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The Witness and Victim Protection Agency's Strategy for Protecting Justice Collaborators in the Murder of Law Enforcement Officers (A Case Study of the Murder of Brigadier Joshua Hutabarat)

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Abstract: This study was undertaken as part of the Witness and Victim Protection Agency's strategy disclosure for protecting Justice Collaborators in cases involving the murder of law enforcement officials. This needs to be addressed, as the situation is urgent owing to the legal vacuum. The goal of this study is to explore the need for new arrangements with Justice Collaborators. The study method utilised is doctrinal legal research with two methodologies. The first is the approach to legislation governing Witness and Victim Protection, namely the Criminal Procedure Code and Law Number 31 of 2014. The second approach is conceptual, which combines theory and facts. The concern with this study is the Witness and Victim Protection Agency's (LPSK) role in the Protection of Justice Collaborators. Second, how does the Witness and Victim Protection Agency (LPSK)'s method for Protecting Justice Collaborators in the murder of law enforcement personnel compare to Brigadier Josua Hutabarat's murder case study? The problem formulation is critical to how this research can proceed, particularly in describing the issues in this study.

Keyword: Witness and Victim Protection Agency, Justice Collaborator, Murder.

INTRODUCTION

Legal protection is a service that the government must give to ensure the safety of all citizens. According to the Republic of Indonesia's Constitution, the state is responsible for preserving human rights. As stated explicitly in Article 28I paragraph (4) of the 1945 Constitution (UUD), "The protection, promotion, enforcement, and fulfilment of human rights are the responsibility of the state, especially the government." Witness Protection is one type of legal protection provided in Indonesia. This safeguard is required to ensure that a trial procedure runs smoothly. This provision is also addressed in Law No. 13/2006 on Witness and Victim Protection (UUPSK). (Tuage, 2013). In the trial process, witnesses are classified as either ordinary or expert. Ordinary witnesses differ dependent on their standing, including reporters/victims, those who feel obligated to submit information, and suspects;

Witnesses who aren't witnesses; Witnesses who are sympathetic to the suspect; and Crown witnesses (Remincel, 2019). Witness and Victim Protection Agency (LPSK) offers witness protection. The agency has the right to do so under the Law on Witness and Victim Protection.

In 2022, there was a well-known case of a brigadier's murder performed by his superior, the Head of the Profession and Security Division at the Duren Tiga Police Housing Complex in South Jakarta. The emergence of a Crown Witness or a Justice Collaborator, who is critical to disclosing the truth about the death of law enforcement personnel, is the most fascinating aspect of this investigation. As a result, in this situation, the Justice Collaborator must receive rigorous protection from the LPSK. Surprisingly, neither the UUPSK, the Supreme Court Regulation (Perma), nor the LPSK Regulation address the issue of Justice Collaborators' protection in depth. So this is the context for discussing research on the LPSK Strategy in the Protection of Justice Collaborators in Cases of Murder of Law Enforcement Officers.

Tiovary believes that witnesses are an element that must be present in the trial based on previous research. Even if a witness refuses to comply with a lawful summons, the judge has the jurisdiction to order the public prosecutor to forcibly produce the witness in court for the benefit of the trial (Kawengian, 2016). This provision applies to Justice Collaborators (JCs). According to Bahrudin et al., the presence of JC is important in determining the truth at trial. However, there are still variances in how law enforcement determines a JC. This leads in legal protection and no benefits, thus JC candidates are missing when invited to cooperate in disclosing facts at trial, particularly in the case of revealing facts in corruption crimes (Machmud, Junaidi, Sihotang, & Sudarmanto, 2021). This view is confirmed by Ardiva's remark that legal protection for JCs in Indonesia has not been expressly and precisely regulated, but JC arrangements are governed by Law No. 31/2014 (Azzahra, 2022). Yusuf et al. add to the facts described that one of the problems in the application of JC is in the regulation in SEMA Number 4 of 2011. Yusuf explained that the definition of JC is not by the UUPSK, resulting in conflict and unclear JC arrangements in Indonesia's criminal justice system (DM, Amirson, Itoni, Napogos, & Saragih, 2023).

