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Reformulating the Concept of Plea Bargaining in the Criminal Justice System Following the New Criminal Code and Criminal Procedure Code

Albi Ternando^{1*}, Adithya Diar², Nella Octaviany Siregar³, M. Havidz Aima⁴

¹Universitas Adiwangsa Jambi, Jambi, Indonesia, albyternando@unaja.ac.id

²Universitas Adiwangsa Jambi, Jambi, Indonesia

³Universitas Batanghari Jambi, Jambi, Indonesia

⁴Universitas Putra Indonesia "YPTK" Padang, Padang, Indonesia, m.havidz.aima@yahoo.com

*Corresponding Author: albyternando@unaja.ac.id¹

Abstract: This study analyzes the regulation and formulates an ideal model for implementing plea bargaining in Indonesia's criminal justice system following the enactment of Law Number 1 of 2023 on the Criminal Code and Law Number 20 of 2025 on the Criminal Procedure Code. The study is based on the structural inconsistency between substantive criminal law, which has shifted toward a rehabilitative paradigm, and procedural criminal law, which still reflects a retributive approach. This research uses a normative juridical method with statutory and conceptual approaches. The findings show that the regulation of plea bargaining under the 2025 Criminal Procedure Code still contains significant normative inconsistencies, particularly regarding sentencing limits, procedural stages, and the legal form of decisions in summary proceedings. In addition, the expansion of legal evidence confirms that a confession cannot be the sole basis for conviction. Therefore, plea bargaining must be reformulated not only as a mechanism for judicial efficiency but also as a legal instrument that ensures due process of law, legal certainty, protection of defendants' rights, and harmony with restorative justice and alternative sentencing policies in Indonesia.

Keywords: Criminal Code 2023, Criminal Procedure Code 2025, due process of law, plea bargaining, restorative justice.

INTRODUCTION

Reforming criminal law in Indonesia is essential to creating a criminal justice system that is responsive to social change and the evolving legal needs of society (Wicaksana & Januarsyah, 2025). This reform is reflected in Law No. 1 of 2023 on the Criminal Code, which explicitly adopts a rehabilitative paradigm focused on restoring social balance, as stipulated in Article 51. Thus, the purpose of criminal punishment is no longer solely focused on protecting society from criminal acts, but is also directed toward rehabilitating offenders so they can reintegrate into society as productive individuals (Muksin, 2023).

This paradigm shift faces obstacles in the form of structural disharmony between

substantive law and procedural law. On the one hand, the 2023 Criminal Code has shifted toward a rehabilitative paradigm, while on the other hand, the Criminal Procedure Code currently in force—Law No. 8 of 1981—remains grounded in a retributive paradigm. The lack of synchronization between these two legal instruments results in the suboptimal implementation of the old Criminal Procedure Code, which is deemed unable to accommodate modern legal principles, including the protection of human rights, the guarantee of a fair trial, and the strengthening of the role of lawyers and other law enforcement agencies (Hadianto, 2025). This disharmony is a major factor contributing to inefficiency in the criminal justice system, as clearly evidenced by the crisis of overcrowding in correctional facilities.

The tendency of the old Criminal Procedure Code to still emphasize imprisonment, including for minor offenses, has contributed to the overcrowding in correctional facilities. The imposition of short-term sentences in the form of detention or imprisonment for minor offenses remains a dominant practice, as reflected in the provisions of Article 205 of the old Criminal Procedure Code regarding the procedures for handling minor offenses. This situation indicates that the retributive paradigm, which treats imprisonment as the primary remedy, is no longer in line with current legal needs (Syafriana et al., 2026). This situation runs counter to the direction of legal reform, which emphasizes the administration of justice that is efficient, swift, and oriented toward a rehabilitative approach. In this context, restorative justice is seen as having significant potential, not only in reducing recidivism rates and alleviating prison overcrowding, but also in restoring social balance while taking into account the interests and needs of victims (Valentino, 2025).

