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Analysis of Criminal Law and Islamic Criminal Law on Sanctions for Justice Collaborators: Brigadier Joshua Murder

Putri Dayani Nasution^{1*}, Marie Mahfudz Harahap²

^{1,2} Faculty of Sharia and Law,
North Sumatra State Islamic
University Medan, Indonesia

Correspondence

Putri Dayani Nasution, Faculty of
Sharia and Law, North Sumatra
State Islamic University Medan,
Indonesia, Jl. William Iskandar Ps.
V, Medan Estate, Kec. Percut Sei
Tuan, Kabupaten Deli Serdang,
Sumatera Utara 20371, e-mail:
putri0205203068@uinsu.ac.id

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Original Article

Abstract

This research examines the role of justice collaborators in murder cases under Indonesian positive law and Islamic criminal law, focusing on the case of Brigadier Joshua's murder. The study analyzes the regulations for criminal sanctions applied to justice collaborators and explores how Islamic law views such sanctions. The research employs a normative methodology with a comparative approach, utilizing secondary data sources. The findings reveal that while Indonesian law provides for leniency in sentencing justice collaborators, the specific reduction is left to judicial discretion. In the case study, Bharada Richard Eliezer received a significantly reduced sentence for his cooperation. Islamic law similarly allows for forgiveness and sentence reduction, particularly in cases of *qisas*, *diyat*, and *ta'zir* punishments. The study concludes that both legal systems recognize the importance of justice collaborators in uncovering complex crimes, but lack specific regulations on sentence reductions. The authors recommend developing more comprehensive legislation to govern reduced sentences for perpetrator witnesses in both systems.

Keywords: *Criminal Law, Islamic Law, Justice Collaborators*

Abstrak

Penelitian ini mengkaji peran *justice collaborator* dalam kasus pembunuhan menurut hukum positif Indonesia dan hukum pidana Islam, dengan fokus pada kasus pembunuhan Brigadir Joshua. Studi ini menganalisis peraturan mengenai sanksi pidana yang diterapkan pada *justice collaborator* dan mengkaji bagaimana hukum Islam memandang sanksi tersebut. Penelitian ini menggunakan metodologi normatif dengan pendekatan komparatif, memanfaatkan sumber data sekunder. Temuan penelitian mengungkapkan bahwa meskipun hukum Indonesia memberikan kelonggaran dalam penjatuhan hukuman bagi *justice collaborator*, pengurangan sanksi diserahkan pada kebijaksanaan hakim. Pada kasus Bharada Richard Eliezer menerima pengurangan hukuman yang signifikan atas kerjasamanya. Hukum Islam juga memungkinkan pengampunan dan pengurangan hukuman, terutama dalam kasus hukuman *qisas*, *diyat*, dan *ta'zir*. Studi ini menyimpulkan bahwa kedua sistem hukum mengakui pentingnya *justice collaborator* dalam mengungkap kejahatan yang kompleks, namun kurang memiliki peraturan spesifik mengenai pengurangan hukuman. Penulis merekomendasikan pengembangan legislasi yang lebih komprehensif untuk mengatur pengurangan hukuman bagi saksi pelaku pada kedua sistem tersebut.

Katakunci: *Hukum Pidana, Hukum Islam, Justice Collaborators*

1. INTRODUCTION

The role of the perpetrator witness, or Justice Collaborator, is crucial in uncovering cases similar to the murder of Brigadier Joshua. This case began on Monday, July 11, 2022, when Brigadier Joshua was found dead. Initial public reports stated that there had been a shootout between two police officers at the house of Ferdi Sambo, Head of the Professional and Security Division (Kadiv Propam) of the National Police, on the afternoon of Friday, July 8, 2022. Due to the element of intent in Brigadier Joshua's death, the police formed a special team to investigate the case. Those suspected of involvement were questioned, including Richard Eliezer. On Wednesday, March 3, 2022, Richard was named a suspect in Joshua's death. Shortly after being named a suspect, Richard made a surprising admission that Joshua did not die in a crossfire. Richard revealed that Brigadier Joshua's gun was deliberately used to stage a gunfight and admitted to shooting Brigadier Joshua on orders from his superiors. In this case, Bharada Richard Eliezer was both a perpetrator and a witness. Although he was not the main perpetrator, he was still guilty of taking a life by following orders from his superiors.¹

