



Type: **Book Review**

**Cooperating on Law Enforcement: A Book Review
“Perlindungan Hukum Justice Collaborator dalam
Sistem Peradilan Pidana di Indonesia: Studi
Perkara Tindak Pidana Narkotika”, Dr. Rahman
Amin, S.H., M.H., Yogyakarta, Deepublish, 306
Pages, ISBN: 9786230216886**

Resty Shelya Pujiani  

Faculty of Law, Universitas Negeri Semarang, Indonesia

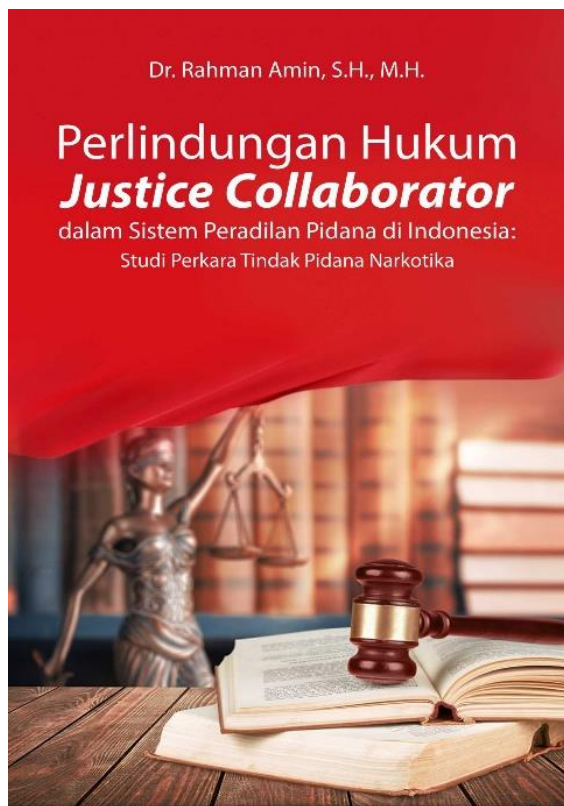
✉Corresponding email: restyshl@students.unnes.ac.id

BOOK DATA

Book Title	: Perlindungan Hukum Justice Collaborator dalam Sistem Peradilan Pidana di Indonesia: Studi Perkara Tindak Pidana Narkotika
Author	: Dr. Rahman Amin, S.H., M.H.
Publisher	: Deepublish Publisher
Publication Year	: 2021
Publisher City	: Yogyakarta
Book Language	: Indonesia
Number of Page	: 306
Book ISBN	: 978-623-02-1688-6

Abstract *The book “Perlindungan Hukum Justice Colaborator dalam Sistem Peradilan Pidana di Indonesia: Studi Perkara Tindak Pidana Narkotika” written by Dr. Rahman Amin, S.H., M.H., a legal practitioner who has worked as Indonesian police since 2004, and now work as Legal Analyst at the Legal Division Indonesian Police Headquarter Office. This book discusses about justice collaborator, or someone involved in a case against law, or we can call it as a witness who cooperates with the perpetrators. In the narcotics crime, it is no longer committed individually, but it has involved many people in groups and work together to form a syndicate of organized networks that are planned, neat, and secret.*

Keywords Legal Protection, Justice Collaborator, Narcotics Crime, Cooperating on Law Enforcement



The increase of this narcotics network cannot be separated from science and technology development especially transportation and telecommunications, which allow the flow of people and goods to flow faster so that distance and time are no longer an obstacle. This is an opportunity to expand the narcotics illicit business network which is carried out in an organized manner, covering a wide network and high mobility, and also being able to develop new and advanced modus operandi so it is difficult to be tracked.

As a law state that based on Pancasila and the 1945 Constitution is upholding the

Human Rights, ensuring the rights of all citizens and their position in law and government and also upholding the law and government with no exceptions. Every citizen has human rights whose existence is recognized and protected by the state, and guaranteed by constitutions. To realize the protection of the rights of these citizens, it is committed by the state power divided by each state administrator, including the legislative, executive, and judicial which consists of several institutions with their respective authorities, and has a free position to provide protection for the rights that should be given to every citizen. In handling of a criminal case, it cannot be separated from presence of witnesses who are willing to provide information regarding criminal acts in all stages of the criminal justice process. The presence of this witness is used to prove the case in court especially for handling criminal acts carried out in an organized manner. In handling organized crime, for example a criminal act, it requires the help of an insider who is directly involved and knows for sure the occurrence of the crime so that they can give testimony to law enforcement to reveal the crime effectively.

