

THE POSITION OF JUSTICE COLLABORATORS REGARDING THE DISCLOSURE OF CORRUPTION CASES IN THE JUSTICE SYSTEM CRIMINAL COURT IN INDONESIA

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ABSTRACT

The Inheritance Office is a government agency whose scope of work is under the Ministry of Law and Human Rights. The Inheritance Office has the task of representing and implementing the management of the interests of legal subjects in order to implement court decisions and/or determinations or interests by law in the field of inheritance and based on the provisions of laws and regulations. To carry out these tasks, the Inheritance Office carries out the function of making inheritance certificates. The results of the study concluded that the authority of the Inheritance Office in issuing certificates of inheritance rights is present to carry out its function in managing inheritance, especially in terms of inheritance to make a certificate of inheritance for the Eastern Foreign group other than Chinese. Normatively, the authority to issue a certificate of inheritance by BHP for a certain group does not exist attributively because there are no laws and regulations that specifically regulate in general that a certificate of inheritance for non-Chinese foreign eastern groups must be made by BHP, and Permenkumham 7/2021 itself does not further explain this authority. The authority of BHP to make a certificate of inheritance is only for a certain legal act, namely the registration of the transfer of land rights.

1. Introduction

In the past, corruption was often defined as involving state officials or civil servants who misused state funds. However, today, the problem of corruption extends beyond state officials and civil servants to involve various institutions, including members of the executive, legislative, and judicial branches, bankers, conglomerates, and corporations.

Practices such as abuse of authority, bribery, facilitation payments, extortion, rewards based on collusion and nepotism, and the misuse of state funds for personal gain are generally considered corrupt and are considered commonplace in this country. Ironically, despite efforts to eradicate corruption for more than four decades, these corrupt practices persist, with their modus operandi becoming more sophisticated and organized, making them increasingly difficult



to address. One of the issues that brought down the Old Order was the rampant corruption that permeated all levels of society.

Corruption has become a serious problem for the Indonesian nation, as it has permeated all aspects of society and been systematically carried out, creating a negative stigma for the Indonesian nation and state within the international community.

To ensure the success of national development by the government, an effective, efficient, and solid apparatus is required. It is capable of carrying out general government duties and driving development smoothly, avoiding actions that hinder development, such as corruption, abuse of authority, leakage and waste of state assets, extortion, and various other irregularities that are highly detrimental to state finances in particular and society in general.

Corruption can cause suffering for the people because corruptors reap the profits and benefits from corruption, but it is the people who must pay for what they enjoy. Corruptors seize wealth or opportunities that should be used to improve the lives of the people. Corruption can hamper development and business growth in Indonesia. As a result of corruption, Indonesia is experiencing a prolonged economic crisis, hampered development and business growth, widespread suffering, and uncertainty about the future.

Corruption eradication, as a rational societal effort to combat crime, can be operationally implemented through both penal and non-penal means. Penal and non-penal means are an inseparable pair; in fact, they can be said to complement each other in efforts to combat corruption.

Exposing perpetrators of corruption who hold powerful economic and political positions certainly requires courage and witnesses with direct knowledge of the corruption. Witnesses with direct knowledge, whether directly involved or not, and who dare to report the incident are called "whistleblowers" and "Justice Collaborators."

A whistleblower and justice collaborator are individuals who uncover the truth or report serious, organized crimes such as corruption, drug trafficking, money laundering, terrorism, human trafficking, and others. With the presence of whistleblowers and justice collaborators, uncovering corruption cases will be easier. Besides being necessary for the eradication of corruption, they can also be used as a means of preventing corruption.

2. Research Method

This research employs a normative juridical approach and is supported by empirical juridical data. The normative juridical approach was used to analyze





laws and regulations related to the position of justice collaborators in disclosing corruption cases in the criminal justice system. The empirical juridical research was conducted through interviews with judges at the Medan Class IA District Court.

This research is descriptive in nature. Descriptive research aims to provide the most accurate data possible. In this case, it will describe the public expression of aspirations that led to anarchy. This descriptive research begins with collecting data related to the discussion above, then compiling, classifying, analyzing, and interpreting the data to obtain a clear picture of the phenomenon being studied. Qualitative data analysis involves working with data, organizing it, sorting it into manageable units, synthesizing it, searching for and identifying patterns, and discovering what can be communicated to others, thus providing a comprehensive and systematic description.

3. Results And Discussion

Results

Justice collaborators, for their services, can be granted leniency by the judge in the form of special conditional probation and/or a lighter prison sentence compared to other defendants in the same case. Circular Letter No. 4 of 2011 also emphasizes that special treatment must still take into account the public's sense of justice.

