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Regulation of Plea Bargaining Policy as a Novelty in Criminal Justice System to Create Effective and Efficient Criminal Law Enforcement: A Study of Ruu Kuhap

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Abstract: The criminal justice system in Indonesia faces various challenges, such as lengthy judicial processes and case backlogs in the courts. To address these issues, reforms in the criminal justice system are necessary, one of which is the implementation of "Plea Bargaining." This writing is very beneficial as it examines the regulation of plea bargaining in the Draft Criminal Procedure Code (RUU KUHAP). The regulation of plea bargaining in the Indonesian criminal justice system provides benefits in creating an effective and efficient criminal law enforcement process, allowing cases to be resolved more quickly and reducing the burden on the judiciary. Plea Bargaining in the Draft Criminal Procedure Code (RUU KUHAP) is regulated in Article 199 of the Draft Criminal Procedure Code (RUU KUHAP).

Keyword: Plea Bargaining, Reform, Indonesia Criminal Justice System.

INTRODUCTION

The criminal justice system has existed since the beginning of human civilization. Joko & SH (2020) mentioned that the operational mechanism to deal with crime with a system approach is known as the Criminal Justice System. Criminal justice, according to Remington and Ohlin, is the result of the interaction between administrative processes, community attitudes or behavior, and rules and regulations. The term "criminal justice system" itself refers to a systematic approach to the administration of criminal justice. A system is defined as a process of interaction that is rational and efficiently organized to benefit a number of outcomes that have been prepared with all the limitations inherent in it (Atmasasmita, 2010b). This means that a system requires an efficient process. Efficiency is defined as the right method of doing or producing something without wasting time, energy, or money (Kbbi, 2016). It is undeniable that simplicity, speed, and affordability are closely related to the creation of a fair and efficient criminal justice system. These goals can be achieved through a fast and structured process. This principle is regulated in Article 4 paragraph (2) of Law No. 48/2009 on Judicial Power, which emphasizes that law enforcement in Indonesia must be based on the principles of speed, accuracy, simplicity, and affordable costs. The legal process should not be protracted or confusing. If the resolution of a criminal case is deliberately slowed down, it is a clear violation

of the law and an affront to human dignity (Harahap, 2006). A good judicial system must be able to organize an effective and efficient judicial process based on the principles of speed, simplicity, and low cost, while still paying attention to the ideals of justice contained therein, in accordance with the laws and regulations mentioned above.

Mardjono emphasized that the purpose of establishing the Criminal Justice System is to prevent and overcome social crimes (Reksodiputro, 1997). Starting from this goal, Mardjono explained that the criminal justice system is a system to tackle crime that involves the police, prosecutors, courts, and correctional institutions (prison) in handling prisoners (Reksodiputro, 2020). The number of institutions that make up the criminal justice system reflects the complexity and diversity of the legal system. Currently, handling cases in Indonesia requires considerable time and energy. The criminal justice system handles cases through various complicated stages, starting from the investigation process (opsporing), prosecution (vervolging), trial (rechtspraak), implementation of the judge's decision (executie), to supervision and monitoring of the implementation of court decisions Iswara, 2017). As a result, it is not surprising that this situation has led to the accumulation of criminal cases in the courts (overload). The inability of judges to resolve a large number of cases each year results in an increase in the number of unresolved cases.

In 2020, for example, cases received by the Supreme Court in 2020 amounted to 20,544 cases or increased by 6.07% compared to 2019 which amounted to 19,369 cases. The caseload handled by the Supreme Court in 2020 amounted to 20,761 cases, an increase of 2.40% compared to 2019 which amounted to 20,275 cases. The criminal justice system in Indonesia is also experiencing the problem of overcrowding in detention centers and prisons. On the one hand, the overcrowding rate of detention centers and prisons managed by the Ministry of Law and Human Rights reached 205% as of April 5, 2022. The total population of detention centers or prisons throughout Indonesia is 271,019 with a total capacity for only 132,107 people. These statistics indicate that the criminal justice system in Indonesia has not been operating effectively and efficiently in case resolution procedures. As a result, the system fails to achieve the goals of simplicity, speed and affordability. The ideals of simple, speedy and affordable justice, as set out in Article 4 paragraph (2) of the Judicial Power Law, are difficult to realize. This is due to the length of the case resolution process, from the investigation stage to the final decision. As a result, there is legal ambiguity and challenges for justice seekers in undergoing criminal case settlement procedures.

