



Pembaharuan Pengaturan Hukum Pidana Justice Collaborator Dalam Hukum Positif Indonesia

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Abstract

The law always moves dynamically following changes and developments over time in the concept of criminal law reform. The large number of organized criminal acts ultimately gave rise to the idea of perpetrators working together (Justice Collaborator). The legal basis governing Justice Collaborators is contained in Law Number 31 of 2014 concerning Protection of Witnesses and Victims; and Supreme Court Circular Letter (SEMA) No. 4 of 2011 concerning Treatment of Criminal Whistleblowers and Justice Collaborators. In Certain Criminal Cases. In cases where the defendant wants to apply for status as a Justice Collaborator, even defendants who have already obtained status as a Justice Collaborator receive unfair treatment due to the legal vacuum of this legal basis. This legal vacuum makes the author want to research how indicators a person can be categorized as a Justice Collaborator in accordance with Indonesian positive law, what is the ideal concept of Justice Collaborator arrangements for perpetrators of criminal acts in Indonesia. The aim of this research is to explain the indicators that a person can be categorized as a Justice Collaborator and to formulate an ideal concept for regulating Justice Collaborators for perpetrators of criminal acts in Indonesia. This type of research is normative juridical, that is, legal research is carried out by examining library materials. The results of this research are the Justice Collaborator indicators in SEMA Number 4 of 2011, namely being aware of their mistakes and admitting to criminal acts, not being the main perpetrator, being cooperative and providing clear information, uncovering criminal acts effectively or uncovering other perpetrators, and the Public Prosecutor The lawsuit states the role that the perpetrator has been assigned. As the legal basis regarding Justice Collaborator still has deficiencies based on cases in Indonesia, the researcher provides an ideal concept, namely that there are deficiencies in the regulations regarding "Main Actors", there is no certainty that Justice Collaborator will receive an award. In the future, there needs to be clarity regarding the indicators for someone to get Justice Collaborator and updates regarding laws and regulations regarding Justice Collaborator.

Keywords: Justice Collaborator, Perpetrator Witness, Legal Reform

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INTRODUCTION

The development of Indonesian law is the result of the adoption of law, including foreign law, one of which is Dutch law, during the colonial period it had an influence on the social, economic and political life of Indonesian society. The influence of the colonial period is proven to this day, namely that both civil law and criminal law still apply the colonial system in Indonesia.

Based on Pancasila and the 1945 Constitution, policies or efforts to overcome crime are essentially efforts to protect society (social defense) and efforts to achieve social welfare. It can be said that the main aim is to provide protection and welfare of society .

Justice and truth are not only enforced by law, but are also seen from the judicial side. Criminal justice is a process that operates within several law enforcement agencies. The criminal criminal process will then show the close relationship of cooperation between law enforcement agencies or in other words prove the existence of a criminal system.

Indonesia itself adheres to a negative evidence system according to law, this can be seen in Article 183 of the Criminal Procedure Code which reads as follows:

"A judge may not sentence a person to a crime unless, with at least two valid pieces of evidence, he is convinced that a criminal act has actually occurred and the defendant is guilty of committing it."

Article 184 of the Criminal Procedure Code explains that valid evidence that can be used in criminal procedural law is as follows:

- a. Witness statements;
- b. Expert Statement;
- c. Letter;
- d. Instructions; And
- e. defendant's statement.

Efforts and policies to create good criminal law regulations essentially cannot be separated from the aim of preventing crime. So criminal law policy or reform is also part of criminal politics, criminal law politics is identical to the definition of crime prevention policy with criminal law. The law always moves dynamically following changes and developments from time to time in the concept of criminal law reform. Criminal law reform must be carried out with a policy approach, and every policy contains value considerations. Therefore, criminal law reform must also be oriented towards a values approach.

A criminal act itself is an act of someone who violates norms, so that it can result in violations of the social and economic rights of the community and can harm other people or the state. In reality, overcoming and eradicating criminal acts requires extraordinary efforts, especially against certain criminal acts such as terrorism, corruption, money laundering, narcotics, human trafficking and other organized criminal acts. The large number of organized criminal acts ultimately gave rise to the idea of witnesses, cooperating reporters (Whistleblowers) and cooperating perpetrators (Justice Collaborators).

Theoretical Framework

1. Theory of Justice

Pancasila as the basis of the Indonesian state in its 5th principle states that "Social justice for all Indonesian people". It is clear that this precept means that justice should be felt by every level of individual in society. Justice is the basis for upholding law in our country.

