

Reformulating Indonesian Plea Bargaining: Controlling Prosecutorial Discretion and Judicial Corruption Through Judicial Oversight

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Abstract

This study aims to examine the institutional risks arising from prosecutorial discretion in plea bargaining and to formulate a model of judicial control that safeguards judicial independence, transparency, and public accountability. Employing normative legal research, this study applies statutory, conceptual, comparative, and case approaches to analyze the allocation of authority between prosecutors and judges in plea negotiations. The findings indicate that the absence of mandatory judicial verification, substantive judicial review, and adequate transparency mechanisms creates structural opportunities for opaque negotiations, unequal bargaining power, and transactional abuse, particularly where prosecutorial discretion is insufficiently constrained. These weaknesses may shift plea bargaining from a regulated procedural mechanism to a transactional process that compromises the integrity of the criminal justice system. This study proposes a Judicially Controlled Plea Bargaining Model based on four safeguards: mandatory judicial verification, substantive judicial review, transparency requirements, and judicial authority to reject agreements that contravene legality, fairness, or public interests. The model provides a normative framework for reconciling procedural efficiency with judicial independence, institutional integrity, and an accountable criminal justice system.

Keywords

Plea-bargaining; Criminal Code; Criminal Procedure Code; Judicial Review

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1. INTRODUCTION

The enactment of Indonesia's new Criminal Code and Code of Criminal Procedure marks a significant transformation of the national criminal justice system. Law No. 20 of 2025 on the Criminal Procedure Code, which entered into force on 2 January 2026, formally introduces plea bargaining alongside other negotiated mechanisms, reflecting the state's effort to create a more efficient, responsive, and restorative criminal process. The reform is partly motivated by the need to reduce case backlogs, shorten proceedings, and address the burden imposed by conventional criminal adjudication. From an efficiency perspective, negotiated guilty pleas appear attractive because relatively minor cases can be resolved without the full evidentiary process of an ordinary trial. (Abuthalib & Ismail, 2026)



Incorporating plea bargaining into Indonesia's criminal procedure raises a deeper jurisprudential question: whether a mechanism developed predominantly within the adversarial tradition can be transplanted into a criminal justice system historically grounded in civil law and the inquisitorial tradition. The distinction is not merely procedural but philosophical. The classical civil law model emphasizes the court's responsibility to ascertain material truth through judicial examination of evidence. In contrast, the adversarial model places greater emphasis on party autonomy, negotiated resolution, and procedural efficiency. (Riederer & Golding, 2020) Plea bargaining consequently shifts the center of gravity of criminal adjudication from the judicial determination of guilt to the negotiated admission of guilt. The danger arises when efficiency becomes the dominant rationale, and the search for material truth is subordinated to administrative expediency. (Hermawati, 2023)

This tension is particularly significant in Indonesia because plea bargaining does not operate within an institutional vacuum. The mechanism redistributes authority among prosecutors, defense counsel, and judges. Under the new Criminal Procedure Code, the Public Prosecutor has significant authority to determine charges and negotiate, while Article 78 establishes the formal framework for plea bargaining. The provision requires the defendant to be represented by counsel, places the agreement within a judicial proceeding, requires the judge's approval, and authorizes the judge to reject the agreement and return the case to ordinary proceedings. It also requires the agreement to identify the negotiated sentence, the reasons for sentence reduction, and evidence establishing that the defendant committed the offense. These safeguards demonstrate that the legislature did not completely remove judges from the process. Nevertheless, the central problem is whether judicial involvement is sufficiently substantive to control prosecutorial discretion rather than merely to validate an agreement already negotiated by the prosecutor and the defendant. (Gemilang & Agustanti, 2023)

The problem becomes more acute when prosecutorial discretion is examined alongside the negotiated mechanism for crown witnesses under Article 74. Article 74 permits the Public Prosecutor to negotiate with a suspect who is to become a crown witness. It allows negotiated benefits, including guarantees against the death penalty or life imprisonment, sentence reductions of up to two-thirds of the maximum sentence applicable to the charged offense, and, under specified conditions, prosecution through supervision or a fine. Although Article 74 and Article 78 regulate distinct mechanisms, their coexistence raises an important structural concern: both expand the space in which prosecutorial judgment determines the legal and penal consequences an accused faces. The resulting concentration of discretionary power requires particularly strong judicial safeguards. (Gormley, 2022)