Aside from the literature argument, at least a few subjects are frequently discussed. The issue is the use of JC in the criminal justice system and its control in Indonesian legislation. The author believes that there are just a few points to debate regarding JC, including the LPSK strategy for giving protection to JC, the protection plan that JC will give based on the complexity of the case, and JC's protection based on social position and job. Of course, while dissecting this issue, the ultimate result is the need for more clear and detailed arrangements surrounding JC in Indonesia's court system. That manner, the author will discuss this minor issue in the absence of prior study. Using Brigadier Josua Hutabarat's murder case study, the author will explore the problem titled Witness and Victim Protection Agency Strategy in the Protection of Justice Collaborators in cases of law enforcement officer murders. The benefit of this research is that it will serve as a foundation for a new understanding of how arrangements are realised in the application of JC in Indonesia's justice system, particularly criminal justice.

This research has a problem formulation that serves as the research's framework. The formulation of the problem. First, what is the Witness and Victim Protection Agency's (LPSK) role in the Protection of Justice Collaborators? Second, what is the Witness and Victim Protection Agency's (LPSK) strategy for Protecting Justice Collaborators in the murder case of law enforcement officials, based on Brigadier Josua Hutabarat's murder case study? The topic in this study is separated into two parts based on composition. The first discussion will focus on the LPSK's position in providing JC protection, followed by the second discussion, which will explore the LPSK's approach for providing JC protection in situations of law enforcement officer murder.

METHOD

The method used in this study is Doctrinal Legal Research with two methods, namely the approach of law consisting of the Criminal Procedure Code and Law Number 31 of 2014 concerning modifications to Law Number 13 of 2006 regarding Witness and Victim Protection. The following approach takes a conceptual approach, extending on the JC concept of LPSK's field implementation such that the direction of this research can also explain the field tactics. In terms of data collecting, literature studies will be conducted at numerous literature centres, including the National Library, the University of Indonesia Library, and Literature or documents at the LPSK Head Office.

RESULTS AND DISCUSSION

The Position of the Witness and Victim Protection Agency in Protection of Justice Collaborators

The Witness and Victim Protection Agency (LPSK)

According to the CWC Law, LPSK is an independent institution. In this Law, "independent" refers to an independent institution (usually referred to as an independent commission), which are state organs that are idealised as independent and thus outside the Executive, Legislative, and Judicial branches of power but have mixed functions in all three branches. Because LPSK is an independent organisation, the SFS Law does not place its structure under the jurisdiction of any government agency (executive) or other State entity. This institution, however, receives complete financial backing from the state. The law's institutional models are Komnas HAM, KPK, and PPATK, among others. What factors did the law's framers consider when deciding on a model for such institutions? According to different extant sources, the choice to choose this institutional paradigm is based on multiple factors. The first is the desire to establish an institution that specifically addresses witness protection issues and is not part of an existing organisation, such as the police or prosecutor's office, Komnas HAM, or the Ministry of Law and Human Rights. Second, since other organisations already bear a large amount of responsibility. As a result, the protection programme should not place an additional strain on these institutions (Pangestuti, 2017). The UUPSK regulates the LPSK's duties and authorities, which include receiving applications for witness and/or victim protection, making decisions on the provision of witness and/or victim protection, providing protection to witnesses and/or victims, and terminating witness and/or victim protection programmes. Submitting to the court (based on the victim's desires) the right to compensation in cases of serious human rights violations, as well as the right to reparation or compensation paid to victims or their families by the criminal or a third party. Victims of illegal acts have the right to restitution for lost wealth or income, compensation for losses suffered as a result of suffering directly related to the criminal offence, and reimbursement for medical and/or psychiatric treatment costs. Restitution applications can be filed before or after a court ruling that has been granted permanent legal force by LPSK. If the victim of a criminal offence dies, restitution is paid to the victim's family, who are the victim's heirs. Receive a formal request for assistance from the victim or someone representing the victim; Determine the feasibility, duration, and cost of assisting Witnesses and/or Victims; and Work with relevant authorised agencies to facilitate the provision of protection and aid (Stevenlee R. E, Antow, & Tawas, 2020). The protection to be supplied under UUPSK is exceptional protection granted to witnesses and victims where the weight of the threat or the level of damage caused by witnesses and/or victims is determined by LPSK. The targeted protection in this law includes all efforts by LPSK or institutions to fulfil rights and provide aid in providing security to witnesses and/or victims. The protection is solely intended to provide witnesses and/or victims with a sense of security when testifying at any stage of the criminal justice system. Meanwhile, witnesses and/or victims are offered help to

