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**Reconstructing Legal Protections for Justice Collaborators  
within the Criminal Justice System as an Effort to  
Uncover Common Crimes in Indonesia**

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**ABSTRACT:** Perpetrators of general crimes who are willing to cooperate with law enforcement are commonly referred to as justice collaborators. These individuals play a crucial role as a valuable source of information for law enforcement agencies in unveiling general crimes, particularly those involving intricate criminal networks. Justice collaborators offer testimony, guidance, and even assist in securing substantial evidence to bolster criminal cases currently under investigation by authorities. The primary objective of this research is to examine the overhaul of legal safeguards for justice collaborators within the Indonesian criminal justice system, aiming to facilitate the detection of general criminal activities. This research adopts a normative legal research approach with a statutory focus. The author, in addressing the research question, relies on primary legal sources, secondary legal materials, and tertiary legal references as parameters for problem resolution. For data collection, a qualitative approach was chosen, specifically emphasizing a quality assessment. Consequently, the technique employed for data collection in this study is qualitative analysis. Within this research, two pivotal issues related to reconstruction will be elucidated. First, the study will delve into the prerequisites for conferring justice collaborator status in general crimes. Second, it will explore the reconstruction of general criminal acts as actions eligible for justice collaborator involvement.

**Keywords:** Crime, Justice Collaborator, Law Enforcement, Research



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## INTRODUCTION

The criminal justice system is a critical pillar in maintaining public safety and order, as well as upholding the law and justice within a country. In Indonesia, the criminal justice system aims to hold perpetrators of criminal acts accountable for their actions. However, in practice, there are cases of criminal activities involving more than one perpetrator, where one of them is willing to cooperate with the authorities and provide crucial information that can aid in uncovering broader criminal activities (Castillo-Manzano et al., 2022; Gover et al., 2011; Van Rooij et al., 2017). These

## Reconstructing Legal Protections for Justice Collaborators within the Criminal Justice System as an Effort to Uncover Common Crimes in Indonesia

Indriawari, Prastiwi, and Tuanaya

---

cooperative individuals are often referred to as “*justice collaborators*.” They play a vital role as a valuable source of information for law enforcement in revealing general criminal activities that involve complex criminal networks. Justice collaborators provide testimony, offer guidance, and may even participate directly in undercover operations to obtain substantial evidence, thereby strengthening the criminal cases being prosecuted (Erickson et al., 2015; Messing et al., 2020; Silalahi, 2023).

While the contributions of offenders are highly valuable in uncovering criminal activities, concerns and issues persist regarding the legal protection of justice collaborators. In some cases, after providing information and assistance, these collaborators often face serious threats to their own safety and that of their families. Additionally, they may encounter legal obstacles and social stigma that can impede the process of justice and affect the integrity of the criminal justice system. This signifies a shift from a retributive justice paradigm to a restorative justice one, where the focus has evolved from mere justice and certainty to considerations of utility in each context. This shift in paradigm appears to have implicitly occurred within the Indonesian criminal justice system. It has been prompted by the growing prominence of human rights values in the international arena, which has massively influenced the culture, structure, and substance of legal relationships (*rechts betrekkingen*) (Becker & Bachman, 2020; Jennings et al., 2021; Lenk et al., 2014; Zoorob, 2022).

The resolution of the aforementioned concepts and legal memorandum culminated in the enactment of Law Number 13 of 2006 Concerning Witness and Victim Protection (Law on Witness and Victim Protection 2006), as subsequently amended by Law Number 31 of 2014 Concerning Amendments to Law Number 13 of 2006 Concerning Witness and Victim Protection (Law on Witness and Victim Protection 2014). This development is considered a productive step towards restoring the situation in the aftermath of a criminal act, as it substantively places the Witness and Victim Protection Agency (LPSK/Lembaga Perlindungan Saksi dan Korban) within the framework of criminal justice in Indonesia (Edwards & Simester, 2019; López-Vallejo & del Pilar Fuerte-Celis, 2021; Purba et al., 2021).

