Research Article

The Concept of Plea Bargain in the Criminal Process System in Indonesia

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ABSTRACT

The concept of plea bargaining in Indonesia's criminal justice system still lacks a clear and definitive standard. This study aims to examine the current application of plea bargaining in the Indonesian justice system and to explore an ideal framework for its implementation in the future. The research adopts a normative juridical approach. The findings reveal that plea bargaining remains a relatively new concept in Indonesian criminal law. The existing Criminal Procedure Code does not provide regulations for plea bargaining as an alternative method for resolving criminal cases outside of court. However, the Draft Criminal Procedure Code has introduced the concept under the term "special path" in Article 199, which allows for plea bargaining between judges, public prosecutors, and legal counsel. Plea bargaining has the potential to serve as a solution to challenges in sentencing and correctional systems, ensuring the principles of swift, simple, and cost-effective justice while safeguarding the rights of the accused and enhancing their role in legal proceedings.

Keywords: Concept of Plea Bargaining; Criminal Justice; Indonesian Law

A. INTRODUCTION

Creating a safe and orderly society has long been a shared aspiration. Various perspectives, ideas, and efforts have continuously sought to establish a humanistic legal system rooted in the values of justice within society (Adawiyah & Rozah, 2020). These efforts are undertaken not only to maintain order and security—both of which are expected to contribute to the overall welfare of the community—but also as a logical consequence of implementing Pancasila and upholding the rule of law as enshrined in the 1945 Constitution of the Republic of Indonesia (Zulyadi & Hossain, 2022).

Modern societal dynamics have shaped evolving basic needs, requiring individuals to continuously adapt and accelerate the fulfillment of these needs. However, in practice, various irregularities have the potential to lead to criminal acts. Data from print and electronic media, as well as crime statistics, indicate a concerning rise in criminal activity, necessitating more progressive and structured enforcement strategies. Even conventional criminal law instruments—designed as *ultimum remedium* (a last resort)—have

proven insufficient in addressing crime and rehabilitating offenders in a more restorative and constructive manner. In fact, in many cases, punitive measures and the criminal justice system have inadvertently produced individuals with an even greater propensity to commit new offenses, rather than facilitating their reintegration into society as responsible and law-abiding citizens (Nugroho, 2021).

However, it is important to acknowledge that the current direction of criminal policy has shifted from a retributive approach to a more restorative one. Nevertheless, this policy shift does not necessarily eliminate the discourse on how humanistic, responsible, and restorative criminal objectives can be optimally implemented within the legal system.

The issue of punishment presents numerous challenges, including the severe overcapacity of prisons across Indonesia. The Ministry of Law and Human Rights reported that, as of March 24, 2023, the number of inmates in Indonesian correctional institutions had reached 265,897, far exceeding the total institutional capacity of 140,424. This means that Indonesia's correctional facilities are operating at 89.35% overcapacity (Widi, 2023).

Additionally, conventional punitive measures have begun to lose favor, as they fail to provide opportunities for the involved parties—namely, offenders and victims—to actively engage in mediation or deliberation to resolve their disputes outside of court. Moreover, any indication of criminal activity continues to be processed exclusively within the jurisdiction of law enforcement authorities, leaving little room for community participation. The focus remains solely on conviction and the imposition of criminal sanctions, sidelining the active role of those directly involved (Syafridatati & Annisa, 2022).

Addressing these issues requires revolutionary solutions. Preventive legal policies must be established to grant law enforcement officials the discretion to avoid bringing certain suspects to trial. This approach aims to prevent unnecessary imprisonment, which often results from the rigid application of mandatory sentencing laws. Such policies would empower law enforcement officials to selectively determine which cases should proceed to court, even when a criminal act has clearly been committed (Satriana & Dewi, 2021).

