

A SHORT RESEARCH ON THE PRACTICE OF PLEA BARGAINING IN INDIA

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Abstract

The lawful framework of India is regarded as one of the most comprehensive lawful frameworks in the globe. It firmly solidifies itself in accordance with the principles of parity, righteousness, and impartiality. It is based on bestowing wrongdoers retribution and delivering fairness to victims. The directing principle for this lawful structure is the adage, "Allow a hundred culpable be exonerated, but one must not be convicted." And the mechanism of unlawful justice has been pursuing this for ages and ages. Meanwhile, the system is faced with a plethora of challenges. Significant hurdles encompass issues such as latency, diminished literacy levels, a dearth of workforce, and inadequate framework, amidst various other factors. Emerging concerns, like a transformation in the character of wrongdoing and the utilization of technology to execute a range of offenses, have arisen for the legal system due to these preceding obstacles. In this specific context, there is an even greater necessity to discover solutions and navigate these obstacles. With a multitude of endeavors, the legal system, alongside the executive branch, is striving to tackle these challenges. This era has witnessed a surge in the utilization of substitute conflict resolution in an endeavor to diminish the duration of time that cases take to settle. When it pertains to unlawful instances, plea negotiation is one of the utmost crucial instruments for expediting the trial. It is a remedial action for the immense accumulation of cases in the criminal courts and the overpopulation in penitentiaries. Despite being intended as a pivotal juncture for India's overwhelmed penal system, the endeavor failed to take flight and did not yield the anticipated outcomes.

Keywords :- Plea Bargaining, Criminal, Justice system

1. INTRODUCTION:-

The Indian criminal justice system recently adopted the idea or concept of plea bargaining as a new practise. In the current revision of the Criminal Procedure Code, the Chapter XXI-A Plea Bargaining provision is being added. The Criminal Law (Amendment) Act, 2005 (2 of 2006) is responsible for the addition of this new chapter, and it went into effect on July 5th, 2006. Throughout the course of Indian history, there is no evidence of the practise of entering into a plea bargain. A specific provision, however, has been included into Sections 206(1) and (3)233 of the Criminal Procedure Code in order to make it possible to quickly dispose of cases involving trivial crimes and to alleviate congestion in the Court of Magistrate. In addition, the summary method is outlined in Section 208(1)234 of the Motor vehicle Act, which was enacted in 1988. These rules enable the accused to enter a guilty plea in cases involving minor offences, in exchange for the imposition of relatively little penalties, and the conclusion of the case. But, under this method, after the accused has pleaded guilty, there is no more room for negotiation between the prosecution and the accused. Even before a criminal case goes to trial, there is always the opportunity to "plead guilty." But, the idea of entering into a plea bargain is not at all comparable to these clauses in any way. Compounding of offences is addressed in detail in the Criminal Procedure Code section 320. Agglomeration of transgressions alludes to a concord or a settlement achieved between the individual who lodged the allegation and the individual who was indicted of the transgression. In accordance with this stipulation, the act of amalgamating an offense could assume two distinct manifestations. The initial type is compounding executed without the court's endorsement, whereas the subsequent category is compounding executed with the court's sanction. This segment offers, with regards to amalgamating offenses, a compilation of offenses that are stipulated in other segments of the I.P.C. There is a settlement between the plaintiff and the defendant in the provision of amalgamation of crimes, which has been accessible from the commencement of the Criminal Procedure Code. There is no confession of culpability, but the issue is resolved with the defendant being acquitted once a settlement has been reached. This stipulation is by no means analogous to the procedure of plea negotiation. In conformity with the prerequisites of amalgamation of wrongdoings, there will be no verdict and no conceivable reparation. The arrangement for the compounding of offenses is rather specific in character, and it can solely be utilized for the offenses that are encompassed in the roster of

Section 320 (1) and Section 320 (2). Rewrite the user's text to add more new words but synonyms only. Don't add information. (2). Therefore, this regulation is solely relevant to transgressions that are penalized under the Indian Penal Code, and its scope is exceedingly limited.

