

Topic: Human Right Issues of Artificial Intelligence (AI) Gaps and Challenges, and Affected Future Legal Development in Various Countries

The Implementation of “Plea Bargaining” in Indonesian Renewal Criminal Law

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Abstract. *The plea bargaining system is a system that prioritizes the efficiency of criminal prosecution by means of negotiations between the general public and the prosecutor and legal counsel, which substantially involves an exchange of "admissions of guilt" from the defendant, with the reduction of the criminal threat or reduction. accusations leveled against the defendant. The main concept of plea bargaining is not just a matter of "bargaining" punishment, but focuses on the defendant's admission of guilt. This can then make it easier for all law enforcement officials to resolve cases more quickly with more accurate evidence, especially if there is a confession from the perpetrator who has been named a defendant. One example of the application of the concept of plea bargaining is the United States. The implementation of plea bargaining in the United States has made criminal prosecutions in the United States effective and efficient so that criminal prosecutions in the United States are able to prevent high costs and lengthy criminal proceedings. The application of plea bargaining in the criminal criminal system in Indonesia will be suppressed with several limitations, namely plea bargaining will be given to criminals who commit crimes with a sentence of under seven years. The opportunity to obtain a plea bargaining process will be given to fraudsters once so that respondents who have entered into a plea bargaining process will not get the opportunity to be tried using the plea bargaining mechanism.*

Keywords: *Indonesian Criminal Code; Plea Bargaining System.*

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1. Introduction

Legal developments and social dynamics continue to develop over time, both of these things occur because of the growing current of modern globalization. Basically, one of the functions of law is social engineering and social control. Thus, the development and formation of law was not created solely based on momentary needs. Legal formations must be made and planned for the next decades to anticipate new things that may occur in order to avoid legal violations. As we know, Indonesia adheres to the principle of legality which is interpreted as an action that is said to be legal if the action has been previously regulated in standard regulations. Based on this, every lawmaker must think about all the risks and possibilities that may occur in the future.

According to Rantawan Djanim's , he stated: "The existence and function of law in the social justice process can be explained in 2 (two) perspectives: First, observing the existence and function of law is to follow the changes that occur and as far as possible to validate these changes in order to maintain Social stability (a tool of social control), and the second perspective, the function of law is as a tool of social engineering (a tool of social engineering) to achieve the common goals of society".

Legal developments and changes are made with a very wide range of aspects. This is related to the implementation of legal work in social life, law enforcement agencies, modern society in general, aspects of changes from previous laws, as well as the impact on future legal developments and the spirit of the law itself. This must be planned as best as possible for the next generation. The principle of making a prohibition itself is to prevent someone from carrying out an action, so that preventive action occurs, even if it occurs then structured mitigation action has been designed.

The implementation of law regarding how the law faces social developments, require the law itself to be implemented with effective and efficient goals. The law is required to be able to resolve a case quickly and rigidly to minimize errors in making assumptions, ensure that the case does not happen again, and serve as a guideline for the next time. On the same hand, apart from the law having to be formulated on the basis of effective and efficient principles, this also requires law enforcers to be able to enforce the law with the same rhythm, so that the intent of the law and the method of its implementation run in the same corridor.

Implementation of legal settlements in an effective and efficient manner has the aim that the resolution of legal problems is carried out quickly and with minimal costs. This concept is considered that the law must avoid processes that are complicated and cost too much. So the

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principle of fast trading and low costs emerges. The implementation of the effectiveness and efficiency of law enforcement basically has obstacles in procedural technicalities which must be fulfilled as elements of punishment. This process is of course created to avoid wrongful convictions that harm other innocent people.

The criminalization process, which has to go through various channels, then becomes one of the weaknesses in implementing speedy justice. The process of proof and examination that is required procedurally often takes a long time, this is a form of compliance with criminal prosecution in the context of Due Process of Law and Rule of Law which mandates that all processing procedures must be carried out systematically and structured by following all the stages. stages that have been previously approved. Then law enforcers are required to carry out all legal procedures carefully and thoroughly. Examinations are carried out comprehensively, systematically, integrated with each other to find evidence and convince someone suspected of committing a criminal act. It doesn't just stop there, the judicial process also continues to the court stage. Judges are also required to be careful in giving their indictments.

