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## Equal Rights To Receive Legal Protection For Justice Collaborators (Bharada Richard Eliezer Case Study)

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**Abstract:** This research project attempts to learn more regarding the Justice Collaborator and the progression of the Brigadier Yosua homicide investigation. This study utilizes prescriptive study findings, which addresses legal disputes that have come up and created disturbances in ordinary aspects of a community by using the provisions of beneficial law, or regulations, as the main frame of guidance. Officially identified as a judicial partner, Bharada E expects that the magistrate will take this consideration in the soon to be conducted trial surrounding the FS-alleged killing or murder of Brigadier Yosua Hutabarat. Bharada E was granted the status of judicial associate for being willing to assist the justice system with determining the matter based on the truth of the matter. In order to provide crime for every party mindful of the use using justice accomplices seeks to reveal criminality networks, the people within them, and their reasons for the offenders. Another tactic utilized by the government to strengthen the disincentive impact on violators is to impose remitted requirements.

**Keyword:** Remission Rights, Justice Collaborator, Legal Protection

### INTRODUCTION

Premeditated murder is a common criminal offense. Premeditated murder is an act that threatens the life of a person. Committed homicide is outlined in subsection 340 of the Code of Criminal Procedure that entails a repercussion of a maximum of twenty years in probation, the wrongful death consequences, or a lifetime in jail. Deliberately planned murder, additionally referred to as killing with intent, is an especially horrible offense since it commences from the deliberateness that precedes the act. However, the Criminal Code does not set out the definition and requirements of the element of premeditation in the act of premeditated murder. As a result, the definition and requirements of the element of premeditation are always changing. According to Sue Titus Reid (1979) crime is an intentional act (omissions), a person cannot only be punished for his thoughts, but there must be an action or negligence in acting. Throughout the evolution of humanity, legislation has served as the fundamental instrument of prohibiting offences towards individuals. The

following illustrates why judgement seems an inherent human inclination and the fact that sacrificing the life of someone else contradicts the very concept of impartiality (Ahmad, 2012). Murder falls under the *metreel delict*, which is made with regard to legal prohibitions and the consequences of such violations.

Much attention has recently obsessed with the deliberately targeted murder that occurred to Nofriansyah Yosua Hutabarat, additionally known as Brigadier J, who encountered a complicated denouement. Many things happened during the process, where the death of the 27-year-old police officer was even called a test for legal accountability in Indonesia (Tribun Gorontalo, 2023). Among of the offenders who submitted an application to LPSK as an attacker witnesses that helped the police (a crime collaborator) is Richard Eliezer Pudihang Lumiu. LPSK recognized him as an administrative justice collaborators since he fulfilled the standards for this type of certification (Decision Number 798/Pid.B/2022/PN.Jkt.Sel).

The Justice Collaborator concept aims to increase the effectiveness of law enforcement by optimizing community and stakeholder participation in detecting crime. By cooperating with law enforcement, some people can help solve larger and more complex criminal cases. Meanwhile, law enforcement officers can obtain useful information and save costs and time in investigations and legal proceedings. Ordinance Number 31 of 2014, particularly modifies the thirteenth law of 2006 about the safeguarding of individuals who are victims or witnesses, contains regulations pertaining to the pursuit of accomplices in Indonesia. Additionally, the highest court's advisory communication No. 4 of 2011 establishes instructions regarding what takes place to unlawful criminal activity recorders and bystanders that assist with particular criminal acts. From this description, the research made by the author aims to find out the legal protection of the defendant brigadier eliezer who is designated as a justice collaborator and to find out what are the considerations of the judge in giving sanctions and remission rights to justice collaborators.

The primary goal of the legal procedure is to determine if the accused person is at responsibility for his claims by getting the whole truth, informally as well as significantly, consequently proof performs a crucial role in the investigation of criminal proceedings in court. The Indonesian proof framework maintains an adverse legislative evidential structure (Negative Wettelijk Bewijssteori) where the requirements for the imposition of punishment must not only fulfill the evidence as determined by the Criminal Code but also the judge's belief, which is obtained by the judge at the time of proof. If one of these elements is not fulfilled, then the judge cannot impose punishment on the defendant (Effendi, 2014).

The research was conducted by the author to discuss the discussion of the remission rights obtained by the justice collaborator along with other privileges obtained by the Justice Collaborator in the trial and its legal consequences, then the previous research only discussed the legal protection of the Justice Collaborator. The subject matter of the current study, that the creator performed, is Brigadier Eliezer's instance, previous work has exclusively examined the utilization of Law Collaboration Recovery.