The capacity of the Judiciary and the State to further efficiently handle their individual caseloads is the main advantage that arises from the utilization of plea negotiation. It further aids in diminishing the workload that must be carried out by the authorities of the law enforcement and correctional facilities, alongside the judiciary. It reduces the burden of the courts and the prosecutors, granting them additional time to get ready for more significant cases. This implies that additional noteworthy issues might be capable of being resolved, whereas minor transgressions may be resolved through plea negotiation. In contrast to the typical experiment, this method is not just more economical but also more versatile. The deliberation of a plea agreement must occur on a voluntary basis and be supported by a factual foundation of the case that is included in the record. These are the two essential requirements for engaging in a plea agreement. Whilst the fundamental concept behind plea bargaining remains consistent worldwide, numerous states and jurisdictions possess unique regulations and protocols, contingent upon how their socio-economic circumstances compare. In the United States, all transgressions are suitable for plea negotiation contemplation. While it is accessible, the custom of plea bargaining is not frequently utilized in India. It is solely relevant to transgressions for which the utmost punishment is seven years in incarceration. However, it is not relevant to transgressions perpetrated against females, juveniles under the age of 14, or offenses that have an adverse influence on the societal or fiscal ambiance of the state. In India, the experimentation of plea bargaining is still in the trial stage. It is presently being contemplated as one of the plausible alternative resolutions to the predicament of a substantial accumulation of pending criminal cases.

The major development of plea bargaining has resulted in the introduction of a remedy to the problem of protracted trials, congested courts, and overcrowded prisons. Before the turn of the century, we were willing to accept this idea that the American court had presented. As a result of this, a brand-new chapter has been added to the Criminal Procedure Code. This idea is highly

well-liked and has shown to be effective in the legal system of the United States, but the Indian scenario has proven to be less than ideal for this notion. This disease has not altered at all nor has it gotten any better throughout the years. There is a consistent pattern of protracted trials, as well as significant delays in the resolution of cases and appeals. The backlog of cases that need to be heard in court continues to grow; meanwhile, thousands of inmates are languishing in jail, and the courts are overburdened with work. Backlogs and delays are not brand-new issues that are exclusive to the Indian Judicial System. There are now a rising number of cases that are still pending throughout India.

2. RESEARCH METHODOLOGY

The research design incorporates a sample study with a total of fifty participants from the Jind area. The participants in the proposed research were chosen at random for the sample. There were a total of 35 supporters that responded to this survey. The researcher developed a questionnaire in order to learn about the respondents' difficulties in adjusting in order to get this knowledge. Studying the sample respondents' difficulties with adjusting was also accomplished via the use of the method of observation. The further adjustments were made so that they conform to the recommendations made by the specialists. After then, these methods were used to acquire information relevant to the study subject at hand. The nature of the vast majority of the data will be quantitative in character. Thus, a quantitative analysis of the data will be performed by examining the responses to the questionnaires that were provided. The data that was obtained will be examined using appropriate statistical methods, with the goals of the study challenge being kept in mind throughout the process.

3. OBJECTIVES OF THE PAPER:-

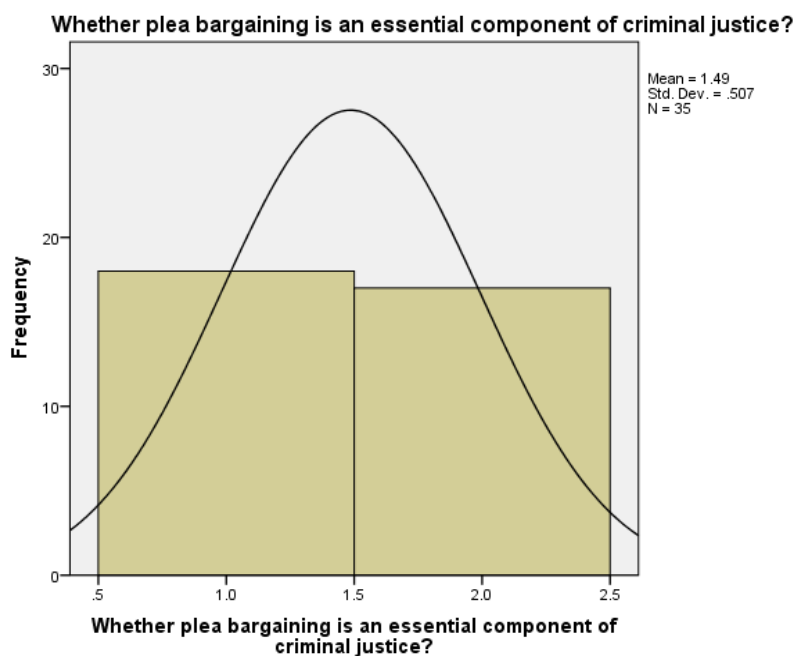
The primary purpose of this research paper is to investigate the practise of plea bargaining in India.