In line with this, it is essential to examine several theoretical approaches, particularly in providing adequate solutions, including the progressive legal approach. Progressive law emphasizes that law is not merely procedural but also substantive. This aligns with the fundamental principle of progressive law: that law exists to serve humanity. To achieve substantive justice, law should not be regarded as something absolute and final but rather as a continuous process—*law in the making*. Thus, the legal system must remain open to renewal to prevent stagnation. If legal issues arise, they should be subject to review and improvement. In this way,

the law functions as an evolving institution, constantly developing and transforming toward greater perfection. The quality of legal perfection is determined by its ability to serve humanity, which can be assessed through factors such as justice, welfare, and protection (Adriyani, Wahidin, & Saputra, 2024).

The Draft Criminal Procedure Code introduces fundamental changes to Indonesia's criminal justice system. One of the most notable revisions is the mechanism outlined in Article 199, referred to as the *Special Path*. While this mechanism may be unfamiliar in the Indonesian legal system, it has long been implemented in common law countries, such as the United States, where it parallels the plea-bargaining system. The application of plea bargaining to specific crimes is considered capable of promoting justice within society. Sentencing decisions are based on both the strength of the evidence against the offender and the necessity of protecting society from future criminal acts. Therefore, when determining a sentence based on a guilty plea, law enforcement officials must ensure that justice is upheld. The public prosecutor must present fair and proportionate charges based on the committed offense, while the judge plays a crucial role in delivering a verdict that ensures justice is properly served (Rochaeti, Prasetyo, & Park, 2023).

In general, the concept of plea bargaining in countries that follow the civil law legal system has sparked considerable debate. Some traditional legal experts argue against its implementation, emphasizing the importance of proof and evidentiary procedures. Specifically, in Indonesia, the legal system adheres to the negative proof system (*negatief wettelijk bewijssysteem*), which requires public prosecutors and defendants to present sufficient evidence during trial to convince the judge. Although critics initially advocated for the abolition or restriction of the plea-bargaining system, it has increasingly been recognized as an unavoidable aspect of the criminal justice system. As reformers continue working to address injustices within the legal system, the concept of plea bargaining has gained renewed attention as a viable approach (Schneider & Alkon, 2019).

The issue of prison overcapacity in Indonesia mirrors a similar problem in the United States. While the U.S. has attempted to formulate various punitive policies and introduce alternative programs, plea bargaining remains a defining feature of the Anglo-American criminal justice system (Rosenberg & Gal, 2019).

The plea-bargaining mechanism is believed to offer significant benefits for both defendants and society. For defendants, it provides an opportunity to negotiate sentencing terms with the public prosecutor. For society, it reduces court expenses, as defendants who plead guilty avoid lengthy trials while still receiving appropriate sanctions. Although the sentences imposed through plea bargaining are often lighter than those determined through conventional trials, this mechanism enhances the efficiency of the

criminal justice system by allowing prosecutors to allocate time more effectively and handle a larger number of cases. Despite ongoing debates over its merits and drawbacks, plea bargaining remains one of the most effective methods for reducing case backlogs and improving the cost efficiency of judicial proceedings, which often take months to resolve (Dimyati & Angkasa, 2018).

This study aims to examine and analyze the application of plea bargaining in Indonesia's justice system. Additionally, it seeks to explore and establish an ideal plea-bargaining framework for the future of Indonesia's criminal justice system.

This study differs from previous research on the concept of plea bargaining. For instance, some studies have examined plea bargaining as a strategy to address the overcapacity of correctional institutions in Indonesia (Frans et al., 2024). Others have focused on the concept of *special pathways* (plea bargaining) in criminal procedural law (Fratama, 2020). Another study explores the role of the prosecutor's office in implementing plea bargaining within the Indonesian justice system (Adriyani, Wahidin, & Saputra, 2024). Additionally, research has been conducted on the general concept of plea bargaining in criminal law (Langer, 2021) and its application in addressing sexual crimes in Spain (Seseña, Arráez, & Sumalla, 2024).

