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The Significance of Plea Bargaining in India's Criminal Justice System

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Abstract: A key component of India's criminal justice system is plea bargaining, which is a negotiated end to criminal prosecutions. The notion, historical development, international viewpoints, and functions of plea bargaining within the Indian legal system are all covered in this article. The idea of plea bargaining is discussed in relation to the criminal justice system, emphasizing how it might speed up case settlement and lessen backlogs in the courts. A historical viewpoint explores the long-standing legal customs in India and charts the development of plea bargaining from antiquity to the present. In particular, the functions and processes described in Cr.P.C. Sections 265A–265L are examined, providing an understanding of the workings of the plea bargaining system in India. The section on the global viewpoint highlights differences in protocols, standards, and protections as it contrasts India's approach to plea bargaining with that of other nations. Overmore, the article puts light on the importance of plea bargaining in criminal justice system of India.

Keywords: Court Backlog; Criminal Justice System; Efficiency; Global Comparison; Historical Perspective; India; Legal Proceedings; Plea Bargaining; Roles; System

INTRODUCTION

The judiciary plays a crucial role in establishing the state of justice in a democratic nation like India. The Indian Criminal Justice System has a reputation for being unable to deliver prompt, cost-effective justice. Trials take a very long time and cost a lot of money since courts are overloaded with huge arrears. Since it's common knowledge that justice postponed is justice denied, it's important to know how many individuals actually receive justice on schedule. It's correct to say "If there is one sector which has kept away from the reforms process it is the administration of justice". Thus, the Indian Courts have long been plagued by the issue of a backlog of cases. The government has implemented various firefighting measures, such as lok adalats, fast track courts, family courts, mobile panchayats, nyaya panchayats, and gramme nayalayas, to address the backlog of cases, expedite the resolution of cases, and ease the suffering of prisoners awaiting trial.Plea bargaining is one of these strategies. It is stated that the Indian Legislature developed the idea of plea bargaining, which originated in the West. By adding Sections 265 A–L to “the Code of Criminal Procedure, 1973”, and creating Chapter

XXI–A through the Criminal Law (Amendment) Act, 2005, the legislature established the provisions of plea bargaining in 2005.

"A negotiated agreement between a prosecutor and a criminal defendant whereby the defendant pleads guilty to a lesser offence or to one of multiple charges in exchange for some concession by the prosecutor, usually a more lenient sentence or a dismissal of the negotiated charges" is the definition of plea bargaining as given in Black's Law dictionary. Plea bargaining, in the broadest and most conventional sense, refers to pre-trial discussions between the prosecution and the defendant, usually conducted by the council, wherein the defendant consents to enter a guilty plea in exchange for a particular concession made by the prosecution, as per the comprehensive Report of the Law Commission of India (144th). Upholding the rule of law and maintaining public order are two crucial roles of the state that are necessary for a nation to be able to grow economically. India, a democratic and multicultural nation with a diverse population and many ethnic minorities, needs a responsive criminal justice system. From colonial India to the modern day, the administration of justice has changed throughout time in response to shifting political landscapes and social demands. The development of a judicial system was essential for maintaining Dharma in ancient India, where purohitas often oversaw the administration of justice, which resulted in elitist biases in that regard. Similar to this, Islamic ideals affected Mughal justice, leading to unequal treatment depending on religious ties. The legal system supported colonial interests under British administration, maintaining inequities in access to justice. In India today, getting justice is expensive and difficult, favoring those with power and wealth. Laws that have shown partiality to those from lower socioeconomic backgrounds have made disparities in the criminal justice system worse. Notwithstanding historical obstacles, India has had judicial institutions since antiquity, which reflects the dynamic character of the country's criminal justice system. The objectives of criminal justice systems around the globe are to maintain social order, deter crime, and punish offenders. The age-old practice of plea bargaining is becoming more and more popular around the world as a way to speed up court cases and guarantee prompt delivery of justice. Plea bargaining is still in its infancy in India, yet it has been successfully implemented in other nations.