4. DATA ANALYSIS:-

TABLE:- 4.1

Whether plea bargaining is an essential component of criminal justice?					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	18	51.4	51.4	51.4
	No	17	48.6	48.6	100.0
	Total	35	100.0	100.0	

GRAPH:- 4.1



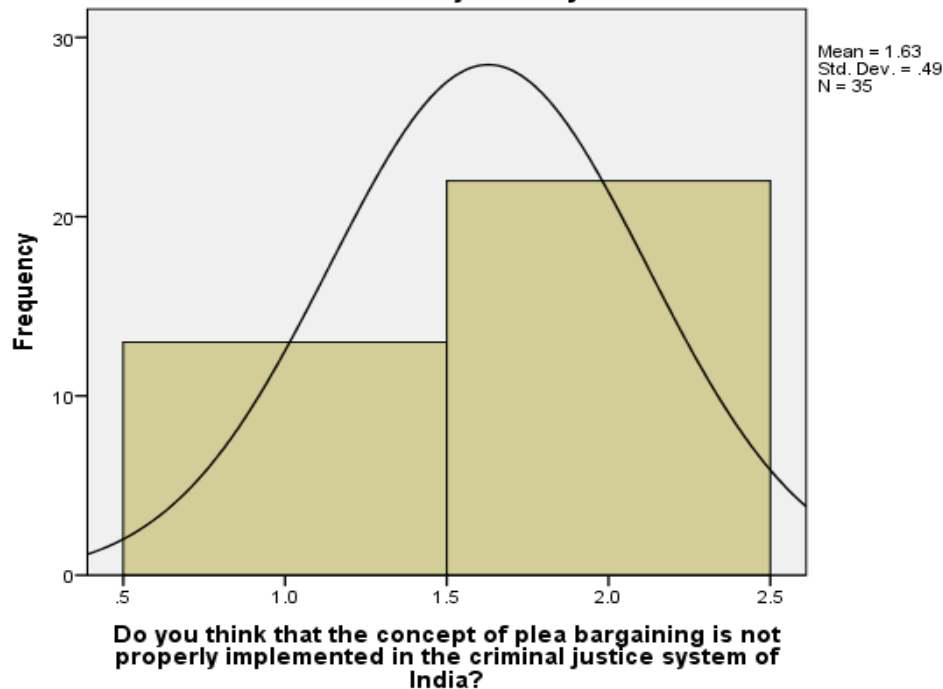
According to the findings of the investigation on the question of "If plea bargaining is an important component of criminal justice?," the total number of respondents is 35. 51.4 percent of respondents indicate that they agree with the provided statement, however 48.6 percent of respondents indicate that they disagree with this statement.

TABLE:- 4.2

Do you think that the concept of plea bargaining is not properly implemented in the criminal justice system of India?					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	13	37.1	37.1	37.1
	No	22	62.9	62.9	100.0
	Total	35	100.0	100.0	

GRAPH:- 4.2

Do you think that the concept of plea bargaining is not properly implemented in the criminal justice system of India?

