

The problematics of plea bargaining implementation from the perspective of the principle of justice and due process of law in indonesia

Sri Herlina^{a*}, Noor Azizah^b, Salamiah^c

^{a,b,c} Faculty of Law, Universitas Islam Kalimantan Muhammad Arsyad Al Banjari Banjarmasin, Indonesia

*email correspondenc: sriherlina.2024@gmail.com

Citation: Herlina, S., Azizah, N., & Salamiah, S.,. 2026. The problematics of plea bargaining implementation from the perspective of the principle of justice and due process of law in Indonesia. *INJURLENS*, 6 (2), 114-132, <https://doi.org/10.51749/injurlens.v6i2.163>

Academic Editor: Zulhuda, S.

Data:

Received: 31 August 2026

Accepted: 2 October 2026

Publish: 8 October 2026

Publisher's Note: Scholar Center stays neutral with regard to jurisdictional claims in published maps and institutional affiliations.



Copyright: © 2026 by the authors. Submitted for open access publication in International Journal of Law, Environment, and Natural Resources (INJURLENS) under the terms and conditions of the Creative Commons Attribution-NonCommercial-ShareAlike 4.0 license (CC BY NC SA 4.0). For more information visit (<http://creativecommons.org>).

Abstract: Law Number 20 of 2025 on the Criminal Procedure Code (KUHAP) formalizes *Pengakuan Bersalah* (Plea Bargain) for the sake of prompt and efficient case resolution, but it raises questions regarding its position within a criminal justice system of the civil law tradition and its alignment with the principle of justice and due process of law. This study aims to analyze the regulation and position of plea bargaining in the Indonesian criminal justice system and to examine its alignment with these two principles. The study employs a normative legal method with statute, conceptual, historical, and limited comparative approaches, and uses Rawls's Theory of Justice and Radbruch's Theory of Legal Certainty as its analytical lenses. The results show that Articles 78, 205, and 234 of the KUHAP are three mechanisms of differing character that have not yet formed a single, complete plea bargaining regime, but rather a selective adaptation that retains the active role of the judge and the orientation toward material truth. Its implementation is conditionally aligned with justice and due process of law: it depends on the voluntariness of the admission, the assistance of an advocate, and substantive judicial control, and it risks deviation owing to the imbalance in the defendant's position, procedural pressure, and the scarcity of technical regulation. More detailed implementing regulations and strict judicial oversight are required so that substantive justice is not reduced to procedural efficiency.

Keywords: Plea bargaining; admission of guilt; justice; due process of law; KUHAP 2025.

INTRODUCTION

Criminal justice systems in many countries face similar structural pressures: case backlogs, limited law enforcement resources, and public demands for the prompt resolution of cases without sacrificing justice and the rights of the defendant. These pressures have prompted many jurisdictions to develop mechanisms for resolving cases outside full proof through adversarial trial. A cross-jurisdictional survey shows that, of

the 174 legal systems studied, 101 permit some form of plea bargaining in its various variations, although the extent of its use differs according to the legal tradition and democratic structure of each country (Paolini et al., 2025). These data confirm that plea bargaining is no longer a phenomenon exclusive to common law systems, but part of the development of consensual case resolution that is also studied in terms of its effectiveness and efficiency (Widianto et al., 2020).

Plea bargaining is understood as a process of negotiation between the public prosecutor and the defendant that enables the defendant to admit guilt in exchange for concessions, namely a reduction of the charges or of the criminal sentence demanded (Alschuler, 1979). A guilty plea, by contrast, is a defendant's declaration of guilt before the court that does not always arise from an explicit negotiation concerning the charges or the sentence demanded. The relationship between the two is not symmetrical: every plea bargain culminates in a guilty plea, but not every guilty plea is the result of plea bargaining (Alschuler, 1979). It is the element of negotiation and reciprocal concession that distinguishes plea bargaining, and such concessions commonly take the form of charge bargaining, sentence bargaining, or fact bargaining (Alschuler, 1979).

The efficiency gained through admissions of guilt brings with it classic problems concerning the protection of the defendant's rights, especially voluntariness, coercion, trial penalty, and due process of law. The experience of the United States, where plea bargaining grew as a response to the complexity of proof and the rising caseload in the nineteenth and twentieth centuries (Fisher, 2003), illustrates these problems clearly and is used here as a conceptual context and a point of comparison. The United States Supreme Court affirmed the constitutional validity of plea bargaining in *Brady v. United States* (1970), provided that the plea is made voluntarily and with full understanding of its consequences, even when it is prompted by the threat of a severe sentence. In *Santobello v. New York* (1971), the Supreme Court held that plea negotiation must be grounded in fairness, so that a promise made by the public prosecutor is legally binding. However, *Bordenkircher v. Hayes* (1978) upheld the prosecutor's threatening more serious charges if the defendant refused an offer of a guilty plea, a decision that Alschuler (1979) regarded as legitimizing the trial penalty, namely the additional punitive consequence for a defendant who chooses a full trial. The core of the problem lies at this point: when the exercise of the right to a full trial is burdened with the risk of a heavier sentence, the voluntariness of the admission and the guarantee of due process of law are at stake.

Indonesia is now in a phase of legal change. Under the former KUHAP (Law Number 8 of 1981), the statement or admission of the defendant was only one item of evidence that had to be supported by other evidence, with no binding force to expedite the judicial process (Maulana, 2017; Siregar et al., 2024). This situation changed through Law Number 20 of 2025 on the Criminal Procedure Code (KUHAP) and Law Number 1 of 2023 on the Criminal Code (KUHP), both of which took effect on 2 January 2026 (Azryal, 2026). For the first time, the new KUHAP formalizes the term *Pengakuan Bersalah* (Plea Bargain) in Article 1 point 16, which defines it as a legal mechanism for a defendant to admit guilt and to be cooperative in the examination by submitting evidence that supports the admission, in exchange for a reduced sentence. This definition is operationalized through three provisions of differing character (Widiartana, 2026; Simatupang & Mahardhika, 2026). Article 78 regulates the admission of guilt at

the pre-trial stage for criminal offenses committed for the first time and punishable by imprisonment of not more than five years. Article 205 regulates the admission of the charges at the beginning of the trial, which is offered after efforts at reconciliation within the framework of Restorative Justice have failed to reach an agreement. Article 234 regulates a mixed mechanism, namely where the defendant admits all of the acts charged and declares guilt, for criminal offenses punishable by imprisonment of not more than seven years.

