in a criminal trial per sections 194A, 194B and 194C.[xliii] The words Plea bargaining and Plea agreement were not present in the Criminal Procedure Act before this amendment. To make the provisions for plea bargaining negotiations to be complete in the Act a number of sections have been introduced in the Act.

The Act provides for the registration of plea agreement entered into under the provisions of sections 194A and 194B.[xliv] Before registering it, the court shall satisfy itself that the same was voluntarily obtained and the accused was competent to enter into such agreement. The court has discretion to pronounce the decision based on the plea agreement or as it deems necessary and is given power to reject upon sufficient reasons but rejection does not prevent subsequent negotiations between the parties.[xlv] The registered agreement binds the parties and become part of court's records.[xlvi]

The court shall convict an accused person accordingly if the plea agreement is accepted.[xlvii] Section 194E provides for procedures of registration of plea agreement[xlviii] and then the act gives a room for the parties to file an application to set aside sentence and conviction relating to plea bargaining.[xlix] The Director of Public Prosecution may apply to the court to set aside conviction and sentence arising from plea bargaining procured on the grounds of fraud or misrepresentation or for public interest,[l] however, such public interest is not well-defined in the act. Again, do the same only if the court which passed the sentence procured involuntary or by misrepresentation.[li]

Furthermore, section 194H,[lii] gives power to the chief justice to make rules for better carrying of the system. And this has been realized through the rules which are going to be discussed in

the law which will follow herein under. The act has tried to address well on this area only to find there are some mischief and contradictions from the act itself. Also, the implementation of what has been written in this act is still challenging. Hence amendment is the only way to make the system real one.

A new additional provision, 194G regarding registration of plea bargaining has been added to section 194 of the Criminal Procedure Act. The provision empowers the DPP to set aside all matters relating to plea bargaining and in the public interest and the orderly administration of justice, apply to the court which passed the sentence to have the conviction and sentence procured on the grounds of fraud or misrepresentation according to a plea agreement.[liii] The provision empowers also an accused person who is a party to a plea agreement may apply to the court which passed the sentence to have the conviction and sentence procured involuntarily or by misrepresentation according to a plea agreement is set aside.[liv]

The Evidence Act

The Evidence Act[lv] was enacted by the parliament and it has undergone several amendments until today. The introduction of plea-bargaining negotiations in Tanzania did not include express amendment of the Evidence Act; this implies that the rules governing admissibility of facts, confessions, examination and questioning of witnesses are still applicable even in this system. The rules of evidence should not be excluded in cases of this nature.

Although the law of evidence is very important in the legal proceedings, it was not included in the amendment of laws that introduced plea bargaining in legal proceedings in Tanzania.[lvi]The absence of application of rules of evidence in a legal proceeding may result in injustice to the accused and the victim especially in case where the republic has insufficient evidence against him. Since the judge or magistrate is not required by law to engage in plea bargaining negotiations, rules of evidence may not necessarily be applied. Judge and magistrate are not bound by the bargaining agreement as such they may reject to accept the registration of the plea-bargaining agreement in court.[lvii]

INSTITUTIONAL LEGAL FRAMEWORK GOVERNING PLEA BARGAINING IN TANZANIA

The institutional framework governing plea bargaining can best be observed from the criminal justice systems[key organs players] which are responsible for implementation and enforcement of the criminal laws in Tanzania to include the National Prosecution Services, the Prevention and Combating of Corruption Bureau, the Defense Attorney, the Police Department and the Judiciary.*One*; The police department is mandated with the power to make an arrest and conduct the investigation of the crimes in Tanzania.[lviii] Under the Tanzania criminal justice system the police are mandated with making investigation of the crime after they have been lodged by any person in Tanzania or sometimes police are mandated with the power to make an arrest with or without a warrant if they reasonably believe that the offender has committed an offence or is in the process of committing a crime. *Two*;Prevention and Combating of Corruption Bureau is charged with the investigation of offences especially corruption related offences. It is an independent body as by law established charged with that mandate of investigation[lix]of what are termed as white collar crimes. In regard to Plea bargaining, this office constitutes a huge fraction of all plea bargaining related cases completed by The DPP. *Three*; The Director of Public Prosecution who works under the "National Prosecution Services (NPS) and is the head of all prosecutions services and is appointed by the president under Article 59B (1) of the Constitution[lx] thus the constitution gives him power to institute, discontinue, prosecute and supervise all criminal prosecution in the country,[lxi] those powers can be exercised in his own capacity or on his directions by the public prosecutors and officers under him.[lxii] The constitution requires him to be free with no any interference from any person for the reasons of the need to dispensing justice,[lxiii] prevention of misuse of procedures for dispensing of justice,[lxiv] and for public interest.[lxv] In plea bargaining, public prosecutors participate on behalf of the office of Director of Public Prosecution and as such no plea bargaining agreement may be effected without first the sanction of the DPP or his delegates.
*Four;*The Judiciary is vested with judicial powers by virtue of Article 4 (2) and 107A of the URT constitution.[lxvi] The Judiciary is the authority with final decision in dispensation of justice in the United Republic of Tanzania,[lxvii] it is destined to be independent when exercising its power,[lxviii] and is required to observe various principles to wit; principle of impartiality,[lxix] not to delay dispensation of justice unreasonably,[lxx] to award reasonable compensation to

