INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed

www.ijlra.com

 ISSN: 2582-6433

DISCLAIMER

 ISSN: 2582-6433

EDITORIAL TEAM

EDITORS

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board

Dr. Namita Jain

Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India.India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020).Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019

 ISSN: 2582-6433

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi.Formerly Assistant professor of Law,Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration.10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.

Avinash Kumar

Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship.He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi.Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi.He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

 ISSN: 2582-6433

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANLAYSIS ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

 ISSN: 2582-6433

"ETHICAL AND LEGAL CHALLENGES OF PLEA BARGAINING UNDER THE INDIAN CRIMINAL PROCEDURE CODE: AN IN-DEPTH ANALYSIS"

AUTHORED BY - TESA ROSE SUNNY

Abstract

This research critically examines the efficacy and ethical implications of plea bargaining within the Criminal Procedure Code (CrPC). Drawing from a rich historical analysis of legal precedents and legislative amendments, the study contextualizes plea bargaining in the ever-evolving landscape of criminal justice. Notably, landmark cases are scrutinized to unravel the practical manifestations of this legal phenomenon. Beyond procedural intricacies, the research adopts an interdisciplinary approach, delving into the sociological impact of plea bargaining. By assessing its effects on marginalized communities and considering broader socio-economic implications, the study aims to uncover the intersectionality of plea bargaining with issues of access to justice and constitutional safeguards.

Ethical considerations are at the forefront, as the research questions the compatibility of plea bargaining with fundamental principles of fairness and justice. This analysis serves as a compass for navigating the ethical tightrope inherent in this practice. The study extends its purview internationally, engaging in a comparative legal analysis to distill best practices and draw insights from diverse jurisdictions. By doing so, the research contributes to a nuanced understanding of plea bargaining, transcending traditional legal scholarship.

Hypothesis

Ethically and Legally, plea bargaining is used as a tool of subjugation, and its introduction in India hasn't had major effects on the speedy disposal of cases. Furthermore, the concept of plea bargaining isn't as prevalent in India as in countries like the UK and USA.

 ISSN: 2582-6433

Research questions

1. What are the general ethical and legal implications of having a system of plea bargaining in our criminal justice system?
2. What are the most common offenses where offenders seek plea bargaining in India?
3. How does the police and executive infrastructure facilitate the refilling of these offenses?
4. How is India different from other countries in the matter of plea bargaining procedures?

Introduction

In the intricate realm of criminal justice systems worldwide, the practice of plea-bargaining stands as a contentious yet pervasive phenomenon, shaping the contours of legal proceedings and outcomes. As we embark on an exploration of its efficacy and ethical implications within the framework of the Criminal Procedure Code, we are confronted with a complex tapestry of legal principles, moral considerations, and practical realities. This in-depth analysis endeavors to unravel the multifaceted dynamics surrounding plea bargaining, shedding light on its utility as a tool for expedient resolution of criminal cases, while also probing the ethical dilemmas inherent in its implementation. At the heart of our inquiry lies the tension between the pursuit of justice and the imperative of judicial efficiency. Plea bargaining, as a negotiated settlement between the prosecution and the defense, offers the promise of swifter resolution and alleviation of burdensome caseloads plaguing courts. However, beneath its surface allure lie concerns regarding the erosion of due process, coercion of defendants, and unequal bargaining power between parties. Thus, our examination delves into the nuances of plea bargaining mechanisms, scrutinizing the safeguards and procedural safeguards enshrined within the Criminal Procedure Code to uphold fairness and equity in the plea negotiation process.

Moreover, our analysis extends beyond the confines of legal doctrine to grapple with the ethical dimensions of plea bargaining. We confront fundamental questions of justice, morality, and the integrity of the legal system, probing whether the expediency of plea bargaining comes at the cost of sacrificing the principles of accountability and transparency. By critically engaging with real-world case studies and jurisprudential debates, we seek to navigate the ethical quagmires inherent in plea bargaining, striving towards a nuanced understanding of its ethical implications and ramifications for the administration of justice. In essence, this paper represents an intellectual voyage into the heart of criminal procedure, where legal intricacies intersect with

 ISSN: 2582-6433

ethical imperatives, and where the pursuit of justice is intricately entwined with considerations of efficiency and expediency.

