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Emancipation of Women and Law

Women emancipation is a global issue it gained momentum in recent decades. The issue of women emancipation of women came up in the light when United Nations declared 1975 to be ''Inter national Women's Year'.In 1985,an International Conference in Nairobi was organized in which women from the development and underdeveloped countries introduced the concept ofadvancing women.

BHAWANA D. VALVI

Introduction :

Women constitute one-half of global population, but they are placed at various disadvantageous positions due to gender difference and bias. Indian society is a tradition bound society where women have been socially, economically, psychologically and sexually exploited from ancient times. Maximum violations of human rights are made against women. Historical practices such as Sati, Jauhar, Purdah, Devdasis, child marriage, are a few traditions reflective of the gender imbalance in Indian Society. Exploitation and discrimination are the two major issues, which the Indian women face in the present day society. Even after sixty-five years of Indian independence, women are still one of the most exploited sections of Indian society. Prenatal sex selection and the practices of female foeticide, female infanticide, death during pregnancy, child marriage, child abuse and child prostitution, sexual harassment at work place, less pay to woman for equal work, physical, mental cruelty of women, poor education, eve teasing, bride burning, exploitation in office, domestic violence etc. is common in our society.

Reasons for the above problem face by Indian woman are, illiteracy, fear in mind, unaware of outer world, neglect of health, unorganized, patriarchal family system, woman is enemy of woman, lack of woman movements, superstition, physically weaker, spousal age difference, son preference etc.

The principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles. The Constitution not only grants equality to women, but also empowers the State to adopt measures of positive discrimination in favor of women. Constitution provides for special treatment of women, guarantees equality and prohibits discrimination. The Parliament of India has enacted various laws for protection of women. There are various International & National instruments, which recognize the rights of women.

Role of Judiciary :

Indian judiciary has also made important judicial pronouncements upholding the rights of woman.

The rape committed on "Damini" on 16th December 2012 has brought into sharp focus on the weakness of our legal system. The incidence was condemned by all sections of the society. People revolt on streets across the country especially at capital demanding strict implementation of laws relating to woman and ensuring security and protection of woman. Hence the question regarding woman empowerment again came into motion.

The empowerment is a support to help women to accomplish equal opportunity with men or to reduce the gap between men and women. The social empowerment of women is facilitated through effective provisions of Nutrition, Education, Health, Drinking water, Sanitation, gender sensitization and elimination of all forms of violence done against women i.e. physical and mental, whether at domestic or societal levels, including those arising from customs, traditions and accepted practices.[1]

Eye opener data- 30% raped woman are below 16 years of age. 20% prostitutes are below 18 years of age. Only 2% women are on administrative posts in India. Only 4% women are representing at ministry level. Only 54.16% women are literate in India. Only 6 out 10 girls reach to 5thstd. One Lakh twenty five thousand woman died every year due to pregnancy in India. 70 % woman woks in unorganized sector. Woman works 6 hours more than man

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daily. 60% work is done by woman in world while they posses only 1% property. Woman kidnapped for every 23rd minute, dowry death for every 43rd minute, raped for every 54th minute.

"Law is considered as dead, where woman are subjected to violence"- Justice Krishna IyyarLaw plays a crucial in fact most important role in woman empowerment. Hundreds of laws have been made for woman empowerment but due to illiteracy majority people of the country are unaware of laws. There is a need for generating awareness of rights as knowledge so that people live in consonance with the true dictates of democracy and rule of law. The illiteracy rate is higher among the woman's in India which is major hurdle in woman empowerment. Pandit Jawaharlal Nehru has rightly stated that "To awaken the people, it is the women who must be awakened. Once she is on the move, the family moves, the village moves, the nation moves"

Woman must be aware about the laws made for them. Hon'ble Supreme Court in Vishaka and others V State of Rajasthan[(2)] held that sexual harassment of working women at her place of an employment amounts to violation of rights of gender equality and laid down guidelines for their protection. Recently a report[(3)] provided that, among the sexual harassment cases filed in Maharashtra a very large numbers of respondents (499 out of 600) had no knowledge of the Supreme Court Guidelines for preventing sexual harassment of women at work-places. Only 14 per cent respondents from organized sector and 3 per cent from unorganized sector had some knowledge of these guidelines but they too were ignorant about the details of these guidelines.

