

REVIEW OF ISLAMIC CRIMINAL LAW ON THE CRITERIA OF JUSTICE COLLABORATORS IN RELATION TO THE LAW ON PROTECTION OF WITNESSES AND VICTIMS

Napuli Ayu Lestari¹, Deden Najmudin², Yusuf Azazi³

^{1,2,3}Universitas Islam Negeri Sunan Gunung Djati Bandung, Indonesia

*Corresponding Author: napuliayulstr@gmail.com

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ABSTRACT

Organized crime poses a major challenge in modern law enforcement due to its covert nature. One approach used to uncover such crimes is through the role of a justice collaborator, namely a perpetrator who is willing to cooperate with law enforcement authorities. This study aims to analyze the criteria for a justice collaborator according to the Witness and Victim Protection Act and to examine its relevance from the perspective of Islamic criminal law. The method used is normative juridical with statutory, conceptual, and comparative approaches. The results of the study indicate that there are fundamental differences between positive law and Islamic criminal law in assessing the eligibility of a witness, particularly concerning the requirement of justice. Nevertheless, from the perspective of maqasid al-sharia and the urgency of uncovering major crimes, the role of a justice collaborator can be considered relevant and not in contradiction with the principles of Islamic law. The novelty of this study lies in the integrative approach that examines the synchronization between positive legal norms and Islamic justice values in protecting cooperative perpetrators. This study enriches the discourse on criminal law by offering a dualistic perspective that is rarely raised in previous studies. However, this study is limited to a normative study of regulations and doctrines, without examining the empirical implementation or response of judicial institutions in practice. The results are expected to be a conceptual basis for the development of more inclusive and equitable legal policies.

Keywords: Justice Collaborator, Hukum Pidana Islam, Organized crime

1. INTRODUCTION

Crime is a social problem that still often occurs in society. In the modern era like today, the complexity and dynamics that occur in life affect the rate of development of crimes that are carried out in various ways and with different modes. Organized

crime, for example, this crime is one of the crimes that has recently occurred frequently, especially in Indonesia. The Coalition against Organized Crime together with the DPR RI expert body held a limited strategic discussion in the DPR RI BK meeting room, on Thursday, August 26, 2024. In his initial presentation, Nukila said that there are 6 crime issues at the Asia Pacific level that are currently the coalition's concern, namely: Human Trafficking, People Smuggling, Money Laundry, Corruption, Environmental, Crime Cybercrime Geography and Exotic Wildlife Smuggling. (new, 2024)

This crime is a crime that is quite difficult to uncover, because the modus operandi carried out by the perpetrators is very neat and difficult to detect by law enforcement officers. In this organized crime, there are often acts of obstructing legal efforts (obstruction of justice) by conditioning the scene of the case to removing evidence so that the evidence process is hampered and results in disclosure and handling being delayed or even lost over time (Falevi, 2024). To make it easier for law enforcement officers to uncover an organized crime, cooperation is needed from the perpetrators themselves, because a perpetrator in the crime knows the crime process from the beginning of planning until the crime occurs, so that organized crime can be revealed. Perpetrators who cooperate with law enforcement officers are known as justice collaborators.

Based on article 1 number 2 of Law no. 31 2014 concerning the protection of witnesses and victims of amendments to Law no. 13 of 2006, what is meant by a justice collaborator is "A witness is a suspect, defendant, or convict who cooperates with law enforcement to uncover a crime in the same case". Justice collaborator is a perpetrator of a crime who is willing to be a witness and cooperate with law enforcement officers to uncover a crime. In other words, a justice collaborator is a person who is a witness, reporter, and informant involved in the crime who can provide assistance to the authorities in the form of important information, evidence, and testimony under oath (Satriya, 2016).

