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EDITORIAL ANALYSIS

The Case for Plea Bargaining — Revitalising India's Overburdened Justice System

 **THE HINDU**

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SUBJECTS COVERED**POLITY****GS PAPERS****GS2****GS4****CURATED & WRITTEN BY****Bharat Choudhary**

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The Case for Plea Bargaining — Revitalising India's Overburdened Justice System

The Hindu

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GS2

GS4

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The Hindu

MAINS RELEVANCE:

GS Paper 2

GS Paper 4



INTERVIEW ANGLE

"India has over 5 crore pending cases but uses plea bargaining in less than 1% of criminal cases. Should India adopt a more expansive plea bargaining model like the US?"

WHY IN NEWS

The Hindu editorial highlights that India's judicial system has over 5 crore pending cases, yet plea bargaining — a mechanism that resolves over 90% of criminal cases in the United States — is used in less than 1% of cases in India, two decades after its introduction.

The Judicial Backlog Crisis

COURT LEVEL	PENDING CASES
District Courts	4.76 crore (~80% of backlog)
High Courts	63 lakh
Supreme Court	92,000
Total	~5.31 crore

At current disposal rates, it would take over **300 years** to clear the backlog in some High Courts. The editorial argues that procedural reform — not just more judges — is essential.

What Is Plea Bargaining?

Plea bargaining is a process where the accused agrees to plead guilty to a lesser charge or in exchange for a lighter sentence, avoiding a full trial. It was introduced in Indian criminal law through **Chapter XXI-A of the Code of Criminal Procedure (CrPC)** by the **Criminal Law (Amendment) Act, 2005**, based on the recommendations of the **Law Commission of India's 142nd and 154th Reports**.

Under the **Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023** (which replaced CrPC), plea bargaining provisions are retained in **Chapter XIX (Sections 290-299)**.

Why It Has Failed in India

BARRIER	EXPLANATION
Limited applicability	Available only for offences with punishment up to 7 years
Excludes serious crimes	Offences affecting socio-economic conditions, or against women/children, are excluded
Judicial reluctance	Judges often view plea bargaining as “shortcutting justice”
Prosecution culture	Public prosecutors rarely initiate plea discussions
Low awareness	Most accused, especially in lower courts, are unaware of the option
Stigma	Pleading guilty is perceived as an admission of guilt, not a pragmatic choice

The US Model — A Contrast

In the United States, **over 90% of federal and state criminal cases** are resolved through plea bargaining. Key features:

- **Charge bargaining:** prosecutor agrees to drop or reduce charges
- **Sentence bargaining:** agreed recommendation for lighter sentence
- Judges retain discretion to accept or reject the plea deal
- Extensive pre-trial discovery enables informed decision-making

The Editorial's Recommendations

- 1 **Expand the scope:** Allow plea bargaining for offences up to 10 years (with judicial safeguards)
- 2 **Mandate pre-trial conferences:** Judges should actively explore settlement possibilities in every criminal case
- 3 **Incentivise:** Clear sentencing guidelines for plea bargains to provide certainty
- 4 **Legal aid awareness:** Legal Services Authorities should inform every undertrial about the option
- 5 **Shift the culture:** Certainty and speed of justice matter more than severity of punishment

Undertrials — The Human Cost of Delay

India has approximately **4.3 lakh undertrials** (prisoners awaiting trial) who constitute **75-76% of the total prison population**. Many undertrials have spent more time in prison awaiting trial than the maximum sentence for their alleged offence. Plea bargaining could significantly reduce this injustice.

UPSC RELEVANCE

Plea bargaining (BNS Sections 290-299, earlier CrPC Chapter XXI-A), Law Commission 142nd and 154th Reports, NALSA, pendency statistics

Judicial reforms; access to justice; undertrial crisis; criminal justice reform

Ethics of plea bargaining — balancing justice with pragmatism; rights of victims vs accused

★ FACTS CORNER — KNOWLEDGEPEDIA

PLEA BARGAINING IN INDIA:

Introduced: 2005 (Criminal Law Amendment Act)

Earlier provision: CrPC Chapter XXI-A (Sections 265A-265L)

Current provision: BNSS Chapter XIX (Sections 290-299)

Applicability: offences with punishment up to 7 years

Exclusions: offences against women, children, socio-economic offences

Usage: less than 1% of criminal cases

Recommended by: Law Commission 142nd and 154th Reports

JUDICIAL PENDENCY:

Total pending cases: ~5.31 crore

District courts: 4.76 crore (80%)

High Courts: 63 lakh

Supreme Court: 92,000

Judge-to-population ratio: ~21 judges per million (recommended: 50)

UNDERTRIAL STATISTICS:

Undertrial prisoners: ~4.3 lakh

Percentage of total prison population: 75-76%

Many undertrials serve longer than maximum sentence for their offence

OTHER RELEVANT FACTS:

US plea deal rate: 90%+ of criminal cases

BNSS replaced CrPC from July 1, 2024

Bharatiya Nyaya Sanhita (BNS) replaced IPC

Bharatiya Sakshya Adhiniyam (BSA) replaced Indian Evidence Act

NALSA: National Legal Services Authority (free legal aid under Article 39A)

Sources: [The Hindu](#), [Vajiram & Ravi](#)

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