Principal legal risk is not simply that prosecutors may negotiate, but that discretionary charging decisions may influence whether and how a case enters a negotiated framework. Where the legal classification of conduct determines eligibility for a reduced procedural route, prosecutorial control over the formulation of charges becomes especially consequential. A prosecutor who possesses broad discretion in selecting or modifying the applicable charge may, in principle, create an incentive to characterize conduct in a manner that facilitates access to a negotiated mechanism. The risk is therefore not necessarily an allegation that prosecutors will routinely downgrade serious offenses, but the structural possibility that charging discretion may be strategically exercised to bring conduct within the boundaries of Article 78. Such a possibility threatens the principles of legality and equality before the law because similarly situated defendants could receive substantially different procedural outcomes depending on prosecutorial choices rather than on objective facts. (Wahyudhi et al., 2022)

Concern illustrates the broader philosophical tension between efficiency and material truth. In an inquisitorial-oriented legal culture, the criminal process is traditionally understood as a public mechanism for discovering the truth and determining responsibility through institutional examination. Plea bargaining, by contrast, introduces an element of negotiated truth in which the outcome depends in part on the strategic choices of the prosecution and defense. The more extensive the negotiation, the greater the risk that criminal adjudication will be transformed from a public determination of responsibility into a private settlement between institutional actors. The criminal justice system may consequently begin to resemble a transactional market in which the severity of the legal consequence depends upon bargaining capacity rather than solely upon the gravity of the offense. (Sitohang & Simangunsong, 2025)

The danger is intensified by Indonesia's vulnerability to corruption in law enforcement and judicial institutions. In a system where prosecutors possess substantial discretion over charging, negotiation, and sentencing recommendations, inadequate institutional supervision can create opportunities for discretionary power to be exchanged for private benefits. The problem is therefore not limited to individual misconduct but concerns the institutional relationship between prosecutorial discretion and the risk of judicial corruption. (Langbein, 2022) Negotiations occur without adequate transparency, documentation, independent review, and meaningful judicial scrutiny. Plea bargaining may provide an additional channel through which corrupt exchanges can be concealed within apparently lawful procedural agreements. The legitimacy of plea bargaining thus depends not merely on whether an agreement is formally authorized by statute, but also on whether the institutional structure prevents discretionary authority from becoming a vehicle for corruption. (Gunowo, 2025)

Comparative experience demonstrates that statutory recognition alone does not eliminate this danger. Germany, for example, incorporated negotiated agreements into Section 257c of the *Strafprozessordnung* after informal bargaining practices had developed outside a clear statutory framework. Yet the German experience illustrates that formal regulation does not automatically eliminate concerns about undisclosed negotiations and judicial control. (Paolini et al., 2025) Italy's *patteggiamento* likewise demonstrates the continuing tension between negotiated criminal justice, equality before the law, and public confidence in prosecutorial neutrality. These experiences suggest that the critical question for Indonesia is not whether plea bargaining should exist, but how it should be institutionally controlled within a legal culture that places strong emphasis on legality, material truth, and public accountability. (Ginting et al., 2025)

Another major weakness concerns the position of victims. A criminal case cannot be reduced to a bilateral negotiation between the state and the accused because the offense creates a legally relevant relationship involving the victim and the broader public interest. Victimological doctrine increasingly recognizes victims not merely as sources of evidence but as rights-bearing participants entitled to information, participation, recognition, restitution, and meaningful reparation. A negotiated agreement that determines the legal consequences of an offense without meaningful victim participation risks reducing the victim to a passive recipient of an outcome already determined by the prosecutor and the defendant. (Metz et al., 2020) This problem has constitutional significance. The victim's interest in justice and recovery should be understood within the broader constitutional commitment to equality before the law, protection of human dignity, and access to justice. A closed negotiation that determines restitution or other consequences without an effective opportunity for the victim to participate may undermine substantive equality because the person who directly suffers the harm is excluded from the process that determines how that harm will be addressed. The problem is particularly serious where restitution is treated merely as a condition of plea bargaining rather than as an independent dimension of the victim's right to recovery. Thus, procedural efficiency cannot legitimately justify reducing victims to spectators in a process concerning the consequences of the offense committed against them. (Kurniawan et al., 2025)