victims,[lxxi] to promote and enhance dispute resolution between people,[lxxii] and avoiding technicalities which may obstruct dispensation of justice.[lxxiii]*Five*; the Defense Attorneys/lawyers are the advocates which represent the criminal defendant or accused in the case and they have their role in the plea bargaining process. The law allows the initiation of the plea bargaining either by an advocate or an accused person himself.[lxxiv] That a person charged with an offence which is not exempted under section 194F of the Act[lxxv] or his representative or, as the case may be, the prosecutor, may orally or in writing notify the court of his intention to negotiate a plea agreement.

CONCLUSION

The Plea bargaining procedures were introduced in our criminal jurisprudence way back in 2019 through the Written Laws (Miscellaneous Amendment) Act[lxxvi], which made reforms and accommodated Plea Bargaining as part of the Criminal jurisprudence by making significant amendment to the Criminal Procedure Act[lxxvii], the same were followed by the introduction by the Chief Justice rules which were intended to regulate the procedure during negotiations. The study provide that the legal regime governing plea bargaining procedures are effective which was answered in affirmative but faced with some legal challenges to include absence of clear and unambiguous procedure governing pleas bargaining, the court's discretion powers to reject plea bargaining agreement, presence of unequal bargaining power as between parties, lack of free consent during the negotiations, discretion power of DPP and the plea bargaining procedures potentially disregard alternative sentence to people with financial constraints.

RECOMMENDATIONS

Thus this study recommends as follows, with regards to the having clear implementation of the plea bargaining agreements in Tanzania.

The law should be amended to help balance the bargaining power between the parties to the plea bargaining agreement and the power should not be retained by the public prosecutors only, the accused person should be given a bargaining power with regards to the crimes they are

charged by availing all potential evidence prosecution has to the accused so as to opportune him to weigh and adjudge his concession decision properly.

The laws governing plea bargaining in Tanzania should be amended to give power to the court to have control of the entire plea-bargaining procedure including calling the prosecution to present before the court all evidence it has so as to place the court in a position of satisfying itself that the accused's consent to the plea bargaining has been tested against the weight of the available evidence and that in absence of defense the accused may be convicted. Also accused who cannot afford financial settlements ,should be allowed to enjoy plea bargaining and be committed to social services which can be quantified in terms of cash to correspond the amount which had accused paid cash would satisfy the demand by the Republic.

BIBLIOGRAPHY

Adelstein, R., (2019) *Plea Bargaining in South Africa: An Economic Perspective,* Constitutional Court Review, Volume 9, 81–111.

Alschuer, *W.A.*, (1979) *"Plea Bargaining and Its History*",79 Colombia Law Review

Clark, P., (1986) *The Public Prosecutor and Plea Bargaining*, 60 Australian Law Journal (1986), Bradley, G.V (1999) *Plea Bargaining and the Criminal Defendant's Obligation to Plead Guilty*, 40 S. Tex. L. Rev. 65.

Cooter, R., et al., (2016) *Law and Economics*, 6th Edition Berkeley Law Books.