Etymologically theory comes from the word (theoria) which in Latin means "contemplation". In much literature, several experts use this word to denote thought constructions that are arranged systematically, logically (rationally), empirically and also symbolically.

To analyze the sense of justice in criminal sentencing requires a theory of justice that is relevant and directly connected to inherent authority. The theory of justice put forward by Aristotle is a theory of justice that is relevant in this research as a foundation for thinking about recovering crime victims' losses to property from a criminal law perspective.

Aristotle defines justice as everything that is based on law or in accordance with the law (lawful) and everything that is just, wise and honest (fair).

2. Legal Reform

Criminal Law Reform itself is simply a change or reform of criminal law, which began as a Criminal Law inherited from the Netherlands to become a Criminal Law originating from a study of the legal values of the Indonesian nation.

Criminal law reform is essentially an effort to review and reshape (reorient and reform) the law in accordance with the general socio-political, socio-philosophical and cultural values of Indonesian society.

The meaning and essence of criminal law reform is closely related to the background and urgency of criminal law reform itself. The background and urgency of reforming criminal law can be viewed from sociopolitical, sociophilosophical, sociocultural aspects or from various policy aspects (especially social policy, criminal policy and law enforcement policy). This means that the meaning and essence of criminal law reform is also closely related to these various aspects. This means that reform of criminal law must also essentially be a manifestation of changes and updates to various aspects of the policies behind it.

Criminal law reform is part of criminal law policy, so criminal law reform essentially aims to make criminal law better in line with the values that exist in society. In the Indonesian context, criminal law reform is carried out so that the applicable criminal law is in line with community values.

Conceptual Framework

To make research analysis easier, the author will explain several conceptual definitions of this research. To make it easier for researchers to define concepts about this research. To make it easier for researchers to interpret, the concepts needed are as follows:

1. Justice Collaborator is a person who is one of the perpetrators of a criminal act who admits his crime but is not the main perpetrator in the crime, provides witness testimony in the judicial process which is very significant so that it can make it easier to reveal the criminal act effectively, disclosing other perpetrators who have greater role and returning the assets/proceeds of a criminal act.
2. Criminal Act is the definition of a criminal act as an act of violating criminal law that has been carried out intentionally or unintentionally by someone who can be held responsible for their actions and which according to criminal law has been declared an act that can be punished.
3. Criminal Law Reform is essentially an effort to review and reform (reorient and reform) criminal law in accordance with the development of socio-political and socio-cultural values of Indonesian society.

4. Positive Law or *ius constitutum* is a collection of written legal principles and rules which are currently in force and binding in general or specifically and are enforced by or through the government or courts in the State of Indonesia.

5. The Criminal Justice System is a system that was deliberately created to carry out law enforcement efforts (criminal law) whose implementation is limited by certain working mechanisms in a rule regarding certain legal procedures known as the criminal justice system.

Research Methods

The research method is a method used to achieve a goal, in connection with this, in its application the steps are as follows:

1. Types and Nature of Research

This type of research is normative juridical, that is, legal research is carried out by examining library materials or secondary data, which is also called library legal research. This research will focus on the level of horizontal legal synchronization. In research on the level of synchronization, what is studied is to what extent the existing written positive laws are harmonious. A normative juridical approach is an approach based on the main legal material by examining the theories, concepts, legal principles and relevant statutory regulations. This is done by making library materials the main focus. Researchers look for a theoretical basis for the research problem so that the research carried out is not a trial and error activity. To obtain theoretical or doctrinal conceptions, opinions or conceptual thoughts and previous research related to the object of this research study which can be in the form of statutory regulations and other scientific works.

2. Data Source

This research is normative juridical research, so the data used is secondary data. Secondary data is a type of data used to answer the problems in this research through literature study. The secondary data in question is:

a. Primary legal materials, namely binding legal materials in the form of basic norms or rules, basic regulations and statutory regulations, which in this research consist of:

- 1) The 1945 Constitution of the Republic of Indonesia.
- 2) Criminal Procedure Code (KUHAP) Number 8 of 1981.
- 3) Law Number 31 of 2014 concerning Witness and Victim Protection.
- 4) Supreme Court Circular Letter No. 04 of 2011 concerning the treatment of whistleblowers and cooperating witnesses (Justice Collaborators) in certain criminal cases.

b. Secondary legal materials, namely legal materials that provide explanations of primary legal materials, namely books, research results, scientific works from legal circles, legal opinions, doctrines, theories from legal literature, scientific articles and others, which are related to the problems that will be discussed or researched in this research.

c. Tertiary legal materials or supporting legal materials, namely materials that will provide information, guidance or explanations about primary legal materials and secondary legal materials such as dictionaries, legal dictionaries, journals and the internet relating to the issues that will be discussed or researched in the research This.

