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Plea Bargains: In Depth

Plea bargains are extraordinarily common in the American legal system, accounting for roughly 90% of all criminal cases. Many countries, however, do not allow plea bargains, considering them unethical and immoral. Below is a discussion about what plea bargains are, why we use them and different types of plea bargains, as well as what happens if both parties don't live up to the terms of a plea bargain.

What Are Plea Bargains?

Plea bargains are an agreement in a criminal case between the prosecutor and the defendant that usually involves the defendant pleading guilty in order to receive a lesser offense or sentence. Plea bargains are often referred to as really just establishing a "mutual acknowledgment" of the case's strengths and weaknesses, and don't necessarily reflect a traditional sense of "justice". In theory, courts are happy to have the respective parties work out a solution by themselves, but it begs the question of who is best served by allowing plea bargains.

Why are Plea Bargains Used? Are They a Good Idea?

The primary justifications for plea bargains are that:

- Courts are overcrowded; if you didn't allow plea bargains, courts would be overwhelmed and forced to shut down.
- Prosecutors' caseloads are also overloaded; fewer trials means that the prosecutor can more effectively prosecute the most serious cases.
- Defendants save time and money by not having to defend themselves at trial.

These primary justifications all provide benefits to the respective players: the court, the prosecutor and the defendant, but don't inherently offer any benefit to the populace at large or take any steps towards a truly just outcome. For this - and other moral, ethical and constitutional reasons - many in the legal field have openly challenged the plea bargaining system.

In a notable example, the Attorney General of Alaska outright banned plea bargaining in 1975, and other states and localities have as well. In one study about areas where plea bargaining was prohibited, the author concluded that not being able to rely on plea bargaining reinforced responsibility in every level of the judicial process judges, lawyers, prosecutors and police and did not result in the court system being overwhelmed.

Finally, work in other fields, such as "Prisoner's dilemma" studies have demonstrated that suspects have every incentive to agree to plea bargains that don't reflect their guilt or innocence, either out of fear or to push the blunt of the blame to someone else. Regardless of these concerns, however, plea bargains continue to be a major component of the American legal system.

What Types of Plea Bargains Are There?

There are generally three types of plea bargains recognized:

- **Charge Bargaining:** the most common form of plea bargaining, the defendant agrees to plead guilty to a lesser charge provided that greater charges will be dismissed. A typical example would be to plead to manslaughter rather than murder.
- **Sentence Bargaining:** far less common and more tightly controlled than charge bargaining, sentence bargaining is when a defendant agrees to plead guilty to the stated charge in return for a lighter sentence. Typically this must be reviewed by a judge, and many jurisdictions simply don't allow it.
- **Fact Bargaining:** this is the least common form of plea bargaining, and it occurs when a defendant agrees to stipulate to certain facts in order to prevent other facts from being introduced into evidence. Many courts don't allow it,

and in general, most attorneys do not favor using fact bargains.

What Happens if I or the Prosecutor Break a Plea Bargain?

A plea bargain is a contract between the defendant and the prosecutor. If either side fails to live up to its end of the agreement, the most likely remedy is to go to court to enforce the agreement. In particular, many plea bargains ask a defendant to do something in return for a lesser charge. If a defendant fails to perform his or her end of the bargain, then a prosecutor can revoke the offer.

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