
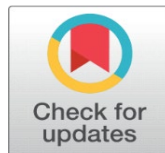


PLEA BARGAINING AND VICTIM COMPENSATION: A CONSTITUTIONAL APPRAISAL IN INDIA

M.S.H.R. Teja Chakravarthi ¹, K Sitamanikyam ²

¹ M.A., LL.M, Research Scholar, Dr. B R Ambedkhar College of Law, Andhra University, Visakhapatnam, India

² M.A., M.L., PhD., LL.D Principal, Dr. B R Ambedkhar College of Law, Andhra University, Visakhapatnam, India



Received 08 March 2026

Accepted 10 May 2026

Published 22 May 2026

Corresponding Author

M.S.H.R. Teja Chakravarthi,

MSHR.Chakravarthi@outlook.com

DOI

[10.29121/shodhkosh.v7.i11s.2026.8277](https://doi.org/10.29121/shodhkosh.v7.i11s.2026.8277)

Funding: This research received no specific grant from any funding agency in the public, commercial, or not-for-profit sectors.

Copyright: © 2026 The Author(s). This work is licensed under a [Creative Commons Attribution 4.0 International License](https://creativecommons.org/licenses/by/4.0/).

With the license CC-BY, authors retain the copyright, allowing anyone to download, reuse, re-print, modify, distribute, and/or copy their contribution. The work must be properly attributed to its author.



ABSTRACT

One of the most significant reforms introduced into the Indian criminal justice system through the Criminal Law (Amendment) Act, 2005 was the incorporation of Chapter XXI-A (Sections 265A–265L) into the Code of Criminal Procedure, 1973. It is a concept that lets the accused person enter a plea of guilty in exchange for a lesser sentence or a disposition that is agreeable by both parties, or to pay restitution to the victim. Though plea bargaining aims at saving time and making justice more efficient, questions have come up about its constitutionality and the features of fair trial, particularly in the context of Article 14, 20(3) and 21 of the Constitution. At the same time, victim compensation has become an important part of contemporary criminal justice, placing a strong focus on restorative justice as a central factor in the system of punishment. This article deals with analysis of Plea bargaining and its constitutional validity in India and its relationship to the victim's compensation.

Keywords: Plea Bargaining, Constitutional Validity, Victim Compensation, Article 21, Fair Trial, Cri Justice Reform, India

1. INTRODUCTION

The existing justice system in respect of offences effecting against public at large has long faced challenges such as delay in trials, mounting arrears, overcrowded prisons, and inadequate victim redressal. As per the latest criminal system the interests of victims will be taken in to consideration rather than like traditional adversarial criminal procedure system which focuses on guilt of the accuse only. To address these concerns, Parliament introduced plea bargaining in 2005 by amending the Code of Criminal Procedure. The reform was designed to ensure speedy disposal of

cases and compensation to victims in suitable offenses. However, because plea bargaining involves voluntary admission of guilt and negotiated outcomes, its compatibility with constitutional guarantees has been debated¹.

2. MEANING OF PLEA BARGAINING

Plea bargaining is a process in which an accused person voluntarily admits guilt in return for certain concessions, such as a reduced sentence or lesser punishment:

- Decreased sentence
- Lesser punishment
- Probation where permissible
- Mutually satisfactory disposition
- Compensation to victim²

3. CONSTITUTIONAL FRAMEWORK RELEVANT TO PLEA BARGAINING

The constitutionality of plea bargaining should be challenged on the basis of the following provisions:

1) For every person, the law is equal. Article 14 – Equality before the law

All criminal proceedings should be conducted fairly and equally. Arbitrary or discriminatory bargaining would be a violation of Article 14.

2) Article 20(3) – Protection Against Self-Incrimination

A person charged with an offence shall not be compelled to attend and give evidence against himself.

3) Article 22 – protection against arrest and detention

Nobody shall be taken away from life or personal freedom without following the legal process. Such procedure shall be fair, just and reasonable³.

Article 39A – Equal Justice and Legal aid

It is the duty of the state to provide equal justice and free legal aid to prevent denial of justice due to economic disadvantage.

