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Legal Standing of Witness Protection Under Indonesian Law: The Justice Collaborator in the Richard Eliezer Case

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ABSTRACT

Indonesia is a state founded on the rule of law in which the criminal justice process increasingly depends on insiders willing to cooperate with law enforcement. The institution of the justice collaborator was designed for that purpose, yet its legal foundation in Indonesia remains scattered across a statute and a Supreme Court Circular Letter, leaving its standing contestable, particularly when the cooperating witness is also a direct perpetrator of a grave crime. This study examines two problems: the legal standing of witness protection for a justice collaborator in relation to the prevailing legislation in the Richard Eliezer case, and the forms of legal protection afforded to witnesses under Law Number 31 of 2014 on the Protection of Witnesses and Victims. The research applies a normative juridical method combining statute, case, and analytical approaches, drawing on primary legal materials, secondary literature, and the South Jakarta District Court ruling, analysed deductively. The findings show that Eliezer's standing as a justice collaborator was established through judicial discretion that bridged a statutory gap, because Circular Letter Number 4 of 2011 does not expressly list premeditated murder and leaves the term not the main perpetrator undefined. Protection under Law Number 31 of 2014 takes the forms of physical and psychological safety, legal immunity, special procedural treatment, and rewards administered by the Witness and Victim Protection Agency, while the Circular Letter operates as organic regulation filling a legal vacuum. The study contributes a reasoned argument for elevating justice collaborator criteria into statute and strengthening the protection agency.

Keywords: Justice Collaborator, Witness Protection, Legal Standing, Premeditated Murder, Richard Eliezer.

I. Introduction

Indonesia is constitutionally a state based on the rule of law, as affirmed in Article 1 paragraph (3) of the 1945 Constitution, which means that every act of citizens and officials alike must rest on a legal basis and that everyone holds an equal position before the law. Within that framework, the criminal justice system is expected to restore order whenever legal norms are breached by holding offenders accountable through an open and impartial trial. The realisation of this ideal, however, depends heavily on the availability of evidence, and among the lawful means of proof recognised by the Criminal Procedure Code, witness testimony remains the instrument most frequently relied upon by investigators and judges (Pratama, Lesmana, & Lestari, 2025). A persistent difficulty arises when the crime under examination is committed collectively, in the form of participation or *deelneming* under Articles 55 and 56 of the Criminal Code. In such offences, the most probative information is often held by the perpetrators themselves, so that the disclosure of the truth may

require the cooperation of one of them. To accommodate this need, Indonesian law gradually recognised the figure of the cooperating witness, or justice collaborator, an offender who admits guilt, is not the principal actor, and is willing to provide significant testimony to expose the crime and its main perpetrators (Thalib, Rahman, & Semendawai, 2017). The concept is relatively new in the Indonesian legal order and was transplanted to assist in the eradication of organised crime such as corruption, narcotics offences, and terrorism (Saragih, 2023).

The tension surrounding this institution became acutely visible in the case that captivated public attention from late 2022 into 2023, namely the premeditated and collectively executed killing of Brigadier Nofriansyah Yosua Hutabarat by fellow members of the National Police. The chain of events began with an Inspector General of Police, Ferdy Sambo, who, after hearing his wife's account, devised a plan to take the victim's life. After another subordinate declined to carry out the order, the task fell to Richard Eliezer Pudihang Lumiu, a junior officer who fired the fatal shots on the command of his superior. During trial, Eliezer's counsel applied for his designation as a justice collaborator, supported by a recommendation from the Witness and Victim Protection Agency, and the panel of judges ultimately accepted that status (Wahyuni, Fauzi, & Salsabila, 2023). It is precisely here that the research problem crystallises. Eliezer was charged with premeditated murder under Article 340 in conjunction with Article 55 paragraph (1) sub-paragraph 1 of the Criminal Code, and he was the person who repeatedly discharged the firearm that ended the victim's life. The Supreme Court Circular Letter Number 4 of 2011, which provides the operative criteria for justice collaborators, enumerates certain crimes such as corruption, narcotics, money laundering, and trafficking, but it does not expressly mention premeditated murder; nor does the Criminal Code define what is meant by the phrase "not the main perpetrator" (Sugiarto, Purwanto, Sunarlin, Setyagama, & Susilo, 2023). The recognition of a direct shooter in a planned killing as a cooperating witness therefore sits uneasily with the textual scope of the prevailing instruments, and the legal standing of such protection becomes genuinely debatable (UnizarLawReview discussion as analysed in Chairani, Islami, Pradhana, & Sirichai, 2024).