## **METHOD**

The present inquiry employed a conventional method of inquiry, whereby the regulations of favorable law or Parliament are used as the main frame point of reference for addressing legal concerns that have come up resulting in disruption in the everyday operations of community. The statutory approach involves examining every applicable regulation and law in connection with the legal questions under assessment. On the contrary, the situation's approach includes comprehending or assessing instances that are associated with the problem at grasp that have lead to a ruling from the courts with that lasts legal consequences (Sugiyono, 2014).

## RESULTS AND DISCUSSION

### Legal protection of Brigadier Eliezer in terms of the Justice Collaborator Law

The phrase "righteousness companion" is not entirely new in Indonesia. Law Number 13 of 2006 respecting Eyewitness and Victims Defense, subsequently modified to Law Number 31 of 2014 associated Evidence as well as Victim Security, signified the introduction of justice collaborators in Indonesian legal circles. It's standard procedure to capitalize on the crucial role that Judicial partners participated in an illegal act to highlight deception and inconsistencies that both he along with his colleagues had done. This will be a challenging task since he has to be entirely forthcoming concerning his participation in criminal organizations, or that is going to be punished to account for what details he discloses.

Legal assistance has to be offered by government agencies in order to ensure that individuals protected. On August 11, 2006, the federal government released Law No. 13/2006 on Eyewitness and Survivor Safety due to the significance of it establishing legal recourse for witnesses and victims alike. The organization in question holds the charge of giving victims as well as witnesses safety and legal representation. The biggest duties and authority of LPSK in releasing information of unlawful conduct is to safeguard those who were harmed as well as offer them representation in court. The main intention of this protection, a concept relevant throughout the criminal court system, is providing both parties involved an impression of anonymity as they divulge data or testify about the alleged crime (Saristha, 2013).

The law numbered 31/2014 additionally provides an enforceable basis for safeguarding individuals who are victims, witnesses, as well as court partners, ensuring that these individuals sense safe and secure in submitting information or proof that is helpful in the investigation and prosecution of felony offenses. The determination of justice collaborator status is carried out to encourage cooperation from criminals and facilitate the judicial process by obtaining crucial information to uncover crime networks, actors behind crimes, and reasons for perpetrators to commit crimes. This law further emphasizes the State's commitment to ensuring that criminal justice takes into account the interests of witnesses and victims and not just perpetrators.

Equal opportunities against a court are commonly referred to as righteousness, closure with the ultimate objective of law, a means in the advancement of the well-being of humanity, and surety to provide confidence that the implementation of law is really effective as a standard that adheres to (James et al., 2023). The three legal agreements govern the employing of fairness participants in the nation of Indonesia: The law of the Republic of Indonesia with Number 31 of the year 2014 pertaining to modifications to Law Number thirteen of the year 2006, Supreme Court Circular Letter No. 04 of 2011 relating to the Treatment of Whistle Blowers and Witnesses who Cooperate (Justice Collaborators) in Certain Criminal Instances concerning the safeguarding of victims and witnesses, and the Collective Enforcement of the Attorney General, the Chief of Police, the Commission on the Elimination of Corruption, and the Director of the Witness and the practice of victim Security Agency Code: M.HH-11.HM.03..02.Th.2011 Number: PER-045/A/JA/12/2011 Number: 1 Year 2011 Number: KEPB-02/01-55/12/2011 Number: 4 Year 2011 on the Protection of Cooperating Whistleblowers, Witnesses, also Eyewitnesses of the year 2011.

The presence of these legal instruments indicates that the granting of justice collaborator status is driven by the spirit to uncover organized crime because organized crime is a closed crime, involving people who are neatly coordinated, even involving law enforcement officials. In line with the creator's comprehension, all three of these legal rules are favorable because they provide judicial accomplices with various kinds of legal defense.

Article 10A Paragraph 1 to Paragraph 5 of Law 31/2014 explains that rewards for testimony that has been given can be given in the course of a special examination. In this case, the handling sentence can take the following forms:

1. Providing a separate detention location from evidence, those suspected, the accused, as well as inmates that subsequently confess to being involved in a crime;
2. Inspection of the offender witness's materials separately from the suspected' and prisoners' shows through the duration of the inquiry, for the goal of pursuing the unlawful behavior that that these records disclose;
3. A Crown Witness, additionally referred to as a Justice Partner, is an eyewitness which may appear in court with no standing up against the perpetrator whose acts are being disclosed. Recognizing Witnesses with providing evidence may take shape in the form of temporary probation or minimal punishment. On the opposite hand, remission is listed in the regulations for Witnesses who have been imprisoned, alongside multiple additional rights. The Office of the Witness and Victim Security Agency, or LPSK, submits a written idea to the prosecution to be incorporated in the accusation. This proposal is then read loudly in courtroom and evaluated by the magistrate, who might choose on reducing the severity or scope of the legal penalty. In addition, LPSK has provided written recommendations to the minister who contributes to government affairs and is authorized to carry it out in the juridical field to obtain compensation in the form of release with conditions, reduction of additional sentences, and other rights as prisoners.