The fundamental concept behind the implementation of cooperating perpetrators (justice collaborators) involves individuals who are not the principal perpetrators of a crime but work in collaboration with law enforcement to apprehend the main offenders, thereby dismantling organized criminal activities (Hansen et al., 2022). Consequently, one of the prerequisites for becoming a justice collaborator is that the individual is not the principal perpetrator. This condition is crucial because if the main perpetrator were to be designated as a justice collaborator to apprehend those lower in the criminal hierarchy, the main perpetrator could escape legal consequences and remain undeterred from repeating their actions (Cerulli et al., 2015; Ermakov et al., 2016).

Furthermore, in addition to Law Number 13 of 2006 and Law Number 31 of 2014 governing whistleblowers and justice collaborators, there is another regulation, namely Supreme Court Circular Letter Number 4 of 2011 Concerning Treatment for Whistleblowers and Collaborating Witnesses in Certain Criminal Cases (SEMA-Surat Edaran Mahkamah Agung No. 4 of 2011). In an interview with Abdul Haris Semendawai, who served as the chairman of LPSK from 2013 to 2018, it was revealed that there are still differing opinions regarding who can be designated as a justice collaborator due to the abundance of regulations, resulting in varied application. The revocation of justice collaborator status for a perpetrator carries significant consequences for individuals who had previously cooperated with authorities in uncovering criminal activities. This can have an impact on various aspects of the individual's life, both legally and socially. Some of these consequences include:

## Reconstructing Legal Protections for Justice Collaborators within the Criminal Justice System as an Effort to Uncover Common Crimes in Indonesia

Indriawari, Prastiwi, and Tuanaya

---

Firstly, they will no longer receive legal benefits. In some cases, cooperating perpetrators designated as justice collaborators can receive legal benefits such as reduced sentences, parole, or other special treatment. However, when their status as a justice collaborator is revoked, they lose these legal benefits. This means that the perpetrator may face a potentially harsher punishment in accordance with the prevailing criminal justice policies.

Secondly, there is the potential for a more severe punishment. The revocation of justice collaborator status can lead to perpetrators who had previously cooperated facing a harsher punishment. This is because the court may have relied on the information provided by the justice collaborator during the judicial process, and when that status is revoked, the information may no longer be considered significant evidence or eligible for reducing the sentence.

Thirdly, there is an increased safety risk. As justice collaborators, perpetrators may have provided vital information about criminal networks or related individuals. The revocation of their status can elevate the safety risk for these individuals because they may become targets for revenge by members of the criminal network who are displeased with the perpetrator's involvement in exposing criminal activities. Ensuring the protection of these individuals after the revocation of their status becomes crucial to safeguard their safety and well-being.

Fourthly, there is the issue of social stigma. The revocation of justice collaborator status can also impact the social stigma experienced by the perpetrator. The community may view them with skepticism or negativity due to the perpetrator's previous involvement in criminal activities, despite their assistance in uncovering crimes. This stigma can affect the social reintegration of the perpetrator into society and limit their opportunities to start a productive life again after going through the criminal justice process.

The precedents mentioned above, hypothetically, could pose a setback for potential justice collaborators. It is perceived as a new threat to what is intended to be presented in court. This could serve as an obstacle in the effort to restore stability after a serious or organized crime has occurred. Additionally, it highlights the lack of legal certainty for cooperating perpetrators (justice collaborators). When examined comprehensively, the regulations and determination of justice collaborators in Indonesia may not align with the standards set in a country like the United States, which pioneered the concept of justice collaborators. In the initial establishment of justice collaborators, there was a plea bargain (agreement) between the prosecutor, the relevant judge in the trial case, and the suspect who would become the justice collaborator. This created consistency and legal certainty for all parties involved.

Building on the discussion above, the regulation concerning justice collaborators within the criminal justice system in Indonesia is relatively new compared to previous legal practices. This is because neither the Criminal Procedure Code (KUHAP-Kitab Undang-Undang Hukum Pidana) nor other regulations explicitly address justice collaborators in criminal proceedings. Furthermore, based on Supreme Court Circular Letter No. 4 of 2011, a justice collaborator is a criminal who admits to their wrongdoing but is not the primary perpetrator and is willing to provide testimony in court. Consequently, there is a need for critical examination and evaluation of this matter.