If the current situation is not addressed, it will have a devastating impact on Indonesia's criminal justice system. Therefore, change is urgently needed. Indonesia's criminal justice system must be updated in order to address the legal issues that arise from an assessment of the existing system. To achieve effective and efficient justice, the Indonesian criminal justice system needs to be renewed through the implementation of a new system. One system that can be implemented is the Plea Bargaining System, which is expected to increase the effectiveness and efficiency of the criminal justice process (Black, 1990).

In the draft of the KUHAP Bill, there has been a concept of "Special Path" adopted from the plea bargaining system from countries with common law legal systems. The introduction of plea bargain is mentioned by the drafters of the Academic Paper of the Draft Criminal Procedure Code through article 199 of the Draft Criminal Procedure Code. This is done with the aim of realizing justice in accordance with the principles of simplicity, speed and low cost. Plea Bargaining in Black's Law Dictionary "A negotiated agreement between a prosecutor and a criminal defendant whereby the defendant pleads guilty to lesser offense or to one of multiple charges in exchange for some concession by the prosecutor, more lenient sentence or dismissal of the other charges". Or in the author's own words, the plea bargaining system is: "A negotiated agreement between a prosecutor and a criminal defendant in which the defendant pleads guilty to a reduced offense or to one of multiple charges in exchange for some concession by the prosecutor, a more lenient sentence or dismissal of the other charges".

Plea bargaining is widely recognized and used in many countries, both common law and civil law. The system is seen as offering various benefits, encouraging a more effective and efficient legal system, and helping to resolve the backlog of cases that need to be tried. According to Gaby Del Vale, "97% of federal criminal convictions resulted from guilty pleas instead of trials, in 2017". While according to Dylan Walsh, "In 2015, excluding cases that were dismissed, only 72% of criminal defendants in Philadelphia pled guilty, as opposed to 97% federally; 15% pursued a bench trial". In the United States (US), the plea bargaining method has successfully resolved cases involving important individuals.

It is hoped that this Plea Bargaining method can solve judicial problems and provide effective and efficient criminal law enforcement if integrated in the reform of the Indonesian criminal justice system. Based on the background information that has been provided, the author will discuss the following issues:

1. How can the concept of plea bargaining realize an effective and efficient criminal justice system?
2. How is Plea Bargaining regulated in the Draft Criminal Procedure Code (RKUHAP) in Indonesia ?.

METHOD

This research combines a normative legal approach with descriptive analysis methods to determine how positive laws are applied. Normative legal research, which conceptualizes law as what is found in statutes and regulations (law in books), or as rules or norms that serve as acceptable standards of human conduct, was used in this research (Soekanto, 2006).

RESULTS AND DISCUSSION

Legal Benefit Theory

Utility theory was originally developed by Jeremy Bentham. It is impossible to separate the idea of utility from the utilitarian philosophy put forward by Bentham. In response to the notion of natural law in the eighteenth and nineteenth centuries, Bentham developed utilitarian theory, as he believed that natural law was neither ambiguous nor immutable, so he attacked the notion. The concept of "The greatest happiness of the greatest number" is often interpreted as the happiness felt by the majority of people (Noorsanti & Yudhanti, 2023). In general, this idea of happiness felt by the majority of people is the most modern innovation at the time Jeremy Bentham introduced it. According to Jeremy Bentham, happiness is defined as enjoying life without suffering. The indicator to judge the goodness or badness of an action depends on how much the action brings happiness (Pratiwi et al., 2022). Since the nature of happiness is meant to be impartial and accessible to everyone, Jeremy Bentham called it "The greatest number", as this concept allows everyone to experience ethical or moral activity (Mulgan, 2019).

In order to establish a generally acceptable standard for deciding social policies and laws, Bentham sought an impartial basis for decision-making. He examined various policies that might be implemented and compared their advantages and disadvantages as an objective basis. From an ethical point of view, the best course of action is to choose the policy that provides the greatest benefit (Taufik et al., 2024).