4. Data Analysis

In normative legal research, data processing is essentially an activity to systematize written legal materials. Systematization means classifying written legal materials to facilitate work and construction analysis. The data collected in this research was then analyzed using a qualitative analysis method approach. Thus, the object explained using a qualitative approach is a research method that refers to legal norms contained in statutory regulations.

In this case, the data obtained through data collection techniques through document review of primary, secondary and tertiary legal materials will then be analyzed using a qualitative approach by working with the data, to then find out what is important and what was studied then what decide what will be stated so that it can be conveyed systematically.

General Overview of Criminal Law Reform

Understanding Criminal Law

The Criminal Code currently in force in Indonesia is the Criminal Code which originates from Dutch colonial law (*Wetboek van Strafrecht*) which in practice is no longer in accordance with the current conditions of Indonesian society. The Criminal Code, which was inherited from the Dutch Kingdom's Criminal Code, was implemented in Indonesia with several adjustments, even Soedarto (1983) stated that the official text of the Criminal Code is still in Dutch. After independence, both during the guided democracy and the New Order era, the Dutch legacy of the Criminal Code was still in effect, including *hatzaai alaten* (articles for spreading hatred) against political leaders, officials or ethnic groups. The explanation above shows that the conditions for legal changes are fair and in accordance with reality which is rooted in the values of the Criminal Code (KUHP) which states that national criminal law material must be adapted to legal politics, conditions and developments in national and state life. Indonesian nation. Meanwhile, the aim of drafting criminal law is stated as a manifestation of efforts to reform the national law of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia, as well as to respect and uphold human rights.

Efforts to reform criminal law essentially include the field of criminal law policy which is part of and closely related to law enforcement policy, criminal policy and social policy. Therefore, criminal law reform is in principle part of a policy (rational effort) to update legal substance in order to make law enforcement more effective, tackle crime in the context of protecting society, and overcome social and humanitarian problems in order to achieve national goals, namely social protection and social welfare.

Criminal law is a law that regulates acts that are prohibited by law and if someone violates or commits an act and fulfills the elements of the act that have been regulated in the law, sanctions will be given. According to Prof. Moeljatno, criminal law is part of the overall law in force in a country, which provides the basics and rules for:

1. Determine which actions may not be carried out and which are prohibited, accompanied by threats or sanctions in the form of certain penalties for anyone who violates these prohibitions;
2. Determine when and in what cases those who have violated these prohibitions may be subject to or sentenced to the criminal penalties that have been threatened;

3. Determine how the criminal imposition can be implemented if someone is suspected of having violated the prohibition. If we connect a simple understanding of legal science with criminal law, it can be defined that criminal law is the science that explains and explains criminal law.

Criminal Law Reform

Criminal law reform essentially means an effort to review and reassess in accordance with the central socio-philosophical and socio-cultural values of Indonesian society which underlie social policy, criminal policy and law enforcement policy in Indonesia. The reform of criminal law originates from the basic ideas of Pancasila which are the basis for the values of national life that are aspired to and explored for the Indonesian nation. The basic ideas of Pancasila contain a balance of values or ideas in them. The following is the balance of ideas or values in question:

1. Religious;
2. Humanistic;
3. Nationalism;
4. Democracy;
5. Social Justice.

The source of criminal law in Indonesia is Law Number 1 of 2023 concerning the Criminal Code (KUHP). There are also laws that regulate special criminal acts, namely: Law (UU) Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning the Corruption Eradication Commission, Law of the Republic of Indonesia Number 9 of 2013 concerning Prevention and Eradication of Terrorism Financing Crimes; Law Number 35 of 2009 concerning Narcotics; etc.

General Overview of Witness and Victim Protection

1. Understanding Witness and Victim Protection

The Indonesian state as a rule of law needs to understand the world situation which has begun to pay more attention to human rights, so that in the era of reform a big agenda demands a change in the way of life in the nation and state. One of these changes that stands out is regarding the protection of citizens' rights related to human rights themselves.

