

**AN EVALUATION OF THE EFFECTS OF PLEA BARGAINING IN PROMOTION OF
CRIMINAL JUSTICE IN UGANDA: PUSH AND PULL FACTORS**

ADONGO ODETTE TAREMWA

AS20B11/847

**A DISSERTATION SUBMITTED TO THE SCHOOL OF LAW, IN PARTIAL FULFILLMENT OF
THE REQUIREMENTS FOR THE AWARD OF A DEGREE OF BACHELOR OF LAWS OF
UGANDA CHRISTIAN UNIVERSITY**

June, 2024



**UGANDA CHRISTIAN
UNIVERSITY**

A Centre of Excellence in the Heart of Africa

ABSTRACT.

This study examines the effects of plea bargaining on the promotion of criminal justice in Uganda, employing a desktop review methodology. Through this analysis, it was found that plea bargaining promotes efficiency within the criminal justice system, fostering trust between citizens and the state, it significantly reduces case backlog, thus enhancing overall system efficiency and resource allocation, it also addresses prison congestion and reduces the time spent in prison, among others.

However, amidst these benefits, several drawbacks were identified. Plea bargaining can lead to pressure to plead and condemnation of the innocent, while also violating the human rights of the accused. Furthermore, it grants excessive discretion and power to prosecutors and may inadvertently contribute to increased crime rates.

Finally, while proponents argue for the merits of plea bargaining, it is essential to acknowledge and address the negative ramifications it poses to the accused, victims, and the public at large.

DECLARATION.

I affirm that this dissertation, except for properly cited references to the work of others, is entirely my own. It has not been submitted in any form for any degree elsewhere. All sources consulted and utilised are duly acknowledged in the reference section.

STUDENT: ADONGO ODETTE TAREMWA.

SIGNATURE:

DATE:

APPROVAL.

I have endorsed this dissertation for submission as a partial fulfilment of the requirements for obtaining a Bachelor of Laws degree from Uganda Christian University.

SUPERVISOR: MS. MIRRIAM ACHIENG

SIGNATURE

DATE

ACKNOWLEDGEMENTS.

I would like to express my deepest gratitude to MS MIRIAM ACHIENG, my dissertation supervisor, for her invaluable guidance, support, and encouragement throughout this research journey. And also for introducing me to this topic in her Clinical Legal Education Classes. Her expertise, constructive feedback, and unwavering commitment have been instrumental in shaping the direction and quality of this dissertation.

I extend my heartfelt thanks to my family especially my parents MR. AND MRS. RICHARD EJADU EYAMU, my uncle; MR. IVAN ENGORU and my sisters BIGABWA DAISY and ENID AYERO KAITESI for their unwavering love, encouragement, and understanding throughout this academic endeavour. Their endless support provided the foundation upon which I was able to pursue and complete this dissertation.

Additionally, I am also indebted to my study partners, Otong Micheal Favour, Uweera Harmony, Byaruhanga Joshua Morris, Ezeofor Victory and Nuwagira Martha whose insightful contributions and assistance greatly enriched the content of this dissertation. Their willingness to share their knowledge, expertise, and resources has been truly appreciated.

Finally, I wish to acknowledge the countless individuals, organizations, and institutions whose work and contributions have informed and inspired this research. Their efforts have not gone unnoticed and are gratefully acknowledged.

LIST OF ABBREVIATIONS.

CSJ	Criminal Justice System
DPP	Director of Public Prosecutions
SGJI	Sudreau Global Justice Institute
ECHR	European Convention on Human Rights
ICCPR	International Covenant on Civil and Political Rights
UNTOC	United Nations Convention Against Transnational Organized Crime
ICC	International Criminal Court

LIST OF AUTHORITY

Statutes.

a) International.

1. International Covenant on Civil and Political Rights
2. United Nations Convention Against Transnational Organized Crime
3. European Convention on Human Rights
4. International Criminal Court

b) National.

1. 1995 Constitution of Uganda
2. Magistrate Courts Act Cap 16
3. Penal Code Act Cap 120
4. The Evidence Act cap 6
5. The Judicature (plea bargain) rules, 2016
6. The Trial Indictments Act Cap 23
7. The Uganda Human Rights Commission Act Cap 24

Case law

1. BORDENKIRCHER v. HAYES, 434 U.S. 357 (1978)
2. Brady v. United States, 397 U.S. 742,
3. People V Godwin 2 A.D 2d 846
4. Santo Bello V New York 404 U.S. 257 (1971)
5. Woolington v DPP [1935] AC 462

Table of Contents

ABSTRACT.....	i
DECLARATION.....	ii
APPROVAL.....	iii
ACKNOWLEDGEMENTS.....	iv
LIST OF ABBREVIATIONS.....	v
LIST OF AUTHORITY	vi
CHAPTER ONE: RESEARCH PROPOSAL	1
1.1 INTRODUCTION.....	1
1.2 BACKGROUND TO THE STUDY.....	3
1.2.1 Historical background	3
1.2.2 Conceptual background.....	6
1.3 PROBLEM STATEMENT.....	6
1.4 OBJECTIVES.....	7
1.4.1 PRIMARY OBJECTIVE.....	7
1.4.2 SPECIFIC OBJECTIVES.....	7
1.5 RESEARCH QUESTIONS.....	8
1.6 JUSTIFICATION.....	9
1.7 SIGNIFICANCE.....	9
1.8 LITERATURE REVIEW.....	10
1.8.1 Introduction.....	10

1.9	RESEARCH DESIGN	15
1.10	METHODOLOGY.....	15
1.11	SCOPE OF THE STUDY	15
1.11.1	GEOGRAPHICAL SCOPE.....	15
1.11.2	TIME SCOPE.....	16
1.12	CHAPTER SYNOPSIS.	16
2	CHAPTER TWO: LEGAL FRAMEWORK OF PLEA BARGAINING IN UGANDA.....	18
2.1	Introduction	18
2.2	International laws/treaties	18
2.2.1	International Covenant on Civil and Political Rights (ICCPR)	18
2.2.2	United Nations Convention Against Transnational Organized Crime (UNTOC)....	19
2.2.3	European Convention on Human Rights (ECHR).....	19
2.2.4	African Charter on Human and Peoples' Rights	19
2.2.5	International Criminal Court (ICC).....	20
2.3	National Laws	20
2.3.1	The 1995 Constitution of the Republic of Uganda.	20
2.3.2	The Judicature (Plea Bargain) Rules of 2016.	21
2.3.3	The Penal Code Act Cap 120.....	22
2.3.4	The Magistrate's Court's Act Cap 16	23
2.3.5	The Trial Indictments Act Cap 23	23
2.3.6	The Judicature Act Cap 13.....	24

2.3.7	The Uganda Human Rights Commission Act Cap 24.	25
2.3.8	The Evidence Act Cap 6	25
3	CHAPTER THREE: EFFECTS OF PLEA BARGAINING AND HOW THEY AFFECT THE CRIMINAL JUSTICE SYSTEM IN UGANDA	27
3.1	Introduction	27
3.2	POSITIVE EFFECTS.	28
3.2.1	Introduction	28
3.2.2	Plea bargaining promotes Efficiency of the Criminal Justice System which builds trust between the citizens and the state.....	28
3.2.3	It reduces of Case Backlog in the Criminal Justice System which promotes efficiency in the justice system.....	29
3.2.4	Plea bargaining Saves of Costs which spares resources for other developments.	30
3.2.5	Plea Bargaining facilitates reduction in the congestion in prison which provides better resources for the available prisoners.	31
3.2.6	It Reduces the time spent in prison by the prisoner which prevents perpetual punishment.	33
3.2.7	Plea bargaining Promotes Reconciliation which promotes peace in society.....	33
3.2.8	Plea bargaining gives the vulnerable groups of people an opportunity to receive justice which promotes equality.....	34
3.2.9	Conclusion.....	35
3.3	NEGATIVE EFFECTS	35
3.3.1	Introduction.....	35

3.3.2	Plea Bargaining leads to Pressure to plead and condemnation of the innocent.	36
3.3.3	Plea Bargain violates the Human rights of the accused person.....	36
3.3.4	Plea Bargaining can be an avenue for increased crime in the state.	38
3.3.5	Conclusion.....	38
3.4	Challenges faced by parties to a plea bargain agreement during the plea bargain process.	38
3.4.1	Introduction.....	38
3.4.2	High level of case backlog which coerces the accused to enter into plea bargain agreements which they would not ordinarily have entered into if they had undergone a full trial.	39
3.4.3	The limitations that arise from the fact that implementers are learning on the job.	39
3.4.4	Limitation in the scope of the Plea Bargain Process as regards Jurisdiction in handling plea bargaining.	40
3.4.5	Conservativeness and Misconceptions about Plea Bargain.	40
3.4.6	Shortage of Resources.	41
3.4.7	Conclusion.....	41
4	CHAPTER FOUR: SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATIONS..	43
4.1	Introduction	43
4.2	When plea bargaining promotes efficiency in the criminal justice system, it has promoted justice.	43

4.3	Whenever plea bargaining reduces case backlog, criminal justice in Uganda will have been promoted.....	44
4.4	In situations where plea bargaining reduces the time spent in prison by a prisoner, it promotes justice.	45
4.5	Plea Bargaining enables vulnerable groups of people to be heard which promotes justice.	45
4.6	In situations when plea bargaining violates human rights of parties, criminal justice is not promoted.....	46
4.7	Whenever plea bargaining becomes an avenue for increased crime rate, justice is not promoted.	47
4.8	Plea Bargaining puts pressure on the innocent to plead guilty so as to have a quicker sentence and this clearly does not promote justice.....	47
5	CHAPTER FIVE: CONCLUSION AND RECOMMENDATIONS.	49
5.1	Conclusion.	Error! Bookmark not defined.
5.2	Recomendations	50
5.2.1	Decentralization of Plea Bargaining to all courts in Uganda.....	50
5.2.2	adequate training of the implementers.....	50
5.2.3	Adequate time for sentence.....	51
5.2.4	sensitization of the parties	51
6	BIBLIOGRAPHY.....	52

CHAPTER ONE: RESEARCH PROPOSAL

1.1 INTRODUCTION.

Plea bargaining is a form of negotiation by which the prosecutor and the defence counsel enter into an agreement resolving one or more criminal charges against the defendant without a trial.¹ Plea bargaining is a process in which a defendant pleads guilty to a criminal charge in exchange for a concession from the prosecutor². Michael Gorr in his article, **The Morality of Plea Bargaining**³ stated that Plea bargaining refers to the practice by which, in return for a guilty plea on the part of the defendant, the prosecutor agrees to do any of the following: reduce a charge already issued, dismiss a charge already issued, refrain from issuing additional charges, or recommend a lighter sentence than the defendant would be likely to receive if convicted at trial.