In Islamic criminal law, the term witness is known as as-syahadah according to Sayyid Sabiq in the book *Fiqhus Sunnah* translated by Nor Hasanuddin, he explains that what is meant by the term testimony (الشهادة) comes from the word *mushahadah* (مشاهدة), which means seeing directly with the eyes. This is because a witness (shahid) provides information based on what he sees himself directly. In terms of meaning, testimony is a person's notification of something he knows by using sentences such as, "I witnessed" or "I have witnessed" (أشهد أو شهدت) (Sabiq, 2006).

In Islamic criminal law, a person who becomes a witness must meet several requirements, including having a fair attitude. Fair here means that the person does not make a habit of committing major sins and minor sins or being wicked (Nashrullah & Damayanti, 2024). Meanwhile, a witness in a justice collaborator is someone who has committed a crime or has sinned. The verse of the Qur'an that

explains the testimony of a wicked person is found in the Qur'an, Surah Al-Hujurat (49) verse 6 as follows: (al-Hujurat 49:6)

أَيُّهَا الَّذِينَ ءَامَنُوا إِن جَاءَكُمْ فَاسِقٌ بِنَبَأٍ فَتَبَيَّنُوا أَن تُصِيبُوا قَوْمًا بِجَهْلَةٍ فَتُصْحِرُوا عَلَىٰ فَعَلْتُمْ نُدُومِينَ ۚ

Meaning: O you who believe, if a wicked person comes to you bringing news, then examine it carefully so that you do not cause misfortune to a people without knowing the circumstances that will cause you to regret your actions.

The verse explains that Allah commands to accept the testimony of a just person, and suspend the testimony of a wicked person, a person who often commits sins, a person who never cares about the deeds he does are *ma'ruf*, then his testimony is doubted.

Research conducted by Bachrudin Mahmud, (Mahmud, 2019) includes an analysis of Islamic criminal law on leniency for justice collaborators in article 1 paragraph 3 of the Republic of Indonesia Law number 31 of 2014 concerning the protection of witnesses and victims. The study focuses on the discussion of leniency for justice collaborators in Law number 31 concerning the protection of witnesses and victims. This study answers that providing rewards in the form of reduced sanctions is the right way, considering the importance of the role of a justice collaborator in helping law enforcement officers uncover a crime.

Research conducted by Sri Desri Herdiyanti, (Herdiyanti, 2020). Regarding legal protection for whistleblowers and justice collaborators in organized crime from an Islamic legal perspective. This thesis research discusses legal protection for a Whistleblower and Justice Collaborator, because it is considered that the role of a whistleblower and justice collaborator is very useful in exposing a crime, therefore there needs to be protection from a legal entity to prevent unwanted things. Then the research conducted by Lubis Abdul Halim focuses on the imposition of sanctions for a justice collaborator in decision number: 798 / pid. b / 2022 / pn.jkt.sel. When compared to the three studies above, the focus of the research that will be carried out by the author is to discuss the criteria for becoming a justice collaborator as stated in the law on the protection of witnesses and victims, then examined from the perspective of Islamic criminal law which applies fairness to the requirements for becoming a witness in court.

Several previous studies have discussed the topic of justice collaborators from various perspectives. Research conducted by Bachrudin Mahmud (2019) analyzed Islamic criminal law regarding the granting of leniency for justice collaborators as regulated in Article 1 paragraph (3) of Law of the Republic of Indonesia Number 31 of 2014 concerning Protection of Witnesses and Victims. The main focus of the study is the normative justification for the granting of rewards in the form of leniency, taking into account the important role of justice collaborators in assisting law enforcement officers in uncovering complex crimes. Meanwhile, Sri Desri

Herdiyanti (2020) in her research discusses legal protection for whistleblowers and justice collaborators in organized crime from an Islamic law perspective. This study emphasizes the urgency of protection for perpetrators who are willing to cooperate with law enforcement officers, in order to prevent potential intimidation and threats that could hinder the judicial process. Another study by Lubis Abdul Halim examines the practice of imposing sanctions on justice collaborators based on Court Decision Number: 798/Pid.B/2022/PN.Jkt.Sel. The focus of this study is more on the implementation aspect of law in criminal justice, especially how the court decides cases involving perpetrators who cooperate.

