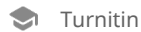


# Kunkun English\_Tatohi.docx



## Document Details

**Submission ID**

trn:oid:::3618:106074712

**Submission Date**

Jul 27, 2025, 7:46 PM GMT+5

**Download Date**

Jul 27, 2025, 7:46 PM GMT+5

**File Name**

Kunkun English\_Tatohi.docx

**File Size**

188.4 KB

**11 Pages****4,423 Words****27,735 Characters**

# 19% Overall Similarity

The combined total of all matches, including overlapping sources, for each database.

## Filtered from the Report

- Bibliography

## Match Groups

-  **76 Not Cited or Quoted** 19%  
Matches with neither in-text citation nor quotation marks
-  **1 Missing Quotations** 0%  
Matches that are still very similar to source material
-  **0 Missing Citation** 0%  
Matches that have quotation marks, but no in-text citation
-  **0 Cited and Quoted** 0%  
Matches with in-text citation present, but no quotation marks

## Top Sources

- 14%  Internet sources
- 14%  Publications
- 10%  Submitted works (Student Papers)

## Integrity Flags

### 0 Integrity Flags for Review

No suspicious text manipulations found.

Our system's algorithms look deeply at a document for any inconsistencies that would set it apart from a normal submission. If we notice something strange, we flag it for you to review.

A Flag is not necessarily an indicator of a problem. However, we'd recommend you focus your attention there for further review.

## Match Groups

- 76 Not Cited or Quoted** 19%  
Matches with neither in-text citation nor quotation marks
- 1 Missing Quotations** 0%  
Matches that are still very similar to source material
- 0 Missing Citation** 0%  
Matches that have quotation marks, but no in-text citation
- 0 Cited and Quoted** 0%  
Matches with in-text citation present, but no quotation marks

## Top Sources

- 14% Internet sources
- 14% Publications
- 10% Submitted works (Student Papers)

## Top Sources

The sources with the highest number of matches within the submission. Overlapping sources will not be displayed.

|    |                 |                                                                                   |     |
|----|-----------------|-----------------------------------------------------------------------------------|-----|
| 1  | Submitted works | Universitas Prima Indonesia on 2024-05-11                                         | 5%  |
| 2  | Publication     | Ahmad Yasir Sinulingga, Faisar Ananda, Irwansyah Irwansyah. "Factors Causing R... | 2%  |
| 3  | Internet        | jurnal.unissula.ac.id                                                             | <1% |
| 4  | Internet        | journal.neolectura.com                                                            | <1% |
| 5  | Internet        | ojs.ukipaulus.ac.id                                                               | <1% |
| 6  | Internet        | legal.isha.or.id                                                                  | <1% |
| 7  | Internet        | research-portal.uu.nl                                                             | <1% |
| 8  | Submitted works | University of New South Wales on 2024-11-22                                       | <1% |
| 9  | Internet        | en.mkri.id                                                                        | <1% |
| 10 | Internet        | www.ejournal.warmadewa.ac.id                                                      | <1% |

|    |                 |                                                                                    |     |
|----|-----------------|------------------------------------------------------------------------------------|-----|
| 11 | Submitted works | National University of Ireland, Galway on 2025-04-29                               | <1% |
| 12 | Internet        | lawpass.org                                                                        | <1% |
| 13 | Internet        | jurnal.unikal.ac.id                                                                | <1% |
| 14 | Internet        | journal.trunojoyo.ac.id                                                            | <1% |
| 15 | Internet        | ejournal.balitbangham.go.id                                                        | <1% |
| 16 | Internet        | atlas-of-torture.org                                                               | <1% |
| 17 | Publication     | Inoto Saro, Simon Alex Pasaribu, Diana Ria Winanti Napitupulu. "Granting of Dep... | <1% |
| 18 | Publication     | Ledyana Olipia Sidebang, Yanti Amelia Lewerissa, Judy Marria Saimima. "Criminal... | <1% |
| 19 | Internet        | ojs.unud.ac.id                                                                     | <1% |
| 20 | Publication     | Rizki Al Idrus, Rory Jeff Akyuwen, Muchtar Anshary Hamid Labetubun. "Legal Prot... | <1% |
| 21 | Internet        | hrlibrary.umn.edu                                                                  | <1% |
| 22 | Internet        | international.appihi.or.id                                                         | <1% |
| 23 | Publication     | Yenny Febrianty, Hasliza Ghapa, Asmida Ahmad. "Integration of Customary Law i...   | <1% |
| 24 | Internet        | discovery.researcher.life                                                          | <1% |

