

How the Plea Bargain Affects Our Criminal Justice System

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The criminal justice system continues to oppress marginalized communities. In our current criminal justice system, many innocent individuals are being falsely accused of a crime they didn't commit. Law enforcement targets African Americans and Latinos because they fit the stereotypical image of a criminal. Due to the neighborhood they live in they are more likely to get incarcerated because they experience over-policing, racial profiling, poverty, and a lack of resources.*

African Americans and Latinos are often offered a plea deal as a way to manipulate them to say they're guilty. Prosecutors try to convince them by telling them they will receive a lesser charge. This process can cause stress because they want to get back to their families and continue the normal life they had. Many individuals plea out because they believe they will be released sooner than their original date. The majority of the time they can't afford cash bail or a trial. While incarcerated, African Americans and Latinos continue to be oppressed as they are held in harmful and violent conditions. They experience traumatic events that cause mental and physical damage. And it all starts with the plea bargain, an ineffective and oppressive tool that marginalized communities.

Plea bargaining is an agreement that occurs between the prosecutor and the defendant. It began during the Salem Witch Trials in 1692 when witches were accused of practicing witchcraft and pleading guilty prevented them from having a trial to prove their innocence (Meyer 2022). It was seen as inappropriate and unethical but in 1967, it gained popularity. This process is still widely used in the United States criminal justice system. It's

* Thank you to Professor Sam Moussavi. An early version of this work was submitted as a paper for his course, CJ 320: Literature in Criminal Justice.

commonly used to convince defendants into pleading guilty in hopes of receiving a shorter sentence and a lesser charge.

There are three different types of plea bargaining: charge bargaining, sentence bargaining, and count bargaining. Charge bargaining allows the defendant to plead guilty to reduce charges. Sentence bargaining offers a different charge in return for pleading guilty. Count bargaining is when the defendant has the option to plead guilty to other charges they have. These three different processes only benefit prosecutors because it saves them their time and can focus on other pending cases.

According to the article, *Prisons are Packed because Prosecutors are Coercing Plea Deals and Yes, It's Totally Legal*, the author states "More than 97 percent of federal criminal convictions are obtained through plea bargains, and the states are not far behind at 94 percent" (Neily, 2019). This is important because the majority of criminal convictions are due to individuals being coerced into pleading guilty. They are being pressured to take the blame for a crime even if they didn't commit it. The majority of the individuals inside prison are only there due to having to plead guilty in hopes of being released from prison earlier than their original sentence. Plea bargains can lead to false convictions and overcrowded jails or prisons.

There is a lot of controversy about the plea bargain because it creates inequality in the criminal justice system. It's more likely for an individual that identifies as African American and Latino to be offered the plea bargain in comparison to someone who is white. The plea bargain system violates human rights and constitutional rights. It violates human rights because individuals are giving up their opportunity to show their innocence. In addition, it violates three amendments such as the Fourteenth, Sixth, and Fifth Amendments. The Fourteenth Amendment allows the state to have

equal protection under the law for everyone. In addition, the Sixth Amendment highlights the rights of criminal defendants such as having a right to a lawyer, the right to know the charges, the right to a public trial, and the right to know who are the accusers. The Fifth Amendment gives individuals the right to remain silent to avoid being incriminated. These amendments give individuals the power to fight for their freedom and innocence. Once they accept the plea bargain they are stripped from their rights and can't defend themselves anymore. It prevents them from having a fair trial and from being innocent until proven guilty.

The plea bargain process is used to mass incarcerate. Prison systems profit from every inmate that is incarcerated. They receive a large budget that has to be distributed to all parts of the prison system such as improving the living conditions for the inmates and paying the staff. For example, Rikers Island is known to be the most corrupt and dangerous jail. It's located in New York and the inmates experience harsh conditions. The article, Comptroller Stringer: Cost of Incarceration per Person in New York City Skyrockets to All-Time High, states "Annual cost of incarceration grew to \$556,539 a person per year – or \$1,525 each day" (Varghese & Estrella, 2021). It's important to know how the criminal justice system has increased the annual cost of being incarcerated. In this case, the city of New York has to continue to increase the system's budget to afford to incarcerate thousands of people. This leads to mass incarceration because the majority of the individuals inside the jail are due to taking plea bargains and being charged with minor crimes. They receive money from every inmate that enters Rikers Island. The inmates experience mental and physical damage. The system only benefits people in power and marginalized communities are the most affected. The plea bargain

continues to generate money for the criminal justice system by incarcerating individuals who fit the stereotypical image of crime.

