



Management of Economic Problems in Indonesia Through the Eradication of Crime of Corruption by Implementing the Justice Collaborator System

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Abstract. Setting the status of Justice collaborators in Indonesia in overcoming economic disturbances raises issues of pros and cons, especially regarding the benefits and consequences of being able to be used as a legal commodity, subjectivity in granting determinations and cons of legal politics. It is possible to apply for status as a Justice collaborator for legal maneuvers for the Defendant to reduce the sentence, and even secure the real perpetrators as intellectual actors in the crime. To answer the question which is a matter of public concern, it is necessary to interpret the law in a comprehensive manner both historically and juridically in order to obtain an understanding of legal politics in the law that regulates justice collaborators, furthermore to examine why the determination of the status of justice collaborators in criminal acts of corruption is not immediate. Realizing a social justice, the required method is the analysis of the theory of justice and the theory of expediency. The achievement of results from the application of ideal regulations as in the theory of distributive justice from Aristotle and the benefits of Jeremy Bentham for granting Justice collaborator status must be a balance between rewards and achieving benefits for society. The application of the governing law is analyzed with Max Weber's theory that the Law Reflects Rationality and Authority that is implemented that law enforcers must have high dedication to their position, a comprehensive understanding of the implementation of the provision of Justice collaborator status determination, so that ideal legal regulatory norms are obtained in accordance with the principles of legal justice and benefits in recovering the economy in Indonesia caused by corrupt actions. The criminal act of corruption, especially in the implementation of development in Indonesia, is very much a cause of disruption to the economy, development and people's welfare.

Keywords: Justice Collaborator · The Economy in Indonesia

1 Introduction

Justice collaborators in corruption cases in Indonesia prioritize their achievements in the succession of law enforcement processes in the form of returning state loss assets/wealth resulting from a crime and restoring the country's economy due to criminal acts. The system contained in it has very good goals and has been implemented so far, but still does not show efficiency that can provide maximum benefit for the people of Indonesia.

Steps for law enforcement involving the role of the community, even involving witnesses in a case who are willing to cooperate or are known to use the term Justice collaborator have been implemented in the Republic of Indonesia, especially in the field of eradicating corruption offenses which have caused massive economic losses and become problems that require seriousness to uncover intellectual actors or men behind men [1].

Law enforcement efforts that are currently taking place both at the stage of the investigative process and up to the court process experience unresolved legal problems, therefore it is hoped that a good legal system can support law enforcement efforts through the involvement of the Justice collaborator system. Difficult for law enforcement to reach [2]. The phenomenon of the rampant Hand-Catching Operations against government officials and the number of cases submitted to the Court show that corruption has a wide scale [3]. In fact, the consequences that have been caused by criminal acts of corruption are not only in the economy but have penetrated to morality, norms and judicial processes [3].

The category of criminal acts with the classification of extraordinary crimes, in this case specifically for corruption crimes, the approach to solving them must also be carried out extraordinary [4], What is extraordinary in this case is that it has several kinds of actions, namely criminal responsibility that ensnares the perpetrator must be confirmed by a criminal sentence that is relevant to his actions. The justice collaborator involvement system approach in this case can be used as an alternative as a revolutionary step in economic development in Indonesia.

The justice collaborator system is basically a system adopted from outside the Republic of Indonesia, this system provides a revolutionary formulation in uncovering corruption crimes by involving witness witnesses who are willing to work together to uncover the main actors [5]. The Republic of Indonesia has actually been using crown witnesses for a long time, which in this case is similar to the justice collaborator system, where crown witnesses are witnesses used to reveal the main perpetrators with compensation crown witnesses get reduced criminal sanctions and criminal charges against them [3].

While in its development this norm has actually become a loophole for it to be misused because it is not directly binding on the truth of the testimony, therefore this research discusses the philosophical basis for the formation of Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Protection Witnesses and Victims and the implementation of ideal arrangements in Law Number 31 of 2014 with a system based on justice and benefits equipped with a legal mindset that pays more attention to the economic needs of developing communities [6].

2 Methods

This research is a type of normative legal research, using a statute approach, namely by examining laws and regulations related to economic problems being faced in Indonesia. The legal materials used in this study include primary legal materials, secondary legal materials, and tertiary legal materials. This research uses the literature study method which includes laws and regulations, books, research, journals, and other relevant written sources. The collection of legal materials above was carried out by means of document studies, namely reviewing, studying, and studying legal materials related to this research.