Etannibi Alemika⁴ states that Criminal Justice broadly refers to the norms, processes and decisions about enacting and enforcing criminal laws, determining the guilt of crime suspects, and allocating and administering punishment and other sanctions. The norms, institutions and processes of criminal justice administration are politically determined, in the sense that their articulation and incorporation into the governance systems of society involve the exercise of political power through the legislative, executive and judicial organs of government⁵. The Criminal Justice System (CJS) is

¹ G. Nicholas Herman & Zachary C, Bolitho. Plea bargaining, Juris publishing, Inc. 3rd Edition page 1

² <https://www.britannica.com/topic/plea-bargaining> retrieved on 15th February, 2024

³ Social Theory and Practice, Vol. 26, No. 1 (Spring 2000), pp. 129-151 (23 pages) <https://www.jstor.org/stable/23561051> retrieved on 15th February, 2024

⁴ Etannibi E O Alemika, Norms, politics, institutions, processes and constraints, page <https://shorturl.at/HJKQ4> . retrieved on 15th February, 2024

⁵ ibid

administered through a system of inter-connected and interdependent actors. Through this system, social control is maintained; criminal laws are enforced and justice is meted out to the victims of crime, accused persons and society at large. The interrelationships between the Criminal Justice System actors act as a check and also serve to protect the rights of individuals as they wade through the system.⁶ When Britain assumed control of Uganda, the judicial system consisted of several local authorities, tribal chiefs, and kin group elders, who worked primarily to enforce local customary law. Islamic law was also practised in areas of northern Uganda. During the twentieth century, British jurisprudence was gradually imposed, spreading more quickly across the south than the north. At independence the resulting legal system consisted of the High Court, which heard cases involving murder, rape, treason, and other crimes punishable by death or life imprisonment; and subordinate magistrates' courts, which tried cases for crimes punishable by shorter terms of imprisonment, fines, or whipping. Magistrates' court decisions could be appealed to the High Court. All courts had the privilege of rendering "competent verdicts," whereby a person accused of one offence could also be convicted of a minor, related offence. Today, the law that prescribes crime in Uganda and their punishments is mainly the Penal Code Act Cap 120⁷. It should be noted that Article 28⁸ of the Constitution provides that no one can be charged for and commission of an act whose punishment is not prescribed by the Law of Uganda.

⁶ Kinnes, Irvin (2009) Criminal justice in Africa an introduction to the theory and practice of criminal justice. Monograph No. 1 61 African Human Security Studies

⁷ Penal Code Act Cap 120

⁸ 1995 Constitution of Uganda

1.2 BACKGROUND TO THE STUDY.

Plea bargaining is a form of negotiation by which the prosecutor and the defence counsel agree to resolve one or more criminal charges against the defendant without trial. The purpose of plea bargaining is to encourage cooperation with law enforcement and reduce the burden on the court system by avoiding a trial. *Rule 4⁹ of the Plea Bargain Rules* provides that plea bargain means the process between an accused person and the prosecution in which the accused person agrees to plead guilty in exchange for an agreement with the prosecutor to drop one or more charges, reduce a charge to a less serious offence or recommend a particular subject to the approval of the court. The agreement entered into between the prosecution and an accused person regarding a charge between a charge or sentence against the accused person is known as a plea bargain agreement.

1.2.1 Historical background

Plea bargaining is thought to have its roots in seventeenth-century England, where it emerged as a method to reduce overly severe punishments¹⁰. Additionally, the evolution of plea bargaining can be followed from its beginnings in America. However, its history in the United States is somewhat unclear, mainly because bargaining was largely frowned upon in most legal settings until the late 19th century. One of the earliest instances of plea bargaining occurred during the colonial era, notably during

⁹ The Judicature (plea bargain) rules, 2016

¹⁰ Lawrence m, plea Bargaining in Historical Perspective <https://www.jstor.org/stable/3053251> retrieved on 15th February, 2024

the **1692 Salem witch trials**. Accused individuals were presented with the option to confess, promising them life, while refusal to confess often resulted in execution. Another case is the 1833 case of *People v. Goodwin*¹¹, where the court upheld the constitutionality of plea bargaining. In 1963, the Supreme Court case of *Brady v. United States*¹² established the constitutionality of plea bargaining. In 1970, the Supreme Court case of *Santo Bello v. New York*¹³ held that plea agreements must be fulfilled by the prosecution. In 1978, the Supreme Court case of *Borden Kircher v. Hayes*¹⁴ held that plea bargaining does not violate the defendant's right to due process. These cases, among others, have shaped the development of plea bargaining in the United States¹⁵ Plea bargaining began to proliferate in the early 20th century, although it was not fully accepted by the appellate courts. Plea bargaining is very common in the United States, and the vast majority of criminal cases in the United States are settled by plea bargain rather than by trial. Different states and jurisdictions have different rules regarding plea bargaining, and it is subject to the approval of the court.

In Africa, many countries have gradually adopted various forms of trial waiver systems for example South Africa, Nigeria, Zambia, Senegal, Zimbabwe, Rwanda and Uganda. In Uganda, plea bargaining was first experienced through a team from the United States of America comprising students from Pepperdine University who had travelled to serve as interns for a few members of the judiciary and began a pilot program of the same.

¹¹ People V Godwin 2 A.D 2d 846

¹² Brady v. United States, 397 U.S. 742,

¹³ Santo Bello V New York 404 U.S. 257 (1971)

¹⁴ BORDENKIRCHER v. HAYES, 434 U.S. 357 (1978)

¹⁵https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=2005&context=journal_article retrieved on 15th February, 2024

They also proposed the adoption of this strategy to reduce case backlog during the summer of 2007. ¹⁶ The judiciary in response set up an 11-member committee headed by the Principal Judge Hon. Justice Yokoramu Bamwine as he then was to find an appropriate strategy for the reduction of case backlog in Uganda. In May 2014, the Ugandan Judiciary in Partnership with Pepperdine University launched a new plea bargain initiative as part of an overall effort to reduce case backlog. It was first introduced through practice directions issued by the then Principal Judge but was later codified into statutory rules known as the Judicature (Plea Bargain) Rules 2016. This was through an activity named the Prison Project which was commissioned in Luzira prison where a group of about 40 judicial officers, advocates, state attorneys and other key players were trained on the plea bargain process and more than 20 cases prepared were concluded under that project. The judiciary has since continued to carry out plea bargain in various districts such as Mukono, Fort Portal, Mbarara, and Gulu, among others. Plea Bargain has also been introduced in the curriculum of student lawyers in the subject of Clinical Legal Education in institutions such as Uganda Christian University. The objective of the Plea bargain of reducing case backlog mainly has indeed been seen to yield fruit. It should be noted that when a person accepts the plea bargain process, there are some rights of theirs that they'll have to waive and these include; the right to a full trial, the right to representation by an advocate, the right to be presumed innocent unless proven otherwise.¹⁷

¹⁶ <http://law.pepperdine.edu/nootbaar-institute/global-justice/prison-project/history-description.htm>. retrieved on 15th February, 2024

¹⁷ The Judicature (Plea Bargain) Rules 2016

1.2.2 Conceptual background.

In this study, the independent are the effects of plea bargaining. The effects of plea bargaining include both the positive effects and the negative effects.

The dependent variable in this study is the promotion of criminal justice in Uganda. The promotion of criminal justice greatly relies on the effects of plea bargaining. That is to say; in situations where the effects of plea bargain are positive, there will be promotion of criminal justice, however, in situations where the effects of plea bargaining are negative, there will be no promotion of criminal justice. This research will seek to establish how exactly, with evidence, the effects of plea bargaining have affected the criminal justice system of Uganda.

1.3 PROBLEM STATEMENT.

The **Judicature (Plea Bargain) Rules, 2016**¹⁸ were enacted to make plea bargains better recognized in Uganda. One of the aims is to ensure a reduction in case backlog and reduce the work of the judiciary since the number of the judiciary is way less compared to the number of cases they have to handle, also since trials can be long and expensive, avoiding trial can be less costly to all the parties involved.

However, even with all these beautiful aims of plea bargains, the effects don't seem to bring out the beauty of the aims. This is evidenced by some innocent people pleading guilty to get a shorter punishment yet if they had gone through the whole trial process, they would have been found innocent and would not have to be charged at all. This

¹⁸ ibid

beats the aim of Article 28 of the Constitution of Uganda¹⁹ which provides that all people will be presumed innocent until proven guilty or until the person has pleaded guilty, also the fact that the people that agree to plea bargaining have to waive some of their fundamental rights is something that cannot be ignored and should therefore be analysed better.