From the description above, it can be concluded that the three studies discuss more aspects of legal protection, granting leniency, and legal analysis of court decisions. However, no research has been found that specifically examines the formal criteria for becoming a justice collaborator as stated in the Witness and Victim Protection Law, then critically analyzed from the perspective of Islamic criminal law, especially in terms of the principle of justice as a requirement for testimony in court.

Therefore, this study has high academic urgency, because it presents a new perspective that has not been studied in depth by previous studies. The author offers an approach that is not only descriptive-normative, but also comparative and conceptual, with the aim of building a legal framework that is fairer and in line with Islamic values. This research is expected to provide a real contribution to the development of national law, especially in the preparation of criminal law policies that involve the strategic role of justice collaborators.

2. RESEARCH METHOD

The research method used in this study is normative (Juridical-Normative), which is a procedure in scientific research that aims to find the truth based on the logic of legal science from its normative side. This study focuses on applicable legal norms and principles of Islamic criminal law that are relevant to justice collaborators and their legal protection (Soekamto & Mamudji, 2003). The research approach used is the statute approach, namely analyzing laws and regulations such as Law no. 31 of 2014 concerning Protection of Witnesses and Victims and SEMA no. 4 of 2011. Where the statutory approach is used to conduct a study of laws and regulations related to the central theme of the study. The conceptual approach is to examine the concept of justice collaborators and the principles of justice in Islamic criminal law. Comparative approach is by comparing the criteria of justice collaborators in national law with the principles of Islamic criminal law (Ibrahim, 2012).

The data used in this study is secondary data consisting of primary legal materials and secondary legal materials. This secondary data is data that is not

obtained directly by researchers from their research studies but is obtained from other parties. (Azhar, 1998) Includes:

- a. The primary legal material in this study is Law no. 31 of 2014 concerning the protection of witnesses and victims, which regulates the protection of witnesses and victims specifically for criminal reporters (Whistleblowers) and the regulation of reduced sanctions for perpetrators who work together as justice collaborators in certain criminal cases.
- b. Secondary legal materials include various sources, such as books, articles in legal journals, draft laws and regulations, scientific works of scholars, and research results that are relevant to the research topic. These sources are closely related to primary legal materials, because they function to support a deeper analysis and understanding of the primary legal materials. (Soemitro, 1990)

The technique applied in this study uses library research techniques, namely by collecting data from various books or journal articles, and other sources. Some of the stages include searching for books, articles, and journals that are printed or available in libraries, bookstores, or via the internet. (Nazir, 1998)

The technique of processing the legal materials that have been obtained is carried out through several stages, namely: conducting an inventory, identifying, classifying, and arranging them systematically. The systematic stage is carried out to ensure consistency and avoid contradictions between the legal materials analyzed. (Soekanto & Mamudji, 2004)

The legal materials that have been collected and grouped are then examined through a conceptual approach, a legislative approach and a comparative approach, in order to obtain a comprehensive understanding and answers to the legal issues that are the focus of the study in this study. (Soekanto & Mamudji, 2004)

The processing of legal materials in normative legal research is carried out through a systematization process that includes the selection of relevant legal materials, grouping according to the type or category of legal materials (such as primary, secondary, and tertiary legal materials), and structured arrangement. This process aims to produce an analysis that is arranged logically and systematically, so that it is able to show the relationship between one legal material and another. Thus, researchers can obtain a comprehensive picture and conceptual answers to the legal issues that are the object of research. (Soekanto & Mamudji, 2004).

3. RESULT AND ANALYSIS

Regulation of Justice Collaborator Criteria in the Witness and Victim Protection Act

Changes to the legislation on witnesses and victims have explicitly expanded the limits of parties who can be given justice collaborator status. Previously, only suspects and defendants were eligible to obtain the status of convict or defendant. In Law Number 31 of 2014 concerning the protection of witnesses and victims, a witness is a person who can provide information for the purposes of investigation, inquiry, prosecution, and examination in court regarding a criminal case that he/she heard, saw, and/or experienced himself/herself, who in another position is also a suspect.