A comparison with previous studies reveals that no research has yet explored the ideal framework for plea bargaining in Indonesia's future criminal justice system. Therefore, this study offers a novel contribution and holds significant importance in filling this research gap.

B. RESEARCH METHODS

This study employs normative legal research, a type of legal research conducted by analyzing library materials or secondary data as the primary sources of information. This research involves examining legal regulations and literature relevant to the issues being studied. The approach used includes the statutory approach, conceptual approach, and case approach**.** The statutory approach involves reviewing all laws and regulations related to the legal issue under discussion.

Data for this study are collected through interviews and literature review. Interviews involve direct communication with sources to obtain relevant information, while the literature review method gathers legal and secondary materials. This process includes collecting, reading, and analyzing various books, articles, legal journals, statutes, court decisions, and other relevant literature.

Data analysis is a crucial and strategic stage in this research, as it serves to define, interpret, and provide meaning to the research findings. The analysis process begins with data inventory, followed by data synchronization, and concludes with qualitative analysis to reach a clear understanding of the issues raised. The findings are then systematically structured and

presented in a descriptive manner, explaining and elaborating on the issues in relation to the research context.

C. RESULTS AND DISCUSSION

1. The Concept of Plea Bargaining in the Criminal Justice System in Indonesia

The criminal justice system serves as the framework for handling criminal cases, guiding the legal process from investigation and prosecution to trial and execution of verdicts that have obtained permanent legal force. This system, as agreed upon and implemented in Indonesia's legal framework, has established various mechanisms for judicial dispute resolution.

The flow of criminal justice is explicitly regulated under Law Number 8 of 1981 on the Criminal Procedure Code. Additionally, as criminal law and procedural law continue to evolve, various alternative approaches to resolving criminal disputes outside the courtroom (non-litigation) have emerged. These include Restorative Justice, Plea Bargaining, and, more recently, Judge Pardon, a concept introduced in Law Number 1 of 2023 on Criminal Law, which serves as a legal basis for judicial considerations.

The enactment of Law Number 1 of 2023 on Criminal Law has introduced new opportunities for out-of-court (non-litigation) dispute resolution. Article 54 letter j stipulates that one of the factors that must be considered by the Judge in handing down the verdict is forgiveness from the Victim and/or his family. Furthermore, Article 54 Paragraph 2 stipulates that the Judge can decide the case without imposing a crime or without imposing an action by considering the lightness of the act, the personal condition of the perpetrator, the circumstances at the time of the crime, the circumstances that occur later, aspects of justice and humanity.

In the past, minor offenses often still resulted in convictions. However, these provisions now provide judges with greater discretion to grant leniency in minor cases. As concepts and models of out-of-court dispute resolution continue to evolve, it is essential to establish adequate criminal procedural laws to ensure that the process of resolving criminal disputes remains effective and efficient while still aligning with the objectives of punishment and the pursuit of material truth.

Initially, plea bargaining was perceived as a mechanism exclusive to adversarial criminal justice systems. However, over time, it has been integrated into judicial practice across various legal traditions. Plea bargaining is based on a consensual agreement between the defendant and the prosecutor, rather than strict procedural formalities. While plea bargaining is widely practiced in many jurisdictions, it remains controversial in inquisitorial legal systems, where the search for truth is primarily based on judicial inquiry rather than negotiation between the parties. Historically, plea bargaining emerged as a mechanism not only to promote a negotiation-

oriented approach to justice but also to allow offenders to admit guilt in exchange for a reduced sentence (Seseña, Arráez, & Sumalla, 2024).

The ratification of Law Number 1 of 2023 on Criminal Law should be accompanied by updates to criminal procedural law**.** Law Number 8 of 1981 on the Code of Criminal Procedure is now considered outdated, given the various dynamics and developments in law enforcement. Therefore, reforming criminal procedural law is essential to harmonize the concept of punishment within the New Criminal Code.

