Efficiency of Justice Collaborator Witnesses with Crown Witnesses in Revealing Corruption Criminal Cases

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Abstract

This research aims to determine the justice collaborator and crown witnesses' efficiency in uncovering criminal corruption cases. Furthermore, this article uses normative methods, library data sources, and relevant regulatory legal documents. The findings in this research are that using crown witnesses in the judicial process is common, but this condition does not mean that the public prosecutor can present crown witnesses in court. The use of crown witnesses with a mechanism (splitting) in the evidentiary process in court is contrary to the principle of non-self-discrimination, which is implicitly partially reflected in several articles, namely Article 66 of the Criminal Procedure Code, which states that there is no burden of proof for the defendant (the burden of proof is the responsibility of the public prosecutor). Crown witnesses are also an essential tool in fighting organized crime in cases of criminal acts of corruption. As an insider who is part of the environment where the information he leaked, he understands very well what and how the crime method is, which has been neatly wrapped up and kept secret from the public and law enforcement.

I. Introduction

The criminal justice system (SPP) has now become a guideline that shows the working mechanism for dealing with crime using a basic systems approach. Corruption is a crime that is difficult to eradicate because perpetrators of corruption usually have different economic and political positions (Mulyadi, 2014). strong, so that criminal acts of corruption are classified as white-collar crimes, such as business, financial crimes, official crimes, and abuse of power. As a legal state, Indonesia has several types of laws

to regulate the actions of its citizens, including criminal law (Widowaty et al., 2023). This criminal law is very closely related to criminal procedural law, which regulates how the state exercises its right to punish criminal cases (formal criminal law). As is well known, to examine criminal acts, the law gives law enforcers the authority to carry out criminal law enforcement processes as regulated in Indonesian procedural law (Chandra & Sriwidodo, 2023).

The defendant's role as a witness as part of a crime incident is considered to have the potential to uncover more significant crimes. This occurs when a crime involving several perpetrators is committed together (Rotua et al., 2021). He can provide substantial evidence regarding who was involved, what role each perpetrator played, how the crime was committed, and where other evidence can be found (Lintang & Nugroho, 2022a). So that the defendant as a witness is willing to cooperate in disclosing a case, public prosecutors use legal instruments contained in the Criminal Procedure Code (KUHAP). In Indonesia, insiders can be used as witnesses for perpetrators who commit crimes together with the authority of the public prosecutor to prosecute both perpetrators and witnesses with different case files. This research aims to determine the position of crown witnesses in Indonesia and reveal the veil of crime to find out how crown witnesses operate in criminal justice practices in Indonesia. Valid evidence according to Article 184 paragraph (1) of the Indonesian Criminal Procedure Code (KUHAP) is 1 . witness statements; 2. expert information (Suhendar, 2021).

Often, in various evidentiary trials in criminal cases, evidence appears called crown witnesses. The term crown witness is not explicitly mentioned in the Criminal Procedure Code. Crown witness evidence can only be seen in criminal cases through participation. Then, criminal cases are separated during the preliminary examination process of the case at the investigation level (Bunga et al., 2020). In handling cases, problems arise if there is an allegation that several perpetrators have committed a criminal act. Still, there are no witnesses who saw and heard directly when the crime was committed, so the perpetrator himself is the one who knows. Best about the incident, so effort is needed. Proof by dividing the case so that there is evidence of witness statements and has the power of proof as specified in Article 185 paragraph (2) of the Criminal Procedure Code. Witnesses alone are not enough to prove that the defendant is guilty of committing a crime, so one perpetrator can witness the crime—other perpetrators (Amin, 2017).

Therefore, in its development, the use of crown witnesses as evidence in criminal cases is not permitted because it conflicts with the defendant's human rights as regulated in the provisions of the Criminal Procedure Code as a national legal instrument and the International Covenant on Civil and Political Affairs. Human Rights (ICCPR) as a human rights instrument. International man is included as an instrument for assessing the application of fair trial principles. The position of crown witness in criminal cases is a powerful evidentiary tool for uncovering organized crime, whether in the form of scandalous or severe crimes in criminal acts. Later in its development, a review of understanding (recognize) regarding crown witnesses as evidence in criminal cases is regulated in the Supreme Court Jurisprudence (Ali Asgar et al., 2021). Second, crown witnesses are witnesses who are also perpetrators of criminal acts who reveal criminal acts, such as the legal problems currently occurring in Indonesia, where the existence of crown witnesses has become a long debate that is difficult to resolve due to various

assumptions from various parties and various circles (Siregar & Sitorus, 2022).

