

THE LEGAL POSITION OF A PERPETRATOR WITNESS (JUSTICE COLLABORATOR) IN THE CRIMINAL OFFENSE OF HUMAN TRAFFICKING (TPPO) RELATED TO SEXUAL VIOLENCE UNDER THE LAW ON SEXUAL VIOLENCE CRIMES (UU TPKS)

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Abstract

Human Trafficking (TPPO) related to sexual violence is an extraordinary crime that is organized, has widespread impact, and causes physical suffering, psychological suffering, and economic loss for victims. In law enforcement practice, law enforcement, and uncovering human trafficking (TPPO) networks often requires the role of witnesses (justice collaborators) to uncover the involvement of the main perpetrators. Normatively, the regulation of justice collaborators in Indonesia is regulated by Law Number 31 of 2014 concerning Witness and Victim Protection and is strengthened by Supreme Court Circular Letter Number 4 of 2011. However, Law Number 12 of 2022 concerning Sexual Violence (UU TPKS) does not explicitly regulate the mechanisms, criteria, and implications of granting justice collaborator status in sexual violence cases, including those related to TPPO. This normative vacuum has the potential to lead to inconsistent decisions, legal uncertainty, and an imbalance between the interests of proof and victim protection. This research uses a normative juridical method with a statutory, conceptual, and case study approach. The analysis was conducted on the regulation of justice collaborator in the Indonesian criminal law system, the position of witnesses and perpetrators in human trafficking cases based on sexual violence according to the TPKS Law, and its implications for the principles of justice and victim protection. The results of the study indicate that the regulation of justice collaborator is still general and has not been comprehensively integrated with the TPKS legal regime. As a result, the granting of this status is highly dependent on the discretion of law enforcement officials and judges. From the perspective of criminal law policy and due process of law, the granting of justice collaborator status must still guarantee the principles of proportionality, accountability, and protection of victims' rights, including the right to restitution and victim recovery. Therefore, it is necessary to harmonize regulations between the Witness and Victim Protection Law and the TPKS Law, as well as the formulation of clear technical guidelines regarding the procedures, criteria, and limitations for granting justice collaborator status in human trafficking cases based on sexual violence. This approach is important to strengthen the integrity of the criminal justice system while ensuring that victim protection and recovery remain the primary orientation in law enforcement.

Keywords: *Justice collaborator, Human Trafficking Crime, Sexual Violence, Victim Protection, Criminal Law Policy.*

INTRODUCTION

Human trafficking is a serious crime involving the recruitment, harboring, transportation, transfer, or receipt of individuals through threats of violence, kidnapping, confinement, forgery, fraud, abuse of power, or abuse of a position of vulnerability, including sexual exploitation. Sexual exploitation constitutes one aspect of the Criminal Offense of Human Trafficking (TPPO) as regulated under Articles 2 and 3, resulting in structured violations of Human Rights (HAM). In Indonesia, regulations concerning the Criminal Offense of Human Trafficking (TPPO) are also contained in Law Number 21 of 2021 concerning Sexual Violence Crimes (UU TPKS), particularly Articles 5 and 6. One incident of unlawful confinement involved 19 women (15 adults and 4 minors) who became victims of prostitution in Pasuruan. Dirmanto explained that the perpetrators of Human Trafficking (TPPO) posted a job vacancy advertisement on social media, specifically Facebook, offering positions as karaoke hostesses with promises of lucrative salaries reaching tens of millions of rupiah per month. As a result, 19 victims were attracted, and the

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trafficking transaction occurred¹. Therefore, it is important for the government to ensure the availability of decent employment opportunities so that such practices do not continue to increase the number of victims due to economic hardship.

Table 1. Distribution of Reported Cases of Violence Against Women by Type

No	Types of Violence Against Women	Number of Cases
1	Sexual Violence	2,612
2	Physical Violence	6,293
3	Exploitation	106
4	Human Trafficking (TPPO)	240
5	Neglect	1,185
6	Psychological Violence	4,883

Source: SIGA, Ministry of Women's Empowerment and Child Protection (KEMENPPPA), 2022–2024

In law enforcement practice, dismantling Human Trafficking (TPPO) networks involving sexual exploitation often requires cooperation from lower-level perpetrators (perpetrator witnesses) to uncover the involvement of other actors. Perpetrator witnesses who are willing to cooperate frequently act as *justice collaborators*, which are normatively recognized under Law No. 31 of 2014 concerning Amendments to Law No. 13 of 2006 on the Protection of Witnesses and Victims, particularly Articles 10 and 10A. However, Law No. 12 of 2022 on Sexual Violence Crimes does not explicitly regulate the mechanism for recognition and its implications for sentencing and victim protection. This lack of clarity has generated debate in Indonesian law enforcement practice and requires comprehensive examination.

