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Plea bargaining under the BNSS opportunities and limitations

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Abstract
Through the process of plea bargaining, an accused person can voluntarily seek to settle an eligible criminal case by acknowledging guilt and taking part in a legally monitored procedure for a mutually satisfactory disposition. In India, the mechanism was introduced into the Code of Criminal Procedure, 1973 in 2005 and is now provided under Chapter XXIII of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), particularly Sections 289–300. The procedure seeks to reduce avoidable trials, support speedy justice, ease pressure on courts, and provide an opportunity for victim compensation. At the same time, it raises important concerns about voluntariness, unequal bargaining power, the risk of an innocent accused pleading guilty, limited participation by victims, and the finality of the resulting judgment.
The legal structure of plea bargaining under the BNSS, its opportunities for victims, accused individuals, and the legal system, as well as its practical and constitutional constraints, are all examined in this paper. It makes use of secondary literature found through ResearchGate and Google Scholar-focused searches, as well as doctrinal examination of laws, court rulings, and law reform reports. The study argues that plea bargaining can be useful only when it remains voluntary, informed, transparent and subject to meaningful judicial scrutiny. Greater legal aid, clear guidance for courts, improved awareness, and victim-sensitive safeguards are necessary to ensure that efficiency does not take priority over fairness.

Keywords: Plea bargaining, Bharatiya Nagarik Suraksha Sanhita (BNSS), Criminal Justice System

Introduction
The criminal justice system is expected to determine guilt fairly, protect the rights of the accused, recognise the harm suffered by victims, and maintain public confidence in the rule of law. However, lengthy criminal proceedings, crowded court dockets, repeated adjournments and the financial burden of litigation can delay the delivery of justice. Plea bargaining is one procedural response to these challenges. It allows an eligible case to be resolved through a structured process rather than a complete trial, while keeping the court responsible for ensuring that the outcome complies with law.
India formally introduced plea bargaining through the Criminal Law (Amendment) Act, 2005, which inserted Chapter XXI-A into the Code of Criminal Procedure, 1973. The BNSS, which came into force on 1 July 2024, retains the mechanism in Chapter XXIII, Sections 289–300. The Indian model is subject to statutory limits and court supervision; it is not an unrestricted private bargain in which the parties can freely change the charge or dictate the sentence. The accused must apply voluntarily, and the court must follow the prescribed procedure.
The subject is important because plea bargaining offers possible benefits but also creates risks. It may save time, reduce costs and facilitate compensation, yet it may place pressure on an accused person who fears a lengthy trial or a harsher sentence. A victim may also feel that a negotiated outcome does not adequately reflect the harm suffered. This project therefore considers both the opportunities and limitations of plea bargaining under the BNSS.

Statement of the Problem
Although plea bargaining has been part of Indian criminal procedure for nearly two decades, scholarly discussions continue to identify concerns about its limited use, public awareness, procedural fairness and victim participation. The BNSS preserves the mechanism, but its success depends on how effectively the statutory safeguards work in practice. The central problem is how to obtain the benefits of speedy case disposal without weakening the rights of the accused, the interests of victims or public confidence in criminal justice.

Objectives of the Study
1. To examine the meaning, development and statutory framework of plea bargaining under the BNSS, 2023.
2. To identify the opportunities offered by plea bargaining to the accused, victims, courts and the criminal justice system.
3. To analyse the legal, constitutional and practical limitations of plea bargaining.
4. To study the role of judicial safeguards, legal aid and victim compensation in ensuring a fair process.
5. To suggest measures for improving the effective and fair implementation of plea bargaining under the BNSS.

Research Methodology
This is a doctrinal and descriptive legal study based on secondary sources. It examines the BNSS, the Constitution of India, earlier provisions of the Code of Criminal Procedure, relevant Supreme Court decisions, Law Commission reports and academic articles. ResearchGate publication pages and Google Scholar-oriented searches were used to identify relevant scholarships. The discussion is qualitative and does not claim to be an empirical survey of plea-bargaining cases. Publication details should be checked against the original article or journal record before final submission.

Scope and Limitations
The study focuses on plea bargaining in India under Chapter XXIII of the BNSS, Sections 289–300. It considers statutory

eligibility, procedure, opportunities, risks, victim interests and constitutional safeguards. It does not attempt a detailed statistical evaluation of all criminal courts, and the availability of full text for some academic works was limited to abstracts or publication records.