On the other hand, crown witnesses have the potential power to uncover crimes. Moreover, crimes involve several perpetrators who have established strong ties with each other and are closed, either through personal connections, business connections, or professional associations, such as criminal acts of corruption. Bonds like this often provide benefits that cause the perpetrators to unite to face investigations or possible lawsuits to protect their interests (Gunawan & Karawang, 2019). Due to the nature of organized crime and white-collar crime, these cases are more challenging to prove than other criminal cases. There is evidence called a crown witness, especially in corruption cases, where one or more suspects or other defendants together commit a crime, and in this case, the witness is given a crown. According to Loebby Loqman, what is meant by a crown witness is the testimony of fellow defendants, which usually occurs in inclusion incidents (Pratama & Apriani, 2022). Based on the background description above, this research analyzes justice collaborators' and crown witnesses' efficiency in uncovering criminal corruption cases.

2. Research Method

The method used is juridical-normative. Juridical-normative research is a form of scientific research activity that uses library and conceptual materials, primary legal materials, and the collection of legal materials, which is carried out using document study techniques (Marfuatun, 2018). related to the efficiency of justice collaborator witnesses and the approach used is the Statutory Approach, namely an approach used to study and analyze all statutory regulations related to the problem of efficiency of justice collaborator witnesses being handled and the Conceptual Approach (Conceptual Approach), namely the approach that explore and understand theoretical concepts as a doctrine developed and recognized by academic experts in the form of legal theory and matters related to the object under study (Fakultas et al., 2017).

The processing and analysis method used in this research is qualitative, namely a descriptive data analysis method that refers to a particular problem linked to legal experts' opinions and is based on applicable laws and regulations. Based on the objectives to be achieved in this research, it is a descriptive analysis, meaning that the results of this research attempt to provide a comprehensive and in-depth picture of a situation or symptom being studied (Sholecha et al., 2023).

3. Results and Discussion

Article 2 of Law Number 31 of 1999 states that corruption is an act of enriching oneself or another person or a corporation, violates the law, and can harm the country's finances or economy. Meanwhile, in the preamble to Law Number 20 of 2001 as a revision of Law Number 31 of 1999 concerning the eradication of criminal acts of corruption, it is written that corruption not only harms state finances but also violates the social and economic rights of the community public (Purnamawati et al., 2022). Apart from that, the consideration of the United Nations Concentration Against Corruption (UNCAC) in 2003, ratified through Law Number 7 of 2006, emphasized that corruption as an extraordinary crime must be fought because it

significantly impacts the country's life. So, its eradication must be unusual (Muzaki, 2023).

Corruption cases in Indonesia are a problem that often haunts and has become a culture in government circles and among the public, especially officials. This problem is no longer foreign and has become a polemic for law enforcers in Indonesia. Corruption is a grave matter and should not be carried out because it endangers the stability and security of the state and society and can even damage democratic values and national morality because it has negative impacts. On civilization (Achmad & Taun, 2022). criminal acts of corruption. What makes corrupt behavior and actions worse is the environmental indifference towards these practices. People who know about corrupt practices that occur around them often ignore them. Corruption contains the meaning of an act carried out to provide indirect benefits to the rights of another party, abusing one's position or character to obtain benefits for oneself or others, contrary to one's obligations and the rights of other parties. This neglect and indifference have resulted in many secret movements to cover up corrupt practices for personal gain (Afif et al., 2018).

Handling criminal acts of corruption as a particular criminal act has its judicial system called the Corruption Crime Court. This court was formed so that the panel of judges handling corruption cases could be more intensive and focused on formulating and giving maximum sentences to perpetrators of criminal acts of corruption (Cahyono et al., 2023). The existence of the Corruption Court is based on the spirit of legal reform in law enforcement and eradicating criminal acts of corruption. As part of the Corruption Court, the Corruption Court is a state institution that, in carrying out its duties and authority in criminal law enforcement, especially corruption crimes, does not depend on the influence or interference of any party. The use of Justice Collaborator in criminal justice is a form of extraordinary effort that can be used to eradicate criminal acts of corruption involving the perpetrators of the criminal acts themselves, where the perpetrators are willing to cooperate with law enforcement officials in uncovering criminal acts of bribery (Sugiri et al., 2021).

Realizing that corruption is a structured crime and can be analogous to an interrelated chain, it does not rule out the possibility that there are people who work together in this crime structure who do not want the crime of corruption to occur (Tarmudi & Malinim, 2023). However, they are forced to enter the system due to pressure or threats from superiors or authorities. This is where the role of cooperating witnesses (Justice Collaborator) becomes essential and helps law enforcement officials dismantle corrupt mafia syndicates in corruption cases in Indonesia. It is hoped that a justice collaborator can assist in making a criminal decision. However, he cannot escape criminal charges if proven guilty legally and convincingly, but his information can be used as material for the judge to consider in mitigating the sentence. Punishment imposed (Diyan Pratama, 2023). Thus, to create justice and equality in the eyes of the law, even if a Justice Collaborator has assisted the authorities and returned assets resulting from certain criminal acts such as corruption, money laundering, etc., he will still be sentenced to prison. terms (Chandra & Sriwidodo, 2023).