Beyond normative issues, it must be emphasized that Human Trafficking (TPPO) related to sexual violence constitutes an extraordinary crime because it is organized, involves inter-regional or transnational networks, causes long-term psychological harm to victims, and contains elements of both economic and sexual exploitation. Specific regulations on Human Trafficking (TPPO) are set forth in Law No. 21 of 2007 concerning the Eradication of the Criminal Offense of Human Trafficking, which underscores that human trafficking constitutes a violation of human dignity. Meanwhile, comprehensive protection for victims of sexual violence is strengthened under Law No. 12 of 2022 on Sexual Violence Crimes (TPKS). Nevertheless, the Sexual Violence Crimes Law does not clearly regulate the mechanism for recognition and the legal consequences for justice collaborators in cases related to sexual violence. This legal gap may result in inconsistency in judicial application, legal uncertainty, and imbalance between evidentiary interests and victim protection.

Research Problems

1. How is the regulation of justice collaborators arranged within the Indonesian criminal law system?
2. What is the legal position of a perpetrator witness in TPPO cases involving sexual violence under the TPKS Law?
3. What are the implications of granting justice collaborator status on the principles of justice and victim protection?

Research Objectives

1. To analyze the regulation of justice collaborators from a normative juridical perspective.
2. To examine the position of perpetrator witnesses in the context of TPPO in relation to the TPKS Law.
3. To formulate policy recommendations and technical implementation guidelines for justice collaborators to strengthen the integrity of law enforcement and victim protection.

Research Significance

a. Theoretical Significance

This research is expected to contribute theoretically to legal scholarship, particularly concerning *“The Legal Position of a Perpetrator Witness (Justice Collaborator) in the Criminal Offense of Human Trafficking (TPPO) Related to Sexual Violence under the Law on Sexual Violence Crimes (UU TPKS).”*

¹ The confinement of 19 prostitution victims in Pasuruan, women's activities: "the tip of the iceberg of human trafficking for sexual exploitation", in BBC NEWS INDONESIA, Pasuruan, November 22, 2022

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b. Practical Significance

- a) This research is expected to provide an evaluation for the Government in reviewing legal provisions that may be less relevant.
- b) This research is expected to contribute to and assist Law Enforcement Officials in implementing legal regulations.
- c) This research is expected to benefit victims of violence by encouraging them to report incidents that have occurred.

LITERATURE REVIEW

Criminal Law Policy Theory

According to Marc Ancel, criminal law policy is both a science and an art aimed at enabling the formulation of positive legal rules and guiding authorities responsible for implementing court decisions². Meanwhile, Sudarto explains that criminal law policy encompasses three scopes: narrow, broader, and the broadest sense.

In the narrow sense, criminal policy is described as the overall principles and methods forming the basis of reactions to legal violations in the form of criminal sanctions. In the broader sense, it encompasses the overall functions of law enforcement apparatus, including the operations of courts and the police. In the broadest sense, it refers to the entirety of policies implemented through legislation and official institutions aimed at upholding central norms within society³.

Similarly, Muladi defines criminal law policy as a rational and organized effort by society to reduce crime⁴. The objectives of criminal law policy can be explained as follows:

1. Social Defence

The primary goal of criminal law policy is to protect society from criminal acts. The state seeks to create a sense of security through criminal law by preventing crimes, prosecuting offenders, and reducing the harm caused by criminal acts. This concept is closely associated with the social defence theory in modern criminal law development.

2. Crime Prevention

Criminal law policy aims to prevent crimes before they occur, either through general prevention (deterrence to discourage society from committing crimes) or special prevention (preventing the same offender from reoffending).

3. Justice Enforcement

Criminal law seeks to uphold justice by imposing appropriate punishment on offenders, restoring social balance disrupted by crime, and respecting and protecting victims' rights. Within a rule of law framework, this objective aligns with the principle of equality before the law.

4. Rehabilitation and Resocialization of Offenders

Contemporary criminal law policy does not solely focus on retributive punishment but also aims to improve offenders' quality of life, reintegrate them into society as better individuals, and reduce recidivism.