One of the effective steps to sneak into narcotics trafficking syndicate is to use perpetrators, who are part of those directly involved in narcotics trafficking syndicates. These perpetrators know for sure the modus operandi used by this syndicate and also know the involvement of other perpetrators with bigger role. These perpetrators who are insider people (inner circle criminal), are directly involves in crime they committed together with other perpetrators so that they could provide important evidence regarding who the perpetrators were, the role of each perpetrator, the way in which the crime was committed, and other evidence that could be found so that it was more optimal handling by law enforcement. This had been done by the United States, they cooperated with criminals whose information and testimonies were used to reveal the friends of other criminals. Starting in 1963, an Italian mafia member named Joseph Valachi violated the mafia's pledge of silence (omerta) by providing evidence and detailed

information about the internal structure of mafia organized crime committed by the mafia group Vito Genovese before the United States Congressional Commission. Thanks to the witness that Joseph gave, the United States was able to find many mafia networks and legal processes were carried out until they were punished.

The involvement of Justice Collaborator in Indonesia in the narcotics case, on behalf of the defendant Atan Makmur alias Ong, who in the trial at the Pematangsiantar District Court was charged by the Public Prosecutor with an alternative charge, namely the charge of violating Article 114 Paragraph (2) of Law Number 25 of 2009 concerning Narcotics, violates Article 112 Paragraph (2) of Law Number 35 of 2009 concerning Narcotics. The Public Prosecutor demanded a punishment of 15 years in prison, a fine of Rp. 1,000,000,000 (one billion rupiah) and a subsidiary of 1 (one) year in prison. Furthermore, the judge's decision stated that the defendant violated Article 112 Paragraph (2) of Law Number 35 of 2009 concerning Narcotics, and was sentenced to 8 years in prison, fined Rp. 1,000,000,000 (one billion rupiah) and if the fine is not paid, the defendant must be sentenced to three months in prison. The panel of judges stated that the defendant was a justice collaborator in disclosing narcotics crime cases based on the judge's consideration in the decision Number 231/Pid.Sus/2015/PN Pms. In determining someone as a justice collaborator, the panel of judges does not just choose, because there must be a match between witness statements, defendants' statements, and legal facts revealed at trial.

In Indonesia itself, regulations of using perpetrators by law enforces in revealing criminal acts explicitly have not been regulated in Criminal Procedural Code (KUHAP) yet, but these are implicitly in Article 10 Paragraph 2 of Law Number 13 of 2014 about The Protection of Witness and Victim which then regulated in Article 1(1) Law Number 31 of 2014 about the change of Law Number 13 of 2006 concerning The Protection of Witnesses and Victims. However, the

formulation of the article does not provide firm regulation relating to when determining the perpetrators of a criminal acts as a cooperating witness, people who determine the perpetrator of a criminal act as a cooperating witness, and under what requirements that must be fulfilled to determine the perpetrator of a criminal act as a cooperating witness. In carrying out evidence by witnesses, they must give relevant evidence, especially with regard to the facts that lead to the case, and it must have relation with the facts that leads it. If there is no requirement, the admission of the evidence obtained can be considered illegal. The Judge must also evaluate each of evidence received, because it will be one of the bases for making decision.

In the Criminal Procedural Code (KUHAP), witnesses play a role in the initial investigation, investigation, and trial stages. So, the position of witnesses in procedural law is very decisive, namely as the main evidence as stipulated in Article 184 of the Criminal Procedure Code (KUHAP). The inadequacy of legal provisions regulating the use of perpetrator witnesses who cooperate in uncovering criminal acts, especially those involving organized syndicates, causes law enforcement in the field to act based on their own judgment in determining the perpetrators of criminal acts as witnesses of cooperating perpetrators, as well as taking other actions with the aim of uncovering crime of narcotics syndicate network. Provisions regarding justice collaborators are regulated in the Circular Letter of the Supreme Court (SEMA) No. 4 of 2011 concerning Treatment of Whistleblowers and Justice Collaborators. This rule was strengthened in a joint decision between the Witness and Victim Protection Agency (LPSK), the Attorney General's Office, the National Police, the KPK, and the Supreme Court.