Plea bargaining has advantages including avoiding unjustified incarceration, guaranteeing responsibility, and accelerating the administration of justice. However, there are issues with fairness and due process, and its application differs depending on the jurisdiction. However, plea bargaining addresses the substantial backlog of court cases, promotes community

acceptance of prompt justice delivery, and gives hope to both accused parties and victims. Although the notion of plea bargaining was not originally included in Indian legal codes, it has since been introduced into the legal structure of the nation, following a worldwide trend towards the adoption of this type of justice. Plea bargaining seems to be a workable way to speed up court cases and advance justice in the criminal justice system as countries work to overcome structural challenges and guarantee efficient administration of justice. It is impossible to exaggerate the importance of plea bargaining in India's criminal justice system. India is a country facing many social and economic issues, and its legal system has to change to accommodate its varied people. Plea bargaining is a viable option for resolving the backlog of court cases, guaranteeing prompt justice delivery, and accelerating legal procedures. The historical viewpoint shows how religious, cultural, and colonial influences have shaped the development of judicial administration in India throughout time. Even while plea bargaining is a relatively new idea in India, its acceptance there is indicative of a worldwide trend towards updating criminal justice systems to address current issues.

Plea bargaining's worldwide relevance highlights how successful it is in accelerating court cases and maintaining justice in the criminal justice system. For the purpose of preventing abuses and preserving the rights of all parties concerned, it is necessary to carefully examine procedural protections and due process while implementing it. Adopting plea bargaining provides a workable way to lessen the load on courts, advance justice, and guarantee prompt delivery of justice as India continues on its road towards social and economic growth. India can make great strides towards improving its criminal justice system and maintaining the rule of law for all of its residents by adopting this idea and putting it into its legislative structure.

CONCEPT OF PLEA BARGAINING IN CRIMINAL JUSTICE SYSTEM

The field of criminal justice administration is growing globally. A criminal justice system's main goal is to promote social peace and stability while also providing a way for people to file a claim for damages when their rights are violated. As a result, the system considers as illegal a variety of actions that infringe upon or violate the rights of people in a civilised society. However, because of the power imbalance that exists between the government and the defendant, it is essential to set up a process that guarantees justice and protects the defendant's rights at every stage. The procedure is proceeding slowly because efforts are being made to make sure the system is fair enough to give the defendant confidence. Consequently, there are a lot of unsolved cases in India's criminal courts and a lot of prisoners waiting for trial in Indian

prisons who are trying to resolve a criminal case via an ADR procedure. Plea negotiating is one method of resolving a criminal case without having the defendant stand trial. This happens when the prosecutor and the accused party, who are the parties concerned, negotiate compromises. Under these agreements, the parties swap different rights and risks: the prosecutor forfeits the ability to seek the harshest sentence or bring the most serious accusations possible, and the accused forfeits the right to a trial. The agreements that followed show a predicted departure from what would have happened if the identical cases had gone to trial. Plea bargaining results in lighter sentences for defendants than for non-participating defendants. On the other hand, those who want to have a trial are largely declared not guilty, while those who confess guilt are immediately deemed guilty.

Nature of Plea Bargaining

Plea bargains and contracts are comparable in that they both include the necessary elements of a binding legal arrangement. It cannot be enforced without judicial authority, though. To establish legal responsibilities, a legally enforceable agreement must have the following elements: proposal, approval, evaluation, legal status, and intent.

Proposal: In a plea agreement, the prosecution makes suggestions to the defendant that include concessions like lowered charges or shorter sentences in exchange for a guilty plea. If the prosecution approves, the defendant may also provide substitute suggestions.

Approval: In order for the plea agreement to be implemented, the accused must accept the offer. Plea bargaining is pointless without acceptance, even if both sides make counterproposals.

Assessment: Plea bargaining grants consideration by accepting the accused's guilty plea, which relieves the prosecution of the duty of proving the accused's guilt beyond a reasonable doubt. In practice, it reduces the burden for practitioners and judges.

Legal status: The right of the accused to choose their plea, the prosecution's ability to press charges, and the judge's discretion in sentencing all guarantee the legitimacy of a plea agreement.

Goal to create legal obligations: Although the parties are free to change their minds at any time, they do want the plea agreement to be legally enforceable.