The differences in character among these three articles are not merely technical differences, but a source of legal problems. Article 78 is closest to plea bargaining in its original sense because it involves a written negotiation among the public prosecutor, the defendant, and the advocate, the outcome of which requires the approval of the judge (Syafarina et al., 2026). Articles 205 and 234, by contrast, are better understood as admissions of the charges that shift the examination to the summary examination procedure, without a formal negotiation process (Picaesa & Abigael, 2026). Consequently, the same question, namely whether the admission arises from free will, is handled with different levels of assurance in each track. The defendant under Article 78 confesses through a written agreement with the assistance of an advocate, whereas under Articles 205 and 234 voluntariness rests primarily on the examination by the judge. The involvement of the victim is likewise not uniform: Article 205 applies only after efforts at reconciliation with the victim have failed, whereas the negotiation under Article 78 does not require the victim's involvement. The authority of the investigator to receive an admission of guilt from the investigation stage, under Article 7 paragraph (1) letter m, adds to the vulnerability, since oversight of the manner in which the admission is obtained is relatively limited at that stage (Ramadhan et al., 2026).

In terms of proof, Article 36 paragraph (1) and Article 51 of the KUHP affirm that an admission of guilt cannot replace the proof of the element of fault, but must remain placed within the framework of criminal responsibility (Widiartana, 2026).

Article 36 paragraph (1) of Law No. 1 of 2023 on the KUHP: "Every Person may only be held accountable for a Criminal Offense committed intentionally or through negligence."

Article 51 of Law No. 1 of 2023 on the KUHP: "The purposes of sentencing are: a. to prevent the commission of Criminal Offenses by upholding legal norms for the protection and safeguarding of society; b. to rehabilitate convicts through the provision of guidance and counseling so that they become good and useful persons; c. to resolve conflicts caused by Criminal Offenses, restore balance, and bring about a sense of security and peace in society; and d. to foster a sense of remorse and to free convicts from feelings of guilt."

However, when an admission expedites a case, the intensity of the examination of other evidence may potentially decline, so that the function of proof may shift from the search for material truth toward the formal verification of the voluntariness of the admission (Widiartana, 2026). This problem meets the position of the judge in a system characterized by an active judge and an orientation toward material truth. The authority to receive an admission is not entirely left to the public prosecutor as in the United States model, but the scope of the judge's examination has not been regulated

uniformly across the three articles (Syafrina et al., 2026; Awanadi & Zulkarnain, 2025). The use of differing terms, namely admission of guilt, admission of the charges, and admission of the act, without a clear distinction in the body of the statute also opens room for differing interpretations among courts (Alimuddin et al., 2024). This is why the three articles are not sufficiently described one by one. The differences in their construction determine how well the voluntariness of the admission is guaranteed, how strong the judge's control over proof is, and how well the position of the defendant and the victim is protected, so that the alignment of each track with justice and due process of law cannot be assessed uniformly.

A number of previous studies have touched on this issue and can be grouped according to their focus. The first group examines the normative construction of the admission of guilt. Picaesa and Abigael (2026) analyze it as an adaptation of a common law mechanism into the Indonesian criminal justice system, but emphasize the conceptual aspect rather than an in-depth examination of its alignment with justice and due process of law. Widiartana (2026) concludes that the admission of guilt in the reform of criminal procedural law is a hybrid model that retains the active role of the judge, with potential efficiency on the one hand and risks to the rights of the defendant and a shift from material truth to procedural resolution on the other; this study touches on justice and due process of law, but has not placed Rawls's Theory of Justice and Radbruch's Theory of Legal Certainty as explicit analytical lenses. Syafrina et al. (2026) and Awanadi and Zulkarnain (2025) examine the regulatory model and its relation to judicial power, while Azryal (2026) links the implementation of the admission of guilt to the purposes of sentencing.

The second group consists of comparative studies. Hermawati (2023) and Simatupang and Mahardhika (2026) compare the Indonesian regulation with plea bargaining in the United States, Nasution (2025) extends it with the experiences of India and France, and Paolini et al. (2025) map the factors driving the adoption of plea bargaining across countries. These studies provide references for adaptation, but their comparisons are at the system level and have not tested the three tracks of admission of guilt separately against the benchmarks of justice.

The third group highlights efficiency. Widiyanto et al. (2020) and Tristanto (2018) examine plea bargaining as an effective and efficient instrument of the judiciary, while Gemilang and Agustanti (2023) emphasize that efficiency must continually be balanced with justice. These studies identify the tension between the two values, but have not shown how that tension differs in each track of the 2025 KUHAP.

The fourth group concerns the rights of the defendant and legal certainty. Ramadhan et al. (2026) test the validity of the investigator's authority to receive an admission of guilt from a human rights perspective, and Abuthalib et al. (2026) affirm the tension between the efficiency of law enforcement and the degradation of legal certainty. Alimuddin et al. (2024) identify a vacuum of norms from the time the regulation was still a draft bill, which is likely to continue after the law was enacted. The focus of these studies is limited to a particular stage or to norms that were not yet in force.

The fifth group studies application to particular criminal offenses, namely corruption (Nelson & Santoso, 2020; Sitohang & Simangunsong, 2025), narcotics (Situmeang et al., 2024), and the practice of the justice collaborator, which is analyzed as a construction similar to plea bargaining (Parindo et al., 2024). These studies show that

issues of justice and due process of law arise on a case-by-case basis, but they do not provide a general analytical framework applicable across types of cases.

From this mapping, the research gap of this study can be formulated more firmly. Normative studies have not examined in depth the alignment of the admission of guilt with justice and due process of law using an explicit theoretical analytical lens; comparative and efficiency studies have not distinguished the character of the three tracks; studies on the rights of the defendant and legal certainty are partial or proceed from norms that were not yet in force; and studies on particular criminal offenses are case-specific. The remaining vacuum is a study of the three mechanisms of admission of guilt in the 2025 KUHAP (Articles 78, 205, and 234) that distinguishes their character, while simultaneously connecting them to justice and due process of law through Rawls's Theory of Justice and Radbruch's Theory of Legal Certainty in an integrated manner, and that affirms their juridical position in a criminal justice system founded on material truth.

