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Relation Between Plea of Guilty and Defendants Right in RUU KUHAP (An Overview Through "Jalur Khusus" System)

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Abstract
The stacks of cases in judicial institutions hinder achieving the principles of fast, simple, low-cost justice. Through the Drafting Team for the Criminal Procedure Code Draft, the intention is to try to adopt a system that commonly applies in the common law legal system, namely plea bargaining "jalur khusus"" which is shown in Article 199 of the RUU KUHAP. This research intends to examine the concept of plea of guilty used in special channels and to look for the relationship between giving a plea of guilty and the rights of the defendant. This research uses normative juridical research methods or library legal research using conceptual and analytical approaches. The technique for collecting legal materials used is the library research model. From this research it can be concluded that the plea of guilty given by the defendant to the indictment by the public prosecutor must be voluntary, in this case, the judge will assess the truth of the Plea of Guilty. It brings consequences that the trial process will faster for the defendant. However, ""jalur khusus"" do not specifically regulate what defendant right will release if he confesses to the charges, moreover there is a gap that need to be resolve. This has the potential for uncertainty for the defendant. Apart from that, there is no regulation regarding the right to file legal action which will have an impact on the defendant's right to obtain legal certainty regarding efficient time to achieve a speedy trial.

I. Introduction

Indonesia's criminal law system entered a new phase after the ratification of the National Criminal Code (KUHP Nasional) on December 6th, 2022 by the government and the People's Representative Council of the Republic of Indonesia (DPR RI). The National Criminal Code was then written in Law Number 1 of 2023 National Criminal Code (KUHP). Even though it does not apply immediately and will begin in 2026, this change brings quite a contrast compared to the previous Criminal Code in the criminal law system. As a logical consequence of changes to this material law and the many international conventions that have been ratified in Indonesia such as the United Nations Convention Against Corruption, the International Convention Against Torture and the

International Covenant on Civil and Political Rights, the Criminal Procedure Code (KUHAP) has become Formal law, which is the spirit in enforcing material law, must also be changed so that it is in line and by the same goals.

The RUU KUHAP (RUU KUHAP) is a draft law proposed by the government. In fact, the RUU KUHAP has been included in the discussion for several times in the annual priority national legislation program by the DPR RI, this is recorded on the official ICJR website which contains 7 drafts, namely in 2004, 2007, 2008, 2009, 2010, 2011 and 2012. [1] In the period 2009-2014, the RUU KUHAP had reached the discussion stage at the working committee level until final discussions stopped at CHAPTER I, and an agreement was reached to hold the discussion and prioritize the Draft Criminal Code (now the National Criminal Code/ KUHP Nasional). During the discussion, there were several objections to the draft points from the Corruption Eradication Commission (KPK), the National Police, and the Supreme Court (MA).

In the RUU KUHAP which contains 286 articles, there are the same points that are the same as the previous Criminal Procedure Code, but on the other hand, there are also new points that has an urge to be implemented in the criminal procedural law in the future. One of the new systems is called "jalur khusus" system, which is written in Article 199 of the RUU KUHAP. The "jalur khusus" system was adopted from the concept of a plea bargaining system which is common in countries that adhere to a common law legal system such as the United States, Russia, China, etc.

If we examine further, both of the systems have significant differences. However, both of them also have similarities that make this system potential to be implemented. In general, this system emphasizes plea of guilty given by the defendant so that they are given a kind of "reward" for his willingness to give a plea. Then this system places the role of the public prosecutor as central part to the continuation of a criminal case, so that a fast, simple, and low-cost trial is achieved as is the aim of Indonesian criminal justice.

The stagnation of criminal cases has become unavoidable in Indonesia. This is clearly illustrated through the following data. In 2018 132,070 cases had to be resolved as remaining cases from the previous year, this number does not include new cases entered in the current year which amounted to 6,123,197. So, if accumulated, the total caseload that must be resolved by the Supreme Court and subordinate judicial bodies in 2018 is 6,255,267 criminal cases. Until the end of 2018, there were still cases that had not been resolved, namely 133,813 cases, which again had to be resolved in the following year, namely in 2019. [2] Furthermore, in 2022, the Supreme Court Registrar revealed that in general, handling 18,753 cases, an increase of 54.70% compared to the same period in 2021 which amounted to 12,122 cases. Of the total caseload, 32.87% (6,165) were special criminal cases, 27.21% (5102), general criminal cases, and 4.52% (848). From this data, it

[1] Insitute For Criminal Justice Reform, "Perjalanan Rancangan KUHAP," 2011, https://icjr.or.id/perjalanan-rancangan-kuhap/.

