ANALYSIS OF THE APPLICATION OF PLEA BERGAINING IN SETTLEMENT OF CORRUPTION CASES IN INDONESIA

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ABSTRACT

Objective: The application of Plea Bergaining in the Settlement of Corruption Cases in Indonesia is carried out for the welfare of the people. The law on the eradication of criminal acts of corruption actually regulates several provisions that use the perspective of recovering state financial losses.

Theoretical Framework: The framework of setting up a national legal system as the character of the Indonesian nation. Legal issues in Indonesia are right now exceptionally overpowering.

Method: However, in practice, law enforcers are still oriented towards corporal punishment (prison). Therefore, a breakthrough in the field of law in dealing with corruption is urgently needed. A new method or concept of handling corruption problems should be put forward with more emphasis on efforts to recover state losses.

Results and conclusions: The settlement of corruption cases within the Joined Together States is settled utilizing supplication bartering, this can be due to the solid proof of the open prosecutor and the accused/defendant voluntarily admitting blame.

Research Implications: Attention is the concept of Plea Bargaining which is commonly used in criminal justice practices used in common law countries, especially in the United States, which has been adopted in the Draft Law on Criminal Procedure Law under the name of the particular way concept.

Originality/value: An update and breakthrough is basically required inside the criminal value system in Indonesia, which in this case is certainly based on a foothold that an overhaul in texture and formal criminal law has finished up a ask.

Keywords: plea bargaining, corruption, particular way, application.
ANÁLISE DA APLICAÇÃO DOS FUNDAMENTOS RELATIVOS À LIQUIDAÇÃO DOS PROCESSOS DE CORRUPÇÃO NA INDONÉSIA

RESUMO

Objetivo: A aplicação da Plea Bargaining na Resolução de Casos de Corrupção na Indonésia é realizada para o bem-estar da população. A lei sobre a erradicação de atos criminosos de corrupção, na verdade, regula várias disposições que usam a perspectiva de recuperar perdas financeiras do Estado.

Estrutura Teórica: A estrutura de criação de um sistema jurídico nacional como o caráter da nação indonésia. Questões legais na Indonésia são agora excepcionalmente poderosas. Método: No entanto, na prática, as forças da lei ainda estão orientadas para o castigo corporal (prisão). Por conseguinte, é urgentemente necessário um avanço no domínio do direito na luta contra a corrupção. Deve ser apresentado um novo método ou conceito de resolução dos problemas de corrupção, com maior ênfase nos esforços para recuperar as perdas do Estado.

Resultados e conclusões: A resolução de casos de corrupção dentro dos Estados Unidos é resolvida utilizando a troca de súplica, isso pode ser devido à prova sólida do promotor aberto e do acusado / réu que admite voluntariamente a culpa.

Implicações da Pesquisa: Atenção é o conceito de Negociação de Peixes que é comumente usado em práticas de justiça criminal usadas em países de common law, especialmente nos Estados Unidos, que foi adotado no Projeto de Lei de Processo Penal sob o nome do conceito particular way.

Originalidade/valor: Uma atualização e avanço é basicamente necessária dentro do sistema de valor criminal na Indonésia, que, neste caso, é certamente baseado em uma base que uma revisão na textura e direito penal formal terminou uma pergunta.

Palavras-chave: plea barganha, corrupção, forma particular, aplicação.

1 INTRODUCTION

The concept of plea bargaining is known as one of the concepts that developed in the process of settling criminal cases (Utama, 2021). Plea bargaining is a plea bargaining for the defendant’s guilty plea, so that the public prosecutor will demand light sentences from other crimes (Black’s Law Dictionary). The concept of "plea bargaining" risen from the settlement of criminal cases within the Anglo-Saxon legal framework or within the common law framework. The Joined together States, as an Anglo-Saxon nation, has long embraced the concept of "supplication bartering" as a determination to settle criminal cases. Amerika, the notion of plea bargaining is centered on discussions between the defendant and the public prosecutor about whether there has been an admission of guilt and whether the defendant has not refuted the public prosecutor’s allegations. (Ruchoyah,
Courses of activity and utilization of supplication wheeling and dealing inside the United States are coordinated inside The Government of Criminal Procedure, or the United States Criminal Strategy Code (hereinafter insinuated to as the US Criminal Strategy Code) (Morales-Villegas et al., 2022).