In the protection of human rights, there are many protections that have been clearly and firmly regulated in statutory regulations, such as those regulated in the laws on child protection, women's protection, domestic violence and so on, followed by witness protection.

Definition of protection based on Article 1 point 5 of the Joint Regulation of the Minister of Law and Human Rights of the Republic of Indonesia, Attorney General of the Republic of Indonesia, Head of the National Police of the Republic of Indonesia, Corruption Eradication Commission of the Republic of Indonesia, Chair of the Witness and Victim Protection Agency of the Republic of Indonesia Number: M.HH-11 .HM.03.02.th.2011, Number: PER-045/A/JA/12/2011, Number: 1 of 2011, Number: KEPB-02/01-55/12/2011, Number: 4 of 2011 concerning Protection For Reporters, Reporting Witnesses and Cooperating Perpetrator Witnesses.

Protection is all efforts to fulfill rights and provide assistance to provide a sense of security and respect to reporters, reporting witnesses and cooperating

perpetrator witnesses which must be carried out by law enforcement officials in accordance with the provisions of statutory regulations. The meaning of protection is also regulated in Article 2 PP Number 2 of 2002 concerning Procedures for Protection of Victims and Witnesses in Serious Human Rights Violations, namely a form of service that must be carried out by law enforcement officers or security forces to provide a sense of security, both physical and mental, to victims and witnesses, from threats, harassment, terror and violence from any party, provided at the investigation stage. investigation, prosecution, and/or examination in court.

2. Understanding Legal Protection

According to Soerjono Soekanto, legal protection is all efforts to fulfill rights and provide assistance to provide a sense of security to witnesses and/or victims, legal protection for crime victims as part of community protection, can be realized in various forms, such as through the provision of restitution, compensation, medical services, and legal assistance. According to Satjipto Raharjo, Legal Protection is providing protection for human rights that are harmed by other people and this protection is given to the community so that they can enjoy all the rights granted by law.

According to Muktie A. Fadjar, legal protection is a narrowing of the meaning of protection, in this case only protection by law. The protection provided by law is also related to the rights and obligations, in this case, which humans have as legal subjects in their interactions with fellow humans and their environment. As legal subjects, humans have the right and obligation to carry out legal actions.

Regulations Regarding Legal Protection of Witnesses and Victims The position of witnesses and victims does not seem to be optimal compared to the position of the perpetrator. Even though Law Number 13 of 2006 concerning Protection of Witnesses and Victims has been promulgated, the provision of protection for witnesses and victims is considered to be still not optimal. The Witness and Victim Protection Law is considered insufficient to guarantee the protection of witnesses and victims, which directly hampers the performance of the LPSK itself. One of them is that the Law on the Protection of Witnesses and Victims does not specifically regulate what kind of authority the LPSK has in order to provide protection to witnesses and victims, which sometimes causes the LPSK to often go the wrong way in carrying out its duties.

The need for legal regulation and protection for victim witnesses can be justified sociologically, that in social life all citizens must participate fully, because society is seen as an institutionalized belief system (system of institutionalized trust).

Overview of Justice Collaborator

1. Definition of Justice Collaborator

Justice collaborator and whistleblower are two English terms adopted by Indonesia from America. These two terms are not legal terms because they cannot be found in the Criminal Procedure Code, but these two terms have been used in Indonesian legal practice. The term justice collaborator is a new term in the Indonesian legal system and there is no regulation yet in the KUHP which is still used in Indonesia today. However, the term itself has been used by Indonesia in

practice to facilitate the performance of state law enforcement officials in eradicating extraordinary criminal acts.

Justice collaborators are actors who cooperate, namely people in the status of witnesses, reporters or informants who provide assistance to law enforcers, for example in the form of providing important information, strong evidence or statements/testimony under oath, which can reveal a criminal act, in where the person was involved in the crime he reported or even another crime.

A justice collaborator is every suspect who is involved in a criminal organization and has committed a criminal act, either on his own initiative or at the request of legal officials, working together with law enforcement to find evidence and evidence so that investigations and prosecutions can run effectively. Justice collaborators can also be called whistleblowers or whistleblowers who are willing to cooperate with law enforcement officials or whistleblower participants. The whistleblower must be someone within the organization who may or may not be involved in the reported criminal act.