Empowerment of woman through law relates to the idea of making them able to exert more control over their lives through the use of legal services and development activities. "In its broadest sense, empowerment is the expansion of freedom of choice and action"[(4)]

Constitutional Provisions :

Constitutional Provisions for Empowering Women in India.[(5)] The constitution of India provides for:-(i) equality before law for all persons (Article-14); (ii) prohibition of discrimination on grounds of religion, race, caste, sex or place of birth (Article 15(i)); However, special provisions may be made by the state in favour of women and children Article 15(3); (iii) equality of opportunity for all citizens relating to employment or appointment to any office under the state (Article 16); (iv) state policy to be directed to securing for men and women equally the right to an adequate means of livelihood (Article 39(a); (v) equal pay for equal work for both men and women (Article 39(d); (vi) provisions to be made by the state for securing just and humane conditions of work and maternity relief (Article 42); (vii) promotion of harmony by every citizen of India and renouncement of such practices which are derogatory to the dignity of women Article 51A(e)and' (viii) reservation of not less than one-third of total seats for women in direct election in to local bodies, viz; Panchayats and Municipalities (Articles 343(d) and 343 (T).

The Hindu personal laws of made in 1956 gave women rights to inheritance However, the sons had an independent share in the ancestral property, while the daughters' shares were based on the share received by their father. Hence in 1994 the states of Karnataka and Maharashtra amended the Hindu Succession Act, granting daughters equal shares in inheritance relative to sons. The results of the reform could provide potentially important lessons for India, where similar, national-level changes were made in 2005. These women are either forced into prostitution, domestic work or child labour to prevent this, the Immoral Traffic (Prevention) Act was passed in 1956,The Protection of women from Domestic Violence Act 2005, which came into force on October 26, 2006, seeks to provide immediate relief to women facing situations of violence in their homes. In 1970s the feminist activism got momentum and the protest due to the issue of rape of young girl Mathura in police station by a policeman compelled the government to amend the Evidence Act, the Criminal Procedure Code and the Indian Penal Code and introduce the category of custodial rape.

Some other laws are, The Dowry Prohibition Act,1961, The Commission of Sati (Prevention) Act,1987, The Indecent Representation of Women (Prohibition) Act,1956, Compulsory Registration of Marriages(New Legislation), Eve Teasing (New Legislation), The Child Marriage Restraint Act, 1929, The Medical Termination of Pregnancy Test,1971,The Guardians and Wards Act,1869, The Minimum Wages Act, The Factories Act,1948 ,The Guardians and Wards Act,1860,The Hindu Adoptions and Maintenance Act 1956,The Pre-Natal Diagnostic Technique (Regulation and prevention of Misuse) Act,1994, National Commission for Women Act,1990, The Bonded Labour System (Abolition) Act,1976, The Equal Remuneration Act,1976 ,The Special Marriage Act,1954,The Muslim Personal Law (Shariat) Application Act,1937, The Hindu Minority and Guardianship Act,1956 ,The Employees' State Insurance Act,1948, The Family Courts Act,1984 ,The Child Marriage Restraint Act,1929, The Foreign Marriage Act,1969, The Juvenile Justice(Care and Protection of Children) Act,2000 etc.

The Constitution (One Hundred and Eighth Amendment) Bill, 2008 seeks to reserve one-third of all seats for women in the LokSabha and the state legislative assemblies. The allocation of reserved seats shall be determined by such authority as prescribed by Parliament.

The Judiciary is the cornerstone of an effective legal system. It is considered the state organ best able to uphold the Rule of Law or the idea that all persons are treated equally before the law. The Indian Judiciary has given important decisions upholding the rights of woman. Gaurav Jain v Union of India[(6)] - Child born to prostitutes should not be kept in separate schools and hostels. Children

however should be separated from their parents. Unnikrushnan v State of AP[7] - right to education.Zahira V State of Gujarat[8] Woman witness threatened. PratibhaRanu V Suraj Kumar[9] the Supreme Court held that the stridhan property of married women has to be placed in her custody, and she enjoys complete control over it. In Gita Hariharan V Reserve Bank of India[10], Court interpreted section 6 of the Hindu Minority and Guardianship Act 1956 and held that the mother could act as the natural guardian of the minor during the father's lifetime if the father was not in charge of the affairs of the minor. Chairman, Railway Board V Chandrima Das[11] compensation was awarded to rape victim. Municipal Corporation Delhi V Female Workers[12] (Muster Roll) Maternity Benefit was extended to daily wages workers.