Apart from that, the existence of the Justice Collaborator is also supported by

a Joint Regulation signed by the Minister of Law and Human Rights, the Attorney General, the National Police Chief, the Corruption Eradication Commission, and the Chair of the LPSK regarding protection for whistleblowers. Reporter and Justice Collaborator. Almost the same as the provisions in Article 37 UNCAC 2003, namely Article 26 of the United Nations Convention Against Transnational Organized Crime 2000, which was ratified by Law Number 5 of 2009. The criteria for becoming a JC are stated in SEMA No.4 of 2011 in Figures (9a) and (b), as well as information from the Ministry of Law and Human Rights used in uncovering extraordinary/organized criminal acts, JC is not the main perpetrator, the information provided by the perpetrator must be significant, relevant and reliable, the perpetrator admits the actions he has committed accompanied by a willingness to return the property he obtained with a written statement, willing cooperate and cooperate with law enforcement (Lintang & Nugroho, 2022a).

Law Number 13 of 2006 concerning Protection of Witnesses and Victims regulates that a witness who is also a suspect in the same case cannot be released from criminal charges if he is legally and convincingly proven guilty, but his statement can be used as material for consideration by the judge—the judge in mitigating the sentence to be imposed as intended in Article 10 paragraph (2). The Witness and Victim Protection Agency (from now on referred to as LPSK), in its written statement at the material review hearing at the Constitutional Court on September 1, 2010, stated that witnesses who are also suspects in the same case as intended in Article 10 paragraph (2) are generally known as crown witnesses, collaborator witnesses, legal collaborators, state witnesses, supergrass and researchers (in Italian meaning "those who have repented"), or minor perpetrators (Suhendar, 2021).

According to R. Soesilo, a crown witness is a witness presented by several defendants or one defendant to prove the guilt of the defendant being charged; Crown witnesses can be acquitted of criminal charges or then charged separately depending on the discretion of the public prosecutor concerned (Hudiarini et al., 2020). Lilik Mulyadi has his definition of a crown witness, namely a witness who comes from or is taken from one of the suspects or other defendants who together committed a crime. In this case, the witness is given a crown: the crown is given to a witness who has the status of a defendant in the form of dismissal of the case. or forgiven for the mistakes they have made (Bunga et al., 2020).

However, a crown witness is also an essential tool in fighting organized crime, such as alleged criminal acts of corruption. As an insider who is part of the environment where the information he leaked, he understands very well what and how the crime method is, which has been neatly wrapped up and kept secret from the public and law enforcement. In Indonesian laws and regulations, crown witnesses are often equated with whistleblowers (Fauzia & Hamdani, 2019). In practice, a distinction is made between crown witnesses and reporters and informants. The main difference is that crown witnesses will not give their testimony before the court (court), so if they give their testimony before the court, their status becomes a witness (Amin, 2017).

The mechanism of the trial is that the crown witness is sworn in first before

giving testimony, just like other witnesses. Based on this, the information the crown witness provides is of the same value as that ordinary witnesses offer. Crown witness testimony has independent evidentiary value, in the sense that the judge is free to determine the truth contained in the testimony and is free to use it as evidence (Ali Asgar et al., 2021). As stated, he was under oath when the crown witness testified at the trial. The consequence of violating this oath is that the defendant will be charged or threatened with a new charge in the form of the crime of false testimony as regulated in Article 242 of the Criminal Code. The defendant will experience psychological pressure as a result of the oath taken when giving testimony as a crown witness. He no longer has the right to refuse as when he was in the position of defendant. The public prosecutor will likely use the information he provides as a witness to ensnare him in a trial where he sits as a defendant (Siregar & Sitorus, 2022).

Crime of any type and form, from street crimes such as murder, robbery, and assault to what is known as white collar crime or what is known as white collar crime such as corruption and so on, always causes a strong reaction from society towards it. (Hutahaean & Indarti, 2018). The meaning of crime, as seen from a formal point of view (according to law), is an act sanctioned by the state. In practice, a witness who is also a perpetrator in the same case is called a crown witness. We often hear news about crown witnesses in various print and electronic media. One report states that the crown witness is a witness who also has the suspect status. A witness's ability to provide testimony in the judicial process or cooperate with law enforcement is essential in uncovering or unmasking a crime (Gunawan & Karawang, 2019).

