

BARGAINING WITH JUSTICE: THE PERILOUS EROSION OF DUE PROCESS IN INDIA'S CRIMINAL COURTS

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ABSTRACT

The dynamic evolution of plea bargaining within the field of criminal law is explored in this paper, along with its significant influence on the modern criminal justice system. The paper traces the historical evolution of plea bargaining and explores the various reasons that have affected its popularity in contemporary legal practices, as well as its genesis and progression. It also carefully examines the possible effects on justice and equity in the criminal justice system. By analysing the intricacies of this negotiation process, this research aims to provide a comprehensive understanding of how plea bargaining has reshaped the landscape of criminal jurisprudence and its broader ramifications on the pursuit of justice.

Keywords: Plea Bargaining, Criminal Law, Justice, Court, Legal System.

INTRODUCTION

The case of Manu Sharma¹, the son of a wealthy politician who brutally murdered a young woman in a crowded Delhi restaurant in 1999, exemplifies the complexities surrounding plea bargaining in India's criminal justice system. Despite eyewitness accounts, Sharma initially evaded consequences through legal and political means until public outcry led to the case being reinvestigated. In 2006, the Delhi High Court found Sharma guilty and sentenced him to life imprisonment, which was later affirmed and enhanced to the death penalty by the Supreme Court in 2010. This case highlights the dynamic evolution of plea bargaining in India and its significant influence on the criminal justice system, which this research aims to comprehensively examine.

Plea bargaining is mentioned in section 265A-265L of the Criminal Procedure Code of India; it has been a product of modern issues and legal traditions concerning criminal jurisprudence in India. The introduction of plea bargaining in India entered as a formal structure in the legal practice in the year 2005 as one of the legislative amendments which had the main objectives

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¹ Manu Sharma v The State (NCT of Delhi) (2010) 6 SCC 1

of clearing up the burden for the already crowded judicial system as well as fast-track the trials in the criminal cases. Therefore, when the concept of plea bargaining was earlier introduced in the Indian legal system, it was received with a lot of hostility and suspicion due to the outstanding issues that were raised on its applicability to the tenets of justice and fairness. However, the need for other forms of conflict-solving became quite apparent when the places filled, alongside issues of resources and the general weakness of the justice delivery system.

However, questions have been raised concerning the likelihood of forcing such weaker defendants, most especially those with low-level encounters who do not fully understand or realise they are entitled to an attorney and they can actually get out of a guilty plea if they opt to.

Additionally, where there are plea negotiation clauses, there have been instances of those guilty in the legal sphere abusing or misusing such clauses. In order to solve these problems, measures have been taken to strengthen procedural justice and enhance the protections during plea negotiations. Ensuring that the cases have been made open and that defendants who entered into plea bargains get fair treatment has been done with the help of judicial supervision, legal aid organisations, and awareness creation. =

In light, generalising plea bargaining as efficient and ethical essentially is inherently questionable, and certainly, the verdict as such cannot comprehensively account for the general and continuing debate regarding the practice within the legal professionals and the society in contemporary India as a part of the pragmatic response to the Indian criminal justice system.

MEANING OF PLEA BARGAINING

Plea Bargaining refers to a pre-trial negotiation between the defendant, who is represented by a counsel and the prosecution, during which the defendant agrees to plead guilty in exchange for certain concessions by the prosecutor.²

THE HISTORICAL RISE OF PLEA BARGAINING AND ITS IMPACT ON CRIMINAL JUSTICE

Historical developments can be cited as a major reason for the appearance of plea bargaining in Indian criminal jurisprudence. However, plea bargaining opened its doors in India only after

² Vishavjeet Chaudhary and Arindam Bharadwaj, Plea Bargaining In India, Livelaw <[Plea Bargaining In India \(livelaw.in\)](http://livelaw.in)>accessed 25 June 2024

the amendment of the Code of Criminal Procedure in 2006. The Indian legal jurisdiction recognised plea bargaining as a feasible method in the disposal of cases, which is attributed to the increasing number of cases and congested courts. The hiring of plea bargaining in India can be attributed to other larger structural changes that are being made in the Indian judiciary to make justice delivery systems more efficient and accessible. In addition, legal professionals and lawmakers agree that plea bargaining is a method that can be used to entice accused persons to take responsibility for their actions while, at the same time, possibly easing the burden on the Justice system. For this reason, the historical development of plea bargaining in India has involved a crucial process that places it presently in an advantageous position, giving people an additional approach to addressing conflicts and assisting in the organisation of justice. Thus, the development of plea bargaining in India has been affected by the alteration in legal formalities and socio-economic conditions, other than the role of disposing of the case arrears and improving judicial effectiveness.

