

# **Role of Justice Collaborators in Uncovering Terrorist Networks: Effectiveness Analysis in Indonesia's Criminal Justice System**

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## **Abstract**

Terrorism is a type of organized crime that falls into the category of extraordinary crime. Overcoming this also requires the use of extraordinary measures. Justice collaborator (JC) is a scheme that can optimize the process of handling criminal acts of terrorism, which not only includes repressive efforts (penal path) but prevents similar crimes from occurring early by revealing a wider terrorist network. This study analyzes the role of justice collaborators (JC) in revealing terrorist networks and the effectiveness of their application in the criminal justice system. This study is a type of juridical-normative research using a statute approach. The role of justice collaborators (JC) in revealing terrorist networks has been regulated in several rules that are separate from regulations on

overcoming criminal acts of terrorism. The non-single legal basis gives rise to different interpretations, thus having implications for the ineffectiveness of the role of justice collaborators (JC) in revealing terrorist networks. This can be seen from the absence of a unified coordination of law enforcement officers to ensure the fulfillment of the rights of protection and appreciation for justice collaborators (JC). The implementation in the criminal justice system raises several obstacles, including the mechanism, multi-agency coordination, qualifications, and credibility of the perpetrators who are made justice collaborators (JC). This study concludes that there needs to be an update to regulating justice collaborators (JC) into a single law binding on all criminal justice institutions. There are two update mechanisms: creating a single law or including it in the Criminal Code Bill. Further research is expected to deepen the understanding of empirical data and the use of normative data.

## Keywords

*Justice Collaborators, Terrorist Networks, Criminal Justice System*

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## I. Introduction

Terrorism is a form of extraordinary crime that poses a serious threat to world peace and security. This crime not only creates a tense situation and disrupts international security, but also has the potential to disrupt harmonious relations between countries, causing mutual suspicion and criticism of each other.<sup>1</sup> The debate

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<sup>1</sup> Muhammad Miftahul Umam and Ridwan Arifin, "Legal Protection for Witnesses and Victims of Crimes of Terrorism," *Indonesian Journal of*

on terrorism as an academic study has been going on for quite a long time, but the escalation of discussion of the issue began to be lively right after Osama Bin Laden and the Al-Qaeda movement launched suicide attacks on the World Trade Center and the Pentagon, United States on Tuesday, September 9, 2001.<sup>2</sup>

In addition to global implications, in Indonesia, terrorism itself has quite a negative impact on state security.<sup>3</sup> The complexity of this crime is increasing along with the massive spread of hidden networks and cross-country support that is difficult to detect through conventional investigative methods.<sup>4</sup> In the context of Indonesia, which has social diversity and is vulnerable to infiltration of radical ideology, uncovering terrorist networks is a significant challenge for law enforcement officers because it has complexity and patterns that tend to be dynamic. In terms of law, terrorist criminal acts are regulated in Law Number 5 of 2018 concerning amendments to Law Number 15 of 2003 concerning the Stipulation of Government Regulation instead of Law Number 1 of 2002 concerning the Eradication of Criminal Acts of

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*Counter Terrorism and National Security* 1, no. 2 (July 31, 2022): 109–18, <https://doi.org/10.15294/ijctns.v1i2.60588>.

<sup>2</sup> Bruce Hoffman, “Terrorism in History,” *Journal of Conflict Studies* 27, no. 2 (2007): 8–25, [https://id.erudit.org/iderudit/jcs27\\_2art01](https://id.erudit.org/iderudit/jcs27_2art01).

<sup>3</sup> Ali Masyhar, Ali Murtadho, and Ahmad Zaharuddin Sani Ahmad Sabri, “The Driving Factors for Recidivism of Former Terrorism Convicts in Socio-Legal Perspective,” *Journal of Indonesian Legal Studies* 8, no. 1 (May 31, 2023), <https://doi.org/10.15294/jils.v8i1.69445>.

<sup>4</sup> M. Aulia Zikra Cheni, Philips A. Kana, and Fitriati Fitriati, “UPAYA PENCEGAHAN TINDAK PIDANA TERORISME BERBASIS PERAN SERTA MASYARAKAT OLEH SATUAN BRIMOB KEPOLISIAN DAERAH SUMBAR,” *UNES Journal of Swara Justisia* 5, no. 4 (January 21, 2022): 404, <https://doi.org/10.31933/ujsj.v5i4.230>.

Terrorism. This legislation was created with the objectives of the development of criminal law, namely to accommodate firm legal action against all kinds of actions that meet the criteria for criminal acts to create security and peace within society, both in general and for parties directly harmed.<sup>5</sup>

However, it should be noted that terrorism is categorized as an extraordinary crime, so to eradicate it, it is also necessary to implement extraordinary methods (extraordinary measures).<sup>6</sup> In addition, terrorism can be categorized as an organized crime that is systematic and has a reasonably vast network, even covering countries.<sup>7</sup> Hence, the eradication of this criminal act of terrorism needs to be aimed not only at repressive actions, but there needs to be a special strategy to eradicate it to the roots. One innovative strategy in exposing the terrorist network is using the justice collaborator (JC) scheme, namely, a party involved in a crime but chooses to cooperate with law enforcement officers to dismantle the structure of the terrorist organization. This concept has been normatively adopted in the Indonesian legal system through

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<sup>5</sup> Emi Nugraheni Solihah and Ali Masyhar, "The Implementation of Capital Punishment in Indonesia: The Human Rights Discourse," *Journal of Law and Legal Reform* 2, no. 2 (2021): 321–28, <https://doi.org/10.15294/jllr.v2i2.46625>.

<sup>6</sup> Marimin Marimin, "POLITIK KRIMINAL PERAN TENTARA NASIONAL INDONESIA (TNI) DALAM PENANGGANAN PEMBERANTASAN TERORISME DI INDONESIA," *Jurnal Hukum Progresif* 9, no. 1 (April 30, 2021): 74–86, <https://doi.org/10.14710/jhp.9.1.74-86>.