Bentham believed that the utilitarian principle should be applied quantitatively. According to him, the quantity of pleasure is the only significant difference, as the quality is always considered equal. Therefore, it is important to take into account "the greatest number" and "the greatest happiness". As a result, Bentham developed the hedonic calculus, often known as the Calculus of Satisfaction. Bentham defined utility as something that can provide benefits, advantages, pleasure, and happiness, as well as prevent harm, inconvenience, evil, or unhappiness. Utility is assessed based on the extent to which it is able to create happiness both at the individual level (happiness of individual) and at the community level (happiness of

community) (Bentham, 1781). For Bentham, the morality of an action is determined by the extent to which it can provide benefits in achieving the happiness of all mankind, not just the happiness of selfish individuals as practiced in classical hedonism (Bentham, 2008).

Legislation must achieve four goals in realizing individual as well as societal happiness, namely: (1) sufficiency, (2) prosperity, (3) security, and (4) equity. In the context of utilitarism theory, criticism and debate are inevitable. There are those who argue that justice must be part of every decision based on this theory, while there are also critics who state that the concept of ethics and morals is subjective and therefore not in line with the principle of utility.(Wardhani et al., 2024

The essence of Bentham's philosophy is that the morality of an action is determined by whether or not it produces pleasure. Bentham sought to extend this concept to the realm of law, specifically legislation, where such measures are also used to determine what is good or bad, with the expectation that laws that make the majority of people happy can be considered good laws. As a result, legislators are expected to make laws that treat everyone fairly. Bentham also explained that the state and laws exist as a means of achieving real benefits, namely the happiness of the majority of people.(Lili & Rasjidi, 2004)

Besides Jeremy Bentham, there is another figure who also initiated the theory of utilitarianism, namely John Stuart Mill. John Stuart Mill states in his book "Legal Philosophies" written by J.W. Harris that an action is considered ontologically beneficial if it produces happiness, joy, and well-being for the whole community. John Stuart Mill's view is quoted by J.W. Harris as follows: "Mill declared himself to be a utilitarian. Therefore, he believed that laws and other constitutional restrictions could only be acceptable if they contributed to promoting happiness for everyone. Like many liberal utilitarians, he never explained how the value of liberty relates to the general utilitarian principle, which is meant to be the yardstick for all values. Is freedom simply beneficial because exercising it will advance the well-being of society?" (Harris, 1997.

According to John Stuart Mill, the law serves the interests of society as a whole, not just the parties and stakeholders involved in the legal process. In addition to promoting individual pleasure, the provisions of the law and the court's interpretation of those provisions in its decisions must consider the interests of society (Afdhali & Syahuri, 2023). Plato's ideas are in line with those of John Stuart Mill, who emphasized the role of law in advancing the goals of society. Plato said: "What function does the law serve? Collective activity is guaranteed by law. The goal of our legislation is to unite all citizens and compel them to share the benefits that each person can individually contribute to the community. It aims not to leave them to their own devices but to make each individual a link in the unity of the whole. Its objective is not the special welfare of any particular class in society, but rather the welfare of society as a whole." (Morrison, 2016

According to Plato, the purpose of law is to ensure that a group of people behave in a certain way. Laws are made to benefit society as a whole, not just certain groups, by bringing all citizens together through force or persuasion. To achieve its purpose, the whole of society benefits from the existence of law. Laws also regulate how society can develop this mindset, ensuring that everyone is part of the collective and not allowed to follow their own desires.

John Stuart Mill offered an overarching theoretical framework for the function of law that focused on the interests of society as a whole, namely: "John Stuart Mill, a prolific legal theorist, actively participated in using law to structure the societies of the English Empire" (McGregor, 1987.

The structure of British society was directly influenced by John Stuart Mill's theories. How the law can be used to contribute to the well-being, joy and happiness of everyone in the UK.