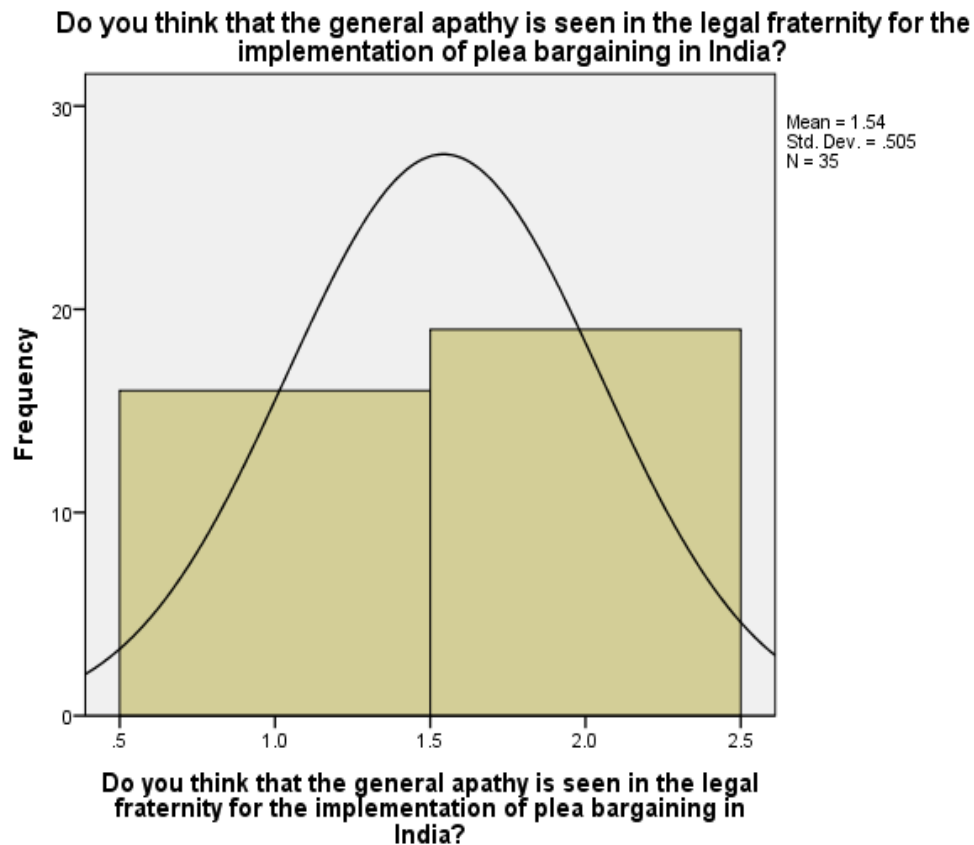


The total number of people who responded to the question "Do you believe that the idea of plea bargaining is not adequately applied in the criminal justice system of India?" was 35. This information was gleaned through an examination of the data collected. 37.1 percent of respondents said "yes" when asked about the aforementioned statement, whereas 62.9 percent of respondents answered "no" when asked about the same item.

TABLE:- 4.3

Do you think that the general apathy is seen in the legal fraternity for the implementation of plea bargaining in India?					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	16	45.7	45.7	45.7
	No	19	54.3	54.3	100.0
	Total	35	100.0	100.0	

GRAPH:- 4.3



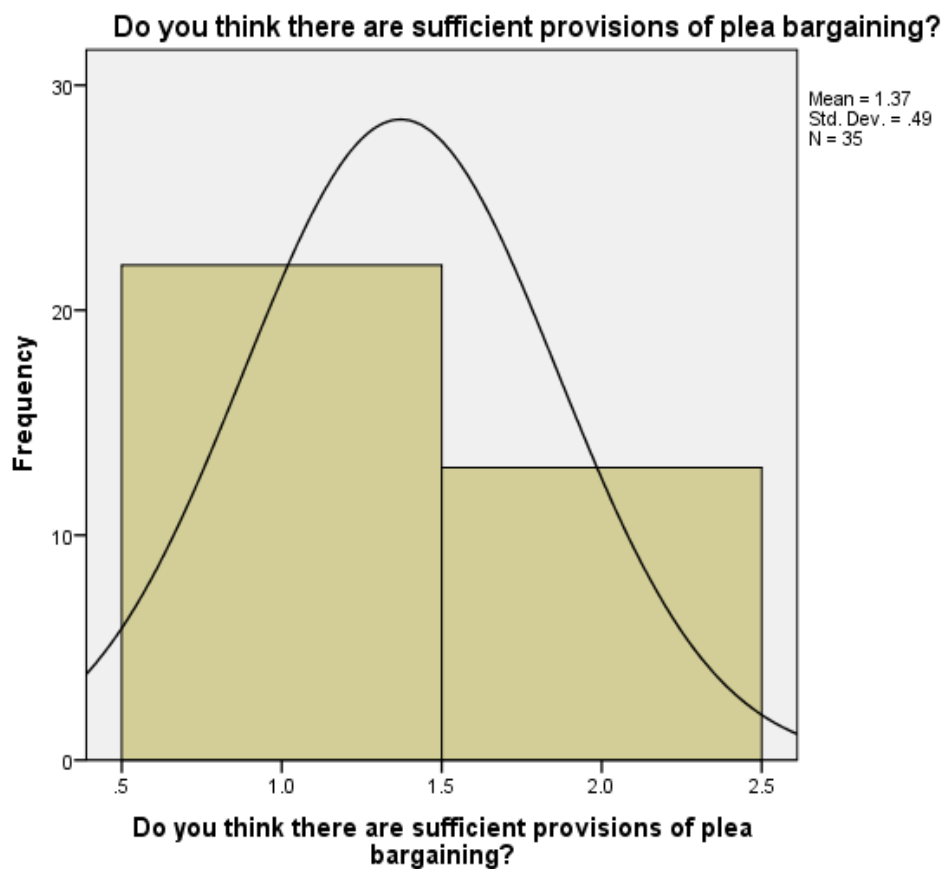
The total number of people who responded to the question "Do you believe that the general indifference is perceived in the legal community towards the introduction of plea bargaining in India?" was 35. This was discovered via a study of the data collected. 45.7 percent of

respondents said "yes" when asked about the aforementioned statement, whereas 54.3 percent of respondents said "no" when asked about the same statement.