The gap that this study addresses is twofold. First, there is a normative gap: the justice collaborator is regulated only partially in Law Number 31 of 2014 and substantially through a Circular Letter, a non-statutory instrument, which raises questions of legal certainty when the cooperating witness is a perpetrator of an offence not listed among the enumerated crimes. Second, there is a practical gap concerning the criteria and the form of protection actually extended to such a witness in a high-profile prosecution. The novelty of the study lies in its focus on the first prominent instance in which justice collaborator status was conferred on a direct perpetrator of premeditated murder, allowing the doctrine to be tested against a hard case rather than the corruption and narcotics settings for which it was originally devised. The significance of the inquiry extends beyond a single prosecution. Contemporary criminality, especially when it is organised, concealed, or committed by actors who occupy positions of authority, is notoriously resistant to conventional methods of proof, because the participants share both an interest in silence and the capacity to obstruct investigation. International instruments such as the United Nations Convention against Corruption and the United Nations Convention against Transnational Organized Crime accordingly encourage states to provide incentives and protection for offenders who cooperate with justice, recognising that the testimony of an insider may be the only realistic route to the truth (Saragih, 2023). Indonesia's adoption of the justice collaborator reflects that policy, but the transplant has outpaced its statutory foundation, so that the institution operates on a hybrid footing of statute and Circular Letter. Examining how that footing performs in a grave case is therefore not merely an exercise in case commentary; it is a test of whether the Indonesian framework can deliver both protection and certainty when the stakes are highest.

Accordingly, the study pursues two aims. The first is to analyse and explain the legal standing of witness protection for a justice collaborator in relation to the prevailing legislation in the Richard Eliezer case. The second is to analyse and explain the forms of legal protection for witnesses under Law Number 31 of 2014 on the Protection of Witnesses and Victims. Without anticipating the methodology or the detailed findings, the article proceeds from the premise that the legitimacy of conferring protection on a cooperating perpetrator must be evaluated against both the rule-of-law commitment to legal certainty and the protective purpose that animates the witness protection regime. The discussion is framed by the theory of legal protection and the theory of legal certainty, which together supply the criteria for assessing whether the outcome in the case can be reconciled with existing knowledge or instead exposes its limits.

II. Literature Review and Hypothesis Development

The literature on witness protection and cooperating witnesses in Indonesia has grown considerably, yet it remains fragmented across doctrinal, comparative, and case-based studies. This section situates the present research within that body of knowledge, identifies the relevant theories, and develops the analytical propositions that guide the inquiry. Because the study is doctrinal rather than empirical, the propositions are framed as reasoned expectations to be tested against the legal materials, not as statistical hypotheses.

2.1 Theory of Legal Protection

The theory of legal protection provides the principal lens for the study. Legal protection is understood as the body of measures through which the dignity and human rights of legal subjects are safeguarded from arbitrary treatment, enabling them to enjoy the rights the law confers (Hadjon, 1987). A widely adopted distinction separates preventive protection, which gives subjects an opportunity to be heard before a definitive governmental decision is taken and thereby aims to avert disputes, from repressive protection, which seeks to resolve disputes once a violation has occurred. In the witness protection context, preventive protection appears in the statutory entitlements that shield a witness in advance, whereas repressive protection appears in the remedies and special treatment that follow once a threat materialises (Amin, 2020). This distinction allows the study to classify the concrete forms of protection extended to a justice collaborator.

2.2 Theory of Legal Certainty and the Rule of Law

The theory of legal certainty complements the protective lens. Legal certainty requires that rules be knowable, consistent, and applied predictably, so that subjects can foresee the consequences of their conduct and be shielded from arbitrariness. Where the governing norm is incomplete, as where a Circular Letter rather than a statute supplies the operative criteria, certainty is placed under strain, and the resulting reliance on judicial discretion must be scrutinised for consistency with the equality principle that characterises a state under the rule of law (Yanti & Mertha, 2020). The interplay between protection and certainty frames the central question of whether conferring justice collaborator status on a perpetrator of an unlisted grave crime can be reconciled with the demands of a rule-of-law order.