According to utility theorists, the purpose of law is to maximize happiness for as many people as possible. Simply put, the ultimate goal of legal utility is to maximize happiness and

pleasure for as many people as possible. Attention should be paid to the utility of the law. Everyone wants law enforcement to be useful, therefore it is important. Society should not be distracted by law enforcement because these laws are often associated with rules that may not be satisfactory, cannot be aspired to, and are not in accordance with the norms of society.(Saepullah, 2020)

The Concept of Plea Bargaining to Realize an Effective and Efficient Criminal Justice System

The Plea Bargaining System model is one of the most well-known models in the architecture of the plea system. Plea bargaining, according to Black's Law Dictionary, is an arrangement reached through discussions between a prosecutor and a defendant, which allows a defendant who admits his or her guilt to be charged with a less serious offense or get a lighter sentence (Black, 2009). Plea bargaining, according to Hazel B. Kerper, is a procedure in which the prosecutor and the defendant in a criminal case negotiate an outcome that benefits both parties before seeking court approval. Generally, this procedure involves the defendant admitting guilt in order to receive a reduced sentence or other benefits that allow the defendant to obtain a lighter sentence (Kerper & Israel, 1979). Plea bargaining can also be seen as a negotiation procedure in which the prosecutor grants the defendant a specific sentence in exchange for a guilty plea (Chambliss, 1970).

Fred C. Zacharias, Professor at the University of San Diego School of Law describes the justification for plea bargaining, he explains that: (Atmasasmita, 2010b)

"Justifications for Plea Bargaining can be divided into two categories. First, some justifications assume that the plea bargaining process will bring about an appropriate, perhaps even an optimal, result as measured by the traditional purposes of criminal prosecution and punishment. Some proponents of plea bargaining argue that the system reflects the likely results of the trial system, but at a lower cost. "Others suggest that flexible plea bargaining produces results for defendants that are fairer than the results of the trial process because: (1) prosecutors will take equitable factors into account in pleas that simultaneously encompass guilt and sentencing issues; and (2) prosecutors will equalize results among similarly situated defendants and limit the effects of rigid legislation. Finally, some commentators suggest that a plea-bargaining system empowers defendants by giving them choices regarding the outcome over which they have no control in the trial process". ("The justifications for plea bargaining can be divided into two categories: First, some justifications assume that the plea bargaining process will produce appropriate, perhaps even optimal, outcomes measured against prosecutorial and sentencing objectives. Some proponents of plea bargaining argue that the system mirrors the likely outcome of the trial system, with lower sentences, others suggest that flexible plea bargaining produces outcomes for defendants that are fairer than the outcome of the trial process").

Plea bargaining is a procedure used by defendants and prosecutors in criminal cases to reach an agreement that benefits both parties before seeking court permission. This procedure often requires the defendant to admit guilt in order to receive lesser charges or other benefits that allow for a shorter sentence (Atmasasmita, 2010a). In reality, there are at least three ways in which prosecutors and defendants barter or negotiate, including: 1) fact bargaining, where the prosecutor will only present facts that mitigate against the defendant; 2) charge bargaining, where the prosecutor offers to reduce the type of offense charged; 3) sentencing bargaining, where the prosecutor and defendant negotiate on the sentence to be imposed. The sentence is usually lighter. Public prosecutors engage in plea bargaining primarily for two reasons. First, the workload of public prosecutors is so heavy that it is difficult for them to work efficiently given time constraints. Secondly, the defendant is considered by the jury to be "honorable" or the prosecutor feels that the chances of a successful prosecution are slim because there is insufficient evidence.

Plea bargaining is used in the United States, which follows the common law justice system. According to Albert Alschuler's research, plea bargaining first appeared in the mid-19th century and early 20th century (Alschuler, 1979). However, plea bargains did not emerge at that time; instead, guilty pleas or guilty pleas emerged (Alschuler, 1979). Due to their good deeds for the victim, defendants began to receive preferential treatment under the Plea Bargaining procedure. This technique helps overcome the challenges of dealing with criminal situations. This approach has been a mainstay of American courts since the 1930s (Langbein, 1979). According to data from the US Department of Justice in 2000, only 12.9% of defendants in the US went to trial, while the other 87.1% used the plea bargaining process. According to the US Supreme Court, the plea bargaining process is the preferred fundamental component of the country's criminal justice system (Mohapatra & Saksena, 2009). In the United States, up to 95% of defendants plead guilty (Bojanić & BOJANIĆ, 2015). These statistics show that plea bargaining mechanisms are used very well in the US to resolve criminal cases that end up in court.

