



REGULATORY FRAMEWORK FOR THE PLEA BARGAIN MECHANISM IN THE DRAFT CRIMINAL PROCEDURE CODE (RUU KUHAP)

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Abstract

Plea bargain (guilty plea) is being introduced in the Draft Law on the Criminal Procedure Code (RUU KUHAP) as a mechanism of criminal law enforcement that is more victim-oriented. This article discusses the concept of plea bargain and its regulation under the RUU KUHAP, aiming to inform the public and encourage the government and Commission III of DPR RI to finalize its deliberation. As a concept, plea bargain is a mechanism for simplifying the handling of criminal cases, rooted in the legal tradition of adversarial systems. It involves negotiations between the offender and the public prosecutor to expedite criminal case processing. This mechanism is based on the voluntary admission of guilt by the suspect and the willingness of the public prosecutor to propose a reduced sentence. In principle, the plea bargain mechanism in the RUU KUHAP is largely consistent with similar concepts practiced in other countries. Commission III of DPR RI, in discussing the RUU KUHAP, may adapt the regulation of the plea bargain to align with general principles while tailoring it to the Indonesian legal system.

Introduction

The Working Committee (Panja) Meeting on the First-Level Deliberation of the Draft Law on the Criminal Procedure Code (RUU KUHAP) at Commission III of DPR RI, held on Thursday, July 7, 2025, discussed several key provisions in the draft law. One of the important matters that was subsequently agreed upon concerns the plea bargain mechanism, commonly referred to as a guilty plea (Prabowo, 2025).

Deputy Minister of Law, Edward Omar Sharif Hiariej, explained that this mechanism is part of a modern criminal law paradigm that emphasizes not only corrective justice, but also rehabilitative and restorative justice. Chair of Commission III of DPR RI, Habiburokhman, stated that criminal law enforcement thus far has given insufficient attention to victims. Going forward, law enforcement officials must pay greater attention to victims—both within the context of restorative justice implementation and the recovery process (Thea, 2025).

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The plea bargain mechanism is not a new concept in global criminal justice systems. Plea bargaining allows for negotiations between the prosecutor and the defendant, where such negotiations must be based on the defendant's voluntary admission of guilt and the prosecutor's willingness to offer a reduced sentence (ICJR, 2024). The plea bargain is currently being introduced in the RUU KUHAP as one of the mechanisms in Indonesia's criminal law enforcement. This article specifically discusses the regulatory framework for the plea bargain mechanism under the RUU KUHAP. It aims to provide public insight while also urging the government and Commission III of DPR RI to expedite the completion of the draft law's deliberation.

General Concept of Plea Bargain

The plea bargain system originates from the adversarial legal tradition that developed in the United States, wherein criminal cases are resolved through negotiations between the defendant and the public prosecutor. The primary motivation behind such negotiations is to expedite the handling of criminal cases. These negotiations must be conducted voluntarily by the defendant, who admits guilt, and accompanied by the prosecutor's willingness to propose a sentence in accordance with an agreement between the parties or with the defendant's legal counsel. Under this system, if the defendant pleads guilty to the charges, they are not required to undergo a jury trial. A jury trial is a court proceeding involving a panel of randomly selected citizens who serve as fact-finders and determine the guilt or innocence of the defendant (Rahayu, 2015).

In the U.S. criminal justice system, plea bargaining typically takes place during the "arraignment" and "preliminary hearing" or "pre-trial hearing" stages – procedural phases that are comparable to pre-trial proceedings in the Indonesian criminal justice system. If a defendant pleads guilty or submits a *nolo contendere* (no contest) plea during these stages, the case proceeds directly to sentencing without a jury trial (Rahayu, 2015).

The plea bargain mechanism has not previously been recognized in Indonesian law. According to Romli Atmasasmita, the concept is inherent to legal systems based on the adversarial model, such as that of the United States. He noted that approximately 95 percent of criminal cases in the United States are resolved through plea bargains, enabling the country to achieve a more efficient and effective criminal justice process (ICJR, 2024).

In general, the practice of plea bargaining involves negotiation or bargaining between the prosecutor and the defendant, which may take three primary forms: charge bargaining – negotiation over the charges brought, typically resulting in a reduction in the severity of the offense charged; fact bargaining – an agreement whereby the prosecutor presents only facts favorable to the defendant; and sentencing bargaining – negotiation over the type or severity of the sentence to be imposed, usually resulting in a lighter punishment.

In the development of criminal procedure law in various countries, plea bargaining is often used to simplify procedural processes. Its objectives are to expe-

dite case handling and reduce court workload. For defendants, this simplification saves time, effort, and cost, while also increasing the chance of receiving a reduced sentence (ICJR, 2024).

The American Bar Association (ABA), the professional association of attorneys in the United States, explains several reasons behind the widespread application of plea bargaining in the country. In its publication *How Courts Work* (2021), the ABA outlines several key advantages of plea bargaining, including: enabling defendants to save time and legal expenses; avoiding the risk of receiving harsher sentences; minimizing negative publicity from public trials; allowing prosecutors to save time and costs typically required for lengthy court proceedings; shielding both parties from the uncertainty of trial outcomes; and helping the judicial system reduce budgetary burdens from criminal trials.