5. Social Control

Criminal law functions as a means of social control to ensure public order and societal stability. From a sociological perspective, criminal law serves as an instrument for the state to maintain values and norms deemed essential.

6. Supporting the Welfare State Objectives

From a legal policy perspective, criminal law policy is directed toward supporting welfare state objectives, namely ensuring social order, protecting human rights, and achieving public welfare as mandated by the Constitution. Thus, criminal law policy is not merely an instrument of punishment but a strategic tool of the state in building a just, safe, and prosperous society.

² John Kenedi, *Criminal Law Policy (Penal Policy) in the Law Enforcement System in Indonesia*, Pustaka Pelajar, Yogyakarta, 2017, p. 59.

³ Henny Nuraeny, *The Crime of Human Trafficking, Criminal Law Policy and its Prevention*, Sinar Grafika, Jakarta, 2011, p. 48

⁴ Mahsun Ismail, 2018, *Cyberpornography Criminal Law Policy on Victim Protection*, *Journal of Islamic Economic Law*, Vol. I, No. 2.

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Sudarto further explains that implementing criminal law policy means selecting and formulating the best possible criminal legislation that fulfills both justice and effectiveness requirements. It also involves creating criminal regulations that are responsive to present conditions and future developments⁵.

Due Process of Law Theory

Due Process of Law is a legal principle that guarantees every individual the right to a fair, honest, and non-arbitrary judicial process. This concept requires a balance between the interests of the state and the rights of the accused. Likewise, a justice collaborator remains a perpetrator of a criminal offense and therefore cannot be exempted from criminal liability.

Victim Protection Theory

Law No. 12 of 2022 concerning Sexual Violence Crimes and Law No. 31 of 2014 concerning Amendments to Law No. 13 of 2006 on the Protection of Witnesses and Victims emphasize victim protection. Articles 1 and 3 define a victim as “a person who suffers physical, mental, and/or economic harm as a result of a criminal offense.”

METHOD

This research employs a normative juridical method with statutory, conceptual, and case approaches. Secondary legal materials are derived from statutory regulations, including the 1945 Constitution of the Republic of Indonesia, Law No. 1 of 2023 concerning the Criminal Code (KUHP), Law No. 20 of 2025 concerning the Criminal Procedure Code (KUHAP), Law No. 12 of 2022 concerning Sexual Violence Crimes, and Law No. 31 of 2014 concerning Amendments to Law No. 13 of 2006 on the Protection of Witnesses and Victims. Primary materials include legal literature, academic journals, and court decisions.

RESULTS AND DISCUSSION

Normative Regulation of Justice Collaborators

The normative regulation of justice collaborators is derived from:

- a. Law No. 31 of 2014 concerning Amendments to Law No. 13 of 2006 on the Protection of Witnesses and Victims.
- b. Supreme Court Circular Letter (SEMA) No. 4 of 2011.

SEMA No. 4 of 2011 stipulates the following requirements:

1. The individual must not be the principal offender.
2. The individual must admit their actions.
3. The individual must provide significant testimony.
4. The individual must be willing to cooperate consistently.

Law No. 12 of 2022 concerning Sexual Violence Crimes (TPKS) does not specifically regulate provisions regarding perpetrator witnesses. However, in practice, recognition as a justice collaborator is also supported by recommendations from the Witness and Victim Protection Agency (LPSK), considerations from the Public Prosecutor, and judicial policy in sentencing decisions.

- c. Normative Gap in the TPKS Law

Law No. 12 of 2022 does not regulate procedures for applying for justice collaborator status, criteria for sentence reduction in sexual violence cases, or limitations regarding the types of offender roles eligible for such status. Consequently, there is reliance on judicial discretion.

Analysis of Court Decisions

a. A Supreme Court Decision No. 65/Pid.Sus-TPK/2023

In this decision, the Supreme Court recognized the defendant as a justice collaborator due to their role in uncovering a corruption network. The judges' considerations included:

- The defendant was not the principal offender.
- The defendant made a meaningful contribution to revealing the case.
- There was a recommendation from the Witness and Victim Protection Agency (LPSK).

This ruling demonstrates that granting justice collaborator status is situational and largely dependent on judicial discretion.