Plea Bargaining and its Evolution in India

Plea bargaining refers to pretrial negotiations between the prosecution and the defense in which the accused consents to enter a guilty plea in exchange for specific concessions made by the prosecutor, such as the reduction or dropping of certain charges, the recommendation of a particular sentence, or the refusal to recommend any sentence at all. Plea bargaining in this note will be interpreted to indicate the renunciation of the right to a trial in return for a reduction in punishment because both eventually impact the dispositional phase of the criminal proceedings by changing the sentence. Plea bargaining has been established in India by the addition of Chapter XXI A to the Criminal Procedure Code of 1973, according to the Criminal Law (Amendment) Act, 2005, where Sections 265 A - L was added in the Code of Criminal Procedure, 1973. This change came into effect on July 5, 2006. Twelve clauses outlining the plea-bargaining scheme are included, however, they are not consistent with the proposal that the Malimath Committee and the Law Commission of India supported in their 142nd and 154th reports.[1]

Types of bargaining

- In exchange for a guilty plea, the prosecution may offer to drop or decrease some of the counts against the defendant, a tactic known as **charge bargaining.**
- In exchange for a guilty plea, the prosecution may agree to suggest a certain sentence or not recommend any at all. This is known as **sentence bargaining.**
- When a prosecution consents to not challenge an accused party's account of events or to withhold from the court any aggravating factual circumstances, this is referred to as **fact bargaining.** When evidence of an aggravating factor might result in a mandatory minimum term or a more severe punishment under sentencing guidelines, this type of bargaining is likely to take place.
- When an accused person or their attorney bargains directly with a prosecutor or trial judge about the potential benefits of entering a guilty plea, this is known as **express bargaining.**

[1] Union Ministry of Home Affairs, Report of the Commitee on Reforms of Criminal Justice System, 179 (New Delhi, 2003)

 ISSN: 2582-6433

- Conversely, **implicit bargaining** takes place in the absence of in-person discussions. Particularly in implicit bargaining, trial judges create a precedent of treating guilty pleaders more leniently than those who assert their right to a trial; as a result, the accused learn to anticipate that entering a guilty plea would result in benefits.

The accused is the one who takes the initiative to set in motion the mechanisms for negotiated pleas. In the court where their offense is before trial, an accused individual may apply for plea bargaining if the maximum sentence for the offense is not more than seven years.[2] After receiving the application, the accused must appear before the court on camera. If the court determines that the accused applied voluntarily, it will then give the victim, the accused, the public prosecutor, and the investigating officer—if the case was brought forward based on a police report—time to come to a mutually agreeable resolution. This may involve the accused compensating the victim for losses incurred during the case.[3] The judge is expected to participate actively in the proceedings rather than acting as a passive observer. The court bears the responsibility of guaranteeing that the accused provides their complete and voluntary agreement for the entire procedure to be carried out.[4] It must impose the sentence, which may be between one-fourth and half of the maximum penalty allowed for that offense.

Additionally, the legislation mandates that the verdict be delivered in public.[5] To benefit the accused, a provision has been included that states the information provided by the accused in a plea bargain application cannot be utilized for any other reason.[6] In the event of a plea agreement, the court's decision is final, and no appeal of the decision may be filed in any other court.[7] According to Section 265A, plea bargaining is not permitted for crimes that have been committed against women or children under the age of fourteen, or that have an impact on the nation's socioeconomic status (as determined by the Central Government). Additionally, only first-time offenders are eligible to use the method. [8] If the court finds that the accused has been previously convicted by a court in which he was charged with the same offense he can't use this method.

[2] § 265B(1), Cr.P.C.
[3] § 265B(4), Cr.P.C.
[4] Proviso to § 265C(a), Cr.P.C.
[5] § 265E, Cr.P.C
[6] § 265K, Cr.P.C.
[7] § 265G, Cr.P.C
[8] r § 265B of the Cr.P.C.