Review of Literature

The literature on plea bargaining in India generally discusses three connected themes: the need for speedy justice, the safeguards required to protect the accused, and the place of victims in negotiated criminal outcomes. The following twenty entries summarise relevant academic works and law-reform materials identified through ResearchGate and Google Scholar-oriented searches. Some works pre-date the BNSS and discuss the corresponding CrPC provisions; their analysis remains useful for understanding the background, while the current statutory references in this project use the BNSS.

1. Law Commission of India – 142nd Report (1991)

The 142nd Report considered the problem of delays in criminal trials and examined plea bargaining as a possible means of reducing the burden on courts. It is part of the early Indian law-reform discussion on negotiated pleas. The report is relevant because it frames efficiency as a legitimate concern while recognising that any reform must fit Indian legal conditions. Its recommendations helped place plea bargaining within the wider debate on criminal procedure reform.

2. Law Commission of India – 154th Report (1996)

The 154th Report reviewed reforms to criminal procedure and supported consideration of plea bargaining with appropriate safeguards. It discussed the need to reduce delay and improve the functioning of criminal courts. The report is important to this study because the later statutory framework was influenced by the broader law-reform effort to introduce a controlled mechanism for eligible cases rather than allowing informal bargains without judicial oversight.

3. Law Commission of India – 177th Report (2001)

The 177th Report examined aspects of criminal procedure and the need for reforms to make criminal justice more effective. Its relevance lies in the continuing institutional discussion about case disposal, procedural efficiency and protection of legal rights. Read alongside later legislation, it illustrates that plea bargaining emerged from a long-running debate rather than being an isolated procedural change.

4. Justice V. S. Malimath Committee Report (2003) [8]

The Committee on Reforms of the Criminal Justice System considered changes intended to make criminal proceedings more effective and responsive. Its discussions are frequently cited in debates about plea bargaining and victim-oriented justice. The report is relevant because it links procedural reform with the practical needs of victims and the administration of justice, while also highlighting the importance of safeguards and careful implementation.

5. Rajesh Bahuguna (2011) [12]**, "Plea Bargaining—Yet to be Adapted in Indian Criminal Justice System"**

Bahuguna examines plea bargaining as a possible response to delay, overcrowded courts and expensive criminal litigation. The article discusses the difficulties of adapting a negotiated procedure to Indian legal culture and the concerns that bargaining could undermine the dignity of courts. It is useful for the present study because it highlights the difference between introducing a legal provision and ensuring that it is accepted and used fairly in practice.

6. Adesh Kumar (2011) [21]**, "Concept of Plea Bargaining in India"**

Kumar discusses the introduction of plea bargaining through the Criminal Law (Amendment) Act, 2005 and explains its intended role in reducing trial delays. The work considers the cautious approach historically adopted by Indian courts and the tension between efficiency and the principle that guilt must be established fairly. It supports the present study's examination of how the BNSS framework should be understood against the earlier legal debate.

7. Anubhuti Dungdung (2012) [17]**, "Plea Bargaining: The Indian Experience"**

Dungdung traces the development of plea bargaining after the 2005 amendment and critically reviews the scope and operation of the CrPC provisions. The article considers both the advantages and shortcomings of the Indian model and discusses possible improvements in implementation. It is particularly relevant because the BNSS retains the central structure of the earlier framework, making the article useful background for identifying continuing challenges.

8. Pradeep Kumar Singh (2020), "Plea Bargaining and Criminal Justice in India"

Singh examines plea bargaining in relation to victims, compensation and restorative justice. The article argues that criminal justice has traditionally concentrated on the accused and the State, while the needs of the victim require greater attention. It is relevant to this project because the BNSS procedure includes a mutually satisfactory disposition and victim compensation, making victim participation an important measure of whether negotiated outcomes provide meaningful justice.

9. Bhaswat Prakash (2023) [23]**, "Concept of Plea Bargaining under Indian Legal System"**

Prakash analyses the historical development and legal framework of plea bargaining under the CrPC, including the reasons for introducing it and the issues surrounding its operation. The article considers court congestion, undertrial hardship and the possible advantages and shortcomings of negotiated resolution. It contributes to this study by identifying structural concerns that remain relevant when assessing the corresponding provisions under the BNSS.