In my opinion, the plea bargain is ineffective because it targets African Americans and Latinos. It's an unfair process because many individuals aren't able to defend themselves due to not being able to afford a trial. It creates inequality and harms many low-income communities.

In the reading, *Justice or Just Us? American Plea Bargaining*, In J. C. Curtin (Ed.), *Crime and Wealth: Readings in the Political Economy of Criminal Justice*, Walsh claims:

Perhaps not surprisingly, it is the economically disadvantaged who make up the bulk of all guilty pleas entered in criminal courts since they comprise the bulk of all criminal defendants, and do not possess the resources to pursue lengthy adjudication through trial process. (Walsh, 1997)

This is important because low-income communities are the most affected by injustices in the criminal justice system. The plea bargain is used to coerce individuals into thinking they committed a heinous crime. Marginalized communities don't have access to resources or information that helps them know their rights and how they can help with the law. When they are offered plea bargains they are more likely to take them because they have families and jobs that they need to attend to. They don't want to be in prison for a long time so they try their best to negotiate to leave earlier. Prosecutors try to convince them that it's the best thing to do and sometimes threaten them if they don't take it. This creates fear and anxiety because they have to live in regret and continue to reflect on previous events that lead them there. It's morally wrong to interfere with an individual's opportunity to prove they're innocent.

Some people will say the plea bargain is an effective process because it saves everyone involved time. Legally, it's a contract that occurs between the prosecutor and the defendant. The prosecutors offer it when they predict an unsuccessful trial due to the lack of evidence. It's allowed because it provides benefits for prosecutors and judges. Prosecutors can improve their conviction rates and judges can focus on other pending trials. The judges approve the plea bargain process and don't deny it unless they believe it's unfair or they are being too nice. They're not able to offer a plea deal but the defendant can express to the judge that they are pleading guilty. It's legal for a plea bargain to occur in many criminal justice cases to avoid having many trials. Many will say that the defendant is getting a good deal and are avoiding having to be in court. It helps them confess since some of them are guilty and did commit the crimes they are being charged for. It allows for time to be saved and can prevent the defendant from being misrepresented due to public defenders having loads of cases that they have to solve.

Morally, the plea bargain is wrong because individuals have to give up their rights and are forced to take the plea. Prosecutors try to convince them and use tactics that appeal to their emotions to make them fear being in prison for a long sentence. Sometimes those who are innocent have to face consequences for a crime they didn't do. It's wrong for people in power to be able to get away with crimes and be the only population to afford a trial. Those who agree with the plea bargain system will say that it's the right thing to do because it allows individuals to reflect on the crimes they committed. It's important to acknowledge how committing a crime is morally wrong and that punishment is necessary to put order in society. Some believe that having plea bargains can help solve crime rates because people have the opportunity to confess and it

allows for them to be removed from society which leads to creating a safer environment.

The plea bargain connects to economic and political disparities. The criminal justice system targets marginalized communities due to being economically disadvantaged. African Americans and Latinos are always overrepresented and associated with criminality. The mass media always portrays them as criminals because of the environment they live in and their background. They can't afford to have cash bail or a trial because it's expensive and they have to support their families. The article, *How Much Do California Lawyers Cost? the Taboo Question--Part 2 Litigation Fees (Brace Yourself)*, explains "For most cases that are litigated through trial, you will spend (from start of the case to finish of trial) from \$80,000 to \$150,000 or more" (Davidson, 2018). This shows trials take many days to solve and it's not always certain they will get the outcome they want. Some individuals believe that trials should cost money because they take time and it's a long process that is necessary to solve a crime. Prosecutors and public defenders have to prepare themselves to deliver speeches and legal statements.

