

Legal Analysis of The Position of Justice Collaborators in Disclosure of Narcotics Crimes

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Abstract

This research investigates the role of justice collaborators in narcotics crimes and the legal considerations involved in their designation by law enforcement officials. Employing a normative approach, utilizing document analysis and interviews for data collection, the study aims to determine the legal status and criteria for designating justice collaborators. The findings of the research indicate that justice collaborators, perceived as witnesses, cooperate with law enforcement officers within the criminal justice system and are entitled to various protections, special treatment, and rewards. Law enforcement officials base their decisions on the effectiveness, significance, and reliability of the collaborator's testimony, proven through the evidentiary process to assist in uncovering narcotics crimes. Additionally, the credibility and morality of the designated individual are assessed, crucial factors in the evidentiary process and in determining whether to grant sentence reductions. This process aligns with three legal objectives: justice, legal certainty, and legal benefits. However, obstacles persist in the implementation of designating justice collaborators, including challenges related to substance, perception, and the synergy among law enforcement officials within the criminal justice system. Consequently, the utilization of justice collaborators in uncovering narcotics crimes remains relatively rare.

Keywords: Position, Justice Collaborator, Narcotics Crime

INTRODUCTION

The development of science and technology has had a significant impact on various aspects of life, including social change. Crime, as a social problem, is now a global challenge, or according to Seiichiro Ono, a 'universal phenomenon.' One of the increasing crimes is narcotics crime, which is categorised as an extraordinary crime and organised crime. Increasing drug cases have a major impact on the state and have become a global problem because they threaten the stability and security of society, undermine democratic values, ethics, justice, and threaten sustainable development and the rule of law. BNN data in 2022 shows an increase in the prevalence of drug use in Indonesia, from 1.80% (2019) to 1.95% (2021) among the population aged 15-64 years, especially in rural areas and among 15-24 year olds and 50-64 year olds. Women's risk of drug exposure also increased from 0.20% (2019) to 1.21%. The most popular types of drugs are methamphetamine, cannabis, and ecstasy. The increase in drug abuse is not only occurring in urban areas, but also in rural areas, spreading widely throughout the region and affecting various layers of society. This raises concerns that drug abuse has become part of the culture or life of Indonesian society.

Therefore, the disclosure of narcotics offences has become very urgent. Extensive and systematic drug crimes with a modus operandi that follows the development of sophisticated technology require smart and extraordinary measures. One effective strategy is through cooperation with drug offenders, known as justice collaborators. Justice collaborators play an important role in dismantling organised crime networks that are difficult to uncover, even though they face difficulties in revealing legal facts due to threats to themselves or their families.

In Indonesian positive law, Justice Collaborators are listed in several laws and regulations. First, Law No. 31/2014 on the Second Amendment to Law No. 13/2006 on Witness and Victim Protection (Witness and Victim Protection Law), specifically in Article 1 Section (2) in conjunction with Article 10 and Article 10A, which states that Witness Actors are suspects, defendants, or convicts who cooperate with law enforcement

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to reveal a criminal offence in the same case. Supreme Court Circular Letter Number 4 Year 2011 on the Treatment of Whistleblowers and Justice Collaborators in Certain Criminal Cases (SEMA Number 4 Year 2011). Third, the 2011 Joint Regulation involving several agencies, namely the Minister of Law and Human Rights of the Republic of Indonesia (Number: M.HH-11.HM.03.02.th.2011), the Attorney General of the Republic of Indonesia (Number: PER-045/A/JA/12/2011), the Chief of Police of the Republic of Indonesia (Number: 1/2011), the Corruption Eradication Commission (Number: KEPB-02/01-55/12/2011), and the Chairman of the Witness and Victim Protection Agency of the Republic of Indonesia (Number: 4/2011). These three regulations establish the legal framework for Justice Collaborators in the Indonesian legal system, providing definitions, protections, and special treatment for those who cooperate with law enforcement to uncover criminal offences.

Justice collaborators have an important role in uncovering drug crimes due to weaknesses in the criminal law system, especially in proving and combating organised crime. In judicial practice, law enforcement officials often face obstacles to fully uncover a criminal offence, especially in presenting witnesses who provide relevant information from the investigation to the court process. Responding to this obstacle, criminal law reform is carried out both in material and formal aspects to keep up with the development of society and the increasingly diverse modus operandi of crime. The concept of justice collaborator emerged as part of legal reform for a smarter law enforcement strategy in solving cases of organised and extraordinary crimes, whose proof is more difficult than conventional crimes. An example of the application of justice collaborator can be seen in Supreme Court Decision Number 920K/Pid.Sus/2013, where the defendant Thomas Claudius Ali Junaidi was recognised as a justice collaborator, different from the previous decision that did not recognise this status.