<sup>7</sup> Hery Firmansyah, "UPAYA PENANGGULANGAN TINDAK PIDANA TERORISME Di Indonesia," *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 23, no. 2 (June 7, 2011): 376, <https://doi.org/10.22146/jmh.16193>.

various regulations, including the Circular of the Supreme Court (SEMA) Number 4 of 2011 concerning the Treatment of Criminal Reporters (Whistleblowers) and Cooperating Witnesses (Justice Collaborators) and Law Number 31 of 2014 concerning Protection of Witnesses and Victims.

Long before the rules on justice collaborators (JC) were enacted de jure, its implementation had already existed since the Denpasar District Court decision Number 167/Pid.B/2003/PN.DPS regarding the 2002 Bali Bombing case where among the defendants sentenced to death (Amrozi bin Nurhasyim, Huda bin Abdul Haq, Imam Samudera, Ali Ghufron), Ali Imron bin H. Nurhasyim alias Alik received a reduced sentence and avoided the death penalty because he regretted his actions and was willing to cooperate with law enforcement officers in revealing the details related to the case. The leniency given by the judge to Ali Imron was a life sentence.<sup>8</sup>

For the research to be more verified and to produce new research, this section will explain several previous research results with similar topics, which will then be used as references for conducting the research. Previous research functions as a boundary so that the research to be carried out does not repeat the points discussed previously, so it is expected to be a reference and reference for the author in compiling quality research. **First**, the thesis of Januarso Rahardjo (2015) entitled " Perlindungan Hukum Justice

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<sup>8</sup> Dhika Paskah et al., "Negeri Denpasar Nomor 167 / Pid . B / 2003 / Pn . Dps Terkait Kasus Tindak Pidana Terorisme Bom Bali 1," *Recidive* 2, no. 1 (2013): 75–81, <https://doi.org/https://doi.org/10.20961/recidive.v2i1.32014>.

Collaborator Dalam Tindak Pidana Terorisme Di Indonesia" discusses the protection of justice collaborators (JC) in criminal acts of terrorism from the legal perspective but does not highlight in detail the efforts to uncover the terrorism network widely through collaboration with justice collaborators (JC). **Second**, the thesis of Anton Laranono (2015) entitled " Kedudukan Hukum Justice Collaborator Dalam Undang-Undang Nomor 15 Tahun 2003 Tentang Pemberantasan Tindak Pidana Terorisme", discusses the legal position and implications of the application of justice collaborator (JC) in criminal acts of terrorism, but not specifically in efforts to eradicate terrorist networks as a whole. In addition, in both theses, the legal basis for criminal acts of terrorism still uses Law Number 15 of 2003 concerning Eradication of Criminal Acts of Terrorism, while regulations related to criminal acts of terrorism have been amended in Law Number 5 of 2018 concerning amendments to Law Number 15 of 2003 concerning Eradication of Criminal Acts of Terrorism. **Third**, the paper by Yvon Dandurand (2008) entitled "Protecting Witnesses and Collaborators of Justice in Terrorism Cases" discusses the protection and witnesses of specific perpetrators in the international case of the Indian airport bombing. The shortcomings of this study are that it does not review the role of justice collaborator ( JC) in dismantling the structure of the terrorist network and is not based on the Indonesian legal context. **Fourth**, an chapter by Adi Syahputra Sirait (2019) entitled " Kedudukan dan Efektivitas *Justice Collaborator* di dalam Hukum Acara Pidana". This chapter uses the Supreme Court Circular Letter Number 4 of 2011 as the legal basis for applying justice collaborators (JC) but does not discuss the crime of terrorism (the

case discussed is a narcotics crime). **Fifth**, an chapter by Alif Fathurochman (2020) entitled "The Effectiveness of Granting Justice Collaboration (JC) for Terrorist Institutions High-Risk Pasir Putih Nusakambangan." This chapter discusses the granting of justice collaborators (JC) in terrorism cases and is based on the Supreme Court Circular Letter (SEMA) Number 4 of 2011. However, it only discusses the extent of its effectiveness, not specifically aimed at explicitly disclosing terrorist networks. **Sixth**, an chapter by Bambang Sugiri et al. (2021) entitled "The Role of Justice Collaborator in Revealing Organized Crime," this chapter does not explicitly discuss terrorism (although terrorism is a type of organized crime); only the implementation of justice collaborators (JC).

Research related to the application of justice collaborators (JC) in terrorism crimes has been raised several times and some have used Law of the Republic of Indonesia Number 31 of 2014 concerning amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims, Circular Letter of the Supreme Court Number 4 of 2011 concerning Treatment for Criminal Reporters (Whistleblowers) and Cooperating Witnesses (Justice Collaborators) in Certain Criminal Cases, and Joint Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Attorney General of the Republic of Indonesia Chief of the National Police of the Republic of Indonesia Corruption Eradication Commission of the Republic of Indonesia Chairperson of the Witness and Victim Protection Agency of the Republic of Indonesia concerning Protection for Reporters, Reporting Witnesses and Cooperating Witnesses as the

basis for regulation, but this regulation has not been implemented effectively because in its implementation it only focuses on uncovering limited networks in the main case, has not accommodated more massive investigations into wider terrorism networks. This research can be mapped into a problem formulation that will be analyzed as follows.

1. What is the role of the Justice Collaborator (JC) in revealing terrorism networks?
2. Is the Justice Collaborator (JC) effectively revealing internal terrorism networks?

This study aims to comprehensively analyze the application of justice collaborators (JC) in terrorism crimes, analyzing how effective the role of justice collaborators (JC) is in revealing wider terrorism networks if applied to the criminal justice system in Indonesia.