The idea of plea bargaining then started to emerge in nations with different legal systems, such as those with a civil law system. When viewed in this light, the phenomena is described as "a global process of administration of criminal convictions" (Langer, 2019). The concept of plea bargaining is closely related to the speeding up and productivity of the settlement of criminal cases, this at that point gets to be the trust for the issue of collection of cases within the Indonesian Legal Teach. In order for the law to function properly, the law must not be static but must dynamically follow the dynamics of community development. (Abdul, 2005). Legal alter is comprehensive inside the framework of setting up a national legal system as the character of the Indonesian nation. Legal issues in Indonesia are right now exceptionally overpowering, this may be seen by the number of cases that must be taken care of in court.

The uncontrolled degradation sharpens that still periodically happen in Indonesia impact Indonesia's position inside the Indonesian Corruption Acknowledgments List (CPI) which all-inclusive Indonesia's position is still in 90th put in any case concurring to Straightforwardness Around the world Indonesia (TII) Indonesia Corruption Acknowledgments List (CPI) in 2016 up one point by 37 from the foremost vital figure of 100 Returns or recuperation of State misfortunes due to criminal acts of debasement show up to be little in number due to the taking after limitations: (a) It might be challenging to track down the money or fortune earned through corruption because corruption instances can be revealed decades after they first surface. (b) via a variety of means, corruptors have used or manipulated the money gained via corruption in ways that make it challenging for law enforcement to locate them. (c) Due to the inability of the offenders to pay, efforts to impose extra sentences as payment of replacement money have not yet been as successful as anticipated. (d). The existence of third parties suing the government for evidence that has been seized for the State based on court rulings in criminal case acts of corruption is a recent development (Teixeira et al., 2021).

The mechanism for civil lawsuits by the State Attorney's Attorney against the convicted person or their heirs to demand payment of compensation or compensation for State losses has not been fully able to restore state finances because there are obstacles
for the State Attorney Prosecutor to carry out civil lawsuits, these obstacles are as follows: (Singgih, 2021). Assets and/or the convict's assets are unknown; (b.) The convict has no assets that can be confiscated by the prosecutor, if any; (c.) Limited budget for the execution/auction of the convict's assets; (d.) Assets that have been executed are not in demand; (e.) The value of assets that have been exercised is not sufficient to cover state financial losses.

The thought of plea bargaining, which is habitually utilized in criminal equity hones that apply in common law nations, especially within the Joined together States, is captivating and merits consideration. Supplication bartering is the hone of dealing with criminal cases where the parties between the open prosecutor (prosecutor) and the respondent or his legitimate advisor have had negotiations/negotiations after the suspect's confirmation of blame with respect to the nature of the wrongdoing being charged and The open prosecutor employments the suspect's/defendant's deliberate affirmation of blame as a measuring stick to select the criminal risk that will be displayed earlier to the trial. In light of this thought, a reasonable criminal equity framework ought to.

2 THEORETICAL FRAMEWORK

An update and breakthrough is basically required inside the criminal value system in Indonesia, which in this case is certainly based on a foothold that an overhaul in texture and formal criminal law has finished up a ask that must be realized right away for value in society. Especially for wrongdoings that are uncommon infringement or uncommon wrongdoings such as debasement, it is imperative to require action in an unprecedented way and in an unusual way, such as utilizing the Supplication Haggling concept with the foremost center on returning state mishaps so that the component for executing law necessity can take put in an capable way. effectively and capably without burdening the State.