2.3 The Concept of Witnesses and the Crown Witness

Under the Criminal Procedure Code, a witness is a person who can give an account relevant to the investigation and trial concerning a criminal matter that the person has personally heard, seen, or experienced, and testimony as evidence is what a witness states in court. The adage *unus testis nullus testis*, reflected in Article 185 paragraph (2), means that the testimony of a single witness is insufficient on its own to establish guilt. Scholars classify witnesses into ordinary and expert witnesses, and further by their status in the offence, including the reporting witness, the witness who is in truth a suspect, and the crown witness (Basuki, 2021). The crown witness, or *saksi mahkota*, is drawn from one of the co-defendants in a jointly committed offence and is presented to help prove the guilt of the others, typically where the cases have been severed and there is a shortage of evidence (Danusubroto & Nelson, 2023). The use of crown witnesses has long been contested. One view permits the practice in the interest of public justice, while another rejects it as contrary to the defendant's human rights and sense of fairness, given the tension with the privilege against self-incrimination (Pratama, Lesmana, & Lestari, 2025). The crown witness is conceptually distinct from the justice collaborator: as the head of the Witness and Victim Protection Agency has observed, whereas the application of the crown witness is seen by some as infringing human rights, the justice collaborator is conceived as a means of upholding human rights in the criminal process, in line with international conventions on the matter (Semendawai, 2016).

2.4 The Justice Collaborator: Regulation and Participation

The justice collaborator is governed principally by Supreme Court Circular Letter Number 4 of 2011 and by Law Number 31 of 2014 amending Law Number 13 of 2006. The Circular Letter requires that the person be one of the perpetrators of a certain crime who admits the offence, is not the main perpetrator, and provides significant testimony, and it permits judges to consider leniency such as a conditional sentence or the lightest custodial penalty among the co-defendants (Asriyani, 2018). Law Number 31 of 2014 defines the cooperating offender as a suspect, defendant, or convict who assists law enforcement in uncovering a crime in the same case, and Article 10A provides for special procedural treatment and rewards, including sentence leniency and, for those already serving sentences, conditional release and additional remission (Aryani & Triwanto, 2020). The institution presupposes participation, or *deelneming*, under Articles 55 and 56 of the Criminal Code, since a cooperating witness can only emerge where the offence was committed by several persons acting together (Widowaty et al., 2023).

2.5 State of the Art and Research Gap

Prior studies have examined the role of the justice collaborator in disclosing organised crime, particularly corruption and narcotics offences, and have generally concluded that the institution strengthens the gathering of evidence while exposing the cooperating witness to significant risk (Thalib, Rahman, & Semendawai, 2017; Saragih, 2023). Others have analysed the human rights dimension and the need for clearer criteria (Semendawai, 2016; Sholecha, Saiful, Yunika, Hariyanto, & Unsil, 2023), and a smaller but growing set has addressed the Eliezer case directly, observing that, on the literal terms of the Circular Letter, a perpetrator of premeditated murder should not qualify, yet the court accepted the status by invoking the life-threatening situation contemplated in Law Number 31 of 2014 (Wahyuni, Fauzi, & Salsabila, 2023; Sugiarto et al., 2023; Chairani et al., 2024). The gap that remains is an integrated doctrinal account that connects the contested legal standing of such a designation to the concrete forms of protection the regime provides, evaluated through the combined lenses of legal protection and legal certainty. The present study addresses that gap. On this basis, the study advances the following analytical propositions.

- P1: The legal standing of witness protection for a justice collaborator in the Richard Eliezer case rests not on an explicit statutory authorisation for premeditated murder but on judicial discretion that bridges a gap left by the prevailing instruments.*
- P2: The forms of legal protection for witnesses under Law Number 31 of 2014 extend to a cooperating perpetrator through physical and psychological protection, legal immunity, special procedural treatment, and rewards administered by the Witness and Victim Protection Agency.*
- P3: The Supreme Court Circular Letter functions as organic regulation that fills a legal vacuum concerning the justice collaborator, which in turn signals the need to elevate its criteria into statute to secure legal certainty.*

The relationships among the phenomenon, the governing instruments, the analytical mechanisms, and the theoretical lens are summarised in the conceptual framework below.