## METHOD

In this research, the author employs a normative legal research method with a statutory approach. This approach is in line with the perspective articulated by Irwansyah, who explains that normative

legal research using the statute approach aims to assess the substance compatibility within a single regulation and its interrelation with other regulations. Furthermore, when examining a researched issue, the author uses primary legal materials, secondary legal materials, and tertiary legal materials as problem-solving parameters. Firstly, primary legal materials encompass legislation, jurisprudence, and other related sources. Secondly, secondary legal materials consist of law books and publications such as legal journals and other relevant research findings to this study. Thirdly, tertiary legal materials comprise legal dictionaries and the Great Indonesian Dictionary. Therefore, in this research, the author chooses to utilize qualitative data, specifically assessing its quality. The focus of the analysis is on the quality of legal products. Mukti Fajar and Yulianto Achmad suggest that the data collection technique used in normative legal research is a literature review of primary, secondary, and tertiary legal materials. Consequently, this is the data collection technique employed by the author in this study, utilizing qualitative analysis.

Based on the background provided above, the research questions in this study are as follows: (1) What are the requirements for granting justice collaborator status in general criminal cases? (2) How can general criminal acts be reconstructed as actions eligible for justice collaborator involvement?

## **RESULT AND DISCUSSION**

### **1. Requirements for Granting Justice Collaborator Status in General Criminal Cases**

In the SEMA No. 4 of 2011 regulation, a justice collaborator is defined as a cooperating witness (not the intellectual actor) in an organized, systematic, and extraordinary crime, who cooperatively acknowledges the committed crime and is willing to provide testimony and information during the investigation, prosecution, and trial processes in court. This collaboration significantly aids in uncovering the crime, with the intention of revealing other perpetrators who have more significant roles and recovering assets or proceeds from the criminal act. SEMA No. 4 of 2011 is an official instruction issued by the Supreme Court of the Republic of Indonesia. It is directed to Judges and Members of the Judiciary to provide guidance and instructions regarding the procedures and processes for handling cases in court.

The issuance of SEMA No. 4 of 2011 was motivated by several factors and needs within the Indonesian judicial system. Furthermore, the presence of SEMA No. 4 of 2011 is intended to interpret the provisions related to justice collaborators in Law No. 13 of 2006 in conjunction with Law No. 31 of 2014, which are considered to have multiple interpretations in their application. This is primarily due to the definition of a suspect witness whose testimony may be considered by the Judge to mitigate the punishment, which was deemed vague in its implementation, as stipulated in Article 10, paragraph (2) (before its amendment) of Law No. 13 of 2006, which reads:

“A witness who is also a suspect in the same case cannot be exempted from criminal charges if they are proven guilty beyond a reasonable doubt. However, their testimony can be considered by the Judge in mitigating the punishment to be imposed.”

Clarity regarding the terminology of “justice collaborator” in criminal procedural law only became concrete and specific with the enactment of Law No. 13 of 2014. This law provides a definition of “suspect witness” (justice collaborator) and outlines protection and other special rights for such

## Reconstructing Legal Protections for Justice Collaborators within the Criminal Justice System as an Effort to Uncover Common Crimes in Indonesia

Indriawari, Prastiwi, and Tuanaya

---

witnesses, as stated in Article 1, paragraph 2 of Law No. 13 of 2014, which reads: “A suspect witness is a suspect, defendant, or convict who collaborates with law enforcement to uncover a criminal act in the same case.” Additionally, Article 10, paragraph 1 of Law No. 13 of 2014 stipulates: “A suspect witness may be treated specially in the examination process, and their testimony shall be appreciated.”

Furthermore, Article 4, paragraph 1 of Chief Regulation of the Witness and Victim Protection Agency No. 6 of 2010 Regarding the Procedures for Providing Protection to Witnesses and Victims (Chief Regulation of LPSK No. 6 of 2010) states: “Witnesses and/or victims must submit a written request to the Chairman of LPSK to obtain protection.” This provision is correlated with Article 4, paragraph 3 of Chief Regulation of LPSK No. 6 of 2010, which reads:

The written request as mentioned in paragraph (1) can be submitted by: a. The applicant themselves or through their family; b. Through authorized officials, including: (1) Law enforcement officers with the authority to conduct investigations; (2) Authorities designated by law to provide protection to witnesses and/or victims; and (3) Institutions or commissions with the authority to protect witnesses and/or victims. c. Through their legal representatives by presenting a power of attorney from the applicant and/or victim; d. Through letters and/or electronic documents.