 ISSN: 2582-6433

Plea bargaining is most commonly justified by its ability to quickly, easily, and efficiently resolve a large number of cases. However, structural issues with the way the courts and investigative agencies operate are the main cause of the delays in the resolution of criminal cases in India.[9] It is necessary to investigate the arguments made against plea bargaining in addition to the administrative justifications for ADR procedures.

Ethical and Legal Implications Associated with Plea Bargaining

According to data from the National Crime Records Bureau, in 2015, plea bargaining was used to resolve just 0.45% of cases under the Indian Penal Code (IPC), despite the government and courts encouraging it. Just 4,816 of the 10,502,256 IPC cases that the courts resolved involved plea bargaining. [10] In addition, there was a 0.043% decrease in 2016 with just 4,887 cases out of 11,107,472, and a 0.27% increase in 2017 with 31,857 cases out of 11,524,490 utilizing plea bargaining. In 2018, plea bargaining was used to resolve just 20,062 cases (0.16%) out of 12,106,309 cases. This is a dramatic decline. It is incredibly unacceptable that after 15 years, this metric hasn't even surpassed 1%.[11] The majority of those who are coerced into entering into a plea deal lack the resources to post bail.

To make matters worse, it has been shown that the majority of offenders are unaware of the consequences of using it. The terrible status quo, which is evident in the length of time it takes to resolve criminal cases and appeals, the enormous backlog of cases, and the terrible treatment of detainees awaiting trial, is primarily to blame for the introduction of plea bargaining in the criminal justice system of India. However, those who oppose the plea bargaining system contend that it dilutes the deterrent effect of the law, excessively and unjustly leniently sentences admitted criminals and is coercive in that it forces the accused to either plead guilty in exchange for a lighter sentence or give up their right to a trial in exchange for some other benefit. [12]The presence of a system of plea bargaining in our criminal justice system gives rise to a myriad of ethical and moral implications that warrant careful consideration. The amendment of 2005, may bring about changes in the legal aspect of plea bargaining, however, the ethical considerations are still a rocky boat. Some of the general ethical and moral

[9] T. Aggarwal et al., Wanna Make a Deal? The Introduction of Plea-Bargaining in India?, (2006) 2 S.C.C. (Cri) (J) 12, 19
[10] Why hasn't plea bargaining taken off in India? | Mint (livemint.com)
[11] Neeraj Arora, Plea Bargaining- A New Development in the Criminal Justice System, December 25, 2010
[12] Kathuria, Sonam (2007) "The Bargain Has Been Struck: A Case for Plea Bargaining in India," National Law School of India Review: Vol. 19: Iss. 2, Article 5.

 ISSN: 2582-6433

implications include:

1. **Fairness and Equity-**

One of the primary concerns surrounding plea bargaining is the potential for disparities in outcomes based on factors such as race, socioeconomic status, and legal representation. Defendants with limited resources or facing coercive circumstances may feel pressured to accept plea deals, even if they are not fully informed of their rights or the potential consequences. This raises questions about the fairness and equity of outcomes within the criminal justice system. However, in Joseph P.J. v. State of Kerala[13], the court declared that the plea bargaining procedure, as outlined in Sections 265-A to 265-L of the CrPC, is required and must be followed when evaluating an application for plea bargaining. This ruling can be used to support the claim that the plea bargaining process is frequently just and equitable as these procedures are being duly followed.

2. **Transparency and Accountability-**

Plea bargaining negotiations often occur behind closed doors, away from the scrutiny of the public and judicial oversight. This lack of transparency can undermine public trust in the integrity of the legal system and raise concerns about accountability. Critics argue that plea bargaining may enable prosecutors to secure convictions based on weak evidence or coerce defendants into pleading guilty to avoid the risk of harsher sentences at trial, thus bypassing the adversarial process and eroding procedural safeguards. Furthermore, under S. 265 B, the accused may petition the court for a plea bargain. Generally speaking, it is up to the courts to determine whether an application was filed freely given the facts of that specific case, which will eat up court time. However, the accused will constantly be under pressure since he is receiving a shorter sentence.