As a result of the shooting plan executed at Duren Tiga's house No. 46, Brigadier Joshua died. The South Jakarta District Court Panel of Judges sentenced Bharada Richard Eliezer to 12 years in prison for violating Article 340 in conjunction with Article 55 Paragraph 1 of the Criminal Code (KUHP), based on the prosecutor's demands. However, because the judge granted him the status of a cooperating witness, or Justice Collaborator, the sentence was reduced to 1 year and 6 months. The Justice Collaborator is an alternative solution for law enforcement officials to uncover organized crime cases in Indonesia. As an informant, the Justice Collaborator provides critical information and strong evidence to expose organized criminal activities.²

Premeditated murder is specifically regulated in Article 340 of the Criminal Code, which states:

“Whoever intentionally and with premeditation takes the life of another person, shall be punished for premeditated murder (*moord*) with the death penalty, life imprisonment, or temporary imprisonment for a maximum of twenty years.”

Meanwhile, in Islamic law, the punishment for those who commit murder is outlined in the Quran, Surah Al Baqarah verse 178, which states:

“O you who believe, *qishash* is prescribed for you regarding those who are killed: the free for the free, the slave for the slave, and the female for the female. But if any remission is made by the brother of the slain, then grant any reasonable demand and

¹ Fitria Chusna Farisa, “Perjalanan Richard Eliezer Di Kasus Brigadir J: Jadi Tersangka Pertama, Kini Divonis Paling Ringan,” Kompas.com, 2023, <https://nasional.kompas.com/read/2023/02/16/15065331/perjalanan-richard-eliezer-di-kasus-brigadir-j-jadi-tersangka-pertama-kini?page=all>.

² Rifki Yudhawan and Natangsa Surbakti, “Peran Justice Collaborator Dalam Mengungkap Kasus Pembunuhan Berencana Terorganisir: Studi Kasus Tewasnya Brigadir Nofriansyah Yosua Hutabarat” (Universitas Muhammadiyah Surakarta, 2023), <https://eprints.ums.ac.id/120598/>.

compensate him with handsome gratitude. This is a concession and a mercy from your Lord. After this, whoever exceeds the limits shall have a grievous penalty.”

The definition of a perpetrator witness, or Justice Collaborator, is regulated in Republic of Indonesia Law No. 31 of 2014 concerning the Protection of Witnesses and Victims in Article 1 Paragraph 2, which states:

“A perpetrator witness is a suspect, defendant, or convict who collaborates with law enforcement to uncover a criminal act in the same case.”

According to Article 10A Paragraph 1 of the same law, perpetrator witnesses may receive special treatment during the examination process and recognition for their testimony. In Islamic Criminal Law, the term *tahfiful uqubah*, which means the reduction of punishment, is similar to the concept of remission. The Encyclopedia of Islamic Criminal Law describes commutation or forgiveness of punishment as a reason for reducing or canceling a sentence, whether granted by the victim, their guardian, or the authorities.³ Based on this background, the aim of this research is to examine how criminal sanctions are regulated for justice collaborators in murder cases under Indonesian positive law, to analyze the punishment given to justice collaborators in the murder case of Brigadier Joshua, and to explore how Islamic Criminal Law views criminal sanctions for justice collaborators in murder crimes.

2. RESEARCH METHODOLOGY

This research employs normative research methods with a comparative approach, examining legal systems in detail. It focuses on the punishment for perpetrator witnesses in cases of murder under Positive Law and Islamic Law. The data sources utilized in this research are secondary data, including books and other documents. Data collection is conducted through journals and other sources.⁴ The data analysis technique used is descriptive-qualitative analysis, wherein the researcher analyzes the data to identify meanings and connections between the data, theory, and the problems studied. This analysis aims to reveal the relationships between the data, theory, and the issues under investigation.

3. RESEARCH RESULTS AND DISCUSSION

3.1 Regulations for Criminal Sanctions for Justice Collaborators in Murder Cases under Positive Law in Indonesia

³ Baharudin Machmud, “Analisis Hukum Pidana Islam Terhadap Keringanan Pidana Bagi Justice Collaborator Dalam Pasal 10a Ayat 3 Undang-Undang Republik Indonesia Nomor 31 Tahun 2014 Tentang Perlindungan Saksi Dan Korban” (Universitas Islam Negeri Walisongo Semarang, 2019), <https://eprints.walisongo.ac.id/id/eprint/9700/>.