3 METHODOLOGY

The research method used is a type of doctrinal legal research. (Irianto & Shidarta, 2009) Doctrinal legal research is descriptive and explanatory, using secondary data, namely primary, secondary and tertiary legal materials. (Supratman & Dillah, 2015) Inquire around infers to the utilize of composing consider techniques by proposes of composed legitimate materials. The producer chose to utilize this inquire nearly
procedure, since the creator centers on analyzing and considering the basic contemplations and ideas of supplication bargaining. The genuine blue materials utilized contain of statutory controls interior the layout of national, territorial and all comprehensive laws and controls, as well as dismemberments of books and steady articles that are vital to the a quo issue. The approach utilized is the statutory approach, the conceptual approach and the comparative approach. (Marzuki, 2016)

The statutory control approach will offer help with regard to the definition of the concept of supplication trading, both in national law and inside the laws of other countries. The conceptual approach was chosen to help and make disputes. At that point the utilize of a comparative approach is utilized to induce it and see at help the a quo concept. The concept of supplication wheeling and dealing risen and made in a unmistakable legal system from Indonesia, so a comparative approach is required to analyze the contrasts between the two unmistakable legal systems.

4 RESULT AND DISCUSSION

4.1 APPLICATION OF THE CONCEPT OF PLEA BARGAINING IN DIFFERENT NATIONS

The Application of Supplication Haggling in Criminal Acts in Different Nations

The starting of the concept of supplication bartering has chronicled roots dating back to the 18th century in Britain and the 19th century within the Joined together States, at that time what created was not supplication deal but blameworthy supplications or affirmation of blame. (Albert, 1979) Plea Bargaining is characterized in different ways, the aim and reason of which is the same, to be specific to argue blameworthy to committing a wrongdoing in arrange to urge lawful help. In an exertion to change the criminal equity procedural law in Indonesia, a concept comparable to the Supplication Bartering concept has been created which is contained within the Draft Criminal Strategy Code (RUU KUHAP) in Article 199 which is named "particular way".

This appears that the concept of plea bargaining has started to be received within the criminal equity framework in Indonesia. Plea bargaining in drive within the Joined Together States can be connected to all criminal offenses counting genuine cases (felony) and as it were in California and Mississippi, which don't permit supplication deal for cases of sexual savagery and physical viciousness (beatings, torment and murder), as well as cases debasement. The settlement of corruption cases within the Joined Together States
is settled utilizing supplication bartering, this can be due to the solid prove of the open prosecutor and the accused/defendant voluntarily admitting blame.

One of the modern debasement cases through plea bargaining is the case of Rufus Seth Williams, a Lawyer serving within the Philadelphia region, the Pennsylvania portion of the nation. Rufus Seth Williams in the long run conceded tolerating tens of thousands of dollars in bribes and manhandling his position for individual pick up. Rufus Seth William will receive a sentence from the Court which can be within the shape of detainment for 5 (five) a long time, or a fine of $ 250,000. Within the case of previous Law based Agent Chaka Fattah, he denied a supplication deal bargain and was sentenced to 10 a long time in jail in December after being found blameworthy of 23 checks in a debasement case managing with illicit campaign credits.

The State of India begun to be known as Supplication Bargain inside the Criminal Laws (Modification) Act 2005 which is contained in chapter XXIA from sections 265 A to 265 L which came into compel on July 5 2006. Supplication bargain in India is compelled because it were to certain cases, particularly: a) Supplication Bargain because it were for offenses committed against criminal offenses with a discipline of detainment underneath seven a long time; b) Supplication wheeling and dealing does not apply to guilty parties or prosecutors who have as of now committed a comparable encroachment or wrongdoing (recidivist); c) Supplication Bargain isn't available for violations/crimes that will impact the country's socio-economic conditions; d) Supplication Bargain isn't available for offenses committed against women or children underneath fourteen a long time of age. Supplication bargain as well does not apply to Respondents who have committed honest to goodness wrongdoings such as slaughter, attack and honest to goodness infringement that are at fault by passing or life detainment.