It might be observed that India has enacted many constitutional and legislative provisions for empowerment of women and judiciary has also played crucial role. But the position of women in our country still remains unchanged.

Conclusion and Suggestions :

One of the most formidable woman related challenges in India relates to rights awareness and legal assistance. Majority woman are unaware of their rights. As the words of Martin Luther King Jr. go "freedom is never voluntarily given by the oppressor, it must be demanded by the oppressed." Legal awareness is most important. Every public minded person and the media must contribute for providing basic information concerning woman rights. Unless the Acts, Policies, Rules, Regulations, etc, are strictly implemented the idea of women empowerment remains unachieved. Dearth of effective legal assistance and problem with justice delivery for woman victim requires to be improved. Women must organise themselves in groups and raise a collective voice against a system. Education of women plays a crucial role in releasing their energy and creativity and enabling them to meet the complex challenges and hence must be reached to every woman. The objective of the law gets defeated due to lacunae in the law and lack of proper implementation. Even though the law is a powerful instrument of change yet law alone cannot root out this social problem hence along with laws positive political will is essential. The Guide-lines issued by the Supreme Court of India from time to time regarding security of woman must be strictly observed. Every religionprotects the rights of woman but religion was interpreted wrongly to exploit woman must be prevented. Woman rights Education should be form a part of school and university curriculum. Decisions of society like ban on use of mobile phone female, honour killing, restriction on visit to market place etc should be prevented by creating confidence in woman.

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Linguistic Diversity & The Face of Justice : Problems and Prospects

Truly accessible information enables the person to identify and understand the legal problem, on its own and in its broader context. However, only the availability oflegal information either on line or in written format does not serve the required purpose until and unless it has been properly assimilated by the target groups and for that the language plays an important role. People need to connect legal information to their own circumstances. For this, they often need a trusted intermediary to help them define the problem, find the relevant information, apply the information to their situation, and make referrals to legal professionals. For vulnerable people, this personal attention is essentially required in their own language. Hence, improving linguistic access to the domain of justice therefore requires a systemic response, and no single organization, existing or new, can or should "own" that response. The preferred solution is to provide multiple points of access to an integrated system, which, from the client's perspective, should be seamless.

VIJAYLUXMI SINGH

India is an abode of more than 1652 mother tongues spread over a vast geographic space. Indianmultilingualism is unique in nature having no parallel in the world. Here 'Linguistic Diversity' means in a broad sense as the 'range of variations exhibited by human languages'. Linguistic diversity in the world today is an issue of growing social importance because a majority of all living languages are threatened in their continued existence.

The wind of globalization is bringing changes in every sphere of life. The acceptance of globalization as a dominant economic model has introduced certain urgency to modify even language loyalty and identity questions since English is fast replacing other languages as the lingua franca. In India, English is used against a backdrop of multilingualism with several regional languages and dialects. The Constitution of India provides for the use of one or two or more languages in the administration of the Union and States. Also, the linguistic interests of the people of all the regions have been accommodated in relevant ways. Despite these arrangements, why people find 'English' as a barrier in administration of justice? Why they are not comfortable with court language? Why people raising voice for maximising the use of regional languages in Indian legal system?With such issues on the forefront, this paper will attempt to find out the essence of Indian languages in the Province of Law and Justice.

The genesis and growth of English language in India :

India has a history of imperialism wherein the roots of English language can be traced. English was introduced by the British colonisers for the purpose of educating certain sections of the population to perform clerical works. Gradually, English became the language of law and administration. Later on the language of the colonisers remained in India and has developed innovative features of lexis.

Language is a means of social control and by retaining English language after independence; it was felt that it would provide the nation an upper edge while competing with the more powerful western nations.Hence English continued as a language in India and became synonymous to language of power, prestige and authority in the country. In the spheres of law and justice, English dominates at the highest level. Local languages are used in the Lower courts, English and the state language are used in the High Courts and solely English used in the Supreme Court.