The term plea bargaining is often defined in legal literature as bargaining defense. However, the Draft Criminal Procedure Code introduces a different term, referring to it as a special pathway. This special pathway is outlined in Article 199(1) of the Draft Criminal Procedure Code, which states that if, during the reading of the indictment, the defendant admits to all the charges and pleads guilty to an offense carrying a maximum sentence of seven years, the public prosecutor may refer the case for a summary hearing.

The concept of plea bargaining, as introduced in the Draft Criminal Procedure Code under the term special pathway, is highly restrictive, both in terms of the types of criminal offenses eligible and the lack of clear procedural guidelines for its implementation. Unlike the plea bargaining system in the United States, which allows for a wide range of offenses, including those punishable by the death penalty, the Draft Criminal Procedure Code restricts its application to offenses carrying a maximum sentence of seven years, categorizing them as minor crimes. The drafting team of the Draft Criminal Procedure Code based this approach on Russia's restrictive plea bargaining system, which excludes extraordinary crimes from eligibility.

Plea bargaining in the Criminal Justice System involves various parties as a subsystem of criminal justice including:

a. Public Prosecutor

The public prosecutor as one of the subsystems in criminal justice has a central role in the implementation of the plea-bargaining system. The position of the public prosecutor is very important because it serves as the controller of the case (dominus litis). In general, the plea-bargaining system is carried out before the trial examination process. Before entering the plea-guilty stage, it is necessary to pay attention to three things, namely regarding incompetence, the mental capacity of the defendant in committing plea-guilty, and whether the defendant at the time of making the confession was in a disturbed mental state or not. Incompetence refers to whether the defendant is mature and rational enough to understand a trial process, what is meant by mental capacity is whether the defendant has a reasonable capacity for knowledge or education, while impaired mental state refers to whether at the time of committing plea-guilty the defendant is conscious and sane or not.

Article 199 Paragraph 2 of the Draft of Criminal Procedure Code regulates the role of the public prosecutor in the trial examination process so that the public prosecutor in reading the indictment admitted by the defendant with a threat of under 7 (seven) years can be assigned in a short examination hearing. Furthermore, that the public prosecutor must sign the minutes of the brief examination. The public prosecutor will also notify the defendant regarding the waiver of his rights in the form of waiver of the right to appeal and waiver of the right to non-self-incrimination, by making an admission of guilt for the crime he admitted he committed, but he cannot be compelled to provide other information that may implicate him as a defendant;

b. Legal Advisor

A legal advisor has the obligation to explain to the client each stage of the plea-bargaining process, the potential maximum consequences of admitting guilt, and the requirement to discuss all offers made by the public prosecutor. Additionally, the legal counsel must assess whether a guilty plea under the plea agreement mechanism would be more beneficial for the defendant than proceeding to trial. The legal counsel will also evaluate the negotiations proposed by the public prosecutor, comparing them to similar cases to ensure a fair and just agreement for the defendant.

c. Judge

The justice system we have today is primarily shaped by local courts (Weinstein-Tull, 2020). The judge plays a crucial role in the post-plea-bargaining stage, primarily in determining whether the defendant's confession was made voluntarily. Additionally, the judge may offer the defendant the option to withdraw from the agreement made during the plea-bargaining process. Furthermore, the judge must inform the defendant of the legal implications of entering a guilty plea. Article 199, Paragraph 3 states that:

1) Judges are required to:
a) Inform the defendant of the rights they relinquish by making a confession, as referred to in Paragraph (2).
b) Notify the defendant of the potential length of the sentence that may be imposed.
c) Confirm whether the confession referred to in Paragraph (2) is made voluntarily.
2) The judge may reject the confession referred to in Paragraph (2) if there are doubts regarding its accuracy.
3) As an exception to Article 198, Paragraph (5), the sentence imposed on the defendant, as referred to in Paragraph (1), shall not exceed two-thirds (2/3) of the maximum penalty for the offense charged. Guilty pleas under this "special path" are not based on negotiation or coercion from the public prosecutor to force the suspect/defendant to confess.