|    |                 |                                                                                     |     |
|----|-----------------|-------------------------------------------------------------------------------------|-----|
| 25 | Submitted works | Universitas Jenderal Soedirman on 2024-10-03                                        | <1% |
| 26 | Submitted works | Leiden University on 2025-07-18                                                     | <1% |
| 27 | Internet        | fhukum.unpatti.ac.id                                                                | <1% |
| 28 | Internet        | journal.unpad.ac.id                                                                 | <1% |
| 29 | Internet        | journal.unram.ac.id                                                                 | <1% |
| 30 | Internet        | journals.usm.ac.id                                                                  | <1% |
| 31 | Internet        | jurnal.saburai.id                                                                   | <1% |
| 32 | Publication     | Akmal Hisyam, Rahmatullah Ayu Hasmianti, Rio Arif Pratama. "Legal Protection for... | <1% |
| 33 | Publication     | Muhamad Rizal Satrio Nugroho, Muhammad Nurcholis Alhadi, Ikhwanul Muslim. ...       | <1% |
| 34 | Publication     | Mustalim Lasaka. "Ius Constituendum of Electronic Evidence Arrangement in Cri...    | <1% |
| 35 | Submitted works | Universitas 17 Agustus 1945 Surabaya on 2018-07-12                                  | <1% |
| 36 | Internet        | ejournal.uinsaizu.ac.id                                                             | <1% |
| 37 | Internet        | ejurnalunsam.id                                                                     | <1% |
| 38 | Internet        | www.wydawnictwo.wsge.edu.pl                                                         | <1% |

|    |                 |                                                                                    |     |
|----|-----------------|------------------------------------------------------------------------------------|-----|
| 39 | Internet        | ejournal.warmadewa.ac.id                                                           | <1% |
| 40 | Internet        | ejurnal.ung.ac.id                                                                  | <1% |
| 41 | Internet        | ijsshr.in                                                                          | <1% |
| 42 | Publication     | Arief Budiman, Elis Rusmiati, Mien Rumin. "THE FUNCTION OF CRYPTOCURRENCY ...      | <1% |
| 43 | Submitted works | Fakultas Hukum Universitas Lampung on 2022-05-13                                   | <1% |
| 44 | Publication     | Leli Tibaka, Rosdian Rosdian. "The Protection of Human Rights in Indonesian Con... | <1% |
| 45 | Publication     | Syadzwina Hindun Nabila. "Warehouse Receipt Guarantee Fund As Protection For...    | <1% |

# Dissecting the Differences between Crown Witnesses and Justice Collaborators

Kukun Abdul Syakur Munawar<sup>1\*</sup>, Filda Vitalia<sup>2\*</sup>

<sup>1</sup> Miftahul Huda Al Azhar Institute, Banjar City, Indonesia

<sup>2</sup> Brebes Islamic Religious College, Brebes, Indonesia

 : [kunkunradar@gmail.com](mailto:kunkunradar@gmail.com)

Corresponding Author\*



## Abstract

**Introduction:** This paper thoroughly examines the conceptual and legal distinctions between crown witnesses and justice collaborators within the Indonesian criminal law framework, as well as their ramifications for the concepts of fair trial and the human rights of defendants.

**Purposes of the Research:** This paper aims to thoroughly analyse the legal status, normative foundation, and implications of using these two groups of witnesses within the framework of procedural justice for defendants.

**Methods of Research:** This research employs normative legal methodologies, utilizing an analytical approach to positive law, Supreme Court jurisprudence, and relevant human rights concepts.

**Results / Main Findings / Novelty/Originality of the Research:** The analytical findings indicate that the crown witness, originating from the practice of splitting, risks contravening the principles of non-self-incrimination and the rights of the defence. Conversely, justice collaborators, as explicitly governed by SEMA No. 4 of 2011, adhere to the idea of due process of law owing to their voluntary participation and the use of a clear legal framework. This essay provides a clear and comparable contrast between the two instruments of perpetrator witnesses in criminal law, highlighting the need to restructure the use of crown witnesses to preserve the integrity of evidence and safeguard the rights of the accused.

**Keywords:** Crown Witness, Justice Collaborator, Fair Trial

Submitted: 2025-01-27

Revised: 2025-02-27

Accepted: 2025-03-27

Published: 2025-04-30

How To Cite: La Ode Angga, Muchtar Anshary Hamid Labetubun, and Rory Jeff Akyuwen. "A Legal Awareness of Copyright on Regional Song Creators." TATOHI: Journal of Law 4 no. 11 (2025): 184-189. <https://doi.org/10.47268/tatohi.v4i11.XXXX>

Copyright © 2025 Author(s)



Creative Commons Attribution-NonCommercial 4.0 International License

## INTRODUCTION

In the Indonesian criminal law system, witnesses play a crucial role in uncovering the material truth throughout the legal process.<sup>1</sup> A compelling type of testimony that often sparks considerable discussion is when the perpetrator of a crime serves as a witness against other offenders in the same case.<sup>2</sup> In reality, this occurrence is referred to by two terms: the crown witness and the justice collaborator. The two phrases possess distinct subtleties, both philosophically and normatively, while both include the perpetrator in a role as a testator against the other perpetrator. The disparity is the primary issue in comprehending how

<sup>1</sup> Tuti Khairani Harahap et al., 'INTRODUCTION TO LEGAL SCIENCE', Publisher of Tahta Media, 30 May 2023, <https://tahtamedia.co.id/index.php/issj/article/view/255>.