## II. Method

The subject of this study is how the concept and practice of implementing justice collaborators in disclosing terrorism networks refer to the criminal justice system implemented in Indonesia. Overall, this study has the characteristics of normative legal research with a statute-based approach. The data collection methodology used in this study uses normative legal methods analyzed comprehensively with data from various legal sources, including laws and regulations, court decisions, and academic studies in criminal law and terrorism in Indonesia.<sup>9</sup>

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<sup>9</sup> Yofran Hengki Ndoluanak, Mulyono Mulyono, and Damrah Mamang, "THE LAW ENFORCEMENT AGAINST TERRORISM CRIMINAL

### III. Result & Discussion

#### **The Role of Justice Collaborators (JC) in Revealing Terrorist Networks**

The function and position of witnesses in the criminal justice system will determine how judges can provide quality decisions. The position of witnesses directly connected to the case being tried allows judges to find the ultimate truth and form the basis for the decision. However, the psychological condition of witnesses in the case process becomes an obstacle in digging up information, especially in the application of perpetrator witnesses/justice collaborators (JC); this is not without reason because there are conditions where witnesses feel pressured by both law enforcement officers and guarantees of their safety after providing information. Therefore, judges are given the authority to hold perpetrator witnesses (justice collaborators) based on LPSK recommendations and guarantee the safety and fulfillment of all rights of perpetrator witnesses.<sup>10</sup>

Justice collaborator (JC) or in the law is called a perpetrator witness; a perpetrator witness who cooperates is also a suspect,

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ACTS USING CHEMICALS, BIOLOGICAL AND RADIOACTIVE MATERIALS IN A JUSTICE PERSPECTIVE,” *Jurnal Hukum Jurisdictie* 5, no. 1 (July 7, 2023): 146–73, <https://doi.org/10.34005/jhj.v5i1.120>.

<sup>10</sup> Ema Mar’Ati Sholecha et al., “Justice Collaborator’s Position and Function on Witness Protection’s Rights as a Suspect from the Perspective of Criminal Law in Indonesia,” *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 6, no. 1 (2023): 131–43, <https://doi.org/10.24090/volksgeist.v6i1.7246>.

defendant, or convict (not the leading actor) in the same criminal case who is willing to cooperate with law enforcement officers to uncover the crime or the occurrence of a crime. In cases of criminal acts that fall into the criteria of organized crime, the role of justice collaborator (JC) in helping to uncover detailed information about organized crime is vital to ensure that all forms of efforts to uncover and resolve cases are effective by the theory of legal effectiveness put forward by Soerjono Soekanto.<sup>11</sup>

The legal basis for the application of justice collaborators (JC) in the criminal justice system in Indonesia is stated in several laws, namely Law of the Republic of Indonesia Number 31 of 2014 concerning amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims, Circular Letter of the Supreme Court Number 4 of 2011 concerning Treatment for Criminal Reporters (Whistleblowers) and Cooperating Witnesses (Justice Collaborators) in Certain Criminal Cases, and Joint Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Attorney General of the Republic of Indonesia Chief of the National Police of the Republic of Indonesia Corruption Eradication Commission of the Republic of Indonesia Chairperson of the Witness and Victim Protection Agency of the Republic of Indonesia concerning Protection for Reporters, Reporting Witnesses and Cooperating Witnesses. What is meant by applying certain criminal acts in the legal basis for

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<sup>11</sup> Khrisna Lintang Satrio Nugroho, "Criminal Law Policy of Justice Collaborator in Corruption Crime Case," *Law Reform: Jurnal Pembaharuan Hukum* 17, no. 1 (2021): 24–35, <https://doi.org/10.14710/lr.v17i1.37550>.

applying justice collaborators (JC) in general refers to serious criminal acts, including terrorism.

Terrorism is categorized as an organized crime based on its movement patterns, motivations, and funding. It is not bound by national, ethnic, and religious boundaries because their relationship is always close to the same view in responding to a phenomenon. However, in another understanding, terrorist groups can also be associated as part of a significant movement of criminal organizations.<sup>12</sup> Although the movement patterns between criminal organizations as a whole and terrorist organizations are identical, there is still no concrete definition that ensures this. Therefore, an understanding of what the definition of a terrorist organization is and how it relates to the national terrorism movement needs to be understood and explained from a historical and ideological perspective.

The roots of the terrorism network in Indonesia are closely related to the international terrorism network based on ideological, historical, and political views on global geopolitical dynamics.<sup>13</sup> The international terrorism network originated from the political movement of the Al-Qaeda group from Afghanistan, which had anti-American views. This doctrine eventually became the starting point for the coordinated world terrorism movement that was first

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<sup>12</sup> Riiikka Puttonen and Flavia Romiti, "The Linkages between Organized Crime and Terrorism," *Studies in Conflict and Terrorism* 45, no. 5–6 (2022): 331–34, <https://doi.org/10.1080/1057610X.2019.1678871>.

<sup>13</sup> Bahtiyar Efendi, "THE CONSTRUCTION OF TERRORISM PREVENTION IN LEGAL POLITICS," *Jurnal Pembaharuan Hukum* 8, no. 3 (December 26, 2021): 394, <https://doi.org/10.26532/jph.v8i3.18768>.

launched through the hijacking of 2 planes that crashed into the Twin Towers of the World Trade Center in New York City on September 11, 2001. This incident sparked a more massive world-terrorism movement. The Global Terrorism Database shows that there was a significant increase in cases after 9/11, where before 9/11, there were 255 terrorism cases, and after 9/11 until 2014, it increased to 2,237 cases.<sup>14</sup> The escalation of the terrorist network became more widespread after the introduction of internet technology that allowed for distribution not only in the national scope (Afghanistan) but also it was able to give rise to new terrorist groups across countries.<sup>15</sup> One of the new cross-country groups that emerged with the same views as Al-Qaeda but more focused on decentralized structural movements is the Islamic State of Iraq and Syria (ISIS) in Iraq.