The United States criminal justice system handles criminal cases through several stages, from investigation, prosecution, trial, sentencing, to execution of the sentence. In the United States, indictments and preliminary hearings are the first stage of the trial process, where the defendant must be present to present a defense. The indictment is then heard in open court, beginning with the reading of the indictment by the public prosecutor. The defendant is asked to listen and pay attention to the indictment read out by the public prosecutor. Furthermore, the defendant is asked to respond to the indictment by attending the defense agenda and is informed of his/her right to obtain legal assistance during the trial process.(Abdussalam & Sitompul, 2007).

Summary sentencing occurs after an accused pleads guilty to a crime. A brief "reading of the charge on information or indictment" session aims to inform the defendant of the charges against him or her and provide an opportunity to respond, whether the defendant pleads "not guilty", "guilty", or "nolo contendere" (no defense). If the defendant files a "not guilty" plea, the case proceeds to a jury trial. However, if the defendant files a "guilty" or "nolo contendere" plea, the case is ready for a verdict. Specifically, a "nolo contendere" plea has the same meaning as a "guilty" plea, but the defendant does not have to admit guilt. Instead, the defendant simply explains that he or she will not contest the prosecutor's charges in court (Atmasasmita, 2010b). Romli argues that Plea Bargaining is explained as follows:

1) Plea bargaining is essentially a negotiation between the prosecutor and the defendant or his defense attorney;
2) The main purpose of negotiations is to speed up the procedures for handling criminal cases;
3) Negotiations must be based on the defendant's willingness to admit guilt and the prosecutor's willingness to threaten the defendant or his or her defense lawyer with the sentence they seek;
4) Judges cannot act as mediators.

Because Indonesia adheres to the civil law system, the criminal law procedure system in this country basically does not recognize the Plea Bargaining mechanism. According to Garoupa and Stephen, "Plea bargaining, however, is rarely employed outside Common Law nations, where criminal proceedings are adversarial. It is uncommon in European Civil Law nations, which follow inquisitorial criminal proceedings" (Garoupa & Stephen, 2008).

The use of plea bargaining in the United States has increased the effectiveness and efficiency of the criminal justice system so as to reduce the cost and time required in the judicial process. The adoption of plea bargaining system as a "Special Track" concept as stipulated in the Draft Criminal Procedure Code, will create an effective and efficient criminal justice system in Indonesia. However, in applying this concept in Indonesia, it is important to adjust to the context of the applicable criminal law. Therefore, the application of plea bargaining in the Indonesian criminal justice system will be limited by granting it to defendants involved in

criminal offenses with a sentence of less than five years (minor crimes), this aims to maintain justice in society.

Efficient justice is needed, not only because it is demanded by law, but also because of the reality that the criminal justice system is currently experiencing a buildup of cases, while the state budget is limited in financing all prosecution processes. For this reason, plea bargaining, or as the bill calls it, an admission of guilt through "special channels", is very important to be applied in the implementation of the criminal justice system in Indonesia. This is based on the fact that plea bargaining is a method of case resolution that is considered capable of meeting the requirements of justice efficiently and effectively. This method focuses on something that benefits all parties, including the defendant, by presenting a guilty plea before the judge. This approach is in line with Jeremy Bentham's Theory of Utilitarianism, which puts forward the idea of legal advantage. According to this theory, the standard of justice is the sensation of pleasure as an indicator of goodness, while pain is a measure of badness. In short, a good law is one that provides more benefits (Dewi & Syukur, 2011).

Plea bargaining is a very practical case resolution approach and can form the basis of a criminal case management plan. Plea bargaining, sometimes referred to as the "Special Route" in the Criminal Procedure Bill, offers the advantage of providing a faster process, where guilty pleas are charged and tried after a short hearing. The single-judge trial frees up judges to concentrate more on resolving other cases. The special route is considered to speed up the handling of cases by reducing several evidentiary stages, which allows for an effective and efficient criminal justice system. In addition, the implementation of the special route system in Indonesia is expected to reduce the number of overloads in law enforcement against criminal cases.