<sup>2</sup> Mohamad Hidayat Muhtar et al., 'The Concept of Indonesian Law', Global Technology Executive, 2023, [https://www.researchgate.net/profile/Mohamad-Hidayat-Muhtar/publication/370583612\\_SEJARAH\\_TATA\\_HUKUM\\_INDONESIA/links/64573db95762c95ac378e471/SEJARAH-TATA-HUKUM-INDONESIA.pdf](https://www.researchgate.net/profile/Mohamad-Hidayat-Muhtar/publication/370583612_SEJARAH_TATA_HUKUM_INDONESIA/links/64573db95762c95ac378e471/SEJARAH-TATA-HUKUM-INDONESIA.pdf).

Indonesia's criminal process legislation governs and implements kinds of collaboration from offenders within the criminal justice system.

The phrase "crown witness" arises from court practice rather than the legal framework of the Criminal Code. This word denotes the offender whose evidence is used against another defendant in a criminal proceeding. This situation often occurs due to the case-splitting method used by the public prosecutor, as outlined in Article 142 of the Criminal Code. This method aims to gather information that might enhance the evidence when the case is constrained by external witnesses. The use of crown witnesses presents ethical and legal issues, since the individual serving as a witness concurrently retains the status of a defendant in the same criminal offence. Consequently, the integrity of the material presented is very susceptible to external pressures or specific interests, including incentives such as reduced charges or case dismissals.

This phrase arose in relation to extreme or organised crimes, including corruption, terrorism, and human trafficking, as opposed to justice collaborators. This phrase acquired validity via Supreme Court Circular Letter Number 4 of 2011, which delineates the features and circumstances necessary for an individual to be deemed a justice collaborator. In this sense, justice collaborators are secondary offenders who willingly provide information to aid the investigation and legal procedure in dismantling the broader framework of criminal activities. Despite being a perpetrator, the justice collaborator's role is defined more explicitly and officially, necessitating the fulfillment of certain substantive requirements for his testimony to be deemed genuine in the evidential procedure.<sup>3</sup>

The presence of these two notions illustrates the dynamics within Indonesian criminal law practice, which continues to contend with case complexities and evidentiary restrictions. The crown witness serves as a pragmatic option under certain circumstances that compel the prosecutor to divide efforts to gather evidence.<sup>4</sup> Conversely, this technique raises difficulties with the concepts of fair trial and non-self-incrimination, which are integral to the human rights of the accused. The right to avoid self-incrimination or implicating others should be a fundamental assurance in an equitable judicial system. The practice of severing defendants, therefore designating them as witnesses, poses possible infringements of this principle, particularly if their evidence serves as the only foundation for a judgment.

Simultaneously, the notion of a justice collaborator represents a more nuanced legal strategy, grounded in legal frameworks expressly formulated for grave offences that jeopardise the judicial system and society. In this instance, the justice collaborator is seen as someone who deliberately opts to assist law enforcement, not due to coercion or inducement, but driven by an incentive to aid law enforcement in return for legal

<sup>3</sup> Arni Yusuf, Fence m Wantu, and Mohamad Hidayat Muhtar, 'DISPARITY IN JUDGES' DECISIONS IN FRAUD CRIMES AND THEIR IMPLICATIONS FOR LEGAL CERTAINTY', *SYNERGY : Journal of Scientific Research* 2, no. 2 (February 2025): 2, <https://doi.org/10.62335/sinergi.v2i2.923>.

<sup>4</sup> Novia Grace Lahmado, Mohamad Rusdiyanto U. Puluhalawa, and Mohamad Hidayat Muhtar, 'A Review of Victimology of Sexual Violence Against Children in the Jurisdiction of the Boalemo Police', *SYNERGY: Journal of Scientific Research* 1, no. 6 (2024): 365–75, <https://doi.org/10.62335/m4nerb70>.

acknowledgement. The essential distinction in substance and procedure underscores the necessity of comprehending the conceptual and practical boundaries between the crown witness and the justice collaborator, particularly regarding criminal evidence that pertains to an individual's fundamental right to liberty and justice.

The distinction between a crown witness and a justice collaborator is not only terminological; it is intricately connected to the foundational principles of criminal procedural law. Both indicate that the perpetrator may serve as a significant source of information in criminal evidence. Conversely, the response to the two illustrates disparities in the state's management of offenders' participation in the judicial process: either as a prosecutorial tool or as a legally authorized and acknowledged type of collaboration. Comprehending this is essential to observe the implementation of procedural and substantive justice within the context of Indonesian criminal law.

This paper will address (1) the conceptual and legal distinctions between crown witnesses and justice collaborators under the Indonesian criminal law framework. What are the ramifications of using crown witnesses and justice collaborators on the principles of fair trial and the human rights of defendants?

