



Legal protection for justice collaborators in premeditated murder from a human rights perspective

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ARTICLE INFO

Keywords:

Crime of premeditated murder;
Justice Collaborator;
Human Rights.

Article history:

Received Nov 19, 2023;
Revised Dec 22, 2023;
Accepted Jan 09, 2024;
Online Jan 13, 2024.

ABSTRACT

The crime of premeditated murder is one of the serious or extraordinary crimes (Extra Ordinary Crime) which tends to be difficult to uncover. Therefore, the idea of a witness who cooperates with the perpetrator (Justice Collaborator) emerged. The purpose of this research is to find out the legal provisions on the status of Justice collaborators in providing testimony in cases of premeditated criminal acts, to find out the role of justice collaborators in providing testimony, then the form of legal protection against the status of justice collaborators. This research method uses the type of normative legal research, with data collection used in this research includes library research. According to the researcher's analysis, the form of legal protection of Justice Collaborator is still no regulation that regulates specifically, clearly and firmly regarding the regulation and procedural determination as a Justice Collaborator, the rules regarding the protection of Justice Collaborator should be regulated in detail and clearly because the role of witnesses who cooperate is needed to uncover cases that tend to be difficult to uncover. his testimony can pose a great risk that must be borne by the Justice Collaborator. Legal protection of Justice Collaborators is a very urgent matter, especially when viewed from a Human Rights perspective.

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1. Introduction

The crime of premeditated murder is one of the crimes that can be categorized as a serious crime and tends to be difficult to reveal (Widyatmoko, 2021). According to the Criminal Code, the crime of premeditated murder is an act that intentionally and with prior planning takes the life of another person (Article 340 of the Criminal Code). The planning carried out in advance in this criminal act shows how the act is a very cruel and inhumane act because it is carried out consciously and planned. In line with the Convention on the Prevention and Punishment of the Crime of Genocide and the 1998 Rome Statute, the crime of premeditated murder is referred to as a crime against humanity, and is included in the category of extraordinary crimes (Law Number 12 of 2005).

The existence of witnesses as the key to obtaining material truth is a very decisive element in the criminal justice process (Mokorimban, 2013). According to Article 1 paragraph 26 of the Criminal Procedure Code, a witness is a person who can provide information for the purpose of investigation, prosecution and trial of a criminal case that he himself heard, saw and experienced. To obtain true testimony, legal protection is needed in the form of a sense of security and freedom both when examined before the court and from various forms of threats that can endanger themselves and their families, especially for those directly involved in criminal events (suspects) who are then willing to cooperate with law enforcement officials and are willing to provide testimony that is not obtained from other witnesses (Waluyo, 2022b). The intended perpetrator witness is referred to as a Justice Collaborator.

The term Justice Collaborator emerged from the Supreme Court Circular Letter (SEMA) Number 4 of 2011 concerning Witnesses who Cooperate (Justice Collaborator) in certain criminal cases. Certain crimes in the SEMA are corruption, terrorism, narcotics crimes, money laundering crimes, trafficking in persons, and other organized crimes. Because premeditated murder is a serious crime committed in an organized manner and tends to be difficult to prove, it is very important to provide Justice Collaborator (JC) status for suspects who are willing to help the state and law enforcement officials to reveal the truth of a case (Samsuri, 2023). JC has a considerable role in uncovering all the secrets from the beginning of the crime. Thus it is appropriate for a Justice Collaborator to be given legal protection because the witness has consciously taken the risk of revealing a material truth.

Based on the explanation above, this research will raise the title "Legal Protection for Justice Collaborators in the Crime of Planned Murder in the Perspective of Human Rights".?

2. Method

This research is a type of normative research with a statutory approach. (Samsuri, 2023). This research uses library materials as a research source or also called (Library research) and is descriptive analysis, meaning that this research includes the scope of research that describes, examines, explains precisely and analyzes laws and regulations related to this research, especially in the perspective of human rights.

3. Analysis and Results

3.1 Legal Provisions on the Status of Justice Collaborator in the Disclosure of the Crime of Premeditated Murder

Justice Collaborator is a criminal offender who is willing to cooperate with law enforcement officials to uncover a major crime or case that is considered serious and complicated. (Karuniawan, 2017). The existence of a *Justice Collaborator* is needed by law enforcement in obtaining information that is needed in the trial. The regulation and application of *Justice collaborators* in Indonesia does not yet have a special legal basis (*lex specialis*) in the national legislative system and in the criminal justice system (Afifah et al., 2022).

The regulation on *Justice Collaborators* is only regulated in Supreme Court Circular Letter No. 04/2011 on the Implementation of *Whistle-blowers* and Witnesses of Cooperating Actors (*Justice Collaborators*) in Certain Criminal Cases and also the Joint Regulation of the Minister of Law and Human Rights of the Republic of Indonesia, the Attorney General of the Republic of Indonesia, the Chief of Police of the Republic of Indonesia, the Corruption Eradication Commission of the Republic of Indonesia, the Chairman of the Witness and Victim Protection Agency of the Republic of Indonesia No. M.HH-11.HM.03.02, PER-045/A/JA/12, 1, KEPB-02/01-55/12, 4/2011.