Goals and Legal Basis for Justice Collaborator

The aim of the justice collaborator is to have this role, among others:

1. To reveal a criminal act or the impending occurrence of a criminal act, so that the return of assets from the proceeds of a criminal act can be achieved to the state.
2. Provide information to law enforcement officials
3. Provide testimony in the judicial process.

The existence of a justice collaborator is a legal breakthrough in efforts to eradicate criminal acts of corruption considering that this case is a serious crime and scandal crime. The widespread scale and sophisticated modes of these cases require new methods and effective tools, because conventional methods are considered difficult and less effective in resolving these cases.

In Indonesian legislation, justice collaborators are known as "perpetrator witnesses" and/or "cooperating perpetrator witnesses". Furthermore, provisions regarding justice collaborators or cooperating witnesses are regulated in several regulations, including Law Number 13 of 2006 as amended by Law Number 31 of 2014; Joint Regulations of the Minister of Law and Human Rights, Attorney General, Chief of Police, Corruption Eradication Commission, Chairman of LPSK Number M.HH-11.HM.03.02, PER-045/A/JA/12/2011, 1, KEP-B-02/01-55/12/2011, 4 of 2011 concerning Protection for Whistleblowers, Reporting Witnesses and Collaborating Perpetrator Witnesses ("Joint Witness Protection Regulations"); and Supreme Court Circular Letter Number 4 of 2011.

RESEARCH RESULTS AND DISCUSSION

Application of Indicators: A Person Can Be Categorized as a Justice Collaborator in accordance with Indonesian Positive Law

Justice Collaborator is a witness who collaborates with law enforcement to reveal ongoing cases that can reveal crimes and figures who play an important role in the crime. Justice collaborators who play an important role in the course of the trial will certainly have both good and bad sides. If the justice collaborator opens the case, there will be threats from outside so that it will be difficult for the justice collaborator to give his testimony. Special protection is needed for a

Justice Collaborator and the Justice Collaborator will also be rewarded for his testimony.

For this reason, it is necessary to know what factors can make someone a Justice Collaborator, therefore the indicators that someone can be said to be a Justice Collaborator in the Supreme Court Circular Letter (SEMA) Number 4 of 2011 include:

1. Be aware of his mistakes and admit the crime he committed

A person gains status as a justice collaborator when he admits his mistakes. This has been regulated in Supreme Court Circular Letter (SEMA) Number 4 of 2011. Witnesses give true testimony without intervention, thereby paving the way for the trial to provide clarity regarding the criminal act. The witness knows the crime clearly from start to finish so that he can reveal the other suspects. The confession of the perpetrator's witness is the basis so that it can be used as a consideration by the judge that he is worthy of being given justice collaborator status.

Judges' considerations for providing witnesses as justice collaborators are in the Supreme Court Circular Letter (SEMA) Number 4 of 2011. The guidelines for determining someone as a witness to a cooperating perpetrator (Justice Collaborator) are regulated in Article 9 paragraph (a) which reads:

"The person concerned is one of the perpetrators of certain criminal acts as referred to in this SEMA, admits to the crime he committed, is not the main perpetrator in the crime and provides information as a witness in the judicial process."

Defendant Thomas Claudius Ali Junaidi, from the time the defendant was arrested by investigators until he realized that he admitted and was frank and gave honest information that he had acted as an intermediary in the sale and purchase of narcotics such as crystal methamphetamine from defendant Stefanus Kopong Ingaman to defendant I Wayan Prihatna Candra, and then The defendant promised not to repeat his actions. This is one of the considerations for being given status as a justice collaborator in this case.

Not as the main perpetrator in a criminal act that he disclosed The conditions for granting status as a Justice Collaborator are regulated in the Supreme Court Circular Letter (SEMA) Number 4 of 2011 and in the Joint Regulation of the Minister of Law and Human Rights, Attorney General, Head of the Indonesian National Police, Corruption Eradication Commission, Chair of the Witness and Victim Protection Agency . It is about protection for the reporter, the reporting witness, and the perpetrator witness who cooperates. Not as the main perpetrator in this regulation means that he is not the main perpetrator, which is seen when a witness gives testimony regarding the criminal act and conveys the facts he knows about a crime incident at trial and also the facts he knows about the incident are classified. from other witnesses.