Plea bargaining has also gained prominence due to the discovery of how complex the criminal justice system is and also the extent to which people are in dire need of solutions to the existing cases. Additionally, the acceptance of plea bargaining also asserted that the legal profession embraces a different and more comprehensive idea of justice by focusing on quick, fair, and, if necessary, consequential rehabilitation objectives. Being still a country experiencing difficulties concerning access to justice and fair administration of law, India is going to experience a continuous growth of the plea bargaining phenomenon as the determining factor of criminal jurisprudence and the acknowledgement of ADR mechanisms within the system.

Moreover, that of other countries in general, including the United States of America, where plea bargaining is an ancient part of the criminal justice system, has played an impact on the historical development of plea bargaining in India. Based on the facts that the Indian legislators, together with other legal experts, observed plea bargaining to be efficient in the resolution of cases and reduced the general workload of trials, plea bargaining has been integrated into the Indian legal system. It is for such reasons, and because of the active cross-jurisdictional flow of ideas and practice, that plea bargaining has emerged in the Indian context and has also come to be described as a respectable and practical means of resolving criminal cases. Moreover, the kind words from the Indian judiciary, expressed in judicial decisions and legislation amendments, have bestowed legally enacted blessings on plea bargaining and have fostered the circumstances that have helped the practice to grow and become popular throughout the country in criminal law.

Furthermore, the Indian judiciary's support of plea bargaining through judicial rulings and legislative changes has given the practice legitimacy and created an atmosphere that has allowed it to expand and become well-known in criminal law. Plea bargaining is expected to remain a mainstay of India's criminal justice system as the nation continues to improve its legal procedures and adjust to shifting social demands. This indicates the nation's flexibility and response to new legal issues and community expectations.

FACTORS INFLUENCING PLEA BARGAINING DECISIONS ACROSS JURISDICTIONS

There are many factors involved in determining whether to accept provisions of plea bargaining, and the process through which the prosecutors and defence lawyers take part in this decision-making process is complicated. The source of the evidence given against the defendant is a critical consideration in case the quality of the evidence provided is low. The number of cases and the quality of the evidence that is anticipated to be gathered are also taken into consideration by the prosecutors in compliance with other aspects, such as the credibility of the potential witnesses and the results of the forensic analysis of the evidence, as well as previous court rulings. Along the same line, defence lawyers evaluate the odds of a conviction at trial based on the outcomes of the present procedures. Each side might consider plea negotiating as a viable option that can help avoid costly trial outcomes in case the odds seem to be against a defendant. Another aspect that has to be given consideration in plea negotiation determinations includes the disparity between the given terms of the plea bargain and the possible penalty that a defendant would face in the event that he or she is convicted as charged.

The sparseness of a stiffer sanction is often seen in the mouths of prosecutors coaxing plea bargains or a shorter courtesy from convicts. As for that, the defence lawyers negotiate with the prosecution with the aim of providing their clients with the best possible conditions, knowing the consequences of a guilty conviction during the trial stage. Statutory minimums, sentencing guidelines and the court's discretion over punishments also affect the arithmetic applied to decide the result of the negotiation of pleas.

Additionally, aspects such as costs of trials, constraints on resources and the number of cases affect the decision-making of both prosecutors and defence counsel. Plea bargaining is a real method to solve the problem of overcrowded courtrooms and pressure on the system to bring faster decisions when there are few cases in areas with limited finances. It could be that plea bargains are offered to clients as a way of giving priority or using resources on higher profile

or harder cases. Defence lawyers also discuss plea bargains with their clients in the hope of achieving more efficient and less costly trials.

The role of cultural and legal systems of the different jurisdictions is also played in the plea bargaining dynamics. Concerning the DVD, the mechanism of plea bargaining depends on the legal systems and statutory laws of various countries, as well as cultural perceptions of these practices. Plea bargaining is widely recognised and conspicuously practised in many jurisdictions as part of the Criminal justice system; then again, it may be restricted in other jurisdictions because of concerns with procedural fairness, bias, and transparency.

All in all, therefore, the process that leads the decision of prosecutors and defence lawyers to accept pleas is complex and contextual and thereby has practical, legal and strategic components characteristic of the most often balanced opportunities provided by the legal systems of each country.