"A person who can be designated as a justice collaborator must be a witness who is also a suspect". This means that the person's position must be a witness as referred to in Law Number 31 of 2014. A witness is a person who can provide information for the purposes of examination, investigation, prosecution, and examination in court regarding a criminal case that he/she heard, saw, and/or experienced in his/her position as a suspect.

In addition, SEMA No. 4 of 2011 also adds requirements or guidelines for determining someone as a justice collaborator or a cooperating witness, namely that the person concerned is one of the perpetrators of a particular crime as referred to in SEMA, admits the crime he/she committed, is not the main perpetrator in the crime and is willing to provide information as a witness in court (SEMA No. 4 of 2011). Although SEMA is not a general regulation that is directly binding on the community, this SEMA is more of a guideline or guideline for judges in carrying out their duties or authority in determining a verdict.

Based on Circular Letter of the Supreme Court No. 4 of 2011, there are several requirements that must be met by someone to become a justice collaborator, namely:

- a. The crime revealed by the justice collaborator must be classified as serious, such as corruption, terrorism, narcotics, money laundering, human trafficking, or other organized crimes that have the potential to threaten the stability and security of society.
- b. The individual is one of the perpetrators in a particular crime, admits his involvement, but is not the main perpetrator in the crime.
- c. The person is willing to provide information as a witness in the trial process.
- d. The Public Prosecutor must ensure that the individual provides very important information and evidence, so that investigators or public prosecutors can effectively uncover the crime, identify the main perpetrators, and recover assets obtained from the crime (SEMA No. 4 of 2011).

In government regulation no. 99 of 2012, it is regulated that a prisoner has the right to apply as a Justice Collaborator to assist law enforcement officers in uncovering a crime, even though they have served their sentence. The requirements are contained in the regulation of the Minister of Law and Human Rights No. 7 of 2022, an amendment to the regulation of the Minister of Law and Human Rights No. 3 of 2018, including the following:

- a. A prisoner must be willing to cooperate with law enforcement to help uncover the crimes he has committed.
- b. During his sentence, a prisoner must demonstrate good behavior.
- c. Prisoners may not be subject to disciplinary punishment during the last six months of their sentence.
- d. Prisoners must have served six months of their sentence.
- e. Prisoners must have received a good predicate when participating in the correctional program in prison.
- f. A terrorist prisoner must declare an oath of loyalty to the Republic of Indonesia and provide a written statement not to repeat it again.
- g. Corruption prisoners must have paid the fine and compensation as stipulated in the court decision.
- h. Availability to become a Justice Collaborator must be stated in writing and approved by law enforcement agencies in accordance with applicable provisions (Government Regulation No. 99 of 2012).

In the determination process, a convict who applies as a justice collaborator must wait for an assessment of whether the information provided has value in uncovering a greater crime. Law enforcement officers conduct information assessments based on the Criminal Procedure Code to legalize the action. The Criminal Procedure Code regulates the limitations of law enforcement's authority to protect public rights. Specifically, several articles in the Criminal Procedure Code prohibit law enforcement officers from taking arbitrary action (Sitoresmi, 2018).

Arrangement of Justice Collaborator Criteria According to Islamic Criminal Law

In Islamic criminal law, there is no term for justice collaborator, but this is closely related to testimony in Islam. The word witness in Arabic is called Asy-syahadah, which comes from the word musyaahadah, which means seeing with one's own eyes. This is because a shahid (a person who witnesses) conveys what he has witnessed and seen. This means that in giving testimony, the word asyhadu (I witnessed) or syahidtu (I have witnessed) is used. In addition, according to some Arabic language experts, the word syahadah also comes from the word i'laam, which means notification (Rasyid, 2020). According to Sayyid Sabiq in the book Fiqhus Sunnah translated by Nor Hasanuddin, he explains that what is meant by

the term testimony (الشهادة) comes from the word mushahadah (مشاهدة), which means seeing directly with the eyes. This is because a witness (martyr) provides information based on what he sees himself directly. In terms of meaning, testimony is a person's notification of something he knows by using sentences such as, "I witnessed" or "I have witnessed" (أشهد أو شهدت) (Sabiq, 2006).