Given that the purpose of plea negotiating is to speed up justice and case resolution, it is concerning that subsection (4) of this article does not define a period for MSD. Last but not least, S. 256C makes no guarantees about transparency or about the accused ever being under duress. However, the courts first recognized the possibilities of this technique in criminal trials in the State of Gujarat v. Natwar Harchandji[14] case. Plea bargaining, the Gujarat High Court said, was a suitable means of resolving disputes and would bring in a new phase of judicial

[13] Joseph P.J. v. State of Kerala, Original Petition (Criminal) No. 41 Of 2015.
[14] State of Gujarat v. Natwar Harchandji Thakor, 2005 CriLJ 2957

 ISSN: 2582-6433

change. As stated in Section 265-E of the CrPC, the defendant's sentence in Ranbir Singh v. State[15] was lowered to one-fourth of the maximum penalty allowed by Section 304A of the IPC. Additionally, the Bombay High Court found in Guerrero Lugo v. The State of Maharashtra[16] that the courts lacked power when it came to imposing a penalty on an accused party who employed plea bargaining, in addition to explaining Section 265-E.

3. The integrity of the Judicial Process- giving up on fundamental rights?

Plea bargaining has the potential to subvert the traditional adversarial process and erode the integrity of the judicial system. The emphasis on securing guilty pleas through negotiation rather than adjudication at trial may undermine the pursuit of truth and the principles of due process. Additionally, the prevalence of plea bargaining may contribute to a culture of 'assembly line justice,' where expediency takes precedence over thorough examination of evidence and rigorous application of legal standards. The court ruled in Thippaswamy v. State of Karnataka [17]that the accused's fundamental right to life is violated when he is urged to confess to a specific crime as part of a plea bargaining process.

4. Is Societal Interest Compromised for Administrative Expediency?

Plea bargaining, according to proponents of the abolitionist viewpoint, undermines the public interest in efficient criminal justice, precise guilt-innocent separation, and moral consideration. It reduces the law's deterrence power by permitting certain people to get away with crimes. Abolitionists have effectively concluded that there is no justification for the sentences that arise from criminal sanctions, regardless of whether they are intended for retaliation, rehabilitation, deterrent, or societal protection.[18] Furthermore, it is unfair and unethical to place an accused person who is sincere in their desire to change or who is honest enough to admit guilt in the hopes of the state showing some mercy on the same footing as someone who is being tried at the expense of society's time and resources. Though certain accused may seem to lessen their likelihood of punishment, the Criminal Procedure Code protects by prohibiting serious case accused and offenders with prior criminal records from obtaining concessional treatment by entering a guilty plea.

[15] Ranbir Singh v. State, 2011 S.C.C OnLine Delhi 3737 (India)
[16] Guerrero Lugo v. The State of Maharashtra, CWP No. 2109 of 2011
[17] Thippaswamy v. State of Karnataka, AIR 1983 SC 747
[18] AW. Alschuler, The Prosecutor's Role in Plea Bargaining, 36 UNIV. Chicago. L. REV. 50, 78 (1968)

 ISSN: 2582-6433

5. Incentives and Deterrence-

Critics argue that plea bargaining may incentivize prosecutorial overreach and coercive tactics, as prosecutors seek to secure convictions and clear case backlogs. The prospect of leniency or reduced charges for cooperating defendants may also undermine deterrence efforts by diminishing the perceived severity of criminal penalties and incentivizing plea deals even in cases of serious offenses. Madanlal Ramachander v. the State of Maharashtra[19] is arguably the most well-known case, in which the Supreme Court highlighted the inappropriateness of plea bargaining. However, this was before the enactment of the 2005 Amendment.