Based on that gap, this study offers novelty limited to three matters. First, this study maps the differences in character among Articles 78, 205, and 234 of the KUHAP on the basis of the mechanism of admission, the presence or absence of negotiation, the role of the judge, and the position of the defendant and the victim, and does not treat the three as a single institution. Second, this study tests the three using Rawls's Theory of Justice and Radbruch's Theory of Legal Certainty within one shared frame together with the principle of due process of law, focusing on norms that have taken effect and are no longer a draft bill. Third, from this testing, this study formulates that the alignment of the implementation of the admission of guilt with justice and due process of law is conditional in nature, determined by three principal vulnerabilities: pressure at the investigation stage, the erosion of material truth including the risk of admission by a substitute (*pasang badan*), and information asymmetry, local trial penalty, and the neglect of victim restoration. Its urgency is real, since the mechanism of admission of guilt began to be applied in district courts at the beginning of 2026, so that critical academic study is required to keep practice from deviating from the fundamental principles of criminal procedural law.

This study aims to (1) analyze the regulation and position of the concept of plea bargaining in the criminal justice system in Indonesia; and (2) examine the alignment of the implementation of plea bargaining with the principle of justice and the principle of due process of law in the Indonesian criminal law system. These aims are formulated in the following two research problems:

Based on this background, this study is formulated in two research problems:

1. How is the concept of plea bargaining regulated, and what is its position, in the criminal justice system in Indonesia?
2. Is the implementation of plea bargaining aligned with the principle of justice and the principle of due process of law in the criminal law system in Indonesia?

METHODS

This study uses a normative legal research method (juridical-normative), namely research that places legal norms as the main object of study, in particular the norms governing the mechanism of *Pengakuan Bersalah* in Law Number 20 of 2025 on the Criminal Procedure Code and their connection with Law Number 1 of 2023 on the

Criminal Code. The approaches used include the statute approach, carried out by examining the provisions of the KUHAP and the KUHP that are relevant to the admission of guilt; the conceptual approach, used to examine the concepts of plea bargaining, guilty plea, justice, legal certainty, and due process of law as they have developed in criminal law doctrine; the historical approach, used to trace the genealogy of the development of plea bargaining in judicial history; and a limited comparative approach, used to understand the development of plea bargaining in common law systems, particularly the United States, as a point of comparison in assessing the limits of adapting the concept into the Indonesian legal system.

The legal materials used consist of primary, secondary, and tertiary legal materials. The primary legal materials include Law Number 20 of 2025 on the KUHAP, Law Number 1 of 2023 on the KUHP, Supreme Court Circular Letter (SEMA) Number 1 of 2026 on Guidelines for the Implementation of the 2023 KUHP and the 2025 KUHAP, and landmark decisions of the United States Supreme Court (*Brady v. United States*, *Santobello v. New York*, and *Bordenkircher v. Hayes*) that are relevant to the history of plea bargaining. The secondary legal materials include books, national and international scientific journals, and previous research results that discuss the admission of guilt, plea bargaining, justice, legal certainty, and due process of law. The tertiary legal materials are legal dictionaries used to clarify the technical terms in this study.

The technique of collecting legal materials was carried out through library research by searching for statutory regulations, scientific journals, and relevant legal literature. The analysis of the legal materials was carried out qualitatively through legal reasoning and interpretation, placing John Rawls's Theory of Justice and Gustav Radbruch's Theory of Legal Certainty as the main analytical lenses to examine the normative position and the alignment of the implementation of the admission of guilt with the principle of justice and the principle of due process of law in the Indonesian criminal justice system.

RESULTS AND DISCUSSION

Regulation and Position of the Concept of Plea Bargaining in the Criminal Justice System in Indonesia

Concept and Characteristics of *Plea Bargaining*

Plea bargaining is conceptually a process of negotiation between the public prosecutor and the defendant that produces an agreement on an admission of guilt in exchange for certain concessions, whether in the form of a reduction of charges, a limitation of the criminal sentence demanded, or an agreement on the facts to be presented at trial (Alschuler, 1979). Fisher (2003) explains that plea bargaining grew as an administrative institution that replaced the purely adjudicative model of justice, in which the authority to determine the outcome of a case shifted from the judge and jury to the public prosecutor through a pre-trial negotiation process. Its main characteristics lie in three elements: first, a bargaining process that actively involves both parties; second, reciprocal concessions that benefit the state in terms of efficiency and benefit the defendant in terms of a lighter sentence; and third, an admission of guilt as the consequence of that agreement. The efficiency generated by this mechanism is also what has driven a number of legal systems outside the United States to consider it as a

means of realizing an effective criminal justice system (Widianto, Amarini, & Kartini, 2020).

It is important to distinguish plea bargaining from guilty plea. A guilty plea is a declaration of guilt made by the defendant before the court, which can stand alone without a formal negotiation process, whereas plea bargaining encompasses the entire negotiation process that precedes and produces that admission. In other words, every plea bargain produces a guilty plea, but not every guilty plea arises from a plea bargaining process (Alschuler, 1979). This distinction is the key to assessing accurately the mechanisms in the Indonesian KUHAP, as elaborated further in the following section.

History and Development of Plea Bargaining

Plea bargaining grew gradually in the United States from the early nineteenth century, long before the institution obtained explicit judicial recognition. Fisher (2003) records that it was public prosecutors who were the earliest to encourage the development of this practice, while judges were initially inclined to be reluctant to accept it because it was regarded as diminishing their authority in rendering judgments. The popularity of plea bargaining rose rapidly along with the surge in the volume of criminal cases in the late nineteenth century, so that the efficient resolution of cases through negotiation became a structural necessity for overburdened courts.

Judicial recognition of the constitutional validity of plea bargaining was obtained explicitly only in 1970, through the decision of the United States Supreme Court in *Brady v. United States*, which affirmed that a guilty plea remains constitutionally valid even when it is prompted by the desire to avoid the threat of a heavier sentence, provided that the plea is made voluntarily and accompanied by a full understanding of its consequences. A year later, in *Santobello v. New York* (1971), the Supreme Court affirmed that the process of plea negotiation must be grounded in fairness in reaching an agreement between the defendant and the state, so that an agreement promised by the public prosecutor is legally binding and must be fulfilled. These two decisions became the constitutional foundation that legitimized plea bargaining as an official institution in the United States criminal justice system.