The influence of the Al-Qaeda and ISIS terrorist networks extends to Indonesia; several terrorist cell networks that exist not only in Indonesia but also in Southeast Asia are Jamaah Islamiyah (JI) and Jamaah Ansharut Daulah (JAD). Jamaah Islamiyah (JI) was founded by Abu Bakar Ba'asyir and Abdullah Sungkar in Malaysia in 1993. Jamaah Islamiyah is affiliated with the Al-Qaeda network from Afghanistan, and this can be seen from its members who are

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<sup>14</sup> Benyamin Fleming Intan and Calvin Bangun, "Principled Pluralism and the Prevention of Religious Terrorism in Indonesia," *Religions* 13, no. 5 (May 9, 2022): 429, <https://doi.org/10.3390/rel13050429>.

<sup>15</sup> Jens F. Binder and Jonathan Kenyon, "Terrorism and the Internet: How Dangerous Is Online Radicalization?," *Frontiers in Psychology* 13, no. October (October 13, 2022): 1–10, <https://doi.org/10.3389/fpsyg.2022.997390>.

facilitated in military training, technology transfer, and funding.<sup>16</sup> Various acts of terror have been carried out by JI in Indonesia, namely the Bali Bombing Incident (2002) as the deadliest act of terrorism because it killed up to 202 victims, the bombing of the JW Marriott Hotel (2003), the Australian Embassy (2004), and the Ritz-Carlton and JW Marriott (2009). In addition to JI, Jamaah Ansharut Daulah (JAD) is a terrorist organization founded by Aman Abdurrahman in 2015, has an understanding of jihad in the form of extreme actions that are crystallized into four concepts, namely :

1. Leadership (daulah/caliphate)
2. Implementation of Islamic law (tahkim al-shariah)
3. War (jihad is qital)
4. Worship mahdah, loyalty to Muslims, and release from infidels (al-wala' wa al-bar'a')

The founder of JAD, Aman Abdurrahman, is an admirer of Sheikh Abu Muhammad al-Maqdisi as an idealist figure of Al-Qaeda and founded JAD to accommodate the ISIS group in Indonesia.<sup>17</sup> Some of the acts of terror that have been carried out by JAD include the Thamrin bomb (2016), the Molotov cocktail at the Samarinda Oikumene Church (2016), the pan bomb in

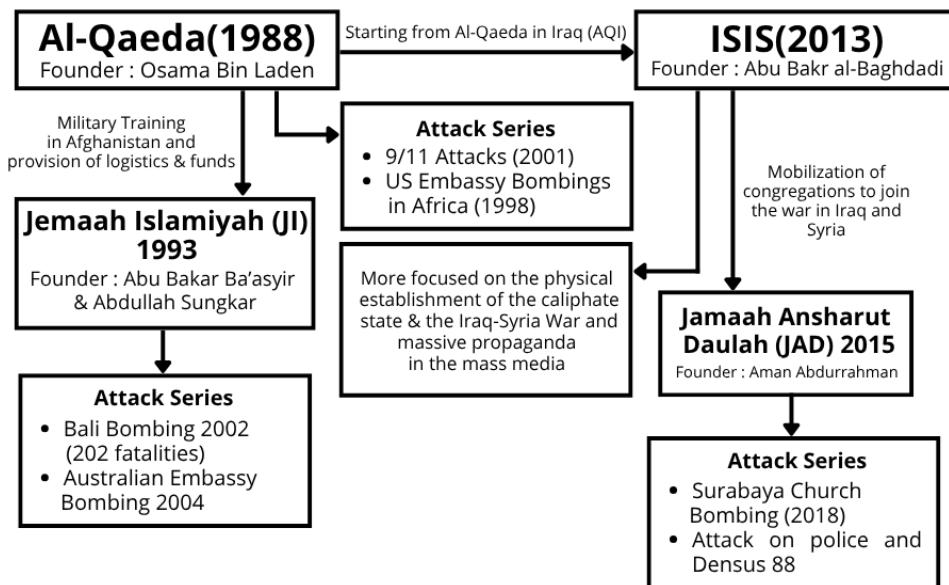
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<sup>16</sup> Abdul Haris, "PEMAHAMAN SYARIAH MANTAN ANGGOTA ORGANISASI RADIKAL DI INDONESIA," *Journal of Community Service* 5, no. 1 (July 26, 2023): 236–58, <https://doi.org/10.56670/jcs.v5i1.129>.

<sup>17</sup> Gonda Yumitro et al., "Jaringan Radikalisme Di Jawa Timur Pasca Reformasi," *Jisiera: The Jounal of Islamic Studies and International Relations* 6, no. 4 (2023): 83–104.

Cicendo, Bandung (2017), the Kampung Melayu bomb (2017) and there are still many series of acts of terror in several other areas.

**Figure 1.** Map of World Terrorist Networks and



From a legal perspective, the crime of terrorism has a special feature in the process of being drafted into legislation. In criminal law, there is an adage known as "*nullum delictum nulla poena sine praevia lege poenali*," often referred to as the principle of legality which means that there is no crime or violation without a criminal regulation that regulates it first, or in other words, criminal law looks forward and does not apply retroactively (non-retroactive).<sup>18</sup> However, in the early emergence of terrorism in the Bali Bombing

<sup>18</sup> Annisa Hafizah, Madiasa Ablisar, and Rafiqoh Lubis, "Asas Legalitas Dalam Hukum Pidana Indonesia Dan Hukum Pidana Islam," *Mahadi: Indonesia Journal of Law* 1, no. 1 (2022): 1–10, <https://doi.org/10.32734/mah.v1i1.8311>.

incident on October 12, 2002 in Legian, Bali, it gave the government a challenge to immediately formulate regulations regarding the eradication of criminal acts of terrorism.<sup>19</sup> On October 18, 2002, the government issued Government Regulation in Lieu of Law of the Republic of Indonesia Number 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism, which was subsequently ratified as Law Number 15 of 2003 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism Becoming Law on March 4, 2003, and was amended again into Law Number 5 of 2018 concerning amendments to Law Number 15 of 2003 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism into Law.