## METHODS OF THE RESEARCH

This research employs a normative juridical approach grounded on literature analysis to investigate the distinctions between crown witnesses and justice collaborators within the Indonesian criminal law framework. The normative legal method was used because of the research's emphasis on analysing applicable legal norms, including statutes, jurisprudence, and other official documents, such as Supreme Court Circulars and pertinent Supreme Court rulings.<sup>5</sup> This research primarily analyses the Criminal Procedure Code (KUHP), the Criminal Code (KUHP), Supreme Court Circular Letter Number 4 of 2011, and the United Nations Convention against Corruption, approved by Law Number 7 of 2006. This research further analyses secondary legal materials, including textbooks, scholarly journal articles, and the perspectives of criminal law experts on the principles of non-self-incrimination, fair trial, and the integrity of criminal evidence. The conceptual approach technique is used to comprehend theoretical frameworks concerning the safeguarding of defendants' rights within the legal process. This study delineates the current normative provisions and performs systematic and comparative analyses to elucidate the legal status of crown witnesses and justice collaborators, along with the ramifications of their utilisation on a just criminal justice system. The investigation used descriptive-analytical methodologies, specifically outlining the relevant legal concepts and critically evaluating them within the framework of law enforcement actions in Indonesia.

<sup>5</sup> Muhammad Syarif et al., *LEGAL RESEARCH METHOD METHOD* (GET Press Indonesia, 2024), [https://www.researchgate.net/profile/Mohamad-Hidayat-Muhtar/publication/381460823\\_METODE\\_PENELITIAN\\_HUKUM/links/666e76f8de777205a32ff37b/METODE-PENELITIAN-HUKUM.pdf](https://www.researchgate.net/profile/Mohamad-Hidayat-Muhtar/publication/381460823_METODE_PENELITIAN_HUKUM/links/666e76f8de777205a32ff37b/METODE-PENELITIAN-HUKUM.pdf).

## RESULTS AND DISCUSSION

### A. Conceptual and Juridical Differences between Crown Witnesses and Justice Collaborators in the Indonesian Criminal Law System

The control of evidence and the evidentiary process is crucial for the maintenance of substantive justice. One intriguing aspect of criminal justice practice is the use of information from criminal offenders against other offenders to comprehensively demolish illicit activities.<sup>6</sup> In this context, two phrases often seen in practice, despite their differing normative foundations and legal standings, are crown witness and justice collaborator. Both identify the legal subjects implicated in the crime while also supplying evidence against other criminals for the purpose of substantiation. The distinctions between the two are not only technical; they embody fundamentally divergent legal perspectives within the context of criminal procedural law. A profound comprehension of these distinctions is crucial, as it pertains to the fundamental principles of a fair trial, the right to defence, and the safeguarding of human rights as enshrined in the constitution and different international legal instruments.<sup>7</sup>

The phrase "crown witness," or "kroongetuige" in Dutch, originates from criminal justice practices developed to address the strategic requirements of public prosecutors when handling criminal cases with little evidence, particularly with external witnesses.<sup>8</sup> The crown witness is a criminal accomplice who, alongside the defendant, engaged in the same illicit conduct; nevertheless, owing to the bifurcation of the case file, this individual is used as a witness to provide testimony against other defendants. The division of this file is predicated on Article 142 of the Criminal Code, which allows the public prosecutor the discretion to segregate the prosecution of many offenders within a single case, provided they do not come within the purview of Article 141.<sup>9</sup> This bifurcation method facilitates the designation of a defendant in case A as a witness in case B, which is fundamentally connected. The crown witness may get leniency, dismissal of charges, or case continuance based on the prosecutor's and court's discretion.

The use of crown witnesses in court proceedings often attracts criticism from several groups, particularly scholars and legal professionals, who contend that this method undermines the principles of non-self-incrimination and the right to a fair trial. A primary criticism of crown witnesses is the possible coercion of the criminal to provide information that aligns with the prosecutor's accusation for the sake of receiving leniency. This creates problems about the impartiality and integrity of the material presented, since the culprit

<sup>6</sup> Supriyadi Arief, Mohamad Hidayat Muhtar, and Geofani Milthree Saragih, 'Self-Defense Efforts in the Perspective of Equality Before the Law', *Judicial Journal* 16, no. 1 (2023): 25-47, <https://doi.org/10.29123/jy.v16i1.475>.

<sup>7</sup> David Hariady Silalahi, *JURIDICAL REVIEW OF JUSTICE COLLABORATOR IN HELPING TO REVEAL CORRUPTION CRIMES*, 7 June 2024, <https://repository.uhn.ac.id/handle/123456789/10827>.

<sup>8</sup> La Syarifuddin, M. Fauzi, and Musthafa Musthafa, 'Consideration of Children as Crown Witnesses (Kroongetuige) in Narcotics Crimes', *Yeast Yeast* 2, no. 1 (June 2025): 1, <https://doi.org/10.30872/dohgisin.v2i1.3038>.

<sup>9</sup> Semendawai, A. H. (2023). *The Determination Status of Justice Collaborator in Human Rights Perspective*. *Law and Human Rights Research*, 3(3), a2. <https://doi.org/10.22304/pjih.v3.n3.a2>

occupies a vulnerable position and has a motive to construct a narrative favourable to him in the perception of law enforcement officers. Moreover, the practice of bifurcation upon which crown witnesses rely often obscures the distinction between defendant and witness, so engendering ambiguity about an individual's legal standing in criminal justice procedures. This is unequivocally at odds with the tenets of contemporary criminal law, which emphasise the clarity of legal status, the presumption of innocence, and procedural fairness for all parties involved in a trial.<sup>10</sup>

Conversely, the designation of justice collaborator or collaborating perpetrator witness has a more robust normative basis and is methodically formulated within the Indonesian criminal law framework. Justice collaborators were formally established by the Supreme Court Circular Letter (SEMA) Number 4 of 2011, which pertains to the treatment of whistleblowers and witnesses in certain criminal cases. SEMA was established to address the need for evidence in exceptional criminal cases, particularly those involving corruption, terrorism, human trafficking, money laundering, and drug-related offences.<sup>11</sup> The control of judicial collaborators in Indonesia is normatively influenced by Article 37 of the United Nations Convention Against Corruption, which Indonesia joined by Law Number 7 of 2006. In this framework, justice collaborators are acknowledged as acceptable legal mechanisms that aid law enforcement in addressing systematic crimes that are difficult to dismantle without the cooperation of the offenders.