⁴ Muhaimin Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020).

Etymologically, the term “Justice Collaborator” combines “Justice,” meaning fairness, and “Collaborate,” meaning working together. Terminologically, it refers to an individual involved in a particular crime who admits their actions but is not the main perpetrator and provides information as a witness in the judicial process.⁵ A Justice Collaborator is a witness who has participated in a crime and is willing to provide information to law enforcement. Although they can still be punished if proven guilty, their testimony can lead to a reduced sentence imposed by the court.⁶

From the perspectives of Positive Law and Islamic Law, criminal law plays an essential role in achieving the shared goals of prevention and societal guidance to create security and order in the nation’s life. However, effective implementation is hindered by a lack of public understanding of the rules, resulting in violations by individuals or exclusive groups, which can lead to criminal acts and losses.⁷ The primary legislation in Indonesia regulating witnesses and their rights and protection is the Criminal Procedure Law (KUHAP) and its derivative regulations. The Criminal Procedure Code serves as the main legal foundation for the criminal procedural law system in Indonesia, initially regulating witnesses and the rights granted to them.⁸

Law Number 31 of 2014 concerning Witness and Victim Protection provides protection and assistance to witnesses and victims, including ensuring their safety from threats in their surroundings. On the other hand, Supreme Court Circular Letter Number 4 of 2011 concerning the Treatment of Criminal Whistleblowers and Perpetrator Witnesses Who Collaborate in Certain Crimes was drafted due to the absence of specific provisions regarding Justice Collaborators. This circular serves as a guide for judges in handling cases involving Justice Collaborators.⁹

The definition of a witness is regulated in the Criminal Procedure Code (KUHAP) Article 1 Number 26, which states:

“A witness is a person who can provide information for the benefit of prosecutors and judicial investigators regarding a criminal case that he himself heard, saw, and experienced.¹⁰”

⁵ Tofik Yanuar Chandra, *KPK Dan Kewenangan Penetapan Status Justice Collaborator* (Bekasi: PT Sangir Multi Usaha, 2022).

⁶ Ismail Pane and Mara Ongku Hsb, “Justice Collaborator Dalam Tindak Pidana Pembunuhan Perspektif Maqasid Syariah,” *Jurnal Al-Maqasid: Jurnal Ilmu Kesyaharian Dan Keperdataan* 9, no. 1 (2023): 57–71, <https://doi.org/10.24952/almaqasid.v9i1.7420>.

⁷ Totok Sugiarto, Wawan Susilo, and Purwanto Purwanto, “Studi Komparatif Konsep Tindak Pidana Dalam Hukum Pidana Indonesia Dan Hukum Pidana Islam,” *Al-Qanun: Jurnal Pemikiran Dan Pembaharuan Hukum Islam* 25, no. 2 (2022): 219–32, <https://doi.org/10.15642/alqanun.2022.25.2.219-232>.

⁸ Nomerio Armandheo Simamora and Edi Pranoto, “Tinjauan Yuridis Penetapan Status Seseorang Sebagai Justice Collaborator Di Indonesia,” *Iblam Law Review* 3, no. 1 (2023): 49–60, <https://doi.org/10.52249/ilr.v3i1.115>.

⁹ Radisman Saragih, “Justice Collaborator in the Perspective of Indonesian Criminal Law,” *Advances in Social Sciences Research Journal* 10, no. 8 (2023): 220–227, <https://doi.org/10.14738/assrj.108.15304>.

¹⁰ Kementerian Sekretaris Negara Republik Indonesia, “Kitab Undang-Undang Hukum Acara Pidana Pasal 1 Angka 26” (1981), https://jdih.mahkamahagung.go.id/storage/uploads/produk_hukum/file/KUHAP.pdf.

