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PLEA BARGAINING A CRITICAL EXAMINATION OF JUSTICE AND EFFICIENCY

AUTHORED BY - MANJU CHANDRAWANSHI & SHRIYANSHI TIWARI

ABSTRACT

India's diverse population poses unique difficulties to its justice system. Courts often grapple to deliver timely justice, resulting in delays and systematic flaws. Many prisoners remain imprisoned even after serving their sentences due to systemic problems such as:

- Insufficient judges
- Delayed trials
- Lack of transparency
- Accountability gaps

In response, plea bargaining has emerged as a significant development in criminal justice administration. This notable method offers an alternative to the conventional, often prolonged trial process, allowing for faster resolution and alleviates court congestion, Plea bargaining, emerging from the American legal system, was introduced in India via the Criminal Law Amendment Act of 2005. Now incorporated in the Criminal Procedure Code (CRPC) and Bhartiya Nagarik Suraksha Sanhita (BNSS, 2023), this paper evaluates the legislative framework, historical evolution, and theoretical foundation of plea bargaining in India, including a comparative analysis of CRPC and BNSS. The main aim of this paper is to examine the effectiveness and validity of plea bargaining in India. Determine the grassroots level challenges and analyse empirical data from the National Crime Records Bureau (NCRB) to understand public sentiments and real-life impacts, Assess judicial proceedings that illustrates plea bargaining as an effective tool for addressing justice backlog, Compare the transition from the Criminal Procedure Code (CRPC) to the Bhartiya Nagarik Suraksha Sanhita (BNSS), highlighting key changes, Provide recommendations for effective implementation of plea bargaining at the grassroots level. The study concludes that plea bargaining is impactful in achieving negotiated justice, contingent upon protecting rights and upholding judicial integrity.

Keywords

Plea Bargaining, Criminal Justice, BNSS, Negotiated Justice, Legal Reform, Conviction Rate

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INTRODUCTION

The Indian judicial system, with its time-honored legacy of justice, is facing unprecedented challenges due to the ever-mounting backlog of cases. With over 4.5 crore cases pending, the courts are struggling to cope with the sheer volume of litigation, resulting in inordinate delays and prolonged incarceration of undertrial prisoners. This raises fundamental questions about access to justice, the right to a speedy trial, and the efficacy of the judicial system. The judiciary is grappling with various problems, including- Backlog of cases: The Indian judicial system facing challenges due to overwhelming backlog of cases, resulting in prolonged delays and adjournment which ultimately hinder the delivery of justice, Inadequate infrastructure: Insufficient court infrastructure, including inadequate courtrooms, judges, and staff, worsen the problem, Inefficient case management: Poor case management practices, including lack of effective tracking and monitoring, contribute to delays,- Limited access to justice: Many citizens, particularly in rural areas, face barriers in accessing justice due to lack of awareness, affordability, and accessibility. In response to these challenges, the concept of plea bargaining has been introduced in India through the Criminal Law Amendment 2005. The term "plea bargaining" is derived from the Latin phrase "nolo contendere," meaning "I do not wish to contend." It allows an accused person to plead guilty voluntarily in exchange for a lesser charge or sentence, thereby avoiding the time-consuming and often prolonged trial process. As outlined by the Law Commission of Canada in 1975, plea bargaining is "an agreement by an accused to plead guilty in return for the promise of some benefit.

This article undertakes a detailed examination of the feasibility and Viability of plea bargaining in India, evaluating its effectiveness in mitigating pending cases, preserving the rights of the accused, and enhancing a more efficient justice delivery system. By analyzing the role of plea bargaining in India's judicial system, this study aims to contribute to the ongoing discourse on reforming the justice system, ensuring timely justice for all, and upholding the principles of fairness, transparency, and accountability.

HISTORICAL BACKGROUND

Early Beginnings: 19th Century.