3.2 The Role of *Justice Collaborators* in Providing Testimony in the Crime of Premeditated Murder at Trial

The contribution of the role of testimony that can be given by a *Justice Collaborator* starts from the investigation and investigation stage, the prosecution stage, the examination stage in court and the implementation stage of the decision. (Hafid, 2019; MUSTA'IN, 2017).

At the investigation and investigation stage, the most important thing is to seek and find a fact from the material truth, at least close to the material truth related to the events that occurred both before, during, and after the criminal act was committed, including finding out who the perpetrator of a crime is. (Mohammad Nashihan, 2013; Muhammad, 2015; MUNIB, 2018).

The presence of a *Justice Collaborator* in the investigation and investigation process will greatly assist investigators and investigators in uncovering and finding material facts that were originally closed to light. The existence of a *Justice Collaborator* at this stage is to assist the police in searching and finding facts related to the crime both before the crime is committed and after the crime is committed. The purpose of the existence of this *Justice Collaborator* is of course to facilitate the investigation task so that a case can be revealed completely to the main perpetrators and also the master of a crime (Muzaki, 2023).

The existence of a *Justice Collaborator* in the prosecution stage is as a trusted source of information that is expected to provide actual information so that the prosecution with the indictment made has legal force and becomes the basis for a strong examination in court (Amin, 2017).

To avoid the possibility of errors in preparing the indictment and to find accuracy both in determining the criminal act and the articles of charge and the accuracy of the defendant, the right information from a trusted and responsible source is also needed. In this case the researcher assumes that the source of information from the *Justice Collaborator* is very important and useful to encourage law enforcers to be optimistic in achieving the right information.

The implementation stage of the decision is the final stage in the criminal justice system carried out by the Correctional sub-system. The expectations and objectives of this sub-system, in the form of coaching aspects of the residents of the Correctional Institution (LAPAS) called prisoners (NAPI).

Through coaching, convicts are directed to realize their mistakes, improve themselves and not commit criminal acts again. One thing that is very important in conducting coaching is that coaching is not intended to suffer, and convicts are still recognized for their human rights. In other words, the convict must still obtain justice in accordance with his position as a person who has been found guilty according to the law, especially a *Justice Collaborator* who has contributed and contributed greatly in revealing the crime of premeditated murder. (Aji, 2017).

3.3 Urgency of Legal Protection of *Justice Collaborator* Status Viewed from a Human Rights Perspective

Human rights are rights inherent in humans as creatures of God Almighty and are a gift that must be respected, upheld and protected by the state, law, government and everyone for the sake of honor and protection of dignity. (Aswandi & Roisah, 2019). And in the context of legal protection of witnesses who cooperate (*Justice Collaborator*), the human rights of witnesses who cooperate (*Justice Collaborator*) as humans must be protected by the state fairly and without discrimination.

Legal protection is an effort made by the government or ruler through a number of existing regulations that are realized in the process of law enforcement and is the right of every citizen without exception, including the perpetrators of crimes. (Hasibuan & SH, 2021; Waluyo, 2022a).. This is because even though a person has been named as a suspect in a crime, the person concerned still has the same position as a human being who has human rights and must be

respected by anyone. The relationship with witnesses who cooperate (*Justice Collaborator*) is that their rights as human beings must be fulfilled, including proportional legal protection.

The principles contained in the Universal Declaration of Human Rights (UDHR) are intended for all individuals without limitation, including prisoners. The UDHR principles that concern prisoners include: No one shall be subjected to torture or to inhuman or degrading treatment or punishment (art. 5). All persons are equal before the law and are entitled to the equal protection of the law without discrimination, all are entitled to equal protection against any form of discrimination contrary to this declaration (article 7).

In line with that, the Law Article 28D paragraph 1, states: "Every person has the right to recognition, guarantees, protection, and certainty of a just law and equal treatment before the law". By interpreting Article 28D paragraph 1, which can be a legal protection for witnesses or perpetrators who want to reveal the real story. With this *Justice Collaborator*, the sentence of the witness or perpetrator can be reduced and even abolished.

Justice Collaborators in every criminal trial are very important because in addition to being instrumental in clarifying problems in the trial, their testimony often also influences and determines the tendency of the judge's decision. (Achmad & Taun, 2022; Amin, 2020)..

From this explanation, the author understands that positive law at this time needs to be reviewed, with other perspectives that support legal protection for witnesses who cooperate (*Justice Collaborator*), so that in the future many people want to cooperate in uncovering certain crimes / crimes that are organized and tend to be difficult to uncover, especially premeditated murder.

In this research, the author realizes how the existence of a collaborating perpetrator (*Justice Collaborator*) is very meaningful in helping law enforcement officials to dismantle organized crimes/cases which are none other than aimed at realizing justice and legal expediency itself, especially when viewed from the perspective of human rights.

4. Conclusion

In the crime of premeditated murder, a Justice Collaborator plays a role in providing testimony starting from the investigation and investigation stage, the prosecution stage, the examination stage in court to the implementation of the decision. Legal protection for Justice Collaborators in exposing the crime of premeditated murder can be said to be still gray, this is because there is no specific legislation governing this matter. So far there are only a few implementation guidelines that often cause.

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