The plea-guilty mechanism in the Draft of the Criminal Procedure Code will be implemented through a short examination process, utilizing simplified evidentiary procedures and an efficient application of the law. Meanwhile, in the current

Criminal Procedure Code, the brief examination procedure is regulated under Articles 203 and 204. Cases subject to brief examination include criminal offenses that do not fall under minor offenses, and where the public prosecutor deems the evidence and legal application to be straightforward and uncomplicated. During the process, the public prosecutor presents the defendant, expert witnesses, interpreters, and other necessary evidence.

Article 203, Paragraph 3, Letter a, Numbers 1 and 2 explicitly state that the public prosecutor is not required to submit a formal indictment but instead provides oral notification to the defendant, informing them of the time, place, and circumstances of the alleged crime.

Confession is the primary requirement for applying the special path concept in the Draft of the Criminal Procedure Code. As established, a defendant's confession is considered a form of evidence under Article 184 of the Criminal Procedure Code. Furthermore, Article 189, Paragraph 1 states that a defendant's testimony consists of statements made during a court hearing regarding acts they committed, personally witnessed, or directly experienced.

Harahap (2017) expressed the opinion that a defendant's testimony could be considered sufficient as evidence if certain conditions are met:

- What the defendant stated explained at the court hearing
- What is stated or explained is about good deeds that the defendant did or reminisced about that he knew or related to not what I have experienced myself in the criminal event under examination.
- What the defendant himself experienced. Regarding this matter, the defendant's statement about what was experienced is only considered to have value as evidence if the statement of experience is about his own experience, namely by experiencing directly the criminal event concerned.
- The defendant's testimony is only evidence against himself. According to this principle, what a person explains in a trial in his position as a defendant can only be used as evidence against himself.

The placement of a defendant's testimony as the final type of evidence in Article 184, Paragraph 1 of the Criminal Procedure Code serves as one of the primary reasons for conducting the defendant's examination after the examination of witness statements. This is in accordance with Article 189, Paragraph 4, which explicitly states that a defendant's testimony alone is not sufficient to establish guilt for the alleged offense and must be corroborated by other evidence.

2. The Ideal Concept of Plea Bargaining in Indonesia's Future Criminal Justice System

The construction of a legal order within a society is fundamentally an embodiment of the legal ideals adopted by that society, which are

translated into a set of positive rules, legal institutions, and legal processes. The legal mind (rechtsidee) represents the collective ideas, values, emotions, reasoning, and moral considerations of society. Thus, legal ideals encompass concepts, values, and perceptions of law, which fundamentally consist of three elements: justice, utility (doelmatigheid), and legal certainty. The legal ideals of the Indonesian nation are deeply rooted in Pancasila, which was established by the Founding Fathers as the philosophical foundation for structuring the state's legal and organizational framework in accordance with the 1945 Constitution (Rasdi et al., 2022).

A well-planned legal development strategy must be directed toward building a modern national legal system that aligns with Pancasila's legal ideals. This system should provide an efficient and responsive legal framework that can regulate both present and future societal needs. The primary role of legal rules is to ensure justice, utility, and legal certainty. Justice serves as the fundamental value, utility as the practical value, and legal certainty as the instrumental value. However, justice and utility often conflict with legal certainty. In cases where such conflicts arise, justice and utility should take precedence over legal certainty. This principle aligns with the maxim: *Aequum et bonum est lex legum*—"What is just and good is the supreme law" (Muchtar & Hiariej, 2023).

Both substantive criminal law and the criminal justice process are widely recognized as complex and opaque. Although society expects individuals to be aware of substantive criminal law, the average person has little knowledge of the extensive scope of the penal code and the specific actions criminalized by the legislature. Even for well-known offenses, most people are unaware of the specific legal elements that constitute those crimes. Similarly, criminal procedure remains a mystery to the general public (Gershowitz, 2019).