Plea bargaining has originated in the United States, dating back to the 19th century. During this time, judges and prosecutors began to informally negotiate with defendants to encourage guilty pleas. This practice speeds up the disposition of cases and reduces the burden on the courts.

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Development in the United States: 20th Century- The concept of plea-bargaining gathered pace in the United States during the 20th century. The US Supreme Court played a significant role in shaping the practice:

1. Brady v. United States (1970): The Supreme Court accepted the constitutionality of plea bargaining, holding that a guilty plea induced by a promise of leniency is valid as long as the plea is voluntary and intelligent.
2. Santobello v. New York (1971): The Court further solidified the practice of plea bargaining, ruling that prosecutors must uphold their end of the bargain when a defendant pleads guilty in reliance on a promise.

The Federal Sentencing Guidelines, established guidelines for plea bargaining in the 1980s, , specifying the steps for negotiating guilty plea.

Introduction in India: Late 20th Century - Early 21st Century

The concept of plea bargaining was introduced in India through the initiatives of the Law Commission of India

1. 142nd Report (1991): The Law Commission recommended the introduction of plea bargaining expediate case disposal and reduce the suffering of under- trial prisoners.
1. 2 Criminal Law (Amendment) Act (2005): The Indian government passes a law introducing plea bargaining, which became effective on July 5, 2006.

   The introduction of plea bargaining in India aimed to:

   - Reduce case backlog and congestion in courts
   - Expedite the disposal of cases
   - Provide an alternative to lengthy trials
   - Offer benefits to defendants who plead guilty, such as reduced sentences

Evolution and Challenges

Since its introduction, plea bargaining in India has faced challenges and criticisms:

1. Concerns about the potential for defendants being pressurized or manipulated into plea bargaining gains.
2. Debates about the suitability of plea bargaining for cases, such as those involving grave offenses or vulnerable victims.
3. Concerns about the efficacy of plea-bargaining decreasing caseloads and promoting justice

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Definition and Types

Plea bargaining is an effective tool that facilitates bargain justice in a country like India, where congested courts and lengthy trials often fail to deliver immediate justice.

It involves essentially a court case in which the defendant agrees to plead guilty to a reduced charge or lighter sentence in exchange for some concessions on the part of the prosecution. This ensures a quicker resolution for both the victim and the accused, as well as reduces the duration of the trial.

The underlying assumption behind this idea is "justice by negotiation,"

which offers a middle ground between lengthy legal process and harsh punishment. Plea bargaining recognizes that not all cases require a trial in full and that, in the cases of minor or non-egregious offenses, justice can be better delivered by a mutually acceptable settlement.

Types of Plea Bargaining

1. **Bargaining for Charges** The defendant agrees to plead guilty to a charge that is lighter than the original one during charge negotiation. This is the most common form of plea bargaining and often resulting in a lighter sentence. For instance, an individual who is charged with robbery might plead guilty to theft, a lighter crime, to receive a lighter sentence.
2. **Sentence Bargaining** The defendant pleads guilty to the original charge in exchange for a lesser sentence, a form of sentence bargaining. Rather than focusing on the offense itself, for example, one might plead guilty under the assurance that probation will be substituted for incarceration.
3. **Fact Bargaining** A rare occurrence involves the accused agreeing to accept certain facts in exchange for the prosecution withholding other facts as evidence. This can affect severity of the punishment. For instance, an accused individual may admit to possession of an illicit substance but not for distribution purposes, resulting in a harsher punishment.

Objectives of Plea Bargaining in India

The systemic problems of case backlogs, lengthy trials and prison overcrowding are long plagued India's criminal justice system. In an attempt to address these issues, the Criminal Law (Amendment) Act, 2005 (not 2006) introduced Chapter XXI-A into the Code of Criminal Procedure (CrPC), thereby incorporating the concept of plea bargaining

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- **Expeditious Justice**

  Plea bargaining aims to facilitate the speedy resolution of criminal cases by allowing the accused to plead guilty in exchange for a reduced sentence. This expedites justice and helps reduce the burden on the judiciary

- **Reduction of Case Backlog**

  By resolving cases without undergoing full trials, plea bargaining reduces the number of pending cases, enabling courts to allocate more time to complex and serious matters.