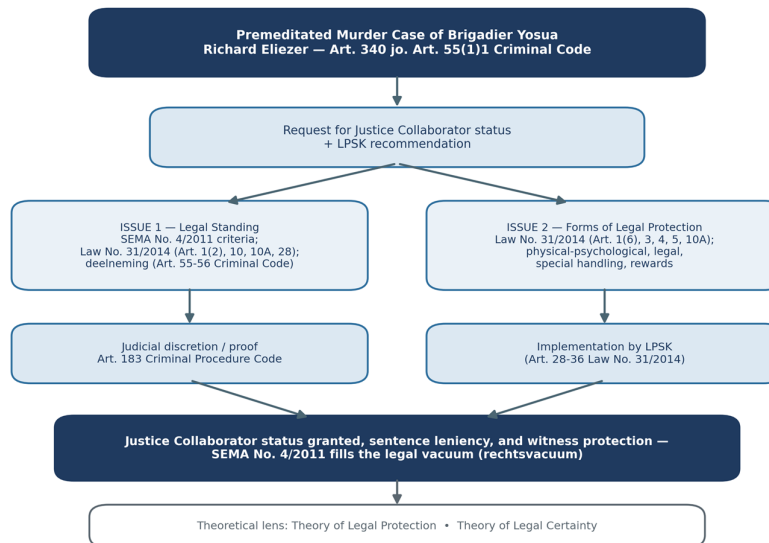


Figure 1. Conceptual Framework

III. Research Method

This study employs normative juridical research, an approach that resolves legal problems by means of a critical and in-depth examination of legal literature and documents relevant to the issue under study. Normative legal research treats law as a system of norms found in legislation, legal principles, doctrine, and judicial decisions, and it is appropriate where the object of inquiry is the meaning and application of positive law rather than its social effects (Marzuki, 2015). The choice of method follows directly from the research aims, which call for the interpretation of statutory provisions and the assessment of a judicial decision rather than the measurement of behaviour. Three approaches are combined. The statute approach is used to examine the relevant legislation as an internally coherent system, including the 1945 Constitution, the Criminal Code, the Criminal Procedure Code, Law Number 31 of 2014 on the Protection of Witnesses and Victims, and Supreme Court Circular Letter Number 4 of 2011. The case approach is used to analyse the South Jakarta District Court ruling concerning Richard Eliezer, in order to understand the *ratio decidendi* by which justice collaborator status was conferred. The analytical and conceptual approach is used to clarify the meaning of the legal terms employed, such as “not the main perpetrator” and “certain crimes,” and to assess their application in practice.

The legal materials are of three kinds. Primary legal materials comprise binding instruments, namely the 1945 Constitution, the Criminal Code, the Criminal Procedure Code, Law Number 31 of 2014, the Supreme Court Circular Letter Number 4 of 2011, and the relevant court ruling. Secondary legal materials comprise textbooks, scholarly articles, and research findings that explain the primary materials. Tertiary legal materials comprise legal dictionaries and the standard dictionary of the Indonesian language, which provide guidance on the meaning of terms. The materials were collected through documentary study, by tracing, citing, and paraphrasing relevant statutes, decisions, and literature, after which they were inventoried, classified according to the research questions, and systematised for analysis. Analysis proceeds by deductive logic. Following the syllogistic method, a general premise drawn from the applicable norms is combined with a specific premise drawn from the facts of the case to yield a conclusion concerning the legal standing and the forms of protection at issue. The analysis is prescriptive in orientation, aiming not merely to describe the law but to evaluate whether the outcome in the case can be justified in terms of the theories of legal protection and legal certainty and to identify the reforms that the analysis implies.

IV. Result and Discussion

4.1. Legal Standing of Witness Protection for the Justice Collaborator in the Richard Eliezer Case

The analysis of the first problem begins with the evidentiary position of the witness. Under Article 1 sub-paragraph 27 and Article 185 of the Criminal Procedure Code, testimony as evidence is confined to what the witness has personally heard, seen, or experienced, supported by a logical basis of knowledge; mere opinion or conjecture does not qualify. Because a single witness is insufficient under the *unus testis nullus testis* principle, the quality and corroboration of testimony are decisive, and witness testimony commonly serves as the gateway to other evidence (Tabah, 2021). Against this baseline, the law recognises that certain actors beyond ordinary witnesses and victims contribute decisively to the disclosure of particular crimes, among them the cooperating offender, the whistleblower, and the expert, as acknowledged in the Elucidation of Law Number 31 of 2014. The legal basis for the justice collaborator is layered. Article 10 of the Witness and Victim Protection Law provides that a witness who is also a suspect in the same case cannot be released from criminal liability if proven guilty, but that the testimony may be considered by the judge in mitigating the penalty. Article 28 conditions protection on the person not being the main perpetrator of the offence disclosed. Earlier, the Supreme Court Circular Letter Number 4 of 2011 had set out, as a requirement for justice collaborator status, that the person be one of the perpetrators of a certain crime, admit the offence, not be its main perpetrator, and give significant testimony in the proceedings (Asriyani, 2018). The institution presupposes participation under Articles 55 and 56 of the Criminal Code, so that it can arise only where the offence was committed jointly (Widowaty et al., 2023).