The new Criminal Procedure Code itself recognizes the importance of victims by expressly strengthening their rights and regulating restitution, compensation, rehabilitation, and restorative justice. This legislative orientation creates an internal normative requirement: plea bargaining should not be interpreted in isolation from the broader architecture of victim protection. If the criminal process is intended to be fair, efficient, and restorative, negotiated justice must incorporate meaningful mechanisms by which victims can receive information, express their interests, challenge inadequate restitution, and obtain judicial consideration of the agreement's consequences.

The problem, therefore, extends beyond procedural efficiency. Excessive prosecutorial discretion, insufficient judicial scrutiny, the risk of corrupt transactional relationships, and the marginalization of victims may collectively transform plea bargaining into a mechanism that prioritizes negotiated convenience over public justice. The central issue is consequently whether the Indonesian model possesses adequate institutional safeguards to ensure that negotiation remains subordinate to legality, material truth, equality, judicial independence, and victim-oriented justice.

Against this background, this article argues that the introduction of plea bargaining requires not merely procedural regulation but institutional reformulation. The judge must not function as a passive approver of an agreement negotiated by the prosecutor and defendant. Judicial involvement must constitute substantive oversight capable of examining the legality of the charge, the factual basis of the admission, the voluntariness of the defendant's confession, the proportionality of the negotiated sentence, the integrity of the negotiation process, and the protection of the victim's interests. Such oversight is particularly necessary where prosecutorial discretion may create opportunities for manipulation or corruption.

Accordingly, this study examines the normative design of plea bargaining under Indonesia's new Criminal Procedure Code, focusing on the relationship among prosecutorial discretion, the risk of judicial corruption, and victim protection. Through statutory, conceptual, comparative, and case-based analyses, the study identifies structural weaknesses in the existing framework and develops a judicially controlled plea-bargaining model. The proposed model places judicial oversight at the center of negotiated criminal justice through mandatory verification hearings, substantive judicial review, transparent documentation of negotiations, scrutiny of charging decisions, protection of victim participation and restitution rights, and judicial authority to reject agreements that compromise legality, fairness, or public interest. In this way, plea bargaining can be reformulated not as a privatization of criminal justice, but as a controlled procedural mechanism that reconciles efficiency with material truth, judicial integrity, and accountable justice.

2. METHODS

This study employs a normative juridical method to examine plea bargaining under Indonesia's new Criminal Code and Code of Criminal Procedure, focusing on prosecutorial discretion, judicial oversight, judicial corruption, and victims' rights. It uses primary, secondary, and tertiary legal materials, while statistical reports serve only as supporting non-legal materials. Applies statutory, conceptual, comparative, and case approaches. The United States, Germany, Italy, Poland, and Spain are purposively selected because they recognize negotiated criminal justice and provide relevant models of prosecutorial discretion, judicial control, transparency, and victim protection across

adversarial and civil-law traditions. The materials are analyzed qualitatively using deductive reasoning and a prescriptive approach to identify regulatory gaps and develop a Judicially Controlled Plea Bargaining Model that strengthens judicial oversight, limits prosecutorial discretion, prevents corruption, and protects victims' rights.

3. FINDINGS AND DISCUSSION

3.1 Prosecutorial Discretion and the Erosion of Judicial Oversight

When prosecutors and defense attorneys negotiate a plea deal in a private office, they determine the outcome of a criminal case before it reaches the courtroom. Laws No. 1 of 2023 and No. 20 of 2025 introduced this practice; although intended to improve efficiency, these provisions open the door for prosecutors to bypass the courts, meaning that without immediate reforms, the courts will lose their role as independent watchdogs over state power. This shift moves Indonesia away from the civil law tradition, in which the principle of legality has for decades required that every charge be examined through a full and open trial. (Kemp & Varona, 2024) The new code, however, prioritizes speed: defendants can plead guilty in exchange for a lighter recommended sentence, thereby reducing the backlog of cases but eliminating the public oversight that safeguards the system's integrity. Article 79 of the new Criminal Code grants prosecutors broad discretion to amend charges, which is intended to facilitate leniency in minor cases, but also grants them unchecked power to pressure defendants—for example, by threatening to file serious charges to force them to accept a plea deal for a lesser charge. This is particularly true for defendants facing the threat of lengthy prison terms in overcrowded correctional facilities. Coercive transactions in which power lies in the hands of the state. (Wardojo, 2018)