The fact that very many innocent people plead guilty raises concerns about what the actual cost of plea bargaining is. Is it only reducing the work of the judiciary at the peril of the charged persons or is it beneficial to all the parties after all? Also, where does plea bargain leave the victims of the offence, take an example of a person charged with rape who after plea bargaining is seen on the streets by his victim, how does that affect them? This study seeks to establish all these and come up with an evaluation of whether indeed plea bargaining deserves all the flowers it receives from the people.

1.4 OBJECTIVES

1.4.1 PRIMARY OBJECTIVE.

To evaluate the effects of plea bargaining in the promotion of Criminal justice in Uganda.

1.4.2 SPECIFIC OBJECTIVES.

- 1) To find out what the legal framework governing plea bargaining in Uganda is.

¹⁹ 1995 Constitution of Uganda

- 2) To establish how the positive effects of plea-bargaining influence the criminal justice system of Uganda.
- 3) To find out how the negative effects of plea-bargaining influence the criminal justice system of Uganda.
- 4) To identify the challenges faced by parties to a plea bargain agreement during the plea bargain process in the criminal justice system of Uganda.
- 5) To analyse the relationship between the effects of plea bargaining and the promotion of criminal justice in Uganda.
- 6) To recommend solutions to the underlying challenges of plea bargaining in Uganda.

1.5 RESEARCH QUESTIONS.

- 1) What is the legal framework governing plea bargaining in Uganda?
- 2) How do the positive effects of plea-bargaining influence the criminal justice system of Uganda?
- 3) How do the negative effects of plea-bargaining influence the criminal justice system of Uganda?
- 4) What are the challenges faced by parties to a plea bargain agreement during the plea bargain process in the criminal justice system of Uganda?
- 5) What is the relationship between the effects of plea Bargaining and the promotion of criminal justice?
- 6) What are the recommended solutions to the underlying challenges of plea bargaining in Uganda?

1.6 JUSTIFICATION.

Several studies have been based on establishing the impacts of plea bargaining in Uganda. The reason for my study is not only just establish the impacts of plea bargaining but also to evaluate the effects also about the criminal justice system of Uganda; that is to say, is plea bargaining actually worth it or we have been blinded by its few positivity and are probably oblivious to the fact that its negative effects could carry more weight than its positive impacts thereby affecting our justice system more negatively than positively. This study will also seek to establish whether plea bargains can be decentralized to the small justice systems of Uganda. This study will establish the relationship between the effects of plea bargaining and the promotion of criminal justice in Uganda.

1.7 SIGNIFICANCE.

This research will first establish the effects of plea bargaining in Uganda. It will further evaluate these effects on the promotion of criminal justice in Uganda. This study will weigh both the positive and negative effects of plea bargaining and come up with certain recommendations for what can be done about the same. The recommendations from this study will encourage to the citizens of this country to engage in plea bargaining because its positive effects will be enhanced and its negative effects will be dealt with. This will promote plea bargaining. It will increase the already existing literature about plea bargains. It will also be used by future students to increase their body of knowledge as regards the topic of plea bargaining. This study will be used as material for future researchers. This study will also be a guide for the parliament in

terms of enacting laws that deal with the negative effects of plea bargaining since the research will help the parliament realize that indeed plea bargaining; wonderful as it is, has some negative impacts. The judiciary will also ensure that in interpreting the law regarding plea bargaining, it ensures not to increase the negative effects of plea bargaining but that it deals with them, and promotes the positive ones.

1.8 LITERATURE REVIEW.

1.8.1 Introduction.

The effects of plea bargaining are one of the major problems in the criminal justice system of Uganda. As already discussed above, plea bargaining is a strategy employed by the government of Uganda to aid the judiciary system in a bid to promote criminal justice. Plea bargaining is also not a new area of study and therefore there have been various write-ups about it by different authors, and researchers, among others. Below is a review of some of the different write-ups that have been made about plea bargaining in the recent past.

N McDonough in his article, “Plea Bargaining - A Necessary Evil?”²⁰ wrote on whether plea Bargaining is a necessary evil, he discusses some of the impacts of plea bargaining. He noted the facts that whenever a person cites a benefit of the plea bargain, another person claims abuse. He further stated that the most obvious benefit of a plea bargain is the saving in time and expense to the parties, the court and the public. Apparently,

²⁰ NCJ Number72963, Volume: 2 Issue: 2 Dated: (1979) Pages: 381-401. Published 1972

in numerous cases, the defendant may benefit from the plea-bargaining process because he receives a lighter sentence for pleading guilty to a lesser offence. The defendant, his family, and the victim are spared the public trial and accompanying emotional trauma. The prosecutor may benefit as well, as he is burdened with proving guilt beyond a reasonable doubt, a task which is frequently difficult given constitutional restraints. According to this article, along with benefits, there are abuses in the process, most of which hurt the defendant. The process may result in waivers by defendants of their constitutional rights, unequal representation by counsel, the threat of unequal sentencing, and the possibility that guilty pleas will be entered by innocent defendants.²¹

Michael Gorr in his article, **The Morality of Plea Bargaining**²² had some things to say about plea bargaining. The purpose of his paper was to contribute to a discussion through a careful analysis of the most widely accepted reasons for thinking that plea bargaining is or isn't morally justified. He observed that the institution of plea bargaining does not involve any form of duress that would by itself be sufficient for morally condemning it. While he would have conceded that, in some respects at least, allowing such a practice would be more efficient than abolishing it, it also seems that the latter policy would minimize the number of innocent defendants who are wrongly convicted of some offence or other (since reduced agency costs, together with the burden of proof requirements, make trials a more reliable way of protecting innocent

²¹ *ibid*

²² *Social Theory and Practice*, Vol. 26, No. 1 (Spring 2000), pp. 129-151 (23 pages) <https://www.jstor.org/stable/23561051>

defendants). On the other hand, he noted that the percentage of innocent defendants who are convicted of the initial, more serious charges is likely to be greater in a no-bargaining world than in one of plea bargaining. Furthermore, he analysed that while abolitionists are probably correct in supposing that without plea bargaining a greater percentage of factually guilty defendants would receive the retributively appropriate punishment for their offences than would otherwise be the case, supporters of that institution seem to be on equally strong grounds in maintaining that under their system a greater percentage of factually guilty defendants would receive at least some punishment. Finally, he concluded by stating that opponents of plea bargaining have provided insufficient support for their claims that plea bargaining involves forfeiting rights that ought to be inalienable and that there are simply no compelling moral grounds for requiring either the implementation or the prohibition of plea bargaining.²³

Webadmin, on the 26th day of May 2022 published an article titled; Plea Bargaining as A Response to Challenges in The Criminal Justice System in Uganda, Will It Work?

²⁴It had been a theme organized by the Public Interest Law Clinic, in the School of Law. Hon. Justice Mike Chibita, the Director of Public Prosecutions (DPP) was the guest speaker at a public dialogue that drew participation from a cross-section of personalities that included Professors of Law, Lecturers and students. It was noted that while explaining the concept of Plea Bargaining, Hon. Justice Mike Chibita said that it was a system that has been put in place where accused persons are enabled to bargain

²³ ibid

²⁴Michael Gorr, The Morality of Plea Bargaining <https://law.mak.ac.ug/plea-bargaining-as-a-response-to-challenges-in-the-criminal-justice-system-in-uganda-will-it-work/> retrieved on 17th February, 2024

for a plea. He said plea bargaining would and was already working on addressing some of the pressing challenges in the judicial system including case backlogs, high costs, delays, and more. He explained that in Uganda, One Hundred Fifty cases are registered annually although the number of prosecutors is only Three Hundred spread out through One hundred stations all over the country. He noted that the best practice would be for one prosecutor to handle one file a week and that the reality was that many more were handled. He said the judiciary is faced with a case backlog partly because of such challenges of limitations in both human and financial resources. He said much as all people awaiting trial are entitled to legal representation by the state, ninety-nine per cent will rely on this because they cannot afford other advocates. He said in other countries like the US, public defenders and legal aid service providers get dispensation from the Government to represent such people. It's against this background, he said, that Plea bargaining comes in. If one has committed a crime and is willing to take responsibility and plead guilty to the offences they are fast tracked. He said the Plea-bargaining pilot has score eighty percent success rate. He said it took a day for instance to plea bargain a case against the usual prosecution case lag for years. As a result, he said it helped in reducing costs in forms of time, finances, as well as human resources. He however explained some of the challenges experienced in the process of implementing plea bargaining in the court system that include shortage of resources, and the limitations arising from the fact that the implementers are learning on the job.²⁵

²⁵ ibid

Justice Stephen Mubiru in his paper; **Plea Bargain within the Context of Transitional Justice: Exploring its Potential for Promoting Peace and Accountability in the Wake of International Crime in Uganda.** (2011),²⁶ argued that considering the current logistical budgetary constraints in the administration of the criminal justice in Uganda, faced with large numbers of victims and perpetrators, the prosecution strategy of the Uganda High Court War Crimes Division may let limit the proportion of offenders who can be prosecuted even in the category of the middle ranking and low-level perpetrators. He went on to state that a prosecution strategy that incorporates plea bargain would increase the overall numbers of offenders subjected to retributive justice and conviction, where otherwise a small number of individuals would have been criminally accountable.

As clearly discussed above, plea bargaining as a subject is not new in Uganda, in fact different people have had some things to write about it as discussed above. In carrying out this literature review, the researcher realized that very many people that have written about it have written about its impacts. It should be noted however that little or no emphasis has been put on how these effects affect our criminal justice system. In this research, the researcher hopes to establish not just the impacts of plea bargaining but also how these impacts affect our justice system. Furthermore, the researcher also hopes to establish whether indeed plea bargaining is worth all the praise that it is given considering how its effects will affect the criminal justice system of Uganda.