A justice collaborator is defined as a secondary culprit who willingly offers significant information to aid in the investigation of the crime. The formal stipulations outlined in SEMA 4/2011 necessitate that the perpetrator acknowledges their conduct, excluding the principal offender, and that the material supplied has substantial relevance in substantiating the case.<sup>12</sup> Unlike crown witnesses, who emerge from procedural splitting tactics, justice collaborators originate from requests or declarations of cooperation made by the perpetrator or initiated by investigators recognising the perpetrator's potential contribution to unravelling a more extensive criminal operation. Legal incentives for justice collaborators are quantifiable and explicitly regulated, including sentence reductions of up to two-thirds, conferring city prisoner status, or even dismissing charges, while ensuring consideration of the proportionality and significance of the information provided.

The conceptual distinction between a crown witness and a justice collaborator is also evident in the ethical stance and validity of their legal practices. Crown witnesses are often used as components of investigations or prosecutorial strategies that capitalise on procedural ambiguities in criminal law, resulting in an ambiguous legal standing for the

<sup>10</sup> Ida Ayu Kade Cinthia Dewi, Anak Agung Sagung Laksmi Dewi, and I. Made Minggu Widyantara, 'The Position of Crown Witnesses in the Process of Proving Criminal Acts in Indonesia', *Journal of Legal Preferences* 4, no. 2 (June 2023): 124–29, <https://doi.org/10.22225/jph.4.2.6589.124-129>.

<sup>11</sup> Abdul Haris Semendawai, 'Determination of Justice Collaborator Status for Suspects or Defendants in a Human Rights Perspective', *JOURNAL OF LAW* 3, no. 3 (2016): 468–90.

<sup>12</sup> Marisa Aulia Rismilda, 'THE EXISTENCE OF JUSTICE COLLABORATORS IN EXPOSING A CRIMINAL ACT BASED ON SEMA RI NO. 4 OF 2011', *Parhesia* 1, no. 1 (March 2023): 92–98, <https://doi.org/10.29303/parhesia.v1i1.2573>.

testifying culprit. Conversely, justice collaborators are situated within the paradigm of active collaboration between individuals and the state, seen as a constructive addition to the endeavours aimed at eliminating unusual crimes that are difficult to address by conventional evidence approaches.<sup>13</sup> The existence of justice collaborators is seen as a strategic component in the contemporary criminal law system, focused on efficacy, accountability, and the safeguarding of public rights.

The legal distinction between the two also resides in the foundation of regulation and institutional acknowledgement. Crown witnesses lack a distinct legal protection provided by legislation or implementing rules. This approach is exclusively formulated within the technical domain of prosecution and is underpinned by law and doctrine that are inherently restricted.<sup>14</sup> In Supreme Court Decision No. 2437 K/Pid.Sus/2011, the Court affirmed that the use of crown witnesses is permissible, provided that their testimony is not the only evidence implicating other defendants. This indicates that, from a legal standpoint, crown witnesses are permitted under very restricted conditions and lack substantial normative legitimacy. Conversely, justice collaborators have been formally integrated into the national legal framework and are globally acknowledged as a component of the legal criminal evidence system. The establishment of a more robust legal framework for justice collaborators enhances legal certainty for both collaborating parties and law enforcement personnel in the development of case creation.

The establishment of this difference is crucial within the framework of human rights protection, particularly the right to a fair and impartial trial as outlined in Article 28D paragraph (1) and Article 28I paragraph (4) of the 1945 Constitution. In a criminal justice system that upholds these standards, the witness's legal standing must be unequivocal, devoid of coercion, and free from conflicts of interest that may compromise the impartiality of the evidence. Crown witnesses, due to their designation as defendants granted a "crown" by prosecutors, are susceptible to manipulation or coercion in exchange for benefits, so casting doubt on the credibility of their claims. This differs from justice collaborators, who possess a clearer legal position from the outset, with their testimonies provided by a formal agreement that includes specific protective guarantees and operates within a transparent cooperative structure.

This distinction underscores that, although both empirically contribute to the dismantling of criminal cases, the legal methodologies for each must vary. Crown witnesses are circumstantial and often used in evidentiary crises, while justice collaborators are formal mechanisms in positive law designed to address extreme offences more methodically. Consequently, in both conceptual and legal analysis, crown witnesses and justice collaborators cannot be seen as entirely equivalent, considering their origins, legal

<sup>13</sup> Yuni Priskila Ginting et al., 'Socialization of Evidence of Crown Witnesses and Justice Collaborators in the Murder Crime', *Journal of Western Science* 2, no. 10 (2023).