In this context, the development of a national legal system that aspires to incorporate Pancasila-based criminal law requires significant reform of the criminal justice system, particularly concerning plea-bargaining mechanisms. Various legal approaches must be considered to identify, analyze, and formulate new policies that address legal challenges in society. A progressive legal approach offers a theoretical framework for resolving contemporary legal issues while anticipating future societal conditions. This perspective views law and judicial institutions as instruments of social change (Trisusilowati, Lumbanraja, & Suteki, 2019).

The plea-bargaining system, widely recognized in the United States' criminal procedural law**,** serves as a multi-door approach by allowing alternative negotiations and agreements outside the conventional criminal justice process**.** This system requires the defendant to plead guilty as a prerequisite for negotiations among the public prosecutor, judge, and legal counsel**.** These negotiations consider

available evidence and facts to determine a lighter sanction than what might otherwise be imposed by the court (Adhi & Soponyono, 2021).

In Western legal systems, criminal defendants face the risk of trial, where they may be convicted on all charges and subjected to a full range of sentencing options, including incarceration, fines, probation, or rehabilitative measures. Sentencing typically combines punitive, rehabilitative, and compensatory elements, with an overarching goal of reducing recidivism. Many defendants opt to negotiate a reduced sentence in exchange for a guilty plea to some or all of the charges (Nelson, 2023).

Before incorporating plea-bargaining into Indonesia's criminal justice system, it is essential to examine how this system functions in other countries. For instance, in the United States, plea bargaining operates within a criminal justice system that emphasizes institutionalizing negotiated settlements as the primary means of resolving criminal cases. This process accelerates case resolution and facilitates a more efficient judicial system (Istiqomah & Alimardani, 2023).

Since the 1970s, the plea-bargaining mechanism has been widely utilized alongside other sentencing alternatives, allowing judges to formally convict individuals without trial, based on a guilty plea from the defendant. Plea bargaining typically begins with a formal admission of guilt, followed by negotiations in which the defendant may receive concessions such as a reduced charge, modified indictment, or lighter sentence.

The United States' plea-bargaining model grants police, investigators, and prosecutors significant discretion in determining convictions and sentencing outcomes without a formal trial. This approach is considered legitimate because it requires the defendant's voluntary admission of guilt. However, the process often includes negotiations between the defense, the prosecution, and sometimes the judge (Langer, 2021).

In contrast, France has developed a plea-bargaining system while preserving key aspects of its traditional legal framework. The French model primarily seeks to depenalize misdemeanors while maintaining the integrity of criminal justice institutions. Unlike the U.S. plea-bargaining system, which requires a guilty plea leading to conviction, France's Composition Pénale focuses on conditional settlements. The defendant may agree to fulfill specific obligations—such as paying a fine, surrendering a driver's license, or performing community service—instead of undergoing formal trial proceedings. If the defendant rejects the offer, the prosecutor may pursue criminal charges in court (Fratama, 2020).

Unlike the United States' system, France's Composition Pénale applies only to offenses punishable by fines or imprisonment of up to five years. Additionally, judicial oversight remains central to the process, as a judge must validate

the agreement. This approach has strengthened prosecutorial authority while ensuring expedited case resolution.