Regarding the involvement of the witness, the perpetrator in the crime incident was not as the main perpetrator in a crime, but only as an intermediary in a crime. The determination of not being the main perpetrator can be seen from the criminal act in the form of participation where the role of the perpetrator is to participate in committing the crime with a minimal role, or the perpetrator is helping to commit the crime, especially in crimes carried out in an organized

manner with the division of tasks between each perpetrator to commit a criminal act.

Be cooperative and provide clear information during the trial

One of the requirements for someone to be categorized as a justice collaborator is that one of the perpetrators of a criminal act gives true testimony during the trial so that law enforcers have no difficulty in carrying out the trial. This has been regulated in Law Number 13 of 2006 concerning Witness and Victim Protection.

This indicator is the judge's consideration when accepting a witness as a justice collaborator because a witness who cooperates (Justice Collaborator) will receive relief or benefit from the criminal decision that will be handed down to a witness who obtains justice collaborator status. It is contained in Law Number 13 of 2006 Article 10 Paragraph (2) which reads:

"A witness who is also a suspect in the same case cannot be released from criminal charges if he is legally and convincingly proven guilty, but his testimony can be taken into consideration by the judge in mitigating the sentence to be imposed."

Based on these provisions, a perpetrator of a criminal act can be categorized as a cooperating witness, if the perpetrator provides information as a witness from the investigation stage which is recorded in the investigation report as a witness until the trial in court of the perpetrator he revealed. So, according to these provisions, even though the perpetrator provides information to investigators during the investigation process, if the perpetrator does not provide information as a witness in the trial, then the perpetrator cannot be categorized as a Justice Collaborator. The statements of the witnesses at the trial were in accordance with the statements of other witnesses, so that the panel of judges considered the testimony of witnesses to be one of the valid pieces of evidence.

Reveal criminal acts effectively or reveal other perpetrators who have a bigger role The requirements for someone to get a justice collaborator are that someone must reveal the criminal act effectively or reveal other perpetrators who have a bigger role in the criminal act, as we know that the perpetrator is not the main perpetrator, this witness must provide information and reveal who has a role. the main or actual main perpetrator because by revealing who the main perpetrator is, it will be proven that he is not the main perpetrator and is only following orders.

This provision means that a perpetrator of a criminal act must provide significant information relating to the criminal act he committed and about the involvement of other perpetrators so that law enforcement can uncover criminal acts whether committed by that perpetrator or about other perpetrators with a greater role who were involved in the crime. criminal act.

The Public Prosecutor in his lawsuit states the role that the perpetrator has played

The next requirement is that to determine a perpetrator of a criminal act as a justice collaborator in disclosing a criminal act, the Public Prosecutor must include in his Charge the role that has been given by the perpetrator's witness as regulated in SEMA RI number 4 of 2011 in Article 9 Paragraph (b) which states that the Prosecutor The Public Prosecutor in his demands stated that the person

concerned had provided very significant information and evidence so that the investigator and/or public prosecutor could uncover the criminal act in question effectively, uncover other perpetrators who had a bigger role and/or return assets. assets/proceeds of a criminal act. This provision means that the role that the perpetrator of the crime has assigned to other perpetrators with a greater role must be included by the Public Prosecutor in his letter of indictment at trial.

Ideal Justice Collaborator Arrangements for Perpetrators of Criminal Offenses in Indonesia

Based on the laws and regulations which are still not proportional regarding the Justice Collaborator, the author wants an update on the effectiveness of clear and relevant regulations to eradicate the shortcomings that arise in this arrangement, where the author wants updates related to:

There is legal certainty regarding the "main perpetrator" so that it does not cause difficulties for judges and even for all law enforcers in providing an objective assessment to see who is most suitable to be called the main perpetrator and who is not the main perpetrator, so that they can fulfill the requirements as a justice collaborator . What kind of perpetrator witnesses can be used as justice collaborators, namely those contained in Number 9A of the Supreme Court Circular Number 4 of 2011 concerning the Treatment of Criminal Whistleblowers and perpetrator witnesses who cooperate (Justice Collaborators) in certain criminal acts. In the Supreme Court Circular Number 4 of 2011, no further provisions were found regarding the criteria for the Main Actor. This can cause problems in determining the terms or conditions to fulfill these criteria.

The Institute for Criminal Justice Reform (ICJR) assesses that the phrase "main perpetrator" in the existing regulations has not yet been formulated properly, because it will give rise to various different interpretations or understandings. Then, ICJR made a recommendation that all law enforcement institutions sit together again and discuss in order to reach an understanding regarding the "main perpetrator" as one of the conditions for determining a Justice Collaborator.