<sup>14</sup> Siska Ayu Ningsih and Rika Aryati, 'THE LEGAL POSITION OF CROWN WITNESSES AS EVIDENCE IN THE TRIAL OF CORRUPTION CRIMES BASED ON LAW NO. 8 OF 1981 CONCERNING THE CRIMINAL PROCEDURE CODE', *The Law Journal*, no. 0 (February 2025): 0, <https://doi.org/10.31869/plj.v0i0.6178>.

foundations, nomination processes, participation criteria, and the ramifications for the defendant's rights. A clear distinction between the two is essential to preserve the integrity of the criminal evidentiary system and avert departures from the principles of justice that should underpin the whole criminal justice process. By thoroughly comprehending these conceptual and legal distinctions, a definitive boundary may be established about the roles of the two within the Indonesian criminal law framework and the manner in which law enforcement officers need to handle information from offenders in such circumstances.

## B. Implications of the Use of Crown Witnesses and Justice Collaborators on the Principles of Fair Trial and Human Rights of Defendants

The use of crown witnesses and justice collaborators within the Indonesian criminal law framework has substantial legal implications for the adherence to fair trial norms and the safeguarding of defendants' human rights. Both cases, albeit originating from actors engaged in illegal activities, possess distinct legal and ethical frameworks concerning the protection of the defendant's rights. Within the framework of the fair trial concept, the criminal justice system mandates adherence to procedural norms while guaranteeing that each defendant is treated equitably, without discrimination, and has the opportunity to mount a defence autonomously, free from coercion or manipulation. The presence of witnesses among co-perpetrators in the same case presents a significant issue, particularly when their testimony serves as the only foundation for evidence and is used to implicate other defendants without further corroborative evidence.<sup>15</sup>

Crown witnesses, who are essentially co-perpetrators in the same case used as witnesses against other offenders via plea bargaining, often present ethical and legal dilemmas with the concept of non-self-incrimination and the ideal of equality before the law. Crown witnesses are often incentivised to provide damning evidence against other defendants in return for leniency or case dismissal. This approach engenders disparities in the legal status of defendants who ought to possess equal rights and protections. Moreover, the evidence of the crown witness in this setting is inextricably linked to the possibility of conflicts of interest and psychological anguish, which might directly undermine the notion of a fair trial. Testimony that lacks voluntariness and occurs within the framework of "exchanging positions", devoid of legal autonomy, not only undermines the integrity of the evidence but may also mislead judges in rendering a fair and objective conclusion.<sup>16</sup>

The principle of a fair trial, as articulated in numerous national and international legal frameworks, including Article 28D paragraph (1) of the 1945 Constitution and Article 14 paragraph (1) of the International Covenant on Civil and Political Rights (ICCPR), mandates equal treatment under the law and safeguards the rights of defendants against compelled self-incrimination. The separation of cases involving crown witnesses, when one

<sup>15</sup> Esther Ojulari, 'Decolonising Transitional Justice: A Framework For Historical Reparation For Afro-Descendant Peoples In Colombia', in *Institute of Commonwealth Studies* (doctoral, School of Advanced Study, 2022), <https://sas-space.sas.ac.uk/9953/>.

<sup>16</sup> Syofia Marlianti Tambunan, 'Crown Witnesses in Indonesian Criminal Procedure: A Critical Review of Legal Status and Legitimacy', *Research Horizon* 5, no. 2 (April 2025): 2, <https://doi.org/10.54518/rh.5.2.2025.447-456>.

defendant testifies against another, obscures these boundaries, since the evidence provided is inherently tainted by self-interest aimed at self-preservation. Furthermore, using the testimony of the crown witness as the primary evidentiary foundation contravenes the idea of requiring a minimum of two pieces of evidence and the norm of integrity in proof as delineated in Article 183 of the Criminal Code. The use of crown witnesses without proper supervision might compromise the idea of due process, since defendants may be convicted based on the testimonies of co-defendants who may be subject to coercion and ulterior motivations.<sup>17</sup>

Conversely, justice collaborators possess a more legitimate standing within the context of upholding the idea of a fair trial, provided that the stipulated legal standards are satisfied objectively and openly. The Supreme Court Circular Letter Number 4 of 2011 establishes certain criteria that must be fulfilled by offenders seeking justice collaborator status. Some individuals are secondary perpetrators who supply crucial information and are prepared to confess their conduct freely. In this case, the information supplied by the justice collaborator is derived not only from coercion or negotiation but also via an objective assessment conducted by investigators and prosecutors, who consider the individual's contribution to the revelation of illegal activities.<sup>18</sup> The inclusion of justice collaborators may enhance evidence and bolster the efficacy of law enforcement in combating major crimes, while upholding human rights norms and ensuring fair legal proceedings.