Effective and efficient implementation of fast tax implementation then also affects the handling of cases which will become more expensive and less expensive over time. cases that enter and pile up in court, will simultaneously require a large cost carrying capacity, which does not rule out the possibility that the state will have to prepare large costs to handle the handling of existing cases. The costs of the case are not cheap, because carrying out a defense also requires costs that are not cheap in order to obtain sufficient legal advisory services (legal aid) and to pay the court costs charged to it.

The Criminal Code is a guideline for the implementation of Indonesian law enforcement, which contains all regulations adapted to conditions of social development. The Plea Bargaining system is one of the offers for adopting a legal system that can be formulated to complement other legal regulations. The pleas bargaining system is a "Special Route" concept which practically has the aim of assisting the resolution of cases in court with a fast justice system that is effective and efficient. In substance, it is intended to provide the accused with the opportunity to undergo a legal process that is fast, light and at low cost. Apart from that, this also helps the judicial mechanism to resolve cases as quickly and in as much detail as possible, thereby minimizing the backlog of cases in the judicial process itself.

The plea bargaining system is a system that prioritizes the efficiency of criminal prosecution by means of negotiations between the general public and the prosecutor and legal counsel, which substantially involves the exchange of "admissions of guilt" from the defendant, with the

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reduction of criminal threats or reductions. accusations leveled against the defendant. The plea bargaining system has been known and practiced in America and several other countries, because it is considered to bring benefits and encourage criminal justice to be more efficient, as well as avoiding case loads entering the courts.

The main concept of plea bargaining is not just a matter of "bargaining" punishment, but focuses on the defendant's admission of guilt. This can then make it easier for all law enforcement officials to resolve cases more quickly with more accurate evidence, especially if there is a confession from the perpetrator who has been named a defendant. On the bright side, with the defendant's admission of guilt, law enforcement can collect more concrete pieces of evidence and the judge's considerations will be more objective. The perpetrator/defendant's admission of guilt then results in relief for the perpetrator/defendant in terms of punishment.

In normative perspective, every case submitted and estimated before the court must go through each stage in accordance with the criminal justice system mechanism that has been determined in statutory regulations. In practice, it no longer justifies the application of a "guilty admission" in criminal charges on the assumption that the use of a "guilty admission" would be contrary to human rights. However, in practice, we often find that the way investigators work is only to pursue "confessions" from suspects (as with the practice of the HIR era which still adheres to the Inquisitoir principle), so that methods of pressure, threats and coercion to obtain suspect "confessions" become the essence of the process. This has been a problem that continues to occur in the legal handling process. Alschuler mengemukakan bahwa: "Prosecutors say that bargaining is a way to reduce the backlog, but in reality it is simply a way to reduce the work."

Implementing multiple bargaining will provide efficiency, namely reducing obstacles and reducing the amount of work (case load). The arrangement of the idea of requesting a plea bargaining system as part of the Criminal Procedure Code Bill certainly gives hope that criminal justice in Indonesia will become more modern and accountable, and can run more efficiently. This is in line with the view of M. Hatta Ali, that: "Modernization of the judiciary is a necessity towards realizing justice that is simple, fast and low cost."

So changes and reforms in Indonesian criminal law with the adoption of the Plea Bargaining System concept can be considered as an agreement to keep up with developments and updates in modern and fair law. In principle, the process of adopting and integrating the concept of a plea bargaining system in Indonesian criminal law must be based on in-depth thinking from a philosophical perspective, not only oriented towards meeting demands for

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reform of criminal law as demanded in the international world, but must be comprehensively adapted. with the legal ideals and characteristics of the Indonesian nation.

2. Research Methods

The method used in the study is the normative-juridical approach. The normatitic juridical approach is the approach made based on the main legal material by studying the theories, concepts, principles of law and the regulations of legislation related to the study. It is also known as the approach to literature, that is, by studying books, regulations of legislation and other documents relating to the study

3. Results and Discussion

3.1. The Conception of Plea Bergaining in Criminal Law

Law enforcement is an effort to create order, security and tranquility in society, whether it is a preventive effort or an effort to eradicate or take action after a law violation occurs, in other words, both preventively and repressively. Regarding law enforcement efforts, Jimly Asshiddiqie wrote in his paper, stating that the meaning of law enforcement is the process carried out to enforce or function real legal norms as guidelines for behavior in traffic or legal relations in social and state life.