Harmonization is achieved through Law No. 20 of 2025 (Criminal Procedure Code 2025) in response to the enactment of the Criminal Code 2023, ensuring that substantive criminal law and criminal procedure law are aligned. For example, the provisions on plea bargaining have now been incorporated into the Criminal Procedure Code 2025, serving as a key concept in Indonesia's criminal justice process. Article 1(16) of the 2025 Criminal Procedure Code defines a plea bargain as follows:

“Pengakuan bersalah (plea bargain) adalah mekanisme hukum bagi terdakwa untuk mengakui kesalahannya dalam suatu tindak pidana dan kooperatif dalam pemeriksaan dengan menyampaikan bukti yang mendukung pengakuannya dengan imbalan keringanan hukuman.”

Translation (author's translation): *“A guilty plea (plea bargain) is a legal mechanism through which a defendant admits guilt for a criminal offense and cooperates during the criminal proceedings by providing evidence supporting the admission of guilt in exchange for a reduced sentence.”*

Conceptually, plea bargaining can be understood as a mechanism for a guilty plea submitted by a defendant in a criminal case. However, the provisions in the 2025 Criminal Procedure Code are not entirely identical to the concept of plea bargaining as applied in the United States; rather, they possess distinct characteristics within the context of Indonesian law. These differences are evident in the scope of criminal offenses to which this mechanism applies, as well as the judge's more active involvement in the process. While in the United States plea bargaining has long been integrated as part of the criminal justice system, its application in Indonesia is adapted to the prevailing legal system and national socio-legal conditions.

According to Black's Law Dictionary, “plea bargaining” is defined as an agreement reached through negotiation between the prosecutor and the defendant, whereby the defendant pleads guilty to a lesser offense or to one of several charges in exchange for a reduced sentence or prosecution under a lesser charge (Black, 1990). The judge then has

the authority to impose a lighter sentence (in exchange for his guilty plea) (Wibowo, 2021). Negotiations between the defendant and the prosecutor to settle the case out of court are conducted voluntarily to expedite the judicial process and address cost concerns.

Plea bargaining has been adopted by various countries, both those following the common law and civil law systems. Countries such as the United States, Pakistan, Germany, and Canada have integrated this mechanism into their legal systems. The implementation of plea bargaining has proven effective in managing a heavy caseload, while also helping to reduce costs and expedite the resolution of criminal cases. Conversely, the slow resolution of cases in Indonesia indicates that the principles of simple, swift, and cost-effective justice, as mandated by Article 4(2) of Law No. 48 of 2009 on Judicial Power, have not yet been fully realized. This situation calls for legal reform through the formulation of solutions capable of addressing the current problems in the criminal justice system. One step that can be taken is to adopt legal mechanisms from other countries, specifically through the implementation of the concept of plea bargaining in the Indonesian criminal justice system.

Restorative justice in the 2025 Criminal Procedure Code represents a form of reform in criminal procedure law that aligns with the rehabilitative paradigm in the 2023 Criminal Code. This approach focuses the resolution of criminal cases not solely on punishing the offender, but also on restoring relationships between the offender, the victim, and the community. Under the 2025 Criminal Procedure Code, restorative justice mechanisms may be applied to criminal offenses carrying a maximum sentence of 5 (five) years, for first-time offenders who are not repeat offenders. This provision indicates that the orientation of criminal punishment is no longer focused solely on imprisonment as a form of retribution, but is directed toward a resolution that is more proportional, efficient, and just. The application of restorative justice is carried out in three stages: the investigation stage, the prosecution stage, and the trial stage, thereby opening the possibility for resolution from the very beginning of the legal process.