English, in India has developed as a language of inter-ethnic communication providing a lingua franca for communication amongst the peoples of a multilingual society. It is a fact that very few, if any, speakers of English in India have learned it as a first language. Where English is used as a first language, it serves various purposes, but where it is used as a second language, it serves specific purposes.

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Language and Law :

Unlike other professions or services, law is all about the use of language.Law is typically administered through a system of courts providing its subjects powers, rights and duties. Language is important in the context of law to ensure accurate communication between the service providers and their clients. Legal language is also highly contextualized. It is a reflection of the underlying socio-political systems and values upon which the law is crafted.The basic concern for the legal system in the early period of free India was to fulfil the objectives set out in the Constitution. With the adoption of Constitution in 1949, the 'rule of law' became the basic component of the Indian democracy. The essence of free India has been wellsummed up in Art.14 of the Indian Constitution. Judicial trends in interpreting the Constitution particularly inManekaGandhi case, made 'due process' of law a cornerstone of constitutional ideology in post independent India. With judicial activism, access to justice becomes part of due process and law is viewed as an instrument to bring progressive changes in the society.

Importance of Access to Justice :

In multilingual India, language or language related issues invokes emotional, sentimental and legal response among the people. Access to justice is fundamental to the establishment and maintenance of the rule of law, because it enables people to have their voices heard and to exercise their legal rights. Access to justice is an indispensable factor in promoting empowerment and securing access to equal human dignity.The concept of access to justice adopted in this paper coversdifferent stages of the process of obtaining a solution to civil or criminal justice problems. It startswith the existence of rights enshrined in laws and with awareness and understanding of such rights. Itembraces access to dispute resolution mechanisms as part of justice institutions. Effective access includes the availability of, and access to,counsel and representation. It encompasses the ability of such mechanisms to provide fair, impartialand enforceable solutions. The paper also adopts a broader approach when thinking about barriers and solutions.Barriers originate from within and outside the formal justice institutions and the strategies thatensure and improve access to justice for communities and individuals, engage groups and individualsfrom across the full spectrum of civil society.

Language as a Barrier in Obtaining Legal Information and Services :

This paper concentrate on people who face language barriers and who may also be vulnerable because of low literacy in their first language or a range of other factors. Generally, such persons do not have the financial means to obtain private legal assistance and must rely on public legal aid services or pro bono help, where available. They may not know where to go for help, or may not even know that their problem is a legal one with potential legal remedies. They may also lack the knowledge of the legal system to pursue self-help options.Even the affluent people with a good grasp over an official language are not fully aware of the justice system until the need arises, usually at a point of crisis in their lives.

Low levels of education and literacy have an adverse impact over awareness about legal rights and access to legal advice and representation.People who do not speak English are unlikely to be able to read or understand public legal information unless it has been translated in their language. They are also unlikely to communicate, without the assistance of an interpreter, with legal service providers who speaks only English. According to most reliable estimateonly around 10% of total population of India speaks English, which means that the English dominated legal services domain remains inaccessible to majority of the population.Providing legal information and services in a client's first language is ideal, but it is not always possible given the number of languages and dialects spoken in India and the limited resources of legal and other organizations providing first-language services.The most affected groups are minorities, indigenous peoples and people living in rural areas, who face a significant linguistic barrier in accessing justice.When such people need legal information or services, they are often in a time of crisis or experiencing pivotal events in their lives. The fact that they live in a rural or remote area or do not speak English, should not become a barrier in securing legal information and services they need.

Solutions for Overcoming Barriers :

(1) Communication between legal/non-legal service providers and the clients, who do not speak and understand the court language, is a challenge for both parties.Such people must be provided with the access to interpreters during the legal process.

(2) Another key strategy is enhancing the capacity of non-legal organizations to act as trusted intermediaries between clients and legal service providers.

(3) Translating public legal education and information materials is not an easy task. Hence, it would be better to provide legal information and services in the client's first language and access to professional interpreters be improved wherever first language services are not available.

(4) The complexities and cost of translating legal materials usually require a focus on the most urgent need of multilingual materials. Many jurisdictions have focused recently on creating online repositories or portals for multilingual legal education materials.

(5) There has been good headway in producing multilingual text materials, but progress has been slow with audio and other formats which need to be speeded up. The use of audio recordings allows organizations to reach people with even low literacy skills in their first languages.

(6) Law students having proficiency in non-official languages can help legal organizations in providing first language legal services to enhance their outreach capacity.