Applying these norms to the case, the facts established at trial were that Richard Eliezer repeatedly fired at the victim, causing death, and that he did so on the erroneous command of his superior. He was charged with premeditated murder under Article 340 in conjunction with Article 55 paragraph (1) sub-paragraph 1 of the Criminal Code, and the prosecution sought a custodial term of twelve years. His counsel, supported by a recommendation from the Witness and Victim Protection Agency, applied for justice collaborator status, and the panel of the South Jakarta District Court accepted it, ultimately imposing a markedly lighter sentence of one year and six months (Wahyuni, Fauzi, & Salsabila, 2023). The cooperation Eliezer provided exposed him to a potential threat to his life, given that the principal actor and other defendants were themselves powerful figures within the police, which is the very situation the protection regime is designed to address. The doctrinal difficulty is now apparent. On a literal reading, the Circular Letter enumerates corruption, narcotics, money laundering, trafficking, and other organised crimes, and does not expressly include premeditated murder; the Criminal Code, for its part, does not define “not the main perpetrator” (Sugiarto et al., 2023). A strict textualist would therefore conclude that a direct shooter in a planned killing falls outside the institution’s intended scope (Chairani et al., 2024). The court resolved the difficulty by reading the case into the residual category of “other crimes that place the witness or victim in a situation that gravely endangers life,” contemplated in the Elucidation of Article 5 paragraph (2) of Law Number 31 of 2014, and by treating cooperation as a mitigating circumstance rather than a ground for excluding liability.

Evaluated through the lens of legal certainty, this reasoning reveals both a strength and a weakness. Its strength is that it gives effect to the protective purpose of the regime and avoids the perverse result of denying protection to a cooperating witness whose life is genuinely at risk. Its weakness is that it rests on judicial discretion to extend an institution beyond the offences its operative instrument enumerates, which a rule-of-law order tolerates only uneasily where the governing criteria are supplied by a Circular Letter rather than a statute (Yanti & Mertha, 2020). The determination of who is “not the main perpetrator” was likewise left to the court, which found that Eliezer did not desire the killing, lacked the capacity to plan it, and had no prior conflict with the victim, and on that basis treated him as qualifying despite his role as the shooter. This confirms Proposition P1: the legal standing of the protection conferred rested on judicial discretion bridging a statutory gap rather than on an explicit authorisation. A further dimension that informs the assessment of relative culpability is the surrounding conduct of the principal actors. The disclosure made possible by Eliezer’s cooperation also brought to light attempts to obstruct justice, including the engineering of the crime scene and efforts to conceal evidence, which underscores why the regime treats insider testimony as exceptionally

valuable in cases dominated by powerful participants (Yusuf, 2023). The point is not that cooperation erases the gravity of taking a life; the court was careful to affirm that justice collaborator status does not extinguish criminal liability. Rather, the point is that cooperation alters the calculus of sentencing and protection, because the social value of disclosure and the personal risk assumed by the cooperating witness are weighed against the seriousness of the offence. In this sense, the case illustrates a broader doctrinal proposition that the qualification of a cooperating witness in a grave crime is best understood as a structured exercise of discretion guided by the protective purpose of the statute rather than as a mechanical application of an enumerated list (Romdoni & Bakar, 2022).

Comparative perspective sharpens the point. Whereas in the Netherlands the cooperating witness operates through an agreement between the prosecutor and the accused, in Indonesia the analogous figure has historically been presented by the prosecutor to remedy a shortage of evidence, and the regulatory architecture remains less settled (Danusubroto & Nelson, 2023). The Eliezer case demonstrates that, in practice, the standing of a cooperating perpetrator is determined less by the enumerated categories than by a contextual judicial assessment of cooperation, risk, and relative culpability. The judge's ultimate consideration was consistent with Article 183 of the Criminal Procedure Code, which permits conviction only on at least two lawful items of evidence accompanied by judicial conviction, since Eliezer's account aligned with the other testimony and evidence in disclosing the case. The criteria that emerge from the case for qualifying a person as a justice collaborator in a premeditated murder prosecution may therefore be synthesised as follows: the person is one of the perpetrators of a certain crime; the person is not its main perpetrator; the person is cooperative and admits the conduct during trial; the person provides significant assistance and evidence to law enforcement; and the prosecution acknowledges in its indictment that the testimony was significant in enabling the effective disclosure of the offence.