Types of Plea Bargaining

Plea bargaining is a common procedure in many legal systems, including India. It may be broadly classified into three types: Charge Bargaining, Sentence Bargaining, and Fact Bargaining, depending on the form of confession allowed by the prosecution. Even if the prosecution and the accused negotiated these agreements, they are not legally binding unless a judge approves them. Charge bargaining is when a defendant enters a guilty plea in return for the dismissal of one or more charges against them. For example, a defendant charged with assault, rape, and adultery may consent to admit assault in return for the adultery charge being dropped. Phrase Contrarily, bargaining entails the prosecution offering a guilty plea in return for a reduced or favourable sentence recommendation. Reality Acknowledging certain truths in return for a promise not to disclose other facts is known as bargaining. The plea agreement is legally enforceable as soon as the court registers the conviction and accepts the defendant's guilty or no contest plea. Nonetheless, the court has the authority to reject the plea and impose a fresh sentence if the offender doesn't carry out some of the responsibilities specified in the plea agreement. Plea bargaining is a technique that the Indian legal system actively encourages since it allows cases to be resolved more quickly and lessens the workload of the judge. Plea bargaining raises questions regarding justice, openness, and the possibility of coercion or exploitation of defendants, even as it provides advantages like reduced charges or penalties for defendants and effective case management for prosecutors. As a result, while using plea bargaining techniques, it is crucial to carefully weigh the rights of the accused against the purposes of justice.

Plea Bargaining in India: Caused Criminal Justice Reforms

The Law Commission of India put out proposals to solve these issues after observing the growing backlog of criminal cases and the protracted delays in their disposal. In 1991, the Commission suggested, in its 142nd Report, that criminals who voluntarily enter a guilty plea get favourable punishment, similar to what is seen in other countries. This plan called for dropping some charges or lightening penalties for guilty pleas. To formalise this approach, the Commission promoted statutory revisions to “the Code of Criminal Procedure (Cr.P.C.).”

Referencing data from the US, where plea deals account for almost 75% of convictions, the Commission emphasised the necessity of procedural changes to accelerate the administration of justice. Consequently, the Commission stressed the necessity of modifying the Cr.P.C. to include plea bargaining as a trial strategy for less serious offences in its 154th Report, which

was delivered to the UN in 1996. The Malimath Committee's idea gained support, and the Criminal Law (Amendment) Bill of 2003 suggested introducing plea bargaining into the criminal court system of India. The bill was reworked and enacted as the Criminal Law (Amendment) Act in 2005, despite its original stalling. Sections 265A–265L of Chapter XXI-A on "Plea Bargaining" were added to the Cr.P.C. by this legislation. The implementation of these laws in 2006 brought about a notable transformation in the Indian criminal justice system, with the objective of accelerating the settlement of cases and reducing the workload for the judiciary. The legal system in India has seen a significant transformation with the introduction of plea bargaining. This has resulted in a well-organized approach to swiftly resolve cases and minimise the backlog of unresolved problems.

Reasons for Including the Plea-Bargaining Concept in Indian Jurisprudence.

Long-term delays in the resolution of criminal cases are a critical problem facing the Indian legal system, which has a substantial backlog of cases and is undermining public confidence. In October 2001, there were an astounding 2.03 crore cases pending in High Courts and District Courts throughout major states including Madhya Pradesh, Maharashtra, Bihar, and other. In 1987, the Law Commission of India's 120th Report noted that one of the main reasons for delayed resolutions was the lack of judges in the country—there are only around 10.5 judges per million populations, which is far lower than the ratios in nations like Australia, the United Kingdom, the United States, and Canada. Due to overcrowding in courts and a lack of judicial staff, the situation of those awaiting trial is made worse by the fact that there are over 500,000 offenders housed in facilities intended to hold 256,000 criminals. State governments have heavy financial burdens; they spend more than Rs. 55 per prisoner per day, or 361 crores annually. Rapid trials and other alternatives might lessen this load and lower the number of people being held awaiting trial. Plea bargaining seems as a viable means of reducing backlogs and accelerating case outcomes. In exchange for a shorter sentence, the accused agrees to a mutually advantageous arrangement that lessens the workload for judges and prosecutors and speeds up courtroom proceedings. The introduction of plea bargaining might greatly reduce backlogs and boost the effectiveness of the legal system, resolving the urgent problem of justice being delayed, which is the same as justice being denied.