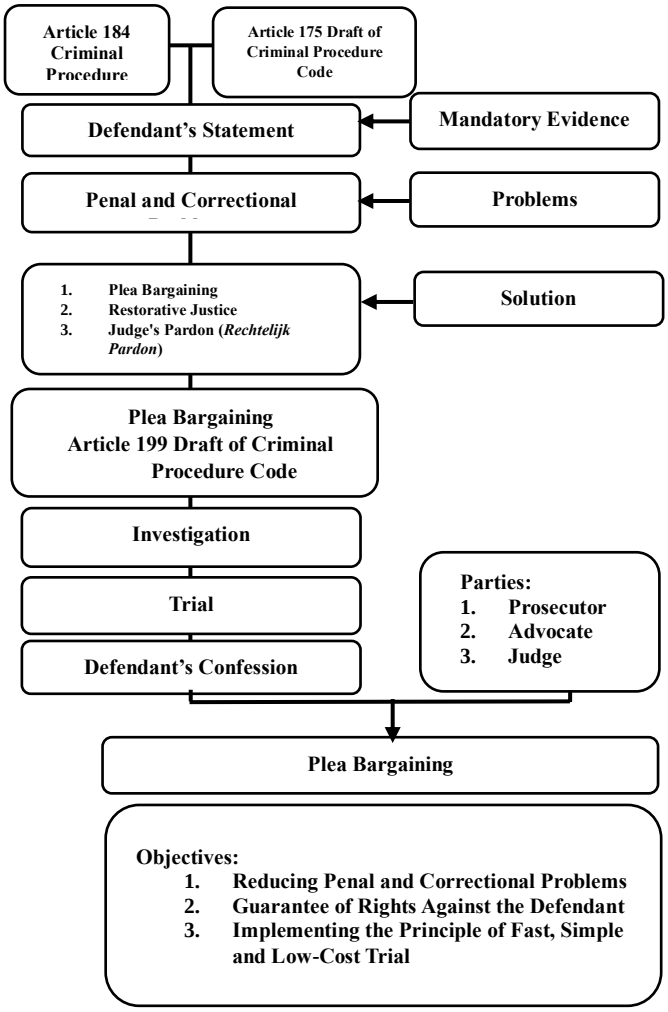
Despite their practical advantages, the plea-bargaining systems in the United States and France face significant criticisms. Many argue that defendants opt for plea bargains due to coercion, fear of harsher penalties, or prolonged pretrial detention (Frans et al., 2024). Furthermore, critics contend that plea bargaining undermines the principle of a fair trial by allowing punishment without trial, due process, or adequate defense representation (Albariansyah, Santoso, & Zulfa, 2022).

To evaluate the feasibility of plea bargaining in Indonesia, it is crucial to examine evidence and proof standards under the Criminal Procedure Code (KUHAP) and the latest Draft of the Criminal Procedure Code. Indonesia follows the negative legal proof system (negatief wettelijk bewijssysteem), meaning that a judge's conviction must be based on both legal evidence and a personal belief in the defendant's guilt. Article 184 of KUHAP restricts admissible evidence to witness statements, expert opinions, documents, circumstantial evidence, and the defendant's testimony. In contrast, the Draft of the Criminal Procedure Code expands the definition to include electronic evidence and judicial observations. Notably, both versions recognize the defendant's statement as a valid form of evidence.

The introduction of plea bargaining aims to address multiple criminal justice and correctional challenges. Indonesian prisons currently operate at nearly 700% overcapacity, highlighting an urgent need to reform sentencing policies. Additionally, the conventional criminal justice process lacks an efficient dispute resolution mechanism for defendants, prosecutors, and judges. While restorative justice has been promoted in recent years, it has not significantly reduced case backlogs or incarceration rates. However, the enactment of Law No. 1 of 2023 on Criminal Law has introduced new alternative dispute resolution mechanisms, including plea bargaining, restorative justice, and judicial pardon (Parindo et al., 2024).

Article 199 of the Draft Criminal Procedure Code formally incorporates plea bargaining as a "special path" limited to offenses punishable by a maximum of seven years' imprisonment. This restriction differs from the United States' model, which applies to all offenses, including capital crimes. In Indonesia, the judge, prosecutor, and defense counsel negotiate sentencing terms, with the defendant's guilty plea serving as the basis for criminal sanctions.

The following scheme illustrates this process (Source: Author):



Scheme 1: Plea-Bargaining Mechanism Flow

The plea-bargaining mechanism aims to address various criminal and correctional issues, provide safeguards for defendants, ensure a simple, swift, and cost-effective trial process, and enable all parties to play an active role in each case involving the defendant. The flow of this mechanism is illustrated in the following chart.