4.2. Forms of Legal Protection for Witnesses Under Law Number 31 of 2014

Turning to the second problem, the protection afforded by the State is fundamentally protection against threats capable of disturbing the witness's peace and security. Article 1 sub-paragraph 6 of Law Number 31 of 2014 defines protection as all efforts to fulfil rights and to provide assistance for the safety of witnesses and victims, which the Witness and Victim Protection Agency or other institutions are obliged to carry out; Article 1 sub-paragraph 4 defines a threat broadly as any act, direct or indirect, that causes a witness or victim to feel afraid or to be coerced in relation to giving testimony (Sholecha et al., 2023). The statute applies at every stage of the criminal process, rests on the principles of respect for human dignity, security, justice, non-discrimination, and legal certainty under Article 3, and pursues the aim of giving witnesses and victims a sense of security in testifying under Article 4. The catalogue of rights in Article 5 gives content to this protection. It includes protection of personal, family, and property security and freedom from threats connected to the testimony; participation in choosing the form of protection; the freedom to testify without pressure; access to an interpreter; freedom from entrapping questions; information on the progress of the case and on the judgment; notification where a convict is released; and, in appropriate cases, a new identity, relocation, reimbursement of transport costs, legal advice, and temporary living assistance. These entitlements are extended to witnesses and victims of certain crimes in accordance with a decision of the protection agency, and they may be activated from the investigation stage onward under Article 8 (Sholecha et al., 2023).

For the cooperating offender specifically, the protection takes four recognisable forms. The first is physical and psychological protection, comprising the safety of the person and freedom from threats and pressure. The second is legal protection, including the immunity in Article 10 under which a witness, victim, or reporter cannot be sued or prosecuted for testimony given in good faith, subject to the qualification that a witness who is also a suspect is not freed from liability but may receive a mitigated penalty. The third is special procedural treatment in the examination process. The fourth is the reward contemplated in Article 10A, namely leniency in sentencing or, for those already convicted, conditional release and additional remission (Aryani & Triwanto, 2020). Where a cooperating witness faces a grave threat under Article 9, testimony may be given without appearing physically in court, in writing before an authorised official, or through electronic means. The procedural architecture in Articles 28 to 36 operationalises these forms. Article 28 makes

protection depend on the importance of the testimony, the level of threat, the assessment of medical or psychological teams, and the witness's criminal record. Article 29 prescribes a written application to the protection agency, prompt examination, and a written decision within seven days. Article 30 requires the witness to sign an undertaking to testify and to observe the conditions of protection, after which Article 31 obliges the agency to extend full protection, including to the family. Articles 32 to 36 govern the cessation of protection, the provision of assistance on written request, and inter-agency cooperation in implementation. In the Eliezer case these forms converged: the agency's recommendation supported the application, the cooperation was treated as significant, and the reward of sentence leniency was realised, which substantiates Proposition P2.

Measured against international standards, the Indonesian arrangement is broadly consistent in substance but uneven in reach. Comparative and reform-oriented scholarship observes that effective witness and cooperating-witness protection depends not only on the existence of rights on paper but on institutional capacity to deliver them, including secure relocation, sustained psychosocial support, and credible guarantees of confidentiality (Hudiarini, Hadiwinata, Chalim, & Muslim, 2023). The Indonesian catalogue of rights compares favourably with these benchmarks, yet its activation is conditioned on a decision of the protection agency and confined in practice to certain crimes, which leaves discretionary space at the very margin where grave but unlisted offences arise. This is the same discretionary space identified in the analysis of the first problem, confirming that the questions of standing and of protection are two faces of a single structural feature of the regime. Read through the theory of legal protection, the regime exhibits both preventive and repressive dimensions. Preventive protection is found in the advance entitlements that shield the witness before any harm occurs, while repressive protection is found in the remedial and special treatment triggered once a threat materialises (Amin, 2020). The accompanying principles of legality, protection, legal certainty, and justice supply the normative justification for extending these measures to a cooperating perpetrator, balancing the binding and generalising character of law against the individualised demands of justice. At the same time, the analysis confirms Proposition P3: the Supreme Court Circular Letter operates as an organic instrument that fills the legal vacuum, the *rechtsvacuum*, concerning the cooperating witness, so that the figure can function in practice; but reliance on a sub-statutory instrument to define eligibility for protection in grave cases is a fragile foundation for legal certainty. The literature converges on the assessment that implementation remains less than optimal, hampered by the centralisation of the protection agency and by the limited reach of the statutory framework, which directly constrains the agency's performance (Sholecha et al., 2023; Saragih, 2023).

V. Conclusion

The study set out to analyse the legal standing of witness protection for a justice collaborator in relation to the prevailing legislation in the Richard Eliezer case and to explain the forms of legal protection for witnesses under Law Number 31 of 2014. On the first question, the analysis shows that the criteria by which a person may qualify as a justice collaborator in a premeditated murder prosecution are that the person is one of the perpetrators of a certain crime, is not its main perpetrator, is cooperative and admits the conduct at trial, provides significant assistance and evidence to law enforcement, and is acknowledged by the prosecution to have given significant testimony enabling effective disclosure of the offence. The standing of the protection conferred on Eliezer rested on judicial discretion that read the case into the life-threatening residual category of Law Number 31 of 2014 and treated cooperation as a mitigating circumstance under Article 183 of the Criminal Procedure Code, rather than on any explicit statutory authorisation for murder. On the second question, the analysis shows that Law Number 31 of 2014 affords witnesses, including cooperating perpetrators, physical and psychological protection, legal protection, special procedural treatment, and rewards, administered by the Witness and Victim Protection Agency, with the Supreme Court Circular Letter functioning as organic regulation that fills a legal vacuum so that the institution can operate.