⁵ Dedi Ismanto, Ivan Najjar Alavi, and Fauziah Lubis, 2024, Criminal Law Policy/Penal Policy, Journal of Social Science Research, Vol. 4, No. 1

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b. Relevance to Human Trafficking (TPPO)

To date, there has been no Supreme Court decision explicitly establishing justice collaborator status in cases of Human Trafficking (TPPO) involving sexual violence. This absence reflects:

- A lack of assertiveness in its application.
- The sensitivity of cases involving victims of sexual violence.
- The absence of clear and integrated norms.

c. Critical Analysis and Comparative Law

In international practice, the principle of plea bargaining in the United States provides an opportunity for offenders to cooperate in exchange for reduced sentences. However, the Indonesian legal system remains grounded in the principle of judicial evidentiary proceedings.

According to Mary Vogel in "*Plea Bargaining Under the Common Law*," plea bargaining in criminal case resolution can be supported by empirical evidence. This comparison indicates that Indonesia applies the concept of justice collaborator in a limited manner while still upholding the principle of criminal responsibility.

d. Implications for Victim Protection

Under the framework of the Sexual Violence Crimes Law (TPKS), victims are the central focus of the justice system. Therefore:

- Compensation must not be reduced.
- The right to recovery must be guaranteed.
- Revictimization must be prevented.

Accordingly, the granting of justice collaborator status must carefully consider the principles of substantive justice and proportionality.

CONCLUSION

Conclusion

Based on the analysis of the normative regulations, theoretical foundations, and judicial practices concerning the position of perpetrator witnesses (*justice collaborators*) in cases of Human Trafficking (TPPO) related to sexual violence, the following conclusions can be drawn:

1. Regulation of Justice Collaborators in the Indonesian Criminal Law System

The regulation of justice collaborators in Indonesian criminal law is normatively governed by Law No. 31 of 2014 and reinforced by Supreme Court Circular Letter No. 4 of 2011. These provisions stipulate that a justice collaborator must: not be the principal offender, admit the criminal act committed, provide relevant and significant information, and demonstrate consistent cooperation.

However, these regulations remain general in nature and do not specifically detail their implementation in cases of Human Trafficking (TPPO) involving sexual violence.

2. The Position of Perpetrator Witnesses in Human Trafficking (TPPO) Cases Involving Sexual Violence

Specific regulations on Human Trafficking (TPPO) are found in Law No. 21 of 2007, while comprehensive protection for victims of sexual violence is regulated under Law No. 12 of 2022. Nevertheless, the Sexual Violence Crimes Law does not clearly regulate:

- The procedure for applying for justice collaborator status;
- The criteria for sentence reduction;
- The limitations on offenders eligible for such status;
- The relationship between sentence reduction and victims' restitution rights.

As a result, the position of perpetrator witnesses in TPPO cases involving sexual violence remains within a normatively uncoordinated area. This condition grants broad discretion to judges, potentially leading to inconsistent rulings and legal uncertainty.

3. Implications for the Principles of Justice and Victim Protection

The designation of justice collaborator status in TPPO cases involving sexual violence affects:

- The principle of substantive justice;
- The principle of proportionality;
- The principle of due process of law;
- The principle of victim protection and recovery.

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Given that human trafficking is an organized crime with significant impact on victims, any sentence reduction must be carefully considered to avoid revictimization, injustice, or the neglect of victims' rights to restitution and recovery.

Therefore, although justice collaborators play a significant role in uncovering organized criminal networks, their application in TPPO cases involving sexual violence must prioritize victim protection as the paramount concern.

Recommendations

Based on the above findings, the author proposes the following recommendations:

1. Normative (Legislative) Recommendations
There is a need for harmonization between Law No. 31 of 2014 and Law No. 12 of 2022. The Sexual Violence Crimes Law should be amended to explicitly regulate:
 - The procedure for applying for justice collaborator status;
 - The criteria for offenders eligible for such status;
 - The maximum limits of sentence reduction;
 - Guarantees that victims' restitution and recovery rights remain protected.
2. Recommendations for Law Enforcement Officials
Public Prosecutors must exercise caution when recommending justice collaborator status, particularly in cases involving sexual exploitation. Judges should clearly and proportionally articulate their legal reasoning in final decisions. The Witness and Victim Protection Agency must conduct thorough assessments before issuing recommendations.
3. Recommendations for Victim Protection
Victims' rights to restitution and recovery must not be affected by any sentence reduction granted to perpetrator witnesses. The legal process must ensure the principle of non-revictimization, and a victim-oriented justice approach must serve as the foundation in every Human Trafficking (TPPO) case involving sexual violence.

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