4. WHETHER PLEA BARGAINING IS CONSTITUTIONALLY VALID

1) Voluntariness Makes it Constitutionally Sustainable

In India plea bargaining is voluntary application by the accused. The court views the accused in camera to determine if the accused has been coerced/unduly influenced in entering the plea. It is consensual, and therefore does not necessarily infringe on Article 20(3)⁴.

2) The judicial supervision programmes prevent abuse.

¹Criminal Law (Amendment) Act, 2005 is significant for its role in regulating criminal proceedings and reflecting concerns over government actions during the Minto-Morley Reforms era. It aims to enhance civil liberties and governance amid political dissent, particularly regarding the legal framework surrounding criminal law. The Act's amendments include new sections that address the issue of false evidence and plea bargaining, which are crucial for ensuring fair trial processes and protecting the rights of accused individuals.

²The Code of Criminal Procedure, 1973, ch. XXI-A, §§ 265A–265L, inserted by the Criminal Law (Amendment) Act, 2005 (Act 2 of 2006).

³Maneka Gandhi v. Union of India, AIR 1978 SC 597.

⁴Maneka Gandhi v. Union of India, AIR 1978 SC 597.

Indian law, as opposed to some foreign systems which are prosecution-bargaining, has the judge as the focal point. Judicial checks promote equity and transparency.

3) Speedy Trial Under Article 21.

Plea bargaining helps to achieve this constitutional goal by minimizing undue delay in trial guaranteed under Article 21 of the Constitution⁵.

4) The classification of works is reasonable in nature.

The law has been made applicable only to certain offences, and socio-economic and offences against women and children are excluded as are serious offences. This classification could be justified on the grounds of public interest and gravity of offences.

5. THE CONSTITUTION, ITS CONCERNS AND ITS CRITICISM

The risk of coerced guilty pleas. The threat of forced guilty plea. An important constitutional issue with plea bargaining is the threat of coerced plea. In reality, an accused person might agree to plead guilty not because he is guilty of the offence, but because he wants to save himself from lengthy detention, multiple court appearances, uncertainty of trial, or the expense of defending a criminal charge. In a criminal justice system that may take years to reach a trial, an accused might accept a negotiated settlement, simply to get out of jail early or to receive a reduced sentence. These situations bring into question the voluntary nature of the plea and the fairness of the process⁶.

5.1. UNEQUAL BARGAINING POWER

Another criticism concerns the imbalanced role of the parties in plea negotiations. The prosecution is better resourced and is stronger propositioned by the powers of the State than an accused who is poor, or not well educated in the law. Poor, uneducated or socially disadvantaged people may not be aware of the legal ramifications of pleading guilty, most notably the long-lasting negative impact a criminal conviction can have on a person's reputation, employment and civil rights. In such a case, the accused could plead to the court with the help of a plea bargain, which would undermine the provisions of Article 14 and 21 of the Constitution which guarantees substantive fairness and equality before the law⁷.

5.2. CONCERNS RELATING TO SELF-INCRIMINATION

Plea bargaining has also been criticized on the ground that it conflicts with Article 20(3) of the Indian Constitution, which guarantees protection against self-incrimination. While the law specifically stipulates a "voluntary" plea, the circumstances surrounding the plea (e.g., the possibility of stricter punishment if the person is tried, social pressure, and extended prison time) may actually force the accused to plead guilty. Critics say these admissions end up sounding like confessions in the face of pressure, and thus diminish the spirit of the constitutional guarantees of personal liberty and dignity⁸.

5.3. ABSENCE OF FULL JUDICIAL TRIAL. 5.4 ABSENCE OF A FULL JUDICIAL TRIAL

Plea bargaining critics also contend that plea bargaining circumvents the complete process of the traditional judicial trial—a process widely acknowledged as the best way to discover the truth and secure justice. The evidence is not thoroughly reviewed, witnesses are not fully challenged by cross-examination, and the court does not engage in a full adjudicative process in negotiated settlements. Consequently, there may be a risk that innocent people plead guilty for

⁵Code of Criminal Procedure, 1973, Section 265B.

⁶M.P. Jain, *Indian Constitutional Law* (8th edn., LexisNexis 2018) 1387.