However, that legitimacy did not stop the criticism. In *Bordenkircher v. Hayes* (1978), the Supreme Court upheld the prosecutor's action of threatening to file much more serious charges if the defendant refused to accept an offer of a guilty plea. This decision was criticized by Alschuler (1979) for implicitly legitimizing the trial penalty, namely the heavier punitive consequence for a defendant who chooses to exercise the right to be tried through a full trial, as compared with those who are willing to admit guilt earlier. This trial penalty subsequently became one of the main arguments of the critics of plea bargaining in questioning its alignment with the right to a fair trial.

Forms of Plea Bargaining

Based on the object of the agreement, plea bargaining is commonly divided into three forms. Charge bargaining is an agreement to change, reduce, or drop part of the charges so that the defendant is charged with a lighter criminal offense. Sentence bargaining is an agreement on the maximum limit of the sentence demanded or the sentencing recommendation that the public prosecutor will submit to the judge. Fact

bargaining is an agreement on certain facts that will or will not be disclosed at trial, which may affect the severity of the sentence (Alschuler, 1979). These three forms may run cumulatively within a single negotiation process. In the Indonesian context, as will be elaborated in the following section, the element of sentence bargaining appears most prominent through the limitation of the criminal penalty threatened and of the maximum sentence in each track of admission of guilt, while the elements of charge bargaining and fact bargaining have not been regulated explicitly and in detail.

Development of Plea Bargaining in the Criminal Justice Systems of Other Countries

The expansion of plea bargaining beyond common law systems has not proceeded uniformly. The study by Paolini, Kantorowicz-Reznichenko, and Voigt (2025) finds that majority-Muslim populations and countries with French and Scandinavian legal heritage are in fact associated with a lower probability of formalizing plea bargaining, while democratic countries tend to be more open to adopting it. This finding is relevant for understanding why the adoption of plea bargaining in countries of the civil law tradition, including Indonesia, proceeds selectively and does not necessarily imitate the United States format. Nasution (2025) shows that India introduced formal regulation of the admission of guilt into its criminal procedure code in the mid-2000s, while France developed a limited negotiation-style mechanism of admission of guilt for criminal offenses punishable by light penalties, as a form of adapting the concept of plea bargaining into a civil law framework that retains the active role of the judge.

Regulation of the Admission of Guilt in Indonesian Law

Under the regime of the former KUHAP (Law Number 8 of 1981), the admission or statement of the defendant was positioned only as one item of evidence that had to be examined and supported by other evidence, without having binding force of its own to shift the examination process to a more summary track (Maulana, 2017; Siregar, Muslimah, Wadjo, Girsang, & Budianto, 2024). This character is consistent with the orientation of Indonesian criminal procedural law, which places the search for material truth as the primary objective of proof, so that an admission alone is never sufficient to impose punishment.

Law Number 20 of 2025 on the KUHAP changes that landscape by formalizing *Pengakuan Bersalah* (Plea Bargain) in Article 1 point 16 as a legal mechanism for a defendant to admit guilt in a criminal offense and to be cooperative in the examination by submitting evidence that supports the admission, in exchange for a reduced sentence.

Article 1 point 16 of Law No. 20 of 2025 on the KUHAP: "Pengakuan Bersalah (Plea Bargain) is a legal mechanism for a defendant to admit guilt in a criminal offense and to be cooperative in the examination by submitting evidence that supports the admission, in exchange for a reduced sentence."

Article 2 paragraph (1) affirms that the entire criminal procedure, including the admission of guilt, must be carried out on the basis of the procedures regulated in the law, while Article 4 affirms that criminal procedure is carried out through a combination

of an active-judge system and a balanced-parties system, so that the admission of guilt does not eliminate the active role of the judge in the examination. Article 7 paragraph (1) letter m grants the investigator the authority to receive an admission of guilt from the investigation stage, an expansion of authority that Ramadhan, Suyanto, and Puspitasari (2026) consider to require strict testing from a human rights perspective because it takes place at the earliest stage of the criminal justice process, before the case file enters the prosecution stage.

The operational provisions on the admission of guilt are spread across three articles with differing *ratio legis*. First, Article 78 regulates *Pengakuan Bersalah* at the pre-trial stage, which can only be applied to a criminal offense committed by the defendant for the first time, punishable by imprisonment of not more than five years, and for which assistance by an advocate is mandatory.

Article 78 paragraph (1) of Law No. 20 of 2025 on the KUHP: "Pengakuan Bersalah may only be applied subject to the following requirements: a. the offense is committed for the first time; b. the criminal offense is punishable by imprisonment of not more than 5 (five) years or a fine of not more than category V; and/or c. the person is willing to pay Compensation or Restitution."

The outcome of the agreement is set out in a written agreement between the public prosecutor and the defendant, which is then submitted to a single judge to be accepted or rejected by order. Second, Article 205 regulates the admission of the charges at the beginning of the trial, which is offered only after efforts at reconciliation between the defendant and the victim within the framework of Restorative Justice, as regulated in Article 204 of the KUHP, fail to reach an agreement, with a criminal penalty threatened in the charge of not more than five years and a limitation of the maximum sentence to three years of imprisonment pursuant to Article 257 paragraph (5) of the KUHP. Third, Article 234 regulates a mixed mechanism, namely where the defendant admits all of the acts charged and at the same time declares that he or she admits guilt, with a criminal penalty threatened in the charge of not more than seven years and a limitation of the maximum sentence to two thirds of the maximum penalty threatened in the charge.

Article 205 paragraphs (1) and (2) of Law No. 20 of 2025 on the KUHP: "(1) In the event that the Defendant and the Victim do not agree to reconcile, the Judge asks the Defendant whether the Defendant is willing to admit the charges read out by the Public Prosecutor. (2) In the event that the Defendant is willing to admit the charges read out by the Public Prosecutor, the Judge shall examine the Defendant's admission by considering the following: a. the Defendant has been examined at the Investigation stage; b. the Defendant was accompanied by an Advocate during the examination at the Investigation stage; c. the examination at the Investigation stage was conducted in a proper manner and within a proper time; d. the Defendant has been informed of, and was able to exercise, his or her rights during the Investigation and Prosecution; e. the Defendant's admission was not caused by pressure, coercion, and/or torture, whether physical or psychological, during the Investigation and Prosecution process; and f. other matters deemed necessary by the Judge."