Private negotiations increase the risk of corruption, given that corruption in law enforcement and the judiciary remains a systemic challenge in Indonesia. Institutionalized agreements make it easier to disguise bribes as legitimate legal compromises because discussions take place behind closed doors and are not subject to verification. (Romero Seseña et al., 2024) Other civil law countries strictly limit such agreements: in Poland, voluntary surrender requires the consent of the victim and the court; in Spain, "conformity sentences" are limited to minor offenses carrying short sentences. Law No. 20 of 2025 does not provide Indonesian judges with similar tools to reject or review such an agreement. (Hukum & Muhammadiyah, 2026)

Table 1: Comparative Framework for Negotiated Justice

Comparative Element	Indonesian Model (Law No. 20 of 2025)	Polish Model (Article 387, Polish CPC)	Spanish Model (Conformity Sentence)
Primary Negotiator	Prosecutor and defense counsel	Defendant, prosecutor, and victim	Prosecutor and defendant
Role of the Trial Judge	Passive receiver with limited review	Active evaluator with veto power	Formal verifier of legal boundaries
Victim Consent	Not mandatory for all cases	Mandatory for agreement approval	Required for restitution terms
Scope of Application	Broad range of mid- level offenses	Minor offenses under 15 years	Minor charges under 9 years
Open Court Verification	Minimal paper review	Mandatory oral verification hearing	Formal confirmation during trial

Source: Processed by the author (2026) based on comparative statutory analysis of Law Number 20 of 2025, the Polish Code of Criminal Procedure, and the Spanish Ley de Enjuiciamiento Criminal.

Indonesia's approach lacks the active judicial oversight found in Europe; judges are treated as passive observers who merely sign off on negotiated sentences, stripping them of their role as protectors of human rights. This system disadvantages vulnerable defendants because private settlements exclude victims, even though criminal acts directly harm specific individuals rather than merely violate the state's interests. When prosecutors settle cases privately, the system trades victims' right to justice for administrative efficiency, eroding public trust in the legal institution. (Nasution, 2025)

Indonesia needs to take two concrete steps to prevent abuse: first, mandate open verification hearings through a Supreme Court regulation that requires judges to examine defendants under oath to ensure that confessions are voluntary, supported by physical evidence, and free from threats, accompanied by the explicit authority to reject plea agreements; second, establishing an independent judicial review body to audit case files, monitor prosecutors' decisions, and examine patterns of unreasonable leniency. Prosecutors must also obtain a written statement from the victim before a plea agreement is finalized. This new code cannot be repealed, but speed must not replace justice. (Arky, 2024)

The formal introduction of plea bargaining through Law No. 20 of 2025 marks a significant shift from the pursuit of substantive truth. Traditionally, Indonesia's inquisitorial criminal justice system has required the state to establish objective facts independently of a defendant's confession, protecting against arbitrariness and coerced admissions. However, persistent case backlogs, lengthy trials, and prison overcrowding—now exceeding twice their intended capacity—have created strong pressure for structural reform. The resulting compromise, Law No. 20 of 2025, transplants Anglo-American-style efficiency mechanisms into a civil law system with a long history of institutional vulnerabilities, opening

three pathways for plea agreements: Sections 78, 205, and 234, each with different rules regarding the type of case, timing, and victim involvement. (Nasoetion et al., 2025)