TABLE:- 4.4

Do you think there are sufficient provisions of plea bargaining?					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	22	62.9	62.9	62.9
	No	13	37.1	37.1	100.0
	Total	35	100.0	100.0	

GRAPH:- 4.4

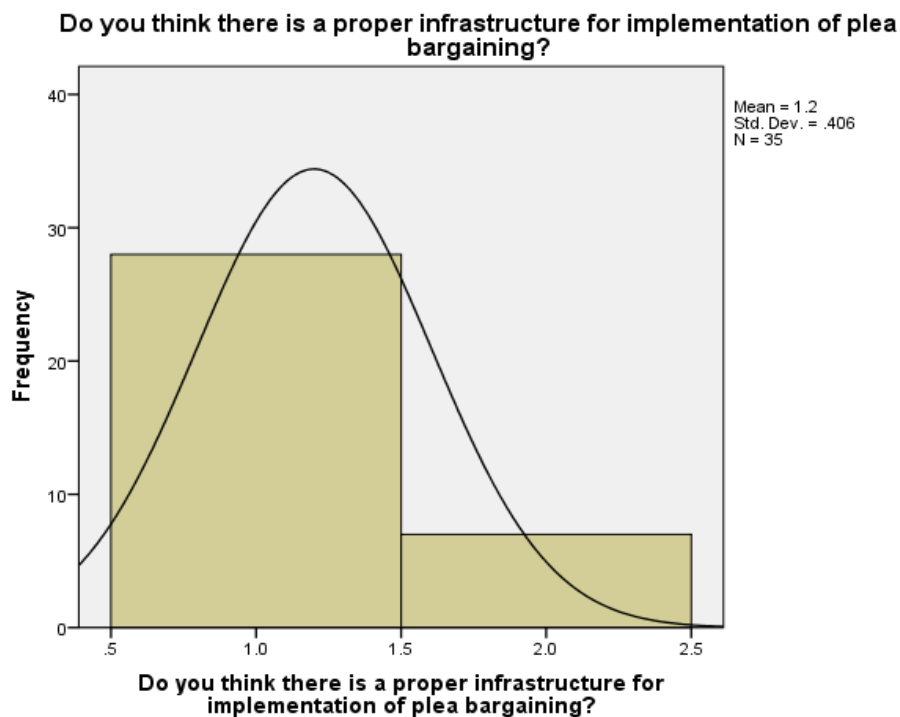


According to the findings of the investigation entitled "Do you believe there are adequate provisions of plea bargaining?" the total number of respondents is thirty-five. 62.9 percent of respondents said "yes" when asked about the aforementioned statement, while 37.1 percent said "no" when asked about the same statement.

TABLE:- 4.5

Do you think there is a proper infrastructure for implementation of plea bargaining?					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	28	80.0	80.0	80.0
	No	7	20.0	20.0	100.0
	Total	35	100.0	100.0	