(7) Connecting with people who are isolated by

language, culture and other factors (such as domestic abuse) requires special outreach efforts tailored to target these communities. A successful outreach strategy is to conduct workshops or legal mini-clinics in the languages of highest need in such communities.

(8) Legal education may also play a vital role. In a democratic country like India, legal education is expected to bring the legal system in tune with social, economic and political needs of the country.

(9) Another effective key strategy is 'Multilingual community media' which includecommunity multilingual newspapers, radio, and television to connect with people who may not otherwise become aware of their legal rights or how the law might help them.

Conclusion :

Truly accessible information enables the person to identify and understand the legal problem, on its own and in its broader context. However, only the availability oflegal information either on line or in written format does not serve the required purpose until and unless it has been properly assimilated by the target groups and for that the language plays an important role. People need to connect legal information to their own circumstances. For this, they often need a trusted intermediary to help them define the problem, find the relevant information, apply the information to their situation, and make referrals to legal professionals. For vulnerable people, this personal attention is essentially required in their own language. Hence, improving linguistic access to the domain of justice therefore requires a systemic response, and no single organization, existing or new, can or should "own" that response. The preferred solution is to provide multiple points of access to an integrated system, which, from the client's perspective, should be seamless.

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शोध-पत्र भेजने संबंधी नियम

(1) शोध-पत्र **1500-1700 शब्दों से अधिक नहीं** होना चाहिए।

(2) हिन्दी एवं मराठी माध्यम के शोधपत्रों को कृतिदेव 10 (Kruti Dev 010) में टाईप करवाकर 'पेजमेकर 6.5' में भेजें।

(3) पंजाबी माध्यम के शोधपत्रों को अनमोल लिपि (AnmolLipi) या **अमृत बोली** (Amritboli) या **जॉय** (Joy) में टाईप करवाकर 'पेजमेकर 6.5' में भेजें।

(4) अंग्रेजी माध्यम के शोधपत्र टाईम्स न्यू रोमन (Times New Roman), एरियल फोंट (Arial) में टाईप करवाकर 'पेजमेकर 6.5' या 'माइक्रोसाफ्ट वर्ड' में भेजे जा सकते हैं।

(4) शोधपत्र की विधि - **(1)** शीर्षक **(2)** एबस्ट्रेक्ट **(3)** की-वर्ड्स **(5)** प्रस्तावना/प्रवेश **(5)** उद्देश्य **(6)** शोध परिकल्पना **(7)** शोध प्रविधि एवं क्षेत्र **(8)** सांख्यिकीय तकनीक **(9)** विवेचन या विश्लेषण **(10)** सुझाव **(11)** निष्कर्ष एवं **(12)** संदर्भ ग्रंथ सूची।

(6) संदर्भ ग्रंथ सूची इस प्रकार दें -

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(1) Name of Writer, "Name of Book", Publication, Place of Publication, Year of Publication, Page Number/numbers.

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Web references :

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(7) गुजराती माध्यम के शोधपत्र **हरेकृष्णा (Harekrishna), टेराफोंट वरुण (Terafont Varun), टेराफोंट आकाश (Terafont Aaksah)** में टाईप करवाकर 'पेजमेकर 6.5' में भेजे जा सकते हैं।

(8) शोधपत्र की साफ्टकॉपी रिसर्च लिंक के ई-मेल आईडी researchlink@yahoo.co.in पर भेजने के बाद हॉर्डकॉपी, शोधपत्र के मौलिक होने के घोषणा पत्र के साथ हस्ताक्षर कर 'रिसर्च लिंक' के कार्यालय को प्रेषित करें।

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Plea Bargaining : New Era in Criminal Dispute Settelement

As we know that more than crore cases are pending in Court and government has taken many new steps to dissolve all pending cases within time but nothing resulted i.e. The mechanism of Lok Adalat, Mediation, Conciliation, Amendment in Civil Procedure Code in 1999 & 2002, etc. For provide the quick remedies to victim, speedy trial, to dissolve criminal matter by settlement provision related to Plea Bargaining has been added in CrPC through Criminal Law Amendment Act, 2005. But after 11 years from the making this provision, this is required to analyze this provision that this is effective or not.