Article 78 covers pretrial agreements: charges carrying a maximum sentence of five years or a Category V fine, with an obligation to pay restitution; if the presiding judge approves the case file in their chambers, the sentence is reduced to a maximum of three years. Article 205 shifts the process to the trial itself. If the defendant pleads guilty to a criminal offense punishable by less than five years, the judge may convert the trial into a summary proceeding without a written agreement or an obligation to compensate the victim, and immediately impose a sentence of up to three years. (Okafor et al., 2022) These provisions actually encourage sudden pleas of guilty to secure a quick sentence reduction, as well as unrecorded agreements between defense counsel and prosecutors before trial. Article 234 covers serious criminal offenses punishable by five to seven years' imprisonment; prosecutors may immediately proceed to a summary trial once the defendant signs a plea agreement, with the sentence capped at two-thirds of the maximum penalty. (Reumi & Polontoh, 2024)

Table 1: Comparison of Procedural Channels Under Law No. 20/2025

Procedural Indicator	Pasal 78 (Pretrial Channel)	Pasal 205 (Judicial Summary Channel)	Pasal 234 (Trial Transition Channel)
Operational Phase	Prosecution phase (before trial submission)	Trial phase (during court proceedings)	Trial phase (at the reading of the indictment)
Primary Initiator	Public Prosecutor and Defendant	Trial Judge	Public Prosecutor
Applicable Offenses	Maximum penalty of 5 years or Category V fine	Penalty of less than 5 years	Penalty between 5 and 7 years
Victim Restitution	Mandatory prerequisite	Not explicitly required	Not explicitly required
Written Agreement	Required (Berita Acara Pengakuan Bersalah)	Not required	Required (Berita Acara Pengakuan Bersalah)
Maximum Sentence Limit	Maximum of 3 years imprisonment	Maximum of 3 years imprisonment	Cannot exceed 2/3 of the statutory maximum
Primary Risk Point	Private, unrecorded negotiations in the prosecutor's office	Informal courtroom agreements and unwritten deals	Abuse of leverage to force confessions in mid-range offenses

Source: Synthesized by the author from the provisions of Law No. 20/2025 and SEMA No. 1/2026

Traditionally, Indonesian judges are required to establish the truth of the matter asserted rather than rely solely on defendants' confessions. However, the summary proceedings under Articles 78 and 234 bypass full evidentiary examination, witness cross-examination, and open presentation of evidence,

leaving judges to depend largely on written confessions and case files. This problem is compounded by the Supreme Court's case management system, which rewards speedy case resolution, discouraging lengthy trials. Moreover, SEMA No. 1 of 2026 requires judges to verify only the voluntariness of confessions, without a formal evidentiary hearing, thereby rendering such verification largely symbolic. (Gormley, 2025) The solution is that every negotiation must be documented and included in a publicly accessible, auditable case file, accompanied by an independent hearing in an open courtroom, without a prosecutor present, to ensure that confessions are truly voluntary. (Gustami & Marpaung, 2020)

3.2 The Passive Role of Judges: A Constitutional and Procedural Assessment

The solution is to mandate open hearings in which judges speak directly with defendants to ensure they understand the consequences and that there are no threats or bribes, and to require a written summary detailing the facts, evidence, and reasons for the sentence reduction before the hearing. (Wilford et al., 2021)

Table 3: Summary of the proposed procedural requirements to ensure accountability

Procedural Stage	Action Required	Responsibility	Goal
Negotiation	Document all terms in writing	Prosecutor and Defense	Prevent informal/verbal deals
Pre-Hearing	Submit a justification report	Prosecutor	Transparency in sentencing
Open Court	Mandatory verification hearing	Trial Judge	Confirm the voluntary nature
Victim Participation	Allow impact statement	Trial Judge	Incorporate harm assessment
Final Approval	Written reasoned judgment	Trial Judge	Public accountability

Source: Designed by the author (2026) to illustrate the proposed procedural requirements for plea agreements

Victims remain marginalized in current procedures; procedural safeguards must ensure victims' right to provide impact statements during verification hearings—testimony that helps judges understand the actual harm suffered so that sentences reflect reality, rather than merely reducing the backlog. Judges also need explicit authority to reject plea agreements that fail to meet legal standards or that downplay serious criminal offenses, with clear criteria for rejection to encourage prosecutors to negotiate more carefully. (Hirota & Wakabayashi, 2026) True justice also requires the protection of indigent defendants through the integration of legal aid into plea bargaining, the prosecutor's obligation to disclose all evidence before negotiations, and the digital storage of negotiation records in official case files so that the process can be scrutinized—rather than merely being a verbal agreement struck in an