The Supreme Court gave a lighter sanction, namely one year's imprisonment suspended with a two-year probation period, in contrast to the previous decision which gave five years' imprisonment and a fine of one billion rupiah. Important issues related to the legal position of justice collaborators in the disclosure of narcotics crimes include the extraordinary and organised nature of this crime which is increasingly widespread in society. Therefore, extraordinary law enforcement is required using the concept of justice collaborators. However, the understanding of the position of justice collaborators in the criminal justice system is still less than optimal, causing the consideration of law enforcement officials in determining justice collaborators not in accordance with applicable regulations, so that law enforcement against narcotics crimes is not optimal. The author considers it important to explain the legal position of justice collaborators in the disclosure of narcotics crimes through this research.

Legal Materials and Methods

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The Position of Justice Collaborators in The Criminal Justice System

The criminal justice system and due process are inseparable, with the criminal justice system providing a platform for the implementation of a just law. The protection of all parties, including victims, witnesses and suspects, is at the core of a fair legal process. In this context, the Criminal Procedure Code has an important role in upholding justice by regulating law enforcement actions such as arrest and detention so that they are not arbitrary, in accordance with the principle of 'equality before the law'.

Articles in the 1945 Constitution emphasise the importance of the equal status of every citizen in the eyes of the law and government, as well as the right to equal treatment before the law. In this context, law enforcement officials must ensure that this principle is implemented in the justice system. Along with the development of society, crime has also developed, especially in the form of organised crime which is increasingly complicated and difficult to uncover. In an effort to uncover such crimes, cooperation with justice collaborators is important.

Justice collaborators are individuals who have knowledge and connections in organised crime, and they cooperate with law enforcement to uncover the crime network. In Indonesia, the concept of justice collaborators is regulated in the Witness and Victim Protection Law. As a perpetrator witness, a justice collaborator has legal protection, including the postponement of prosecution until the case has been decided by the court. However, his status can be revoked if his testimony is ineffective or unqualified in uncovering other crimes. Nonetheless, being a justice collaborator is not easy, as it faces external risks such as threats from parties harmed by the disclosure of the crime. Therefore, legal protection for them is important as a reward for their cooperation with law enforcement officials.

In dealing with issues involving organised crime, law enforcement officials use justice collaborators to identify, prosecute and resolve cases involving crimes such as terrorism, corruption and drugs. Justice collaborators provide important information related to the crime, which is very useful for law enforcement officials in opposing friends or fellow criminals. Testimonies and clues provided by justice collaborators are crucial in the evidentiary process, as they are not only passive witnesses, but also have in-depth knowledge of the modus operandi of the crime. In the context of the criminal justice system in Indonesia, a person can become a justice collaborator at all levels of justice, from the investigation to the judicial process. This is regulated in the Joint Regulation of the Ministry of Law and Human Rights, Attorney General's Office, Police, KPK, and LPSK. The conditions for becoming a justice collaborator include involvement in a particular case, the importance of the information provided, not being the main perpetrator, willingness to return assets from crimes committed, and threats or fears of physical or psychological intimidation.

Conditions for becoming a justice collaborator include involvement in the particular case, the importance of the information provided, not being the main perpetrator, willingness to return assets from the crimes committed, and threats or fears of physical or psychological intimidation. However, the author argues that the requirement of 'not being the main perpetrator' can be biased against the justice collaborator himself, especially in cases of organised crime where the perpetrator does not always have a clear main role. Therefore, this requirement needs to be revised so that it does not become an obstacle in the determination of justice collaborators.

Evidentiary System and Justice Collaborator towards Disclosure of Narcotics Crime in Integrated Criminal Justice System

The justice system and sentencing in Indonesia must remain in accordance with the principles of justice. The Integrated Criminal Justice System, which incorporates all law enforcement officials, is intended to work together in accordance with each institution's code of ethics, particularly in the handling of drug cases by the National Narcotics Agency (BNN).

Madjono Reksodiputro compares this system to an interconnected vessel, where each problem in the criminal justice subsystem can be addressed with various institutional approaches, without the intervention of authority, in order to achieve the Integrated Criminal Justice System. In uncovering organised drug cases, investigators and prosecutors often experience difficulties, especially in calling witnesses. These difficulties can impede the judicial process and allow perpetrators to evade legal accountability.

On the other hand, Indonesia uses a negative proof system, where the judge requires a minimum of two valid pieces of evidence to establish that a criminal offence has occurred and the defendant is guilty. However, this system can take a long time and has weaknesses in time efficiency. In this context, presenting one of the criminals as a witness (justice collaborator) is considered an effective solution to overcome the weaknesses of the evidentiary system in Indonesia. It can assist in providing sufficient evidence or enhancing

judges' confidence in criminal offence cases, overcoming challenges related to lack of evidence or judges' confidence.