The existence of various legal instruments serves as an effort to position suspect witnesses (justice collaborators) as a vital component within the criminal justice system for proving extraordinary crimes. Given the current role played by suspect witnesses (justice collaborators), they are considered to be highly dominant in disclosing material facts during court proceedings. This narrative is echoed by Romli Atmasasmita, who points out that some items of evidence (clues, letters, and electronic documents) have binding probative value (*beweis lag*) if the Judge is convinced that other pieces of evidence are consistent with the testimony of witnesses and the statements of the accused. Consequently, the segmented regulatory complexity, both in the internal regulations of law enforcement agencies and in Joint Decisions (SKB-Surat Keputusan Bersama) regarding the handling of justice collaborators, may be susceptible to limiting and encroaching upon the fundamental rights of suspect witnesses in the enforcement of the law. This is because suspect witnesses have rights and obligations inherent to them. While they are witnesses, they are also defendants. Even though they bear some responsibility, they are entitled to recognition in a different context.

When viewed from the perspective of the principle of legality, which is the main axis of substantive criminal law and procedural criminal law, as stated in Article 3 of the Criminal Procedure Code (KUHAP), which reads: “Judicial proceedings shall be conducted in accordance with the provisions of this law.” This provision serves as an affirmation of the principle of legality and, at the same time, as a distinction from substantive criminal law provisions, where the difference between the two can be seen in legal products such as statutes that embody them.

In the Indonesian Penal Code (KUHP), criminal offenses can be codified into legislation, as emphasized in Article 15, paragraph (1) of Law No. 12 of 2011 Concerning the Formation of Legislation (UU P3-Peraturan Perundang-Undangan). However, the concept of formal criminal proceedings is different; as the regulation of its procedures can only be included in laws (*strafvordering heeft alleen plaats op de wijze bij de wet voorzien*). This interpretation, both systematically and historically, is in line with the command of Article 28J, paragraph (2) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945).



## Reconstructing Legal Protections for Justice Collaborators within the Criminal Justice System as an Effort to Uncover Common Crimes in Indonesia

Indriawari, Prastiwi, and Tuanaya

---

Exploring the relationship between justice collaborators and investigative agencies is based on the concept of mutual symbiosis, where justice collaborators play the role of colleagues to investigators and law enforcement officials in uncovering extraordinary crimes. All of these elements are integrated into an integrated criminal justice system in an effort to reveal extraordinary criminal acts. On the other hand, the weakness in the utilization of justice collaborators can be seen in the parameter for determining someone as the mastermind (primary perpetrator) or not, which can be considered biased because the regulation on this matter is not fully articulated in the law. Therefore, if each perpetrator has an equal role with others, it becomes difficult to determine who the mastermind is among the perpetrators.

Therefore, from a cognitive standpoint, the author attempts to juxtapose Gustav Radbruch's views on the importance of legal certainty in the regulation of justice collaborators, which is crucial to the doctrine of *rechtsidee*. As expressed in his work on statutory lawlessness and supra-statutory law, “legal certainty takes a curious middle place between the other two values, purposiveness and justice, because it is required not only for the public benefit but also for justice.” Furthermore, Gustav Radbruch believes that legal certainty is a prerequisite for achieving justice, stating that “that the law be certain and sure, that it not be interpreted and applied one way here and now, another way elsewhere and tomorrow, is also a requirement of justice.” In Criminal Procedure Law, the central principle universally applied is due process of law, which ensures the continuity of law based on the foundation of safeguarding individual rights. This foundation allows the law to make individuals subjects rather than objects.

The terminology “due process of law,” as defined by Black's Law Dictionary, is described as “the conduct of legal proceedings according to established rules and principles for the protection and enforcement of private rights, including notice and the right to a fair hearing before a tribunal with the power to decide the case.” Daniel Webster, based on the case “Dartmouth College v. Woodward,” expressed the terminology as “a law which hears before it condemns; which proceeds upon inquiry and renders judgment only after trial.”