- **Resource Preservation**

  This process conserves judicial resources—including time, money, and manpower—by avoiding prolonged trials and extensive evidence examination.

- **Compensation and Settlement**

  Victims benefit from quicker financial compensation and psychological closure without enduring the stress and delay of an adversarial trial process.

- **Rehabilitation of Offenders**

  Plea bargaining encourages offenders to accept responsibility for their actions, which can aid in their rehabilitation and reintegration into society.

- **Cost-Effective Legal Process**

  By avoiding lengthy litigation, plea bargaining reduces legal expenses for both the state and the accused, making the justice delivery system more cost-effective and efficient.

STATUTORY POSITION OF PLEA BARGAINING IN CRPC

Plea bargaining was formally introduced into the Indian Criminal Jurisprudence through criminal law amendment act, 2005, which came into effect on 5th July 2006. This chapter comprises of Sections 265A to 265L and outlines the legal framework for plea bargaining in India. It allows an accused to willingly file an application for plea bargaining before the court where the trial is awaiting, provided the offence is punishable with imprisonment up to seven years and is not one which affects the socio-economic condition of the country or has been committed against a woman or a child below the age of fourteen years. The process entails mutual agreement between the accused, the victim, and the prosecution, under the judicial control, which assures that the application is filed voluntarily and without coercion. If a mutually satisfactory disposition is reached, the court may inflict a lesser sentence as prescribed under the chapter and deliver a final judgment, against which no appeal lies except through a writ petition under Articles 226 and 227 of the Constitution or a special leave petition under

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Article 136 to the Supreme Court.

JUDICIAL APPROACH TO PLEA BARGAINING

The Indian judiciary has historically been reluctant to adopt plea bargaining, a stance that persists despite the 2005 amendment and repeated recommendations from the Law Commission. This opposition is evident in court judgments that have repeatedly reject plea bargaining. Notably, in cases such as Madhanlal rameshwarchandra daga vs. State of Maharashtra[1] and Murlidhar Meghraj vs. State of Maharashtra[2], the courts have rejected plea bargaining, emphasizing that sentences should be based on guilt rather than negotiations. In Madhanlal, the court stated that judges should impose lighter sentences if warranted, rather than engaging in plea deals. Similarly, in Murlidhar Meghraj, the apex court disapproved of plea bargaining when a trial magistrate sentenced accused individuals based on a plea agreement, highlighting concerns about induced guilty pleas. These decisions emphasize the judiciary's cautious approach to plea bargaining. The Indian judiciary has raised concerns about plea bargaining, noting its risks of undermining the fairness of legal process. In several cases, such as Kasambhai Ardul Rehmanbhai Sheikh v. State of Gujarat[3] and Kachhai patel shantikal koderlal vs.State of Gujarat[4], the courts have demonstrated issues like superficial evidence evaluation and the risk of innocent individuals pleading guilty to avoid lengthy trials. The Supreme Court has ruled that persuading guilty pleas through promises of leniency is unconstitutional and violates Article 21. Additionally, in State of UP v. Chandrika[5], the Court emphasized that admissions of guilt shouldn't automatically lead to reduced sentences. While some recognition has been given to plea bargaining in cases where accused individuals admit guilt and show remorse, the judiciary remains cautious, balancing justice with the rights of the accused.