The employment of justice collaborators is inherently linked to the possible infringement of fair trial standards unless it is supported by oversight and accountability throughout all phases of its implementation. For instance, there exists a danger when the position of justice collaborator is conferred selectively and without a transparent process, thereafter used to justify excessive leniency. This may result in a feeling of inequity, particularly among other offenders who have comparable positions but do not experience the same treatment. Consequently, although justice collaborators are normatively acknowledged, their practical use must adhere to the norms of equity, proportionality, and transparency to prevent the concurrent prosecution of human rights violations against other defendants in the same case.

The subsequent ramifications of using these two categories of witnesses on the defendant's human rights principles are evident in the manner in which the court evaluates the evidentiary weight. In instances involving crown witnesses, several Supreme Court decisions assert that the testimony of co-defendants requires corroboration from further evidence and cannot be considered in isolation. This illustrates the judicial acknowledgement of the possible conflicts of interest and prejudice intrinsic to the evidence of crown witnesses. The justice collaborator's statement, being freely provided and derived

<sup>17</sup> Anjani Upik Chaniago, Ismansyah, and Nani Mulyati, 'Legal Certainty of the Use of Crown Witnesses in Criminal Evidence Reviewed from the Principle of the Right of the Defendant Not to Accuse Himself (Non Self Incrimination)', *The Journal of Sound of Justice* 8, no. 4 (January 2025): 4, <https://doi.org/10.31933/sy41r659>.

<sup>18</sup> Ema Mar'ati Sholecha et al., 'Justice Collaborator's Position and Function on Witness Protection's Rights as a Suspect from the Perspective of Criminal Law in Indonesia. | EBSCOhost', 1 January 2023, 6:131, <https://doi.org/10.24090/volkgeist.v6i1.7246>.

from a transparent legal procedure, may often serve as a valid foundation for evidence, while nevertheless adhering to the principles of caution and corroboration with other evidence. Consequently, judges and prosecutors must thoroughly evaluate the evidence of these two categories of witnesses, considering the psychological backdrop, motivations, and legal interests involved.

Regarding legal protection, defendants confronted with the evidence of crown witnesses have a somewhat weaker position than when engaging with judicial collaborators. When an individual is the subject of testimony from other co-defendants, the defense's latitude diminishes, since the evidence consists of the account of a party similarly motivated by self-preservation.<sup>19</sup> Conversely, in the context of justice collaboration, since the offender has acknowledged their conduct and the procedural framework is public, the other defendants retain the opportunity to challenge the veracity of the information by confrontation and other evidentiary means. Consequently, the employment of justice collaborators facilitates the realisation of the idea of a just adversarial system within the criminal justice process.

In conclusion, the use of crown witnesses and justice collaborators has distinct ramifications for the notion of a fair trial and the safeguarding of defendants' human rights. Crown witnesses, arising from experience rather than a definitive normative framework, had significant potential to undermine the norms of procedural fairness if not meticulously regulated. Conversely, justice collaborators give a legitimate and quantifiable evidence process, contingent upon the fulfillment of all moral and substantive criteria. In the context of Indonesian criminal law, prioritising the preservation of the accused's rights is essential for any law enforcement policy and plan. The realisation of the fair trial concept transcends mere procedural matters; it pertains to the legitimacy of the whole judicial system in guaranteeing that every person subjected to trial has an honest, equitable, and non-arbitrary defence. Consequently, the utilisation of crown witnesses and justice collaborators must consistently be evaluated within the context of constitutional norms.

## CONCLUSION

Crown witnesses and justice collaborators are two distinct kinds of offenders' involvement in the criminal evidence process, characterised by key conceptual and legal distinctions. Crown witnesses originated from the practice of the public prosecutor segregating cases without a definitive legal foundation, while justice collaborators are explicitly governed by SEMA No. 4 of 2011 and stem from the principle of voluntary participation in exposing exceptional crimes. This essential distinction pertains to the foundational elements of the law, the criteria for adjudication, and the handling of accomplices, rendering the two incompatible within the criminal justice system.

The involvement of a crown witness may jeopardise the principles of non-self-incrimination and procedural fairness, posing hazards to the defendant's right to a fair trial

<sup>19</sup> Abdul Aziz Nassihudin et al., *Proceedings of the 3rd International Conference on Law, Governance, and Social Justice (ICoLGaS 2023)* (Springer Nature, 2023).

<sup>9</sup> | La Ode Angga, Muchtar Anshary Hamid Labetubun, and Rory Jeff Akyuwen. "A Legal Awareness of Copyright on Regional Song Creators"

owing to possible power abuses and coercion of the offender. Conversely, the employment of justice collaborators is seen as more responsible and consistent with the norms of due process, since it is voluntary and governed by explicit legislative stipulations. Consequently, the execution of these two cooperative modalities must be undertaken judiciously and equitably to safeguard the rights of the accused and uphold the integrity of the Indonesian criminal justice system.