According to Law of the Republic of Indonesia No. 31 of 2014 concerning the Protection of Witnesses and Victims, Article 1 Paragraph 2 states:

“A perpetrator witness is a suspect, defendant, or convict who cooperates with law enforcement to uncover a criminal act in the same case.¹¹”

Supreme Court Circular Letter (SEMA) Number 4 of 2011 outlines the guidelines for determining someone as a Justice Collaborator:

“The individual must be one of the perpetrators of certain criminal acts as referred to in this SEMA, admits to the crime committed, is not the main perpetrator in the crime, and provides a statement as a witness in the judicial process.¹²”

In legal terms, a perpetrator witness is called a Justice Collaborator. In this research case study, Bharada Ricard Eliezer was one of the perpetrators of the premeditated murder of Brigadier Joshua. Article 340 of the Criminal Code states:

“Whoever intentionally and with premeditation takes the life of another person, shall be punished for premeditated murder (moord) with the death penalty or life imprisonment or temporary imprisonment for a term of twenty years.¹³”

However, Ricard acted under orders from his superiors and was not the main perpetrator in the murder case of Brigadier Joshua. Consequently, Bharada Ricard Eliezer volunteered as a Justice Collaborator, and due to his cooperation, he received a reduced sentence.

The punishment provisions for perpetrator witnesses are outlined in Law of the Republic of Indonesia No. 31 of 2014 concerning the Protection of Witnesses and Victims, Article 10A Paragraph 3. Letter A reads:

“leniency in criminal penalties,...¹⁴”

Letter B reads:

“.....conditional release, additional remission, and other prisoners’ rights in accordance with the provisions of the laws and regulations for witnesses of perpetrators who have the status of prisoners.¹⁵”

However, the provisions for reducing the sentence given to a perpetrator witness are not specifically regulated in Republic of Indonesia Law No. 31 of 2014 concerning the

¹¹ Republik Indonesia, “Undang-Undang (UU) No. 31 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 13 Tahun 2006 Tentang Perlindungan Saksi Dan Korban” (2014), <https://peraturan.bpk.go.id/Details/38701/uu-no-31-tahun-2014>.

¹² Mahkamah Agung Indonesia, “Surat Edaran Mahkamah Agung Nomor 4 Tahun 2011 Tentang Perlakuan Bagi Pelapor Tindak Pidana (Whistleblower) Dan Saksi Pelaku Yang Bekerjasama (Justice Collaborators) Di Dalam Perkara Tindak Pidana Tertentu” (2011), <https://jdih.mahkamahagung.go.id/legal-product/sema-nomor-4-tahun-2011/detail>.

¹³ Republik Indonesia, “Kitab Undang-Undang Hukum Pidana (KUHP) Pasal 340” (1946).

¹⁴ Republik Indonesia, Undang-undang (UU) No. 31 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 13 Tahun 2006 Tentang Perlindungan Saksi dan Korban.

¹⁵ Republik Indonesia.

Protection of Witnesses and Victims, nor in Supreme Court Circular Letter (SEMA RI) No. 4 of 2011. Consequently, the reduction of the criminal sanction is determined by the judge's considerations.

The investigation revealed that Inspector General Ferdi Sambo was the main perpetrator in this case, not Bharada Ricard Eliezer. Therefore, Bharada Ricard Eliezer has the right to propose himself as a Justice Collaborator to provide further information about the case. The South Jakarta District Court Decision Number 798/Pid.B/2022/P.Jkt.Sel. declared that Bharada Ricard Eliezer was guilty of participating in premeditated murder, in accordance with Article 340 of the Criminal Code in conjunction with Article 55 Paragraph (1) of the Criminal Code, Article 5 Paragraph (1) of Law Number 48 of 2009 concerning Judicial Power, and Article 10A of Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning the Protection of Witnesses and Victims. Despite this, the court imposed only a prison sentence of 1 year and 6 months, appointing Bharada Ricard Eliezer as a Justice Collaborator, which was much lighter than the prosecutor's demand of 12 years in prison.¹⁶ One of the goals of criminal law is to reduce the crime rate.¹⁷

Judges consider several factors to determine someone as a Justice Collaborator; concern and recognition of mistakes made, not acting as the main perpetrator in the crime, active cooperation and providing clear information during the trial process, providing a detailed chronology of events and the roles of all actors involved, and determination of the role by the prosecutor based on information provided by the Justice Collaborator.¹⁸