Plea Bargaining in India: Addressing Delay and Delivering Justice

The incorporation of plea bargaining into Indian criminal jurisprudence was driven by the persistent issues of delays in the justice delivery system. Justice suffers not only when the wrong person is punished or acquitted, but also when cases drag on for years, Compromising

[1] Madan Lal Ram Chandra Daga Etc vs State Of Maharashtra on 5 February, 1968
Equivalent citations: 1968 AIR 1267, 1968 SCR (3) 34
[2] Murlidhar Meghraj Loya v State of Maharashtra AIR 1976 SC 1929.
[3] Kasambhai Ardul Rehmanbhai Shaikh vs State Of Gujarat & Anr on 13 February, 1980
Equivalent citations: 1980 AIR 854, 1980 SCR (2)1037
[4] Kachhia Patel Shantilal Koderlal v State of Gujarat and Another (1980) 3 SCC 120
[5] State of Uttar Pradesh v Chandrika (1999) 8 SCC 638

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public faith in the legal system. The Indian judiciary has long struggled with the streamlining case management, creating an impression of systemic inefficiency. As of October 2001, there were over 2.03 crore cases pending in district and high courts, with more than 35 lakhs in high courts alone. Steadily, around five lakhs of these had remained unresolved for over a decade. Even the Supreme Court had nearly 22,000 cases awaiting disposal. This backlog is largely due to a severe shortage of judges—India has only 10.5 judges per million people, far below other common law countries such as the U.K., U.S., and Canada.

This judicial strain has direct effect on prison conditions. While Indian jails have an intake of around 2.56 lakh inmates, they are currently housing more than five lakh prisoners—most of whom are Un convicted prisoners. This results in unwarranted state expenditure, with over ₹361 crore spent annually, and ₹55 spent daily on each prisoner. It was acknowledged that if a system for speedy resolution of minor criminal cases was enacted, the state could notably reduce both its financial burden and prison crowding. Plea bargaining was seen as a possible solution to these problems. It enables the accused to plead guilty in exchange for a reduced sentence, thereby preventing lengthy trials and offering the criminal justice system a much-needed tool for swift and streamlined case disposal. For the accused, it decreases unpredictability uncertainty, legal expenses, and psychological stress, facilitating for quicker restoration and social integration. For the courts, it reduces the backlog of pending cases and expedites justice.

Several Law Commission reports established the groundwork for introducing plea bargaining in India. The 120th Report (1987) highlighted judicial vacancies as a major factor in delays. The 142nd Report advocated plea bargaining, pressing for special consideration for cooperative accused and renewal of reformative provisions like Section 360 CrPC and the Probation of Offenders Act. The benefits include decreased jail congestion, quicker resolution, and cost savings. The 154th Report handed over these ideas, recommending plea bargaining for offences with imprisonment under seven years—excluding habitual offenders and serious crimes, especially those against women and children. The Law Commission recommendations received support from the Malimath Committee Report (2003), which strongly urged the government to incorporate plea bargaining as a formal mechanism in the Indian criminal justice system.

Provisions under Chapter XXIA of CrPC / Relevant provisions in BNSS

Plea bargaining was incorporated in the Indian judicial system by Criminal Law (Amendment)

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Act, 2005, and as a result, Chapter XXIA (Sections 265A to 265L) was added in the Code of Criminal Procedure, 1973 (CrPC). This chapter lays down the provisions of plea bargaining, and its aim is to speed up the judicial process and reduce case backlog. The Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, which is intended to replace the CrPC, includes plea bargaining under Chapter XXIII (Sections 289 to 300). The clauses in the BNSS mirror the ones in the CrPC but have modified procedures and nomenclature to align with contemporary legal practices. Eligibility and Conditions for Plea Bargaining Under the Criminal Procedure Code (CrPC) as well as the BNSS, there is a particular eligibility criteria and requirements for plea bargaining:

Eligibility and Conditions for Plea Bargaining

1. **Applicability:**

   - The accused must be charged with an offense having a sentence of up to seven years in jail.

   - Offences that disturb the socio-economic balance of the country, or offences against women or children below the age of fourteen years, are not admissible.

2. **Voluntary Application:**

   - The application must be made voluntarily by the accused, with a realization of the nature and extent of the punishment.

   - The accused must have no previous conviction against the same offence.

3. **Time Frame:**

   - The application must be made within thirty days from the moment at which charges are put in frame.