The first case to use the concept of plea bargaining in India occurred in 2007, in a corruption case with the defendant Sakhram Bandekar, (Aby, 2015). and this case was the primary case where his supplication haggling application was denied. The application for supplication bartering within the case specified over was unsuccessful since of differences between the Respondent and CBI as the Open Prosecutor, and not since it abused the arrangements regarding the limits of supplication deal as contained within the Criminal Laws (Correction) Act 2005 in chapter XXIA from areas 265 A to 265 L Supplication bartering in India will not be achieved if the act of debasement influences the country's financial condition and usually an critical impediment to maintain a strategic
distance from the discernment that supplication haggling leads to a modern sort of debasement in criminal equity as happened in Georgia.

From the two countries that apply the concept of plea bargaining in degradation cases indicated over, it turns out that the application of supplication wheeling and dealing inside the criminal value system in each country is conceivable for cases of degradation. Each country has its claim supplication wheeling and dealing strategy in assention with the country's genuine system and the history of the enhancement of country's law. In this way, with regard to the "Exceptional Track" that has been characterized inside the draft law on the Indonesian criminal code of methodology, it can be associated to criminal acts of degradation but with the expansion of strict unprecedented prerequisites so that corruptors do not utilize this office as a gadget to avoid teach. Inside the framework of changing the criminal value system in Indonesia, the concept of plea bargaining has been gotten inside the Draft Criminal Strategy Code with the term Uncommon Track contained in Parcel Six of chapter 199 which is as takes after in full: (1) When the open prosecutor examines out the indictment, the respondent confesses to all the exercises charged and contends reprehensible to committing a wrongdoing which carries a criminal discipline of not more than 7 (seven) a long time, the open prosecutor can trade the case to a brief examination strategy trial. (2) The confession of the censured is set forward inside the minutes stamped by the censured and the open prosecutor. (3) The judge must: a. illuminates the respondent with regard to the rights he has surrendered by giving the confession as insinuated to in section (2); b. educates the respondent with regard to the term of the sentence that will be constrained; and c. ask whether the affirmation as insinuated to in section (2) is given intentionally. (4) The judge may expel the confession as inferred in area (2) in case the judge is in address nearly the veracity of the defendant's confession. (5) Maintained a strategic distance from chapter 198 entry (5), the sentence constrained on the prosecutor as implied to in section (1) may not outperform 2/3 of the foremost extraordinary sentence for the wrongdoing charged. In Law Number 31 of 1999 as changed by Law Number 20 of 2001 concerning the Obliteration of Criminal Acts of Degradation, there are courses of action with regard to the recovery of state hardships both through criminal law methodologies and thoughtful law strategies.

According to the provisions of the Corruption Crime Eradication Act chapter 4 that "Recovery of state financial losses or the country's economy does not eliminate the punishment of the perpetrators of criminal acts as referred to in chapter 2 and chapter 3", 
the explanation states that the return of state financial losses or the country's economy is only a mistake one mitigating factor.

4.2 PLEA BARGAINING FORMULATION POLICY AGAINST PERSONS OF CRIME OF CORRUPTION

The Criminal Procedure Code Bill which began to introduce plea bargaining with the term special line (Beranda, 2022). The uncommon line within the Criminal Strategy Code Charge gives for an obligation for judges to inform the denounced of the rights he has postponed by giving a confession; The judge is obliged to inform the respondent with respect to the length of the sentence that will be forced; and inquire whether the acknowledgment as alluded to in section (2) is given deliberately. In expansion, the judge can dismiss the defendant's confession in case the judge questions the truth of the defendant's confession (RUU KUHAP, 2011).

In order to implement plea bargaining which is similar to a special line against corruption, the obligations mentioned above must be expanded and not only regarding the validity of the Defendant's confession but the Judge must examine the evidence at trial to be connected with the defendant's confession. The formulation of a special pathway in the Criminal Procedure Code Bill states that after the defendant admits all the actions charged and admits guilt, the public prosecutor transfers the case to a brief examination session. From this formulation, it can be ascertained that the judge who will examine the case is a single judge, not a panel of judges (which consists of at least three judges).