Theoretically, the study contributes to the doctrine of the justice collaborator by demonstrating how judicial discretion functions as a gap-filling mechanism where the operative criteria are supplied by a sub-statutory instrument. It refines the concept of legal standing for a cooperating perpetrator by showing that, in hard cases, standing is determined less by the enumerated categories of the Circular Letter than by a

contextual assessment of cooperation, relative culpability, and risk, evaluated against the residual life-threatening category of the statute. In doing so it brings the theory of legal protection and the theory of legal certainty into productive tension, indicating that the protective purpose of the regime can be honoured only at some cost to certainty so long as eligibility for grave cases is governed by organic rather than statutory rules.

Practically, the study supports a limited revision of the witness protection legislation to elevate the justice collaborator criteria, including a workable definition of “not the main perpetrator,” from the Circular Letter into statute, thereby securing legal certainty for grave offences such as premeditated murder. It further supports expanding the mandate of the Witness and Victim Protection Agency to all criminal offences, strengthening its presence in the regions rather than concentrating it in the capital, and clarifying its accountability, so that the protection of witnesses and the disclosure of crime can proceed proportionally and effectively within the criminal justice system. To preserve the credibility of cooperating witnesses, the agency should also act more assertively in safeguarding their security and capacity throughout the process.

References

- Amin, R. (2020). Analisis perlindungan hukum saksi pelaku yang bekerjasama (justice collaborator) perkara tindak pidana narkoba dalam sistem peradilan pidana di Indonesia. *Jurnal Hukum Sasana*, 6(2), 191–206. <https://doi.org/10.31599/sasana.v6i2.271>
- Ardi, M. K., Kamil, M. I., Triasari, D., & Rahmat, D. (2023). The imperative is to restrict customary criminal offenses after implementing Indonesia’s new criminal code. *Wacana Hukum*, 29(2), 130–145. <https://doi.org/10.33061/wh.v29i2.9829>
- Aryani, E., & Triwanto. (2020). The urgency of granting authority to assess corruption justice collaborators. *Jurnal Bestuur*, 8(1), 60–69. <https://doi.org/10.20961/bestuur.v8i1.42720>
- Asriyani, A. (2018). Legal protection of a witness cooperating offender (justice collaborator) in exposing the criminal acts of corruption. *IOSR Journal of Humanities and Social Science*, 23(2), 47–56. <https://doi.org/10.9790/0837-2302124756>
- Basuki, P. F. S. (2021). Keterangan saksi dengan gangguan jiwa sebagai alat bukti di pengadilan. *Jurist-Diction*, 4(5), 1937–1952. <https://doi.org/10.20473/jd.v4i5.29827>
- Chairani, M. A., Islami, T. A., Pradhana, A. P., & Sirichai, T. (2024). Understanding the legal construction of justice collaborators through the Bharada Elizer case. *Wacana Hukum*, 30(1), 1–16. <https://ejurnal.unisri.ac.id/index.php/Wacana/article/view/9828>
- Danusubroto, A. S., & Nelson, F. M. (2023). Konsep pengaturan saksi mahkota dalam proses peradilan: Suatu perbandingan dalam hukum acara pidana Indonesia dan Belanda. *Nagari Law Review*, 7(2), 241–252. <https://doi.org/10.25077/nalrev.v7.i2.p.241-252.2023>
- Hadjon, P. M. (1987). *Perlindungan hukum bagi rakyat di Indonesia*. Bina Ilmu.
- Hudiarini, S., Hadiwinata, K., Chalim, A., & Muslim, S. (2023). Legal protection of whistleblower and justice collaborator against corruption in Indonesia. *Justice Law Review Journal*, 2(2), 101–113.
- Jayadi, A. (2020). Perlindungan hukum terhadap saksi. *El-Iqtishady: Jurnal Hukum Ekonomi Syariah*, 2(1), 130–141.
- Law of the Republic of Indonesia Number 1 of 1946 on the Criminal Code (KUHP).
- Law of the Republic of Indonesia Number 8 of 1981 on the Criminal Procedure Code (KUHP).

