

# Plea Bargaining

Plea bargaining, an established practice in many global legal systems, made its formal entry into Indian jurisprudence with the Criminal Law (Amendment) Act of 2005. This legal mechanism allows an accused to plead guilty to a lesser charge in exchange for a lighter sentence or the dismissal of other charges, based on the principle of 'Nolo Contendere'—literally meaning "I do not wish to contend." It's designed to alleviate the burdens of an overtaxed judiciary and expedite the processing of cases, but its application is nuanced and layered with judicial and ethical considerations.

## Historical Context and Legal Adoption

Historically, India shied away from plea bargaining due to concerns over coerced confessions and compromised judicial integrity. However, the inefficiencies of the Indian criminal justice system, marked by protracted trials and a low conviction rate, catalysed a reevaluation.

has been in practice since the 19th century. The Malimath Committee's endorsement further underscored this need, culminating in the integration of Chapter XXI A into the Code of Criminal Procedure in 2006.

## The Mechanics of Plea Bargaining

Plea bargaining in India is categorised into three types—charge bargaining, sentence bargaining, and fact bargaining—with each serving distinct purposes:

- Charge Bargaining: The defendant pleads guilty to a lesser charge, avoiding more severe penalties associated with graver charges.
- Sentence Bargaining: The accused accepts guilt for all charges in return for a lighter sentence.
- Fact Bargaining: Certain facts are admitted by the defendant, relieving the prosecution from proving them, in exchange for not introducing other facts into evidence.

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Recommendations by the Law Commission in its 142nd and 154th reports highlighted the potential benefits of plea bargaining, drawing parallels with the American system where it

However, the scope of plea bargaining is explicitly confined to offences punishable with up to seven years of imprisonment and is not applicable to crimes affecting socio-economic

conditions or offences against women and children under 14.

### Judicial Scrutiny and Guidelines

The legitimacy of plea bargaining was affirmed by the Supreme Court in **State of Gujarat vs Natwar Harchandji Thakor (2005)**, which recognized the procedure as a means to achieve swift and inexpensive justice. Nevertheless, the Court emphasised that each plea must be assessed on its merits, ensuring it aligns with legal and constitutional standards.

Recent directives from the Supreme Court have included proposals for judicial training and the involvement of the District Legal Services Authority to counsel the accused, ensuring that plea bargaining decisions are made with full awareness of their implications. This approach seeks to prevent misuse and safeguard the rights of the accused.

- ❖ **Victim Satisfaction:** Provides closure to victims who might otherwise endure lengthy legal battles.

### Challenges and Criticisms

Despite its advantages, plea bargaining faces criticism:

- ❖ **Risk of Coercion:** There is a danger of accused individuals being pressured into admitting guilt.
- ❖ **Potential for Overcharging:** Prosecutors might levy more severe charges initially with the expectation of negotiating a plea deal later.
- ❖ **Judicial Inconsistencies:** Varying interpretations and applications of plea bargaining guidelines can lead to disparities in justice.
- ❖ **Constitutional Concerns:** Critics argue it could infringe on the constitutional protection against self-incrimination under Article 20(3).

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### Advantages of Plea Bargaining

The adoption of plea bargaining in India offers several benefits:

- ❖ **Efficiency:** It significantly cuts down trial times, allowing courts to focus on more complex cases.
- ❖ **Cost-Effectiveness:** Reduces the financial burden on the justice system and the parties involved.
- ❖ **Leniency and Rehabilitation:** Offers a chance for rehabilitation to offenders who acknowledge their wrongdoing, promoting societal reintegration.