During the investigation phase, investigators are authorized to assess the possibility of resolving a case through a restorative justice approach, as provided for in Articles 83 and 84 of the 2025 Criminal Procedure Code. At this stage, investigators may facilitate reconciliation between the victim and the perpetrator and ensure that any agreement is reached voluntarily without coercion. Furthermore, during the prosecution stage as provided for in Articles 85 and 86 of the 2025 Criminal Procedure Code, the Public Prosecutor is tasked with assessing the appropriateness of discontinuing prosecution based on the achievement of reconciliation and the restoration of the victim's losses. Meanwhile, during the trial stage, as regulated in Articles 87 and 88 of the 2025 Criminal Procedure Code, judges are given the discretion to consider the results of such reconciliation as a basis for rendering a decision that is more oriented toward restoration than retribution. These three stages demonstrate that restorative justice is not merely an administrative policy but has become an integral part of the national criminal justice system.

Despite the potential for efficiency it offers, the adoption of plea bargaining still leaves a significant policy gap. This gap lies in the absence of a comprehensive study on how this policy will technically affect the relationship and balance of authority among law enforcement agencies. In practice, there is a potential for unchecked concentration of authority in the Public Prosecutor, particularly in determining the form and extent of sentencing reductions, which risks creating disparities and opening opportunities for abuse of authority. Furthermore, the independence and constitutional role of judges are also at risk of being diminished, shifting from their original role as seekers of substantive truth to merely ratifying agreements between the parties. Without the strengthening of transparent accountability and oversight mechanisms, the implementation of this policy risks sacrificing the integrity of the criminal justice system in pursuit of efficiency alone.

METHOD

This study is a normative legal research project aimed at analyzing the legal norms and concepts related to the mechanism of guilty pleas—similar to plea bargaining—in the new Criminal Code (KUHP) and Criminal Procedure Code (KUHAP), while formulating legal policy recommendations consistent with the Indonesian legal system (Marzuki, 2023). The focus of this study is to evaluate the compatibility of these regulations with the principle of due process of law and their implications within the framework of corrective and restorative sentencing as stipulated in the 2023 Criminal Code and the 2025 Criminal Procedure Code. To address these issues, this study employs two approaches: a statutory approach to examine the 2023 Criminal Code and the 2025 Criminal Procedure Code; and a conceptual approach to analyze relevant legal theories.

The legal sources for this study consist of primary and secondary legal materials selected based on their relevance to the research focus. Primary legal materials include national legislation and international legal instruments, while secondary legal materials consist of literature, legal doctrine, and journal articles that support the legal analysis. The collection of legal materials was conducted through library research, while the analysis was carried out qualitatively through legal interpretation, systematization of norms, and the formulation of prescriptive arguments. With this approach, the study is expected to produce coherent normative conclusions and legal recommendations, as well as provide a comprehensive understanding of the application of the plea bargaining mechanism within the Indonesian legal system.

RESULTS AND DISCUSSION

Regulations on Plea Bargaining in the Indonesian Criminal Justice System Following the Enactment of the New Criminal Code and Criminal Procedure Code

The provisions of Article 37(2) of the United Nations Convention Against Corruption (UNCAC), the concept of a justice collaborator, and the plea bargaining mechanism essentially embody the principle of granting leniency to offenders who cooperate and play a role in uncovering cases alongside law enforcement officials by admitting to the acts they have committed (Nelson, 2020). Nevertheless, there are differences in the consequences and mechanisms of implementation. In plea bargaining, in addition to the granting of a reduced sentence to the defendant, the judicial process also proceeds more quickly and simply, a procedure known in the Criminal Procedure Code as “summary proceedings.” Thus, resolution through this mechanism can be understood as a form of a guilty plea in the common law tradition, but without an accompanying negotiation process (a guilty plea without a bargain) (Weriansyah et al., 2024).

Indonesia has adopted an approach similar to that of Germany and Canada by placing judges in a more active role, in line with the characteristics of the civil law system, which emphasizes the search for substantive truth. However, this approach has not been fully implemented. Indonesia tends to apply a selective model through the establishment of normative requirements as stipulated in Article 78(1) of the 2025 Criminal Procedure Code, which limits the application of the guilty plea mechanism to minimize the potential for abuse of authority. On the other hand, practices in Canada that accommodate the interests of victims demonstrate that plea bargaining is not solely efficiency-oriented but also prioritizes substantive justice, which aligns with the direction of restorative justice development in Indonesia (Syafarina et al., 2026).