6. Ethical Considerations for Legal Professionals-

Legal professionals, including prosecutors and defense attorneys, face ethical dilemmas in navigating the plea bargaining process. Prosecutors must balance their duty to seek justice with their obligation to uphold the rights of defendants and ensure fair and impartial proceedings. Defense attorneys must advocate zealously for their client's interests while adhering to ethical standards and principles of professional conduct. The inherent tension between these competing obligations can pose challenges for legal professionals as they navigate the complexities of plea negotiations.

7. Ethical Dilemma associated with specific offenses-

India has a very controversial plea-bargaining system with many of its provisions. By restricting its application to offenses with a maximum penalty of less than seven years, Section 265-A falls short of its primary objective of enacting plea bargaining in India. In contrast, incidents involving state authorities abusing human rights—such as torturing detainees—are greatly impacted by this clause. Sections 323 or 330 of the IPC, for example, may be utilized to prosecute a police officer who is suspected of torturing detainees. [20]Given that plea bargaining is allowed and the maximum punishment for these offenses is within it, these criminals may be able to avoid prosecution by accepting shorter terms.

8. Exclusion of Socio-Economic Offences-

Furthermore, a wide range of regulations, like the Protection of Women from Domestic Violence Act of 2005 to the Dowry Prohibition Act of 1961, encompass socioeconomic

[19] Madanlal Ramachandra Daga V. State of Maharashtra, AIR 1968 SC 1267
[20] Amrit Pal Kaur & Aarti Goyal, Justice in Plea Bargaining – Is it coercion to compromise, BHARTI LAW REVIEW 213 (2016)

 ISSN: 2582-6433

offenses. Plea bargaining's claimed purpose of reducing the workload is compromised by the fact that it isn't relevant to such legislation. Furthermore, section 265A (2) grants the government complete jurisdiction to decide whether offenses qualify as socioeconomic offenses. Since no norms define the criterion for identifying offenses as socioeconomic offenses, this might lead to a future infringement of Article 14 if the accused person feels the category is unfair or unjust.

Overall, the ethical and moral implications of plea bargaining underscore the need for careful consideration of its impact on the fairness, transparency, and integrity of the criminal justice system. While plea bargaining may offer benefits in terms of efficiency and case resolution, its potential to compromise fundamental principles of justice and due process necessitates ongoing scrutiny and debate.

Patterns Observed in Plea Bargaining

Assessing the rate of repeat offenses specifically in the context of plea bargaining presents a nuanced challenge due to several factors, including variations in data collection methods, jurisdictional differences, and the complexities of plea negotiations. However, some studies and analyses provide insights into patterns of recidivism among individuals who have participated in plea bargaining and why plea bargaining is often not a success, looking at the various conviction rates. The conviction rate is steadily declining in India, a sign of the appalling or nonexistent status of law and order. The National Crime Record Bureau's 2011 crime figures demonstrate how ineffectively the system operates. There were 2.56 lakh violent crimes in 2011, yet only 84.5% of these incidents progressed to the point of charge filing, and only 28% of them resulted in a conviction. With 8.2%, Maharashtra state has the lowest conviction rate. These conviction rates in itself do not let offenders be charged.

One important consideration is that plea bargaining often involves individuals accused of lower-level offenses, where recidivism rates may be higher compared to more serious crimes. Research suggests that individuals charged with non-violent offenses, such as drug possession or property crimes, are more likely to engage in repeat offenses. These offenses may fall under various sections of criminal law depending on the jurisdiction and specific statutes involved. Additionally, the effectiveness of plea bargaining in reducing recidivism rates is a subject of debate. While proponents argue that plea bargaining can incentivize rehabilitation and reduce future criminal behavior by providing defendants with access to treatment programs or

 ISSN: 2582-6433

diversionary measures, critics contend that lenient plea deals may fail to deter individuals from engaging in further criminal activity.