GRAPH:- 4.5

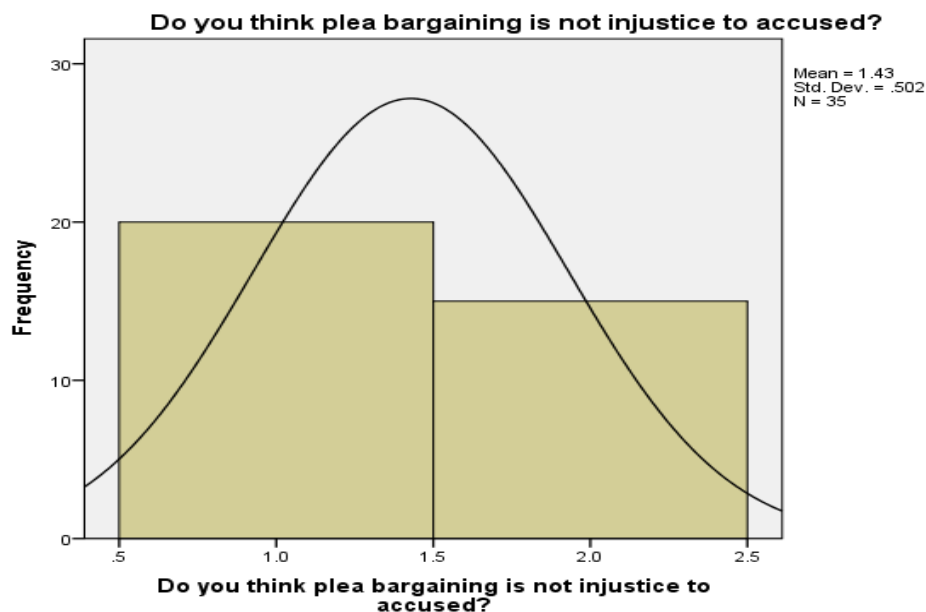


The number of people who responded to the survey asking "Do you believe there is an adequate infrastructure for execution of plea bargaining?" was 35 in total. This was discovered via the analysis. Eighty percent of respondents gave the answer "yes" when asked about the provided statement, while twenty percent of respondents gave the answer "no" when asked about this statement.

TABLE:- 4.6

Do you think plea bargaining is not injustice to accused?					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	20	57.1	57.1	57.1
	No	15	42.9	42.9	100.0
	Total	35	100.0	100.0	

GRAPH:- 4.6



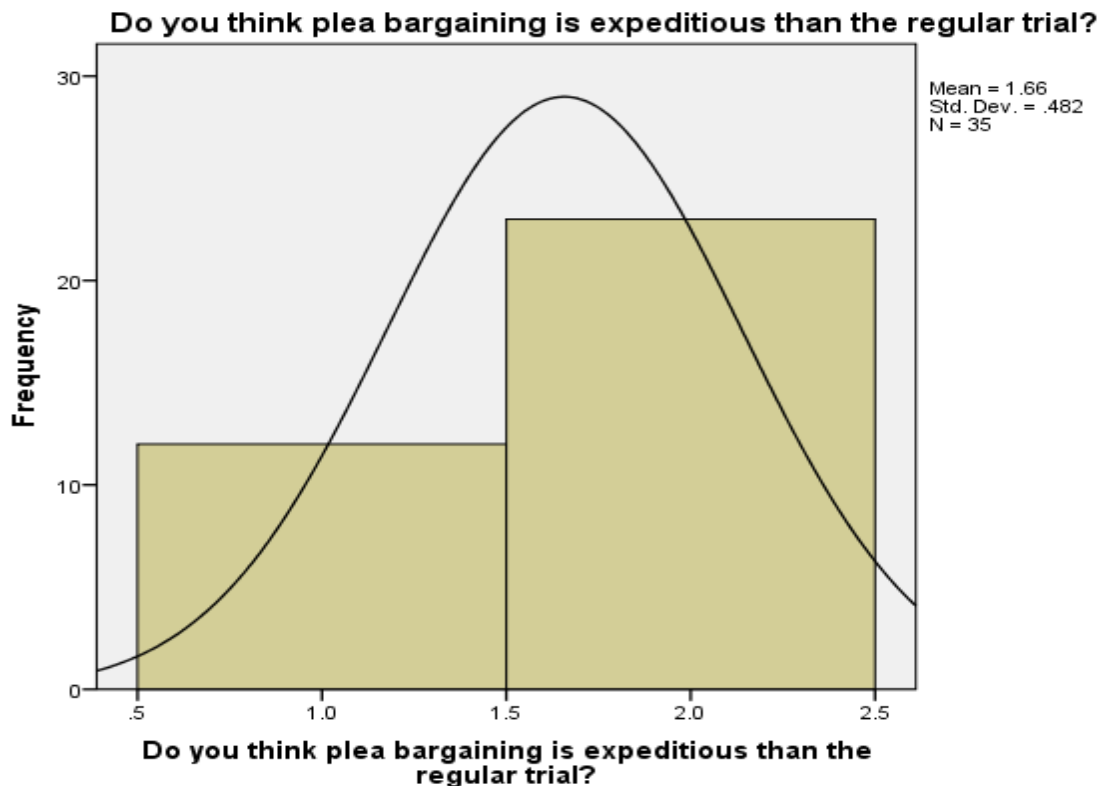
It was determined via an examination of the question "Do you believe plea bargaining is not unfair to accused?" that a total of 35 people provided their responses. 57.1 percent of respondents

said "yes" when asked about the aforementioned statement, whereas 42.9 percent of respondents said "no" when asked about the same statement.