The enactment gave rise to many pros and cons in the legal aspect due to its retroactive nature. Chapter 1 of the Criminal Code has explicitly explained the principle of legality, but Chapter 46 of Lieu of Law of the Republic of Indonesia Number 1 of 2002 provides a contradictory understanding of the principle of legality because it provides space for retroactive regulations. It should also be understood that the application of the Terrorism Law retroactively is based on the legal pretext of Chapter 22 of the 1945 Constitution that in urgent circumstances, the president has the right to enact a Government Regulation in Lieu of Law (PERPPU). Terrorism, as an extraordinary crime and a crime that

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<sup>19</sup> David Hidayah et al., "Megawati Soekarno Putri Government Policy In Dealing With The Effects Of The Bali Bombings I In 2002," *Jurnal Historica* 6, no. 2 (2022): 282, <https://doi.org/10.19184/jh.v6i2.27525>.

threatens human rights (crime against humanity), is categorized as an urgent situation because it is related to the security and safety of the community.<sup>20</sup>

The discussion above provides the fact that the crime of terrorism has a special element in the background of the crime, which is not only based on an evil mental attitude (mens rea) but has a more complex motivation.<sup>21</sup> Extraordinary measures using the application of the justice collaborator (JC) scheme can answer the confusion in efforts to overcome and eradicate the crime of terrorism.

The role of the justice collaborator (JC) is explained in Chapter 28 of Law Number 31 of 2014 and Chapter 1 of the Joint Regulation of 5 Institutions, which are broadly described as follows:

1. Revealing organized criminal networks such as terrorism, narcotics, money laundering, or corruption.
2. Providing relevant testimony based on good faith regarding the case being prosecuted from the investigation stage, prosecution, to trial.

In addition to the role in assisting the case resolution process, some specific qualifications or criteria must be met for defendants

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<sup>20</sup> Notariani Asril, Husni H, and Ferdy Saputra, "Asas Retroaktif Terhadap Tindak Pidana Terorisme," *Jurnal Ilmiah Mahasiswa Fakultas Hukum Universitas Malikussaleh* 4, no. 1 (2021): 25–33, <https://doi.org/10.29103/jimfh.v4i1.4261>.

<sup>21</sup> Ali Masyhar et al., "Digital Transformation of Youth Movement for Counter Radicalism," *AIP Conference Proceedings* 2573, no. September (2022), <https://doi.org/10.1063/5.0109808>.

who will apply as justice collaborators (JC) based on Chapter 4 of Law Number 31 of 2014, namely :

3. The crime must be declared serious and/or organized.
4. Willing to provide significant, relevant, and reliable information to reveal a crime.
5. Not the main perpetrator in the same crime.
6. Willing to return assets obtained from the crime.
7. There is a real threat or concern about threats, physical or psychological pressure, if the perpetrator's witness reveals the crime.

The position of justice collaborator (JC) in efforts to comprehensively reveal cases is vital because the information provided will complement information that may not be obtained through standard mechanisms. With such an important impact, it is fitting that justice collaborators (JC) receive adequate protection and rewards, this is where the role of LPSK as an institution that is given the authority to recommend and provide guarantees of protection for justice collaborators (JC) is crucial. In its development, LPSK implemented a persuasive protection method, namely a guarantee of comprehensive protection for justice collaborators (JC), by involving all law enforcement components to coordinate with each other to ensure protection.<sup>22</sup>

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<sup>22</sup> Aprillia Krisdayanti, "Perlindungan Hukum Bagi Justice Collaborator Dalam Pengungkapan Tindak Pidana Pembunuhan Berencana," *Jurnal Lex*

In Chapter 6 of the Joint Regulation of the Minister of Law and Human Rights of the Republic of Indonesia, Attorney General of the Republic of Indonesia, Chief of the National Police of the Republic of Indonesia, Corruption Eradication Commission of the Republic of Indonesia, Chairman of the Witness and Victim Protection Agency of the Republic of Indonesia Concerning Protection for Reporters, Reporting Witnesses and Cooperating Perpetrator Witnesses, the rights of cooperating perpetrator witnesses (justice collaborators) include:

1. Physical and psychological protection.
2. Legal protection.
3. Special handling includes.
  - a. Separation of detention, confinement, or imprisonment from suspects, defendants, and/or other convicts of the crime being revealed.
  - b. Separating case files with other suspects and/or defendants in criminal cases revealed.
  - c. Postponement of prosecution.
  - d. Postponement of legal proceedings (investigation and prosecution).
  - e. Giving testimony in court without showing their face or identity.
4. Awards in the form of:
  - a. Lightening of sentence demands, including demanding probation and/or

- b. Grant additional remission and other inmate rights per applicable laws if the perpetrator witness is a convict.