ensure their right to recovery (Fauzi & Wahyuni, 2023). LPSK's provision of protection under Article 5 of the UUPSK takes into account at least the following conditions: the significance of the witness and/or victim's testimony; the level of threat that endangers the witness and/or victim; the results of the medical or psychological team's analysis of the witness and/or victim; and the witness and/or victim's track record of crimes. In actuality, the 5 (five) conditions are not always fully utilised, implying that the fulfilment of the five prerequisites is variable. Article 28 states that every witness and/or victim can receive legal protection from LPSK if they meet the preceding standards, namely that every statement made by the witness and/or victim in a court session must be significant. Furthermore, external threats may imperil the lives of witnesses and/or victims, as well as their families. The Witness/Victim Protection Agency (LPSK) must make a quick decision on whether or not to accept the respondent's request, and the LPSK decision must be communicated to the witness/victim within 7 (seven) days of receiving the request (Safira, Rahmi, & Nurhayati, 2022).

As part of LPSK, prospective witnesses must go through certain procedures in order to be protected. In addition, they must adhere to the LPSK provisions outlined in Articles 28, 29, 30, 31, 32, 33, 34, 35, and 36 of UUPSK (Komariah, 2015). The next sections clarify the service standards' requirements, processes, and procedures for receiving applications. This Application Acceptance Service Standard specifies several formal and material requirements. Requirements on formal requirements, namely: A sufficiently stamped application letter, a chronological or clear description of events told, a photocopy of identity, a photocopy of a power of attorney if the application is through a legal representative, a photocopy of documents from the competent authority that show the application is submitted, including in a criminal offence, or a case of Gross Human Rights Violations, and a photocopy of documents from the competent. To register or provide application materials to LPSK, the applicant can come in person, by mail, fax, or electronic mail to the Application Reception Unit. The Application Reception Unit will then ensure that the applicant's paperwork or files are complete and/or acceptable. After meeting the requirements, the Application Acceptance Unit will perform a formal/administrative re-examination. The LPSK will review the case requested by the applicant in terms of the importance of the Witness and/or Victim's testimony, the level of threat that endangers the Witness and/or Victim, the results of the medical or psychological team's analysis of the Witness and/or Victim, and the Witness and/or Victim's criminal record. Following the review, the results will be presented and considered at the LPSK plenary meeting to determine whether the applicant's request for protection is approved or rejected. This application is free of charge, and it applies to applicants for protection both in the centre and in other regions (Stanto, 2017).

Justice Collaborator

The notion and phrase Justice Collaborator (JC), also known as Collaborator with Justice or *Pentiti*, are new to Indonesia. The Susno Duaji case was essential to the birth of this phrase. Whistleblower was the term that first became popular among the general public. A whistleblower is someone who informs law enforcement officers about a criminal offence but is not involved in the crime. However, in Susno's instance, the word whistleblower is not regarded appropriate because Susno is not only someone who informs law enforcement officers about an alleged criminal act, but he is also a criminal. In the international context, a person with this status is known as a Justice Collaborator (JC) (Semendawai, 2016).