The police and BNN have mapped out the regions in Indonesia that are home to the largest number of drug cases, with a total of 53,405 suspects. North Sumatra, East Java and Jakarta are the top three areas with the most cases. Director of the South Sulawesi Police's Directorate of Drug Detection, Darmawan Affandy, emphasised that South Sulawesi is one of the focus areas for drug handling in Eastern Indonesia. To face this challenge, the government and law enforcement officials need to take smart steps in combating drug trafficking. Justice collaborators are considered effective in combating organised crime by breaking the chain of crime internally. Cooperation between law enforcement officers and justice collaborators is essential for the exchange of information to harmonise views and perceptions, enabling more comprehensive law enforcement.

SEMA No. 4/2011 provides a legal basis for enforcement officials in handling justice collaborators, including providing physical and psychological protection and appreciation for the testimony given.

However, there are potential threats to justice collaborators, both from within and outside, so special protection is very important. Looking at the practice in other countries, such as Italy, justice collaborators not only get lighter sentences, but also special protection for themselves and their families. In order to benefit from this scheme, the cooperating witness must make a special commitment. Criminal law reform is an ongoing and continuous reform effort, carried out based on community values. Barda Nawawi Arief divides this reform into several aspects, including policy and law enforcement approaches, as well as improving the substance of criminal law. In this context, the presence of justice collaborators in the criminal justice system allows for a more comprehensive disclosure of drug offences, in accordance with the theory of utilitarianism which emphasises the benefit and happiness of as many people as possible.



Image . mage: Map of Indonesia's Largest Drug Case Disclosure Areas

Source: Secondary Data, reprocessed by the author Year 2024

Table: Comparison of Judgements and Status of Justice Collaborators

Judgement Number	Verdict Result	Status
Mumere District Court Number 100/Pid.Sus/2012/PN.MMR	The defendant has been proven legally and convincingly guilty of committing the crime of "without the right and against the law to be an intermediary in the sale and purchase of Class I Narcotics as regulated and punishable in Article 114 Section (1) of Law Number 35 of 2009, a sentence of five years and a fine of one billion rupiah with the provision that if the fine is not paid, the penalty is replaced by imprisonment for 3 months and remains in custody.	Position of justice collaborator "rejected"
Appeal Kupang High Court Number: 07/PID/2013/PTK.	Affirming the decision of the Mumere District Court Number: 100/Pid.Sus/2012/PN.MMR, Ordering that the defendant remain in custody, Burdening the defendant to pay court costs at both levels of Court, which at the level of appeal is set at Rp. 1,000, - (one thousand rupiah);	Position of justice collaborator "rejected"
Cassation	The defendant has been proven legally and convincingly guilty of committing	Position of justice collaborator "Accepted"

Supreme Court Decision No.920 K/Pid.Sus/2013.	the crime of "without the right and against the law being an intermediary in the sale and purchase of Class I Narcotics, imposing a sentence against the defendant of imprisonment for 1 year, ordering that the sentence does not have to be served, unless in the future the judge decides that the convicted person commits another crime before the expiration of the probation period of 2 years.	
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Considerations of Law Enforcement Officials Determining Justice Collaborators in Narcotics Crimes

Drug offences are a global concern that require serious attention from communities and governments around the world. While narcotics have medicinal and scientific research benefits, their misuse and illicit trafficking can have detrimental effects on both individuals and society as a whole. Therefore, every country in the world is faced with the urgency to fight the abuse and illicit trafficking of narcotics, as this can threaten national security and global life. In the context of criminal law, criminal acts are defined as actions that are prohibited by law and can be sanctioned. Narcotics criminal offences specifically refer to the misuse of narcotics for personal or group gain, outside of the interests of scientific and health development. Perpetrators of narcotics offences may be subject to sanctions in accordance with the provisions stipulated in the Narcotics Law. The concept of justice collaborators or perpetrator witnesses becomes relevant in law enforcement efforts against drug offences.

In this context, justice collaborators are individuals who cooperate with law enforcement officials to uncover criminal offences, but the final decision is still determined by the judge. The process of determining justice collaborator status involves an integrated assessment by a medical and legal team to assess the involvement and impact of drug use. Efforts to eradicate drug offences involve three main approaches, namely preventive, repressive, and rehabilitative. Preventive efforts aim to prevent drug abuse through socialisation and counselling to the community. Meanwhile, the repressive approach emphasises the prosecution of criminals, while the rehabilitative approach is aimed at helping people who use drugs to recover from dependence and restore their normal lives.