The Witness and Victim Protection Agency (LPSK) has the authority to determine Justice Collaborator status. However, in practice, as evidenced in the premeditated murder case involving Richard Eliezer, the final decision regarding this status in general criminal cases is not solely determined by the LPSK. The panel of judges plays a crucial role in assessing and deciding on this status in their rulings.¹⁹ According to Supreme Court Circular Letter (SEMA RI) No. 4 of 2011, a Justice Collaborator is defined as a witness who is a perpetrator collaborating in a particular criminal act, admitting to the crime committed, not being the main perpetrator, and providing information as a witness in the judicial process.²⁰

¹⁶ Hasudungan Sinaga, "Juridical Analysis of People of The Crime of Planning Murder as Justice Collaborators According to Criminal Law in Indonesia," *Iblam Law Review* 2, no. 3 (2022): 191–204, <https://doi.org/10.52249/ilr.v2i3.232>.

¹⁷ Rahmi Dwi Sutanti, "Kebijakan Formulasi Saksi Pelaku Yang Bekerjasama (Justice Collaborator) Sebagai Alasan Peringatan Pidana Dalam Rangka Pembaruan Hukum Pidana Nasional," *Law Reform* 8, no. 2 (2013): 146–65, <https://doi.org/10.14710/lr.v8i2.12429>.

¹⁸ Sutanti.

¹⁹ Ahmad Bardi, "Kewenangan LPSK Dalam Penetapan Justice Collaborator Dalam Kasus Tindak Pidana Umum Di Indonesia: Studi Putusan No. 798/Pid.B/2022/PN. Jkt.Sel," *UnizarLawReview* 6, no. 1 (2023): 38–46, <https://doi.org/10.36679/ulr.v6i1.41>.

²⁰ Marisa Aulia Rismilda, "Eksistensi Justice Collaborator Dalam Mengungkap Suatu Tindak Pidana Berdasarkan Sema RI No. 4 Tahun 2011," *Jurnal Parhesia Universitas Mataram* 1, no. 1 (2023): 92–98, <https://doi.org/10.29303/parhesia.v1i1.2573>.

3.2 Sentence Given to a Justice Collaborator in the Murder Case of Brigadier Joshua

In the case of the premeditated murder committed by the former Head of the National Police's Propam Division, Ferdy Sambo, the crime was considered organized, making it difficult for law enforcement to identify the perpetrators since more than one person was involved. Uncovering this case required significant courage from witnesses who knew about or were involved in the incident. However, due to the high risks, few people were willing to become witnesses. Bharada Ricard Eliezer was found guilty of participating in premeditated murder. As regulated in Article 340 of the Criminal Code:

“Anyone who deliberately and with premeditation takes another person’s life shall be punished for premeditated murder (moord) with the death penalty or life imprisonment or temporary imprisonment for a maximum of twenty years.²¹”

In the murder case of Brigadier Joshua, the Public Prosecutor initially sought a 12-year prison sentence for Bharada Ricard Eliezer. However, the Panel of Judges at the South Jakarta District Court sentenced him to 1 year and 6 months in prison due to his status as a Justice Collaborator. The reduction in criminal sanctions for a witness perpetrator was left to the judge’s discretion in the interest of justice and based on the principles of Almighty God.

Witnesses who are directly involved with perpetrators and willingly report incidents are referred to as Justice Collaborators, individuals who cooperate with law enforcement. Bharada Richard Eliezer, one of the defendants in the premeditated murder case of Brigadier Joshua Hutabarat, demonstrated courage by revealing a meticulously planned scenario devised by the former Head of the National Police Propam Division, Ferdy Sambo. Sambo’s careful planning made it challenging for law enforcement to uncover the murder case, compounded by the removal of crucial evidence which hindered the trial process. Consequently, Richard Eliezer opted to collaborate with law enforcement as a Justice Collaborator.