The act of law enforcement by using narcotics perpetrators to reveal other perpetrators which are bigger involved in narcotics illicit trafficking syndicates through under cover buy technique or controlled delivery technique. The authority to use this under cover buy technique can only be committed by

investigators accompanied by written commands from leaders as regulated in Article 75(i) and Article 79 of Law Number 35 of 2009 concerning Narcotics. However, both of these two techniques give no adequate arrangement as a form of cooperation that can be provided by perpetrators to reveal criminal cases. Likewise in terms of legal protection for perpetrators of narcotics crime, which is used to uncover other perpetrators involved in the illicit traffic of narcotics, which is carried out with planning, division of tasks and roles, and carried out in a closed way so that it is difficult for law enforcers to sneak in the syndicate. The existence of narcotics criminals to provide information about the involvement of other perpetrators needs to get legal protection in the stages of investigation, prosecution, and trial as well as while serving a punishment. With the guarantee of adequate legal protection, it can provide encouragement for narcotics criminals with other minor roles to cooperate with law enforcement in arresting narcotics illicit trafficking syndicates.

Formally, justice collaborator in the Criminal Procedure Code (KUHAP) and Law Number 31 of 2014 has not specifically regulated the witness category and the concept of justice collaborator even though it is well known in criminal justice. The interpretation of the justice collaborator is still unclear, so that the legal reasoning method is used in the form of *Argumentum Per Analogian* or Analogy where the legislation is too narrow in scope to be expanded, where similar events will be carried out the same thing. Criminal Procedural Code (KUHAP) only regulates legal protection for Justice Collaborators who have the status of suspects and defendants. Legal protection for perpetrator witnesses who cooperate in uncovering criminal acts, Article 10 of Law Number 31 of 2014 concerning the Protection of Witnesses and Victims, provides an arrangement that the perpetrator's witness cannot be prosecuted criminally or civilly for the information the perpetrator will, is currently, or has given about a criminal act. In Article 99

Paragraph (1) of Law Number 35 of 2009 concerning Narcotics, it has been regulated that the names and identities of other reporters must be kept secret.

This provision is intended to provide protection for the safety of the reporter. In addition, perpetrator witnesses who cooperate with law enforcement in uncovering criminal acts can also be given special treatment and leniency. To obtain legal protection, the perpetrator submits a written application to the Witness and Victim Protection Agency (LPSK), and then LPSK provides a written recommendation to the public prosecutor to be included in his claim so that the panel of judges can consider when imposing a crime in court. However, the perpetrators of narcotics crimes have worked together with investigators by providing information to reveal other perpetrators involved in narcotics illicit trafficking syndicates, but in the trial, the perpetrators did not receive a significant reduction in punishment as a reward for the cooperation they had provided in uncovering the narcotics crime.

This book provides a theoretical overview of overcoming narcotics crime in the criminal justice system, which is contained in Chapter II page 31, namely Criminal Policy Theory using criminal law policies (penal policy). Then on page 39, there is a theory of the Criminal Justice System, namely by emphasizing aspects of coordination, professionalism, and integrity in carrying out their duties and authorities in accordance with what is given by Law so that there is no abuse of authority. The last theory is the theory of Law Enforcement by using the entire legal structure in implementing the law and seeking justice. There is also a review of Witness Evidence to seek and obtain material truth, that is the complete truth.

This book is written in easy-to-understand language, so that readers can easily understand the contents of the book, and this can be used for reference by students and teachers. This book also presents a systematic discussion, starting from the background of the problem, the causes of the problem, and providing solutions to overcome the problems, and the problem discussed in this book is

narcotics crime, as well as providing examples of cases that occur in the world and in Indonesia in the application of Justice Collaborator in uncovering criminal acts. However, many terms are difficult for general readers to understand, because this book discusses in a complex manner the legal protection for justice collaborators in narcotics crimes, because it does not discuss the introduction of criminal law in Indonesia so that readers directly face the cases.