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Introduction :

The Doctrine of Nolo Contendere or Plea Bargaining has been introduced by Criminal Law Amendment Act, 2005. A new Chapter XXI-A (Section 265A-265L) on Plea Bargaining was introduced in theCrPC, 1973, which is enforceable from July 5, 2006.

In 2007, SakharamBandekar case was the first case in India where the accused SakharamBandekar requested lesser punishment in return for confessing to his crime (using plea bargaining). However, the court rejected his plea and accepted CBI's argument that the accused was facing serious charges of corruption. Finally, the court convicted Bandekar and sentenced him to 3 years imprisonment.

Meaning :

Usually plea bargaining is an arrangement between prosecutor and defendant whereby the defendant pleads guilty to a lesser charge in exchange for a more lenient sentence or an agreement to drop other charges. In other words, the term Plea Bargaining can be defined as pre-trial negotiations between the accused and the prosecution where the accused pleads guilty in exchange for certain concessions by the prosecution.

Objectives :

(i) To reduce the delay involved in criminal trial and

(ii) To punish the accused with a lesser sentence for pleading his guilt.

Applicability of Plea Bargaining :

Plea Bargaining is not available to an accused if :

(i) he has been charged with offences punishable with capital punishment, imprisonment for life, or a term exceeding seven years,

(ii) Such offence affects the socio-economic condition of the country,

(iii) Such offence has been committed against the country,

(iv) Such offence has been committed against the child below the age of 14 years old,

(v) Accused is juvenile (conflict with law),

(vi) Accused has been already punished for same offence.

Procedure of Plea Bargaining :

Where the police report shows that the offence is other than an offence for which the punishment of; or in the matter where the magistrate has taken cognizance in the case for which the punishment of; death sentence, life imprisonment or not less than seven years of imprisonment and the matter not falls in the ambit of above conditions, then following procedures are prescribed for providing plea bargaining :

(i) A person accused of an offence may file an application for plea bargaining in the Court in whom such offence is pending for trial.

(ii) The application shall contain a brief description of the case and shall be accompanied by an affidavit of accused stating that he has voluntarily preferred the application and has not previously been convicted by a Court with the same offence.

(iii) If the Court finds that the application was not made involuntarily by the accused or he has been previously convicted by a Court, it shall proceed with the trial of the case.

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Otherwise :

(iv) After receiving the application, the Court shall issue notice to the Public Prosecutor or the complainant and to the accused to appear on the date fixed for the case.

(v) The Court shall examine the accused in camera to satisfy itself that the accused has filed the application voluntarily, but the other party in the case shall not be present at that time.

(vi) Where the Court is satisfied that the application has been filed by the accused voluntarily, it shall provide time to the Public Prosecutor or the complainant and the accused to work out a mutually satisfactory disposition of the case which may include compensation and other expenses to be given to the victim.

(vii) Throughout the process of working out a satisfactory disposition of the case, it shall be the duty of the Court to ensure that it is completed voluntarily by the parties participating in the meeting.

(viii) The Court shall prepare a report of the satisfactory disposition worked out by the parties and shall dispose of the case by awarding the compensation to the victim in accordance with the disposition and hear parties on quantum of punishment and releasing accused on probation of good conduct or after admonition under section 360 or for dealing with the accused under the provisions of the Probation of Offenders Act, 1958 (20 of 1958) or any other law for the time being in force.

(ix) If the Court finds that minimum punishment has been provided under the law for the offence committed by the accused, it may sentence the accused to half of such minimum punishment; or it may sentence the accused to one-fourth of the punishment provided or extend able, as the case may be, for such offence.

(x) The judgment shall be pronounced in open Court.

(xi) Period of detention undergone by the accused has to be set off against the sentence of imprisonment.

(xii) The statements or facts stated by an accused in an application for plea bargaining shall not be used for any other purpose except for the purpose of plea bargaining application.

Finality of Judgment :

The judgment delivered by the Court under section 265G shall be final and no appeal shall lie, except the special leave petition under Article 136 and writ petition under Articles 226 and 227 of the Constitution shall lie in any Court against such judgment.