The Panel of Judges at the South Jakarta District Court sentenced Richard Eliezer to 1 year and 6 months in prison, significantly less than the 12-year prison term requested by the Public Prosecutor. Richard Eliezer earned recognition for bravely exposing the true facts of the case, which revealed Ferdy Sambo’s involvement in the murder. As a Justice Collaborator, Richard Eliezer cooperated with law enforcement, providing vital information that exposed the truth behind the murder, facilitated the identification of the main perpetrator, and ultimately led to a reduced sentence.²²

In general, Justice Collaborators receive four types of protection, including safeguarding their physical integrity and mental well-being, special treatment, legal assistance, and acknowledgment of their contributions.²³ Legal protection for Justice Collaborators is crucial due to the threats they face, which endanger both themselves and

²¹ Republik Indonesia, Kitab Undang-Undang Hukum Pidana (KUHP) Pasal 340.

²² Verdy Cahyana Putra and Hery Firmansyah, “Keringanan Hukuman Bagi Saksi Yang Bekerjasama (Justice Collaborator) Dalam Kasus Pembunuhan Berencana: Studi Putusan Nomor. 798/Pid.B/2022/PN.Jkt.Sel,” *Unes Law Review* 5, no. 4 (2023): 2963–73, <https://doi.org/10.31933/unesrev.v5i4.628>.

²³ Rini Novita, “Perlindungan Hukum Terhadap Justice Collaborator Dalam Dalam Peradilan Di Indonesia,” *Jurnal Ilmiah Metadata* 5, no. 3 (2023): 376–90, <https://doi.org/10.47652/metadata.v5i3.415>.

their families.²⁴ The physical and psychological protections aim not only to ensure their safety but also shield them from various threats, violence, pressure, or harassment from any party that could impact their mental, physical, and financial health.²⁵ In this case, Bharada Ricard Eliezer was afforded the following protections:

- a) Bharada Richard Eliezer received physical and psychological protection as a Justice Collaborator. Physical protection included accompaniment throughout the initial processes and trial, as well as provision of a secure environment. Psychological support from LPSK aimed to enhance his mental well-being.
- b) Legal protection
- c) Special handling ensured the defendant's separation in detention and case files from suspects or other involved parties. The defendant could also request trial postponement through legal representation.
- d) Recognition for contributions

Bharada Richard Eliezer received leniency in the murder case of Brigadier Joshua due to his status as a cooperating witness (Justice Collaborator).²⁶

3.3 Islamic Criminal Law Views on Criminal Sanctions for Justice Collaborators in Murder Crimes

Regarding criminal sanctions for intentional and premeditated murder in Islamic law, the guardian of the deceased is presented with two alternative punishments to be applied to the perpetrator who has caused the death of their heir or family member: implementation of the *qisas* law, and forgiveness in exchange for receiving *diyat*.

If the victim's guardian chooses to forgive, the perpetrator is required to pay *diyat* as compensation. This *diyat* serves as a substitute for the *qisas* punishment.²⁷ Various reasons can halt the *qisas* punishment process, with forgiveness being the most significant. Forgiveness is contingent upon the ability of the murderer to secure rights from the victim's guardian, who holds the authority to pardon the *qisas* penalty. Should forgiveness be granted, the *qisas* punishment loses its validity. In the context of forgiveness, this can be granted voluntarily by the victim's heirs or through a request for *diyat* payment. In Islam, the right to grant forgiveness is paramount to the victim, aligning with principles of benefit and the safeguarding of human rights, particularly the right to protect life (*hifdzun nasf*).²⁸

The fundamental principle of Islamic jurisprudence prioritizes human interests, with all laws established by Allah through the Quran and Sunnah. Sharia aims to place humans under legal provisions that involve obedience to Allah's commands. Imam al-Shatibi outlined *Maqasid* Sharia, encompassing the protection of religion, life, lineage, intellect, and property. These are categorized into three levels: *Dharuriyat*, *Al-Hajiyat*, and *Al-Tahsiniyat*, aiming to understand and uphold these five goals. The *Dharuriyat* level represents

²⁴ Aprillia Krisdayanti, "Perlindungan Hukum Bagi Justice Collaborator Dalam Pengungkapan Tindak Pidana Pembunuhan Berencana," *Lex Renaissance* 7, no. 4 (2022): 803–818, <https://doi.org/10.20885/JLR.vol7.iss4.art8>.

²⁵ Krisdayanti.

²⁶ Krisdayanti.