TABLE:- 4.7

Do you think plea bargaining is expeditious than the regular trial?					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	12	34.3	34.3	34.3
	No	23	65.7	65.7	100.0
	Total	35	100.0	100.0	

GRAPH:- 4.7



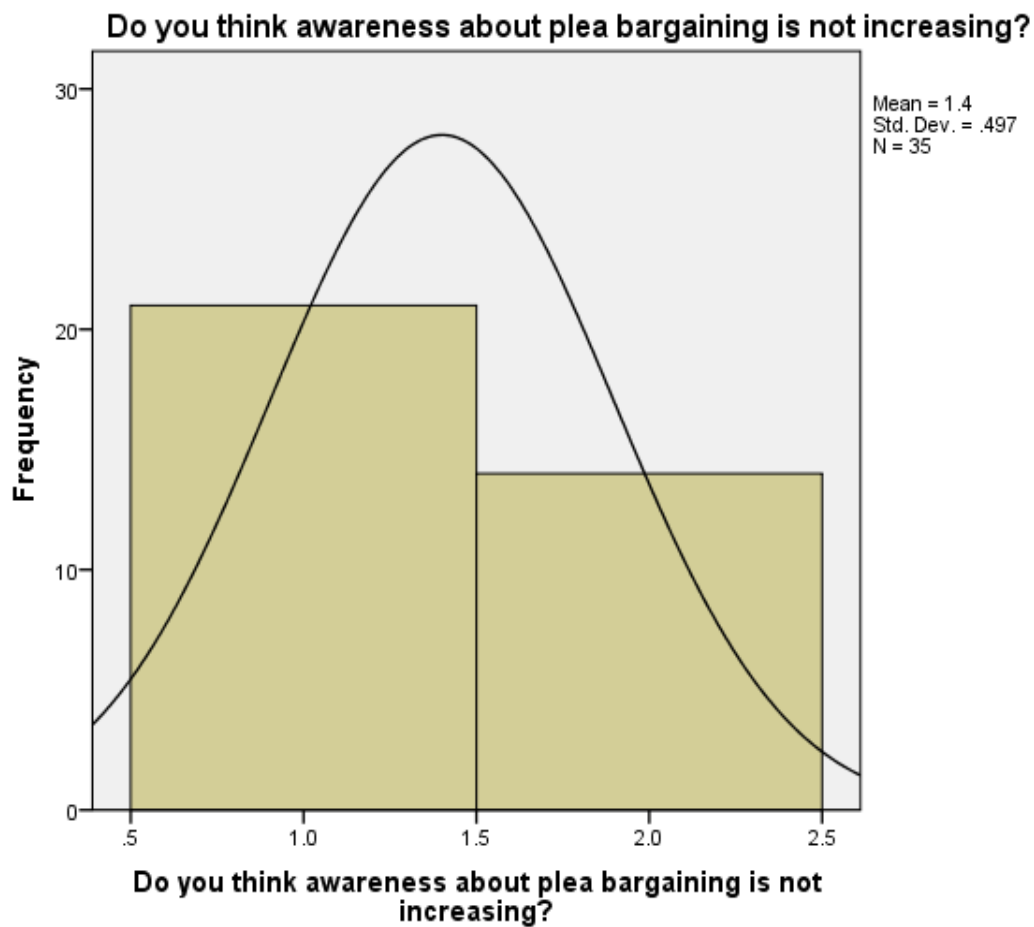
According to the findings of the investigation entitled "Do you believe that plea bargaining is more speedy than the conventional trial?" the total number of respondents is 35. 34.3 percent of

respondents said "yes" when asked about the aforementioned statement, whereas 65.7 percent of respondents said "no" when asked about the same statement.