[2] Ruchoyah Ruchoyah, "Urgensi Plea Bargaining System Dalam Pembaruan Sistem Peradilan Pidana Di Indonesia: Studi Perbandingan Plea Bargaining System Di Amerika Serikat," *Jurnal Hukum Ius Quia Iustum* 27, no. 2 (2020): 388–409, https://doi.org/10.20885/iustum.vol27.iss2.art9. p. 389.

can be concluded that the accumulation of cases is extraordinary, so it is deemed necessary to have a system that can reduce the caseload in Indonesia.

At the previous time, there was discourse regarding the adoption of plea bargaining in the RUU KUHAP, a system that was an alternative for resolving criminal cases outside the formal court process with the aim of reducing the burden of criminal cases in Indonesia. The first one is related to the position of justice collaborator or the defendant who collaborates in solving a case, thereby becoming a witness to the other defendant. The position of justice collaborator is regulated in the Supreme Court Circular Letter (Surat Edaran Mahkamah Agung/ SEMA) Number 4 of 2011 about the Treatment of Criminal Whistleblowers and Collaborating Witnesses (justice collaborators). According to the SEMA, those who can be said to be justice collaborators are those who are one of the perpetrators of a particular crime but are not the main perpetrator, must admit to the crime they have committed, then have the willingness to give information like a witness in the judicial process regarding the crime they are accused of. Due to this role, the justice collaborators will get several "privileges" in dealing with the criminal cases they are involved in, so that they can be used as legal considerations for the judge in handing down their decisions. Usually in practice, the existence of a justice collaborator is used in criminal cases that have a difficult level of complexity and involve many parties, so that on the other hand it also brings benefits to the judge in making clear the case he is trying. Second, is the concept of diversion that was written in Law No. 11 of 2012 concerning the Juvenile Criminal Justice System. The transfer process is intended to provide protection for children in conflict with the law. Diversion is carried out through deliberation involving the child and their parents/guardians, the victim and/or their parents/guardians, community counselors, and professional social workers based on a restorative justice approach. Trevor Chandler, a facilitator in Canada once said that punishment makes people bitter, whereas restorative solutions make people better. [3] However, over the years this system has been running in the Indonesian criminal justice system, it still has not resulted in significant changes in the number of cases and achieved the goal which is fast, simple, and low-cost justice as envisioned.

The "jalur khusus" system and plea bargaining both prioritize the defendant's voluntary admission of guilt. Plea of guilt themselves have been known for a long time in the process of trying someone in a criminal case, but today's world is enthusiastic about prioritizing the fulfillment of human rights, so the law does not escape this. At the beginning of Indonesian criminal procedural law, plea of guiltys was one of the third pieces of evidence in article 295 HIR, apart from witnesses, letters, plea of guiltys, and instructions. Article 307 HIR states that Plea of Guilty given by the defendant to the judge regarding the criminal act directed against him must be accompanied by information about certain circumstances and other forms of evidence. Furthermore, article 308 HIR states that a plea of guilty that is not supported or corroborated by circumstances known at the trial is not sufficient evidence. [4]

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[3] Abdul Madjid and Milda Istiqomah, "Restorative Justice : A Suitable Response to Environmental Crime in Indonesia ? 3 Sprawiedliwość Naprawcza – Właściwa Odpowiedź Na Przestępczość Środowiskową w Indonezji ? 4," no. 3 (2023): 86–100, https://doi.org/10.7206/kp.2080-1084.622.

[4] Nelson Febby Mutiara, *Plea Bargaining and Deferred Prosecution Agreement* (Jakarta: Sinar Grafika, 2019). p. 39.