²⁶ Plea Bargain within the context of Transitional Justice: Exploring its Potential for Promoting Peace and Accountability in the Wake of International Crime in Uganda. (2011)

1.9 RESEARCH DESIGN

A historical research strategy was employed as a design by gathering data using past information on the impacts of plea bargaining in Uganda. It was also used to establish how these impacts affected the justice system of Uganda basing on the past effects of plea bargaining on the people of Uganda and the justice system as a whole.

1.10 METHODOLOGY

This research paper was largely be deskto review, conducted through a Legal analysis based on primary sources that is to say; The constitution of the Republic of Uganda and other relevant statute. Secondary sources shall be drawn from decided cases, published articles publications and internet sources.

1.11 SCOPE OF THE STUDY

The subject scope of the study was **“An evaluation of the effects of plea bargaining in promotion of criminal justice in Uganda: push and pull factors.”** I chose this content because I believe that there is a gap regarding how the effects of plea bargaining affect the criminal justice system. I aimed to investigate whether indeed the outcomes of plea bargaining promote the criminal justice system or demote it.

1.11.1 GEOGRAPHICAL SCOPE

This research was carried out using sample experiences cover Uganda as a whole. I chose to conduct this research in Uganda as a whole because plea bargaining has been implemented in various parts of Uganda, affected the parts differently and therefore

choosing to cover a specific area might have resulted in injustice to other regions and distorted the research results, considering the board and varied effects of plea bargaining.

1.11.2 TIME SCOPE

The research conducted was for the data on plea bargaining that exists between 1995 to date and the reason behind this is because the Constitution was enacted in 1995 in which Article 28 was put in place. Article 28 of the Constitution provides to the right of a fair hearing which is the basis of the practice of Plea Bargain.

1.12 CHAPTER SYNOPSIS.

Chapter 1 of the dissertation will cover the introduction, background to the study, problem statement, objectives, specific objectives, research questions, justification, significance, literature review, research design, methodology, scope of the study, geographical scope, time scope, and the chapter synopsis. Chapter 2 will find out what the legal frame work governing plea bargaining in Uganda is. Chapter 3 will discuss the effects of plea bargaining and how they affect the criminal justice system of Uganda. Lastly, it will establish what challenges are faced by parties to a plea bargain agreement during the plea bargain process in the criminal justice system of Uganda. The fourth chapter will reflect the Summary of Findings, the Conclusion and Recommendations. It will discuss the relationship between the effects of plea Bargaining and the promotion of criminal justice. It will also give the conclusion and suggest the recommendations to

the challenges that will have been established. This research paper will have 4 chapters that will flow in the way discussed above.

2 CHAPTER TWO: LEGAL FRAMEWORK OF PLEA BARGAINING IN UGANDA

2.1 Introduction

The legal framework that governs plea bargaining is covered in this chapter. This is through an analysis of substantive laws that govern criminal proceedings and plea-taking. The laws are embedded both in the International Treaties and domesticated in our National Laws. The International laws/treaties include International Covenant on Civil and Political Rights (ICCPR), United Nations Convention Against Transnational Organized Crime (UNTOC), European Convention on Human Rights (ECHR) International Criminal Court (ICC) and African Charter on Human and Peoples' Rights. The national laws include the 1995 Constitution of the Republic of Uganda, the Judicature (Plea Bargain) Rules, 2016, The Criminal Procedure Code Act, the Penal Code Act Cap 120, The Magistrate Courts Act Cap 16, The Trial Indictments Act and The Evidence Act.

2.2 International laws/treaties

2.2.1 International Covenant on Civil and Political Rights (ICCPR)

Article 14(3)(b) of the ICCPR²⁷ shows the importance of providing defendants with "adequate time and facilities for the preparation of their defense." This provision recognizes the role of negotiations with the prosecution as part of the defense preparation process. It ensures that defendants have the opportunity to engage in plea bargaining without undue pressure, the ICCPR safeguards their right to a fair trial.

²⁷ Article 14(3)(b) International Covenant on Civil and Political Rights

2.2.2 United Nations Convention Against Transnational Organized Crime (UNTOC)

Article 11 of the UNTOC²⁸ encourages states to consider "mitigating circumstances" in sentencing, which may include factors negotiated through plea agreements. This provision recognises that plea bargaining can expedite the adjudication of cases involving transnational organized crime while also promoting cooperation between states in combating such offenses.

2.2.3 European Convention on Human Rights (ECHR)

Although the ECHR does not explicitly address plea bargaining, the European Court of Human Rights has acknowledged its use in various cases. Article 6 of the ECHR provides for the right to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by the law. The Court has established guidelines to ensure that plea bargaining procedures comply with the standards of due process and the right to a fair trial.

2.2.4 African Charter on Human and Peoples' Rights

Article 7(1)(c) of the African Charter²⁹ guarantees the right to "be tried within a reasonable time" and "to be advised of the charges against them." These provisions facilitate plea negotiations by ensuring that defendants are informed of the charges and have a timely resolution of their cases, thus promoting efficiency and fairness in the criminal justice process.

²⁸ Article 11 of United Nations Convention Against Transnational Organized Crime

²⁹ Article 7(1) (c) of the 2.2.4 African Charter on Human and Peoples' Rights

2.2.5 International Criminal Court (ICC)

Rule 139 of the ICC Rules ³⁰of Procedure and Evidence explicitly allows for "guilty pleas" and "agreements between the parties." This provision reflects the ICC's recognition of the potential benefits of plea bargaining in expediting proceedings and securing cooperation from defendants in international criminal cases.

While international laws and guidelines acknowledge the role of plea bargaining in criminal justice systems, its application and regulation remain subject to national laws and practices and thus Uganda has in place laws that govern this noble undertaking as shown below.

2.3 National Laws

2.3.1 The 1995 Constitution of the Republic of Uganda.

The Constitution of the Republic of Uganda³¹ is the supreme law of the nation and has binding force on all authorities and individuals. As the primary source of law, the Constitution contains provisions that regulate Criminal Proceedings and laws governing plea bargaining.

Plea bargaining is part of the criminal justice system of Uganda which is founded on **Article 28**³², which is to the effect that everyone has the right to a prompt, fair, and public hearing and that an accused person shall be presumed innocent until proven guilty. The prosecution bears the burden and the standard of proof which is beyond

³⁰ Rule 139 of the ICC Rules

³¹ The Constitution of the Republic of Uganda 1995.

³² 1995 Constitution of Uganda.

reasonable doubt as was held in *Woolmington v DPP*³³. It's worth mentioning that the initial step of a plea bargain requires an accused person to plead guilty to the offence they are charged with.³⁴

In *Constitutionalism at the Cross Roads*³⁵, it is stated that the constitution is a single text and that each Article of it must be taken into account so as to infer the true intent of the statute.

2.3.2 The Judicature (Plea Bargain) Rules of 2016.

The Judicature Plea Bargain Rules, 2016 were enacted on 2nd May, 2016 by the Rules Committee.³⁶ The Judicature (Plea Bargain) Rules, 2016 are primarily designed to obviate lengthy hearings thereby enabling our criminal justice system to cope with an ever-increasing number of registered criminal cases and in order to avoid a growing backlog of pending cases and furthermore to promote efficiency which is of great benefit to society.³⁷

Rule 3³⁸ provides for the objectives of the rules among which include but not limited to assisting in the reduction of case backlog and prison congestion, offering prompt solace from the stress of criminal prosecution and to include the victim in the adjudication process. These rules provide for the procedure of plea bargaining right

³³ *Woolington v DPP* [1935] AC 462

³⁴ Plea bargaining is a process in which a defendant pleads guilty to a criminal charge in exchange for a concession from the prosecutor by <https://www.britannica.com/topic/plea-bargaining> retrieved on 15th February, 2024

³⁵ *Constitutionalism at the Cross Roads* by Peter MUKidi Walubiri

³⁶ The Judicature (Plea Bargain) Rules 2016

³⁷ Frank H. Easterbrook, *Plea Bargaining as Compromise*, at 103, col. 1

³⁸ *ibid*

from the beginning to the end. The form and contents of a plea bargain agreement are outlined in **Rule 9**³⁹. It is also important to note that the accused must freely consent to the agreement and must then be explained to the accused person before appending their signature. Every accused person has certain rights stated under **Rule 12** among which include the right to plead not guilty to if they already so pleaded the effect of that plea the presumption of innocence, the right to remain silent and not to testify during the course of the trial. **Rule 12(b)**⁴⁰ goes on to state that an accused person forfeits their rights when they consent to take part in a plea bargain the reasoning behind this is the fact is accused's sentence is going to be reduced by the prosecution to a lesser one.

2.3.3 The Penal Code Act Cap 120

The purpose of this legislation is to create a code of criminal law in Uganda. It provides for a variety of criminal offences with their ingredients, which must be proved by the prosecution for one to plead guilty, the Act is complemented by other legislations among which include the **Anti-Corruption Act 6 of 2009**, the **Traffic Road Safety Act, 1998** to mention but a few. The relationship between the Penal code Act and plea bargaining is simply the fact that the Penal Code Act prescribes the offences among which an accused can plead guilty during the process of plea bargaining.