As noted by Picaesa and Abigael (2026) and Syafrina et al. (2026), these three constructions cannot be equated. Article 78 is the provision closest to the concept of plea bargaining in the true sense, because it contains a process of written negotiation among the public prosecutor, the defendant, and the advocate that requires the approval of the judge. By contrast, Article 205 uses the phrase “admitting the charges,” rather than “admitting guilt,” so that the judge remains obliged to examine whether the admission was given freely, properly, and without arising from pressure or coercion, without going through a formal negotiation process as in Article 78. Article 234 is a mixed mechanism that combines the admission of the acts charged with a declaration of admitting guilt, yet without emphasizing a written negotiation process as in Article 78. Equating the three as one identical institution has the potential to obscure the character and legal consequences of each.

Position of Plea Bargaining in the Indonesian Criminal Justice System

To examine the normative position of the admission of guilt, this study uses Gustav Radbruch’s Theory of Legal Certainty as its analytical lens. Radbruch identifies three basic values of law, namely justice (*Gerechtigkeit*), legal certainty (*Rechtssicherheit*), and utility (*Zweckmäßigkeit*), which are always in a relationship of mutual tension (*Spannungsverhältnis*) and demand continual balancing according to the concrete context, with justice remaining placed as the primary orientation (Firdaus, 2025). Legal certainty demands that norms provide clarity, consistency, and predictability as to who has the authority, under what conditions, and with what consequences a legal mechanism may be applied.

Tested against that benchmark, the regulation of the admission of guilt in the 2025 KUHAP shows clarity at the level of the general definition through Article 1 point 16, but harbors the potential for uncertainty at the operational level because the three implementing articles (Articles 78, 205, and 234) use differing terms and constructions (admission of guilt, admission of the charges, and admission of the act) without a clear explanation in the body of the statute regarding the hierarchical relationship or the differences in legal consequences among the three. This vacuum has been partly filled by Supreme Court Circular Letter (SEMA) Number 1 of 2026, which, among other things, stipulates that the judge sets the trial date no later than three days after the judge’s appointment in order to guarantee the principle of speedy justice. Nevertheless, a legal product in the form of a SEMA cannot hierarchically replace the need for more detailed implementing regulations that are generally binding (such as a Government Regulation or a Supreme Court Regulation). Abuthalib, Ismail, and Ahmad (2026) explicitly note the tension between the demand for efficiency in law enforcement and the risk of degradation of the value of legal certainty under such conditions, while Alimuddin, Zahir, Rasyid, and Hastira (2024) show that a number of norm vacuums that had been identified since the draft bill stage in fact persisted after the law was enacted and put into effect.

In institutional terms, the authority to receive and assess an admission of guilt is not handed over entirely to the public prosecutor, as is the main characteristic of plea bargaining in the United States, but still requires the approval or verification of the judge in every track (Syafrina, Illahi, Putra, & Hasnaa, 2026). This concept of a special track that includes a test of judicial authority shows that the legislature sought to

preserve the function of checks and balances between law enforcement officials and the judiciary, even though the scope of the judge's examination has not been regulated uniformly across the three articles (Awanadi & Zulkarnain, 2025). Accordingly, it can be concluded that plea bargaining has not become Indonesian positive law in the sense of a single, complete, and uniform legal regime as known in common law systems. What has become positive law are three mechanisms of admission of guilt of differing character, with Article 78 as the form closest to plea bargaining in the true sense, while Articles 205 and 234 are better categorized as forms of admission of the charges that function to expedite the trial process without removing the obligation of material proof (Widiartana, 2026). The position of plea bargaining in the Indonesian criminal justice system, therefore, remains at the stage of selective and limited adaptation, not at the stage of full implementation as practiced in common law countries.

Alignment of the Implementation of Plea Bargaining with the Principle of Justice and the Principle of Due Process of Law in the Indonesian Criminal Law System

Implementation of Plea Bargaining Viewed from the Principle of Justice

John Rawls's Theory of Justice places fairness at the core of justice. Through the ideas of the original position and the veil of ignorance, Rawls (1999) argues that fair rules of the game are those that would be agreed upon by rational parties who do not know their future positions in society, including whether they will become a defendant, a victim, or a law enforcement official. Rawls's first principle demands that every person have an equal right to the most extensive basic liberties, including the right to a fair trial, and that those liberties cannot be traded off solely for economic or administrative advantage. Tested against this principle, the mechanism of admission of guilt ought not to be designed in such a way that it structurally benefits the efficiency of the state at the expense of the basic rights of the party in the weakest position, namely the defendant with minimal access to legal information and defense resources.

The mandatory assistance of an advocate in Article 78 of the KUHP is a step consistent with those Rawlsian demands of justice, because it seeks to balance the bargaining position between the public prosecutor, who controls the case file, and the defendant, who is generally in a weaker informational position. However, this formal balance does not automatically guarantee a substantive balance. As warned by the experience of the United States, defendants who are in prolonged detention or who have limited resources to face a lengthy trial process tend to be more vulnerable to accepting an offer of a guilty plea, not on the basis of a genuinely free will, but on the basis of a structural calculation of risk (Alschuler, 1979; Fisher, 2003). Gemilang and Agustanti (2023) emphasize that the use of plea bargaining in the criminal justice system always demands an active effort to balance efficiency and justice, because these two values inherently have the potential to confront each other if they are not managed with adequate regulation.

From the victim's side, the mechanism of Article 205 shows greater sensitivity to the interests of the victim than Article 78, because the admission of the charges under Article 205 can only be offered after efforts at reconciliation between the defendant and the victim within the framework of Restorative Justice fail to reach an agreement. By contrast, Article 78 does not require the involvement or consent of the victim in the

negotiation process for the admission of guilt, so that the interest in the victim's restoration may potentially not be adequately accommodated in that track. This disparity in attention to the position of the victim among the three tracks is a justice problem in its own right that is relevant to assess from a Rawlsian perspective, considering that justice should take into account the interests of all affected parties, not merely the efficiency of the relationship between the state and the defendant.

With regard to proportionality, the limitation of the maximum sentence to three years of imprisonment in Article 205, pursuant to Article 257 paragraph (5) of the KUHAP, and to two thirds of the maximum penalty threatened in the charge in Article 234 paragraph (5) of the KUHAP, can be understood as a proportionality guarantee that protects the defendant from the risk of a punishment disproportionate to the concession in the form of the admission that has been given. Nevertheless, the issue of voluntariness remains a critical point. The provision of SEMA Number 1 of 2026 requiring the scheduling of a hearing no later than three days after the judge's appointment, although intended to guarantee speedy justice, has the potential to narrow the space and time for the defendant to consider an offer of a guilty plea in a truly free and considered manner, thereby creating a risk of time pressure that may indirectly affect the voluntariness of the admission.