10. Aaryan Bansal and Dev Plaha (2024) [13]**, "Plea Bargaining in Criminal Trials: Imported Doctrine or Functional Reform?"**

Bansal and Plaha consider whether plea bargaining is a suitable procedural reform for Indian criminal trials or a doctrine imported from other legal systems. Their discussion places the mechanism within the wider problem of pending cases and the need to preserve constitutional safeguards. The work is relevant because it encourages an assessment based on Indian institutional conditions instead of assuming that approaches successful elsewhere will automatically work in India.

11. **Nitu Singh and Namita Singh Malik (2024)** [26, 27]**, "Examining the Constitutional Validity of Plea Bargaining in India"**

Singh and Malik examine plea bargaining through the principles of natural justice, due process and constitutional protection. They discuss whether a guilty plea can be considered genuinely voluntary when an accused faces pressure arising from delay, cost or fear of a harsher outcome. The article supports the argument that judicial supervision must be substantive and that the court should verify the accused's understanding and freedom from coercion.

12. **Nitu Singh (2024)** [26, 27]**, "Transforming Criminal Justice System through Plea Bargaining to Provide Restorative Justice"**

Singh considers the potential of plea bargaining to improve criminal case disposal while giving greater attention to victims. The article discusses restorative justice as an approach that recognises harm, compensation and the needs of affected persons. It is relevant to the BNSS framework because a negotiated disposition should not be assessed only by how quickly a case ends, but also by whether the victim's interests are considered fairly.

13. **Mohammad Nadeem, Vikram Singh and Naresh Kumar Vats (2024)** [22, 26, 27]**, "Plea Bargaining in Criminal Justice System: A Comparative Analysis of India and USA"**

This comparative article discusses the operation of plea bargaining in India and the United States. It considers how negotiated pleas function within different criminal justice systems and the role they may play in resolving cases. The study is useful because it highlights that models cannot be transferred without considering differences in prosecution, judicial control, legal representation and procedural protections. These issues are important when evaluating the Indian model under the BNSS.

14. **Karan Gupta and Daksh Gaur (2025)** [19]**, "The Paradox of Plea Bargaining in India: A Tool for Speedy Justice or a Threat to Fair Trial"**

Gupta and Gaur examine the dual character of plea bargaining: it may reduce delay and court workload, but it may also threaten fair-trial rights if used under pressure or without sufficient safeguards. The article discusses underuse and judicial concerns, presenting plea bargaining as a reform whose success depends on implementation. It directly supports the present project's balanced analysis of opportunities and limitations.

15. **Nishit Sharma (2025)** [25]**, "Concept of Plea Bargaining under Bharatiya Nagarik Suraksha Sanhita, 2023: An Overview"**

Sharma focuses on plea bargaining under the BNSS and explains the mechanism in the context of the new criminal procedure legislation. The article discusses the concept, its legal development and its connection with speedy trial and procedural reform. It is especially relevant to this study because it addresses the BNSS directly rather than relying only on the earlier CrPC provisions.

16. **Neha Charak and Savita Nayyar (2025)** [16]**, "Plea Bargaining in India: An Underutilized Tool for Justice Reform"**

Charak and Nayyar describe plea bargaining as a potential means of reducing congestion in criminal courts, while noting that the mechanism remains underused. Their analysis considers obstacles to wider application and the need for a revised implementation strategy. The article is useful for examining why statutory availability alone may not lead to regular use, including possible gaps in awareness, confidence, procedure and institutional practice.

17. **Prathamesh Ramesh Bhosale and Salil Shringarpure (2025)** [14]**, "The Significance of Plea Bargaining in India's Criminal Justice System"**

Bhosale and Shringarpure review the history, purpose and functioning of plea bargaining in India, including the CrPC framework and comparative perspectives. They emphasise its possible contribution to faster case resolution and reduced judicial burden. The work provides background for assessing whether the BNSS can achieve those aims while retaining the court's role in supervising the process and protecting the accused's rights.

