

SKRIPSI

PERLINDUNGAN HUKUM TERHADAP *JUSTICE*

***COLLABORATOR*: STUDI PERBANDINGAN AMERIKA**

SERIKAT DAN INDONESIA

Diajukan sebagai Salah Satu Syarat
Untuk Memperoleh Gelar Sarjana Hukum

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PERLINDUNGAN HUKUM TERHADAP *JUSTICE COLLABORATOR*: STUDI PERBANDINGAN AMERIKA SERIKAT DAN INDONESIA

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ABSTRAK

Justice collaborator merupakan pelaku tindak pidana yang bekerja sama dengan aparat penegak hukum untuk mengungkap kejahatan yang kompleks. Pengaturan terhadap *Justice collaborator* Pertama kali lahirnya dalam hukum pidana Amerika Serikat. Di Amerika Serikat, mekanisme *justice collaborator* diatur dalam *Rule 11(e)(1)(B) Federal Rules of Criminal Procedure*. Sementara itu, di Indonesia, diatur dalam Surat Edaran Mahkamah Agung Nomor 4 Tahun 2011. Rumusan masalah yang akan dibahas dalam penelitian ini adalah. 1. Bagaimanakah kedudukan *justice collaborator* dalam sistem peradilan pidana Amerika Serikat dan Indonesia. 2. Bagaimanakah penerapan perlindungan hukum terhadap *justice collaborator* Amerika Serikat dan Indonesia. 3. Bagaimanakah kelebihan dan kekurangan *justice collaborator* hukum pidana Amerika Serikat dan Indonesia. Penelitian ini menggunakan metode hukum normatif dengan deskripsi analitis serta menggunakan pendekatan melalui peraturan perundang-undangan (*statute approach*), pendekatan konseptual (*conceptual approach*), pendekatan perbandingan (*comparative approach*) dan pendekatan kasus (*case approach*). Hasil penelitian menunjukkan bahwa kedudukan *justice collaborator* di Amerika Serikat dibangun melalui mekanisme *plea bargaining*, pengajuan *motion for downward departure* berdasarkan *United States Sentencing Guidelines* §5K1.1, sedangkan kedudukan *justice collaborator* di Indonesia melalui UU PSK, SEMA No 4 Tahun 2011 dan Peraturan Bersama Tahun 2011 tentang Perlindungan bagi Pelapor dan Saksi yang menjadi landasan teknis koordinatif dalam penanganan dan perlindungan saksi pelaku yang bekerja sama. Perbandingan penerapan *justice collaborator* Amerika Serikat dan Indonesia ditinjau dari kasus Andrew Fastow dan kasus Richard Eliezer. Kekurangan dan kelebihan *justice collaborator* Amerika Serikat dan Indonesia ditinjau dari sistem hukum masing-masing negara dan potensi harmonisasi dari kelebihan dan kekurangan masing-masing negara. Oleh karena itu, diperlukan reformulasi hukum nasional untuk memperkuat posisi *justice collaborator* dalam upaya pemberantasan tindak pidana berat. Berdasarkan hasil penelitian ini, disarankan agar Indonesia memperkuat dasar hukum mengenai *justice collaborator*, perlu adanya pedoman yang lebih jelas terkait kriteria, bentuk penghargaan, serta mekanisme pemberian keringanan hukuman bagi *justice collaborator* guna memastikan kepastian hukum dan efektivitas dalam pemberantasan tindak pidana berat, khususnya korupsi dan kejahatan terorganisir.

Kata kunci: *Justice collaborator*, Perlindungan Hukum, *Plea bargaining*, *Motion for Downward Departure*, Perbandingan Hukum.

LEGAL PROTECTION FOR JUSTICE COLLABORATORS: A COMPARATIVE STUDY OF THE UNITED STATES AND Indonesia

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ABSTRACT

Justice collaborator is an offender who cooperates with law enforcement authorities to disclose complex, organized, and difficult-to-prove crimes. The concept of justice collaboration was first developed within the United States criminal justice system. In the United States, the legal mechanism governing justice collaborators is regulated under Rule 11(e)(1)(B) of the Federal Rules of Criminal Procedure. Meanwhile, in Indonesia, the legal framework for justice collaborators is primarily regulated through Supreme Court Circular Letter Number 4 of 2011, along with other related regulations. This research examines three main issues: (1) the legal status of justice collaborators within the criminal justice systems of the United States and Indonesia; (2) the implementation of legal protection for justice collaborators in both jurisdictions; and (3) the strengths and weaknesses of the justice collaborator mechanism under the respective criminal law systems of the United States and Indonesia. This study employs a normative legal research method with a descriptive-analytical character, utilizing statutory, conceptual, comparative, and case-based approaches. The findings demonstrate that in the United States, the legal status of justice collaborators is constructed through the plea bargaining mechanism, the submission of a motion for downward departure pursuant to the United States Sentencing Guidelines §5K1.1, and the provision of procedural incentives. In contrast, in Indonesia, the position of justice collaborators is regulated through the Witness and Victim Protection Law, Supreme Court Circular Letter Number 4 of 2011, and the Joint Regulation of 2011 concerning the Protection of Whistleblowers and Cooperating Offenders, which function as a technical and coordinative framework for the handling and protection of cooperating offenders. A comparative analysis is conducted based on the Andrew Fastow case in the United States and the Richard Eliezer case in Indonesia. The advantages and disadvantages of the justice collaborator mechanism in both countries are analyzed their respective legal traditions and institutional structures, as well as the potential for harmonizing the strengths of each system. This research concludes that a reformulation of national legal policy is necessary to strengthen the position of justice collaborators as an effective instrument in combating serious crimes. Therefore, it is recommended that Indonesia reinforce its legal framework by establishing clearer guidelines concerning eligibility criteria, forms of incentives, and sentencing mitigation mechanisms to ensure legal certainty, consistency, and effectiveness, particularly in addressing corruption and organized crime.

Keywords: Justice Collaborator, Legal Protection, Plea Bargaining, Motion for Downward Departure, Comparative Law.