From the perspective of requirements, the plea bargain mechanism in Indonesia shares similarities with that applied in the United States, particularly regarding the absence of restrictions on the types of cases that can be submitted through this mechanism. However,

there are fundamental differences in their regulations. In practice in the United States, there is room for negotiation between the prosecutor and the defendant or their legal counsel regarding the charges or the severity of the sentence, whereas this is not found in the Indonesian system. This difference means that the special provision in the 2025 Criminal Procedure Code is not accurately categorized as plea bargaining in the strict sense, but is better understood as a “plea without a bargain,” as it does not involve a bargaining process regarding the charges brought. Thus, this mechanism differs from the concept of pure plea bargaining, in which a guilty plea is given in exchange for a reduction in charges or penalties, thereby simplifying the trial process and allowing the judge to issue a verdict based on the agreement reached (Wahyudhi et al., 2022).

If the concept of a “bargain” is understood as a form of negotiation regarding the threat of criminal punishment, then the mechanism applied in Indonesia can be classified as plea bargaining. This is based on provisions that allow for negotiation regarding the severity of the sentence, as stipulated in Article 78(7)(d) of the 2025 Criminal Procedure Code, which states that one of the elements of the agreement is the outcome of negotiations between the Public Prosecutor, the Defendant, and the Defense Counsel, including considerations regarding a reduction in the prison term imposed on the defendant (Syafarina et al., 2026).

The absence of strict limitations on the requirements for plea bargaining reflects the flexible nature of the criminal justice system, which aims to avoid rigidity in the formulation of criminal penalties, in line with the paradigm shift in criminal law under the 2023 Criminal Code. In this context, there are no rigid restrictions on judges in determining the types of cases to which this mechanism may be applied, so the determination depends on the judge’s discretion. Furthermore, a guilty plea must be given voluntarily, without coercion, and based on the defendant’s full understanding of the matter.

In general, the mechanism for guilty pleas under the 2025 Criminal Procedure Code can be applied in three stages: the investigation stage, the prosecution stage, and the indictment reading stage. During the investigation stage, as stipulated in Article 7(1)(m), investigators are authorized to accept guilty pleas. This provision is clarified in Article 22(4) and (5) of the Criminal Procedure Code: a guilty plea made by a suspect to an investigator is recorded in the form of an official record for the purposes of the investigation. Subsequently, the investigator coordinates with the public prosecutor regarding the plea. The placement of this mechanism within the investigative stage indicates that a guilty plea under the Criminal Procedure Code is not conceived as an open negotiation in the courtroom, but rather as part of the investigative process that remains within the framework of the integrated criminal justice system. At this stage, it is important to ensure that the suspect receives legal representation and has a full understanding of the proceedings to guarantee that the confession is valid and free from the risk of a false confession. The obligation to coordinate with the public prosecutor under Article 22(5) of the Criminal Procedure Code reflects the principle of functional differentiation as affirmed in Article 2(2) of the Criminal Procedure Code, which places the criminal justice system within a framework of a clear division of functions. This means that even if an investigator accepts a guilty plea, the final decision regarding the admissibility of the case remains within the purview of prosecution and trial in court.

Second, during the prosecution phase, the defendant’s guilty plea will be evaluated based on specific criteria to determine whether the case can be transferred to a special track through a summary hearing. These criteria are set forth in Article 78(1) of the 2025 Criminal Procedure Code, which requires three conditions: the defendant must be a first-time offender; the criminal offense committed must be punishable by imprisonment for a maximum of 5 (five) years or a Category V fine; and the defendant must be willing to pay restitution or compensation. Thus, the plea bargaining mechanism can only be applied to cases with a