18. **"Plea Bargaining in India: Scope and Challenges" – Rama Dutt and Aakarsh Mishra (2025)** [18]

Dutt and Mishra discuss plea bargaining as a reform intended to reduce criminal case pendency. They identify restrictions on eligible offences and concerns such as lack of awareness, possible coercion and procedural limitations. Their analysis is relevant to this study because it focuses on the gap between the policy objective of speedy disposal and the practical conditions required for a fair and accessible procedure.

19. **Plea Bargaining and Victim Compensation: A Constitutional Appraisal in India**

M. S. H. R. Teja Chakravarthi and K. Sitamanikyam (2026) [15] Chakravarthi and Sitamanikyam examine plea bargaining alongside victim compensation and constitutional principles, including equality, protection against compelled self-incrimination and personal liberty. The article treats compensation as an important element of a victim-sensitive criminal justice system. It is relevant to the BNSS because the negotiated process must balance efficient disposal with the rights of the accused and a fair consideration of the victim's loss.

20. **Issac Bify Pullukattu and Arvind Kumar Singh (2026)** [24]**, "Plea Bargaining in India: A Critical Appraisal"**

Pullukattu and Singh discuss the development of plea bargaining from the CrPC to the BNSS and evaluate its operation through procedural fairness, victim rights, efficiency and constitutional validity. The article highlights the promise of speedy resolution alongside concerns about underuse and implementation. It is particularly useful for this project because it connects the older legal framework with current debate about how the BNSS provisions may function in practice.

Objective 1: Meaning, Development and Legal Framework of Plea Bargaining Under The Bnss

Meaning and purpose

Plea bargaining is a legally regulated process through which an accused person may seek disposal of an eligible criminal case by voluntarily accepting responsibility and participating in a mutually satisfactory disposition. In the Indian system, the process is controlled by statute and supervised by the court. It should not be treated as an informal agreement that allows parties to ignore the law or determine guilt without judicial oversight.

The main purpose is to avoid a full trial in suitable cases, thereby saving time and resources for the accused, the victim, prosecutors and courts. It may also make it possible to address compensation and other practical outcomes earlier. However, the purpose is not simply to increase conviction rates or clear case lists. The process should be fair and follow the law. The accused must be treated as innocent until they make a valid plea. They should have access to a lawyer, and the court must make sure that everything is handled fairly.

Development in India

Before statutory recognition, the Supreme Court expressed serious reservations about negotiated guilty pleas. In State of Uttar Pradesh v. Chandrika (1999), the Court stressed that a sentence could not be determined merely on the basis of a bargain. Parliament later introduced a regulated plea-bargaining chapter through the Criminal Law (Amendment) Act, 2005, adding Sections 265A–265L to the CrPC. The framework attempted to reconcile the need for speedy disposal with judicial control and statutory limits.

The BNSS, 2023, which came into force on 1 July 2024, retains plea bargaining in Chapter XXIII, Sections 289–300. The provisions largely carry forward the earlier model with updated numbering and statutory references. Therefore, earlier scholarship and case law remain useful background, but current applications must be made under the BNSS provisions.

Key provisions under Chapter XXIII

Section 289: identifies the application of the plea-bargaining chapter and the general eligibility framework.

Section 290: provides for an application by the accused and the prescribed supporting declaration.

Section 291: requires the court to examine the accused in camera to satisfy itself that the application is voluntary.

Section 292: provides for a meeting to work towards a mutually satisfactory disposition involving the prosecution and victim, as applicable.

Section 293: concerns the report of the mutually satisfactory disposition.

Section 294: deals with disposal of the case in accordance with the statutory process.

Section 295: concerns pronouncement of judgment.

Section 296: bars an ordinary appeal against the judgment, subject to the limited constitutional and supervisory remedies preserved by law.

Sections 297–298: address the court's powers and sentencing-related consequences under the chapter.

Section 299: sets out exclusions from the plea-bargaining framework.

Section 300: protects statements made by the accused in the plea-bargaining application from use beyond the limits stated by the provision.

Eligibility and exclusions

Plea bargaining is not available for every criminal offence. The statutory framework excludes offences punishable with death, imprisonment for life, or imprisonment exceeding the statutory threshold, and also excludes specified categories, including offences affecting the socio-economic condition of the country and offences committed against a woman or a child below the prescribed age. The exact statutory text and any applicable notifications should be checked before advising on a particular case.