Pending Cases and Plea Bargaining :

So, to analyses the success of the provision of the plea bargaining, it is important to know that what is the ratio of the pending criminal casesin the courts before and after the amendment of 2005. It can be cleared from the following data taken from the site of National Crime Records Bureau.[1]

Year (I)	Total cases for trial (II)	Cases filed per year *(A) (current year-previous year)* (III)	Cases in which trial completed (IV)	Cases disposed of per year *(B) (current year-previous year)* (V)	% of disposal of cases *(B*100/A)* (VI)
1961	800784	------	242592	-------	-----
1971	943394	142610	301869	59277	41.57
1981	2111791	1168397	505412	203543	17.42
1991	3964610	1852819	667340	161928	8.73
2001	6221034	2256424	931892	264552	11.72
2011	8939161	2718127	1211225	279333	10.28
2012	9328085	388924	1252138	40913	10.52
2013	9781426	453341	1290148	38010	8.38
2014	9930518	149092	1341386	51238	34.37
2015	10502256	571738	1325989	15397	2.69

In the above table, column no (I) is showing year, (II) is related to pending criminal case before the Court. This is in cumulative form. Column (III) is showing actual filed casesin particular year. Column (IV) is also a cumulative form and showing the disposed off matters but year wise disposal of cases is being shown in column (V). Column (VI) is showing disposal of percentage of cases.

So, through the following table I had analyzed the growth in disposal of criminal cases after amendment of 2005 :

Year	Percentage of disposal of criminal cases
1961	41.57
1971	17.42
1981	8.73
1991	11.72
2001	10.28
Average of disposal/year	**17.94**

Hence the average shows that 17.94 percent cases disposed of per year when the provision of plea bargaining was not adopted in CrPC. And now the following table shows that what is the current percentage of disposal of case-

Year	Percentage of disposal of criminal cases
2011	10.28
2012	10.52
2013	8.38
2014	34.37
2015	2.69
Average of disposal of Criminal Cases/year	**13.25**

Hence the percentage of disposal of criminal cases after the adaptation of provision of plea bargaining is 13.25 and before adaptation 17.94. It means there is no remarkable effect over the disposal of cases after incorporating the provision related to plea bargaining.

Now the question is, whether this provision is

meaningless? Or, if not, then what are the factors responsible for its failure?

To answer first one, for disposing the criminal matter by mutual consent a provision is already available in CrPC and that is known as compoundable and non-compoundable offence. As per section 320 of CrPC the offences which are declared as compoundable may mutually be disposed of by prosecution and accused. In some matters, the consent of judge is required and rest are declared as non-compoundable of offences.

But the new provision "plea bargaining" has open a new dimension where that matter which are declared non-compoundable offence is now available for compoundable.

To answer second question, after the study and consulting the parties of the case and advocate, I conclude that following factors are responsible for the failure of plea bargaining :

(1) Lack of Awareness : Maximum number of people are not aware about the this provision due to illiteracy in India. After the 2011 census, literacy rate India 2011 was found to be 74.04%.[3] In this situation we cannot expect the parties to be aware of this legal provisions.

(2) Interest of Advocate : This provision is against the benefit of advocate because they were least interested in disposal of the matter. The sources of his income are only the party of the case. Therefore, they do not tell this provision to their client and hence the parties are deprived of benefit.

(3) Government Responsibilities : Government is also responsible for failure of this provision because does not provide wide publicity of this provision.

Conclusion :

No doubt, by adopting the provision of plea bargaining, we are providing an opportunity to an accused to get less punishment of the offence committed by him which is somehow may affect the legal system or crime rate of the country. But yet, in my opinion, if advantages are more than disadvantages then there isno harm in adopting the provision.

The following advantages of plea bargaining make it important to be accepted :

(1) This is helpful to resolve the criminal case speedily.

(2) We can say that these ways of disposal of cases is best where both parties of the suit are satisfied. And mechanism of plea bargaining is one of them.

(3) Plea bargaining avoid the stress and questions that which may be occurred during the trial.

(4) The time spent in the trial is saved. Court can use this time in other cases.

(5) The money spent in the whole procedure is saved.

(6) This provision is very flexible and any time parties can withdraw the consent if it appears to them that this is going against him.

(7) Plea bargaining makes the party feel to win.

(8) This is best for those accused who has committed offences because of adverse circumstances to him to adopting this mechanism the accused will be punished with minimum punishment.

References :

(1) http://ncrb.gov.in/

(2) http://ncrb.gov.in/

(3) http://www.census2011.co.in/literacy.php