3 Results and Discussion

3.1 The Philosophical Basis for the Formation of Law Number 31 of 2014 Concerning Amendments to Law Number 13 of 2006 Concerning the Protection of Witnesses and Victims

Hamzah [7], emphasized that crown witnesses are misunderstood in Indonesia, as if the defendants in terms of participating (*medenplegen*) in the case were separated and then took turns serving as witnesses, called crown witnesses. This is a big mistake, the Defendant took turns being a witness in a case that he himself participated in. Actually, this is contrary to the prohibition of self-crimination (accusing oneself) because he as a witness will be sworn in which he himself is also a defendant in that case the defendant is not sworn in, meaning that if he lies he does not commit the offense of perjury. If a witness lies, he can be charged with perjury, so taking turns as a witness for the defendants means that they are encouraged to perjure themselves, because it will certainly relieve their friend, because he himself also took part in committing the offense, or washes his hands and burdens the defendant. Hamzah further stated [7], whereas in the Netherlands and Italy a crown witness (*kroongetuige*) was applied, namely a suspect or defendant because he wanted to uncover a corruption crime, in return he was removed from the list of suspects/defendants and made a witness, for example wanting to uncover a corruption crime.

The concept of using information and testimony from one of the perpetrators of organized crime which is similar to the concept of a crown witness is the concept of justice collaborator. The concept of cooperation between perpetrators of crimes and law enforcement officials is known as justice collaborators, which in positive law in Indonesia are referred to as witness witnesses who work together with law enforcement officials [8]. That is the pattern of cooperation between criminals and law enforcement officials by way of criminals providing information and information to law enforcement officials to restore state and economic losses in Indonesia. For this cooperation, a person who is appointed as a justice collaborator receives protection and appreciation. One of the forms of protection for justice collaborators is the safety of the soul both for oneself and for the family, while awards are in the form of mitigating criminal sanctions up to the granting of remissions and parole [9].

Article 10 paragraph (2) Law Number 13 of 2006 jo. Law Number 31 of 2014 confirms that a witness who is also a suspect in the same case cannot be acquitted of criminal charges if he is proven legally and convincingly guilty, but his testimony can

be used as a judge's consideration in mitigating the sentence to be imposed. The law does not specify a more detailed intention, but it can be interpreted that witnesses in this category have the status of witnesses who are also suspects who help uncover criminal cases, which can be in the form of:

- Provide testimony in court to incriminate other defendants;
- Providing information regarding the whereabouts of goods/evidence or other suspects,
- both those that have been and those that have not been disclosed;
- Other contributions that have an impact on assisting law enforcement officers;
- The phrase "in the same case" in the formulation of the article above is meant only in cases where the witness is also a suspect in the same case.

Basically the provisions of the norms of Article 10 paragraph (2) of Law Number 13 of 2006 jo. Law Number 31 of 2014 in doctrine and legal practice in Anglo Saxon countries is known as the plea bargaining system. In practice plea bargaining is done by making a statement of guilt or known as guilty plea terminology, so that with a statement of guilt a defendant will get a reduced sentence. Jhon Srack further mentions that: *"It can meet an agreement between the judge and the accused that if he pleads guilty to some or all of the offences charged against him, the sentence will admit to certain charges they will refrain from putting more serious charge into the indictment or will ask the judge to impose relatively light sentence..... thirdly, plea bargaining may refer to the prosecution agreeing with the defence that if accused pleads guilty to a lesser offence the accept the plea ... lasty. It may refer to the prosecution agreeing not to proceed on one or more counts in the indictment against the accused if he will plead guilty to the remainder"* [10].

Application of the concept of protection of cooperating person as contained in article 10 paragraph (1) of Law Number 13 of 2006 jo. Law Number 31 of 2014 is a penal policy that is very appropriate considering that to prove a crime was committed with a systematic and organized modus operandi. The task that the public prosecutor or the police feel is heavy if in a crime it is very difficult to collect evidence in the form of witnesses who have seen, heard for themselves or experienced a crime themselves that the perpetrator committed his actions in an orderly and organized manner. In addition, "backlash" often occurs from the main perpetrators of a crime when they are reported by justice collaborators by reporting criminal acts of defamation or criminal acts of unpleasant acts, some are even reported both criminally and civilly.

Without a special mechanism for reporting and protection for whistleblowers and justice collaborators, public participation in dismantling suspected criminal acts is low so that they cannot improve the economy and crime is increasing [11].