After the enactment of the Criminal Procedure Code through Law Number 1 of 1980 concerning Criminal Procedure Law (KUHAP), plea of guilty was not included from the list of evidence, this is based on the way of fulfilling human rights by placing the defendant as a subject and not an object. However, what is interesting is that the concept of a plea of guilty, even though it is not explicitly stated as evidence, is being brought back through the system of a "jalur khusus" in the RUU KUHAP.

This paper aims to examine the concept of the defendant's guilty plea in the "jalur khusus" system initiated by the RUU KUHAP as a steps to improve the criminal justice system and resolve the problem of the stuckness of cases in Indonesian courts. Apart from that, in this paper, we will explore in more the relationship between the defendant's plea of guilty and their rights as a subject in court examination for the criminal act he was charged by the public prosecutor. This writing will lead to a study regarding the relationship between giving a guilty plea and the rights of the defendant, thus explaining whether or not the "jalur khusus" system is worth applying in the Indonesian criminal justice system in the context of the rights of the defendant as a legal subject in a lawsuit.

Several previous studies have discussed similar matters related to the existence of a "jalur khusus" system. Ruchoyah in a journal entitled The Urgency of the Plea Bargaining System in Reforming the Criminal Justice System in Indonesia: A Comparative Study of the Plea Bargaining System in the United States examines the concept of implementing the Plea Bargaining System in the criminal justice system in the United States and the urgency of implementing the Plea Bargaining System in reforming the criminal justice system in Indonesia. [5] Ladito Bagaskoro in a journal entitled Reconceptualization of "jalur khusus" in the Draft Criminal Code as a Form of Reform of the Indonesian Criminal Justice System discusses the reconceptualization of the "jalur khusus" in the RUU KUHAP based on the reform of the criminal justice system in Indonesia and compares special routes and plea bargaining. [6] Aby Maulana in a journal entitled The Concept of the Defendant's Guilty Recognition in the "jalur khusus" According to the RUU KUHAP and Its Comparison with the Practice of Plea Bargaining in Several Countries discusses the theoretical and practical comparison between the "jalur khusus" in the RUU KUHAP and the practice of plea bargaining implemented in several countries. [7]

Rezky Abdi Fratama in a journal entitled "jalur khusus" (Plea Bargaining) in Criminal Procedure Law discusses the suitability of the special route concept with the principle of legality as well as the regulation of special routes in criminal procedural law in the future. [8] Junaidy Maramis and Nurhikmah in Adding Plea Bargaining to the Criminal

[5] Ruchoyah, op.cit p.2

[6] Ladito R Bagaskoro, "REKONSEPTUALISASI "JALUR KHUSUS" DALAM RANCANGAN KUHAP SEBAGAI BENTUK REFORMASI SISTEM PERADILAN PIDANA INDONESIA," *Arena Hukum* 14, no. 1 (2021): 190–206, https://doi.org/10.21776/ub.arenahukum.2021.01401.10.

[7] Aby Maulana, "Konsep Pengakuan Bersalah Terdakwa Pada '"jalur khusus"' Menurut Ruu Kuhap Dan Perbandingannya Dengan Praktek Plea Bargaining Di Beberapa Negara," *JURNAL CITA HUKUM* 3, no. 1 (June 1, 2015): 39, https://doi.org/10.15408/jch.v2i1.1840.

[8] Rezky Abdi Fratama, ""jalur khusus" (Plea Bargaining) Dalam Hukum Acara Pidana," *Badamai Law Journal* 5, no. 2 (2021): 230, https://doi.org/10.32801/damai.v5i2.10755.

Justice System in Indonesia examine the urgency of adding plea bargaining to the Indonesian criminal justice system and the form of plea bargaining regulation if it is added to the Indonesian criminal justice system. [9]

2. Research Methods

This research uses normative juridical research methods or library legal research using conceptual and analytical approaches. The technique for collecting legal materials used is a library research model, therefore the data used is secondary data consisting of primary legal materials and secondary legal materials. Primary legal materials consist of journals, books, and statutory regulations, as well as secondary legal materials, namely the draft RUU KUHAP, academic texts of the KUHAP Draft, internet articles, etc.