1. Petty Crimes: Offenses such as theft, shoplifting, and pickpocketing are often resolved through plea bargaining due to their relatively lower severity compared to other crimes. These cases may involve first-time offenders or individuals accused of minor property offenses.
2. Traffic Violations: Traffic offenses, including driving under the influence (DUI), reckless driving, and driving without a valid license, are frequently subject to plea bargaining. Many traffic violation cases involve negotiation for reduced fines or penalties in exchange for a guilty plea.
3. Narcotics and Drug-Related Offenses: Cases involving possession, consumption, or small-scale distribution of drugs often see plea bargaining arrangements. Offenders may seek reduced charges or sentences through plea bargaining, especially in cases involving substances like marijuana or psychotropic drugs.
4. Domestic Violence: Instances of domestic violence, including physical assault, harassment, or cruelty against spouses or family members, sometimes result in plea bargaining agreements. These arrangements may involve counseling or rehabilitation programs as part of the negotiated settlement.
5. White-Collar Crimes: Offenses such as fraud, embezzlement, money laundering, and financial irregularities are subject to plea bargaining negotiations, particularly when the accused is willing to cooperate with authorities or make restitution.
6. Property Crimes: Cases involving burglary, robbery, vandalism, trespassing, and other property-related offenses may be resolved through plea bargaining to expedite the legal process and mitigate the burden on the judicial system.
7. Minor Assaults and Public Order Offenses: Offenses involving minor assaults, affray, public nuisance, or disturbing the peace may be candidates for plea bargaining to avoid prolonged trials and reduce court backlog.

Role of Police and Executive Infrastructure in Plea Bargaining

Plea bargaining often involves negotiations between prosecutors and defendants, where defendants agree to plead guilty to lesser charges or receive reduced sentences in exchange for cooperation or admitting guilt. While plea bargaining can lead to more expeditious case resolutions and alleviate court backlogs, some critics argue that it may also contribute to higher rates of recidivism or repeat offenses. This could occur if defendants receive lenient sentences

 ISSN: 2582-6433

or are not adequately rehabilitated, leading them to re-offend.

In terms of specific sections of criminal law that are most repeated in plea bargaining cases, this can vary depending on the jurisdiction and the prevalent types of crimes in that area. Certain sections of criminal law related to offenses such as drug possession, theft, assault, or traffic violations may be more commonly involved in plea bargaining negotiations, but the specifics would require access to relevant data and research studies. Regarding how police and executive infrastructure facilitate the refiling of these offenses, it's important to note that plea bargaining typically occurs at the pre-trial stage, often before cases are formally filed in court. Plea bargaining is probably going to cause a sharp rise in the number of situations in which innocent people wind up behind bars and with criminal records. [21]Police have occasionally been known to frame innocent persons for crimes they did not commit after receiving payment from the real offenders. Through the idea of plea bargaining, these people will be pressured to admit guilt for crimes they did not commit. This idea will mostly affect the impoverished, who will come forward to confess and bear the consequences of their guilt under the current system where acquittal rates range from 90% to 95%. This expedient course of action will only result in injustices.

However, the police and executive infrastructure may play a role in the plea bargaining process by investigating and gathering evidence for cases, determining which charges to file, and negotiating plea agreements with defendants or their attorneys. In some cases, police may have discretion in recommending charges to prosecutors based on the evidence they gather during investigations. Additionally, executive agencies such as district attorney's offices or state attorneys may have policies or guidelines in place for handling plea negotiations and determining when to pursue charges or offer plea deals. Ultimately, the extent to which plea bargaining contributes to repeat offenses and how the police and executive infrastructure facilitate this process can vary widely depending on a range of factors.

Plea Bargaining- India Vs. International Jurisprudence

The extent of the petition In common law nations such as England, Wales, and Australia, the extent of bargaining is determined by the prosecution and the defendant, who opt to drop some counts and accept guilt on others. Therefore, there is no discussion regarding the sentence;

[21] Supra 20

 ISSN: 2582-6433

instead, the judges make their own decisions. Plea bargaining is mostly illegal in the Scandinavian countries, although it is becoming more and more accepted throughout Europe. [22]In Italy, the "pentito" approach gained legitimacy between 1986 and 1987. The pentito was given more leeway and lighter sentences in return for giving the magistrates information. In addition, the introduction of plea bargaining to Pakistan was made possible by the National Accountability Ordinance, of 1999. In his application, the defendant first acknowledges his guilt before pledging to return the money that the investigators discovered was obtained through corruption.