Plea Bargaining Arrangements in the Draft Criminal Procedure Code (RUU KUHAP) in Indonesia

The idea of guilty pleas being included in the "Special Track" as one of the options for effective court settlement is a revision included in the Criminal Procedure Bill, which is the basis for the implementation of material criminal legislation. Considering that every case submitted to the court must go through stages in accordance with the criminal justice system mechanism stipulated in the legislation, it is known that Law Number 8 of 1981 concerning Criminal Procedure (KUHAP) does not recognize efficient case settlement procedures. The clause on "Special Track" in the Draft Criminal Procedure Code provides an opportunity for judges to hold a brief examination session if the defendant pleads guilty to the charges against him. One of the efforts to speed up the case resolution process and reduce the overcapacity of the judiciary is the Special Track provision in the Draft Criminal Procedure Code. This provision is also an example of the idea that criminal proceedings should be made simple, fast and cheap in order to build an effective and efficient justice system.

In essence, the "special lane" arrangement in the Criminal Procedure Bill on "guilty pleas" reminds us of the Plea Bargaining system. Comparative research on criminal procedure laws in a number of countries, including Italy, Russia, the Netherlands, France, and the United States, conducted by the drafting team of the KUHAP Bill, became the basis for the application of the Plea Bargaining system Ramadhan, 2013). Plea bargaining has significant benefits to reduce the accumulation of cases in the judiciary. However, it is undeniable that the drafting team of the Criminal Procedure Code was influenced by plea bargaining in the US, as well as in the aforementioned countries with similar laws.(Ramadhan, 2013).

Robert Strang claims that during the drafting team's trip to the United States, the plea bargain provision was incorporated into the draft Code of Criminal Procedure's adjustment procedure (Strang, 2008). As part of its efforts to improve criminal justice systems outside the United States, the drafting team has held seven drafting sessions in Indonesia as well as one visit to the United States with assistance from the US Department of Justice's Office of Overseas

Prosecution Development, Assistance and Training (DOJ/OPDAT). "Guilty pleas through 'special channels' in the Criminal Procedure Bill are not the same as plea bargaining provisions in the United States. The idea of 'plea bargaining through special channels' is not entirely suitable as plea bargaining because of this difference" (Ramadhan, 2013). As argued by Graham Hughes, it is more appropriate to refer to the concept of "guilty pleas through 'special channels'" in the KUHAP Bill as "pleas without bargains". In addition, other differences are: (Iswara, 2017)

1) The active involvement of the judge in the trial (Special Track) distinguishes it from plea bargaining, where the judge is passive because a case is seen as a dispute between the defendant and the state in conflicting systems.
2) In Plea Bargaining, the defendant makes his confession in front of the public prosecutor, whereas in the Special Track, the confession is made in front of the court during the trial.
3) Plea Bargaining allows for any form of punishment, including the death penalty, while the Special Track has restrictions on the types of crimes that can be resolved through it, namely crimes involving individuals under the age of seven.

To use Graham Hughes' phrase, a "guilty plea" under the "special track" of the Criminal Procedure Bill is more accurately described as a "no-bargain plea". (Hughes, 1980). Plea bargaining was finally included in the Academic Paper of the Criminal Procedure Bill under the subtitle "admission of guilt through the 'special route' as stipulated in Article 199 of the Criminal Procedure Bill", following a visit to the United States. Article 199 of the Criminal Procedure Bill sets out the following "special route" provisions:

(1)When the public prosecutor reads out the indictment, the defendant admits all of the acts charged and pleads guilty to committing a criminal offense for which the punishment imposed is not more than 7 (seven) years, the public prosecutor may refer the case to a summary examination.
(2)The defendant's confession is set out in a report signed by the defendant and the public prosecutor.
(3)The judge is obliged:
   a. Inform the accused of the rights he/she has waived by giving the confession as referred to in paragraph (2);
   b. Inform the defendant of the possible length of sentence;
   c. Inquire whether the acknowledgment as referred to in paragraph (2) is given voluntarily.
(4)The judge may reject the confession as referred to in paragraph (2) if the judge has doubts about the truth of the defendant's confession.
(5)With the exception of Article 198 paragraph (5), the sentencing of the defendant as referred to in paragraph (1) may not exceed 2/3 of the maximum punishment of the criminal offense charged.