The restricted scope reflects an attempt to reserve negotiated disposal for less serious eligible cases. It also means that plea bargaining cannot be used as a universal answer to criminal case pendency. Eligibility must be assessed carefully at the beginning, and no person should be encouraged to apply without independent legal advice.

Objective 2: Opportunities Offered By Plea Bargaining

1. Speedier disposal of eligible cases

A full criminal trial may involve several hearings, examination of witnesses, cross-examination, documentary evidence and arguments. In an eligible case, a valid plea-bargaining process may reduce the number of procedural steps and allow a court to dispose of the matter sooner. This can reduce uncertainty for the accused and victim and allow courts to devote more time to cases that require a full trial.

2. Reduction of court workload

Indian courts handle a large volume of pending cases. Plea bargaining may help reduce the workload when it is used appropriately and not mechanically. A shorter process can reduce repeated hearings and the time spent by judges, prosecutors, court staff and witnesses. The benefit, however, depends on genuine case suitability and effective procedure; merely encouraging guilty pleas without checking voluntariness would not be a legitimate measure of efficiency.

3. Reduced cost and stress

Criminal proceedings can require travel, legal expenses, time away from work and repeated attendance in court. A lawful negotiated resolution may reduce these burdens for the accused and the victim. It can also reduce the emotional strain associated with a prolonged trial. These benefits are especially meaningful in less serious cases where the parties prefer a timely resolution, provided the accused fully understands the consequences of pleading guilty.

4. Victim participation and compensation

The statutory process contemplates a mutually satisfactory disposition and gives importance to the victim's interests. In suitable cases, compensation may help address financial loss or other harm caused by the offence. This creates an opportunity to move beyond a process focused only on punishment and to recognise the practical needs of the person affected. Still, victim participation must be meaningful and must not become a formality or a source of pressure to accept an unfair amount.

5. Better allocation of criminal justice resources

When appropriate cases are resolved through a fair process, resources can be directed towards serious offences, complex trials and cases involving vulnerable victims or important public interests. Prosecutors and investigators may spend

less time on eligible matters and more time preparing cases that require full evidentiary examination. This benefit will be realised only if plea bargaining is limited to cases permitted by law and supported by sound screening.

Illustration
Suppose an accused is charged with an eligible offence that does not fall within the statutory exclusions. The accused receives legal advice, understands the consequences and applies voluntarily. The court verifies voluntariness, and the relevant parties work towards a mutually satisfactory disposition that addresses compensation where appropriate. If the statutory requirements are fulfilled, the court can dispose of the case without a complete trial. This illustration shows the potential benefit; it does not mean that every accused person should plead guilty.

Critical observation
Plea bargaining should be considered a targeted procedural option, not a substitute for a functioning trial system. Speed is valuable only when the result is lawful and fair. The measure of success should include voluntariness, quality of legal advice, victim satisfaction, consistency of outcomes and public confidence—not merely the number of cases closed.

Objective 3: Legal, Constitutional And Practical Limitations

1. Risk of coercion and involuntary pleas
The most serious concern is that an accused person may plead guilty not because they committed the offence, but because they fear the cost, delay, uncertainty or possible severity of a full trial. An undertrial person who has spent a long time in custody may feel especially pressured to accept a quicker outcome. The statutory requirement that the plea be voluntary is therefore essential, but it must be verified carefully in each case.

2. Risk to innocent accused persons
A person who is innocent may still consider a guilty plea if the person believes that contesting the case is too risky or expensive. Plea bargaining does not involve the same full testing of evidence as a trial. If the process is treated as routine, there is a risk that the court may not sufficiently examine whether the accused understands the allegations and the consequences of the plea. Independent legal advice and careful judicial questioning are essential safeguards.

3. Inequality of bargaining power
People with limited education, limited financial resources or poor access to legal representation may be less able to understand the process than persons with better resources. The prosecution may also have greater institutional knowledge and bargaining power. Without effective legal aid and clear information, the process could produce unequal outcomes. Fair implementation therefore requires that the accused receive advice in a language they understand and have adequate time to make an informed decision.

4. Limits on victim satisfaction
Although compensation can be an important feature, it may not fully repair physical injury, trauma, loss of livelihood or the wider effects of a crime. Victims may also feel pressured to agree to a disposition because they want the matter to end or because they lack resources to continue. A victim-sensitive process must provide a genuine opportunity to communicate views and should not assume that monetary compensation always amounts to complete justice.