Procedure for Plea Bargaining

The procedure for plea bargaining under the BNSS is indicated as follows:

1. **Submission of the Application:**

   - The defendant files an application with the court, including a brief overview of the case and an affidavit confirming the plea is made voluntarily.

2. **Court Review:**

   - The court conducts a private interrogation of the defendant to confirm that the application is free and that the defendant understands the implications.

3. **Collaborative Agreement:**

   - If the court is satisfied, it gives a maximum of sixty days to the defendant and

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the prosecution to negotiate and come to a compromise acceptable to both, which can also involve compensation to the victim.

4. **Disposition Report:**
   - After an agreement has been made, the court records the same and goes ahead to dispose of the case as agreed. 5. Rejection of Application
   - If the court finds the application involuntary or if the accused is previously convicted of the same offense, it refuses the application, and the case proceeds under regular trial procedures.

     These provisions aim to streamline the criminal justice system, so cases are determined in a timely manner while safeguarding the rights of the accused and interests of victims.

JUDICIAL INTERPRETATION OF PLEA BARGAINING IN INDIA

Indian courts have played a crucial role in interpreting and shaping the legal framework of plea bargaining since its statutory introduction. In *State of Gujarat vs. Natwar Harchanji Thakor*,[6] the Court highlighted that not every guilty plea comprises plea bargaining and that each case must be assessed on its own merits. The judgment highlighted the legislative intent behind plea bargaining as a means to assure speedy and justice. In *Ranbir Singh vs. State*[7], the Delhi High Court mediated after the trial court levied the maximum punishment although a plea agreement. Taking note of the accused's financial hardship and his voluntary compensation to the victim's family, the High Court decreased his sentence to one-fourth under Section 265-E of the CrPC. Similarly, in *Guerrero Lugo Elvia Grissel vs. State of Maharashtra*[8], the court illuminated that even when a minimum sentence is stipulated, courts may still[i] accept a plea and grant relief such as suspended sentences, probation, or reduced punishment, provided the victim and prosecution are heard. In *Joseph P.J. vs. State of Kerala*[9], the Kerala High Court ruled that the procedure outlined in Sections 265-A to 265-L CrPC is mandatory. Any failure—especially analyze the accused in-camera without the complainant under Section 265-B(4)—would amount to a serious procedural lapse, producing the judgment invalid. In *Vinod Kumar Agarwal vs. CBI*,[10] the court held that plea bargaining is allowable only after the charge sheet is filed

[6] 2005CRILJ2957, (2005)1GLR709
[7] Ranvir Singh v State of Uttar Pradesh [2024] AHC 44841 (All).
[8] Guerrero Lugo Elvia Grissel v State of Maharashtra [2012] CRI LJ 1136 (Bom)
[9] P.J. Joseph v State of Kerala (2015) 4 KLT 364 (Ker HC)
[10] Shri Vinod Kumar Agarwal and Others v Central Bureau of Investigation Criminal Revision Defective No 273 of 2015 (Allahabad High Court, 20 May 2015).

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under Section 173 CrPC, refusing premature applications. Lastly, in *M/S Meters and Instruments Pvt. Ltd. & Anr. vs. Kanchan Mehta*[11], the Court motivated early resolution of cases and stated that the judiciary may investigate settlement or plea bargaining even during trial, targeting to complete proceedings within six months and spare law-abiding individuals from unnecessary delays. Collectively, these rulings explicated how Indian jurisprudence has refined and enforced the plea-bargaining mechanism to balance judicial efficiency with fairness.

Plea Bargaining in the United States of America Historical background

In the United States, the origin of plea bargaining can be traced back to the nineteenth century. This mechanism of plea bargaining was accepted with open arms by the criminal jurisdiction of United States. Towards the end of the twentieth century, the dominance and oversight of the public media and politician converged about the implementation of plea bargaining to resolve criminal cases. Substantive expansion of criminal jurisprudence in the country leaves the room for further development, particularly promoting of the application of plea bargaining. As a case disposal mechanism Plea bargaining gained momentum towards in the 1920 and its popularity grew to the extent that it began to shape the processing of almost all cases in US courts, notably although the sixth amendment to the constitution of USA does not explicitly mention the concept of plea bargaining, it has become a crucial aspect of The American Justice system.