LPSK plays an important role in ensuring protection in implementing and determining justice collaborators (JC) in certain criminal cases, including terrorism.<sup>23</sup> However, based on Law of the Republic of Indonesia Number 31 of 2014 concerning amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims, Circular Letter of the Supreme Court Number 4 of 2011 concerning Treatment for Criminal Reporters (Whistleblowers) and Cooperating Perpetrator Witnesses (Justice Collaborators) in Certain Criminal Cases, and Joint Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Attorney General of the Republic of Indonesia Chief of the National Police of the Republic of Indonesia Corruption Eradication Commission of the Republic of Indonesia Chairperson of the Witness and Victim Protection Agency of the Republic of Indonesia concerning Protection for Reporters, Reporting Witnesses and Cooperating Perpetrator Witnesses, LPSK has not yet provided an explicit explanation regarding the mechanism for the procedure for participation in providing recommendations for determining justice collaborators (JC). This raises the uncertainty of the justice collaborator (JC) in conveying all the information he has, so it contradicts the theory of corrective justice put forward by Aristotle that efforts to restore balance after

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<sup>23</sup> Ardiva Naufaliz Azzahra, "PERLINDUNGAN HUKUM BAGI JUSTICE COLLABORATOR DALAM TINDAK PIDANA KORUPSI MENURUT UU PERLINDUNGAN SAKSI DAN KORBAN," *Jurnal Verstek* 10, no. 1 (2022): 1–9, <https://jurnal.uns.ac.id/verstek/article/view/64160/36450>.

injustice are entitled to compensation or restitution. Let's take the perspective of regret as one of the requirements for the perpetrator to become a justice collaborator (JC). He is entitled to a guarantee of compensation commensurate with his regret and good faith to correct the mistake.<sup>24</sup>

In addition to LPSK as an institution that guarantees the protection of justice collaborators (JC) in the judicial process, the role of prosecutors and judges in ensuring the fulfillment of the rights of justice collaborators (JC) after providing information to assist the judicial process still needs to be clarified. This is because the two entities have contradictory functions (law enforcement officers and lawbreakers) when viewed from the definition. The legal basis for applying justice collaborators (JC) only provides a universal concept and multi-sector coordination directions. However, it has not explicitly guaranteed the protection of justice collaborators (JC). Problems often occur in the inconsistency of the role of prosecutors and investigators; with judges as those who have the authority to make final decisions, prosecutors are often late in determining the perpetrator as a justice collaborator (JC) in the prosecution stage so that this also affects judges in interpreting trial facts that have an impact on the results of the verdict which is detrimental (justice collaborators (JC) are threatened with being charged with charges similar to ordinary perpetrators).<sup>25</sup> This has

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<sup>24</sup> Gholin Noor et al., "Tinjauan Filosofis Keadilan Restoratif Dalam Lensa Teori Keadilan," *Hukum Dan Politik Dalam Berbagai Perspektif* 3 (2024): 253–91, <https://doi.org/https://doi.org/10.15294/hp.v3i1.210>.

<sup>25</sup> Tomson Situmeang et al., "Perlindungan.Hukum Terhadap Justice Collaborator Dalam Perkara Tindak Pidana.Narkotika (Studi.Putusan Nomor: 1273/Pid.Sus/2019/PN.Plg.)," *Jurnal Hukum To-Ra: Hukum*

negative implications for guaranteeing awards and protection for justice collaborators (JC). In conceptual understanding, the one who determines and assesses whether the perpetrator is worthy of being a justice collaborator (JC) or not is the prosecutor, but the one who assesses that the information can help and be a consideration for awarding is the authority of the judge who has the principle of judicial independence who can decide cases according to his/her beliefs.<sup>26</sup> Although in the Circular of the Supreme Court (SEMA) Number 4 of 2011 number 9 letter c explains "... judges in determining the sentence to be imposed can consider the following matters for imposing a sentence: i. imposing a special conditional probation sentence; and/or ii. imposing a sentence in the form of the lightest prison sentence among the other defendants who are proven guilty in the case in question." this provision is still comprehensive in its interpretation because it does not include technical instructions in the implementation, so it cannot guarantee the provision of protection and awards to justice collaborators (JC) proportionally.

The answer to the inconsistency of coordination between prosecutors and judges in ensuring the quality and appreciation of justice collaborators (JC) has been applied in the United States justice system with the term plea bargaining. Plea bargaining emphasizes bargaining between law enforcement officers and

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*Untuk Mengatur Dan Melindungi Masyarakat* 9, no. 1 (2022): 115–41, <https://doi.org/10.55809/tora.v9i1.213>.

<sup>26</sup> Lusia Sulastri, "Conceptualization of Grant of Justice Collaborator Status to Main Actors in Criminal Actions," *Journal of Law, Politic and Humanities* 3, no. 2 (2023): 290–304, <https://doi.org/10.38035/jlph.v3i2.186>.

perpetrators of criminal acts about whether or not there is an admission of guilt and their willingness to help, which is applied before entering the trial stage. This scheme can make the law move dynamically and increase the guarantee of fulfillment of the rights of justice collaborators (JC) after assisting in the trial process. This concept has been included in the Draft Criminal Procedure Code (KUHAP) in Article 199 under the name "special path." However, it should be understood that this mechanism only applies to criminal acts with a sentence of no more than 7 years in prison.<sup>27</sup>

Considering the scheme of guaranteeing protection and appreciation for justice collaborators (JC) in resolving criminal cases, it is necessary to understand and consider that the law must also guarantee the right to justice for victims whose rights have been violated due to the implications of the occurrence of the crime, proportionality in reconstructing legal policies must be without eliminating the basic concept, namely the alignment between legal discovery (recht idea), the will of society, and moral will.<sup>28</sup>

## **The Effectiveness of Justice Collaborator (JC) in Revealing Internal Terrorism Networks**

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<sup>27</sup> Yaris Adhial Fajrin et al., "Analysis of the Application of Plea Bargaining in Settlement of Corruption Cases in Indonesia," *Journal of Law and Sustainable Development* 11, no. 4 (2023): 1–12, <https://doi.org/10.55908/sdgs.v11i4.608>.

<sup>28</sup> Hassanain Haykal, "Rekonstruksi Penegakan Sanksi Pidana Terhadap Justice Collaborator Dalam Perspektif Kepastian Hukum Dan Keadilan," *UNES Law Review* 6, no. 2 (2023): 4691–4700, <https://doi.org/10.31933/unesrev.v6i2.1191>.