5. Limited scope of eligible offences
The statutory exclusions mean that many serious offences cannot be resolved through plea bargaining. This limits the overall impact on case pendency, even if the process works well for eligible matters. The exclusions also reflect a policy judgment that certain offences require full adjudication because of their seriousness or broader public impact. Any proposed expansion should therefore be evidence-based and accompanied by strong safeguards.

6. Limited appeal and finality
The BNSS provides a restricted route to challenge a judgment delivered under plea bargaining. Finality helps prevent the process from turning into another prolonged proceeding, but it also makes the initial safeguards especially important. An accused person who did not understand the procedure or was improperly pressured may face difficulty correcting the outcome later. Courts must therefore ensure that the record clearly demonstrates a voluntary and informed decision.

7. Public confidence and transparency
If the public believes that offenders receive lenient outcomes through private arrangements, confidence in the justice system may decline. On the other hand, if every detail is handled without adequate protection for the accused's privacy, the process may discourage honest participation. The challenge is to maintain judicial supervision, explain the legal basis for the outcome and protect confidentiality to the extent required by law.

Constitutional considerations
Article 14 of the Constitution requires equality before the law and protection against arbitrary treatment. Article 20(3) protects an accused from being compelled to be a witness against themselves. Article 21 requires a fair, just and reasonable procedure. Plea bargaining is not automatically inconsistent with these rights, but its legitimacy depends on a genuinely voluntary plea, access to legal advice, judicial scrutiny and compliance with the statutory framework.

Objective 4: Judicial Safeguards, Legal Aid and Victim Compensation

Judicial scrutiny
The court has a central role in ensuring that plea bargaining is not reduced to a formality. The in-camera examination under Section 291 is intended to help the court determine whether the application is voluntary. The judge should ensure that the accused understands the nature of the accusation, the consequences of the plea and the limits on challenging the resulting judgment. Any sign of pressure, confusion or lack of understanding should be taken seriously.

Legal aid and informed choice
Legal representation is necessary to help an accused person understand eligibility, possible sentencing consequences and alternatives to plea bargaining. Legal aid lawyers should

explain the process in clear language, discuss the strengths and weaknesses of the case without promising a particular outcome, and ensure that the decision belongs to the accused. Adequate time for consultation is important, especially where the accused is in custody or has limited literacy.

Victim-sensitive process

Victims should receive understandable information about the process and a real opportunity to communicate their interests in accordance with the statute. Compensation should be assessed with reference to the actual harm and the circumstances of the case. The victim should not be made responsible for deciding criminal liability, nor should the process place undue pressure on the victim to forgive the accused or accept an inadequate settlement.

Confidentiality and use of statements

The statutory protections relating to statements made in a plea-bargaining application help encourage voluntary participation. Courts and legal practitioners should explain the scope of these protections accurately. Confidentiality must be applied according to the BNSS and cannot be treated as permission to conceal misconduct or avoid the legal duties of the court.

Relevant judicial decisions

State of Uttar Pradesh v. Chandrika (1999)

The Supreme Court expressed a strict view against determining criminal punishment simply through a bargain. The case arose before the statutory introduction of plea bargaining in 2005, so it should be read in its historical context. Its continuing relevance is the principle that a court cannot abandon its duty to apply the law merely because the accused and prosecution have reached an understanding.

Murlidhar Meghraj Loya v. State of Maharashtra (1976) [9]

The Supreme Court criticised attempts to use bargaining in criminal proceedings in the absence of a proper legal framework. The decision is commonly discussed as part of the judiciary's earlier resistance to informal plea bargains. The later statutory scheme differs because it establishes a regulated process with defined eligibility and judicial oversight.

Thippaswamy v. State of Karnataka (1983) [11]

The Supreme Court highlighted concerns about a conviction based on a guilty plea where the accused may have been influenced by an assurance of leniency. The case is relevant to the need to ensure that pleas are voluntary and not induced by improper promises. It reinforces the importance of informed choice and judicial caution.

Constitutional safeguards in practice

The above cases arose before Parliament established the current statutory procedure. They should not be treated as eliminating the statutory scheme now contained in the BNSS. Rather, they explain why formal safeguards are necessary. Courts must ensure that the process operates within the law and that the accused's fundamental rights remain protected.