Implementation of Plea Bargaining Viewed from the Principle of Due Process of Law

The right to a fair trial is a universally recognized right, as affirmed in Article 14 of the International Covenant on Civil and Political Rights (ICCPR), which guarantees that everyone is entitled to a fair and public hearing by an independent and impartial court (Perserikatan Bangsa-Bangsa, 1966). The principle of due process of law demands a number of minimum guarantees in every mechanism involving an admission of guilt, namely the right to legal counsel, the right to know the charges clearly, the voluntariness of the admission, the prohibition of coercion, the right to understand the legal consequences of the admission given, judicial control over the validity of the process, a preserved function of proof, transparency, accountability, and fair trial as a whole.

Measured against those guarantees, Article 78 of the KUHAP shows relatively more complete fulfillment: the mandatory assistance of an advocate fulfills the right to legal counsel, the mandatory written agreement fulfills the element of transparency, and the mandatory approval of the judge by order fulfills the element of judicial control. Article 205 fulfills some of the guarantees through the judge's obligation to examine whether the admission of the charges was given freely, properly, and without arising from pressure, coercion, or torture, but it requires neither a written agreement nor a formal negotiation process as in Article 78, so that the element of process transparency is relatively weaker. Article 234, as a mixed mechanism, likewise does not emphasize a written negotiation process, so that the guarantee of due process in this track rests primarily on the judge's carefulness in examining the voluntariness and the conformity of the admission with the existing evidence.

The function of proof remains an important concern in all three tracks. An admission of guilt, however lawfully obtained, cannot replace the obligation to prove the element of fault as regulated in Article 36 paragraph (1) of the KUHP, and the judge remains obliged to ensure that the admission is supported by sufficient evidence (Syafriana,

Illahi, Putra, & Hasnaa, 2026). This provision shows that Indonesian criminal procedural law seeks to preserve the element of due process in the form of a function of proof that is independent of the mere unilateral statement of the defendant, even though in practice the intensity of the examination of other evidence may potentially diminish as an admission of guilt is accepted (Widiartana, 2026).

Problems in the Implementation of Plea Bargaining in the Indonesian Criminal Justice System

The imbalance between the public prosecutor, who controls the case file and the initial evidence, and the defendant, who only learns of the accusation at that stage, may push the defendant to accept an offer of a guilty plea not because he or she is truly guilty and desires a swift resolution, but because of a calculation of the risk of facing an ordinary criminal process that is longer and whose outcome is uncertain. This condition, as warned by Alschuler (1979) in the context of the United States, has the potential to give rise to a form of local trial penalty, namely a reluctance to exercise the right to a full examination because of a systemic incentive to admit guilt earlier. The legal implication is a shift in the function of proof from the search for material truth toward the formal verification of the voluntariness of the admission, as noted by Widiartana (2026).

The expansion of the investigator's authority to receive an admission of guilt from the investigation stage under Article 7 paragraph (1) letter m also creates a risk of abuse of discretion, because at that stage the examination process has not yet entered the realm of judicial proof and oversight of the manner in which an admission is obtained is relatively more limited than at the trial stage (Ramadhan, Suyanto, & Puspitasari, 2026). Unclear norms further enlarge this risk: the interchangeable use of the terms admission of guilt, admission of the charges, and admission of the act without a clear distinguishing definition in the body of the statute opens room for differing interpretations among district courts, thereby potentially giving rise to disparities in application at the early stage of implementation (Alimuddin, Zahir, Rasyid, & Hastira, 2024).

A phenomenon similar to plea bargaining had in fact already emerged informally before the 2025 KUHAP took effect, as seen in the practice of the justice collaborator, which Parindo, Daeng, Atmaja, Putra, and Berson (2024) analyze as a form of legal construction with characteristics similar to plea bargaining, although it did not arise from an explicit regulatory framework as now exists in the 2025 KUHAP. Such precedent shows that the need for clear regulation of the practice of criminal negotiation has long been felt, but it also indicates that the risks of disparity and legal uncertainty are not new in the experience of the Indonesian criminal justice system.

In certain criminal offenses, the tension between efficiency and justice appears more sharply. In corruption cases, the application of an approach similar to plea bargaining is often associated with the objective of recovering state financial losses, so that there arises a risk that the interest in asset recovery is prioritized over the interest in a complete proof of the involvement of all parties (Nelson & Santoso, 2020; Sitohang & Simangunsong, 2025). In narcotics cases, the application of plea bargaining has the potential to cause sentencing disparity between offenders who are willing to admit guilt and offenders with a similar role who choose the ordinary trial track, thereby raising questions about the consistency of the application of the principle of equality before the

law (Situmeang, Pudjiastuti, & Utomo, 2024). In both contexts, the absence of technical regulation that differentiates treatment according to the type and complexity of the criminal offense enlarges the risk of deviation from due process of law, because uniform application to cases of differing characteristics may produce disproportionate legal consequences.

Synthesis of Alignment and Vulnerability Gaps in Plea Bargaining as the Construction of "*Conditional Alignment*"

Based on a synthesis of the exploration of norms, expert doctrine, Rawls's Theory of Justice, Radbruch's Theory of Legal Certainty, and the principle of *due process of law*, this study formulates the argument of novelty (*novelty*) that the alignment of the implementation of *plea bargaining* in Indonesia cannot be concluded in black-and-white (absolute) terms, but rests in a position of conditional alignment (*conditionally compatible*). The success of this adoption depends greatly on the system's capacity to anticipate three critical vulnerability gaps (*critical vulnerabilities*) embedded in the normative formulation of the 2025 KUHAP:

- a. Structural Vulnerability at the Investigation Stage (Article 7 paragraph (1) letter m of the KUHAP)

The expansion of the investigator's authority to receive an admission of guilt from the investigation stage is the point most vulnerable to the coercion of admissions (*coerced confession*). At this stage, judicial oversight (*judicial scrutiny*) has not yet entered and independent oversight is very minimal. A defendant in initial detention risks experiencing concealed physical or psychological pressure. An admission obtained involuntarily at the investigation level is likely to be packaged as though it were "voluntary," and then legalized at the prosecution level through the mechanism of Article 78 of the KUHAP. This condition undermines the principle of *due process of law* and violates the right to a guarantee of freedom from intimidation.