In addition, there is a regulation in Article 198 paragraph (5) which reads "The maximum imprisonment that can be imposed on the defendant is 3 (three) years". (Hughes, 1980)

As the judge is the one who decides whether the confession is true or not, the provisions of these articles are intended to give judges the option of not imposing the maximum sentence on a defendant who has confessed to a criminal offense. Judges are authorized to reject a confession if they doubt the veracity of the confession made by the accused. The speedy trial process will be used to try to determine how the confession affected the defendant.

Breakthroughs in the Indonesian criminal justice system are being developed with various laws and regulations. This is the basis for demands that formal and material criminal law be updated to uphold social justice.

The proposed "Special Track" in the Criminal Procedure Code Bill, which implements the "Guilty Plea" system, seeks to effectively resolve court cases by providing defendants with the opportunity to undergo faster, lighter and cheaper trial procedures. Defendants are also

given the opportunity to receive leniency if they are willing to make a "guilty plea" before the judge. Thus, "confession" is an important element in applying the concept of "guilty plea" through the "special route" in the Draft Criminal Procedure Code. A unilateral and unambiguous statement made by one of the parties in a court case, either orally or in writing, is called a confession before the court. The confession validates all or part of the events, rights, or legal relationships claimed by the other party, so that a judge's examination is no longer necessary.(Mertokusumo, 2009).

The concept is similar to the original Plea Bargaining system, with the key difference being that it gives the prosecutor greater discretion in negotiating charges, sentencing ranges, and the presentation of evidence to the accused and their counsel prior to trial. An agreement between the public prosecutor and the defendant in a plea bargaining mechanism could lead to a disregard for the principle of "non-self incrimination" that Indonesia has traditionally adhered to in its legal system, and implicate the dismissal of further judicial proceedings. The formulation of Article 199 of the Draft Criminal Procedure Code above does provide room for a guilty plea from the defendant and a reduction in sentence, but there is no room for bargaining between the prosecutor and the defendant, either without involving a judge like the US or involving a judge in the process like in the Netherlands. However, the "Special Track" in the Bill of Criminal Procedure basically has the same intention as Plea Bargaining, namely to impose a lighter sentence for defendants who plead guilty and shorten the judicial process.

Plea bargaining is an inevitable option when criminal courts are faced with a large number of cases that need to be resolved as soon as possible. To reduce the number of criminal trials that must be completed with full procedures, settlements must be reached through negotiations so that the defendant agrees to admit his actions. The following is the conclusion of the OECD Policy Roundtable on Plea Bargaining in China: "Negotiated settlements or plea agreements can be regarded as contracts in which each side agrees to give up some entitlements it would have if the case went to a full trial or through a full administrative procedure ending with a formal decision. the competition authority gives up the right to seek or impose higher penalties; the defendant gives up certain protections that a more formal process and trial would provide, as well as the possibility of an acquittal - and both sides agree on a sanction or proposed sanction". ("A plea bargain or plea agreement can be thought of as an agreement in which each party agrees to give up some of those rights if the case goes to trial or through criminal justice ending in a court judgment. A voluntary plea is a surrender of the right to justice or, alternatively, a higher sentence, the defendant who admits guilt receives certain official protections and the court will grant, possibly, an acquittal - and agree to a sanction as agreed by both parties").

Asher Flynn and Kate Fitz-Gibbon discuss the benefits of plea bargaining, including how it lowers court costs and reduces challenges in the prosecution process: "Plea bargaining refers to the discussions that occur between the prosecution and defense counsel regarding an accused person's likely plea, and the possible negotiation of the charge(s), case facts, and/or the Crown's sentencing submission. The primary aim of these discussions is to arrive at a consensual agreement, according to which the accused pleads guilty. Plea deals are generally made for utilitarian and emotion-based reasons: they save resources and financial expenditure, reduce court backlogs and prosecutorial workloads, and spare accused persons and victims from prolonged and often emotionally charged proceedings" (Flynn & Fitz-Gibbon, 2011). (Flynn & Fitz-Gibbon, 2011) "A guilty plea refers to the discussion that takes place between the prosecution and defense regarding a defendant's plea, and the possible negotiation of evidence, facts of the case, and/or agreement on a verdict. The main purpose of these discussions is to arrive at a mutual agreement, according to which the defendant pleads guilty. Guilty pleas are generally made for reasons of expediency and on the grounds that: they save financial resources and expenditure, reduce court backlogs and prosecutorial workloads, and defendants and victims are likely to be spared prolonged and emotionally charged proceedings").