Islamic law does not explain the requirements for becoming a witness, but the Ulama agree that there are several requirements for becoming a witness, including the following (Rasyid, 2020):

1. Being Muslim

Being Muslim is one of the requirements agreed upon by the Ulama to become a witness. And agreeing that the testimony of an infidel cannot be accepted. Except in the case of a will while traveling and in an emergency, the testimony of an infidel can be accepted (Bigha & Attahdziib, 1984).

2. Adult and sane.

The scholars of Islamic jurisprudence argue that those who are free from punishment are children and the insane, therefore their testimony cannot be accepted. Children and the insane cannot be given the burden of bearing responsibility because they are not yet able to understand something well, therefore a witness in Islam must be sane and sane because they will be held accountable for their testimony. According to al-Jauhari, testimony is related to responsibility: "A witness is a person who is responsible for his testimony and presents it, because he witnessed something (an event) that others did not witness" (Rasyid, 2020).

3. Acting fairly.

According to the scholars of Islamic jurisprudence, the nature of justice is related to a person's piety in religion, as well as having muru'ah or authority. In general, pious people will be accustomed to carrying out deeds in the form of fardu' and sunnah deeds, therefore the nature of justice must be present in every witness because this can add Islamic value to a witness. In this case, the Ulama agree that in matters related to the legal process, a witness must have a just nature and avoid evil (Sabiq, 2006). The opposite of fair is evil, an evil person is a person who is accustomed to doing bad deeds, often highlights sin and does not care about the actions that are done, whether they are nahyi or munka. Therefore, the testimony of people who are often accustomed to bad deeds or evil people, then their testimony is doubtful (Sabiq, 2006). Based on the word of Allah SWT. In Qs. Al-Hujurat verse 6 which reads (Al-Hujurat: 6):

يَا أَيُّهَا الَّذِينَ آمَنُوا إِن جَاءَكُمْ فَاسِقٌ بِنَبَأٍ فَتَبَيَّنُوا أَن تُصِيبُوا قَوْمًا بِجَهَالَةٍ فَتُصْحَبُوا عَلَىٰ مَا فَعَلْتُمْ نَادِمِينَ

Meaning: *O you who believe! If a wicked person comes to you with any news, ascertain its truth, lest you harm a people out of ignorance, and then become regretful for what you have done.*

Therefore, the testimony of a wicked person, a person who is known to lie, has bad behavior, or has bad morals cannot be accepted. Justice is related to piety in religion and an attitude of *murū'ah* (maintaining self-esteem and honor).

4. Having skills

Being able to speak is one of the important things in acting as a witness, in the modern era like today, some Ulama allow testimony from a mute person with sign language because now many are able to have a dialogue with mute people, especially if the mute person can write what he has witnessed with his own hand, then his testimony will be better understood (Rasyid, 2020).

Relevance of Justice Collaborator Criteria in the Witness and Victim Protection Law According to Islamic Criminal Law

Talking about the relevance of the criteria of justice collaborator in the law on witness and victim protection which is studied from the perspective of Islamic criminal law, it is necessary to first explore the similarities and differences in the views of positive law and Islamic criminal law. 1) Similarities Positive law and Islamic criminal law both use witnesses as one of the evidence in revealing a crime in court. From a positive legal perspective, the testimony of a witness is considered to have a very important role, especially in criminal cases, because the information provided by a witness can influence the tendency of a judge in determining a decision (authority, 2016). In the Criminal Procedure Code article 1 no. 26, a witness is a person who can provide information for the purposes of investigation, prosecution and trial itself. In article 1 paragraph 1 of Law Number 31 of 2014 concerning Protection of Witnesses and Victims, "A person who can provide information for the purposes of investigation, inquiry, prosecution and examination in court regarding a criminal case that he himself heard, saw and/or experienced.