⁷The Sixth Edition of this book was published by Eastern Book Company in 2016 (Author K.N. Chandrasekharan Pillai, *Criminal Procedure*).

⁸Constitution of India, Art. 20(3); *Nandini Satpathy v. P.L. Dani*, AIR 1978 SC 1025.

convenience, and the more important goal of establishing the true facts of the crime may never be achieved. Excessive use of negotiated justice can thus undermine public confidence in the criminal justice system⁹.

6. JUDICIAL APPROACH

Before plea bargaining was formally recognized through the Criminal Law (Amendment) Act, 2005, the Indian judiciary adopted a strict and cautious attitude towards negotiated pleas. The Supreme Court saw plea bargaining as being at odds with the basic principles of criminal justice, such as the notion that guilt must be proven through a fair trial as opposed to the negotiation of a compromise settlement. The main concerns of judicial skepticism were those of coercion, inequality, abuse of prosecutorial power, and a loss of confidence in the administration of justice.

The Supreme Court¹⁰ has faulted the notion of bargaining in criminal cases and that criminal justice should not be a matter of “trade” or “deal-making.” The Court highlighted that convictions should be based on a fair trial in court and not on the basis of inducement or negotiated settlement between the prosecution and the accused. The judgment was based on the traditional judicial notion that criminal law has a much larger purpose in society and may not constitute a consensual agreement between two parties¹¹.

Similarly the Supreme Court of India¹² explicitly stated that the process of plea bargaining was not encouraged in India as it undermined the notions of fairness and undue pressure over the accused. The Court cautioned that such practices could have an inequitable impact on economically and socially disadvantaged individuals who may be tempted to plead guilty due to fear, ignorance or lack of the ability to withstand extended litigation. The judgment highlighted that criminal justice must be fair, equal and be in accordance with the Constitution, Articles 14 and 21. These judicial statements do however need to be interpreted in the context of the time. Both were made prior to the enactment of the Plea Bargaining Act in India. The judiciary saw negotiated pleas as an unregulated and informal process, and possibly even arbitrary, because of their lack of procedural safeguards and the possibility that they would compromise the integrity of criminal adjudication. Parliament has set up a formal statutory structure with procedural safeguards which are designed to ensure that the implementation of the process remains a voluntary one, is clothed with judicial oversight and safeguards the rights of the accused¹³.

Thus, the modern constitutional review of plea bargaining in India could not be merely based on pre-amendment judicial skepticism. The current legal regime is a system of law that is both constitutionally fair and procedural efficient, as prescribed by the law and overseen by the courts. Thus, the constitutionality of plea bargaining has to be examined in the backdrop of the safeguards under Chapter XXI-A of the Code of Criminal Procedure and the development of the meaning of access to speedy and effective justice under Article 21 of the Constitution¹⁴.

7. THE VICTIM COMPENSATION IS DEFINED AS AND WHY IT IS IMPORTANT

Victim Compensation is the monetary or other restorative action provided to a victim who has been harmed, lost, traumatized or damaged as a result of the crime.

Conventional criminal law was primarily concerned with punishment of the wrongdoer. Today's criminal justice system acknowledges that there is also a place for meaningful remedies for victims. Compensation may include:

- Medical expenses
- Loss of income
- Property loss
- Mental suffering
- Rehabilitation support

⁹B.B. Pande, Plea Bargaining: Critique and Comment (2006) 48(2) Journal of the Indian Law Institute 272.

¹⁰Murlidhar Meghraj Loya vs State of Maharashtra

¹¹Murlidhar Meghraj Loya v. State of Maharashtra, (1976) 3 SCC 684.

¹²Kasambe Abdul Rehmanbhai Sheikh v State of Gujarat,

¹³Code of Criminal Procedure, 1973, ss. These are the Criminal Law (Amendment) Act 2005 (265A-265L).

¹⁴K.N. Chandrasekharan Pillai, Criminal Procedure (7th edn., Eastern Book Company, 2016) 487-492.