Current scenario

In the United States, when an accused is arrested, they are brought before a court for an initial appearance, where they are informed of their rights and the charges against them. The prosecuting attorney files charges, and the accused is required to appear again, this time with the opportunity to engage in plea bargaining. If the accused pleads not guilty, they can still negotiate a plea deal. Plea bargaining allows the accused to potentially reduce their sentence or charges in exchange for a guilty plea. The prosecutor has discretionary power to accept or reject a plea deal, and the judge also has the authority to approve or reject the plea agreement. The judge must ensure that the accused enters into the agreement voluntarily and without coercion. To validate the plea-bargaining process, the agreement is typically placed on court records. In the modern legal framework of the United States, plea bargaining has become an

[11] M/s Meters and Instruments Pvt Ltd and Another v Kanchan Mehta, Criminal Appeal No 1731 of 2017 (Supreme Court of India, 5 October 2017

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indispensable mechanism, with approximately 97% of federal cases and 94% of state cases being resolved through plea agreements. This highlights the significant role plea bargaining plays in the US justice system.

Plea Bargaining: Judicial Endorsement and Caution in the U.S.

In the United States, an overwhelming number of criminal cases are resolved through plea bargaining, making it a foundational element of the American criminal justice system. The constitutionality of plea bargaining was first addressed in the landmark case of Brady v. United States, where the U.S. Supreme Court upheld the practice as a legitimate and constitutionally valid means of resolving criminal cases. However, the Court also expressed concerns about the potential for misuse, particularly the risk that innocent defendants might feel pressured to plead guilty simply to secure a lesser sentence through a negotiated agreement. This highlighted a crucial tension between expediency and fairness. The issue was further explored in Santobello v. New York [5], where the Court emphasized that defendants are not without protection; it held that remedies and safeguards are available in cases where plea agreements are dishonoured or unfairly obstructed by the prosecution. These judicial pronouncements underscore the recognition of plea bargaining as both a practical necessity and a constitutionally permissible tool, provided that it is used transparently and with due process. In fact, the prevalence of plea bargaining is so significant that it has become an indispensable and integral component of the American criminal justice system.

The Promise of Plea Bargaining: A Tool for Speedy Justice

Plea bargaining in India was introduced as a promising mechanism to address the huge backlog of criminal cases and to assure speedy trials. However, data from 2015 to 2018 shows its use has been minimal, with less than 1% of cases settled through this process annually. This underutilization is largely due to administrative apathy, lack of awareness, and systemic challenges such as the limited role of prosecutors and judges in the process. Unlike systems in countries like the U.S., Indian prosecutors lack the authority and resources to actively negotiate pleas, and judges have no power to reject settlements, even if they suspect coercion or unfairness. This procedural rigidity, coupled with no independent judicial oversight of plea bargains, raises problems about justice and fairness. Moreover, the process risks coercion, especially for poor or marginalized accused who may plead guilty under pressure, while wealthy or influential individuals might leverage plea bargaining to safeguard leniency. Victims are often sidelined in this process, diminishing their role and potentially undermining

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public confidence. The engagement of police in plea negotiations further intricate the scenario, given the documented issues of custodial abuse and forced confessions in India, which could negotiate the voluntariness of pleas. Despite these limitations, plea bargaining offers notable advantages: it reduces court congestion, saves legal costs and time, and helps undertrial prisoners avoid prolonged detention. It also lessens social stigma by allowing accused persons to avoid protracted trials that expose them to public scrutiny. However, plea bargaining should not be seen as a substitute for comprehensive judicial reforms. Strengthening the capacity of courts, clearly defining the role of victims, empowering judges with discretion to assess fairness, and providing adequate support to prosecutors are necessary steps to make plea bargaining a more effective and just tool in India's criminal justice system.