When reviewing SEMA No. 4 of 2011, the definition of whistleblower in point 8 letter an is emphasised: "The person concerned is a party who knows and reports certain criminal acts as referred to in this SEMA and is not one of the perpetrators of the crime he reports." Based on these rules, it is obvious that the Indonesian legal system views the whistleblower's status as equivalent to that of a whistleblower. However, SEMA's provision

contradicts Law No. 13 of 2006 by including letter b in number 8, which states, "If the whistleblower is also reported by the reported party, the handling of the case on the report submitted by the whistleblower takes precedence over the report from the reported party."

When compared to Article 10 paragraph (1) of Law No. 13 of 2006, which states that "witnesses, victims, and whistleblowers cannot be prosecuted either criminally or civilly for reports, testimonies that they will, are, or have given," Law No. 13 of 2006 effectively prohibits whistleblowers who act in good faith from being prosecuted criminally or civilly. However, SEMA No. 4 Year 2011 provides an opportunity to process the Whistleblower's submitted report. This might be gathered from the line, "...case handling of reports submitted by whistleblowers takes precedence over reports from reported parties." The sentence signifies that once a whistleblower's case is completed, the case reported by the reporting party can be processed, resulting in criminal and/or civil charges against the whistleblower. It is evident that in the SEMA, the Supreme Court employs a sentence that can be read differently. Why not highlight that a whistleblower in good faith cannot be reported back due of his report (Hikmawati, 2013). Law 31/2014 states that a reform of the previous UUPSK, likewise lacks phrases for JC and whistleblower. As a result, the exact conclusion of the regulations governing these two terms has yet to be determined. This creates a legal vacuum, making JC-related arrangements questionable. The primary effect is that it provides only temporary legal protection for JCs.

In determining JC in a criminal case, the minister collaborates with other state organisations to regulate this provision. That rule is then utilised as a criterion by the judicial system to determine who can become a JC. This ensures that the determination is not made randomly. The requirements for usage as a JC. First, JC will reveal crimes that are organised and/or serious. Second, the JC must provide an explanation that is correct, legitimate, significant, exact, and dependable in order to shed light on organised crime and/or major crimes. Third, a JC cannot be the major perpetrator of the organised crime and/or serious crime being prosecuted. Fourth, the JC must submit a written statement and confirm his willingness to repay all proceeds from organised and serious crime.

Aside from the general conditions listed above, becoming a JC is divided into two parts: applying as a JC during the investigation and prosecution process, and after he is already a convict. (Dahwir, 2023).

The Witness and Victim Protection Agency for Protecting *Justice Collaborator*

The panel of judges' determination of the JC is based on the LPSK recommendation. Nonetheless, the panel of judges is free to examine the information provided by the JC when applying criminal sanctions according on the severity of the perpetrator's crime. The presentation of testimony by JCs should provide vital clues or information to help the legal process uncover and prosecute murder cases more successfully (Arsila & Herlina, 2024). UUPSK also regulates legal protection and support to witnesses and victims. Witness and victim protection is an endeavour to provide shelter for someone in need so that they can feel protected from all sorts of threats. Whereas, according to Article 5 of the UUPSK, witnesses and victims have the right to acquire protection for their personal security, family, and property, as well as freedom from all types of threats related to the testimony they will, are, or have given; Participate in the process of selecting and determining a type of protection and security support. Please provide a statement that is free of pressure and compulsion; Get an interpreter. Free from all forms of entrapping questions; Obtain all information about the case's progress; Obtain information about court decisions; Obtain information if the convicted person is released; Keep their identity confidential; Obtain a new identity; Obtain temporary residence; Obtain a new place to live; Obtain reimbursement of transportation costs as needed; Obtain legal guidance and interim living expenses until the protection period expires. Receive support. If all of the rights granted by the UUPSK to witnesses and victims have

been realised, the hardest load would undoubtedly fall on the shoulders of the LPSK, an organisation tasked with providing legal protection to witnesses and victims during its implementation. According to the common interpretation, there are four types of protection for JCs: physical and psychological protection, special management, legal protection, and admiration (Simamora & Pranoto, 2023).