3. Result and Discussion

3.1 The Concept of Plea Guilty in "jalur khusus" system.

Romli Atmasasmita once said that in criminal justice system theory, there are two systems that apply, namely the adversarial system and the inquisitor system. The essential difference between the two systems is this:

a. Under the adversarial method, the person (or body) with the duty of deciding guilt or the lack of it leaves the responsibility to the prosecution and defense to present their case. It is inherent in such a system that one side or the other must bear the burden of proof. It is central to our version of the adversarial system that in criminal cases that burden is upon the prosecution, who must discharge it beyond a reasonable doubt.
b. In the inquisitorial system, the person charged with deciding guilt or its absence has the duty to carry out any necessary investigation. Neither side bears the burden of proof, since that onus is upon the tribunal.[10]

During the formulation of the RUU KUHAP, it was explained that Indonesia has a vision of criminal procedural law, as a forum for seeking material truth, protecting the rights and freedoms of people and citizens, balancing the rights of parties, people who are in the same situation and are prosecuted for offenses. The same person must be tried according to the same provisions, defend the constitutional system of the Republic of Indonesia against criminal violations, maintain humanitarian peace and security, and prevent crime. [11]

Quoted from the academic text of the RUU KUHAP, Indonesia in this case is moving towards the adversarial principle which emphasizes balance between parties in criminal cases. The principles of fairness and adversarial are stated in Article 4 of the RUU KUHAP which states that "Criminal procedures regulated in this Law are carried out

[9] J Maramis, "Penambahan Plea Bargaining Dalam Sistem Peradilan Pidana Di Indonesia," *Lex Administratum* 4 (2022), https://ejournal.unsrat.ac.id/index.php/administratum/article/view/42914/0%0Ahttps://ejournal.unsrat.ac.id/index.php/administratum/article/download/42914/37817.p. 6.

[10] M. Ali Zaidan, *Menuju Pembaruan Hukum Pidana* (Jakarta: Sinar Grafika, 2022). p. 390.

[11] DPR RI, *Deskripsi Konsepsi Prolegnas*, 2015 <https://www.dpr.go.id/prolegnas/deskripsi-konsepsi/id/62>. diakses pada 5 Agustus 2023

fairly and the parties oppose each other in a balanced manner (adversarial)." The explanation to Article 4 states that what is meant by "executed fairly and maintaining a balance of the rights of the parties" is: that every person who commits a criminal act and is prosecuted for the same criminal act is tried based on the same regulations, the implementation of this Law must guarantee a balance between the rights of investigators, the rights of the public prosecutor, and/or the rights of the suspect/accused in the criminal justice process. [12]

In the pure adversarial system, in handling criminal cases the state is the plaintiff. In this case, the state is present as a representative of the victim and the interests of society, then the defendant is the defendant. The accused is usually represented by a defense attorney, while the state is represented by a public prosecutor. The party whose job it is to find out the truth of the facts is impartial and is usually represented by a jury. In this system it is possible for the accused to refuse to be tried by a jury, if this happens then the judge also has the task of finding out the truth of the facts presented in the trial. [13]

The drafters of RUU KUHAP realized that Indonesia was not able to fully and massively implement a pure adversarial system in its criminal justice system, because it would cause many major adjustments in every sector and require a long time. This is also due to the strong principle of opportunity in criminal justice currently in force. The principle of opportunity globally is defined as the public prosecutor may decide conditionally or unconditionally whether to make prosecution to court or not. It can be concluded that the public prosecutor determines whether a criminal case will proceed to a formal examination or not. This is also in line with the principle of the prosecutor as dominus litis or as controller of the case.

The stagnation of cases in courts at both the first level and the Supreme Court is still a problem from year to year. When examined further, this does not only happen in criminal cases, but also civil, state administration, and religion cases. Several factors cause a stagnation of cases in the judiciary, slow administrative processes, long queues during trial schedules, frequent delays in trial times so that they are not on time and time efficiency cannot be achieved and are still related to time, namely the slow decision-making process in a case. [14] Until 2014, the SEMA Number 2 of 2014 concerning Settlement of Cases at the First Level and Appeal Level in 4 (four) Judicial Districts was issued which limitation that the time period for settling cases is no later than five months. However, in the reality, a case can exceed the existing time period.