²⁷ Besse Muqita Rijal Mentari, "Saksi Pidana Pembunuhan Dalam Kitab Undang-Undang Hukum Pidana Dengan Hukum Islam," *Al-Ishlah: Jurnal Ilmiah Hukum* 23, no. 1 (2020): 1–38, <https://doi.org/10.56087/aijih.v23i1.33>.

²⁸ Sari Yulis, Muksalmina Muksalmina, and Muhammad Rudi Syahputra, "Kebijakan Hukuman Qishas Bagi Pelaku Pembunuhan Dalam Qanun Jinayat Aceh," *Suloh: Jurnal Fakultas Hukum Universitas Malikussaleh* 11, no. 2 (2023): 531–47, <https://doi.org/10.29103/sjp.v11i2.5129>.

fundamental and indispensable needs, crucial for maintaining societal order and stability. Protecting one's life (Hifzul Al-Nafs) aligns with *Maqasid Dharuriyat*, highlighting the utmost importance of safeguarding human welfare, both in this life and the hereafter. Islam deeply values and respects the sanctity of every human soul.²⁹

According to Islamic teachings, a Justice Collaborator possesses the right to seek forgiveness, as elucidated in the Hadith of 'Aisyah R.A., indicating that forgivable criminal acts can be pardoned.³⁰ Forgiveness, within a legal framework, may lead to a reduction or nullification of the sentence, which can be granted by the victim, guardian, heir, or ruler. In Islamic law, forgiveness does not universally warrant sentence cancellation but applies selectively to specific cases. Moreover, forgiveness can mitigate the severity of a sentence, akin to remission offered by the victim, their guardian, or governmental authorities. Additionally, forgiveness or intercession may be construed as expiation for the offender's transgressions. In Islamic jurisprudence, forgiveness primarily impacts punishments such as *qisas*, *diyat*, and *ta'zir*. The consensus among fuqaha affirms that authorities hold full discretion to forgive *ta'zir* offenses, entailing the prerogative to pardon the perpetrator and their penalty, either partially or entirely. However, juristic viewpoints diverge regarding whether this authority extends to all forms of *ta'zir* crimes or is limited to specific categories.

Forgiveness in Islamic Law serves to uphold societal benefits, fostering a sense of ease or contentment for both the perpetrator through leniency in punishment and for the victim through the act of forgiveness. It also reflects respect for the perpetrator's remorse or repentance and acknowledges the victim's willingness to forgive, while aiming to peacefully resolve disputes in accordance with the teachings of the Prophet.³¹ Hence, the punishment assigned to a perpetrator witness falls under *ta'zir*, subject to judicial discretion (*ijtihad*).

CONCLUSION

A Justice Collaborator who cooperates with law enforcement to uncover a case plays a crucial role and is eligible for leniency and recognition for their testimony, provided they are not the principal perpetrator, as stipulated in Republic of Indonesia Law No. 31 of 2014 concerning Protection of Witnesses and Victims and SEMA of the Republic of Indonesia No. 4 of 2011. In Islamic law, the Justice Collaborator also holds significant importance, exemplified in the case of Bharada Richard Eliezer in the murder of Brigadier Nofriansyah Yosua Hutabarat, where Ricard apologized to the victim's family and received forgiveness. In Islamic jurisprudence, a Justice Collaborator retains the right to seek forgiveness. Within a legal framework, forgiveness can lead to a reduction or cancellation of the sentence, a prerogative extended by the victim, guardian, heir, or ruler. In this context, there are no specific sanctions for perpetrator witnesses in the Quran and hadith, thus the punishment for a perpetrator witness falls under *ta'zir*, determined by the judge's

²⁹ Yulis, Muksalmina, and Syahputra.

³⁰ Alifia Nur Basanti and Tajul Arifin, "Perlindungan Hukum Terhadap Justice Collaborator Ditinjau Dari UU 31/2014 Dan Hukum Islam," *Jurnal Hukum Dan Sosial Politik* 1, no. 3 (2023): 99–110, <https://doi.org/10.59581/jhsp-widyakarya.v1i3.546>.

³¹ Basanti and Arifin.

ijtihad. Both in positive and Islamic law, there exists no explicit regulation governing the reduction of sentences for witnesses involved in crimes, leaving such determinations to judicial discretion. From this case, the researcher recommends the formulation of detailed legislation to regulate reduced sentences for perpetrator witnesses comprehensively.

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