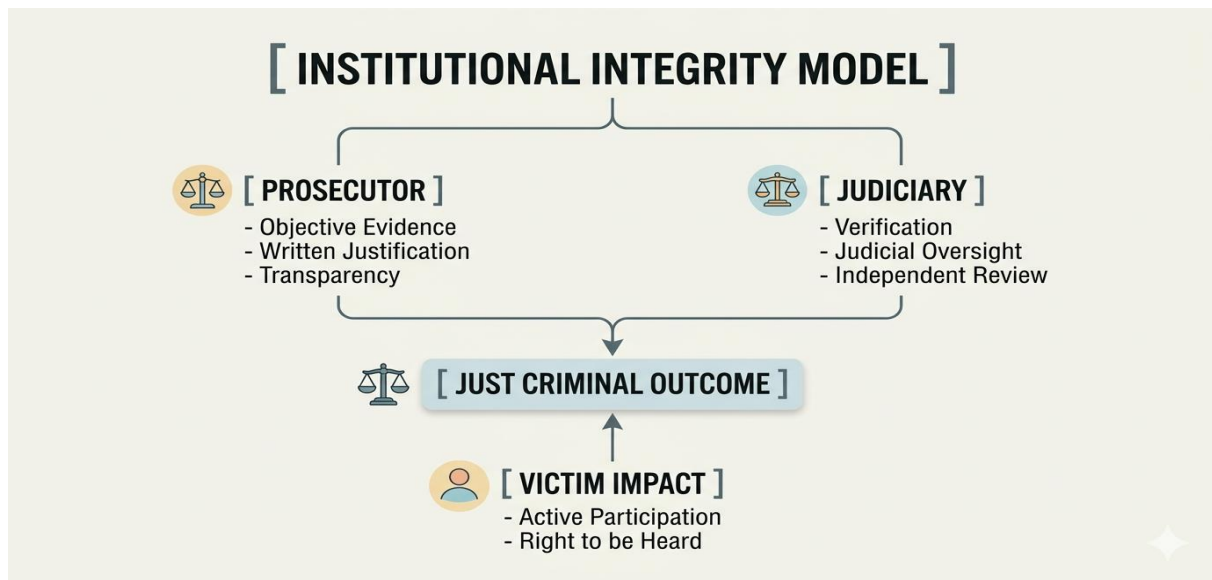
office hallway. The judiciary must also maintain its independence from the pressure of public opinion in small communities that receive media attention, because the success of plea bargaining ultimately depends on the professional integrity of law enforcement officials: open hearings, victim input, and written explanations will put an end to secret deals and provide structural safeguards for the principles of justice. (Petersen et al., 2022)

Indonesia needs to incorporate judicial review into its plea-bargaining system so that judges can actively protect the rights of defendants and the public interest. (Wolfe, 2025). A direct risk of plea bargaining is coerced confessions: in a system that routinely relies on plea agreements, defendants face a “trial penalty”—a significantly harsher sentence if they reject a plea deal but lose at trial—so defendants without sufficient financial resources or adequate legal representation feel immense pressure to sign a plea agreement even when they have a valid defense. (Paolini, 2024). Indonesia needs to mandate transparent hearings for every plea agreement, ensure defendants understand the rights they are waiving, review the initial evidence, and reject the agreement if the prosecution’s case is weak. (Wilson, 2025) Open court proceedings lend legitimacy to the legal system, particularly in corruption and white-collar crime cases, because secret plea agreements can lead the public to believe that the wealthy can buy their way out of punishment. In contrast, public verification hearings compel prosecutors to justify their decisions. The concern that reviewing every plea agreement will worsen the backlog of cases is misguided, because the legal system does not have to choose between slow, flawed trials and quick, secret plea agreements. (Cuellar & Rentschler, 2026) The solution is to establish an efficient verification system through specialized training for judges to handle these proceedings, as well as a cross-regional digital tracking system to identify prosecutors who overuse plea agreements. (J.-Y. Kim, 2025) Indonesia cannot simply copy foreign legal models without their safeguards; for plea bargaining to succeed, courts must review agreements as rigorously as full trials, and judges must remain independent to uncover the truth. (Daughety & Reinganum, 2020)