Low-income individuals find it hard to afford to have the luxury of proving their innocence in court because they have to take care of their families while maintaining a minimum-wage job. For example, the story of Kalief Browder is important because he was failed by the criminal justice system. He was African American and was only 16 years old when he was sent to Rikers Island. He was falsely accused of stealing a backpack and was offered to take a plea bargain. He didn't take the plea because he thought it was unfair for him to claim he committed a crime when he didn't. Unfortunately, he had to spend three years in jail because his family couldn't afford to pay for bail or a trial. Throughout his time in jail,

he wanted to commit suicide six times because of the conditions he lived in and the inhumane treatment he received. Due to the traumatic experiences he encountered in Rikers after he was released he committed suicide in his own home. His story is essential to reform the criminal justice system because it portrays the unfairness that occurs for many individuals who look like Kalief Browder. Being inside the system can harm their lives because they will have a criminal record and it will be hard to get back to their normal lives. They have to live with the traumatic experiences they face with the criminal justice system which can lead to becoming mentally ill.

From a political perspective, the plea bargain process helps temporarily solve the issue of crime in society. Political representatives are always under pressure to solve a crime or be “tough on crime” and they try to solve it by using more mass incarceration. Arresting people that look like they commit crimes or for small crimes allows them to show society that they are enforcing more protection. It’s also a way to show they have a good reputation. Politicians don’t show the realities of how unjust the criminal justice system is. Believers of the plea bargain will counter-argue that politicians use it in their favor to help incarcerate those who are guilty and are generous with the sentences they give them. Using the plea bargain is wrong because it violates their constitutional rights. It gives power to the prosecutor and politicians try to avoid observing how unfair the process is. When plea bargaining was first initiated it was seen as unethical and wasn’t used in court until a few years after. In our modern time, it’s still used in various cases and it’s normal.

Getting rid of the plea bargain system will allow individuals to have access to a trial. It will reform the criminal justice structure because it will initiate respect for the law due to prosecutors having

to convince defendants to plead guilty to avoid doing the paperwork for a trial. This process is ineffective because it leads to mass incarceration and marginalized communities are the dominant population of being inside jails or prisons. It's very overused and prosecutors take advantage. Abolishing the plea bargain will allow for fewer innocent individuals to be falsely accused and incarcerated. It will prevent people in power to use the plea bargain as a way to coerce an individual to take the blame for a crime they didn't commit or to threaten their families. Individuals like Kalief Browder deserve to prove they are not guilty and should have access to a lawyer. Defendants should have the option to choose if they want a bench trial or a jury trial. Having non-profit organizations where law students or community members can help public defenders will allow for better representation in court. Public defenders deserve more funding and more resources. There needs to be more awareness of the unfairness inside the criminal justice system. Removing the plea bargain will allow individuals to prove their innocence. Creating laws, rehabilitation centers, and funding marginalized communities will allow individuals to receive the help they need and know their rights.

In conclusion, plea bargains are one of the injustices that take place in the criminal justice system. The common populations that have the highest plea bargains are African Americans and Latinos because they lack resources and are targeted. It creates economic disparities because they can't afford to have a long expensive trial. The plea bargain has expanded into three different sections which makes it hard for individuals to turn down a plea deal. Prosecutors coerce defendants to plead guilty so they can receive a shorter sentence. There are a lot of controversies because it creates inequality and individuals have to forfeit their rights. This process is used to mass incarcerate because they are convincing the

majority of the defendants to plead guilty even if they didn't commit the crime. The prison system benefits from this because it allows them to receive more funding. Some will say that plea bargain has many benefits because they save everyone time and prosecutors can improve their incarceration rates. They also believe that the defendant is receiving a fair sentence when claiming they're guilty. Morally the plea bargain is wrong because it creates fear among the defendant. Those who agree will state that they're already guilty and need to reflect on their crimes. From a political perspective, it creates an illusion for society and makes them think politicians or the government is solving high crime rates. The first step in reforming the criminal justice system is to get rid of the plea bargain because it will allow defendants to prove their innocence and have trial access. It will prevent innocent individuals from being falsely incarcerated. Offering opportunities to law school students to become interns and community members to become activists will help defendants know their options. Change needs to occur to help build a fair system and help defendants live a better life without fearing the criminal justice system.

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