In determining the JC carried out by LPSK, it relates to article 10A of the UUPSK, which states that the perpetrator witness may be given special treatment throughout the examination process and praise for their evidence. The unique handling in question takes the form of separating the place of imprisonment or serving the crime, separating the filing, and allowing witnesses to testify before the trial without directly encountering the defendant who committed the crime. Awards for testifying include leniency in sentencing or conditional release, further remission, and prisoners' rights. In the event that a leniency award is obtained during the sentencing process, the LPSK makes a written suggestion to the prosecution to add in his charges before the judge.

In practice, JC is determined by the outcome of the LPSK hearing panel. The author considers this ineffectual in the determination process if it is not carried out utilising standardised processes. Until recently, the LPSK has not established a uniform technique for calculating JC. The assembly's concept of determination will only be useful if the decision rendered goes against the judge's wishes. For example, if the LPSK assembly selects an A as a JC but the judge decides that an A is not a JC, he will not consider the LPSK assembly's judgement when choosing an A to become a JC. If this occurs, the trial does not go smoothly and contradicts the concepts of speed, simplicity, and low cost justice. This should be a procedural or administrative activity once the judge has approved the recommendation or after the judge obtains approval from the LPSK. As a result, the author thinks that the JC determination should be carried out in two ways: directly by the judge or through the court's approval of LPSK recommendations. These two methods can reduce the LPSK assembly's determination hearing, resulting in a shorter time. The final result is the need for LPSK-created administrative regulations.

The Witness and Victim Protection Agency's Strategy for Protecting Justice Collaborators in the Murder of Law Enforcement Officers

The Case and Justice Collaboration Claim

This case arose from a shooting that murdered Nofriansyah Yosua Hutabarat. The defendant in this case was Ferdy Sambo, a senior police officer who was charged with premeditated murder of the deceased. The event began when Ferdy Sambo contrived a scenario to provide an alibi that the victim fired first. This situation was shared with Richard Eliezer Pudihang Lumiu, a critical witness in the case. Ferdy Sambo informed Richard that the victim initiated the gunshot to protect Putri Candrawathi, who was also involved in the confrontation. During the incident, the defendant ordered Richard to load ammunition into his Glock 17 and remove the victim's HS pistol, which was kept in the car. After that, Ferdy Sambo ordered Richard to shoot the victim. Richard struck the victim many times, causing him to fall face down. While the victim was still moaning, Ferdy Sambo rushed forward with his firearm and shot him twice, guaranteeing his death. In addition, the defendant shot at the wall and the top of the television to simulate a shootout.

Following the shooting, Ferdy Sambo went to the garage and returned to the house to give the other witnesses additional instructions. A variety of evidence was discovered at the crime site, including bullet casings, projectiles, projectile pieces, ceramic ornamentation fragments, glass fragments, and the defendant's Glock 17 pistol. The defendant also wore black gloves to prevent fingerprints on the firearm. The court discovered that the defendant's narrative was a manipulative attempt to disguise the facts. The evidence found at the crime site, as well as the testimony of Richard Eliezer Pudihang Lumiu, demonstrated that Ferdy

Sambo committed a premeditated murder. The court determined that the defendant attempted to construct an alibi and shift blame to the victim in order to conceal his illegal behaviour.

The court dismissed the defendant's argument that the victim fired the first shot. The findings did not support the defendant's scenario. On the contrary, the evidence demonstrated that the defendant purposefully committed the act that resulted in the victim's death and attempted to falsify the crime scene to deceive investigators and the court. Based on the facts and testimony presented, the court convicted the defendant of premeditated murder and punished him in accordance with the applicable law.