Plea Bargaining in India: Promise, Pitfalls, and the Path Forward

Plea bargaining was introduced in India with the motive of addressing the overwhelming backlog of criminal cases and assuring the right to a speedy trial. Anticipated as a realistic solution to reduce delays and improve judicial efficiency, the mechanism has, however, seen limited success. Data from 2015 to 2018 reveals that fewer than 1% of criminal cases were settled through plea bargaining annually. This stark underutilization highlights deeper inherent challenges that hinder its effective implementation.

Barriers to Effective Implementation

One of the primary reasons for the limited use of plea bargaining is administrative neglect and a lack of awareness among stakeholders, including accused persons, legal professionals, and even judicial officers. this is the constrained role of prosecutors and judges in the Indian system. Unlike jurisdictions such as the United States, Indian prosecutors lack both the authority and resources to engage in active plea negotiations. Judges, for their part, are largely sidelined during the process and are not empowered to reject plea agreements, even when there are suspicions of coercion or unfairness.

This procedural rigidity is further exacerbated by the absence of independent judicial oversight, raising concerns about the fairness and voluntariness of plea bargains. In particular, poor or marginalized individuals may feel pressured to plead guilty, fearing prolonged detention or in the absence of adequate legal support. In contrast, wealthier or more influential accused may exploit the system to secure lenient outcomes, thereby undermining the principle of equal justice under law.

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Neglect of Victims and Risk of Coercion

Another critical flaw in the current framework is the marginalization of victims. Victims often have little or no role in the plea-bargaining process, which can erode their faith in the justice system and weaken public confidence. The involvement of the police in negotiating pleas is also problematic, given the well-documented instances of custodial abuse and forced confessions in India. Without robust safeguards, the voluntariness of pleas remains questionable.

The Case for Reform

Despite these significant drawbacks, plea bargaining does offer tangible benefits. It can decongest overburdened courts, reduce legal expenses, and save time for both the judiciary and litigants. For undertrial prisoners, it presents a possible escape from prolonged pre-trial detention. Furthermore, by avoiding lengthy courtroom proceedings, accused individuals may be spared the social stigma that often accompanies public trials.

However, these benefits must not obscure the need for deeper judicial reform. Plea bargaining should complement—not replace—comprehensive efforts to strengthen India's criminal justice system. Key reforms include:

- Enhancing judicial discretion to review and approve plea bargains.
- Clearly defining and protecting the rights of victims during the process.
- Providing prosecutors with the authority, training, and resources to engage in fair negotiations.
- Establishing safeguards against coercion, including independent legal counsel for the accused and reduced reliance on police-led negotiations.

Conclusion

Plea bargaining arrived in India with the promise of taking some burden off an overburdened criminal justice system. While the Criminal Law (Amendment) Act of 2005 and the Bharatiya Nagarik Suraksha Sanhita of 2023 were important steps, the reality remains that plea bargaining has not lived up to its promise. There are deep-rooted structural issues, procedural limitations, and judicial attitude resistance that persist in undermining its potential.

The changing perspective of the court—initial doubt and eventually hesitant endorsement—underscores the imperative for a more careful and balanced approach. Whatever policy is

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introduced to strengthen plea bargaining must ensure that it protects the rights of the accused, stays voluntary, and involves the voices of the victims.

Looking at the successful models outside, particularly in the American context, demonstrates that plea bargaining works if there's a balance of firm prosecutorial monitoring, well-informed defendants, and active judicial supervision. For India, true reform would have to encompass stronger legal aid, enhanced victim involvement, empowered prosecutors, and liberal judicial discretion.

Until such gaps in the system are filled, plea bargaining will still be a largely underutilized instrument—short of providing the efficient, equitable, and participatory justice it was designed to bring about.

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