The judge in this case stated that the defendant Richard Eliezer Pudihang Lumiu, also familiar mentioned Bharada E, was right to be designated as a Justice Collaborator because there were many things that mitigated the criminal charges against the defendant. In other words, he assisted law enforcement by providing information or assistance that was useful to uncover or resolve criminal cases. His involvement in providing this information or assistance can help uncover important facts that may lead to solving the case and prosecuting other perpetrators. The defendant Bharada E behaved cooperatively and politely during the trial, according to the judge.

The article 340 within the criminal code addresses the unlawful act of destroying the life of someone else when it comes to arranged homicide. It says "Whoever intentionally and with premeditation takes the life of another person, shall be punished by death or life imprisonment or temporary imprisonment for twenty years". As widely understood, adhering to SEMA No. 04 of 2011's guidelines is not a prerequisite for being the primary offender if one wants to be considered as a justice partner. The investigation surrounding the intended death of Brigadier J. As an instance whereby Indonesia makes use of the theory of a justice partner which recently occurred precisely in July 2022. In that case, Bharada E was used as a justice collaborator. Bharada E has been officially declared a justice collaborator, and hopes that The judge within the soon to be convened case concerning the FS-alleged assassination of Brigadier Yosua Hutabarat will be considering this circumstance into account (Ali, 2023). Bharada E was awarded the status of justice associate for his desire to support the judiciary in deconstructing the matter in keeping with what was actually happening.

### **Utilizing recurrence rights for justice collaborators**

Remission is considered a gift by the prison system in relation to the policy of collaborators of injustice. That is, remission is a gift that the government gives to prisoners. Remission is only granted on the birthday of the Queen of the Netherlands according to the Gestichten Reglement. Therefore, remission is just a useless gift. After the prison system changed to the penitentiary, lawmakers gave some rights to prisoners. Remission is a right and obligation of prisoners, not a right as in the correctional system or a boon as in the prison system. Prisoners are entitled to be released if they have actually fulfilled their obligations, as long as other requirements are met. As per the rules of paragraph one of article one (1) of Presidential Decree No. 174 of 1999, remission has been defined as a cut in the duration of

imprisonment provided to inmates with convictions and offenders who reflect exemplary conduct while incarcerated.

Both policies on remission, Presidential Decree No. 174 of 1999 and Government Regulation No. 99 of 2012, have the same management role in regulating remission services. PP No. 99/2012 changed the pattern of granting remission previously regulated by Government Regulation of the Republic of Indonesia Number 28 of 2006, which was not too strict and harsh on remission. With the emergence of PP No. 99/2012, the pattern of granting remission has become more flexible and flexible. To obtain remission, prisoners who commit extraordinary crimes must act as perpetrator witnesses or cooperate with law enforcement.

Government Regulation (PP) No. 99/2012 lays out the conditions for penitentiary detainees to take advantage of their rights. Detainees entailed in specific drug demands must meet specific criteria in order to qualify for granted JC status, such as drug dealers or prisoners with a criminal sentence of more than 5 years when receiving remission. The rights regulated by law for prisoners are known as remissions. A thesaurus of law says remission is a reduction of sentence, pardon of sentence, or reduction of sentence. In the book *Criminal Law Terminology*, Andi Hamzah states that Remission is the government's reduction in penalty for well-behaved convicts. The remission can be described as an overall reduction in the total amount of criminal incarceration granted to convicts or offenders who complete the standards outlined in PP 32 of 1999.

In Indonesian criminal procedure law, justice collaborators are recognized as crown witnesses, so they can reveal the truth of crimes in court. However, the practice of justice collaborators is not strictly regulated by law. The defendant makes more than one person in the case, according to Jupri (2018). All defendants are cross-examined as witnesses because witness evidence is very important. The Netherlands and Italy have implemented justice collaborators, who can crack down on organized crime if they are declared as witnesses and dropped from the suspect list. There are legal issues in Indonesia related to the justice collaborator policy stipulated in Government Regulation No. 99/2012. Remissions are regulated by two (2) laws, GR 99/2012 and Presidential Decree No. 174/1999, which leads to policy inconsistencies.