As witness evidence according to the Criminal Procedure Code, a crown witness has the same evidentiary strength as a witness's evidence in general; the strength of the crown witness's evidence lies in his oath, even though the information given is not accurate (false testimony), if the statement is not correct then there is a criminal threat to the culprit. The use of crown witnesses has not been expressly regulated in the current regulations, but several rules indirectly restrict the presence of crown witnesses, including:

1. Article 17 of Law No. 39 of 1999 concerning Human Rights;
2. Article 10 letter a Law Number 31 of 2014 concerning the Protection of Witnesses and Victims;
3. Decree of the Minister of Justice of the Republic of Indonesia Number M.01.PW.07.03.THE 1982;
4. Jurisprudence of Supreme Court Decisions (One of which is Supreme Court Decision No. 1986 K/Pid/1989 dated 21 March 1990, Supreme Court of the Republic of Indonesia Number 1174 K/Pid/1994 dated 3 May 1995, Jurisprudence of the Supreme Court of the Republic of Indonesia Number 1952 K /Pid/1994 dated 29 April 1995);
5. Article 14 Paragraph (3) letter g Law Number 12 of 2005 concerning Ratification of the International Covenant on Civil and Political Rights (ICCPR);

Crown witnesses emerged and developed in criminal justice practice. Yahya Harahap thinks that with a crown witness, the defendant's statement can be valid

evidence against other defendants. This is done by placing other defendants as witnesses (Sholecha et al., 2023). In the definition of a crown witness, it can be concluded that the requirement for presenting a crown witness must be a criminal act with an element of inclusion. The crown witness appears because no witnesses can be given and brought to testify in a case. However, in its development, using crown witnesses is not permitted and is considered contrary to the Criminal Procedure Code, which upholds it (Rumapea et al., 2020).

Crown witnesses are only available in criminal cases involving participation offenses. Provisions regarding crown witnesses were initially regulated in Article 168 of the Criminal Procedure Code, which explains that parties accused together cannot have their statements heard and can withdraw as witnesses (Rahman et al., 2022). So here, the use of crown witnesses is justified, based on certain principles, namely a) in criminal cases of accomplices, b) lack of evidence, and c) Checked using a separation mechanism. The presence of crown witnesses Susno Duajdji and Agus Condro provides a new and different dimension to law enforcement at the Corruption Eradication Commission. This institution still expects high legal awareness from perpetrators of corruption. On the other hand, the task and function of the perpetrator's witness constitutes betrayal. As for my basis and reasons as a writer, there is a refusal to participate from perpetrators of criminal acts who are not the main perpetrators because they do not cooperate with law enforcement (Ariyanti & Ariyani, 2020b).

What is meant by a crown witness is a defendant who has the status of a witness in the case of another defendant who did the same thing, namely in the case of splitting the case file during his examination based on Article 141 of the Criminal Procedure Code. One or different types. Proof is essential in determining the burden of criminal responsibility for people who commit criminal acts (Afif et al., 2018). In practice, crown witnesses at the Kendal District Court have been widely used in various criminal acts presented at trial. This has become a familiar and consistent practice because, in principle, the judge examines, adjudicates, and decides. A criminal case must be based on truth. Material. The crown witness was presented at trial because of the separation mechanism regulated in Article 142 of the Criminal Procedure Code (Lintang & Nugroho, 2022b). Dividing the case file into several independent cases between one defendant and another, each can be reciprocated as a witness. Meanwhile, if they are combined in one file and the trial is examined by one another, then they cannot be joint witnesses.

4. Conclusion

The research results regarding the efficiency of justice collaborators and crown witnesses in uncovering criminal corruption cases show that using crown witnesses in the judicial process is commonplace. Still, this condition does not mean the public prosecutor can present them as crown witnesses before the trial. The use of crown witnesses with a mechanism (splitting) in the evidentiary process in court is contrary to the principle of non-self-discrimination, which is implicitly reflected in several articles, namely Article 66 of the Criminal Procedure Code, which states that there is

no burden of proof for the defendant (the burden of proof is the responsibility of the public prosecutor). Article 175 of the Criminal Procedure Code, which contains the right to refuse for the defendant, Article 189 paragraph (3) of the Criminal Procedure Code, which states that the defendant's statement can only be used for himself, and the absence of the defendant's confession as valid evidence. They are regulated in Article 184 of the Criminal Procedure Code and Article 168 of the Criminal Procedure Code regarding relative exceptions for being a witness. Crown witnesses are also an essential tool in fighting organized crime in cases of criminal acts of corruption. As an insider who is part of the environment where the information is leaked, you understand precisely what and how the crime mode is neatly wrapped up and kept secret from the public and law enforcement.

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