maximum penalty of 5 (five) years (Bagaskoro, 2021). Furthermore, the guilty plea is submitted during a “special hearing” prior to the commencement of the main trial, as provided for in Article 78(4) of the 2025 Criminal Procedure Code. This hearing is attended by the defendant and their legal counsel, the public prosecutor, and the sole judge tasked with assessing the validity of the plea. In this forum, an agreement is drafted between the public prosecutor and the defendant, which must then be approved by the sole judge as provided for in Article 78(5) and (6) of the 2025 Criminal Procedure Code. At this stage, the public prosecutor plays a strategic role as the party conducting the negotiations, even determining the “exchange rate” between the guilty plea and the reduction in sentence to be granted (Abuthaalib et al., 2026). Furthermore, the judge has the authority to accept or reject a guilty plea submitted by the defendant, which directly impacts the course of the trial proceedings. If the judge accepts the plea, the case proceeds through the summary trial procedure as provided for in Article 78(9) of the 2025 Criminal Procedure Code. Conversely, if the guilty plea is rejected, the case is still examined through the regular examination procedure as stipulated in Article 78(10) of the 2025 Criminal Procedure Code.

Furthermore, once a summary proceeding has been approved, the agreed-upon guilty plea is examined before the court. Article 78(12) of the 2025 Criminal Procedure Code serves as the primary legal basis for the judge in rendering a decision. The provision states:

"Dalam hal hakim memperoleh keyakinan bahwa Pengakuan Bersalah dilakukan sesuai dengan ketentuan sebagaimana dimaksud pada ayat (1) sampai dengan ayat (11) dan didukung dengan 2 (dua) alat bukti yang sah, Hakim memberikan putusan sesuai dengan kesepakatan dalam berita acara."

Translation (author's translation): *"Where the judge is satisfied that the guilty plea has been made in accordance with the provisions referred to in paragraphs (1) through (11) and is supported by two lawful items of evidence, the judge shall render a decision in accordance with the agreement recorded in the official report."*

Thus, the final ruling in cases heard through the expedited procedure depends heavily on the judge's conviction regarding the validity of the confession and the existence of two pieces of valid supporting evidence in addition to the confession itself.

In addition to the restorative justice approach, a significant update in the 2025 Criminal Procedure Code is also evident in the expansion of admissible evidence in criminal proceedings. Whereas the old Criminal Procedure Code previously recognized only five types of evidence as stipulated in Article 184, the 2025 Criminal Procedure Code, through Article 235(1), expands the types of admissible evidence to eight. In addition to witness testimony, expert testimony, documents, and the defendant's statement, the new Criminal Procedure Code also recognizes physical evidence, electronic evidence, the judge's observations, and any other material that may be used for proof provided it is obtained lawfully and does not violate the law. This addition reflects an adaptation to technological advancements and the needs of modern evidence-gathering, particularly in cases involving electronic transactions, cybercrimes, or corruption offenses. In the context of plea bargaining, the existence of these additional types of evidence is crucial because a guilty plea cannot serve as the sole basis for sentencing.

Provisions regarding guilty pleas in the special track still require at least two pieces of valid evidence to support the defendant's confession. This indicates that the evidentiary system in the 2025 Criminal Procedure Code continues to uphold the principle of protecting the defendant and preventing false confessions. A guilty plea made without the support of other evidence has the potential to violate the principle of non-self-incrimination and conflict with the principle of a fair trial. Therefore, the expansion of evidence under the new Criminal Procedure Code actually strengthens the legitimacy of the plea bargaining

mechanism, as judges remain obligated to ensure the existence of minimum evidence before rendering a verdict. Thus, the efficiency of the judicial process does not sacrifice the principle of substantive truth and the protection of human rights.

The judge's authority to accept or reject such an agreement has significant legal implications for the protection of the defendant's rights. Acceptance by a single judge will shift the trial process to a summary proceeding, which is procedurally more efficient and faster. Conversely, a rejection by the judge—which may be based on the consideration that the admission was not given voluntarily, is not supported by sufficient preliminary evidence, or is contrary to the interests of justice—will return the case to the regular trial proceedings. Thus, the judge's decision becomes a decisive factor that directly influences the course of the proceedings and the potential outcome facing the defendant. Therefore, any rejection of a guilty plea must be accompanied by transparent and accountable reasoning to ensure the protection of the defendant's rights from uncertainty and potential arbitrariness, while upholding the principles of judicial supremacy and the pursuit of substantive truth.