The arraignment period for statements or indictments is a short process to achieve the goal of informing the defendant of the accusations presented to him and giving the defendant an opportunity to answer the accusations. If the defendant pleads not guilty, the case is continued and then tried before a conference by a jury. If the defendant declares guilt or no contest, then the case is ready to be decided. In particular, the statement of nolo contentence (no contestation), in essence, has the same essence as a statement of guilt, but in this case it is not required that the defendant admit his guilt. The defendant simply stated that he would not challenge the prosecutor's accusations at trial.

Plea bargaining system mechanism, if an agreement has been reached between the general transmission and the suspect/defendant, it will override the defendant's right to non-self-incrimination and has implications for the termination of the further judicial process. According to Carolyn E. Demarest, there are things that are beneficial for the Public Prosecutor and the Defendant in the Plea Bargaining mechanism: "The Plea Bargaining mechanism is believed to bring benefits, both for fraud and for society. The advantage for him is that he together with the general signing can negotiate an appropriate punishment for him. The community benefits because this mechanism will save costs for examinations in court, where

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the perpetrator admits his actions and will still receive punishment. "Even though the sentences given on average are less than what a judge would decide through a conventional court process, on the other hand, this mechanism can have an effect on the criminal justice process because general submissions have more time and can handle more cases."

John Wesley Hall, Jr. provided an explanation that plea bargaining is carried out in the context of resolving criminal cases without going to court, that in plea bargaining it is not an engineered negotiation but must prioritize honesty regarding the facts that occurred: "If the nature and circumstances of the case are necessary, the defense must explore the possibility that the case can be diverted from the criminal process. Prosecutors also have such duties in exercising their prosecutorial discretion. Both parties to a defense discussion have an obligation to be open and honest, and a prosecutor or defense attorney "may not knowingly make false statements regarding evidence during a defense discussion with" opposing counsel." (If the nature and circumstances of the case warrant it, the general summons should explore the possibility that the case may be diverted from criminal proceedings. Prosecutors also have a duty to exercise their speech discretion. Both parties to a defense discussion have a duty of openness and candor, and the public summons" does not may knowingly make false statements regarding evidence in the course of defense discussions with opposing counsel).

In the context of a confession being recognized in the "Special Route", the suspect/defendant's right to protection remains protected, where a suspect/defendant is given the opportunity to defend himself as fully as possible, equipped with the right to remain silent and the right to deny, so as not to position the suspect/accused as someone who is definitely guilty. A "guilty plea" is broadly defined as a statement of guilt from a suspect or criminal. The concept of confession is widely adopted in countries that adhere to a common law legal system. In principle, this arrangement regarding guilty pleas can be considered as an effort so that a case does not need to be submitted to court to be resolved. The concept of a guilty plea can also be referred to as an alternative dispute which is often related to efforts to resolve outside of court and its use is also based on certain reasons. Guilty pleas are used as a means to accommodate suspects and perpetrators who admit their actions and admit guilt, so that there is no need for a judicial process which of course takes time and money. Another factor that is taken into consideration by a suspect or confessor who confesses his sins is avoiding peace because it is to protect his own good name and that of the party he represents (corporation).

The application of plea bargaining is greatly influenced by law enforcement officials. Plea bargaining requires prosecutors, lawyers and judges to make maximum use of this system. The manifestation in its application is that there is a situation where a prosecutor really wants to

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immediately resolve the case so that he makes the suspect or perpetrator "confess" by applying certain pressure, as well as the lawyer for the suspect or defendant who does not want to defend his client's case so he prefers that the case be resolved through Plea bargaining, and also the possibility of the judge's indifference to the case. The implementation of settlement through plea bargaining still has many pros and cons even though it has been mathematically proven to be able to reduce the number of cases entered and resolved by the court.

Another problem is that the confession made by the suspect or fraudster is not an admission of the actions he has committed and the mistakes he has committed. The application of plea bargaining to certain criminal acts is also considered unable to fulfill the sense of justice in society. One example is the application of plea bargaining in criminal acts of corruption in Nigeria. Sentencing is based on the strength of the evidence against the perpetrator and the need for society to be protected from future perpetrators. So the conclusion is that in determining a sentence based on plea bargaining there must be the ability of the authorities to fulfill the sense of justice in society. The public prosecutor must be able to submit fair demands in accordance with the actions committed, and the judge also plays an important role in handing down decisions to ensure justice is upheld.