Improving the law so that it is more just and provides benefits to society is better than allowing problematic laws to continue to be applied in Indonesia. In making improvements, of course, you have to look at the relevant theories in the preparation of article by article in the law. The theoretical approach to strengthening Article 10 A uses the theory of justice by explaining how distributive justice applies to gifts in the form of awards that must be given according to the services they have performed, especially in improving the economy and benefiting society. So that article 10A can be enforced better. Then the second is Aristotle's theory of justice how to make legal regulations that can make

people happy. The last one is the theory of legal advantage by Jeremy Bentham in terms of as much benefit as possible as a guarantee like what is done by the State.

The equalization of perceptions among law enforcers is very important so that there is no overlap, the same vision and mission of law enforcement regarding economic recovery in Indonesia must be the main agenda in equating the vision and mission regarding the implementation of a definite form of performance from a justice collaborator. The Joint Regulations signed by the Minister of Law and Human Rights, the Attorney General, the National Police Chief, the Corruption Eradication Commission, and the Head of the LPSK regulate protection for reporters, witnesses and perpetrators who cooperate. There are four rights and protections regulated in this joint regulation:

First, physical and psychological protection for whistleblowers and justice collaborators. Second, legal protection. Third, special handling. Fourth, get an award. All of these rights can be obtained by justice collaborators with the approval of law enforcement if they are willing to dismantle economic crimes in acts of corruption in Indonesia. In addition to special handling, witnesses as well as perpetrators of these crimes can receive awards in the form of leniency in sentencing, including demands for probation. As well as obtaining remissions and the rights of other convicts in accordance with applicable laws and regulations if they can prove their statements in court.

3.2 Implementation of Justice Collaborator Arrangements in Law Number 31 of 2014 with a System Based on Justice and Benefit

Collaborating Witnesses/justice collaborators are entitled to physical and psychological protection, legal protection, special handling and appreciation. Special handling can be in the form of separating the place of detention, confinement or prison from suspects, defendants or other convicts from crimes that are disclosed in the case of witnesses of cooperating perpetrators being detained or undergoing corporal punishment, filing of cases as far as possible is carried out separately from other suspects or defendants in criminal cases reported or disclosed, postponement of prosecution against him, delays in the legal process (investigation and prosecution) that may arise because of the information, report or testimony he gave or gave testimony before the court without showing his face or without showing his identity. The award is in the form of leniency in sentencing, including demanding a suspended sentence and/or granting additional remissions and the rights of other convicts in accordance with the applicable laws and regulations if the Collaborating Witness is a convict.

Next, based on the provisions of Article 7 of the Joint Regulation it is determined that physical and psychological protection for the Reporting Party or Reporting Witness as referred to in Article 5 paragraph (1) is submitted by the Reporting Party or Reporting Witness to the LPSK, or to law enforcement officials according to the stage of handling (investigators, public prosecutors. or judges) to be forwarded to the Witness and Victim Protection Agency (LPSK), or carried out in accordance with applicable laws and regulations. In the event that the application for protection as referred to in paragraph (1) is received by the LPSK, the LPSK is required to provide protection whose implementation is coordinated with law enforcement officials. In the event that the application for protection as referred to in paragraph (1) is received by law enforcement officials, law enforcement officials must coordinate with the LPSK.

Judging from current laws and regulations (*ius constitutum*) a whistleblower or justice collaborator can report to the LPSK, the Corruption Eradication Commission, the Judicial Commission, the Ombudsman of the Republic of Indonesia, PPATK, the National Police Commission and the Prosecutor's Commission. There is a separate problem in this context, namely the number of institutions that can receive reports from a whistleblower or justice collaborator. Examined from the perspective of the criminal justice system, this dimension is correlative to which institution is most crucial to handle the report and ultimately it will lead to how to recover state losses and the benefits of economic recovery in Indonesia. The large number of institutions authorized to handle reports of a whistleblower or justice collaborator will create separate problems that can surface, such as problems of authority that correlate with legal protection and can intersect with the authority of law enforcement officials or one agency with another.

Jeremy Bentham's view interprets utility as something that is owned that can bring benefits, profits, pleasure, and happiness, or something that can prevent damage, displeasure, crime and unhappiness. The value of this benefit exists at the individual level which results in individual and societal happiness (*happiness of community*) [12].