Based on a compilation of opinions regarding the definition of due process of law, it can be concluded that due process of law is the implementation of legal proceedings in accordance with regulations and principles to uphold fair and just individual rights. It also encompasses values that guarantee fundamental rights within a criminal justice system. The enforcement and implementation of the concept and essence of due process of law are ensured when this principle adheres to the recognition, respect for, and protection of rights within a criminal justice system. The reflection of the existence of due process of law in the criminal justice system can be seen in several principles it embodies, including:

First, the principle of the presumption of innocence states that every person who is suspected, arrested, detained, and prosecuted must be presumed innocent until proven guilty by a final and legally binding judgment. This principle ensures that the investigation and legal process remain impartial and objective in uncovering a matter.

Second, the principle of double jeopardy (*ne bis in idem*) ensures that no one can be punished for the same offense twice.

Third, the principle of the protection of human rights applies to the examination at all stages, including the investigation, prosecution, and court proceedings. Suspects or defendants, and even witnesses, must be treated in accordance with human dignity and should not be considered as mere objects or subjects to invasive scrutiny (inquisitorial treatment).

## Reconstructing Legal Protections for Justice Collaborators within the Criminal Justice System as an Effort to Uncover Common Crimes in Indonesia

Indriawari, Prastiwi, and Tuanaya

---

The point of convergence for the embodiment of these principles is the existence of a harmonious, linear, and inseparable relationship with the criminal justice system. These principles fundamentally reflect the protection of individual rights that must be safeguarded within the framework of the criminal justice system. On the other hand, the criminal justice system has its primary goal as a pillar of criminal law. Criminal law relies on procedural law to conduct the punishment process and seek material truth.

In alignment with this, the approach of the criminal justice system has evolved from its origins in retributive justice, which was primarily focused on punishment, to restorative justice, which aims to restore the rights and address the harm suffered by victims, perpetrators, and the affected community as a result of the crime.

This restorative justice approach is manifested through the institutions and mechanisms within criminal procedural law that support the restoration of the rights and compensation for victims, perpetrators, and the affected community in the aftermath of a crime. It is seen through the concept of protecting witnesses and victims, as both victims and perpetrators need rehabilitation and the assurance of their rights. All of these aspects are part of the authority and responsibilities of a new institution, namely the LPSK, in addition to the components of the Police, Prosecutor's Office, Judiciary, and Correctional Institutions. LPSK, which is born out of the principles of restorative justice, plays a significant role in the recovery process of various events resulting from criminal acts. This includes the restoration of victims' rights and the recovery of state assets through justice collaborators.

The regulation of justice collaborator in Indonesian criminal law primarily focuses on Law Number 13 of 2006 concerning Witness and Victim Protection (Law on Witness and Victim Protection of 2006), which was later amended by Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Witness and Victim Protection (Law on Witness and Victim Protection of 2014). In the Law on Witness and Victim Protection of 2014, a justice collaborator, also referred to as a witness collaborator, is defined as a suspect, defendant, or convicted person who provides cooperation to law enforcement authorities in revealing a criminal act within the same case:

Firstly, the regulation of justice collaborator within positive law plays a crucial role. Justice collaborator is instrumental in assisting authorities in unveiling cases classified as organized criminal activities. In practice, legal authorities often encounter various legal and non-legal obstacles when trying to thoroughly investigate and clarify criminal acts, especially in terms of presenting key witnesses throughout the legal process, from the initial investigation to the court proceedings. The current issue in Indonesia is that the regulation of justice collaborator is not explicitly included in the Code of Criminal Procedure (KUHAP). Provisions in the KUHAP only govern the rights of a perpetrator in criminal proceedings. To date, explicit regulations regarding justice collaborators are only found in Supreme Court Regulation No. 4 of 2011.