- b. Substantive Vulnerability: The Erosion of Material Truth and the Risk of "Pasang Badan"

The Indonesian *civil law* tradition demands the search for material truth (*materiële waarheid*), in which an admission of guilt does not release the obligation to prove the element of fault under Article 36 paragraph (1) of the KUHP. However, the presence of an aggressive sentence-reduction scheme triggers the risk of *administrative laziness* among law enforcement officials, in which the examination of material evidence is neglected once an admission is obtained. Furthermore, this condition opens a new danger in the form of the phenomenon of the "substitute defendant" (*pasang badan*), in which a person in a vulnerable position or one who receives financial compensation is willing to admit guilt in order to protect the principal perpetrator or the mastermind (*intellectual dadder*), so that substantive justice is distorted into a mere procedural transaction.

- c. Normative Vulnerability: Information Asymmetry, *Trial Penalty*, and Neglect of Victims' Rights

Based on the testing of the construction of plea bargaining in the 2025 KUHAP through Rawls's Theory of Justice and Radbruch's Theory of Legal Certainty, this

study identifies three normative gaps that require attention in its implementation, namely:

1. Information Asymmetry & Formalism of Assistance

The presence of an advocate under Article 78 of the KUHAP does not yet guarantee a balanced bargaining position if the advocate acts passively or is driven by workload pressure (*caseload pressure*) to advise an admission of guilt without testing the weaknesses in the public prosecutor's evidence.

2. Threat of Local *Trial Penalty*

A defendant who rejects an offer of a *plea bargain* and chooses an ordinary trial (*full trial*) faces the risk of a demand for the maximum sentence. This concealed threat damages the quality of the voluntary nature (*voluntariness*) of the admission.

3. Neglect of the Right to Victim Restoration

Under the Article 78 track, the negotiation takes place exclusively among the Public Prosecutor, the Defendant, and the Advocate without requiring the active consent of the victim, so that restorative justice is reduced to a mere calculation of formal compensation without restoring the victim's substantive loss.

Based on the entire analysis, this study finds that plea bargaining in the 2025 KUHAP has a relationship of conditional alignment (conditionally compatible) with the Indonesian criminal law system. That alignment is not inherent in the mechanism itself, but is determined by the fulfillment of normative prerequisites that guarantee a balance between the efficiency of case resolution and the protection of the principles of justice, legal certainty, and due process of law. Within that framework, an admission of guilt cannot be understood as a basis that automatically ends the need to ensure the validity of the process, the sufficiency of the evidentiary basis, and the protection of the rights of the parties.

That this finding also shows that the main problem of plea bargaining lies not merely in its acceptance or rejection within the national legal system, but in the construction of safeguards that accompany its implementation. Therefore, plea bargaining obtains legitimacy when it is placed as a mechanism that remains subject to the fundamental principles of Indonesian criminal law and the criminal justice system. On that basis, the novelty of this study lies in the conception of "conditional alignment" as a juridical parameter for assessing the compatibility of plea bargaining in national criminal law: a mechanism may be accepted in the Indonesian legal system so long as its normative design and implementation are capable of maintaining a balance among efficiency, material truth, justice, legal certainty, and the protection of the rights of the parties.

CONCLUSIONS

The regulation and position of the concept of plea bargaining in the Indonesian criminal justice system are manifested through three mechanisms of admission of guilt codified in Article 1 point 16, Article 78, Article 205, and Article 234 of Law Number 20 of 2025 on the KUHAP, each of which has a different *ratio legis* and different legal consequences. Article 78 is the form closest to the concept of plea bargaining in its original sense because it involves a process of written negotiation among the public

prosecutor, the defendant, and the advocate that requires the approval of the judge, whereas Articles 205 and 234 are better categorized as forms of admission of the charges that function to shift the examination to the summary examination procedure without an equivalent formal negotiation process. Plea bargaining has not become Indonesian positive law in the sense of a single, complete, and uniform regime as known in common law systems, but is the result of a selective adaptation that retains the active role of the judge, the obligation to prove the element of fault, and the orientation toward material truth that characterizes the basic nature of the Indonesian criminal justice system.

The implementation of plea bargaining is not yet fully aligned with the principle of justice and the principle of due process of law in a comprehensive and consistent manner across its three tracks, but is conditionally aligned. Article 78, with its complete procedural guarantees in the form of assistance by an advocate, a written agreement, and judicial control, has the potential to be aligned with Rawls's Theory of Justice and due process of law if those guarantees are carried out substantively and not merely as a formality. By contrast, Articles 205 and 234 still leave protection gaps in the form of weak documentation of the process, the absence of uniform regulation on the involvement of the victim, and procedural time pressure that may reduce the quality of the voluntariness of the admission. Tested against Radbruch's Theory of Legal Certainty, the absence of uniformity in terms and procedures among the three tracks also shows that the value of legal certainty has not been fully fulfilled. Therefore, so that the admission of guilt does not reduce substantive justice to mere procedural efficiency, more detailed implementing regulations are needed on the procedures for carrying out each track, together with a strengthening of the role of the victim and consistent and substantive judicial oversight in assessing the voluntariness and validity of every admission of guilt submitted.

REFERENCES

- Abuthalib, C. N. S., Ismail, D. E., & Ahmad. (2026). Plea bargaining in the shadow of justice: Between law enforcement efficiency and the degradation of legal certainty. *Al-Zayn: Jurnal Ilmu Sosial & Hukum*, 4(1), 1130–1146. <https://doi.org/10.61104/alz.v4i1.3201>
- Alimuddin, A., Zahir, M. Z. A.-K., Rasyid, M. F., & Hastira, M. F. (2024). Plea bargaining in the draft of the Indonesian Criminal Procedure Code. *Legal Standing: Jurnal Ilmu Hukum*, 8(2), 418–430. <https://doi.org/10.24269/lis.v8i2.9213>
- Alschuler, A. W. (1979). Plea bargaining and its history. *Columbia Law Review*, 79(1), 1–43. <https://doi.org/10.2307/1122051>
- Awanadi, I. G. A. V., & Zulkarnain, I. G. A. K. K. (2025). The concept of special procedures in relation to judicial power within the Indonesian criminal justice system. *Locus: Jurnal Konsep Ilmu Hukum*, 5(2), 92–103. <https://doi.org/10.56128/jkih.v5i2.449>