Crowe, D.M., (1979) *"Cost and Plea Bargaining Process*,"89, Yale Law Journal,

Du Toit, S., (2001) *Plea Bargaining in South Africa: The Need for a Formalized Trial Run*, Journal for Judicial Science 26(3):144-157

Hudson, B.A., (1996) *Understanding Justice, an Introduction to Ideas, Perspectives and Controversies in Modern Penal Theory*, Open Press, UK

Joseph, R.A., (2006) *Plea Bargaining : A Means to an End*, pg 4, pp.https://www.manupatra.com

Katz, M, et al., (1983) *Plea Bargaining and Social Welfare,* American Economic Review 73: 749-757

Lakshmi.G.R , (2008) *Plea Bargaining-Is it as consensual as convenient,* Journal of Indian Legal Thought,Vol.6

Landes, W., (1971) *An Economic Analysis of the Courts,* Journal of Law and Economics 14: 61- 107

Mubiru, S (2011) *Plea Bargaining Within the Context of Transitional Justice: Exploring its Potential for Promoting Peace and Accountability in the Wake of International Crime in Uganda*, LLM Thesis submitted at Utrecht University

O'Keefe, K., (2010) *Two Wrongs Make a Wrong: A Challenge to Plea Bargaining and Collateral Consequence Statutes Through Their Integration,*The Journal of Criminal Law and Criminology 100, no. 1, pp 243–76

Rai, S., (2021) *Law Relating to Plea Bargaining*, 2nd Edn, Allahabad: Orient Publishing Company, India

Reinganum, J., (1988) *Plea Bargaining and Prosecutorial Discretion,* American Economic Review 78: 713-728

SAGE, (2020) *An Introduction to Crime and the Criminal Jusitce System*, SAGE Publication Inc, USA, at pg 2

Schuster H, et al (2005) *Hunting Eric Rudolph,* 1st Edition, Penguin Publishing, USA

Sharma, B.L., (1994) *Plea Bargaining ; A Forecast for Future,* Criminal L.aw Journal, pg.51

Steyne, E., (2017) *Plea-bargaining in South Africa: Current Concerns and Future Prospects*

Thomas, M., (1996) *Plea Bargaining and Deterrence: An Institutional Approach*, European Journal of Law and Economics 3: 249-264.

ENDNOTES

[i] Cooter, R., et al., (2016) *Law and Economics*, 6th Edition Berkeley Law Books. Book 2. P.24
[ii] Ibid. P.3
[iii] Ideally it entails sending a warning signal not only to the offender [convict] but also to the general public who would become aware of the sentence. Thus whoever wishes to do such criminalized acts should be fully aware of the punishment that should follow.
[iv] National Prosecutions Services Plea Bargaining Guidelines June, 2022.
[v]O'Keefe, K., (2010) *Two Wrongs Make a Wrong: A Challenge to Plea Bargaining and Collateral Consequence Statutes Through Their Integration,*The Journal of Criminal Law and Criminology 100, no. 1, pp 243–76.

[vi] Ibid.

[vii] Ibid.
[viii]*Hussainara Khatoon v State of Bihar, AIR (1979) 1 SCC 98*, The Court found that the under-trial prisoners whose list was filed before the Court have been in jail for periods longer than the maximum term for which they could have been sentenced if convicted. The Court recognized the callousness of the legal and judicial system and unjustified deprivation of personal liberty. The Court also realized the plight of under-trial prisoners who are for most times, unaware of their right to obtain release on bail or due to poverty, are unable to engage a lawyer. *Also see, Meneka Gandhi v. Union of India, [1978] 1 SCC 248; M.H.Hoskot v. State of Maharashtra, [1978] 3 SCC 544; Gideon v.*
Wainwright, 37 US 335; 9 L.ed. at799; John Richard Argersinger v. Raymond Hamlin, 407 U.S. 25: 35 L. ed. 2d 530 at 535-36.