In judgement Number 798/Pid.B/2022/PN. Jkt. Sel, the defendant Richard Eliezer Pudihang Lumiu volunteered as a Justice Collaborator (JC) in the premeditated murder of Nofriansyah Yosua Hutabarat. However, because the defendant was the primary perpetrator of the crime, he did not meet the qualifications to become a JC under the legislation governing the protection of whistleblowers, reporting witnesses, and witnesses of collaborating criminals.

In addition, the defendant, Richard Eliezer Pudihang Lumiu, gave testimony that differed from the other defendants. According to the legal regulations controlling the evidentiary value of witness testimony, the evidence of a single witness cannot be regarded crucial or invalid. This means that the defendant's testimony lacks evidence that could be used to determine JC's status. According to the court in this instance, the Justice Collaborator defendant Richard Eliezer Pudihang Lumiu's decision reflects numerous considerations and factors that mitigate the defendant's penalty. In this case, the defendant, Richard Eliezer Pudihang Lumiu, known as Bharada E, worked as a justice collaborator. He helped law enforcement agencies by providing crucial information or cooperation in locating or resolving criminal cases. His participation in supplying such information or collaboration may aid in the discovery of key facts, leading to the resolution of the case and the conviction of additional culprits. Throughout the trial, the judge noted that the defendant, Bharada E, was cooperative and friendly (Arsila & Herlina, 2024).

Strategy for Protecting Richard as Justice Collaborator

The author's restricted documents need intuitive thinking based on field data linked to the murder case. LPSK has done an excellent job carrying out the Richard-protection plan. This is demonstrated by Richard, who is in fantastic physical and mental health. The protection offered by LPSK was adequate. Finally, Richard received a relatively modest legal penalty of one year in prison and the outcomes of the police trial, as well as the status of being on work leave as a police officer while being employed as a police officer.

The LPSK's strategy is aided not just by the performance of LPSK officers, but also by the public's continued interest in the Yosua Hutabarat murder case. It is possible that security for JCs in Indonesia is carried out by government officials and the general population, who continue to watch Richard Eliezer. In this scenario, the author believes that LPSK's protection of JC remains relatively safe and effective, aided by public involvement. However, the issue is that if this case becomes public, what happens if there is public awareness? Of course, the procedure of disclosing facts by JC may be null and void because the defendant in the trial is the highest-ranking official in the POLRI institution. As with earlier studies, the author makes an argument in this one. Indonesia still need a suitably clear rule governing JC since the facts show that the JC arrangement in the UUPSK cannot provide enough protection. The murder case does not reflect the success of the LPSK's handling of Richard as a JC because they gained state aid by happenstance. It should also be noted that public participation in this case is significant. If there are irregularities in the trial, the public will impose social punishments on anyone who is responsible for obstructing the trial.

JC rules must be issued by either the government, the president, or the LPSK. What is needed to fill this legal void is regulation of a JC's protection in cases involving law

enforcement officers or others in positions of authority. The protection must be more carefully controlled in order to provide legal assurance to JC applicants in incidents like Joshua Huatabarat's murder. This is done merely to ensure that facts are disclosed in a consistent manner, allowing judges to make wise and fair decisions.

CONCLUSION

The findings of this study conclude that the LPSK's role in preserving a JC is so important that a specific legal instrument is required to control JC protection. UUPSK, with its most recent revision, must be judged adequate to provide clarity and security to JCs. Additional rules are required to complete administrative actions in selecting JC, which JC will receive. The LPSK's role in the murder case of Joshua Hutabarat was deemed successful and effective. This demonstrates how Richard Eliezer, a JC, earned a one-year prison sentence while maintaining his position at the POLRI Institute. The legal protection offered by the LPSK to JC is proceeding smoothly. However, this signal does not serve as an excuse for not enacting additional laws governing JCs because the law does not regulate JCs found in situations of law enforcement officer homicide. Once again, the successful handling of LPSK requires public participation. So that this can help protect JC. The author suggests that future scholars address the resuscitation of JC in Indonesian law enforcement for key instances, such as those involving government officials or law enforcement, as well as cases of criminal conduct perpetrated by regular persons.

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