Third, during the initial stage of the main trial—specifically, at the time the indictment is read—a guilty plea may be entered subject to a different maximum penalty, namely a maximum of 7 (seven) years, as provided for in Article 234(1) of the 2025 Criminal Procedure Code. This provision creates a normative inconsistency with the provisions regarding the prosecution stage under Article 78 of the 2025 Criminal Procedure Code, which limits the maximum penalty to 5 (five) years. This discrepancy in the limits not only creates ambiguity regarding the fulfillment of formal requirements but also conflicts with the principle of legal certainty in criminal procedure law. This disparity in legal construction has the potential to violate the principle of a fair trial, particularly the principle of equality before the law, as it may lead to unequal legal treatment of defendants solely due to differing interpretations of the two provisions governing the mechanism for admitting guilt. Furthermore, the omission of the requirement “first-time offender” in Article 234 of the 2025 Criminal Procedure Code—which is, in fact, the primary requirement under Article 78—constitutes a regulatory gap that risks obscuring the restorative justice orientation underlying the granting of criminal leniency. If this inconsistency is not promptly resolved, it could potentially open the door for repeat offenders to receive undeserved sentencing leniency, which contradicts the provisions for harsher penalties for repeat offenders as stipulated in Article 58 of the 2023 Criminal Code.

Another issue that requires attention is the provision regarding a maximum sentence of two-thirds of the statutory maximum penalty, as stipulated in Article 234(5) of the 2025 Criminal Procedure Code. This provision ensures that a defendant who voluntarily admits guilt is entitled to a reduced sentence, so that the imposed sentence must not exceed two-thirds of the maximum penalty. However, this provision creates inconsistency when applied to the maximum sentence limit of 3 (three) years in summary proceedings. If the two-thirds provision is applied literally, ambiguity will arise in sentencing practice and potentially lead to disparity in judgments. Therefore, in an ideal model, the two-thirds provision should be harmonized through implementing regulations so as not to conflict with the maximum sentence limit in summary proceedings.

Overall, although plea bargaining is an innovation with the potential to improve judicial efficiency, its normative framework still contains various inconsistencies and internal disharmonies. To realize the principles of a simple, swift, and cost-effective judicial system without neglecting the principle of legal certainty, improvements are needed through technical regulations—whether in the form of government regulations or regulations from authorized law enforcement institutions—to harmonize and clarify the boundaries of application at every stage of the process. Furthermore, such regulations must clearly establish standards for judges' assessment of the voluntariness of guilty pleas and

their consequences, as well as establish effective oversight mechanisms to prevent potential abuse of authority by law enforcement officials. Without the strengthening of these technical regulations, the implementation of plea bargaining risks becoming merely an instrument of false efficiency that actually undermines the principles of legal certainty and the protection of human rights. This aligns with the legislature's objective of simplifying the judicial process through a restorative approach, while simultaneously strengthening oversight of the sentencing process as an effort to reduce overcrowding in correctional facilities (Frans et al., 2024).

Reformulating the Ideal Model of Plea Bargaining in the Reform of Indonesian Criminal Procedure Law While Upholding Due Process of Law

Due process of law is a fundamental principle in the legal system that requires all legal proceedings to be conducted fairly, impartially, and in accordance with the procedures established by law, so that the fundamental rights of every individual are protected from arbitrary actions by the state or law enforcement officials (Khablo & Svoboda, 2024).