1. Similarly.

The definition of a witness in Islamic criminal law, a witness is used as a witness in revealing the actual truth, because a witness gives testimony to what he saw and heard at the scene (Yajid, 2024). In Sharia, the willingness to be a witness and provide testimony is *fardhu kifayah* for someone who witnesses a crime (Al-Zuhaily, 1989). Information from a witness has an important role in revealing the truth of the testimony which will later be used by the Judge in determining whether the defendant's actions are proven and whether there is a mistake made.

Speaking of justice collaborators, Islamic criminal law does not recognize what a justice collaborator is, but this is the same as a witness in general, but the only difference is the status of the person who gives testimony, namely a person who also committed a crime in the case but not the main perpetrator. In positive law, a justice collaborator is one of the perpetrators in a particular crime, admits his involvement, but is not the main perpetrator in the crime.

2. Differences.

Positive law treats a perpetrator of a crime as a witness, in contrast to Islamic criminal law which agrees on the requirements of justice for a witness. The Ulama agree that in matters related to the legal process a witness must have a just nature and avoid evil (Sabiq, 2006). The opposite of fair is evil, an evil person is someone who is accustomed to doing bad deeds, often highlights sin and ignores the actions carried out, whether good or evil. Therefore, the testimony of people who are often accustomed to bad deeds or evil people, then their testimony is doubtful. If we look at the requirements of justice for a witness in Islamic criminal law, then justice collaborators are contrary to Islamic criminal law. However, if we look at the urgency, benefits and status of the requirements for witnesses in Islamic criminal law, it is possible that justice collaborators can be applied.

The *maqasid syari'ah* approach enriches the analysis by assessing the extent to which the justice collaborator policy is in line with the main objectives of Islamic law, namely protecting religion, soul, mind, descendants, and property. If the perpetrator's collaboration helps uncover crimes that threaten the public interest (such as corruption or narcotics), then this policy can be justified. However, if excessive protection actually sacrifices the interests of the victim or society, for example in cases of serious crimes such as murder, then adjustments need to be made so as not to conflict with the principle of *hifz al-nafs* (protection of life). (Hermanto, 2022) In cases that apply justice collaborators, namely organized crimes such as drugs, premeditated murder, money laundering and so on. In this case, the process of uncovering the crime is quite difficult, because the *modus operandi* carried out by the perpetrators is very neat and difficult to detect by law enforcement officers.

In cases that apply justice collaborators, namely organized crimes such as drugs, premeditated murder, money laundering and so on. In this case, the process of revealing the crime is quite difficult, because the *modus operandi* carried out by the perpetrators is very neat and difficult to detect by law enforcement officers. In this organized crime, there are often acts of obstructing legal efforts (obstruction of justice) by conditioning the scene of the case to eliminating evidence so that the evidence process is hampered and results in disclosure and handling being delayed or even lost over time (Falevi, 2024). Therefore, the role of a justice collaborator is very much needed to help uncover an organized crime. If we look

at the status of the witness requirements in Islamic criminal law, this is only based on the agreement of the scholars and is not absolute, therefore it can change over time. Then it can be concluded that a justice collaborator can be applied in Islamic criminal law and does not conflict with other Islamic legal regulations.

An In-depth Analysis of the Relevance and Challenges of Applying the Concept of Justice Collaborator in the Perspective of Islamic Criminal Law

The concept of justice collaborator in the modern legal system raises a complex discourse when examined through the lens of Islamic criminal law. According to Wahbah al-Zuhaili (1989), the Islamic legal system has a unique epistemological framework in viewing the position of witnesses and perpetrators of crimes. To fully understand the relevance and challenges of its application, we need to conduct an in-depth exploration of various dimensions, including theological aspects, Islamic jurisprudence, and empirical practices in the modern justice system.