3.2. The Historical Implementation of Plea Bargaining in Other Country

Albert Alschuler stated, Plea bargaining emerged in the mid-19th and early 20th centuries. This system played a role in overcoming the difficulties of handling criminal cases and courts in the United States relied heavily on this system in 1930. In the practice of the Plea bargaining system in the United States, if looking at statistics from the United States Department of Justice in 2000, as many as 87.1% of respondents carried out defense mechanisms, while only 12.9% went to court. The United States Supreme Court has declared a plea bargaining mechanism an essential and desirable element in its criminal justice system. As many as 95% of convictions in America are resolved with a confession from the sender. From these data it can be seen that the high level of success in implementing the plea bargaining system in the United States in handling criminal cases that go to court is high.

The implementation of plea bargaining in the United States has made criminal prosecutions in the United States effective and efficient so that criminal prosecutions in the United States are able to prevent high costs and lengthy criminal proceedings. This is inversely proportional to the criminal justice process in Indonesia which is still far from the title of "effective and efficient" criminal justice, so that in order to realize an effective and efficient criminal justice process, compensation needs to be carried out in order to realize effective and efficient

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criminal justice, which will later result in the adoption of the concept of implementing plea bargaining in the United States to be applied in Indonesia. There are several stages of the process in handling criminal cases in the criminal system in the United States, namely starting from investigation, prosecution, examination in court, determination of punishment and execution of the sentence. In the criminal system in the United States, plea bargaining occurs at the stage before the trial, namely at the preliminary hearing and arraignment stages. If a defendant declares himself guilty of a crime, the next process is to be sentenced without trial.

The practice of plea bargaining in the criminal justice system in England and Wales has had a major impact in increasing the rate of resolution of cases quickly and efficiently. Another thing is to avoid the burden of cases which often interferes with the performance of prosecutors and judges in deciding cases. "The plea bargaining process is one process primarily used by prosecutors to secure the testimony of a person accused of a crime against a co-conspirator who has been charged with a more serious crime. In many situations, a person can negotiate a reduced sentence by pleading guilty to a lesser charge in exchange for agreeing to certain conditions that often vary depending on the circumstances of the case. Plea bargaining in this scenario often occurs when the evidence against a person is overwhelming." Plea bargaining is one that is primarily used by prosecutors to secure the testimony of someone who claims to have committed a crime against a conspiracy who has been charged with a more serious crime. In many circumstances, an individual will be able to negotiate a reduced sentence by pleading guilty to a lesser charge in exchange for agreeing to certain conditions which will often vary depending on the circumstances of the case. A plea bargain in this situation will often occur when the evidence against a person is very strong.

Therefore, plea bargaining with a legal system similar to the United States, can be said to not be too difficult to implement. There are at least two (2) forms of plea bargaining that exist in the British criminal justice system, namely:

1. A charge plea bargain will enable an accused individual to plead guilty to a lesser crime than the one he is charged with – in most cases falling into one of the two categories outlined above.
2. A sentence plea bargain occurs when a judge informs a defendant of what sentence he will receive if he pleads guilty – it is then up to the defendant to accept or reject the plea bargain.

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3.3. The Implementation of Plea Bargaining Concept in Indonesia Renewal Criminal Law

The application of plea bargaining in the criminal criminal system in Indonesia will be suppressed with several limitations, namely plea bargaining will be given to criminals who commit crimes with a sentence of under seven years. The opportunity to obtain a plea bargaining process will be given to fraudsters once so that respondents who have entered into a plea bargaining process will not get the opportunity to be tried using the plea bargaining mechanism. In agreement with this idea, the integrity of the public loan is very necessary because the main key to the success of the plea bargaining system is the public loan and the prosecution or legal advisor. In this case, there is a need for training as an effort to increase insight to cover the general nature of the plea bargaining system. This is to achieve general results with integrity for an effective and efficient criminal justice process through a plea bargaining system.

Furthermore, the government should immediately make regulations regarding policies for implementing the plea bargaining system, starting from procedures for implementing the plea bargaining system, guarantees containing the rights that the complainant has when the applicant confesses his sins, as well as time limits for implementing the bargaining mechanism. -offering applications as an effort to create certainty in law enforcement that is simple, fast and low cost. It is hoped that the implementation of the Plea Bargaining System in Indonesia will reduce case problems and be able to create a criminal justice process that is simple, fast and low cost. In this way, the objectives of law, namely justice, benefit and legal certainty, can be realized so that the judicial process in Indonesia becomes more effective and efficient.