Philosophically, the concept of due process of law reflects the fundamental principle that justice must not only be done but must also be seen to be done within the legal system. This concept is rooted in the assumption that state power is not absolute but is limited by norms that guarantee the protection of individual rights and human dignity. Due process requires that before the state can deprive a person of their right to life, liberty, or property, it must follow fair and transparent procedures established by law. This demonstrates a deep commitment to justice, equality, and respect for the individual as a subject of law.

The ideal model for summary proceedings in the application of guilty pleas (plea bargaining in the broad sense) under the 2025 Criminal Procedure Code should not be understood merely as a mechanism for expediting case resolution, but rather as a normative instrument that ensures a balance between judicial efficiency, the protection of the defendant's rights, and legal certainty. The summary hearing as regulated in Article 257 of the 2025 Criminal Procedure Code is intended for cases which, in the assessment of the Public Prosecutor, involve simple evidence and the application of non-complex legal norms, with limitations on the specific criminal penalty and accompanied by a guilty plea from the defendant that has been approved by the judge. However, within the framework of an ideal model, these criteria must be interpreted strictly and restrictively to prevent their excessive application to cases that inherently require examination through the regular proceedings. These restrictions include the non-complex nature of the case, clarity regarding the maximum penalty, and a guilty plea given voluntarily, consciously, and free from coercion. These restrictions serve as a normative control mechanism to ensure that the summary proceedings do not become a fast-track process that disregards the principle of a fair trial.

With regard to authority, the Public Prosecutor in summary proceedings is not required to draft a full indictment as in ordinary proceedings, but need only present an oral statement, which is then recorded in the court minutes as provided for in Article 257(3)(a) of the 2025 Criminal Procedure Code, serving as a substitute for the indictment. Nevertheless, in an ideal model, the Public Prosecutor's authority should be limited to assessing the merits of the case and presenting a concise indictment, without including negotiations regarding the type or duration of the sentence. A guilty plea under the 2025 Criminal Procedure Code is not interpreted as plea bargaining in the narrow sense as practiced in the United States, but rather as a form of plea bargaining in the broad sense as applied in the United Kingdom and Germany, which does not involve negotiations regarding the charges, facts, evidence, or the severity of the sentence (Ramadhan et al., 2024).

Although the summary hearing is designed with simple procedures, the 2025 Criminal Procedure Code still requires the presence of the defendant, witnesses, evidence, and experts or interpreters when necessary, as stipulated in Article 257(2). This provision emphasizes that a guilty plea cannot serve as the sole basis for imposing a sentence. In an ideal model, the presence of witnesses and experts serves as a minimum corroboration of evidence to ensure the occurrence of a criminal act and the defendant's involvement, making their role complementary within the evidentiary system (Husin & Husin, 2024). This provision serves as a normative safeguard to prevent violations of the principle of non-self-incrimination, given that, in the absence of supporting evidence, the summary trial procedure could potentially result in the defendant's confession being the sole basis for the judgment, which is contrary to the principles of justice in modern criminal law (Sirjon et al., 2023).

The fundamental issue in the implementation of summary proceedings lies in the structure of the resulting legal documents. Article 257(3)(d) and (e) of the 2025 Criminal Procedure Code stipulates that the results of the hearing are recorded in the court transcript, and the judge issues a "document" containing the judgment, which has the same legal force as a court judgment in ordinary proceedings. However, the use of the term "letter" creates conceptual ambiguity that has serious implications for legal certainty. Doctrinally, a court decision is a judicial product that gives rise to specific legal consequences, including opening the possibility of filing legal remedies. Therefore, if the results of a summary hearing are not set forth in the form of a complete court decision, but only in the form of a "letter," a normative issue arises regarding whether it is still possible to file legal remedies against that legal product.

This ambiguity becomes even more problematic when considered in light of the definition of legal remedies in Article 1(20) of the 2025 Criminal Procedure Code, which explicitly states that legal remedies may only be filed against court decisions. Therefore, in an ideal model, if the summary hearing is understood as a case resolution mechanism based on a guilty plea, the resulting legal outcome should be final and binding and leave no room for legal remedies. Clarity regarding the form and status of such legal outcomes is a key prerequisite for ensuring legal certainty, both for the defendant and for the criminal justice system as a whole.