- Law of the Republic of Indonesia Number 13 of 2006 on the Protection of Witnesses and Victims.
- Law of the Republic of Indonesia Number 31 of 2014 on the Amendment to Law Number 13 of 2006 on the Protection of Witnesses and Victims.
- Marpaung, L. (2005). *Asas-teori-praktik hukum pidana* (2nd ed.). Sinar Grafika.
- Marzuki, P. M. (2015). *Penelitian hukum* (Rev. ed.). Kencana Prenada Media Group.
- Pratama, A. A., Lesmana, S. J., & Lestari, T. A. (2025). Juridical analysis of the position of crown witness for the crime of theft in the criminal procedure law (Study of Decision Number 263/Pid.B/2019/PN.Tng.). *The International Journal of Law Review and State Administration*, 3(1), 10–18. <https://doi.org/10.58818/ijlrsv3i1.186>
- Romdoni, M., & Bakar, A. P. A. (2022). The role of the justice collaborator in a premeditated murder crime. *Legal Brief*, 12(5), 3033–3041.
- Saragih, R. (2023). Justice collaborator in the perspective of Indonesian criminal law. *Advances in Social Sciences Research Journal*, 10(8), 220–227. <https://doi.org/10.14738/assrj.108.15304>
- Semendawai, A. H. (2016). Penetapan status justice collaborator bagi tersangka atau terdakwa dalam perspektif hak asasi manusia. *PADJADJARAN Jurnal Ilmu Hukum*, 3(3), 468–490. <https://doi.org/10.22304/pjih.v3.n3.a2>
- Sholecha, E. M., Saiful, A., Yunika, S., Hariyanto, H., & Unsil, N. (2023). Justice collaborator's position and function on witness protection's rights as a suspect from the perspective of criminal law in Indonesia. *Volkgeist: Jurnal Ilmu Hukum dan Konstitusi*, 6(1), 1–16. <https://ejournal.uinsaizu.ac.id/index.php/volkgeist/article/view/7246>
- Sugiarto, T., Purwanto, P., Sunarlin, E., Setyagama, A., & Susilo, W. (2023). Pembunuhan berencana dalam Pasal 340 KUHP dalam perspektif justice collaborator. *Al-Qanun: Jurnal Pemikiran dan Pembaharuan Hukum Islam*, 26(1), 121–136. <https://doi.org/10.15642/alqanun.2023.26.1.121-136>
- Supreme Court Circular Letter (SEMA) Number 4 of 2011 on the Treatment of Criminal Offence Reporters (Whistleblowers) and Cooperating Witnesses (Justice Collaborators) in Certain Criminal Cases.
- Tabah, M. J. (2021). Kekuatan pembuktian berita acara pemeriksaan saksi sebagai alat bukti dalam persidangan. *Syntax Literate: Jurnal Ilmiah Indonesia*, 6(2), 1011–1024. <https://doi.org/10.36418/syntax-literate.v6i2.2240>
- Thalib, H., Rahman, S., & Semendawai, A. H. (2017). The role of justice collaborator in uncovering criminal cases in Indonesia. *Diponegoro Law Review*, 2(1), 27–39. <https://doi.org/10.14710/dilrev.2.1.2017.27-39>
- The 1945 Constitution of the Republic of Indonesia.
- Wahyuni, S., Fauzi, E., & Salsabila, K. (2023). The position and urgency of the justice collaborator in the crime of shooting by Richard Eliezer (Ruling Number: 798/Pid.B/2022/PN.Jkt.Sel). *Jurnal Ilmiah Ekotrans & Erudisi*, 3(2), 53–62. <https://doi.org/10.69989/xdzz1p20>
- Widowaty, Y., Purwanto, H., Savitri, N., Setiawan, A., Mutiarin, D., Alam, M., Cahill, D., Sharifuddin, J., Senge, M., Robani, A., Saiyut, P., & Nurmandi, A. (2023). Reconstruction of legal protection of justice collaborators in narcotic criminal cases. *E3S Web of Conferences*, 440, 04017. <https://doi.org/10.1051/e3sconf/202344004017>
- Yanti, N. K. D., & Mertha, I. K. (2020). Eksistensi saksi mahkota dalam proses peradilan pidana di Indonesia berdasarkan asas non-self incrimination. *Kertha Semaya: Journal Ilmu Hukum*, 8(12), 1928–1941. <https://doi.org/10.24843/KS.2020.v08.i12.p10>
- Yusuf. (2023). Peran Komisi Kepolisian Nasional dalam penegakan kode etik Kepolisian Negara Republik Indonesia. *Fundamental: Jurnal Ilmiah Hukum*, 12(1), 166–188. <https://doi.org/10.34304/jf.v12i1.108>