³⁹ ibid

⁴⁰ ibid

2.3.4 The Magistrate's Court's Act Cap 16

This law that governs proceedings in Magistrate's courts in Uganda which are subordinates' courts established under **Article 129 (d)**⁴¹, these courts include

1. The Chief Magistrate's court
2. Grade 1 magistrate's court
3. Grade 2 magistrate's court
4. Grade 3 magistrate's court

In the **Magistrate's Courts Act** provides for the procedure of plea taking where a charge sheet is read to the accused person by the court and the accused person shall be asked whether he or she admits or denies the truth of the charge the answer to a charge here is called a plea. The plea is initiated by the accused under this court while in a Plea Bargain process, it is initiated by the prosecution. according to the Magistrate Court's Act, the plea must come from the accused if it is a plea of, guilty it must be voluntary, unequivocal, plain, certain unambiguous and specific admission by an accused person before a court of competent jurisdiction accepting that he or she committed the crime with which he or she is charged. The accused should admit all ingredients of the offence to qualify the plea of guilty per **Section 124 (2)**⁴².

2.3.5 The Trial Indictments Act Cap 23

This is a piece of legislation which governs criminal proceedings in the High Court which is established under **Article 129**⁴³ and is presided over by the principal judge and has

⁴¹ 1995 Constitution of Uganda as amended

⁴²Magistrate Courts Act Cap 16

⁴³ 1995 Constitution of Uganda as Amended

unlimited original jurisdiction in criminal and civil matters and receives appeal cases from the Chief Magistrate's courts and has original jurisdiction over capital offences. In **Section 63**⁴⁴ where an accused pleads guilty, the plea shall be recorded and he or she may be convicted on it. **Section 132**⁴⁵ provides for an appeal from the high court to the Court of Appeal by the accused person against conviction and sentence by the high court which plea bargain doesn't provide for however a plea bargain t sentence cannot be challenged because it was bargained. **Section 60**⁴⁶ , which is to the effect that the accused shall be placed at the bar unfettered and the indictment shall be read over to him or her by the chief registrar or other officer of court and accused person shall be required to plead instantly to the indictment.

2.3.6 The Judicature Act Cap 13

This statute establishes the hierarchy of court, their jurisdiction and composition in Uganda starting with the Supreme Court to the High Court. **Section 39**⁴⁷ provides that the jurisdiction vested in the High Court by the Constitution, the Judicature Act of any other enactment shall be exercised in accordance with the practice and procedure provided by the Judicature Act or any other enactment or by such rules and orders of the court as may be made or existing under the Act or another enactment. **Section 40** of the Act establishes the Rules Committee and **Section 41** provides for its functions which include among others making rules for regulating the practise and procedure of the supreme Court, court of Appeal, the High Court of Uganda and for all other courts

⁴⁴ The Trial Indictments Act Cap

⁴⁵ The Trial Indictments Act

⁴⁶ The Trial Indictments Act

⁴⁷ The Judicature Act Cap 13

in Uganda subordinate to the High Court⁴⁸. Based off of this power, the Rules Committee made the **Judicature (Plea Bargain) Rules 2016**, to govern the process of plea bargaining in Uganda.

2.3.7 The Uganda Human Rights Commission Act Cap 24.

The purpose of this Act is to make provision in relation to the Uganda Human Rights Commission in pursuance of **Articles 52(1)(I) and 58** of the Constitution. The Act also clearly outlines the functions of the commission in **Section 7**⁴⁹ which among others includes creating and sustaining within society the awareness of constitutional rights as well as fundamental rights of people in Uganda. Among these rights is the right to a fair hearing under Article 28⁵⁰ under which plea-bargaining falls as earlier discussed.

2.3.8 The Evidence Act Cap 6

This Act provides for the procedure of tendering evidence in judicial proceedings **Section 102**⁵¹, which is to the effect that the burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side of course this means that in a criminal case, it would lie on the prosecution as was held **Woolmington v DPP**⁵², In situations where an accused agrees to plea bargaining, the responsibility on the prosecution to prove beyond a reasonable doubt is taken away as the accused would have automatically proved guilty.

⁴⁸ *ibid*

⁴⁹ The Uganda Human Rights Commission Act Cap 24

⁵⁰ 1995 Constitution of Uganda.

⁵¹ The Evidence Act

⁵² *Woolmington v DPP* (1935) AC 462

In this chapter, we delve into the legal framework governing plea bargaining in Uganda, examining the foundational laws and regulations that shape its practice within the country's criminal justice system. At the core of this framework is the 1995 Constitution of the Republic of Uganda, which establishes fundamental principles guiding criminal proceedings and the presumption of innocence until proven guilty. Plea bargaining aligns with **Article 28** of the Constitution, emphasizing the right to a prompt and fair trial. The enactment of the Judicature (Plea Bargain) Rules in 2016 further solidifies the procedural aspects of plea bargaining, aiming to address challenges such as case backlog and prison congestion while ensuring efficiency and victim participation. These and many other laws that govern plea bargaining have been discussed above.

3 CHAPTER THREE: EFFECTS OF PLEA BARGAINING AND HOW THEY AFFECT THE CRIMINAL JUSTICE SYSTEM IN UGANDA

3.1 Introduction

The Judicature (Plea Bargain) Rules⁵³ as already discussed in the preceding chapters, defines plea **bargaining** as the process between an accused person and the prosecution, in which the accused person agrees to plead guilty in exchange for an agreement by the prosecutor to drop one or more charges, reduce a charge to a less serious offence, or recommend a particular sentence acceptable to the accused subject to approval by Court. In other words, Plea bargains involve compromise, whereby the accused agrees not to take his or her case to trial and the prosecution also agrees to a less severe punishment than the law might allow. It is important that it is not every criminal case that should be prosecuted to finality through a trial if it can be resolved by alternative means.⁵⁴

Plea Bargaining has effects which are both positive and negative. This Chapter discusses the effects of plea bargain and how they affect the justice system of Uganda. It also discusses the challenges faced by parties to a plea bargain.

⁵³ Rule 4 of The Judicature (Plea Bargain) Rules 2016

⁵⁴ Director Public Prosecutions Noordin Haji in regards to plea bargaining during a recent workshop in Mombasa.

3.2 Positive Effects.

3.2.1 Introduction

Rule 3 of The Judicature (Plea Bargain) Rules, 2016, states the overall objectives of plea bargaining as being; - (a) to enhance the efficiency of the criminal justice system for the orderly, predictable, uniform, consistent and timely resolution of criminal matters; (b) to enable the accused and the prosecution in consultation with the victim, to reach an amicable agreement on an appropriate punishment; (c) to facilitate reduction in case backlog and prison congestion, among others.

There are a number of arguments for permitting plea bargaining in the criminal justice system in Uganda these can also in turn be considered as the positive effects of plea bargaining ⁵⁵. Below is a discussion of how the positive effects of plea-bargaining influence the criminal justice system of Uganda.

3.2.2 Plea bargaining promotes Efficiency of the Criminal Justice System which builds trust between the citizens and the state.

Plea bargaining leads to efficiency of the criminal justice system of Uganda. Plea Bargaining's Prime incentive to the prosecutor is an increase in the total efficiency of the criminal justice system.⁵⁶ Efficiency is achieved through maximum conviction of the guilty and dismissal of charges against innocent. However, efficiency is not the most important aspect for entering into plea bargaining agreements in a particular case but deficiency is the overriding cause for entering plea bargains in general. Hundreds of

⁵⁵ F Leverick, at Page 339 -340

⁵⁶ Frank H Easterbrook, Criminal Procedure as a Market System

thousands of criminal cases have processed each year in different courts. To put it into more context many prisoners are sent on remand in Uganda and wait for their trial that could be in the uncertain future. Plea Bargain hopes to resolve this problem of waiting for one's trial while on remand as the prisoner can enter into an agreement for guilt and receive a lenient sentence. This means that the criminal justice system will not be stagnant as their will be progress in that accused persons will not have to wait so long for their matters to come up for trial but rather, they will enter into plea bargain agreements, be convicted and sentenced, and from then begin to serve their sentence. This shows efficiency in the criminal justice system of Uganda which in turn builds trust between the citizens and the state.

3.2.3 It reduces of Case Backlog in the Criminal Justice System which promotes efficiency in the justice system.

Plea Bargaining reduce the case backlog in the criminal justice system. It is worth noting that daily in Uganda people commit crimes and once a crime is committed by an individual a case is opened against that individual in court because of the many cases that exist in different courts it often hard for the judges to hear all the cases at once and this results into what we know as case backlog. **Rule 3**⁵⁷ provides for the objectives of plea bargaining which includes facilitating in the reduction of case backlog. This allows cases that are really severe and need to go for trial to actually go for a trial than being held in the court registry for a long period of time⁵⁸. The fact that case backlog

⁵⁷ The Judicature (Plea Bargain) Rules 2016

⁵⁸ The Impact of Plea Bargaining on the Criminal Justice System in Uganda Case delivery: A Case Study of High Court Criminal Trials by Gladys Kisseka Nakibule

is reduced in turn ensures that more matters are heard thereby promoting efficiency of the justice system.

3.2.4 Plea bargaining Saves of Costs which spares resources for other developments.

Plea Bargaining reduces the expenses that are to be spent by the prosecution and the defence by reducing the time needed to prepare and detain that may be used to conduct the trial and investigations furthermore this also save time of the court and also of the judges. **Woolmington V DPP**⁵⁹ places a duty on the prosecution to prove all the ingredients of an offence beyond reasonable doubt. It is obvious that in trying to prove beyond reasonable doubt, the prosecution incurs great costs on aspects such as hiring an expert witness whenever expert evidence is required⁶⁰, among others. With Plea Bargaining, the prosecution doesn't need to waste time to carry out investigations over case if the accused person has entered into a plea bargain agreement there would be no need for the prosecution to carry out research on how to handle the case before the trial judge or magistrate .It also saves the costs of the witnesses in that the witness will not have to waste money travelling to the court to testify against the accused as this might also be seen as a very daunting situation for the witness⁶¹. The fact that plea bargaining saves costs spares more resources that can be used for other purposes.