Furthermore, John Braithwaite, a criminologist from the Australian National University with a responsive perspective, has emphasized the importance of plea-bargaining as a critical step in the legal process. He proposed an intriguing regulatory model for criminal justice, integrating restorative justice approaches into various cases within the criminal justice system. The concept of responsiveness is appealing for further development, particularly in consideration of the criminal justice system and the principles of restorative justice. However, some critics argue that this concept deviates from traditional legal frameworks or represents an adaptation distinct from conventional court procedures.

The imposition of sanctions on defendants can serve as a means of rehabilitation, functioning as facilitators or social interventions aimed at resolving underlying issues. For example, drug abusers or perpetrators of domestic violence should be assessed with a more individualized approach, as their cases often stem from personal conflicts rather than being purely criminal matters. In reality, many such cases involve minor theft or other low-level offenses (Feeley, 2020).

The flexibility of this approach allows for tailored punishments that prioritize rehabilitation, restoration, and therapeutic interventions over punitive measures. It also fosters greater involvement from society, defendants, and victims in the justice process. Law Number 1 of 2023 concerning Criminal Law introduces the concept of social work as an additional criminal sanction that can be combined with primary punishments. Article 85 stipulates that social work penalties may be imposed on defendants convicted of crimes punishable by less than five years of imprisonment, where the judge has sentenced

them to a maximum of six months in prison or a fine of up to Category II. Furthermore, Paragraph 2 outlines that the imposition of social work punishment must consider factors such as the defendant's admission of guilt, work capability, informed consent after receiving an explanation of the purpose and implications of the sanction, social background, work safety protection, religion, beliefs, political views, and financial ability to pay fines.

Considering the provisions of the New Criminal Code, the plea-bargaining approach could incorporate social work penalties alongside primary punishments to ensure that both penal and corrective objectives are met. This approach aligns with the concept of responsive legal reform, offering viable solutions to ongoing challenges within the justice system.

In this context, several types of criminal offenses outlined in Law Number 1 of 2023 on Criminal Law highlight efforts to criminalize or decriminalize certain acts previously governed by the old Criminal Code. As the plea-bargaining concept is introduced in the Draft of the Criminal Procedure Code, many offenses carrying criminal sanctions of less than seven years could potentially fall under this framework. Thus, the reform of criminal law through Law Number 1 of 2023 should be accompanied by corresponding updates to procedural law through the Criminal Procedure Code to ensure a balanced and coherent legal framework.

D. CONCLUSION

The conclusion that can be drawn from this study is that the concept of plea-bargaining in Indonesian criminal law remains relatively new. The current Criminal Procedure Code does not regulate plea-bargaining as an alternative method for resolving criminal disputes outside the court. However, the Draft of the Criminal Procedure Code introduces the concept under the term *special path* in Article 199, which allows plea-bargaining negotiations between judges, public prosecutors, and legal counsel. Under this provision, the *special path* requires the defendant's acknowledgment of guilt before judges, public prosecutors, and legal counsel can initiate negotiations. The criminal sanctions imposed through plea-bargaining must be lighter than those the defendant would receive through ordinary judicial proceedings.

The plea-bargaining concept offers a potential solution to address issues related to punishment and correction, ensure the implementation of a fast, simple, and cost-effective trial process, and safeguard the defendant's rights while enhancing their role in the case.

The enactment of the new Criminal Code should be accompanied by reforms in criminal procedural law. The current Criminal Procedure Code is widely regarded as outdated, particularly when confronted with the evolving dynamics and developments in law enforcement. Therefore, reforming criminal procedural law is essential to

align the concept of punishment in the new Criminal Code. The ratification of the Draft Criminal Procedure Code into law can serve as a means to harmonize substantive and procedural criminal law. Furthermore, it can provide solutions to the various challenges posed by the dynamic nature of formal criminal law.

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