In the context of criminal law enforcement against terrorism crimes that are very hidden and organized, the effectiveness of the role of justice collaborators (JC) is seen not only from individual contributions in providing information to law enforcement officers but also from their ability to accelerate the law enforcement process systematically.<sup>29</sup> Justice collaborators (JC), who are legally defined as perpetrators who are willing to cooperate with law enforcement officers (Article 1 of Law Number 31 of 2014 in conjunction with Law Number 13 of 2006), have a fairly strategic role in unraveling the nodes of information and the structure of terrorist organizations as a whole. Therefore, the effectiveness of justice collaborators JC in this context means the extent to which the information they provide can be utilized by justice collaborators (JC) to reveal substantive facts, expand the scope of investigations, and increase the ratio of punishment of the main perpetrators. The concept of justice collaborators (JC) is to utilize the knowledge of one of the perpetrators (not the main perpetrator) of a crime to unravel all information about their criminal network, which aims to make it easier for law enforcement officers to uncover more deeply the network of the criminal organization.<sup>30</sup>

Indicators of the success of the role of justice collaborators (JC) in contributing to uncovering terrorist networks include three main dimensions, namely:

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<sup>29</sup> HAFIZ A L GIFARI, “Perlindungan Hukum Bagi Justice Collaborator Dalam Pengungkapan Tindak Pidana Korupsi” 9, no. 2 (2024): 132–47.

<sup>30</sup> Hanif Hartadi Bambang Sugiri, Nurini Aprilianda, “ANALISIS YURIDIS KEDUDUKAN NARAPIDANA SEBAGAI JUSTICE COLLABORATOR,” *Jurnal Hukum Dan Pembangunan* 51, no. 3 (2021): 756–72, <https://doi.org/10.21143/jhp.vol51.no3.3133>.

1. Accuracy of information provided to law enforcement officers regarding terrorist networks.
2. Contribution to efforts to uncover terrorist movement plans as a preventive measure.
3. Effectiveness of justice collaborator (JC) testimony in the trial process culminates in a verdict reaching intellectual actors and logistical supporters.

As stated in the Supreme Court Circular (SEMA) Number 4 of 2011, a justice collaborator (JC) can be considered adequate if the information provided has high quality and evidentiary value and contributes significantly to more comprehensive law enforcement. However, this cannot be achieved without guaranteeing protection and appreciation after the justice collaborator (JC) provides information.<sup>31</sup> This needs to be strengthened by a guarantee of legal protection and appreciation, such as leniency and remission, as a form of appreciation for their contribution, which will be obtained both during the case process and after the trial. This can only be achieved when the mechanism for implementing justice collaborators (JC) has become a complete policy that binds all institutions connected in the criminal procedure process. One of the main benchmarks in assessing the effectiveness of a justice collaborator (JC) is the quality of the information provided, both in terms of validity, relevance, and usefulness in the context of investigation and prosecution. Information obtained from justice collaborators (JC) often opens

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<sup>31</sup> Rotua Hotmauli Siayung et al., "Kedudukan Justice Collaborator Terhadap Pengungkapan Kasus Tindak Pidana Korupsi Dalam Sistem Peradilan Pidana," *JURNAL RECTUM: Tinjauan Yuridis Penanganan Tindak Pidana* 3, no. 1 (2021): 243, <https://doi.org/10.46930/jurnalrectum.v3i1.1884>.

up access to previously closed field intelligence data, including the names of network members, training locations, funding sources, and recruitment methods so that law enforcement officers will find it easier to piece together facts and evidence that will later be used in court.<sup>32</sup> In many cases, information from justice collaborators (JC) becomes an entry point for further investigations, especially in exposing the role of "sleeping cells." However, the quality of the information provided is highly dependent on the good faith of the justice collaborator (JC) in assisting law enforcement officers, and this certainly explains that there are several adverse effects of the implementation of justice collaborators (JC), including:

1. The information provided is very vulnerable to falsification because justice collaborators (JC) will only provide information that does not have the potential to increase the sentence (non-self-incrimination).
2. Because public knowledge of the implementation of justice collaborators (JC) is still limited, appointing one of the perpetrators as a justice collaborator (JC) will raise controversy and potentially reduce public trust in the legal process.<sup>33</sup>

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<sup>32</sup> Amalina Fikriyah, Ali Masyhar, and Cahya Wulandari, "Justice Collaborator Dalam Pertimbangan Hakim Memutus Perkara," *Jurnal Hukum & Pembangunan* 53, no. 3 (2023), <https://doi.org/10.21143/jhp.vol53.no3.1558>.

<sup>33</sup> Dena Aji et al., "Analisis Terkait Justice Collaborator Sebagai Faktor Yang Meringankan Sanksi Pidana Richard Eliezer," *Khirani: Jurnal Pendidikan Anak Usia Dini* 1, no. 2 (2023): 106–13, <https://doi.org/10.47861/khirani.v1i2.243>.

In the framework of counter-terrorism, in order to dig up information, there are several intelligence approaches; there are several methods used by law enforcement officers, including open investigations (interviews and observations) and closed investigations (censorship, wiretapping, espionage, and infiltration).<sup>34</sup> However, justice collaborators (JC) still provide their dimension through internal testimony that cannot be obtained through intelligence technology. Justice collaborators (JC) have ideological and historical closeness to terror networks so that they can read symbolic and ideological contexts. However, intelligence methods are superior in speed and data coverage, while justice collaborators (JC) are superior in the depth of information and evidence strengthening in the legal process. Thus, justice collaborators (JC) should be seen as a strategic complement in guiding technical intelligence work.<sup>35</sup>

Despite its great potential, the effectiveness of justice collaborators (JC) is often hampered by several factors, including:

1. Inconsistent regulations governing the implementation of justice collaborators (JC) lead to confusion.

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<sup>34</sup> Nelvitia Purba M. Dedy Iskandar Harahap, M. Yamin Lubis, "PERAN INTELIJEN KEJAKSAAN DALAM MENGUNGKAP PERKARATINDAK PIDANA KORUPSI," *Jurnal Ilmiah Metadata* 3, no. 3 (2021): 1122–46, <https://doi.org/https://doi.org/10.10101/metadata.v3i3>.