The failure to achieve efficiency and effectiveness in the criminal justice process which emphasizes the search for material truth means that the government has to look for

[12] S SUPRIYANTA, "Peradilan Pidana Terpadu Berdasarkan RUU Kuhap," *Jurnal Wacana Hukum* IX, no. April (2010): 30–47, https://www.neliti.com/publications/23521/peradilan-pidana-terpadu-berdasarkan-ruu-kuhap.

[13] Sri Rahayu, "HAK TERTUDUH DALAM PERADILAN PIDANA BERDASARKAN ADVERSARY SYSTEM," *Jurnal Inovatif* VIII (2015): 30–40.

[14] Joko Sriwidodo and Dwi Andayani Bs., "Upaya Percepatan Penyelesaian Perkara Di Pengadilan Menurut Peraturan Mahkamah Agung Nomor 4 Tahun 2020 Tentang Administrasi Dan Persidangan Perkara Pidana Di Pengadilan Secara Elektronik," *Palar | Pakuan Law Review* 7, no. 2 (2021): 373–88, https://doi.org/10.33751/palar.v7i2.4252.

alternatives as a solution to this classic problem, as well as to fulfill the hope of achieving fast, light and simple justice. Basically, from an economic aspect, all articles in the RUU KUHAP refer to a speedy trial (contante justitie), simple and low cost justice system. The KUHAP Draft introduces a special route system and emphasizes settlements outside the formal trial (afdoening buiten proces) [15]

Apart from the problem of a stackness of cases, there are other reasons underlying the need for changes to the basis of criminal procedural law through the RUU KUHAP in Indonesia. First, the KUHAP currently in force is still unable to meet the legal needs of society, especially in the practice of handling criminal cases where law enforcers must resolve cases properly and fairly. Second, legal developments and changes in the political map coupled with global economic, transportation, and technological developments also influence the meaning and existence of the substance of the KUHAP.[16]

Regarding the problems that exist in the judiciary. The drafting team for RUU KUHAP is trying to adopt a system that is expected to solve these problems through the "jalur khusus" system contained in article 199 of the KUHAP Draft. The regulation of "jalur khusus" in the draft of RUU KUHAP is an effort to speed up the process of resolving cases and to reduce overcapacity in correctional institutions as well as an embodiment of the principle of carrying out criminal procedures in a simple, fast and low cost. [17] As the author explained previously, as part of the adoption of the plea bargaining system, the special route does not apply as absolutely as it does in the adversarial system. So the "jalur khusus" system will have differences from the plea bargaining system and adjustments to the Indonesian criminal justice system.

The "jalur khusus" system stated in article 199 of the RUU KUHAP emphasizes the defendant's plea of guilty of the charges that applied by the public prosecutor. When the public prosecutor read out the indictment, the defendant admitted all the acts charged and pleaded guilty to committing a crime which carries a penalty of no more than seven years in prison. If the defendant admits the charges, the public prosecutor can transfer the case to a brief trial. The brief trial was chaired by a single judge and has simple step rather than the ordinary one. From this trial, the sentence imposed cannot be more than 2/3 of the maximum previous principal sentence. In the process, the Judge can reject this plea of guilty and ask the Public Prosecutor to submit it to a regular examination or trial.

Plea of Guilty that given by the defendant provided benefits as a reward for his willingness. The advantage is that the prison term is reduced, so that the defendant can immediately complete his sentence. This is different from what applies to the plea bargaining system which prioritizes plea of guilty as a transactional relationship between the defendant and the public prosecutor, so that the judge does not have a central role as in special channels. The output that is achieved from plea bargaining are also different, not only reducing sentences but reducing charges, even acquittal from all

[15] Tim Perumus RUU KUHAP, "Rancangan Undang-Undang Tentang Hukum Acara Pidana."
[16] Dudung Indra Ariska, "Pembaharuaan Hukum Sistem Peradilan Pidana Dalam Ruu Kuhap," *Yustitia* 5, no. 1 (2019): 78–89, https://doi.org/10.31943/yustitia.v5i1.60.
[17] Marfuatul Latifah, "Pengaturan "jalur khusus" Dalam Rancangan Undang-Undang Tentang Hukum Acara Pidana," Negara Hukum 5 No 1 (2014): 31–46.