PLEA BARGAINING: A HISTORICAL PERSPECTIVE

The monarch or his minister presided over court sessions in the ancient Indian legal system, which was based on the Vedas, legal treaties, Vedic supplements, and Puranas and did not

distinguish between civil and criminal law. Justice was administered by the king and court together, with a primary emphasis on retaliation and revenge as punishment. Conflicts were frequently settled amicably in the post-Vedic era, much like in plea bargaining today. Similar to the American practice of plea bargaining, this historical practice sought to minimise backlog by settling cases outside of trial under court supervision. Plea bargaining is not a new concept in India; it was borrowed from old customs and shaped by American methods. Hindu scriptures record situations that are similar to plea bargaining, which is indicative of a long-standing custom of amicable resolutions. Acknowledging the possibility of reducing the backlog of cases, plea bargaining was supported by India's Law Commission in reports from the 142nd to the 177th, and the Malimath Committee suggested putting it into practice. “The Criminal Law (Amendment) Act of 2005”, which integrated plea bargaining into “the Criminal Procedure Code 1973” under Chapter XXI-A, was the result of this. Plea bargaining is a tactic used to lessen the backlog of criminal cases in India, when the accused admits guilt in return for lower penalty or the dropping of charges. Its historical foundations and current law revisions emphasise how important it is to guarantee justice in conflict resolution and streamline the criminal justice system.

Cr.P.C. (Code of Criminal Procedure): Plea Bargaining Provisions

Plea bargaining was first proposed as a strategy for the Indian criminal justice system in the landmark 154th Law Commission Report. Plea bargaining is considered to be an alternative strategy that Indian courts must use in order to clear the significant backlog of criminal cases they are presently managing. Subsequently, to address the increasing volume of criminal cases, the NDA government established a panel headed by Justice V.S. Malimath, the former Chief Justice of the Kerala High Court and the Karnataka High Court. The Malimath Committee that India use a plea negotiation procedure. According to the committee, it would expedite the conclusion of criminal cases and lessen the burden on the courts. As stated in Chapter XXIA, Sections (265A-265L) of “the Criminal Procedure Code, Amendment 2005”, plea bargaining came into effect on July 5th, 2006.

- **Section 265-A:** Section 265-A deals with the option of plea negotiations for defendants accused of crimes for whom there is no capital penalty, life in prison, or sentence of more than seven years in jail. Section 265 A (2) of the Cr.P.C., 2005 authorizes the Central Government to receive notification number. SO1042 (II) about the offences committed on

July 11, 2006. This has to do with figuring out how the wrongdoing impacts the country's socioeconomic situation.

- **Section 265-B:** This section deals with the plea negotiating procedure, for which the accused may file an application. The application must be submitted with a short explanation of the situation and an affidavit that has been signed by the accused. The affidavit should indicate that the accused has voluntarily decided to pursue plea negotiations after realizing the severity and regularity of the possible penalty.

- **Section 265-C:** A technique for reaching a mutually agreed settlement that the court will accept is proposed in Section 265-C. After examining a police report, the court will communicate an appropriate conclusion to the investigating officer, the public prosecutor, and the parties involved in the case—the accused and the victim. The Court notifies the victim and the accused about the case upon filing of a complaint.

- **Section 265-D:** A section 265D-compliant meeting resulted in the formulation of a positive resolution. It is necessary for the Court to make an official announcement on this ruling. The consent of the president of the Court and every other meeting participant is required if no official document is created.

- **Section 265-E:** Section 265E requires the Court to rule on the issue in a well-reasoned manner, as follows: In accordance with Section 265E, the victim may get compensation. The themes that the parties will consider include the harshness of the sentence, probation for good behaviour, and section 360 admonitions. When dealing with the accused, "The Probation of Offenders Act, 1958" or any other relevant statute may also be taken into account.

- **Section 265-F:** In accordance with Section 265F, the Court's ruling must be announced in public and signed by the Court President.

- **Section 265-G:** Except in situations where special authority is requested under Article 136 or via a petition for a written order under Articles 226 and 227 of the Constitution, the decision made by the Court under Article 265G is final and cannot be contested in any court.

- **Section 265-H:** A review of the Court's authority over plea negotiations is done. A court has the power to carry out its duties under Chapter XXI-A of the Cr.P.C. with regard to the

criminal proceedings and other things that fall within the purview of the court's decision-making.

- **Section 265-I:** In addition to other provisions of this Code, Section 428 shall be used for balancing the length of the accused's detention against the prison term imposed in this Chapter.