There is legal certainty regarding the award or reduction of punishment. given to Justice Collaborator.

A person whose status has been designated as a Justice Collaborator will receive an award for what he or she does by helping the inquiry and investigation process. These awards or prizes are stated in several regulations. The following are several guidelines containing regulations regarding the award:

Supreme Court Circular (SEMA)

Due to this assistance, for Cooperating Perpetrator Witnesses as referred to above, the judge in determining the sentence to be imposed may consider the following criminal imposition matters:

- i. Imposing a special conditional probation sentence and/or
- ii. Imposing a sentence in the form of the lightest prison sentence among other defendants who are proven guilty in the case in question.

For example, in the corruption case in the procurement of E-KTP, in the High Court decision Number 5/PID.SUS-TPK/2018/PT.DKI the defendant was sentenced to prison for 11 (eleven) years. The judge in his considerations did not at all consider the Justice Collaborator status given to the Defendant by law

enforcement officials. The judge's decision handed down does not show significant protection and respect for cooperating perpetrator witnesses or Justice Collaborators who have contributed to uncovering a criminal act. The prison sentence imposed on the Defendant does not show any form of appreciation, there should be clearer appreciation for the Justice Collaborator. Criminal law doctrine emphasizes that the application of criminal law must comply with the principle of proportionality. This principle refers to a consideration that the application of criminal law is obliged to take into account the "appropriateness" or "reasonableness" between the nature or qualifications of the act and the threat of punishment. Considering this principle, the defendant should receive a significant reduction in sentence.

The SEMA regarding Justice Collaborators does not have binding legal force, only as a reference or part of statutory regulations which is limited to guidelines for law enforcers in determining or qualifying a justice collaborator. This means that there are no provisions that regulate it so that it does not yet reflect legal certainty regarding the mechanism for reducing sentences for justice collaborators.

There is an update to the position of laws and regulations regarding Justice Collaborators.

There is no specific legal regulation in Indonesia regarding justice collaborators, even though Indonesia has ratified and ratified Law number 5 of 2009 concerning Ratification of the United Nation Convention Against Transnational Organized Crime (UNTOC) and the United Nation Convention Against Corruption (UNCAC) in Law. Law number 7 of 2006. This law was the beginning of regulations regarding justice collaborators in Indonesia. Article 37 paragraph (2) of the United Nations Convention Against Corruption (UNCAC) emphasizes that: "Each State Party shall take appropriate measures to encourage persons who participate or who have participated in the commission of an offense established in accordance with this Convention to supply information useful to competent authorities for investigative and evidentiary purposes and to provide factual, specific help to competent authorities that may contribute to depriving offenders of the proceeds of crime and to recovering such proceeds."

Conclusion

Based on the results of the description of the discussion and research results presented by the researcher above, the following conclusions can be drawn:

1. Indicators that can be used as a Justice Collaborator as stated in Supreme Court Circular Letter number 4 of 2011 are: being aware of one's mistakes and admitting the criminal act one has committed; not as the main perpetrator in a criminal act that he uncovered; be cooperative and provide clear information during the hearing; uncover criminal acts effectively or uncover other perpetrators who have a bigger role; and the Public Prosecutor in his indictment stated the role that the perpetrator had given.
2. The ideal concept of Justice Collaborator arrangements in Justice Collaborator arrangements is that there are clear criteria for the arrangement of the "main actor"; there is legal certainty regarding the award or reduction of sentences, and

there is an update regarding the position of legislation regarding Justice Collaborators.

Suggestions

Based on the results of the study that the researcher described above, there are several suggestions that the researcher notes, including the following:

1. There needs to be clarity regarding the indicators for a person to receive a Justice Collaborator and how to calculate the reduced sentence for a Justice Collaborator, which must also be explained in the statutory regulations. This is done so that there is legal certainty for Justice Collaborator recipients to provide a sense of fairness and balance for anyone who has the right to apply as a Justice Collaborator and create trials that achieve justice.
2. There needs to be a legal update regarding Justice Collaborators which can be made into a Law which is the first order in the hierarchy of statutory regulations, not just included in a Circular Letter from the Supreme Court. In reforming the law, it must clearly regulate the criteria for "Not the Main Actor", awarding or reducing sentences, and updating the Law regarding Justice Collaborators.

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