⁵⁹ supra

⁶⁰ Section 43 Evidence Act Cap 6

⁶¹ Ibid

3.2.5 Plea Bargaining facilitates reduction in the congestion in prison which provides better resources for the available prisoners.

One of the purposes of the Judicature plea bargain rules 2016 under Rule 3 is to facilitate on the reduction on the prison congestion. It should be noted that in situations where an accused agrees to plea bargaining, the time of his sentence is reduced meaning that if he would ordinarily be sentenced to 10 years, his time is likely to be reduced to maybe 7 years which reduces on the number of prisoners that the prison would have if the accused spent the whole 10 years in prison. Also, through plea bargaining some prisoners term in prison is reduced to zero which automatically reduces the congestion in the prison.

The case study of the plea-bargaining session conducted by the Sudreau Global Justice Institute (SGJI) and the Judiciary of Uganda at Luzira Prison in Kampala offers a compelling illustration of the transformative potential of plea bargaining within the Ugandan criminal justice system. During the session, a remarkable 442 remandees sought legal consultation, underscoring the acute demand for resolution among individuals in pretrial detention. Through diligent engagement and advocacy, SGJI's team of lawyers successfully navigated consultations with 255 clients over the course of two days. The outcome was particularly noteworthy, with 244 remandees able to reach fair and just plea agreements, representing an impressive success rate of nearly 96%.

Of significant consequence is the tangible impact on alleviating prison overcrowding and ameliorating conditions for those in custody. The revelation that 115 remandees

were able to walk out of prison immediately following the resolution of their cases highlights the pivotal role plea bargaining can play in addressing systemic issues of prison overcrowding and pretrial detention. Indeed, the statistics provided by Uganda's National Prison Administration paint a stark picture of the pervasive challenges facing the country's prison system, with pretrial detainees comprising over 50% of the prison population and facilities operating at a staggering occupancy level of 350.8%. Against this backdrop, initiatives such as plea bargaining emerge as indispensable tools for promoting judicial efficiency, reducing case backlog, and safeguarding the rights and dignity of individuals in detention. Moreover, the partnership between SGJI and the Ugandan government underscores a concerted commitment to upholding humane conditions within the prison system. By facilitating swift and equitable resolutions through plea bargaining, SGJI's initiative not only promotes access to justice but also contributes to broader efforts aimed at reforming and improving the criminal justice landscape in Uganda.

Thus, the testament to the efficacy of collaborative interventions in addressing complex challenges within the criminal justice system. Moving forward, sustained investment and support for initiatives like plea bargaining will be essential in advancing the cause of justice, promoting human rights, and fostering positive societal change in Uganda and beyond.⁶² With this illustration, it is evident that indeed, plea bargaining is positively influencing the criminal justice system of Uganda which is a good thing.

⁶² Caruso School of Law - Pepperdine University. (2022, November 1). Sudreau Global Justice Institute and Uganda Judiciary host plea bargaining session at Luzira Prison. *Surf Report* | *Pepperdine Caruso*

3.2.6 It Reduces the time spent in prison by the prisoner which prevents perpetual punishment.

Plea Bargain can help reduce the time that is to be spent by the prison by the prisoner in prison if the prisoner goes on to plead guilty to lesser charges allowing them to reintegrate into society more quickly and for those that have families to reunite with their loved ones earlier than they ever expected. This promotes criminal justice in Uganda as the accused is punished, the victim is granted relief but also the friends and family of the accused get to have him back home sooner than later, so in other words, there is a win win situation all together. This is also bringing out the fact that an accused person doesn't need to be punished for an outrageously long time for them to learn that their actions were inappropriate thereby controlling perpetual punishment.

3.2.7 Plea bargaining Promotes Reconciliation which promotes peace in society.

Plea Bargaining can promote reconciliation between the accused and the victim by encouraging the accused to take responsibility for their actions and make amends furthermore during this process the victim the accused person is given time to sit and reflect on his actions before entering into an agreement with the victim to have their sentence reduced . Furthermore the process brings the two parties the accused and

School of Law. <https://law.pepperdine.edu/surf-report/posts/sudreau-global-justice-institute-uganda-judiciary-plea-bargaining-luzira-prison.htm>

the victim on a round table together where one party seeks for forgiveness from the other in exchange for a more lenient sentence ⁶³

3.2.8 Plea bargaining gives the vulnerable groups of people an opportunity to receive justice which promotes equality.

Article 21⁶⁴ provides for equality of all persons before and under the law. Plea bargaining offers an opportunity for lawyer's non-governmental organisations to represent the needy people in society or the people who cannot afford legal representation some of which include the juveniles the widowed mothers the old who are all still in prison and are considered as vulnerable people. It acts as an opportunity for these vulnerable groups of people to have their sentences reduced by entering the two plea bargain agreements. Furthermore, among the key considerations or mitigating factors for these people is the very fact that they are vulnerable group of people. A case in point is one of the Plea bargain projects carried out by Pepperdine University and the Judiciary

One of SGJI's clients thus Ann's case highlights the challenges faced by juveniles in the adult criminal justice system. Charged at 17, Ann faced a 20-year sentence for breaking a window after not being paid for three months. SGJI's attorney, Esther, intervened, and through plea bargaining, they secured a caution instead of a lengthy sentence. This outcome spared Ann from prolonged incarceration and offered her a chance for a better

⁶³ Nanima, R. (2017). The need for a review of plea bargaining in Uganda: a reflection on the experiences under Common Law and... *ResearchGate*.
https://www.researchgate.net/publication/317089506_The_need_for_a_review_of_plea_bargaining_in_Uganda_a_reflection_on_the_experiences_under_Common_Law_and_in_South_Africa

⁶⁴ The 1995 Constitution of the Republic of Uganda

future. Ann's story underscores the transformative potential of plea bargaining in providing second chances and promoting rehabilitation over retribution in the criminal justice system.⁶⁵

This is clear proof that through plea bargaining, the people that cannot easily defend themselves are able to receive justice which in turn makes the Ugandan criminal justice system an efficient one.

3.2.9 Conclusion

With the points outlined above, together with other factors advocated by proponents, collectively reveal the merits of plea bargaining as an important procedure mechanism within the legal framework. It is evident that plea bargaining confers substantial benefits not only upon the accused individual but also extends to the interests of the victim, the broader society, the judiciary, the prosecution, and various other stakeholders involved in the plea-bargaining process.

3.3 Negative Effects.

3.3.1 Introduction

Plea bargaining stands as a contentious practice which is often praised for its potential to expedite case resolution and reduce court congestion. However, it raises concerns about its potential to undermine due process, perpetuate inequality and erode public

⁶⁵ Caruso School of Law - Pepperdine University. (2022, November 1). Sudreau Global Justice Institute and Uganda Judiciary host plea bargaining session at Luzira Prison. *Surf Report* | Pepperdine Caruso School of Law. <https://law.pepperdine.edu/surf-report/posts/sudreau-global-justice-institute-uganda-judiciary-plea-bargaining-luzira-prison.htm>

trust in the judiciary. This chapter discusses the negative effects of plea bargaining and how they affect the criminal justice system in Uganda.

3.3.2 Plea Bargaining leads to Pressure to plead and condemnation of the innocent.

Criticisms have been raised regarding plea bargaining. Among these include the assertion that the practice places too much pressure on the accused persons to plead guilty. This results into even innocent persons plead guilty to avoid the risk of getting higher sentences or harsher punishment⁶⁶. It should be noted that when it comes to plea bargaining, even accused people who would have been found innocent had they gone through their entire trial are meant to plead guilty. This prevents them from knowing how their judgement would have turned out and probably if they would have moved out of prison with no conviction at all. This clearly deals away with the fact that every accused person to be proved guilty before any conviction and sentence is made against them.⁶⁷ The problem with this is that it makes the public lose confidence in the state. The public must have confidence in a system that prevents condemnation of innocent without the choice of adjudication or opportunity of some kind of trial procedure.

3.3.3 Plea Bargain violates the Human rights of the accused person.

Whether an accused person is guilty or not as an accused person they have the right to have the prosecution prove their case against them beyond reasonable doubt⁶⁸. Plea bargaining puts too much pressure on the accused person to relinquish their rights to

⁶⁶ F. Leverick, Sentence Discounting for Guilty Pleas: An argument for Certainly over Discretion (2014) Page 340

⁶⁷ Article 28 of the 1995 Constitution of Uganda

⁶⁸ Section 101 of the Evidence Act Cap 6

have the prosecution prove the case against them beyond reasonable doubt. This cannot happen when the accused person enters into a Plea bargain agreement. **Article 6 of The European Convention on Human Rights**⁶⁹ includes the right to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by the law. The same right is provided for under Article **28**⁷⁰. Furthermore, the same Articles provide that a person shall be presumed innocent until proven guilty. When an accused person exchanges their rights for a promise of a more lenient sentence it is a violation of the human right that is bestowed to them under the provisions above. **Rule 12**⁷¹ provides for the rights that every accused person has such as the right to legal representation, the right to not be compelled to give evidence against themselves, the right to be presumed innocent until proven guilty, among others. However, that same Rule still goes ahead to state that whenever an accused person agrees to participate in plea bargaining, all the above stated rights will be waived. This clearly shows that every time a person is going to agree to this process, their human rights are meant to be violated.

Similarly, Plea Bargaining gives too much discretion and authority to the Prosecutor⁷² which potentially makes them demi-gods in the process. As a result the prosecutor plays several roles during the procedure and may see the opportunity of enhancing the sentence of the accused as a means of enhancing their reputation within the public and thus violating the accused person's rights.