charges. plea bargaining is enrouted outside of court or before the case goes to court, in which case the prosecutor is allowed to negotiate to determine the severity of the crime or criminal charges that will be directed at the defendant. In the practice of plea bargaining, an agreement to admit guilt obtained outside of court is the basis for the judge to decide the case. Plea bargaining is carried out outside court or before the case goes to court, in which case the prosecutor is allowed to negotiate to determine the severity of the crime or criminal charges that will be directed at the defendant. In the practice of plea bargaining, an agreement to admit guilt obtained outside of court is the basis for the judge to decide the case. [18]

The role of plea of guilty is currently not explicitly regulated in the current KUHAP, but this is related to the defendant's statement which is one of the pieces of evidence in criminal justice. Article 189 paragraph (1) of the Law Number 8 /1981 (KUHAP) explains that the defendant's statement is a statement made by the defendant at trial regarding the actions he experienced or was aware of, this is related to the criminal act for which he is charged. M. Yahya Harahap then argued that the defendant's statement could be considered as evidence, namely if the defendant stated that he had explained in court and what was stated or explained was about good deeds that the defendant had done or remembered what he knew or was related to, not what he had done. What he is already experienced in the criminal incident that was being investigated[19]

The "jalur khusus" can only be applied to certain criminal acts for which the person charged is not more than 7 years, so the writer will next inventory what types of criminal acts the special route can be applied to according to the RUU KUHAP. In the RUU KUHAP, the severity of criminal acts is classified as follows:

a. Offense with a single light fine (category 1 or II). The offenses grouped here are offenses which were previously punishable by jail imprisonment/imprisonment for less than 1 (one) year or a light fine or new offenses which, according to an assessment of their gravity, were under 1 (one) year in prison;
b. The offense should be threatened with imprisonment for more than 1 (one) year to 7 (seven) years. The offenses grouped here will always be an alternative to a heavier fine than the first group, namely category III or IV fines. There are also offenses in this group that have minimal specific threats;
c. Offenses that are punishable by imprisonment for more than 7 (seven) years or are punishable by more severe penalties (i.e. death penalty or life imprisonment). To show its serious nature, imprisonment for offenses in this group is only threatened individually or for certain offenses it can be accumulated with a category V fine or given a special minimum threat.

Furthermore, regarding criminal fines based on the following categories:

a. Category I: IDR 6,000,000.00 (six million rupiah);
b. Category II: Rp. 30,000,000.00 (thirty million rupiah);
c. Category III: Rp. 120,000,000.00 (one hundred and twenty million rupiah);
d. Category IV: Rp. 300,000,000.00 (three hundred million rupiah)

[18] Maulana, "Konsep Pengakuan Bersalah Terdakwa Pada '"jalur khusus"' Menurut Ruu Kuhap Dan Perbandingannya Dengan Praktek Plea Bargaining Di Beberapa Negara." p. 64
[19] Fratama, "Jalur Khusus (Plea Bargaining) Dalam Hukum Acara Pidana."

e. Category V: Rp. 1,200,000,000.00 (one Draftion two hundred million rupiah); And
f. Category VI: Rp. 12,000,000,000.00 (twelve Draftion rupiah).

3.2 Relation Between Plea of Guilty and The Defendant's Right

Human rights are rights that are inherent from the time humans are born, so they are absolute rights, cannot be reduced under any circumstances and by anyone. The defendant as a subject moreover as a citizen has the rights as a person itself, including during the law process. From the perspective of international conventions, the right to equality before the law is contained, which is the basis of all judicial processes and is a form of fulfilling human rights. Among them, Article 6 of the Declaration of Human Rights (UDHR) stipulates that all people are equal before the law and have the right to equal legal protection without any discrimination. So that everyone has the right to receive equal protection against discrimination. Likewise, Article 14 paragraph (1) of the International Covenant on Civil and Political Rights (ICCPR) states that all people have the same position before courts and judicial bodies. Likewise, article 3 paragraph (2) of the Human Rights Law explains equality before the law.