Plea bargaining is not as common in the UK as it is in the USA. The trial judge has complete control over everything, including prosecution and sentence guidelines. Furthermore, there are significant differences in the function of prosecution and there are no set penalties for transgressions in the UK. Plea bargaining is only permitted in England and Wales, and only for the offenses covered by both panels' discussions. The reason the UK system works so well is that it strikes a balance between expediting the process and respecting the accused's right to silence before entering a plea. Consequently, the prosecution is unable to lower the sentence in return for a guilty plea, which limits the prosecutor's ability to step in and exert pressure. In contrast to England, where it is not codified, India has a codified plea bargaining statute. Plea bargaining, unlike in India, is not restricted to a small number of infractions.

While plea bargaining gained traction in the United States and was subsequently adopted in India, there are important differences between the two.

- Practically all offenses in the United States are eligible for plea negotiation. In India, however, plea bargaining is only allowed for a small number of offenses (maximum sentence of 7 years) by the defendant.[23]
- Indian regulations enable the accused to veto the negotiated plea deal, in contrast to the USA where victims have little power to change the terms of such agreements.
- In America, the majority of plea deals end with the parties deciding on a certain length of incarceration as part of the bargaining process. In sharp contrast, Section 265-E, which is applicable in India, limits the influence of the parties in determining

[22] Aditya Singh, Plea Bargaining in India: A Nibble At The Edge Of The Problem, NUALS L. J. [3] 79 (2009)
[23] J. E. Ross, The entrenched position of Plea Bargaining in United States legal practice, 54 A.M. J COMP. L. 717 (2006)

 ISSN: 2582-6433

punishment by outlining the guidelines that the courts must adhere to while determining the severity of the penalty.[24]

- In India, the court must confirm that the accused filled out the application freely before the plea bargaining process can even begin. In the United States, it begins following the conclusion of negotiations between the prosecution and the accused.
- In India, the judge has the authority to accept or reject the request. It isn't the same in the USA, though, where the prosecution has the majority of the authority.
- Since the court has the authority to issue the plea, he will throw aside the plea if he believes that the sentence meted out is insufficient or was obtained via improper means. However, the American judicial system does not operate that way.

Conclusion

In conclusion, while plea bargaining serves as a widely used mechanism within the criminal justice system to expedite case resolution and manage court backlogs, it also raises important ethical, procedural, and systemic considerations. Our examination has illuminated various facets of plea bargaining, including its potential implications for fairness, transparency, and the integrity of the judicial process. Furthermore, we have examined the role of police and executive infrastructure in facilitating plea bargaining, particularly in terms of investigating cases, recommending charges, and negotiating plea agreements. While these actors play a crucial role in the criminal justice process, their actions can also influence the outcomes and fairness of plea bargaining negotiations.

In navigating the complexities of plea bargaining, it is imperative to strike a balance between the expediency of case resolution and the protection of defendants' rights, procedural fairness, and the pursuit of justice. Ongoing scrutiny, research, and dialogue are essential to ensure that plea bargaining practices align with the principles of equity, integrity, and accountability within the criminal justice system. Ultimately, plea bargaining represents a dynamic and evolving aspect of criminal procedure, necessitating continual evaluation and refinement to address its ethical, procedural, and systemic implications. By fostering informed debate, promoting transparency, and upholding fundamental principles of justice, we can strive toward a more equitable and effective criminal justice system that serves the interests of all stakeholders. It is obvious that this amendment introducing plea bargaining in India hasn't had any impact on the

[24] Anushka Singh, An Analysis and Evolution of Plea Bargaining in the Indian Context, 4 INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES 3124 (2021).

 ISSN: 2582-6433

criminal justice system, and the only reason for this is the shortcomings in the Indian model. It's time for India to reevaluate plea bargaining, and the only way to turn things around is to start over and make it a more enticing deal for all parties concerned, much like the US system does.