Regulation of the Plea Bargain Mechanism in the RUU KUHAP

At the time of writing, the RUU KUHAP remains at the First-Level Deliberation stage. This means that the articles regulating the substance of the plea bargain are still subject to change. The government has submitted a new proposal regarding the plea bargain or guilty plea mechanism through the List of Issues (DIM) in the RUU KUHAP, which is currently being discussed by the RUU KUHAP Working Committee. In the General Provisions section of the draft, particularly DIM 26, plea bargain is defined as a legal mechanism that allows a defendant to admit guilt for a criminal offense and cooperate during examination by presenting evidence supporting the admission, in exchange for a reduced sentence (DPR RI, 2025).

Based on this definition, it can be understood that in principle, the plea bargain in the RUU KUHAP emphasizes the defendant's admission of guilt in return for a reduced sentence. Furthermore, in DIM 405–406, it is stipulated that the plea bargain mechanism may not be applied to all types of criminal offenses or all offenders. This mechanism may only be used if certain criteria are met: the offender is a first-time offender (not a recidivist); the offense is considered minor (i.e., punishable by a maximum imprisonment of five years or a maximum fine in Category V); and the offender is willing to pay compensation or restitution to the victim.

Procedurally, the public prosecutor will ask the defendant—who must be accompanied by legal counsel—whether they admit to the charges. If the defendant pleads guilty, the admission is recorded in an official statement signed by the defendant and their lawyer. The guilty plea is submitted during a special hearing held prior to the main trial. This hearing is presided over by a single judge and does not require the formation of a judicial panel.

If the guilty plea is accepted, the agreement is formalized in a written contract between the prosecutor and the defendant, with judicial approval. The agreement must include clauses stating that the defendant understands the consequences of their plea, including the waiver of the right to remain silent and the right to a regular trial; that the plea is made voluntarily; the charges filed and

the initial sentence proposed; the outcome of negotiations between the prosecutor, defendant, and legal counsel, including reasons for sentence reduction; a statement that the agreement is binding and holds the same weight as law; and supporting evidence proving the defendant's guilt to ensure the validity of the admission.

The RUU KUHAP also mandates that the judge must assess whether the guilty plea was made voluntarily, without coercion, and with full understanding. If the plea is accepted, the case proceeds to sentencing under a simplified trial mechanism. If the judge rejects the plea, the case continues through the standard trial process. Every guilty plea procedure must be documented in the case file. Furthermore, if the judge is convinced that the plea was made voluntarily, without coercion, with full comprehension, and supported by at least two valid pieces of evidence, the judge may issue a ruling based on the parties' agreement.

Upon reviewing the entire procedural framework for the plea bargain mechanism in the RUU KUHAP, it is evident that the concept is, in principle, quite similar to plea bargaining as practiced in many other countries—especially those with adversarial legal systems. The similarity lies in the goal of expediting criminal proceedings and the voluntary nature of the defendant's confession in exchange for leniency from the prosecutor.

However, the plea bargain in the RUU KUHAP has its own specific characteristics, particularly regarding the eligibility criteria—namely the type of offender, the classification of the crime, and the offender's willingness to provide restitution to the victim, reflecting a restorative justice orientation. Negotiations in the plea bargain process occur between the prosecutor and the defendant at the prosecution stage, after the case file has been submitted by investigators. If the three conditions are met, the prosecutor may initiate plea bargain negotiations with the defendant, which will be conducted in a special hearing before the main trial. If the result of the negotiation is approved by the judge in a simplified hearing, the case can be adjudicated by a single judge without proceeding to a full trial before a panel of judges.

In this regard, the government, through Deputy Minister of Law Edward Omar Sharif Hiariej, explained that the guilty plea mechanism is distinct from the restorative justice mechanism, which is also regulated under the RUU KUHAP. The restorative justice mechanism involves resolving cases outside of the court process, while the guilty plea mechanism takes place during judicial proceedings. Approval of the plea bargain is granted by a judge, and if approved, the case continues under a simplified trial procedure rather than a regular trial ("Panja RUU KUHAP," 2025).

Conclusion

Plea bargain is a mechanism for simplifying the handling of criminal cases that originates from adversarial legal systems, involving negotiations between the defendant and the public prosecutor. Its primary aim is to expedite the legal process, based on the principle of voluntary admission of guilt by the defendant

and the prosecutor's willingness to offer a reduced sentence. In principle, the plea bargain concept in the RUU KUHAP is consistent with practices in other countries, sharing similar objectives and a negotiated approach.

However, in the RUU KUHAP Working Committee meetings, Commission III of DPR RI agreed to the government's proposal to regulate a plea bargain mechanism tailored to Indonesia's legal system, by setting specific requirements—such as the type of offender, type of offense, and the offender's good faith in providing restitution or compensation to victims. This represents a significant step toward building a modern criminal justice system oriented toward rehabilitative and restorative justice.

Commission III of DPR RI, together with the government, should continue advancing the deliberation of the RUU KUHAP while upholding the principles of public participation and openness to input, as has been practiced thus far. Moreover, the ongoing transparent deliberation of the RUU KUHAP must be aligned with the needs of the national criminal procedure system, in preparation for the enforcement of the new Criminal Code (KUHP) in January 2026.

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