"The suspect must be placed in a human position with dignity. He must be judged as a subject, not as an object. Those being examined are not human suspects. It is the criminal acts he commits that are the object of examination. "In the direction of the criminal offense that is being investigated, the suspect must be considered innocent, in accordance with the legal principle of presumption of innocence until a court decision with permanent force is obtained." Suspects should not be treated arbitrarily just because they are seen as bad people who take away other people's rights guaranteed by law. Even though they are perpetrators of crimes, it is also necessary and mandatory for suspects to be given legal protection and guaranteed to fulfill their human rights during the investigation process until they receive a judge's decision which has permanent legal force.

As a new system, the "jalur khusus" which prioritizes the defendant's plea of guilty on the trial agenda still requires several adjustments to achieve balance. Providing a plea of guilty which is the main objective in the "jalur khusus" system will have consequences, not only on the fate of the defendant as a legal subject but also on the trial process as a whole. In Article 199 paragraph (3) RUU KUHAP, it is stated that if the defendant confesses to the charges being charged, the judge is obliged to inform him of the rights he is giving up as a consequence. However, in this case, it is not stated in detail what rights the defendant waived immediately after giving a plea of guilty. This causes a gap in achieving legal certainty for the defendant. This overrides Article 28 D of the 1945 Constitution paragraph (1) which states that everyone has the right to recognition, guarantees, protection and fair legal certainty as well as equal treatment before the law.[20]

[20] Iskandar Wibawa, "IMPLEMENTASI ASAS KEPASTIAN HUKUM YANG BERKEADILAN BERDASAR CITA HUKUM BANGSA INDONESIA (Kajian Putusan Pengadilan Negeri Banyumas Tentang Kasus Mbah Minah)," *YUDISIA : Jurnal Pemikiran Hukum Dan Hukum Islam* 8, no. 1 (2018): 18, https://doi.org/10.21043/yudisia.v8i1.3221.

Then in Article 199 paragraph (4) there is a provision that the judge could reject a plea of guilty if there is doubt about the truth of the defendant's plea of guilty. In practice, according to the author, this is a special concern because of the possibility of the judge digging up the truth so that there is no coercion or questions that could put the defendant in a bad term and not give the defendant impact at all. The judge will consider the defendant's confession as strong evidence in deciding the case. So, the prosecutor has no difficulty adding another piece of evidence. However, the problem is when no evidence is specifically related to the defendant's guilty plea in a trial that switches from a normal examination to a quick one according to a "jalur khusus".

Failure to enforce the provisions on evidence will stimulate and maintain the practice of torture to obtain confessions. As we know, in 2008, LBH Jakarta found that 81.1% of 639 respondents in Jakarta stated that they had experienced torture when questioned by investigators.. [21]

The right to submit legal action also needs to be emphasized, bearing in mind that the aim of adopting "jalur khusus" is to reduce the stcakness of cases and overcapacity in correctional institutions. The RUU KUHAP does not explicitly explain whether defendants have the right to submit legal action remedies in the form of appeals and cassation as well as extraordinary legal remedies such as judicial review. If the previous KUHAP brief trial construction is followed, the defendant can submit ordinary or extraordinary legal remedies. This is different from the plea bargaining system in the general which has the consequence that the defendant gives up his right to submit legal action if an agreement is meet the deal with the prosecutor. This will also have an impact regarding legal certainty regarding efficient time to achieve speedy justice.

4. Conclusion

This research showed that the plea of guilty given by the defendant to the indictment by the public prosecutor must be voluntary, in this case, the judge will assess the truth of plea of guilty. This plea of guilty has consequences related to the defendant's rights as a subject in the judicial process. Pengurangan hukuman dari ketentuan yang ada menjadi penghargaan atas kerjasama terdakwa merupakan salah satu bentuk penghargaan hak asasi terdakwa. However, the "jalur khusus" system provisions do not specifically regulate what the defendant rights will be released from them if he confesses to the charges. This has the potential for uncertainty for the defendant. Apart from that, there is no regulation regarding the right to file legal action which will have an impact on the defendant's right to obtain legal certainty regarding efficient time to achieve a speedy trial. Apart from that, plea of guilt must have standards regarding the time of implementation, the content of Plea of Guilty, and require simple proof of the truth of Plea of Guilty as well as supervision in providing statements in the form of plea of guilty.

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