8. COMPENSATION FOR VICTIM UNDER PLEA BARGAINING

The unique feature of Indian plea bargaining is that it focuses on a mutually agreeable and satisfactory disposition, often with compensation paid to the victim. In the framework of the CrPC, the court can impose any terms of settlement to provide restitution to the victim before the matter is put to the end.¹⁵

This is a move towards restorative justice, rather than punitive justice.

9. CONSTITUTIONAL BASIS OF VICTIM COMPENSATION

1) Article 21 – Dignity and Access to Justice

There are rights and entitlements for victims relating to dignity, security and fair treatment.

2) Directive Principles

Social justice and equal access to justice is stimulated by Article 38 and Article 39A.

3) Judicial Recognition

Over the years, the Supreme Court has reiterated on the payment of compensation to the victim in a criminal case as a part of the process of justice delivery¹⁶.

10. BENEFITS OF COMBINING PLEA BARGAINING WITH VICTIM COMPENSATION

- 1) Immediate assistance to the victim. Rapid intervention in the victim.
- 2) Prevention of long term trial stress.
- 3) There is no practical accountability for accused.
- 4) Restorative justice outcomes
- 5) Less burden on the courts. Less workload for courts.
- 6) Increased satisfaction of stakeholders

11. ISSUES WITH PLEAS AND VICTIM COMPENSATION

- 1) Inadequate Compensation Amounts: Due to financial hardship, victims might settle for lower compensation.
- 2) Power Imbalance: Victims may be coerced to compromise by influential indicted.
- 3) Data Not Understood by All: There is no standard approach to determining compensation.
- 4) Non-Monetary Harm: The trauma suffered may not be fully compensated for with monetary restitution.

12. SUGGESTIONS FOR REFORM

- 1) Compulsory legal assistance to accused and victims.
- 2) Verification of voluntariness by the courts.
- 3) Standard compensation guidelines.
- 4) Victim counseling support.
- 5) Write reasons for accepting plea settlement.
- 6) Use of video-recorded in-camera proceedings as appropriate.
- 7) Judicial training sessions on restorative justice on a periodic basis.

¹⁵Code of Criminal Procedure, 1973, Sections 265C–265E.

¹⁶*Ankush Shivaji Gaikwad v. State of Maharashtra*, (2013) 6 SCC 770.

8) Information and education about plea bargaining rights.

13. CRITICAL EVALUATION

The constitutional validity of plea bargaining in India depends not on theory alone but on implementation. If voluntary, informed, legally supervised, and fair, it is compatible with Articles 14, 20(3), and 21. If coercive or mechanical, it becomes constitutionally suspect. Similarly, victim compensation transforms plea bargaining from an administrative shortcut into a humane justice mechanism. Compensation ensures that victims are not ignored in the process of case disposal.

14. CONCLUSION

Plea bargaining in India, when implemented with judicial safeguards, is constitutionally sustainable and practically useful. It promotes speedy trial, reduces pendency, and allows proportionate sentencing. More importantly, its emphasis on victim compensation aligns criminal law with restorative justice principles.

The future of plea bargaining in India lies in balancing three values:

- Rights of accused
- Interests of victims
- Efficiency of courts

Where this balance is maintained, plea bargaining can become a constitutionally sound and socially beneficial reform.

CONFLICT OF INTERESTS

None.

ACKNOWLEDGMENTS

None.

REFERENCES

- Constitutional Law of India, H.M. Seervai, Constitutional Law of India (4th edn., Universal Law Publishing 2015).
Criminal Procedure, Ratanlal & Dhirajlal, The Code of Criminal Procedure (22nd edn., LexisNexis 2021).
Indian Constitutional Law, M.P. Jain, Indian Constitutional Law (8th edn., LexisNexis 2018).
Justice Malimath Committee Report, 2003.
K.N. Chandrasekharan Pillai, Criminal Procedure.
Law Commission of India Reports on Criminal Justice Reforms.
R.V. Kelkar's Criminal Procedure, K.N. Chandrasekharan Pillai, R.V. Kelkar's Criminal Procedure (7th edn., Eastern Book Company 2016).
Ratanlal & Dhirajlal, Code of Criminal Procedure.
Supreme Court judgments on fair trial, compensation, and speedy justice.