In addition, the ideal model for summary proceedings also requires consistency in the regulations regarding sentencing limits. Article 234(5) of the 2025 Criminal Procedure Code guarantees that the sentence imposed on a defendant who voluntarily admits guilt may not exceed two-thirds of the maximum penalty. However, this provision potentially conflicts with the maximum of 3 years in summary proceedings. This ambiguity risks creating uncertainty in sentencing practice. Therefore, from a legal perspective, the provision regarding two-thirds of the maximum penalty should be repealed or set aside through implementing regulations, so that the maximum sentence in summary proceedings is consistently limited to no more than 3 years' imprisonment. With such a provision, a guilty plea truly becomes an instrument that provides certainty, leniency, and justice for the defendant, without sacrificing the fundamental principles of criminal law.

As part of the reformulation of the sentencing system, the 2023 Criminal Code also introduces community service and probation as alternatives to short-term imprisonment. The introduction of these penalties reflects a shift in the orientation of sentencing from a retributive approach toward a corrective, rehabilitative, and restorative approach. Social service is intended to ensure that offenders remain accountable for their actions without losing their social function in society, while supervised release provides room for rehabilitation while still placing the judge in control of the sentence's implementation. This model is far more relevant than short-term imprisonment, which has actually exacerbated prison overcrowding and proven ineffective in reducing recidivism.

This provision is reinforced by Article 613 of the New Criminal Code, which affirms that imprisonment is no longer the primary option in all criminal cases, particularly for minor offenses and offenders who still have a high likelihood of rehabilitation. This article serves as an important normative foundation for promoting the use of alternative sanctions, such as community service and probation, as part of modern criminal policy. In relation to plea bargaining, the existence of these alternative sanctions provides a more rational framework for judges to issue rulings that are not solely focused on incarceration, but rather on the rehabilitation and social reintegration of the offender. Thus, the reformulation of plea bargaining in the 2025 Criminal Procedure Code is not only related to expediting the judicial process but must also be linked to comprehensive reform of the penal system so that the goal of substantive justice can truly be achieved.

CONCLUSION

Based on the research findings, it can be concluded that the regulation of plea bargaining in the Indonesian criminal justice system following the enactment of the 2023 Criminal Code and the 2025 Criminal Procedure Code constitutes a form of legal reform aimed at improving judicial efficiency, reducing prison overcrowding, and supporting the rehabilitative and restorative justice paradigms. However, the existing normative framework still exhibits various inconsistencies and lack of coherence, particularly regarding the differing thresholds for criminal penalties between Article 78 and Article 234 of the 2025 Criminal Procedure Code, the lack of clarity regarding the form of legal dispositions in summary proceedings, the provision for a maximum sentence of two-thirds of the prescribed penalty, and the suboptimal regulations regarding the protection of the defendant's rights and oversight of law enforcement authorities' powers.

Furthermore, the implementation of plea bargaining in Indonesia does not yet fully reflect the concept of plea bargaining in the narrow sense as practiced in common law countries, but rather resembles the concept of a "plea without a bargain," with limited room for negotiation. In this context, the expansion of admissible evidence under the 2025 Criminal Procedure Code serves as a crucial instrument to ensure that a guilty plea is not the sole basis for sentencing, thereby safeguarding the principles of a fair trial and the right against self-incrimination. On the other hand, the existence of community service, probation, and the restorative justice approach indicates that Indonesia's criminal law reform has moved toward a sentencing system that is more corrective, proportional, and oriented toward the social reintegration of offenders.

Therefore, the reformulation of the concept of plea bargaining must be viewed as part of a comprehensive reform of the criminal justice system, not merely as a tool to expedite case resolution. Synchronization between the 2023 Criminal Code and the 2025 Criminal Procedure Code is a key prerequisite for achieving the goal of judicial efficiency without compromising legal certainty, the protection of human rights, and substantive justice.

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