THE IMPACT OF PUBLIC PERCEPTION ON PLEA BARGAINING AND THE CRIMINAL JUSTICE SYSTEM

The concerns of the legal and acceptable ways for determining the outcome of criminal justice-related cases are partly affected by public opinion through plea bargaining. Plea bargaining is seen in a different light depending on the culture and the political systems in the society. It is, however, considered in some situations as a rather efficient and necessary tool to manage caseloads, increase productivity and get guilty pleas from offenders who might flood the courts otherwise. It is believed to be a way through which resource management and administration of justice can be enhanced.

However, the general public does not always have a positive view of plea bargaining. Some of the controversies often raised by critics include the *Shew versus U. S.*, where questions touch on fairness, openness, and the likelihood of coercion or manipulation during plea talks. The thinking here is that even if a defendant is fully innocent, they would still accept a plea offer because the defendant does not want to be convicted or the defendant is unsure of how a trial will turn out. This perceived imbalance gives the notion that the power is completely in the hands of the prosecutors, and hence, the general public may be demotivated to listen to the criminal justice system.

Moreover, people's attitudes towards plea bargaining can affect attitudes concerning the criminal justice system in a broader sense. People's beliefs in systemic prejudices may be

coloured by their negative perceptions of plea bargaining, especially any of the disadvantageous positions of ethnic minorities or the economically vulnerable who often lack sufficient legal advice or are compelled to accept their guilty charges. At the same time, the belief in the objectivity and fairness of the criminal justice system can be positively affected when necessary, and community trust that the procedures for plea bargaining are open and just can grow.

In the end, how the public views plea bargaining's efficacy, transparency, and adherence to basic fairness and due process principles will determine its legitimacy and acceptance as a means of resolving cases. Building public trust and confidence in the integrity of the criminal justice system requires addressing concerns about coercion, injustices, and accountability within plea bargaining processes. Building public support for plea bargaining as a legal and moral activity within the larger context of criminal jurisprudence requires open communication, transparency in plea discussions, and protections for defendants' rights.

CONCLUSION

To summarise, the rise of plea bargaining in criminal law has marked a significant shift in the dynamics of the Indian criminal justice system. Plea bargaining has transformed the face of Indian criminal law, beginning as a realistic solution to overburdened caseloads and progressing to become an essential instrument for settling cases. Its deployment reflects the recognition that faster case resolutions, more efficient use of resources, and improved access to justice for both the court and defendants are all required.

Plea bargains have a substantial and widespread impact on India's criminal justice system. Although it has eased court burdens and reduced backlogs, worries about its impartiality, openness, and misuse potential remain. Maintaining justice and protecting defendants' rights involves a delicate balance between speed and due process as plea negotiations progress. Furthermore, the legitimacy and acceptance of plea bargains indicate broader concerns and prospects in India's criminal justice system, such as judicial discretion, access to legal counsel, and institutional transformation. To build public trust and confidence in plea bargaining as a legal and moral procedure, efforts must be made to improve accountability, openness, and procedural protections. Legislators, judges, and members of the Indian public must exercise caution when negotiating the difficulties of plea bargaining while maintaining the values of justice, equity, and the rule of law. India can leverage the potential of plea bargaining to

improve the effectiveness, integrity, and accessibility of its criminal justice system in the pursuit of justice for all by addressing concerns, advancing changes, and fostering dialogue.

Moreover, the influence of plea bargaining in the Indian criminal justice system goes beyond court efficiency and case disposal rates. It affects the opinions and attitudes of stakeholders in a larger sense, such as the public, legal experts, victims, and defendants. Plea bargaining's implementation and regulation have the power to influence how the judicial system is seen for its fairness, openness, and overall integrity. Likewise, the development of plea bargaining is a reflection of the dynamic interaction of legislative imperatives, legal traditions, and societal norms. Plea bargaining acts as a microcosm of larger opportunities and challenges within the criminal justice system as India struggles with the intricacies of globalisation, modernisation, and socio-economic inequities. The development of plea bargaining in Indian criminal law constitutes a significant milestone in the continuous pursuit of a more adaptable, just, and efficient legal framework. India can use plea bargaining as a catalyst for good change and advance the values of justice, accountability, and fairness for all parties involved by critically analysing its effects, addressing underlying issues, and seizing reform chances.



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