Furthermore, the current criminal law policies, originating from both international and national documents, provide regulations related to justice collaborators, including: 1) the United Nations Convention Against Corruption (UNCAC) (Law No. 7 of 2006 concerning the UNCAC); the United Nations Convention Against Transnational Organized Crime (UNTOC) (Law No. 5 of 2009 concerning the UNTOC); Law No. 13 of 2006 as amended by Law No. 31 of 2014 concerning the Protection of Witnesses and Victims (UU PSK 2006 juncto UU PSK 2014); Supreme Court Regulation No. 4 of 2011; and the Joint Regulation of Law Enforcement Agencies

and LPSK Regarding the Protection of Whistleblowers, Reporting Witnesses, and Witnesses Who Collaborate.

Before the enactment of Law No. 31 of 2014 concerning the Protection of Witnesses and Victims (UU PSK 2014), the explicit handling of justice collaborators only emerged in Supreme Court Regulation No. 4 of 2011. SEMA No. 4 of 2011 defined a justice collaborator as one of the perpetrators of certain criminal acts who acknowledges their involvement but is not the main perpetrator of the crime, and they provide testimony during the trial process. SEMA No. 4 of 2011 served as the primary guideline for the first-level and appellate courts in implementing protection for whistleblowers and justice collaborators. While the existence of SEMA No. 4 Tahun 2011 was not legally binding like a law, it was used as guidance by lower courts. However, since SEMA No. 4 of 2011 had a limited scope and only applied to the judiciary, there were no implementing regulations for the protection of justice collaborators in other law enforcement agencies. Achieving a common understanding among law enforcement agencies is crucial to avoid overlapping and ensure consistency in practice.

Secondly, the forms of legal protection for justice collaborators in positive law should ideally apply at all stages of the legal process, from reporting, investigation, prosecution, and trial to post-trial proceedings. This is because, in certain cases, threats and intimidation against justice collaborators may persist even after the criminal trial has concluded. The emergence of retaliation from defendants or convicts whose crimes have been reported is a real possibility and can create discomfort and danger for the involved justice collaborator. Additionally, legal protection should extend not only to the justice collaborator but also to their families, as the safety and well-being of their families directly impact their ability to function effectively in disclosing facts. Based on the explanations provided above, there are generally four types of protection for justice collaborators, including physical and psychological protection, specialized handling, legal protection, and recognition.

## **2. Reconstruction of General Criminal Offenses as Actions Eligible for Justice Collaborators**

The shift in the criminal law paradigm, originally based on the concept of retributive justice, towards restorative justice has brought a new perspective to the formal formulation of criminal law, particularly in the form of criminal procedure provisions aimed at restoring the situation to how it was before the commission of a criminal act. This effort is manifested in the concept of protection for cooperative witnesses and victims who contribute to restoring the situation to its pre-crime state. This is typically achieved through written notification to the Public Prosecutor about the results of their examination. Once their appointment is deemed valid, witnesses are obligated to provide their testimony during the trial process. After providing cooperative testimony, witnesses are entitled to a reward in the form of a reduction in their sentence. This also applies to justice collaborators (witnesses who are also perpetrators) who actively cooperate with law enforcement authorities to uncover an organized, systematic, deeply-rooted, and evolving criminal activity.

In the realm of criminal law politics, the formulation related to the concept of protecting witnesses and victims is substantially open for development within criminal procedural law. Within the norms governing the protection of witnesses and victims in the UU PSK 2006 (Law on Witness and Victim Protection) in conjunction with UU PSK 2014, the substance outlines the rights to protection for witnesses and victims and the institutions responsible for safeguarding their rights, thereby upholding the fundamental value of legal certainty in ensuring the rights of every witness



## Reconstructing Legal Protections for Justice Collaborators within the Criminal Justice System as an Effort to Uncover Common Crimes in Indonesia

Indriawari, Prastiwi, and Tuanaya

---

and victim. As a result of this research, the author attempts to formulate the role of the Indonesian Witness and Victim Protection Agency (LPSK) in the concept of protecting witnesses and victims as a contribution to criminal procedural law. This includes aspects of legal certainty and the concept of rewards.