- **Section 265-J:** The anti-clause says that the chapter's provisions apply in spite of any conflicting clauses in the Code or any other legislation, including chapter XXI-A. It is devoid of any substance in this sense.

- **Section 265-K:**

- Statements of the Accused Are Not Included No matter what facts or comments a defendant includes in their plea negotiating application filed under section 265B, the facts or statements may not be used for any other purpose than this Chapter.

- **Section 265-L:** Section 265-L of the 2000 Act on the Protection of Children (Juvenile Justice, 2000) states that the provisions of this chapter do not apply to children or juveniles.

Plea Bargaining in India: History

Plea bargaining in ancient India has its roots in the Vedic era, which comes before written history. In this age, the idea of Dharma, or law, served as a fundamental guiding and moral foundation for the administration of justice. The monarch was in charge of making sure that justice was carried out correctly, with the main goal being the creation of a just and equal society. There were communal settlements throughout the Rig-Vedic period, therefore rules of behaviour had to be established. These rules, called Dharma, dictated proper conduct and outlined what should be done if someone disobeyed them. As the head of state, the monarch was tasked with enforcing the law, with Hindu jurists such as Manu, Kautilya, and Sukra. placing special emphasis on the preventative and deterrent effects of punishment. During this time, punishment had many uses, such as purification, correction, deterrent, and prevention. It was required of offenders to own up to their wrongdoings and atone for their transgressions. For the sake of self-purification, confession and repentance were considered essential, and the monarch was the only one who could forgive. There were provisions in the ancient Indian judicial system for mitigating punishment by confession. Confessional offenders were eligible for lower terms; those who withheld information may face harsher punishments. A number of

scriptures, such as the Yajnavalika Samhita and the Apastambha Samhita, recognised repentance and confession as practical ways to atone for sins. Ancient Indian historical occurrences provide as more examples of the practice of forbearance and reduced fines. Characters from the Ramayana, such as Sugreev, freely acknowledged their wrongdoings and received light sentences, highlighting the significance of confession and contrition in obtaining pardon. In a same vein, leaders such as Vikramaditya faced consequences that matched the seriousness of their transgressions and were made to answer for their acts. In general, plea bargaining, in which criminals admitted their wrongdoing and asked for pardon via penance and purification, might be seen as an early form of contemporary procedures in ancient India. The Vedic period's focus on confession, remorse, and leniency emphasises the significance of self-purification in the administration of justice.The adversarial common law system had a significant impact on India's criminal justice system under British rule. Established in 1672, the East India Company's Court of Judicature imposed sentences on violators, many of which included labour for the victim or the owner of their property. 1860 saw the adoption of the Indian Penal Code, which broke with earlier customs in order to standardise criminal laws. But the British system never used plea bargaining or negotiation; instead, it preferred to declare guilty parties guilty rather than settle disputes via money.The goal of attempts to standardise criminal legislation was to eradicate the plea bargaining methods that were common during the Mughal era. One such suggestion was made by Lord Cornwallis in 1790, which forbade cooperation between the benefactors of murder victims and the convicted. Mahatma Gandhi promoted decentralization and the creation of the Panchayat raj institution as a means of resolving disputes after independence. The 1973 Criminal Procedure Code included provisions for guilty pleas in small matters and summary trials. Although laws addressing compromise and compoundable offences permitted settlement without full trials, plea bargaining was not officially used in these cases.

In an effort to expedite trial timeframes and reduce the backlog of criminal cases, India began looking into the idea of plea bargaining. Unlike the civil legal system, the criminal justice system did not provide alternatives for resolving disputes, which made backlogs and delays worse. In the adversarial judicial system of modern India, the state renders decisions after competing parties submit contrasting claims. Nevertheless, this method impedes the settlement of conflicts by adding additional procedures and delays. Public confidence in the court is weakened by the notable increase in outstanding cases, which is linked to delays in judge vacancies and procedural inefficiencies. Trials are often postponed for years after arrest due

to prolonged pretrial confinement, which exacerbates problems. The backlog of criminal cases undermines public trust in the judicial system and obstructs socioeconomic development. It is still difficult to get prompt, effective justice since accused people sometimes spend years in jail or prison before being tried. Therefore, backlogs and delays plague India's criminal justice system, which has its roots in British colonial tactics. Plea bargaining initiatives seek to speed up trials, but fundamental changes are required to fix inefficiencies and rebuild public confidence in the legal system.