3.3 Procedural Solutions: Mandatory Legal Aid and Victim Restitution

The risks of plea bargaining extend beyond individual cases by concentrating excessive power in prosecutors. Overcrowded and harsh pretrial detention conditions pressure defendants to choose between prolonged detention and immediate release through a plea agreement, creating coercion born of desperation. The solution is for the prosecutor’s office to be transparent, with every plea deal offer justified based on objective criteria documented in the case file. (Greenberg, 2020)

Figure 1: Institutional Integrity Model

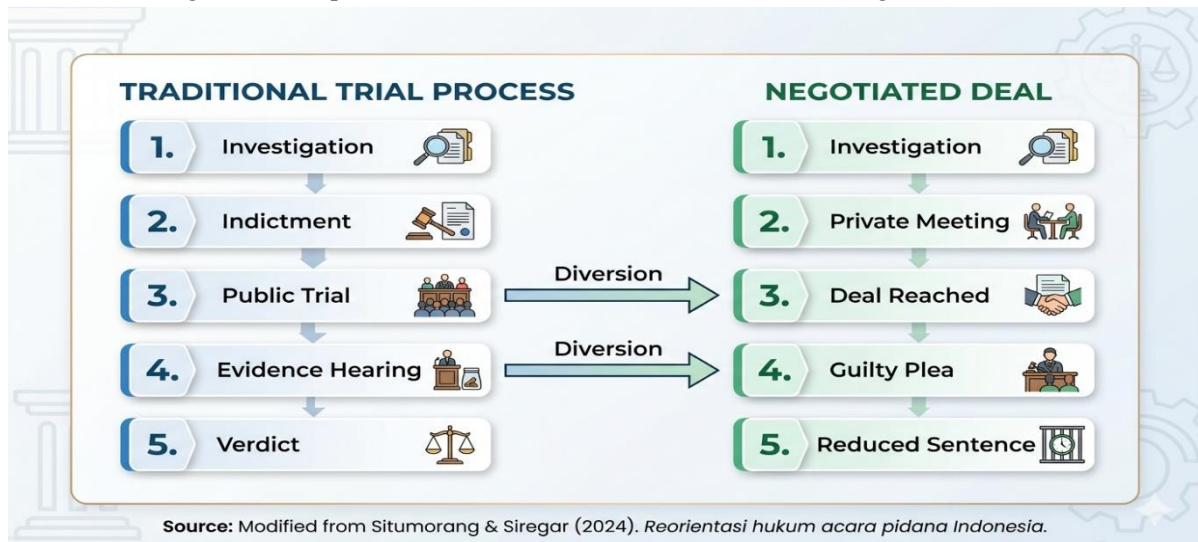


Geographical factors should not determine justice; therefore, the Supreme Court must establish mandatory national guidelines for district courts to ensure uniform sentencing for similar criminal offenses. The state must also fund legal aid to level the playing field between the parties, because without a defense attorney capable of challenging the state's evidence, a plea agreement is not a negotiation but rather an imposition of the state's will. (Christmann, 2023) Public and media pressure on high-profile cases also distorts the system, making institutional safeguards necessary to protect judicial independence. Transparency must be institutionalized as a core value, with every agreement recorded in an auditable public registry, creating a data trail to monitor prosecutors' performance and judges' consistency. (Bozbayındır, 2024) Ongoing training for judges and prosecutors on the ethics of negotiated justice is crucial, and plea bargaining must be treated as an experiment requiring continuous monitoring, feedback, and adjustment. True integrity under the new criminal code demands fair play and public accountability that go beyond mere formal procedures. (Beenstock et al., 2021)