Justice collaborators play a crucial role in helping uncover and reveal cases classified as organized crime. In practice, law enforcement often encounters various legal and non-legal obstacles in fully revealing and clarifying a crime, especially in presenting key witnesses in the legal process, from investigation to trial. The role of justice collaborators is highly relevant to the Indonesian criminal justice system, addressing procedural bottlenecks in crimes and difficulties in establishing proof.

The Supreme Court issued Circular Letter Number 4 of 2011 concerning the Treatment of Criminal Reporters (Whistleblowers) and Cooperating Witnesses (Justice Collaborators) in Certain Crimes, a policy aimed at mitigating the sentences of whistleblowers and justice collaborators. The leniency of sentences for whistleblowers or justice collaborators depends on the judgment and discretion of the first-instance judge, and is not a policy of exempting them from punishment.

A perpetrator of a specific crime, but not the primary perpetrator, who admits to their actions and is willing to testify in the trial process is called a justice collaborator. To be considered a justice collaborator, the prosecutor must also





state in their indictment that they have provided significant testimony and strong evidence. Justice collaborators may be compensated by the judge for their services in the form of special conditional probation and/or the lightest prison sentence compared to other defendants in the same case. It is also emphasized that the granting of special treatment must still take into account the public's sense of justice. The Supreme Court has demonstrated its commitment to supporting the protection of witnesses and victims by issuing Supreme Court Circular Letter Number 4 of 2011 concerning the treatment of criminal whistleblowers and justice collaborators in certain criminal acts, which serves as a legal basis and reference for the court to provide protection to justice collaborators and whistleblowers.

4. Discussion

Supreme Court Circular Letter Number 4 of 2011 concerning the Treatment of Criminal Whistleblowers and Justice Collaborators, point 9, stipulates the requirements for a Justice Collaborator to receive a reward. These requirements include admitting to the crime, not being the primary perpetrator, providing witness testimony in court, and the public prosecutor stating in their indictment that the individual has provided significant information and evidence in effectively uncovering the crime and the involvement of other perpetrators who played a significant role in the theft of state assets.

Rewards for reduced sentences are not binding on the judge. A recommendation letter issued by the LPSK to the court cannot necessarily be used as a basis for reducing a justice collaborator's sentence. Similarly, LPSK recommendations for additional remissions and conditional release for justice collaborators are not necessarily considered in their implementation.

The reward that can be given to justice collaborators who meet these requirements is protection. Justice collaborators, or perpetrators of corruption cases who are willing to assist law enforcement officials in uncovering corruption cases, receive protection because they are targets of individuals seeking to silence them. In addition to protection, these justice collaborators are also given rewards or recognition for the information they divulge. The rewards are related to the sentences imposed on them. Therefore, they must still serve their sentences for the offense, but may be given leniency for assisting law enforcement officials. These rewards can take the form of lighter sentences, additional remissions, and parole. Without rewards, they are likely to be discouraged from cooperating.





Justice collaborators play a very dominant and strategic role in assisting law enforcement officials in uncovering and exposing criminal acts. This is because a justice collaborator is someone who plays a role in the occurrence of organized and collaborative crime, such as corruption. A justice collaborator's position is not that of the primary perpetrator of a corruption crime. Such individuals can be used as sources of information regarding suspects and other evidence in corruption cases that have not yet been discovered by law enforcement.

The role of justice collaborators is that of a suspect, but not the primary perpetrator, who can expose those involved above them. In this case, even if they are guilty of corruption, they may receive leniency for assisting in the process of uncovering the facts and achieving justice. Considering the strategic role of justice collaborators in expediting the disclosure of organized crime, the need for legislation governing justice collaborators is crucial. Strong political will is required from both the government and the House of Representatives (DPR), as well as from all stakeholders, to implement justice collaborators.

The form of protection for justice collaborators is generally the same as that for witnesses. However, in some specific cases, the form of protection provided to justice collaborators differs from that for witnesses. This is because a justice collaborator is a person who commits a crime but provides testimony to help uncover the crime, whereas a witness provides testimony without being involved in the crime.

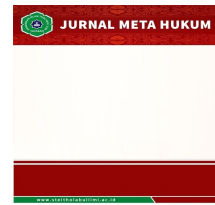
A justice collaborator must be a suspect/defendant involved in specific criminal cases, such as corruption, terrorism, narcotics, money laundering, human trafficking, or other organized crimes that have created serious problems and threats to the stability and security of society.

The concept of restorative justice is essential for dismantling organized and difficult-to-solve crimes. Therefore, a cooperating witness, a justice collaborator, is needed. The function of a justice collaborator is to dismantle and destroy organized crime groups. This includes gathering information about the main perpetrators of organized crime, understanding the structure of the organized crime organization, and understanding the activities, flow, and records of funds involved in organized crime.