References

- Amin, R. "Analisis Perlindungan Hukum Saksi Pelaku Yang Bekerjasama (Justice Collaborator) Perkara Tindak Pidana Narkotika dalam Sistem Peradilan Pidana di Indonesia." *Jurnal Hukum Sasana* 6, No. 2 (2020). <https://doi.org/https://doi.org/10.31599/sasana.v6i2.271>.
- Amin, Rahman. *Perlindungan Hukum Justice Collaborator dalam Sistem Peradilan Pidana di Indonesia: Studi Perkara Tindak Pidana Narkotika*. (Yogyakarta: Deepublish, 2021).
- Indonesia. "Undang-Undang No. 13 Tahun 2006 Tentang Perlindungan Saksi Dan Korban," (Jakarta: Sekretariat Negara, 2006).
- Indonesia. "Undang-Undang No. 31 Tahun 2014 Tentang Perubahan Undang-Undang No. 13 Tahun 2006 Tentang Perlindungan Saksi dan Korban" (Jakarta: Sekretariat Negara, 2006).
- Indonesia. "Undang-Undang Nomor 35 Tahun 2009 Tentang Narkotika" (Jakarta: Sekretariat Negara, 2009).
- Lintang, Febriani Tri Putri. "Analisis Yuridis Dasar Pertimbangan Hakim dalam Menetapkan Terdakwa Sebagai Justice Collaborator dalam Pengungkapan Kasus Tindak Pidana Narkotika (Tinjauan Yuridis Putusan Nomor: 231/Pid.Sus/2015/Pn Pms)." *Thesis* (Malang: Universitas Brawijaya, 2018).
- Mahfud, M. "Perlindungan Hukum Bagi Justice Collaborator dalam Undang-Undang Narkotika." *Jurnal Hukum dan Keadilan Mediasi*, 2018. <https://doi.org/https://doi.org/10.37598/jm.v8i2.892>.

- Sirait, Adi Saputra. "Kedudukan Dan Efektivitas Justice Collaborator Di Dalam Hukum Acara Pidana. Jurnal El-Qanuniy:Jurnal Ilmu-Ilmu Kesyariahan Dan Pranata Sosial." *El-Qanuniy:Jurnal Ilmu-Ilmu Kesyariahan Dan Pranata Sosial*, 2019. <https://doi.org/https://doi.org/10.24952/el-qonuniy.v5i2.2148>.
- Sugiri, Bambang, Nurini Aprilianda, and Hanif Hartadi. "The Position of Convict as Justice Collaborator in Revealing Organized Crime." *Padjadjaran Jurnal Ilmu Hukum (Journal of Law)* 8, No. 2 (2021): 255–274. <https://doi.org/10.22304/pjih.v8n2.a5>.
- Wicaksono, Bagas Dwi. "Analisis Putusan Tentang Penolakan Penggunaan Saksi Justice Collaborator dalam Tindak Pidana Narkotika (Studi Pada Putusan Nomor 297/PID.SUS/2020/PN.SGM)." *Thesis*. (Universitas Muhammadiyah Malang, 2021).

Author(s) Biography

Resty Shelya Pujiani is an Undergraduate Law Student, Faculty of Law, Universitas Negeri Semarang, Indonesia. She is also one of the editorial members of Lex Scientia Law Review. Some of reviews have been published such as *Land Acquisition for Customary Law Communities: A Review of The Book Perlindungan Hak atas Tanah Masyarakat Hukum Adat dalam Pengadaan Tanah untuk Kepentingan Umum* (Lex Scientia Law Review, 2021).

How to cite (Chicago style)

Pujiani, Resty Shelya. "Cooperating on Law Enforcement: A Book Review "Perlindungan Hukum Justice Collaborator dalam Sistem Peradilan Pidana di Indonesia: Studi Perkara Tindak Pidana Narkotika", Dr. Rahman Amin, S.H., M.H., Yogyakarta, Deepublish, 306 Pages, ISBN: 9786230216886". *Lex Scientia Law Review* 6, No. 1 (2022): 219-221. <https://doi.org/10.15294/lesrev.v6i1.56726>.

Copyright & License



This work is licensed under a Creative Commons Attribution-NonCommercial-ShareAlike 4.0 International License (CC BY-NC-SA 4.0). All writings published in this journal are personal views of the authors and do not represent the views of this journal and the author's affiliated institutions. **Authors retain the copyrights under this license.**

History of Article

Submitted: April 22, 2022

Revised: May 11, 2022

Accepted: May 21, 2022

Available online at: June 14, 2022