The plea bargaining handle which is comparable to the extraordinary line within the Criminal Procedure Code Charge when it'll be connected to a criminal act of debasement which is hindering to state funds at the time of trial must give an dynamic part for the Board of Judges to check the legitimacy (truth) of the Defendant's confession and look at the prove collected by the Open Prosecutor associated with the confession of the Litigant at trial, and the Board of Judges is obliged to inquire for an supposition from the Open Prosecutor with respect to the criminal act of debasement committed by the Respondent whether it can influence the socio-economic state of the State.

The dynamic part of the Board of Judges inside the plea bargaining and dealing handle which is comparable to the uncommon line in corruption is as a substitute for analyzing demonstrate as in analyzing witnesses and/or pros at trial in common, but since
the reason of supplication bartering itself is to speed up the trial get ready at that point the strategy of looking at the demonstrate is supplanted by analyzing demonstrate (witness and/or ace enunciations contained inside the Minutes of Examination at the investigative level) at that point interfacing it to the substance of the confession of the Respondent who contended culpable. The Board of Judges must explore for the truth of the Defendant's confession.

In extension, the Board of Judges will as well see at the conclusion of the Open Prosecutor with regard to the criminal act of corruption committed by the Prosecutor, whether it can or has influenced the socio-economic conditions of the State. Within the occasion that the Board of Judges has carried out these two methods, the taking after step is the burden of a sentence on the Prosecutor. The sentencing of the Prosecutor inside the exceptional pathway plan inside the Criminal Methodology Code Charge stipulates that the criminal burden of the respondent may not outperform 2/3 of the foremost extraordinary criminal offense charged. Taking into consideration chapter 2 and chapter 3 of the Law of the Republic of Indonesia Number 31 of 1999 as revised by Law Number 20 of 2001 concerning the Annihilation of Debasement Violations, each of which features a least punishment risk, in this case the burden of a criminal act of debasement is within the handle supplication bartering which is comparable to the extraordinary pathway does not utilize the equation as can be chapter 199 passage (5) of the Criminal Method Code Charge. Criminal conviction in debasement is still guided by the Debasement Crime Eradication Law and with respect to the term of the sentence to be forced ought to be cleared out completely to the Board of Judges taking under consideration the exasperating and relieving circumstances that exist within the Litigant and paying consideration to the return of state misfortunes and the Defendant's interest in reveal other acts of debasement.

The sort of discipline against the litigant for the wrongdoing of debasement, to be specific extra discipline within the shape of installment of substitution cash, is what permits it not to be connected to the litigant who is experiencing a supplication haggling prepare which is comparative to a uncommon course. The creator is of the conclusion that typically since in hone the installment of repayment itself often encounters issues and a few issues as the creator has portrayed within the foundation area, such as the hazy reason of repayment installment; error of elective detainment and commitment of the executing lawyer; not ideal reallocation arrangement in corruption cases. Essentially supplication bartering can be connected to all criminal acts counting debasement. The foremost critical
thing is how to define plea bargaining in understanding with the state of legal improvements in a nation. The definition of supplication bartering contained within the Draft Criminal Strategy Code may be a criminal law definition arrangement.

One of the issues in killing debasement is the trouble in uncovering cases since numerous parties are included and it isn't exceptional for each case to be organized. The criminal act of debasement has an organized or organized character so that its revelation requires participation with the Respondent in conjunction with the Agent or Open Prosecutor to reveal organized cases. So we require a unused and arranged step so that case revelation can be done effectively. One way is to incorporate supplication bartering against criminal acts of debasement in Indonesia.

5 CONCLUSION AND SUGGESTION

From the discussion above, the conclusion is about the destruction of criminal acts of debasement employments the plea bargaining concept which is comparable to the uncommon line within the Criminal Strategy Code Charge. Supplication bartering, which is comparable to the uncommon line within the Criminal Strategy Code Charge, in the event that connected to criminal acts of debasement, must be given an dynamic part for the Board of Judges to check the legitimacy (rightness) of the Defendant's confession and look at the prove collected by the Open Prosecutor associated with the Defendant's confession at trial, and the Board of Judges must inquire for the conclusion of the Open Prosecutor with respect to criminal acts of debasement committed by litigants in debasement cases in Indonesia.
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