For Bentham, the morality of an action is determined by considering its usefulness to achieve the happiness of all human beings, not the happiness of selfish individuals as adhered to by classical hedonism. This is what later gave birth to the classic Bentham theorem regarding happiness: the greatest happiness of the greatest number (the greatest happiness for the majority) [13].

That which is suitable for the benefit of society is that which tends to add to the pleasures of the individuals who are members of that society. This should be the starting point in managing human life, including law. In fact, we have already found that all human actions are related to desire. Even morals and laws are actually based on benefits. The logic that guides the science of law is the logic of will, so the conclusion is that the science of law is a science of behavior. In other words, the law must be based on human happiness, but how can the law be truly functional to support that happiness? creating maximum freedom for the individual to pursue what is good for him.

The clarity of the formulation of the substance of the rule of law so that it is easily understood by the target of enactment of the rule of law. So the formulation of the substance of the rule of law and the resulting economic recovery must be well designed. If the rules are written, they must be written clearly and can be understood with certainty. Although later it still requires interpretation from law enforcers who will implement it. Effective or not a rule of law in general also depends on the optimality and professionalism of law enforcers in implementing and enforcing the rule of law more specifically in the case of justice collaborators in criminal acts of corruption which have an impact on the economy.

Aristotle in his work entitled *Nicomachean Ethics* explains his thoughts on justice. For Aristotle, virtue, namely obedience to the law (*polis law* at that time, written and unwritten) is justice. In other words, justice is a virtue and this is general, this is because Aristotle understands justice in the sense of equality. In numerical similarity, every human being is equated in one unit. For example, everyone is equal before the law. Then proportional equality is giving everyone what is due, according to their abilities and achievements [14].

Indonesia, which divides the system of procedures/mechanisms in terms of reporting and protection of witnesses based on the type of crime. Such as criminal acts of corruption that can be reported through the Corruption Eradication Commission (KPK) where the protection system is also carried out by the KPK itself, acts of fraud by a company that can be reported through the Ombudsman institution, or money laundering crimes that can be reported to the Transaction Reports and Analysis Center. Finance (PPATK) whose protection will be handled by the Indonesian National Police. Not to mention there is the Witness and Victim Protection Agency (LPSK) which is also authorized to receive reports and provide protection to whistleblowers and justice collaborators as a whole. This makes the authority to protect whistleblowers scattered and divided, not centralized.

Institutions that can receive reports in Indonesia are also not a unit that is under one core institution like in the United States. Institutions that can receive reports in Indonesia each stand alone with different reporting systems and protection for reporters. This causes the reporting system and protection for complainants to be uneven between one serious crime and another serious crime. This makes the reporting system and witness protection in Indonesia unstructured and not well organized so that it will be confusing for those who reveal the facts to reveal facts about serious crimes that they know about.

In addition, the reporting mechanism must be able to use safe and secure communication tools to maintain the confidentiality of the reporter's identity and information provided by the reporter, for example by using a specially made IT system such as the KPK whistleblowing system or by using a special post that can only be opened by authorized officials. to receive whistleblower reports. Clear rules and mechanisms like that are very important to ensure whistleblowers that their report regarding an alleged crime is actually followed up and confidentiality is maintained. For a whistleblower and justice collaborator protection system, in this case Indonesia can at least form a structured, organized and centralized system.

4 Conclusion

- In the norms of Article 10 paragraph (1) of Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 Regarding the Protection of Witnesses and Victims, then by implication these regulations experience incomplete norms resulting from the formation of the Witness Protection Law and Victims, only based on the principle of effectiveness as stipulated in Article 5 letter c, Article 6 paragraph (1) letter g concerning justice and j concerning balance in Law Number 12 of 2011 concerning the Formation of Legislation. Because the norms are incomplete and there are legal gaps in the regulatory norms for the Justice Collaborator system in Indonesia, a method is needed to complement the system with a fair concept and provide broad benefits that regulate and bind rights and obligations proportionally, regulate various substances related to the interests of the state, both regarding economic recovery caused by losses to the state as well as regulating sanctions that can revoke and cancel the status as a Justice collaborator is an arrangement that is fair and provides benefits and has a form that can be accounted for.

- In order for law enforcers in general and in particular those oriented towards upholding the law on corruption crimes, they must carry out according to norms that have legal certainty, in which all matters related to the implementation of the rights and obligations of a justice collaborator are based on justice and expediency and have binding rules. the rights and obligations of the information disclosed in court as a form that will give its truth value.

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