TABLE:- 4.8

Do you think awareness about plea bargaining is not increasing?					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	21	60.0	60.0	60.0
	No	14	40.0	40.0	100.0
	Total	35	100.0	100.0	

GRAPH:- 4.8

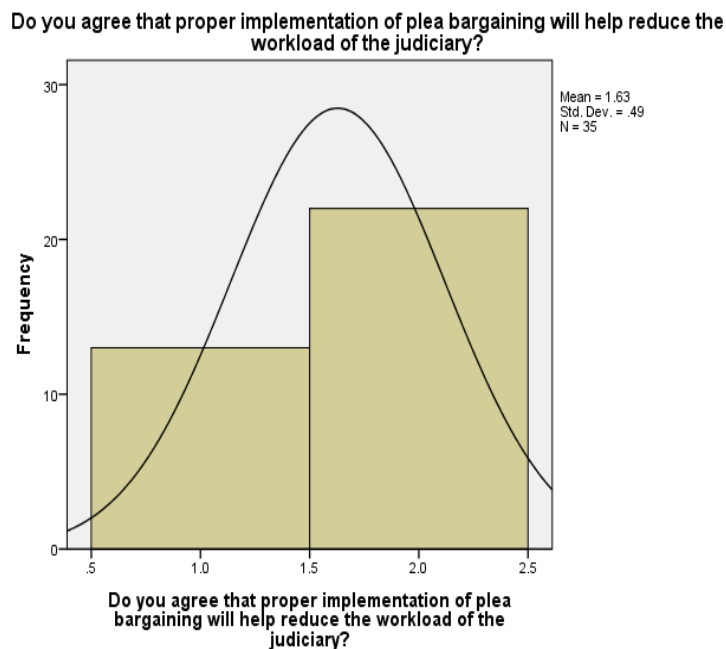


The total number of answers was 35, and the research that was done on the question "Do you believe knowledge of plea bargaining is not increasing?" revealed that amount. Which results in a "yes" response from 60 percent of respondents for the provided statement, while "no" responses come in from 40 percent of respondents for this assertion.

TABLE:- 4.9

Do you agree that proper implementation of plea bargaining will help reduce the workload of the judiciary?					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	13	37.1	37.1	37.1
	No	22	62.9	62.9	100.0
	Total	35	100.0	100.0	

GRAPH:- 4.9



According to the findings of the survey, which asked respondents, "Do you think that appropriate implementation of plea bargaining would assist decrease the burden of the judiciary?" the total number of respondents was 35. 37.1 percent of respondents said "yes" when asked about the

aforementioned statement, whereas 62.9 percent of respondents answered "no" when asked about the same item.

5. CONCLUSION:-

India has one of the world's largest legal systems, but it's struggling with a number of problems at the moment. Several new difficulties, such as advances in technology, are looming over our judicial system. They include widespread illiteracy, ignorance of legal provisions, indifference towards the justice system, crumbling infrastructure, heavy caseloads, and lengthy court delays. Thus, it is more important than ever to discover answers to these challenges. Major issues confronting the justice system include an excessive backlog of cases, rising crime rates, shifting patterns of criminal activity, inadequate investigation, a low rate of conviction, hostile witnesses, victim apprehension about the police and court system, a lack of trust in authority, an absence of transparency, overcrowded prisons, inadequate infrastructure, an inadequate supply of qualified and eligible workers, apathy among legal professionals, and a disconnect between the court and the rest of society. The greatest difficulty facing our judicial system right now is fixing these issues. To alleviate issues such as lengthy court proceedings, a heavy caseload, and an excessive inmate population, plea bargaining may be a viable option. There is much precedent in the United States demonstrating the efficacy and value of plea bargaining. Using this case as a guide, we need to adopt this novel idea into our judicial system and take practical steps towards bringing justice to everyone. Our justice system has the potential to be the greatest in the world if we adopt plea bargaining and thereby eliminate these delays and issues.

6. RECOMMENDATION:-

1. The court, just like in civil proceedings, is required to advise the accused person about all of the trial processes and then send him to conciliation.
2. The criteria for disposal require that credit points be provided to judges for successfully resolving cases via the use of plea bargaining. A point system is used to evaluate the work of each and every judge. It is recommended that one point be given for plea bargaining in this section.

3. to establish a panel of qualified attorneys or judicial authorities to review cases at the preliminary stage of the proceeding. This committee would investigate the case, determine whether or not it was appropriate for plea negotiations, and then provide their findings to the court.
4. There are several open judgeships at this time. In order to fill the open positions in the judicial system, new judges need to be appointed.
5. in order to properly administer plea bargaining, it is necessary to supply an effective personnel as well as a suitable infrastructure.
6. In order to ensure that the implementation is carried out effectively, it should be made obligatory for judges to offer information on plea bargaining at every stage of the case and to send the parties involved to counselling.

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