Laws No. 1/2023 and No. 20/2025 shift away from a system that has traditionally relied on the search for truth in open court; by granting prosecutors the power to negotiate case outcomes, these laws risk reducing judges to mere "rubber stamps." Private negotiations can easily turn a tool for efficiency into a transactional marketplace where bargaining power trumps evidence (C. Kim & Kim, 2021). The U.S. model, where prosecutors hold significant power because the majority of cases are resolved through plea deals, creates friction when imported into Indonesia because Indonesia's procedural framework is not designed to oversee confidential agreements. (Faigman, 2025) This shift treats criminal offenses as commodities to be bought and sold for the sake of speed, while victims are pushed to the margins of the process. A shortage of judges and a massive backlog of cases make plea agreements seem

like an easy way to relieve pressure, but prioritizing speed over justice only deepens public skepticism, given that Indonesia is already grappling with perceptions of judicial corruption. (Reyna et al., 2025)

Figure 2: Comparison of Traditional Criminal Process vs. Negotiated Settlement



Beyond legal aid, the victim's role must be operationalized rather than left as an aspirational reference to "restitution" or "impact statements." This study proposes that a Victim Impact Statement be made a mandatory annex to the Berita Acara Pengakuan Bersalah under Articles 78 and 234, containing at minimum: the nature and extent of the harm suffered, the financial losses actually incurred, and the victim's position on the proposed restitution amount. Procedurally, the prosecutor should be required to solicit this statement before the plea agreement is finalized and to attach it to the case file submitted for judicial verification; the presiding judge, in turn, should be barred from approving the agreement under Article 78 unless the Victim Impact Statement is present and the restitution amount recorded in the agreement is not manifestly disproportionate to the harm it describes. Where a victim cannot be located or declines to participate, the case file should record that fact and the reasons for it, so that victim absence is documented rather than silently assumed. For offenses processed under Article 205, which currently carries no restitution obligation, this study recommends extending the same Victim Impact Statement requirement whenever the offense involves an identifiable individual victim, closing the gap that currently allows mid-range offenses to bypass victim participation entirely. Making the Victim Impact Statement a condition of validity, rather than an optional courtesy, converts victim participation from a rhetorical commitment into an enforceable procedural safeguard, giving judges a concrete evidentiary basis for assessing whether a negotiated sentence reflects the actual harm caused rather than merely the administrative convenience of the parties.

4. CONCLUSION

Laws No. 1 of 2023 and No. 20 of 2025 introduced plea bargaining in Indonesia, prioritizing procedural efficiency but risking a shift from truth-seeking toward transactional justice. The mechanism transfers significant authority from judges to prosecutors through negotiated agreements, potentially reducing judicial oversight and transparency while marginalizing victims from meaningful participation. These risks are heightened by judicial shortages and corruption, which may encourage prosecutorial reliance on plea agreements and pressure resource-limited defendants to accept unfavorable deals. Addressing these risks requires intervention at three institutional levels.

First, the Supreme Court should issue a PERMA on Mandatory Verification of Plea Agreements, requiring open judicial hearings to assess the evidentiary sufficiency and voluntariness of the agreements and to reject those lacking a Victim Impact Statement or documented legal assistance.

Second, the Attorney General should issue a Regulation of the Attorney General's Office on Prosecutorial Discretion, requiring written justification of plea decisions under Articles 78, 205, and 234, internal review before plea offers, and oversight with sanctions for unreasonable leniency or repeated abuse of charge-bargaining power.

Third, the government should establish a cross-institutional Digital Registry of Plea Agreements, jointly administered by the Supreme Court, the Attorney General's Office, and the Judicial Commission, that records agreements, restitution terms, and supporting documents in a searchable and auditable database. Together, these measures convert constitutional and procedural safeguards into binding and enforceable mechanisms.

This study is limited by its normative methodology, relying on doctrinal and comparative analysis rather than empirical observation of Articles 78, 205, and 234 in practice. Future research should empirically assess the implementation of the 2025 KUHAP, particularly prosecutorial discretion, the frequency and distribution of plea agreements, judicial rejection rates, and compliance with restitution and legal aid requirements. Such research can evaluate the effectiveness of the proposed judicial, prosecutorial, and digital safeguards and determine whether further legislative revision of Law No. 20 of 2025 is necessary.

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