

Abstract

Legislating for plea bargaining as a shortened trial model in order to secure faster convictions may fall short of measuring the accused's right to a fair and speedy trial meaningfully. It calls into question, the fairness and legitimacy of plea bargaining's implementation. A state's unique socio-legal, economic, and sometimes cultural factors may compel the accused to admit guilt inadvertently and self-convict, hoping for lenient sentences, as in Uganda. In 2016, Uganda legislated plea bargaining—a full trial waiver model alongside the traditional full trials—to address trial delays. Uganda did not put in place adequate statutory and administrative implementation mechanisms to balance the accused's inviolable right to a fair hearing with the expediency interests of all other players, particularly the state, the victims and the community. The procedure seemingly protects more the state's interests in numerical court case dispositions than the accused's interest in speedy justice. This qualitative, occasionally quantitative, case study therefore questions if it promotes or negates the accused's right to a fair hearing or is an accused's self-conviction, irrespective of guilt.

The study investigated plea bargained cases in 2014–2021 in 11 Ugandan High Court circuits and two High Court Divisions: The High Court Criminal Division and the International Criminal Division. The circuits included Arua, Fort Portal, Gulu, Kabale, Lira, Masaka, Masindi, Mbale, Mbarara, Mubende and Soroti. The study analysed empirical data, mainly narratives from 126 respondents, who included 66 accused convicts and 60 justice actors, and doctrinal data from diverse laws, treatises, and literature. Primarily, the study found that most accused, regardless of demographics or guilt, plea bargained as a gamble to avoid indefinite pre-trial detention and uncertain trial time, not that the procedure guaranteed their right to a speedy trial under the right to a fair hearing. The procedure was unfairly administered to most of them, with fair trial rights not fully explained to them, amidst a slew of impediments, such as courts failing to allow them tell their stories, which all demonstrate unfairness. When viewed holistically, plea bargaining neither reduces case backlogs (that include prison congestion) in the entire criminal justice system nor fully adheres to international standards. These fundamental dilemmas undermine its legitimacy. This study, therefore, makes a case for contextualising a plea bargain in real case time if its processes' timeframe is tracked from the accused's arrest until sentencing. It is ideal, among other legal, administrative and institutional reforms, to legislate its intermediate processes' deadlines to

achieve legitimately speedy trials. A plea bargain offer is more relevant to the accused at the time of arrest to prevent inadvertent self-convictions due to lengthy pretrial detention or trial waiting.