Legal certainty is a fundamental principle in the legal system that ensures that legal rules are clear, consistent, and understandable to all parties involved. In the context of justice collaborator, legal certainty plays a crucial role in safeguarding the rights and ensuring fair treatment of individuals who are willing to cooperate with authorities in uncovering criminal activities. A justice collaborator is an individual who plays a pivotal role in assisting in the disclosure of criminal activities by providing information or assistance to the competent authorities. In the process of justice, a collaborator contributes to obtaining evidence, providing testimony, or even engaging in undercover activities to gather information that can assist in upholding the law.

Thus, a justice collaborator can be defined as an individual who reports a crime in which they were involved. As someone implicated in a crime, a justice collaborator can provide crucial evidence regarding who was involved in the crime, each perpetrator's role, how the crime was committed, and where other pieces of evidence can be found. Efforts to persuade them to cooperate in the investigation and prosecution of other perpetrators involved in the criminal act often involve the use of various legal instruments by prosecutors in different countries.

The key principle in justice collaboration is that the label of “justice collaborator” cannot be applied to the main perpetrator. Not all witness-perpetrators can become justice collaborators; only witness-perpetrators who are not the main perpetrators, are willing to admit guilt and return the proceeds of the crime in writing, cooperate with law enforcement, are not fugitives, and provide relevant information can be designated as such.

Furthermore, legal certainty for justice collaborators is a crucial aspect to protect their rights. This encompasses the assurance that a justice collaborator will receive protection and security after providing assistance to the authorities. Legal certainty also involves the establishment of clear rules regarding the rights and obligations of justice collaborators, as well as safeguards against the abuse of authority or retaliatory actions by parties involved in the uncovered crime. Moreover, legal certainty ensures that justice collaborators receive fair treatment in the judicial process. This includes rights such as access to legal counsel, identity protection, safeguards against threats or intimidation, and clarity regarding the rewards or legal benefits received in exchange for their cooperation. However, to ensure legal certainty for justice collaborators, a clear and comprehensive legal framework is required. Laws and regulations governing the role and protection of justice collaborators need to be established and consistently applied throughout the criminal justice system. This will provide clear guidance to Judges, Prosecutors, and other relevant authorities in handling cases involving justice collaborators.

The divergence in the application framework of regulations related to justice collaborators is rooted in the regulation's designation of justice collaborators, with provisions existing only in internal regulations that fall hierarchically below the law. This is viewed as counterproductive to the principle of legality, especially in criminal law matters that directly affect individual rights. Ideally, in the principle of legality, particularly in criminal law matters, regulations should be governed by laws, not regulations subordinate to them. This aligns with the content of Constitutional Court Decision Number: 5/PUU/VIII/2010, which states that regulations and practical protections that directly impact human rights must be governed by laws rather than regulations beneath them. This is because such regulations involve restrictions on human rights,

## Reconstructing Legal Protections for Justice Collaborators within the Criminal Justice System as an Effort to Uncover Common Crimes in Indonesia

Indriawari, Prastiwi, and Tuanaya

---

and restricting human rights through laws is in accordance with Article 28J paragraph (2) of the 1945 Constitution of the Republic of Indonesia.

Chairul Huda argues that regulations pertaining to criminal procedural law that directly affect individual rights should not be delegated to regulations below the law. This is because criminal procedural law involves the process of curtailing individual rights within the framework of individual protection procedures. These procedures are all carried out by the criminal justice apparatus, making the regulatory requirements much stricter than those for defining criminal offenses. In the criminal justice system, a justice collaborator plays a crucial role in uncovering criminal activities, especially extraordinary crimes. This pivotal role is manifested in the testimony of a justice collaborator, which has been proven to be key in exposing various criminal syndicates and restoring the situation to what it was before the commission of the crime.

The issues outlined above have prompted the author to formulate a new construction regarding rewards for justice collaborators in the future. The procedure for granting rewards to a justice collaborator begins with negotiations involving three components: the justice collaborator, LPSK, and law enforcement authorities. They jointly determine the reward to be given to a justice collaborator and formalize it in a written agreement. This procedure is carried out under the supervision and coordination of a forum involving law enforcement authorities, LPSK, and a justice collaborator. They discuss the appropriate reward, which may take the form of a reduction in the criminal sentence or parole, thereby ensuring that the reward system adheres to the principles of legal certainty as outlined in the agreement.