Getting a perpetrator to report or become an informant is challenging, especially providing testimony in court, as they may ultimately be named a suspect in the same case. Most of those involved also profit from the crime, making them reluctant to report, let alone testify against their accomplices. Furthermore, they fear being perceived as traitors.

This is because the characteristic of organized crime among perpetrators is loyalty, known as the oath of silence (omerta), which is an unwritten





commitment and rule among mafia members that is unshakable. Violation of this oath is a penalty for anyone who violates it.

Organized crime, such as corruption, must be eradicated with appropriate measures. If law enforcement lacks the resourcefulness and thoroughness to eradicate it, it is no wonder that corruption will continue to flourish and become rampant, making it easier for corruptors to steal state funds without a trace. It is highly effective and efficient if law enforcement officers encourage criminals to cooperate in resolving corruption cases by acting as justice collaborators, meaning the perpetrators themselves will tell the full story of the corruption committed by their gang.

Justice collaborators can be used as evidence in uncovering new-dimensional crimes, such as corruption that harms the national economy, as well as corruption methods that use high-technology, financial assistance from corporate crime, customer fraud, illegal fishing, illegal labor, and cybercrime.

The role of justice collaborators in exposing suspects who lack good faith in uncovering corruption crimes is tantamount to opening up bargaining power, negotiations, and opportunities for politicians to escape the clutches of law enforcement. Some argue that the presence of justice collaborators is merely a means of negotiation for prisoners to escape the law. A widespread opinion suggests that this demonstrates law enforcement's inability to handle a case, but others see the beneficial side of justice collaborators as an extraordinary step.

Law enforcement officials may be unable to investigate a case without the assistance of justice collaborators, even though it is likely to take a considerable amount of time. Furthermore, the country's finances and stability cannot be placed in a state of uncertainty, as it could disrupt the growth and development of society within the country itself. Moreover, it is highly likely that law enforcement officers will not find a solution to this problem, so that this case will be neglected and simply evaporate without a resolution.

Justice collaborators are a crucial tool in combating organized crime. The existing criminal justice system's methods often lack the capacity to uncover, combat, and eradicate organized crime. Law enforcement officials frequently encounter various legal and non-legal obstacles in fully uncovering and clarifying crimes, particularly in bringing key witnesses into the legal process, from investigation to trial.

Becoming a justice collaborator is not an easy task and is not accessible to everyone. Those who want to uncover crimes must be able to control their fear and take the risk of revealing secrets. In practice, many witnesses and victims of crime are vulnerable to terror and intimidation. Some witnesses and victims





choose not to attend legal proceedings because their lives are at risk, either from terror or intimidation from perpetrators.

Although justice collaborators play a crucial role in uncovering crimes, there are still problems at the legal level in Indonesia, as there are no specific provisions regarding the criteria for justice collaborators or their legal protection.

The protection program for whistleblowers and justice collaborators stipulated in Law Number 13 of 2006 concerning Protection of Witnesses and Victims and SEMA No. 4 of 2011 concerning Treatment for Criminal Reporters (whistleblowers) and Witnesses Who Cooperate (justice collaborators) in Certain Criminal Cases is not yet adequate as a legal basis/ foothold for law enforcement to provide legal protection. This is something important, however, talking about the importance of justice collaborators but not yet regulated in law, everything will be less meaningful because implementation in the judiciary will be quite difficult because it does not have a strong legal basis.

5. Conclusion

The philosophical basis for treating justice collaborators in resolving corruption cases is based on Supreme Court Circular Letter No. 4 of 2011, which aims to uncover the perpetrators and pursue, arrest, prosecute, and punish all perpetrators with the assistance of the justice collaborator, or cooperating witnesses.

Legal protection for justice collaborators in corruption cases in Indonesia, according to Supreme Court Circular Letter No. 4 of 2011, does not mitigate the burden of collaborating witnesses or provide legal protection for justice collaborators. Supreme Court Circular Letter No. 4 of 2011 only provides protection for justice collaborators, but they are still subject to punishment if they are part of the perpetrator. Supreme Court Circular Letter No. 4 of 2011 also applies only internally among judges as a mitigating factor in deciding cases involving justice collaborators.

The status of justice collaborators, according to Supreme Court Circular Letter No. 4 of 2011, provides a legal umbrella for justice collaborators. Supreme Court Circular Letter Number 4 of 2011 is only a guideline for law enforcement officers, especially for judges in handling criminal cases related to Justice collaborators in mitigating considerations to decide cases for Justice collaborators on their initiative to cooperate with law enforcement officers to dismantle the network of other perpetrators of the crime.





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