- Azryal, R. (2026). Implementation of guilty pleas (plea bargaining) under Law No. 20 of 2025 concerning the Criminal Procedure Code in relation to the objectives of punishment in Indonesia. *Jurnal Ilmu Hukum, Humaniora dan Politik*, 6(4), 3208–3217. <https://doi.org/10.38035/jihhp.v6i4.8520>
- Bordenkircher v. Hayes*, 434 U.S. 357 (1978).
- Brady v. United States*, 397 U.S. 742 (1970).
- Firdaus, M. B. (2025). The dialectics of justice, legal certainty, and legal utility from Gustav Radbruch's perspective in Indonesian law. *Jurnal Kajian Hukum dan Kebijakan Publik*, 3(1), 357–367. <https://doi.org/10.62379/qy4b6z80>
- Fisher, G. (2003). *Plea bargaining's triumph: A history of plea bargaining in America*. Stanford University Press.
- Gemilang, H. F., & Agustanti, R. D. (2023). The use of plea bargaining in the criminal justice system: Balancing efficiency and justice. *Jurnal Interpretasi Hukum*, 4(3), 422–431. <https://doi.org/10.22225/juinhum.4.3.8029.422-431>
- Hermawati, R. (2023). A comparative study of the "plea bargaining system" in the United States and the "special procedure" in Indonesia. *Jurnal Hukum Lex Generalis*, 4(1), 102–115. <https://doi.org/10.56370/jhlg.v4i1.351>
- Mahkamah Agung Republik Indonesia. (2026). *Supreme Court Circular Letter Number 1 of 2026 concerning Guidelines for the Implementation of Law Number 1 of 2023 concerning the Criminal Code and Law Number 20 of 2025 concerning the Criminal Procedure Code*.
- Maulana, A. (2017). Defendants' guilty pleas in the development of evidentiary procedures in the Indonesian criminal justice system. *Varia Justicia*, 13(2), 65–81. <https://doi.org/10.31603/variajusticia.v13i2.1881>
- Nasution, M. N. F. (2025). Adapting the plea-bargaining system within Indonesia's criminal law framework: Comparative insights from the United States, India, and France. *Yustisia Tirtayasa: Jurnal Tugas Akhir*, 5(3), 13–29.
- Nelson, F. M., & Santoso, T. (2020). Plea bargaining in corruption cases: A solution for the recovery of financial losses by Indonesia? *Pertanika Journal of Social Sciences & Humanities*, 28(2), 1233–1248.
- Paolini, G., Kantorowicz-Reznichenko, E., & Voigt, S. (2025). Plea bargaining procedures worldwide: Drivers of introduction and use. *Journal of Empirical Legal Studies*, 22(1), 27–75. <https://doi.org/10.1111/jels.12406>

- Parindo, D., Daeng, Y., Atmaja, A. S., Putra, H. R., & Berson, H. (2024). The legal construction of justice collaborators as plea bargaining in the Indonesian criminal justice system: The Richard Eliezer case. *Jurnal Hukum Indonesia*, 3(4), 168–183. <https://doi.org/10.58344/jhi.v3i4.1143>
- Perserikatan Bangsa-Bangsa. (1966). *International Covenant on Civil and Political Rights*.
- Picaesa, A. D., & Abigael, F. (2026). Normative construction of guilty pleas under the latest Criminal Procedure Code: Adapting the common law mechanism within the Indonesian criminal justice system. *Jurnal Legalitas*, 4(1), 43–53. <https://doi.org/10.58819/jle.v4i1.238>
- Ramadhan, A. G., Suyanto, & Puspitasari, D. (2026). Guilty pleas in the hands of investigators: The validity of Article 7 paragraph (1) letter m of the 2025 Criminal Procedure Code in human rights review. *Al-Zayn: Jurnal Ilmu Sosial & Hukum*, 4(2), 2300–2310. <https://doi.org/10.61104/alz.v4i2.4643>
- Rawls, J. (1999). *A theory of justice* (Rev. ed.). Harvard University Press.
- Republik Indonesia. (1981). *Law Number 8 of 1981 concerning Criminal Procedure Law*.
- Republik Indonesia. (2023). *Law Number 1 of 2023 concerning the Criminal Code*.
- Republik Indonesia. (2025). *Law Number 20 of 2025 concerning the Criminal Procedure Code*.
- Santobello v. New York*, 404 U.S. 257 (1971).
- Simatupang, P. M., & Mahardhika, V. (2026). A juridical analysis of the regulation of guilty pleas (plea bargaining) under the Criminal Procedure Code and a comparison with the United States. *Indonesian Journal of Contemporary Law*, 3(2), 10–25.
- Siregar, R. A., Muslimah, Wadjo, H. Z., Girsang, H., & Budianto, H. (2024). Defendants' admissions during trial proceedings as evidence. *Jurnal Kolaboratif Sains*, 7(4), 1384–1387. <https://doi.org/10.56338/jks.v7i4.5178>
- Sitohang, K. A., & Simangunsong, F. (2025). Plea bargaining in the resolution of corruption offenses within the criminal justice system. *Socius: Jurnal Penelitian Ilmu-Ilmu Sosial*, 3(5), 303–311.
- Situmeang, S. M. T., Pudjiastuti, D., & Utomo, S. S. (2024). The plea bargaining system as a mechanism for resolving narcotics offenses in Indonesia. *Res Nullius Law Journal*, 6(2), 98–110. <https://doi.org/10.34010/rnlj.v6i2.12949>

- Syafrina, H. D., Illahi, S. S., Putra, B. P. H., & Hasnaa, N. T. (2026). A regulatory model for plea bargaining in the reform of Indonesian criminal procedure law. *Jurnal USM Law Review*, 9(1), 361–380. <https://doi.org/10.26623/julr.v9i1.13391>
- Tristanto, Y. W. (2018). A juridical review of the implementation of plea bargaining to improve judicial efficiency in Indonesia. *Ahkam: Jurnal Hukum Islam*, 6(2), 411–436. <https://doi.org/10.21274/ahkam.2018.6.2.411-436>
- Widianto, M. S., Amarini, I., & Kartini, I. A. (2020). Plea bargaining in realizing effective and efficient criminal justice systems. *UMPurwokerto Law Review*, 1(1), 17–26. <https://doi.org/10.30595/umplr.v1i1.8051>
- Widiartana, G. (2026). Guilty pleas in the reform of criminal procedure law: Between judicial efficiency and the protection of defendants' rights. *Jurnal Penelitian Serambi Hukum*, 19(2), 82–92. <https://doi.org/10.59582/sh.v19i02.1538>