The author's proposed formulation aims to create consistency between law enforcement authorities and justice collaborators. The equivalent theory, or theory of equal value, is employed to provide a balanced or equivalent performance. This new contract is designed to ensure legal certainty, with the rights of justice collaborators protected by the principle of *pacta sunt servanda* (agreements must be kept).

## CONCLUSION

Based on the discussions above, the following conclusions can be drawn:

In the context of general criminal offences, the regulation of justice collaborator in Indonesian criminal law and positive law, and the forms of legal protection for justice collaborator in positive law, there are generally four types of protection for justice collaborator, including physical and psychological protection, special handling, legal protection, and rewards.

Furthermore, the reconstruction of common criminal offences as actions that can be entrusted to a justice collaborator involves ensuring legal certainty for the justice collaborator and addressing differences in the frames of law enforcement agencies, such as the Corruption Eradication Commission (KPK), the National Narcotics Agency (BNN), the National Counterterrorism Agency (BNPT), and the Public Prosecutors when designating someone as a justice collaborator. In this concept, justice collaborator is typically viewed as a partner to law enforcement agencies in terms of investigation, prosecution, and, as a result, the relationship is characterized by mutual symbiosis based on reciprocity, including sentence reductions, rewards, and protection, all wrapped in legal certainty during the trial process. In addition, the regulation placing the designation of justice collaborator under legislation below the law also implies the potential for an abuse of power held by one of the law enforcement agencies, specifically the Corruption

## Reconstructing Legal Protections for Justice Collaborators within the Criminal Justice System as an Effort to Uncover Common Crimes in Indonesia

Indriawari, Prastiwi, and Tuanaya

---

Eradication Commission (KPK), as a superbody with trigger mechanisms, in the areas of investigation, prosecution, and trial conducted solely by one institution. In the criminal justice system, justice collaborator plays a crucial role in uncovering a criminal offence, especially extraordinary crimes. This pivotal role is manifested through the testimony of a justice collaborator, which has been proven to be the key to exposing various criminal syndicates and restoring the situation to its pre-criminal state. The procedure for granting rewards to a justice collaborator begins with negotiations involving three components: the justice collaborator, the Indonesian Witness and Victim Protection Agency (LPSK), and law enforcement authorities (KPK, BNN, BNPT, and Public Prosecutors). They jointly determine the reward to be given to a justice collaborator and formalize it in a written agreement. This procedure is carried out under supervision and coordination through a forum involving law enforcement authorities, LPSK, and a justice collaborator to discuss the appropriate reward in the form of reduced sentences or conditional release. This ensures that the reward system adheres to the principles of legal certainty as outlined in the agreement. To create a consistent condition between law enforcement agencies and justice collaborators, the author proposes the use of the equivalent theory or theory of equal value to provide balanced or equivalent performance. This new contract aligns with the requirement to ensure legal certainty, with the rights protected by the principle of *pacta sunt servanda* (agreements must be kept). As a brief recommendation, it would be advisable to clarify the regulations related to the designation of justice collaborator and the granting of rewards in legislation, and LPSK should be established as an examining body for justice collaborators.

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# Reconstructing Legal Protections for Justice Collaborators within the Criminal Justice System as an Effort to Uncover Common Crimes in Indonesia

Indriawari, Prastiwi, and Tuanaya

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## Legislation and Decisions

Constitution of the Republic of Indonesia of 1945

Law Number 13 of 2006 on Witness and Victim Protection

Law Number 31 of 2014 on Amendments to Law Number 13 of 2006 on Witness and Victim Protection

Law Number 12 of 2011 on the Formation of Legislation

Criminal Procedure Code

Criminal Code

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Regulation of the Chairman of the Witness and Victim Protection Agency Number 6 of 2010 on Procedures for Providing Protection to Witnesses and Victims

Circular Letter of the Supreme Court Number 4 of 2011 on Treatment for Reporters of Criminal Acts (*Whistleblowers*) and Collaborating Witnesses (Justice Collaborators) in Certain Criminal Cases.

Constitutional Court Decision Number: 5/PUU/VIII/2010