However, the implementation of the concept of justice collaborator in law enforcement against narcotics crimes still faces several challenges. One of them is the lack of regulations that specifically regulate justice collaborators in the Narcotics Law. In addition, synergies between law enforcement, health, and social institutions also need to be improved to ensure the effectiveness and comprehensiveness of drug eradication efforts. In the judicial context, the assessment of the credibility and morality of a justice collaborator is crucial in determining the success of the evidentiary process and the determination of sanctions. Therefore, a comprehensive transformation of criminal law is needed, especially in terms of the substance and political policy of criminal law, to ensure that the concept of justice collaborators can be implemented effectively and fairly.

In concrete cases, the assessment of the role of an informant or justice collaborator needs to be carefully considered in sentencing. Court decisions should consider the positive contributions made by justice collaborators in uncovering criminal offences, and provide appropriate rewards as a form of incentive for individuals who assist law enforcement. Overall, efforts to eradicate drug offences require a comprehensive and synergistic approach between various relevant institutions and stakeholders. The implementation of the justice collaborator concept is an important step in improving the effectiveness of law enforcement against drug offences, but substantial improvements in the existing legal framework are also needed to support its proper implementation.

According to the researchers, it is important to consider the defendant's major role, cooperation, and relevance in uncovering criminal acts. The defendant who acts as a justice collaborator has the criteria stipulated by SEMA No. 4/2011, such as confessing to the crime, providing testimony in court, and helping to uncover significant criminal acts. The prosecutor/public prosecutor states that the defendant provided significant information and evidence, enabling effective disclosure of the crime and identification of other perpetrators. In return, defendants who become justice collaborators are entitled to legal protection and immunity from prosecution. In practice, the concept of justice collaborator is a strategy in overcoming

obstacles to disclosing criminal acts, especially narcotics. This is in accordance with the theory of legal objectives, which include justice, legal certainty, and legal benefits according to Gustav Radbruch. Thus, the determination of collaborating perpetrators should be based on these objectives.

Justice is the main principle in handling legal cases. Laws are created with the aim of achieving justice, certainty, and expediency, so that people can feel prosperity, progress, and happiness. Although justice is an abstract concept, humans have always tried to approach it. According to Aristotle, justice can be divided into two: numerical equality, where every individual is considered equal in the eyes of the law, and proportional equality, which means giving rights according to their abilities and achievements. In the development of the purpose of punishment, the theory of punishment has undergone many changes to provide benefits for the perpetrator so as not to repeat the same actions in the future.

Justice is interpreted as the process of finding solutions to criminal cases involving victims, communities and perpetrators, with the aim of repair, reconciliation and sustainability. Legal certainty is important in preventing abuse of power and ensuring that justice and benefit are delivered to the community. Law enforcement must integrate legal certainty, perceived benefits, and justice, but this is difficult to do without synergy between related institutions. Law basically aims to provide benefits, focusing on the happiness and pleasure of the community. The concept of justice collaborator is a step to direct criminal law towards expediency. With the presence of justice collaborators, important information can be revealed, which is not only beneficial for law enforcement, but also for society at large. In accordance with the theory of utilitarianism, the law aims to provide the maximum benefit and happiness for as many people as possible.

The presence of justice collaborators also helps in revealing narcotics crimes as a whole, protecting the community from the misery caused by narcotics abuse. In conclusion, the presence of justice collaborators in handling narcotics cases aims to achieve three legal objectives introduced by Gustav, namely legal certainty, justice, and benefit. With the synergy between law enforcement officials, justice, and the benefits felt by the community, efforts to fight drug crimes can be more effective, provide protection to informants, and prevent drug abuse, in line with Indonesia's ideals for the advancement of welfare, peace, and social justice.

CONCLUSION AND SUGGESTION

The legal position of a justice collaborator is very important as a witness who cooperates with law enforcement officials in the criminal justice system. They are given various protections, such as physical and psychological protection, as well as legal protection for special handling. In addition, they are also entitled to rewards, such as leniency in sentencing, probation, special conditional sentences, and lighter sentences than other defendants. However, in determining a justice collaborator, law enforcement officials must consider the credibility and morality of their testimony, which is proven in the evidentiary process, so that it can help reveal drug crime cases. Nevertheless, there are still obstacles both in terms of legal substance and the perception and synergy of law enforcement officials as a subsystem of criminal justice. Therefore, the author proposes several suggestions, including the need for legal reform, including harmonization and synchronization between the narcotics law and the law on witness and victim protection, as well as regulations related to justice collaborators. In addition, law enforcement officials need to determine justice collaborators with full consideration, which is based on the principles of justice, certainty, and legal benefits. Thus, it is expected to create the same understanding and synergy among law enforcement officials towards the presence and position of justice collaborators in revealing narcotics crime cases.

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