⁶⁹ Article 6 of the European Convention on Human Rights (ECHR)

⁷⁰ Article 28 of the 1995 Constitution of Uganda as amended

⁷¹The Judicature (Plea Bargain) Rules, 2016

⁷² AW Alschuler, The Prosecutor's Role in Plea Bargaining Page 59 - 60

3.3.4 Plea Bargaining can be an avenue for increased crime in the state.

Rule 4⁷³ of the Plea Bargain Rules provides that plea bargain means the process between an accused person and the prosecution in which the accused person agrees to plead guilty in exchange for an agreement with the prosecutor to drop one or more charges, reduce a charge to a less serious offence or recommend a particular subject to the approval of court. In situations where an accused who is given a lesser sentence serves it and then released, he can use this as an advantage to go into the public and commit more offences believing that he can still sign up for plea bargaining and be set free sooner or later. This promotes a cycle of commission of offences which is not proper for the criminal justice system of any state, Uganda inclusive.

3.3.5 Conclusion

The negative effects above show the drawbacks associated with the practice of plea bargaining in the criminal justice system. These points reveal that while plea bargaining offers efficiency, it is not devoid of adverse consequences, impacting various stakeholders including the public, victims, and accused individuals.

3.4 Challenges faced by parties to a plea bargain agreement during the plea bargain process.

3.4.1 Introduction

In this chapter, we delve into the myriad challenges faced by each stakeholder during the plea bargain process. From navigating legal constraints and evidentiary hurdles to grappling with the emotional and ethical dimensions of bargaining for leniency or

⁷³ The Judicature (plea bargain) Rules, 2016

justice, the journey to reaching a plea agreement is fraught with obstacles. By unraveling these challenges, we aim to shed light on the intricacies of the plea bargain process and provide insights into potential avenues for improvement and reform within the criminal justice system.

3.4.2 High level of case backlog which coerces the accused to enter into plea bargain agreements which they would not ordinarily have entered into if they had undergone a full trial.

This contravenes with the spirit behind the plea bargain process which is ordinarily supposed to be voluntary. **Rule 12(4)**⁷⁴ provides that the accused person must freely and voluntarily, without threat or use of force, execute the agreement with full understanding of all matters. Due to the high level of case backlog, accused people are coerced to agree to plea bargaining because they are afraid that their matter might take so long to be tried so they just decide to sign up for plea bargaining. This beats the spirit behind the voluntary nature of plea bargaining.

3.4.3 The limitations that arise from the fact that implementers are learning on the job.

On October 6th and 7th, 2022, the Sudreau Global Justice Institute (SGJI) and the Judiciary of Uganda conducted a plea-bargaining session at Luzira Prison in Kampala, Uganda. During the session, 10 law students from Uganda Christian University collaborated with SGJI lawyers to represent a total of 255 clients.⁷⁵ It should be noted

⁷⁴ The Judicature (Plea Bargain) Rule 2016

⁷⁵ <https://law.pepperdine.edu/surf-report/posts/sudreau-global-justice-institute-uganda-judiciary-plea-bargaining-luzira-prison.htm>

that these students that took part in this session were indeed still students are not qualifies lawyers. This means that they were indeed learning on the job thereby prone to misguiding the accused. This is indeed another great challenge faced by the parties in plea bargaining.

3.4.4 Limitation in the scope of the Plea Bargain Process as regards Jurisdiction in handling plea bargaining.

Rule 2⁷⁶ provides that the **Judicature (Plea Bargain) Rules** provides that the rules shall apply to the courts of Judicature. **Article 129**⁷⁷ provides that the courts of Judicature shall include the Supreme Court of Uganda, Court of Appeal of Uganda and the High Court of Uganda. This means that plea bargaining is only limited to the above stated courts. Also, it shows that the number of people that can go through this process are only so many. This is also a challenge because there would probably be many people undergoing the process of plea bargaining but because the avenues of this process are limited, it becomes a challenge.

3.4.5 Conservativeness and Misconceptions about Plea Bargain.

Conservativeness and misconception have significantly influenced the implementation of plea bargaining in Uganda. This is manifested by the resistance to Change through the conservative attitudes within legal and judicial systems. These can lead to resistance towards adopting new practices like plea bargaining. In addition, there exists misconceptions about fairness particularly regarding the rights of the accused. Some individuals and groups may view plea bargaining as compromising the integrity of the

⁷⁶ Supra 2

⁷⁷ 1995 Constitution of Uganda

legal process, believing that defendants are coerced into accepting deals without fully understanding their rights or the consequences of their actions. This misconception can hinder the acceptance and adoption of plea bargaining as a legitimate and beneficial aspect of the justice system.

Without adequate information, stakeholders within the legal system and the general public may form inaccurate perceptions about plea bargaining, leading to resistance or scepticism towards its use.

3.4.6 Shortage of Resources.

In light of this point, a speech was given by **Hon. Justice Mike Chibita**, the former Director Public Prosecutions (DPP) as a guest speaker at a public dialogue. This dialogue on Plea Bargaining drew participation from a cross section of personalities that included Professors of Law, Lecturers and students. He stated that one of the challenges being faced by plea bargaining in Uganda is the fact that there aren't enough resources. It should be noted that the lawyers and prosecutors that engage in plea bargaining must first be given training on how to conduct this process. This training requires resources before it is conducted. This becomes a challenge to plea bargaining parties in case the people who are involved do not receive adequate training as a result of shortage of resources⁷⁸.

3.4.7 Conclusion

The plea-bargaining process in Uganda faces many challenges that significantly affect its efficacy. Foremost among these challenges is the issue of high case backlog, which

⁷⁸ <https://law.mak.ac.ug/plea-bargaining-as-a-response-to-challenges-in-the-criminal-justice-system-in-uganda-will-it-work/>

exerts undue pressure on accused individuals to enter into plea bargain agreements, thereby compromising the voluntariness of the process. **Rule 12(4)**⁷⁹ expressly mandates that plea agreements must be executed freely and voluntarily, devoid of coercion or intimidation, yet the prevailing backlog often coerces individuals to opt for plea bargaining as a perceived expedient. These among other challenges explained above greatly affects plea bargaining in Uganda.

⁷⁹ Judicature (Plea Bargain) Rules 2016

4 CHAPTER FOUR: SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATIONS.

4.1 SUMMARY OF FINDINGS. (Establishing The Relationship Between The Effects of Plea Bargaining And Promotion of Criminal Justice in Uganda.)

4.2 Introduction

Justice is defined by the Black’s Law Dictionary as protecting of rights and punishing of wrongs using fairness.⁸⁰ The relationship between the effects of plea bargaining and the promotion of criminal justice in Uganda is to the effect that in situations where the positive effects of plea bargaining which are the pull factors of plea bargaining exist, the criminal justice in Uganda will be promoted. In situations where the effects of plea bargaining are negative, i.e. the push factors, criminal justice in Uganda will not be promoted. The discussion below shows the relationship between the effects of plea bargaining and the promotion of criminal justice in Uganda. It should be noted that the effects of plea bargaining on the justice system have already been discussed in the preceding factors.

4.2.1 When plea bargaining promotes efficiency in the criminal justice system, it has promoted justice.

Efficiency as earlier discussed is achieved when there is maximum conviction of the guilty and dismissal of charges against innocent. Plea Bargaining’s Prime incentive to

⁸⁰ Black’s Law Dictionary 8th Edition

the prosecutor is an increase in the total efficiency of the criminal justice system.⁸¹ In situations where efficiency is achieved through plea bargaining, the rights of the people will have been promoted and wrongs would have been achieved through fairness. This means that criminal justice would have been promoted. This shows that in situations where efficiency of the justice system is achieved, justice will be promoted which is that aim of any justice system.

4.2.2 Whenever plea bargaining reduces case backlog, criminal justice in Uganda will have been promoted.

Rule 3⁸² provides for the objectives of plea bargaining which includes facilitating in the reduction of case backlog. In 2022, during the plea-bargaining session hosted by the Judiciary of Uganda at Luzira Prison in Kampala, 442 remandees sought legal consultation, resulting in SGJI's team of lawyers engaging with 255 clients over two days. Following consultations, 244 remandees successfully reached fair and just plea agreements, with almost 96% of SGJI-handled cases resolved in under two days. Notably, 115 remandees, comprising over 47% of the resolved cases, were immediately released from prison upon conclusion of their SGJI cases, as they had already exceeded their sentence durations.⁸³ The 244 cases that were handled clearly reduced the case backlog of matters to be tried. This in turn shows promotion of justice. It goes without saying that indeed reduction of case backlog promotes criminal justice in Uganda.

⁸¹ Frank H Easterbrook, *Criminal Procedure as a Market System*

⁸² The Judicature (Plea Bargain) Rules 2016

⁸³ Caruso School of Law - Pepperdine University. (2022, November 1). Sudreau Global Justice Institute and Uganda Judiciary host plea bargaining session at Luzira Prison. *Surf Report | Pepperdine Caruso School of Law*.

4.2.3 In situations where plea bargaining reduces the time spent in prison by a prisoner, it promotes justice.

In a former session of plea bargaining, an accused whose charge sheet had read 20 years in prison ended up with a caution and release thereafter⁸⁴. This brings out the fact that plea bargaining prevents perpetual punishment but also promotes justice which is based off of the definition of justice which is the protection of rights and punishment of wrongs with fairness.

4.2.4 Plea Bargaining enables vulnerable groups of people to be heard which promotes justice.

Article 21⁸⁵ provides for equality of all persons before and under the law. Plea bargaining offers an opportunity for lawyer's non-governmental organisations to represent the needy people in society or the people who cannot afford legal representation some of which include the juveniles the widowed mothers the old who are all still in prison and are considered as vulnerable people. From the plea bargain session stated above;

Ann, a 17-year-old juvenile charged as an adult, faced a 20-year sentence after a dispute over unpaid wages led to her breaking a window. SGJI's attorney, Esther, intervened through plea bargaining, resulting in a cautionary measure instead. This

⁸⁴ ibid

⁸⁵ The 1995 Constitution of the Republic of Uganda

swift resolution led to Ann's immediate release, highlighting the significance of legal advocacy in ensuring fair treatment within the criminal justice system.⁸⁶

This shows that whenever plea bargaining enables the vulnerable groups of people to be heard, it has promoted justice.