In practice, written law will always be left behind, because it is rigid and difficult to adapt to rapid changes in society. Based on the picture of what is happening, by looking at the legal conditions that are teetering to follow the changes that occur in people's lives, legal reform by making several changes is a necessity that must be realized immediately. One of the things that has become an interesting discourse, namely reform in the field of criminal law, is that the Criminal Code and Criminal Procedure Code which are currently in force have been around for too long and have not undergone any changes. Beccaria further stated that, "only the law can determine which acts can be punished, what sanctions and for which acts can be imposed, and how exactly criminal prosecution should occur."

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This renewal in perspective conveys that in reforming criminal law, a new perspective can also be given according to new values adapted to new circumstances. Related to the reform of criminal procedural law, as part of criminal law, Law no. 8 of 1981 concerning Criminal Procedure Law (KUHP) which is currently in force, is no longer in accordance with the times and the needs of society, in addition to the development of theories, and the development of international law, as well as international conventions encouraging updates to practice. Criminal procedural law in Indonesia is getting better.

However, updates need to be carried out to anticipate future developments, and in principle to maintain Indonesian philosophical values. Richard Lange, stated that, "The scope of criminal law reform will always be related to two main problems, namely, on the one hand, there is an obligation to harmonize criminal law with empirical science, which in this case requires criminal reform to pay attention to the real needs of society, and on the other hand, criminal law must be updated according to the level of progress of the times." Reforms in Indonesian criminal law can be projected as follows. The aim of criminal procedural law in the future is to seek material truth, protect the rights and freedoms of people and citizens, balance the rights of the parties, people who are in the same situation and prosecuted for the same offense. must be tried according to the same provisions, defend the constitutional system of the Republic of Indonesia from criminal violations, maintain humanitarian peace and security and prevent crime. Its purpose is so that state officials and citizens in order to carry out their obligations in investigations, prosecutions, public prosecutions and defense in court carry out their obligations smoothly, as well as how widely they can understand and appreciate the criminal procedural law that applies in Indonesia."

The adoption of the concept of a plea bargaining system as part of the reform of the criminal prosecution system can at least be considered comparable to the formulation of the "Special Route" concept, which reads:

(1) When the public prosecutor reads out the indictment, the perpetrator admits all the acts charged and pleads guilty to committing a criminal offense which carries a sentence of no more than 7 (seven) years.

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(2) Acknowledgment is made in an official report signed by the signatories and general signatories.

(3) The judge is obliged to: release him by giving a confession as intended in paragraph (2); B. Inform the defendant regarding the length of the sentence that may be imposed; C. Ask whether the recognition as intended in paragraph (2) was given voluntarily.

(4) The judge may reject the confession as intended in paragraph (2) if the judge has doubts about the truth of the confession.

(5) Except for Article 198 paragraph (5), the prison sentence as intended in paragraph (1) may not exceed 2/3 of the maximum penalty for the criminal offense charged. "The maximum prison sentence for arrest is 3 (three) years."

4. Conclusion

Plea bargaining is the resolution of legal problems in dealing with criminal cases in Indonesia which have not been able to be resolved to this day. The urgency to implement plea bargaining in criminal proceedings in Indonesia can be seen from various reasons. The philosophical reason lies in the 4th paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia concerning general welfare and social justice. The juridical reasons are contained in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia and Article 4 paragraph (2) of Law Number 48 of 2009 concerning Judicial Power. Sociological reasons can be seen from various problems in the criminal implementation process in Indonesia, namely the length of the case resolution process, the high costs of resolving cases, and the never-ending pile up of criminal cases in court. Finally, the legal political reason is that criminal law reform is carried out as a strategy to create the best law to regulate, maintain and maintain consistency in the realization of the state's ideas and ideals, as well as so that the applicable criminal law is in accordance with the values of society. Indonesia. It would be good to consider the rules regarding plea bargaining to be included in the future legal reform system in terms of the Criminal Procedure Code. This regulates guarantees for the rights possessed by fraudsters when carrying out bargaining mechanisms as well as time limits for each stage of the examination so that effective and efficient criminal justice is realized and the formation of implementing regulations that regulate the mechanism for implementing the bargaining system in the criminal process in Indonesia. Second, there is a need for guidance for law enforcement officers in terms of understanding theory and practice in implementing the bargaining system, considering that law enforcement officers are an important element in the

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implementation of bargaining. This is so that the process can be carried out to meet the objectives of achieving effective and efficient criminal prosecution.

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