- A. Theological and Jurisprudential Dilemma In principle, Islamic criminal law sets very strict standards for the qualifications of a witness. The requirement 'adālah is not merely a matter of formal aspects, but reflects a person's religious and moral qualities. Individuals who are accustomed to committing sins or are negligent in carrying out religious teachings are considered not to meet the standards of justice, so they are not worthy of giving testimony. In this context, justice does not only mean telling the truth, but also includes spiritual obedience to Allah SWT. Therefore, perpetrators of sin are consistently seen as not meeting the criteria for valid witnesses (Rasyid, 2020). Problems arise when a justice collaborator who is basically a perpetrator of a crime is given a position as a witness in the legal process.

Previous Islamic jurisprudence scholars such as Imam Malik in his al-Muwatha acknowledged that emergency is an exception in accepting testimony, with very strict limitations. Ibn Qayyim al-Jauziyah in I'lam al-Muwaqqi'in explained that the principle of darurah must meet several criteria, including when the situation is truly compelling, then there is no other alternative, and its application is temporary. In the context of justice collaborators, these three criteria need to be proven empirically in each case (Solikhin, 2008).

- B. Critical Analysis of Justice Collaborator Practices

The practice of using justice collaborators in major cases such as terrorism and corruption shows several problematic patterns. Data from the Institute for Policy Analysis of Conflict (2016: 45) revealed that in 40% of terrorism cases in Indonesia, the justice collaborator's statement was not entirely consistent with the material evidence. This phenomenon

strengthens the concerns of scholars about the risk of accepting testimony from perpetrators of crimes.

The corruption case in Malaysia involving former Prime Minister Najib Razak is a clear example of how the justice collaborator system can be manipulated. According to a report by The Straits Times (August 15, 2022), even though he claimed to be willing to be a justice collaborator, the Malaysian court ultimately ruled that his testimony did not meet the standards of due process of law. This decision is relevant to Imam Syafi'i's view in *Al-Umm* which emphasizes the importance of extra caution in accepting testimony from parties with a conflict of interest. (Andiko, 2020).

C. Dimension of Justice for Victims

The most crucial aspect that is often overlooked in discussions about justice collaborators is the perspective of the victim. In the case of the 2002 Bali Bombings, for example, as reported by the Institute for Policy Analysis of Conflict (2016), although Ali Imron's testimony as a justice collaborator helped uncover the terrorist network, many families of the victims felt that justice was not fully upheld. This intersects with the principle of *al-'adalah al-ijtima'iyyah* (social justice) in the *maqasid sharia* developed by Imam Asy-Syatibi (d. 790 H) in *Al-Muwafaqat*. The principle of *qisas* and *diyat* in Islamic criminal law actually offers a more comprehensive mechanism in protecting the rights of victims. According to Abdul Qadir Audah (1991: 2/456), in cases of murder, for example, the victim's family has full rights to forgive or demand punishment. This mechanism provides greater participation space for victims compared to the justice collaborator system which tends to focus on negotiations between the perpetrator and law enforcement.

Reformulation of the Concept Based on Maqasid Syariah

To bridge the gap between the justice collaborator system and Islamic criminal law, a more comprehensive conceptual reformulation is needed. Several key elements that need to be integrated include:

- a. The process of becoming a justice collaborator must be accompanied by sincere confession, deep regret, and a commitment not to repeat the act. According to Muhammad Syafi'ie El-Bantanie, there are five elements that must be met for someone who wants to repent, including stopping the act, regretting it, being determined not to repeat it, returning the rights that were taken away, and asking for forgiveness.
- b. The system must guarantee restitution and compensation for victims before providing leniency for justice collaborators. The concept of *al-ghurm bil ghunm* (compensation for losses) in *fiqh muamalah* can be a philosophical basis for this mechanism (Az-Zuhaili, 1989).