Objective 5: Suggestions for Effective Implementation

1. Strengthen legal awareness

Courts, legal services authorities, law colleges and bar associations should prepare simple information materials explaining eligibility, procedure, consequences and exclusions. Awareness must not become pressure to plead guilty; it should help people make informed decisions.

2. Ensure meaningful legal representation

The accused should have access to competent legal advice before submitting an application and throughout the process. Legal aid counsel should receive training on plea bargaining, voluntariness, sentencing consequences and the risk of wrongful admissions.

3. Use a clear judicial checklist

Courts may use a consistent checklist to confirm that the accused understands the charge, has received legal advice, has not been threatened or promised an unlawful benefit, and is aware of the consequences and limits on appeal. The record should show the court's independent satisfaction.

4. Protect victims' interests

Victims should be informed about the process and given an appropriate opportunity to express their views. Compensation should be reasoned and realistic, and the court should be alert to pressure, intimidation or unfair settlement terms.

5. Improve data and transparency

Courts and justice institutions should maintain reliable data on applications, accepted and rejected pleas, time taken, compensation orders and reasons for non-completion. Aggregated data can help evaluate whether the process reduces delay without creating unequal outcomes.

6. Train judges, prosecutors and lawyers

Regular training should cover statutory eligibility, constitutional safeguards, communication with vulnerable persons, victim participation and the distinction between a voluntary plea and a plea caused by pressure.

7. Preserve full-trial safeguards

Plea bargaining must remain an option, not a target. No accused should be pushed towards it to meet disposal quotas. Where voluntariness is doubtful or the case is unsuitable, the matter should proceed through the ordinary criminal process.

8. Review implementation periodically

Law reform bodies and judicial institutions should review the practical operation of Sections 289–300 of the BNSS using reliable data and consultation with judges, lawyers, victims, legal aid providers and accused persons. Any reform should be based on evidence and maintain the constitutional balance.

Critical Analysis

Plea bargaining under the BNSS represents an attempt to balance two important demands: timely criminal justice and fair adjudication. It can reduce the time and cost associated with eligible cases and may create a route for victim compensation. The fact that the procedure is governed by statute and supervised by the court is an important

protection against informal bargaining. Its usefulness, however, depends on whether those safeguards are implemented in a meaningful way.

The main weakness is the risk that speed may become the dominant objective. A guilty plea should be the product of a free and informed choice, not a response to detention, poverty, fear of a severe sentence or lack of legal assistance. The procedure also does not remove the need for a full trial in serious or disputed cases. Its narrow scope means that it cannot alone resolve the wider problem of criminal case pendency.

Victim compensation is another important but complicated issue. Compensation can recognise harm and provide practical support, but it cannot always replace a public determination of responsibility or fully repair the consequences of an offence. The victim's views should be considered, while the court retains responsibility for applying the law and protecting the rights of all parties.

The earlier Supreme Court decisions opposing informal plea bargains should be understood alongside the later statutory framework. They underline the dangers of conviction based on improper inducement, rather than suggesting that a court may disregard the procedure Parliament has enacted. The present challenge is to make the BNSS safeguards real through legal aid, careful judicial questioning, fair compensation and accountable data collection.

Conclusion

A structured process for settling qualified criminal charges without a full trial is provided by plea bargaining under Chapter XXIII of the BNSS, 2023. Its main opportunities are faster disposal, reduced litigation costs, lower pressure on courts and the possibility of victim compensation. It may also allow justice-system resources to be used more effectively in cases that require full adjudication.

However, plea bargaining has significant drawbacks. Coercion, unequal bargaining power, the possibility of an innocent person pleading guilty, restricted eligibility and limited avenues of appeal all require careful attention. The process must never become a shortcut that weakens the right to a fair trial. Judicial scrutiny informed legal advice, genuine victim participation and confidentiality within the law are essential.

In conclusion, plea bargaining can contribute to a more efficient criminal justice system only when fairness remains its foundation. The BNSS provides a statutory framework, but its success will depend on consistent implementation, public awareness, legal aid, training and periodic review. Speedy justice is valuable, but it must be justice that is voluntary, lawful and fair.

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