In providing relief from criminal sanctions to justice collaborators, the court will consider several factors and determine the sanctions that best suit the public interest and justice, namely (Dena et al., 2023):

1. Cooperation and honesty is the most important factor in providing a reduction in criminal sanctions to justice collaborators is the level of cooperation and honesty shown by them. Justice collaborators who provide accurate, complete, and helpful information to solve cases can be considered to have contributed significantly and are entitled to reduced sanctions;
2. Importance of the information: Another factor to consider is how important the information provided by the justice collaborator is to the resolution of the case. Information that is particularly valuable and helpful to the resolution of the case may provide a strong basis for granting sanction relief;
3. Role in the crime: Another factor to consider is the role played by the justice collaborator in the crime committed. If the justice collaborator was involved in the same crime, then they may not get sanction relief. However, if they are only witnesses or whistleblowers, then sanction relief may be considered.
4. Compliance with the law: Another factor that can be considered is whether the justice collaborator has complied with the law before. If they have a criminal record or have been involved in similar crimes before, then sanction relief may not be granted.
5. Social impact: The final factor that can be considered is the social impact of granting sanction relief to justice collaborators. If sanction relief will help catch bigger offenders or have a deterrent effect on society, then sanction relief may be considered.



In essence, the Criminal Code's Article 10 retribution list still conforms to the revengeful model, arguing for giving the perpetrator an equitable penalty for the offense that made. The goal of the punitive worldview is to avoid future crimes in society by serving as a deterrence to the perpetrators' crimes (prevention impact) (Waluyo, 2015). Restricting the provision of recuperation is a means by which the government operates to stop crime and cultivate an emotion of confession in detainees who have been punished from an extended period of punishment or incarceration. This is since, as mentioned before, a deterrent impact on offenders is achieved by denying them freedoms, particularly recovery, which makes them dissatisfied and less inclined to commit similar offenses again. Remission is a decline in prison time granted to convicts and juvenile kids who did not behave well during their imprisonment, in line with the notion of remission as established by Presidential Decree Number: 174 of 1999. A decrease in the time frame of imprisonment obtained in the kind for remission is extremely helpful particularly to detainees who receive a price decrease or a decrease in their time of imprisonment if they keep conduct themselves well, so it appears proper to strengthen the conditions and procedures for offering a remission as meant it to be received

Government Regulation No. 99/2012 is also burdensome for prisoners, especially those affected by this rule. This clearly contradicts Indonesia's correctional structure. Under the correctional system, no prisoner should be served in a different way. PP 99 of 2012, for example, differentiates the treatment of general crime prisoners from special crime prisoners. Convicts of special crimes regulated under Government Regulation No. 99/2012, must qualify as justice collaborators; To find instances one needs to be ready to collaborating with law enforcement agencies. These policies will definitely have an impact on the behavior and mental health of prisoners, especially for prisoners who have received PP 99/2012. Justice collaborators should not be used in the pre-adjudication realm. Indonesia's correctional system is strongly against discrimination; the Corrections Law states that there should be no discrimination in the treatment of prisoners. Many people therefore oppose PP 99/2012 and hope that it will be abolished as it is causing problems in prisons.

## CONCLUSION

Protection under the law is spelled out thoroughly in an array of legal documents for witnesses, victims, and judicial accomplices. Reflecting the state's commitment to ensuring justice. Articles governing justice collaborators ensure special treatment, physical protection, legal rights, and respect for their testimony. The use of justice collaborators aims to uncover crime networks, the actors behind them, and the reasons for perpetration, ensuring justice for all parties involved. Case studies, such as the premeditated murder of Brigadier J, show that justice collaborators have become an integral part of the legal process in Indonesia, helping to uncover important facts and deliver justice. The implementation of justice collaborators shows the spirit of uncovering hard-to-disclose organized crimes, and with the support of existing legal instruments, it is hoped that law enforcement can be more effective and fair to the community.

Remission should be given as a right and obligation for prisoners who behave well, not as a reward. However, the implementation of this policy has not been fully consistent, especially with the existence of conflicting instructions such as Presidential Decree No. 174/1999 and Government Regulation No. 99/2012, which regulate the granting of remission with different provisions. In addition, the introduction of justice collaborators in the legal process, although aimed at uncovering organized crime, presents challenges related to rules that are not yet strict and consistent. this policy can lead to inconsistencies and discrimination in the treatment of prisoners. Effective law enforcement requires clarity and consistency in remission and justice collaborator policies, as well as the protection of prisoners' rights.

Nonetheless, existing regulations should be examined and adjusted to reflect the principles of justice and the balance between the goals of rehabilitation, restoration, and law enforcement.

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