Criminal offenses that can be handled by "special channels" (plea negotiation) are regulated in the Draft Law on Criminal Procedure. In contrast, plea bargaining in the US applies to all types of criminal offenses, including those that carry the death penalty. To achieve justice in society, the Special Track in the Draft Criminal Procedure Law can only be applied to criminal offenses with a maximum sentence of seven years (Latifah, 2016). Perfect evidence against the perpetrator of a crime, either directly or through a special representative, is given through a confession made by the defendant before the judge in court (Subekti, 1969). Cases can be tried through the Special Track, which provides relief from the trial process for the defendant as well as the possibility of a lighter verdict compared to the regular trial process, provided that the defendant admits all the actions charged and admits to being guilty of committing a criminal offense punishable by a maximum imprisonment of 7 (seven) years at the time the public prosecutor reads out the indictment.

Similar to the Plea Bargaining system, the Special Track in the Criminal Procedure Bill aims to expedite the trial of defendants in order to resolve the backlog of cases and provide easy, fast, and cheap trials. However, according to the Criminal Procedure Bill, only the judge is authorized to decide whether to use the Special Track when reading the indictment. Unlike plea bargaining, the Special Track does not give the defendant, prosecutor, or legal representative the opportunity to discuss and decide on the charges and the sentence to be applied. This fundamental difference shows that plea bargaining and the Special Track are two different systems. The Special Track can only be used if the defendant admits to the crime.

Summary hearings in the Draft Criminal Procedure Code are applied to cases where the proof and application of the law is simple and straightforward. In these hearings, no indictment is required; the public prosecutor simply lists the articles violated. The hearing is presided over by a single judge, who must uphold the defendant's confession. If there is an objection, the judge can reject it and return the case to the regular hearing process.

A defendant who admits guilt cannot confer with the public prosecutor about the length of sentence to be imposed, indicating a closed system in the Special Track. In addition, as guilty pleas can only be entered after the public prosecutor has read the indictment in court, they cannot discuss the charges to be imposed. Concerns over possible prosecutorial corruption have prevented defendants and prosecutors from reaching consensus on sentencing. The drafting team supports an open trial, where the judge will decide on the defendant's sentence (Strang, 2008). Moreover, this rule shows that the drafting team did not intend for the KUHAP Bill to turn into a completely adversarial system. One aspect of the inquisitorial system that the drafting team still provides for is the important role of the judge in presiding over the trial, particularly in terms of the presentation of evidence and sentencing. Under the Bill of Criminal Procedure, judges hold significant influence in sentencing, although they are not allowed to impose a sentence greater than two-thirds of the maximum criminal penalty for the offense charged.(Strier, 1992).

CONCLUSION

Based on the material outlined above, it can be concluded that Plea Bargaining is a negotiation between the defendant and the judge, in which the defendant admits guilt in exchange for a reduced sentence, resulting in a settlement of the case without going through a full trial. Through this approach, the usually complex and time-consuming legal process can be simplified through an "admission of guilt" by the defendant. Plea bargaining is considered to be able to accelerate case handling, so that an effective and efficient criminal justice system can be realized. Plea bargaining arrangements have been formulated in the Draft Criminal Procedure Code, which is contained in the "Special Path" sub-chapter in Article 199 of the Draft Criminal Procedure Code. Because the drafting team of the Criminal Procedure Bill has compared criminal procedure laws in several countries, the Special Track system was adopted from the Plea Bargaining system implemented in a number of countries, including Italy, Russia,

the Netherlands, France, and the United States. In the United States, the implementation of the Plea Bargaining System serves to overcome the difficulties of handling criminal cases. To resolve cases in court effectively and efficiently, the Indonesian criminal justice system has implemented a special track system. This system provides defendants with the opportunity to undergo a trial process that is faster, lighter, and cheaper, and allows for a reduction in sentence if the defendant is willing to "plead guilty" before the judge.

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