PLEA BARGAINING: GLOBAL PERSPECTIVE AND ROLES

Global crime is a problem that causes lengthy and expensive criminal prosecutions in courts all around the world. Plea bargaining has emerged as a key answer in many developed and developing nations' unique approaches to addressing these difficulties. Plea bargaining was invented in the US and is still widely used there to speed up court cases and reduce backlogs. In recent decades, plea bargaining has also been accepted to varied degrees by other nations including Australia, the United Kingdom, many European countries, and New Zealand.

Every nation has a unique strategy based on the requirements of its society and legal framework. For instance, India embraced plea bargaining more than ten years ago, but its goals and strategies are not the same as those of other countries. It is crucial to carry out a comparative examination across many jurisdictions, such as the US, UK, Canada, European nations, Australia, and the International Criminal Court, in order to comprehend the subtleties and variations in plea bargaining techniques. Even after plea bargaining has been used in English and American courts for over 300 years, official judicial acceptance of the practice is still elusive. It was not even mentioned in the White Paper on Criminal Justice in England and Wales, published on February 6, 1990. Plea bargaining has been around for over a century in the US, although it wasn't officially recognised until around 20 years ago. Many judicial systems across the globe, even those more closely linked to the Anglo-American legal system, such those in England, Canada, Australia, Yugoslavia, Poland, and France, have progressively embraced plea bargaining. Even traditionally inquisitorial nations such as Germany, Italy, and Poland today see plea bargaining as an important component of their judicial systems. Governments all over the globe have passed laws to guarantee the acceptance of guilty pleas; in the US, federal procedures require compliance with the Federal Sentencing Guidelines in order to preserve fairness in the adjudication process. Because there are unclear standards and processes in India, charge negotiation is difficult and results in uneven authority sharing

between prosecutors and defendants. In comparison, the US has a well-organized system that includes supervision procedures to guard against abuse and exact requirements for charge negotiating. Canada upholds procedural protections such as pre-trial discussions and formalized norms to guarantee justice. India lacks uniform sentencing guidelines, which may lead to inconsistent sentencing outcomes and the possibility of forced plea agreements. On the other hand, the US uses sentencing guidelines to guarantee proportionality according to the nature of the offence and the background of the offender. Canada fosters consistency and fairness via judicial discretion regulated by established rules, emphasizing proportionality and justice in punishment. India lacks clear standards for fact-finding, which leads to ambiguity and inconsistent results, especially when it comes to admission of evidence. The US uses the Federal Rules of Evidence to control what evidence may be admitted, and courts carefully consider whether admissions were made voluntarily in order to avoid coercion. Canada uses methodical procedures and established rules to guarantee procedural fairness and consistency, while court supervision protects the rights of accused parties. Plea bargaining is still increasing popularity and use as a way to settle criminal cases all around the world. The comparative study highlights the variations in plea bargaining processes across the US, Canada, and India and highlights the significance of clear standards, procedural protections, and judicial oversight. These components are essential to guaranteeing consistency and justice in plea agreements across different jurisdictions.

CONCLUSION

To sum up, this paper has offered a thorough analysis of the role that plea bargaining plays in the criminal justice system of India. Plea bargaining is shown as a complex instrument with significant effects on case settlement, judicial efficiency, and legal justice, from its conceptual framework to its historical foundations and international comparisons. The growth of plea bargaining is evident when seen through the prism of Indian legal traditions, demonstrating a harmony between antiquated ideals and contemporary demands. The comparison with international practices draws attention to differences in protocols and emphasises how crucial it is to have clear standards and protections in place to guarantee dependability and justice. Plea bargaining plays a more prominent role in determining prosecution tactics, defending the rights of defendants, and influencing court decisions as it continues to get attention and be widely used. There are still issues, nevertheless, such as the need for precise guidelines, legal protections, and a fair delegation of power between stakeholders. In the end, improving the effectiveness, equality, and fairness of India's criminal justice system requires a sophisticated

grasp of the relevance of plea bargaining. Plea bargaining is still a dynamic field that has to be continuously examined, discussed, and improved in order to preserve the values of justice and the rule of law as the legal system changes.

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