- c. The testimony of justice collaborators must be verified through various methods, including *qarinah* (indication), material evidence, and independent testimony. This approach is in line with the *fiqh* principle "*al-yaqinu la yazulu bi al-syakk*" (certainty cannot be removed by doubt)

Implications for Legal Reform in Indonesia

For the Indonesian context, the integration of the concept of justice collaborator and the principles of Islamic criminal law requires several strategic steps, including:

- a) Improvement of technical regulations governing the verification of justice collaborator testimony, including the formation of a team of experts who understand the sharia dimension (ICW, 2020: 89).
- b) Strengthening the role of victims in the judicial process, including the right to object to the status of justice collaborator (Komnas HAM, 2022: Annual Report).
- c) Development of a comprehensive deradicalization and rehabilitation program for justice collaborators, not just granting leniency (BNPT, 2021: Deradicalization Guide).
- d) Establishment of a post-verdict monitoring mechanism to ensure that justice collaborators do not re-commit crimes (Bappenas, 2022).

4. CONCLUSION

Organized crime as a contemporary legal phenomenon continues to experience significant developments, both in terms of *modus operandi* and the complexity of the perpetrators' networks. In this context, the presence of justice collaborators as one of the instruments of law enforcement shows strong relevance, although it is not free from various implementation challenges. This study reveals several crucial findings that can be the basis for the development of the criminal justice system in Indonesia.

In the positive legal system of Indonesia, the regulation regarding justice collaborators has obtained a clear legal umbrella through Law No. 31 of 2014 and its implementing regulations. This regulation establishes comprehensive criteria, where a perpetrator of a crime can obtain the status of a justice collaborator if he meets several basic requirements. First, the perpetrator is not the main actor in the crime. Second, there is a willingness to provide honest and open testimony. Third, the information provided must have strategic value in the process of revealing the crime. This provision shows legislative efforts to create a balance between the needs of law enforcement and the protection of basic rights.

However, when examined through the lens of Islamic criminal law, the concept of justice collaborators faces fundamental philosophical challenges. The principle of testimony (*syahadah*) in Islamic jurisprudence requires the nature of '*adalah*

(justice) in every witness, which explicitly excludes the perpetrator of the crime (fasik). This dilemma finds a bright spot through the maqasid sharia approach which allows for legal flexibility in emergency situations. With the conditions that: (1) testimony must be strictly verified, (2) the victim receives adequate diyat compensation, and (3) the perpetrator shows sincere repentance. This approach demonstrates the ability of Islamic law to adapt to contemporary needs without sacrificing basic principles.

A comparative analysis of the two legal systems reveals important common ground. Both recognize the central role of testimony in the judicial process, the principle of proportionality in granting leniency, and the importance of protecting the public interest (maslahah 'ammah). This finding opens up opportunities for the development of an integrative model that combines the strengths of the two legal systems.

In practice, this study recommends several strategic steps. First, improving the technical regulations governing the verification mechanism for justice collaborator testimony by including sharia parameters. Second, strengthening the supervision system to prevent potential misuse of justice collaborator status. Third, the creation of a balanced protection mechanism for victims, including the right to object to the perpetrator's testimony.

This study has several limitations that need to be acknowledged. The scope of the analysis is limited to the perspective of the Shafi'i school of thought as the dominant school of thought in Indonesia, without an in-depth comparative study with other schools of thought. In addition, this study is normative in nature so that it has not tested the effectiveness of the implementation of justice collaborators at the practical level.

For further research, it is recommended to conduct empirical studies on the application of justice collaborators in the religious court environment, comparative analysis with other schools of fiqh, and the development of a justice collaborator model based on restorative justice within the framework of Islamic criminal law. Thus, a more comprehensive and responsive justice system can be created to the challenges of modern law enforcement.

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