The relationship between the negative effects of plea bargaining and the promotion of justice is discussed below;

4.2.5 In situations when plea bargaining violates human rights of parties, criminal justice is not promoted.

Article 6 of The European Convention on Human Rights (ECHR)⁸⁷ Includes the right to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by the law. The same right is provided for under **Article 28**⁸⁸. **Rule 12**⁸⁹ provides for the rights that every accused person has such as the right to legal representation, the right to not be compelled to give self-incriminating evidence, the right to be presumed innocent until proven guilty. same Rule still goes ahead to state that whenever an accused person agrees to participate in plea bargaining, all the above stated rights will be waived. Whenever plea bargain violates human rights, despite the fact that it is successful, criminal justice is not promoted.

⁸⁶ Caruso School of Law - Pepperdine University. (2022, November 1). Sudreau Global Justice Institute and Uganda Judiciary host plea bargaining session at Luzira Prison. *Surf Report* | Pepperdine Caruso School of Law. <https://law.pepperdine.edu/surf-report/posts/sudreau-global-justice-institute-uganda-judiciary-plea-bargaining-luzira-prison.htm>

⁸⁷ Article 6 of the European Convention on Human Rights (ECHR)

⁸⁸ Article 28 of the 1995 Constitution of Uganda as amended

⁸⁹The Judicature (Plea Bargain) Rules, 2016

4.2.6 Whenever plea bargaining becomes an avenue for increased crime rate, justice is not promoted.

Rule 4⁹⁰ of the Plea Bargain Rules provides that plea bargain means the process between an accused person and the prosecution in which the accused person agrees to plead guilty in exchange for an agreement with the prosecutor to drop one or more charges, reduce a charge to a less serious offence or recommend a particular subject to the approval of court. In situations where an accused who is given a lesser sentence serves it and then released, he can use this as an advantage to go into the public and commit more offences believing that he can still sign up for plea bargaining and be set free sooner or later. In situations where plea bargain is used as a scapegoat to commit more offences, justice will not be promoted.

4.2.7 Plea Bargaining puts pressure on the innocent to plead guilty so as to have a quicker sentence and this clearly does not promote justice.

One of the criticisms of plea bargaining is that it puts pressure for accused people to plead guilty including those that are innocent.⁹¹ In situations such as this, even if plea bargaining will be a success, justice will not be promoted.

Conclusively, as clearly discussed above, the relationship between the effects of plea bargaining and the promotion of justice is that in situations where the effects of plea bargaining are positive, justice will have been promoted. However, when the effects

⁹⁰ The Judicature (plea bargain) rules, 2016

⁹¹ F. Leverick, *Sentence Discounting for Guilty Pleas: An argument for Certainly over Discretion* (2014) Page 340

are negative, the criminal justice will not be promoted. In other words, the pull factors of plea bargaining which are the positive effects encourage promotion of justice while the push factors which are the negative effects discourage the promotions of justice as clearly discussed above.

4.3. CONCLUSION

The evaluation of the effects of plea bargaining in the promotion of criminal justice in Uganda reveals a complex interplay of push and pull factors. On one hand, proponents highlight its capacity to enhance efficiency within the criminal justice system, alleviate case backlog, save costs, reduce prison congestion, and minimize the duration of imprisonment, thereby fostering trust between citizens and the state. These advantages underscore plea bargaining as a valuable tool benefiting not only accused individuals but also victims, the nation, judiciary, prosecution, and other stakeholders involved in the process.

However, the research also uncovers significant drawbacks associated with plea bargaining. It illuminates how the process can exert pressure on individuals to plead, potentially leading to the wrongful condemnation of the innocent. Moreover, concerns arise regarding the violation of human rights, excessive discretion and power vested in prosecutors, and the potential for incentivizing crime within the state.

While acknowledging the positive aspects of plea bargaining, it is crucial to recognize and address its negative implications. Striking a balance between expediency and fairness is imperative in ensuring that the criminal justice system remains just and equitable for all parties involved. By critically evaluating both the benefits and drawbacks of plea bargaining, stakeholders can work towards refining its implementation to maximize its advantages while mitigating its shortcomings. This will ultimately advance the cause of justice in Uganda.

4.4. Recommendations

4.4.1. Decentralization of Plea Bargaining to all courts in Uganda.

The parliament of Uganda should make laws that decentralize the practice of Plea Bargaining to all subordinate courts such as the Magistrate Courts and Local Council courts, the number of people that can successfully go through the process might increase. **Rule 2**⁹² provides that the **Judicature (Plea Bargain) Rules** provides that the rules shall apply to the courts of Judicature. **Article 129**⁹³ provides that the courts of Judicature shall include the Supreme Court of Uganda, the Court of Appeal of Uganda and the High Court of Uganda. This means that plea bargaining is only limited to the above-stated courts. This will make the process more effective and also promoting criminal justice in Uganda.

4.4.2. Adequate training of the implementers

Stakeholders such as the law society should provide **adequate training of the implementers of plea bargaining to curb the challenge that these implementers usually learn on the job.** This will also ensure that plea bargaining is effective and that it covers a large number of people because the implementers would be well trained therefore faster at their job.

⁹² Supra 2

⁹³ 1995 Constitution of Uganda

4.4.3. Adequate time for sentence

Judges should be given more time to make the sentence to prevent them from making irrational decisions because the plea bargain process must and should take place in one day and be concluded.

4.4.4. Sensitization of the parties

Implementers should offer proper sensitization of the parties involved in plea bargaining to ensure that parties that enter into plea bargaining are sure that it is that they want to do. This will ensure the innocent people do not plead guilty just to get a sentence but can be patient and wait for their full trial.

5. BIBLIOGRAPHY

1. G. Nicholas Herman & Zachary C, Bolitho. Plea bargaining, Juris Publishing, Inc. 3rd Edition page 1
2. Jon'a F. Meyer, Plea Bargaining, <https://www.britannica.com/topic/plea-bargaining> retrieved on 15th February, 2024
3. Social Theory and Practice, Vol. 26, No. 1 (Spring 2000), pp. 129-151 (23 pages) <https://www.jstor.org/stable/23561051> retrieved on 15th February, 2024
4. Etannibi E O Alemika, Norms, politics, institutions, processes and constraints, page <https://shorturl.at/HJKQ4> . retrieved on 15th February, 2024
5. Kinnes, Irvin (2009) Criminal justice in Africa an introduction to the theory and practice of criminal justice. Monograph No. I 61 African Human Security Studies
6. Lawrence m, plea Bargaining in Historical Perspective <https://www.jstor.org/stable/3053251> retrieved on 15th February, 2024
7. https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=2005&context=journal_article retrieved on 15th February, 2024
8. Surf Report of November 1st, 2022. Sudreau Global Justice Institute and Uganda Judiciary Host Plea Bargaining Session at Luzira Prison <http://law.pepperdine.edu/nootbaar-institute/global-justice/prison-project/history-description.htm>. retrieved on 15th February, 2024
9. Social Theory and Practice, Vol. 26, No. 1 (Spring 2000), pp. 129-151 (23 pages) <https://www.jstor.org/stable/23561051> Michael Gorr, The Morality of Plea Bargaining

10. <https://law.mak.ac.ug/plea-bargaining-as-a-response-to-challenges-in-the-criminal-justice-system-in-uganda-will-it-work/> retrieved on 17th February, 2024
11. Plea Bargain within the context of Transitional Justice: Exploring its Potential for Promoting Peace and Accountability in the Wake of International Crime in Uganda. (2011)
12. Plea bargaining is a process in which a defendant pleads guilty to a criminal charge in exchange for a concession from the prosecutor by **Jon'a F. Meyer, Plea Bargaining** <https://www.britannica.com/topic/plea-bargaining> retrieved on 15th February, 2024
13. Constitutionalism at the Cross Roads by Peter MUKidi Walubiri.
14. Frank H. Easterbrook, Plea Bargaining as Compromise, at 103, col. 1
15. Director Public Prosecutions Noordin Haji in regards to plea bargaining during a recent workshop in Mombasa.
16. Frank H Easterbrook, Criminal Procedure as a Market System
17. F Leverick, at Page 339 -340
18. The Impact of Plea Bargaining on the Criminal Justice System in Uganda Case delivery: A Case Study of High Court Criminal Trials by Gladys Kisseka Nakibule
19. Caruso School of Law - Pepperdine University. (2022, November 1). Sudreau Global Justice Institute and Uganda Judiciary host plea bargaining session at Luzira Prison. *Surf Report | Pepperdine Caruso School of Law.* <https://law.pepperdine.edu/surf-report/posts/sudreau-global-justice-institute-uganda-judiciary-plea-bargaining-luzira-prison.htm>

20. Nanima, R. (2017). The need for a review of plea bargaining in Uganda: a reflection on the experiences under Common Law and... *ResearchGate*.
https://www.researchgate.net/publication/317089506_The_need_for_a_review_of_plea_bargaining_in_Uganda_a_reflection_on_the_experiences_under_Common_Law_and_in_South_Africa
21. F. Leverick, Sentence Discounting for Guilty Pleas: An argument for Certainty over Discretion (2014) Page 340
22. European Convention on Human Rights (ECHR)
<https://law.pepperdine.edu/surf-report/posts/sudreau-global-justice-institute-uganda-judiciary-plea-bargaining-luzira-prison.htm>