[ix]Bahera, A., (2008) *Plea Bargaining in India*, The Indian Journal of Criminology and Criminalistics 29, no. 1: 50–54.
[x] Ibid.
[xi] Thomas, S, et al., (1977)*Bargaining for Justice: Case Disposition and Reform in the Criminal Courts*, Praeger New York, USA, pp 20.
[xii] Cap 20 RE 2019.
[xiii] Act no.4 of 2019.
[xiv] Ibid.
[xv] Sharma, B.L., (1994) *Plea Bargaining ; A Forecast for Future*, Criminal L.aw Journal, p.51
[xvi] Clark, P., (1986) *The Public Prosecutor and Plea Bargaining*, 60 Atrailian Law Journal (1986), p.199.
[xvii] Plea Bargaining Guidelines, June 2022.
[xviii] GN. NO. 180 of 2021.
[xix] Lakshmi.G.R , (2008) *Plea Bargaining-Is it as consensual as convenient*, Journal of Indian Legal Thought,Vol.6, p.81.
[xx] Ibid.
[xxi] Rai, S., (2021) *Law Relating to Plea Bargaining*, 2nd Edn, Allahabad: Orient Publishing Company, India
[xxii] Ibid.
[xxiii]*Kercheval vs United States*, US Supreme Court, 274 U.S. 220 (1927), Case no. 705, 2 May 1927, p.223.
[xxiv]*Adgey v. The Queen*., Supreme Court of Canada, [1975] 2 SCR 426, 2 October 1973, p.429-430.
[xxv]*Brosseau vs The Queen*, Supreme Court of Canada, [1969] SCR 181, 28 November 1968, p.189-190.
[xxvi]Thomas, M., (1996) *Plea Bargaining and Deterrence: An Institutional Approach*, European Journal of Law and Economics 3: 249-264.
[xxvii] ibid
[xxviii] Ibid.
[xxix] Reinganum, J., (1988) *Plea Bargaining and Prosecutorial Discretion*, American Economic Review 78: 713-728
[xxx] Ibid
[xxxi] Adelstein, R, et al., (2001) *Toward a Comparative Economics of Plea Bargaining.* European Journal of Law and Economics 11: 47-67.
[xxxii] Ibid
[xxxiii] ibid
[xxxiv] Ibid, Art. 15
[xxxv] Ibid,Art.107A
[xxxvi] Cap 16 R.E 2022
[xxxvii]The Criminal Procedure Act [Cap. 20 R: E 2019]

[xxxviii] Section 194F , Written Laws (Miscellaneous Amendments) Act (No. 4), 2019
[xxxix] Cap 20 R.E 2022
[xl] Section 15 of the Written Laws (Miscellaneous Amendments) (No 4) Act, 2019
[xli] Ibid, Section 15
[xlii]Ibid
[xliii] Ibid
[xliv] ibid
[xlv] Ibid, Section 194D (3)

[xlvi] Ibid, section 194D (4)

[xlvii]section 194D (5)

[xlviii] Ibid, section 194G

[xlix]section 194G (1)

[l]section 194G (2)
[li]section 194G (3)
[lii] ibid
[liii] Section 16, Written Laws (Miscellaneous Amendments) (No 4) Act, 2019
[liv] Ibid
[lv][Cap. 6 R.E 2019]
[lvi]The Written Laws (Miscellaneous Amendments) (No 4) Act, 2019
[lvii] Chipeta, B. D. A (2006) Handbook for Public Prosecutors, Mkuki and Nyota Publishers, p. 17
[lviii] Section 10 and 11 of the Criminal Procedure Act, Cap 20 R.E 2022
[lix] Section 5(1)(2) of Cap .329[RE 2022]
[lx] URT Constitution of 1977
[lxi]Ibid, Article 59B (2)

[lxii]Ibid, Article 59B (3)
[lxiii]Ibid, Article 59B (4) (a)

[lxiv]Ibid, Article 59B (4) (b)

[lxv]Ibid, Article 59B (4) (c)

[lxvi] URT Constitution 1977
[lxvii]Ibid, Article 107A (1)

[lxviii]Ibid, Article 107B

[lxix]Ibid, Article 107A (2) (a)

[lxx]Ibid, Article 107A (2) (b)

[lxxi]Ibid, Article 107A (2) (c)

[lxxii]Ibid, Article 107A (2) (d)

[lxxiii]Ibid, Article 107A (2) (e)

[lxxiv] Rule 3 of the The Criminal Procedure (Plea Bargaining Agreement) Rules, 2021
[lxxv] Cap 20 R.E 2022
[lxxvi] Act No.4 of 2019.
[lxxvii][Cap. 20 RE 2022] Amendment of s.3, & 219: Addition of sections 194A, 194B, 194C, 194D, 194E, 194F,194G and 194H.