<sup>35</sup> M-adi Setiawan and Yeni Widowaty, "Justice Collaborator Implementation with Law Effectively Approaches in Indonesia," *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 23, no. 1 (March 17, 2024): 554, <https://doi.org/10.31941/pj.v23i1.3714>.

2. Weak protection guarantees for justice collaborators (JC) and their families.
3. Concerns about threats from fellow prisoners or external networks and the social stigma attached.
4. Doubts from law enforcement officers regarding the good faith of justice collaborators (JC) and the bureaucratic system in granting justice collaborator (JC) status.

The suboptimal coordination between the Witness and Victim Protection Agency (LPSK), the prosecutor's office, the police, and judges has also reduced the effectiveness of the role of justice collaborators (JC) in uncovering broader terrorism networks. These obstacles reduce the motivation of justice collaborators (JC) to cooperate and provide the information needed by law enforcement officers and reduce the quality of the information provided because justice collaborators (JC) will be more careful in providing information so as not to burden their sentences.<sup>36</sup>

Protection and incentives are crucial elements that determine the extent to which justice collaborators (JC) are willing to cooperate optimally. Based on the Joint Regulation of 2011 and Law Number 31 of 2014, justice collaborators (JC) have the right to physical and psychological protection and rewards such as reduced sentences and remissions. However, in practice, the implementation of protection still faces technical and logistical obstacles, especially regarding the relocation of prisoners, the

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<sup>36</sup> Krisdayanti, "Perlindungan Hukum Bagi Justice Collaborator Dalam Pengungkapan Tindak Pidana Pembunuhan Berencana."

confidentiality of their identity, and psychosocial assistance. When protection is not adequately guaranteed, the potential to disclose strategic information is minimal. Therefore, the effectiveness of justice collaborators (JC) is highly dependent on the credibility of the protection system offered by the state.

It is necessary to harmonize technical regulations between law enforcement agencies, LPSK, and judicial institutions to form an effective justice collaborator (JC) scheme.

1. Preparing a justice collaborator (JC) protection protocol based on risk and geographical conditions needs to be improved.
2. Training for investigators and prosecutors on the effective and ethical use of justice collaborators (JC) must be a priority agenda.
3. It is necessary to form a national evaluation unit that monitors every case of justice collaborator (JC) involvement to assess its impact empirically.

Improvement of the mechanism for the role of justice collaborators (JC) can be attempted as a single law binding on all institutions or included in the Draft Law on the Criminal Procedure Code (RUU KUHAP) in the criminal justice system. With this approach, the criminal justice system in Indonesia will be more adaptive and responsive in uncovering a wider network of terrorism, resulting in effective court decisions.

## IV. Conclusion

Justice collaborators (JC) are very important in law enforcement officers' efforts to uncover secretive and organized terrorist networks thoroughly. The presence of a justice collaborator (JC) mechanism that provides information and collaborates with law enforcement officers can unravel previously

undetected nodes using methods standard to the criminal justice system. Implementing the role of justice collaborators (JC) is included in extraordinary measures to resolve terrorism cases to the roots.

The findings of this study are that regulations related to the implementation of justice collaborators (JC) in the criminal justice system are still not optimal because they are not regulated in a single law, thus giving rise to several different interpretations in each regulation, which have implications for the ineffectiveness of the purpose of implementing justice collaborators (JC) as a means of uncovering a wider terrorist network. Law Number 5 of 2018 concerning amendments to Law Number 15 of 2003 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism does not explicitly regulate the role of justice collaborators (JC).

The role of justice collaborators (JC) in uncovering terrorist networks provides significant benefits to ease law enforcement officers in digging up comprehensive information. The applicable regulations have defined what qualifications must be met by a perpetrator in order for them to become a justice collaborator (JC), what roles and contributions are needed to facilitate the judicial process (investigation, prosecution, and trial), and the rights of protection and appreciation that will be obtained by justice collaborators (JC) if they are considered capable of contributing comprehensively. However, research findings describe that there is ineffectiveness in the process of fulfilling the rights of protection and appreciation for justice collaborators (JC) because the multi-

agency coordination mechanism tends to be separate and creates confusion for perpetrators who want to become justice collaborators (JC). In addition, there is no concrete formulation in assessing whether the information provided by the justice collaborator (JC) is based on the facts that occurred. The authorities are still wary of the possibility that the justice collaborator (JC) will only provide information that does not have the potential to aggravate his sentence (non-self incrimination).

From the results of this study, the author believes there needs to be a more specific formulation regarding the application of justice collaborators (JC) in the criminal justice system in Indonesia. This formulation can be formed in a new law or can be included in the Criminal Code Bill, which includes complete guidelines for the scheme of implementing justice collaborators (JC), which refers to the explanation of the requirements, determination, obligations, and rights of justice collaborators (JC), as well as multi-agency coordination mechanisms. It should also be noted that in the formulation process, comparative methods must be considered with the justice collaborator (JC) system in other countries, for example, the application of plea bargaining in ensuring the success of the application of justice collaborators (JC).

This study has limitations in analyzing the application of justice collaborators (JC) in recent terrorism cases. On the other hand, it was only identified as being implemented in 2003 (before the regulation related to justice collaborators (JC) was passed), and also the confidentiality of the perpetrators who became justice collaborators (JC) and their final verdicts. Further research is

expected to be more complete on empirical data, making it easier to process the collected data.

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