## REFERENCES

- Arief, Supriyadi, Mohamad Hidayat Muhtar, and Geofani Milthree Saragih. 'Upaya Pembelaan Diri Dalam Perspektif Persamaan Di Hadapan Hukum'. *Jurnal Yudisial* 16, no. 1 (2023): 25–47. <https://doi.org/10.29123/jy.v16i1.475>.
- Chaniago, Anjani Upik, Ismansyah, and Nani Mulyati. 'Kepastian Hukum Penggunaan Saksi Mahkota Dalam Pembuktian Pidana Ditinjau Dari Asas Hak Terdakwa Tidak Boleh Mendakwa Dirinya Sendiri (Non Self Incrimination)'. *Unes Journal of Swara Justisia* 8, no. 4 (January 2025): 4. <https://doi.org/10.31933/sy41r659>.
- Dewi, Ida Ayu Kade Cinthia, Anak Agung Sagung Laksmi Dewi, and I. Made Minggu Widyantara. 'Kedudukan Saksi Mahkota Dalam Proses Pembuktian Tindak Pidana Di Indonesia'. *Jurnal Preferensi Hukum* 4, no. 2 (June 2023): 124–29. <https://doi.org/10.22225/jph.4.2.6589.124-129>.
- Ginting, Yuni Priskila, Anwar Takeshi Oni, Catherine Catherine, Michelle Priscilla Kusuma, Paul Salim, Joice Clarissa, and Wanda Ayu. 'Sosialisasi Pembuktian Saksi Mahkota Dan Justice Collaborator Dalam Pidana Pembunuhan'. *Jurnal Pengabdian West Science* 2, no. 10 (2023).
- Harahap, Tuti Khairani, Yuyut Prayuti, Nining Latianingsih, Amsari Damanik, Tiyas Maheni, Ida Farida, Mohamad Hidayat Muhtar, and Mustaqim. 'PENGANTAR ILMU HUKUM'. *Penerbit Tahta Media*, 30 May 2023. <https://tahtamedia.co.id/index.php/issj/article/view/255>.
- Lahmado, Novia Grace, Mohamad Rusdiyanto U. Puluhulawa, and Mohamad Hidayat Muhtar. 'Tinjauan Viktimologi Terhadap Tindak Pidana Kekerasan Seksual Pada Anak Di Wilayah Hukum Polres Boalemo'. *SINERGI: Jurnal Riset Ilmiah* 1, no. 6 (2024): 365–75. <https://doi.org/10.62335/m4nerb70>.
- Muhtar, Mohamad Hidayat, Ichlas Tribakti, Agus Salim, Harry A. Tuhumury, M. Hasan Ubaidillah, Suwitno Y. Imran, Iskandar Laka, Geofani Milthree Saragih, Baso Iping, and Fakhry Amin. 'Konsep Hukum Indonesia'. *Global Eksekutif Teknologi*, 2023. [https://www.researchgate.net/profile/Mohamad-Hidayat-Muhtar/publication/370583612\\_SEJARAH\\_TATA\\_HUKUM\\_INDONESIA/links/64573db95762c95ac378e471/SEJARAH-TATA-HUKUM-INDONESIA.pdf](https://www.researchgate.net/profile/Mohamad-Hidayat-Muhtar/publication/370583612_SEJARAH_TATA_HUKUM_INDONESIA/links/64573db95762c95ac378e471/SEJARAH-TATA-HUKUM-INDONESIA.pdf).
- Nassihudin, Abdul Aziz, Tedi Sudrajat, Sri Wahyu Handayani, Aryuni Yuliantiningsih, and Riris Ardhanariswari. *Proceedings of the 3rd International Conference on Law, Governance, and Social Justice (ICoLGaS 2023)*. Springer Nature, 2023.
- Ningsih, Siska Ayu, and Rika Aryati. 'KEDUDUKAN HUKUM SAKSI MAHKOTA SEBAGAI ALAT BUKTI DALAM PERADILAN TINDAK PIDANA KORUPSI BERDASARKAN UNDANG-UNDANG NO. 8 TAHUN 1981 TENTANG KITAB HUKUM ACARA PIDANA'. *Pagaruyuang Law Journal*, no. 0 (February 2025): 0. <https://doi.org/10.31869/plj.v0i0.6178>.

- Ojulari, Esther. 'Decolonising Transitional Justice: A Framework For Historical Reparation For Afro-Descendant Peoples In Colombia'. In *Institute of Commonwealth Studies*. Doctoral, School of Advanced Study, 2022. <https://sas-space.sas.ac.uk/9953/>.
- Rismilda, Marisa Aulia. 'EKSISTENSI JUSTICE COLLABORATOR DALAM MENGUNGKAP SUATU TINDAK PIDANA BERDASARKAN SEMA RI NO. 4 TAHUN 2011'. *Parhesia* 1, no. 1 (March 2023): 92-98. <https://doi.org/10.29303/parhesia.v1i1.2573>.
- Semendawai, Abdul Haris. 'Penetapan Status Justice Collaborator bagi Tersangka atau Terdakwa dalam Perspektif Hak Asasi Manusia'. *PADJADJARAN JURNAL ILMU HUKUM (JOURNAL OF LAW)* 3, no. 3 (2016): 468-90.
- Sholecha, Ema Mar'ati, Ahmat Saiful, Sheilla Yunika, Hariyanto, and Norhaiden Unsil. 'Justice Collaborator's Position and Function on Witness Protection's Rights as a Suspect from the Perspective of Criminal Law in Indonesia. | EBSCOhost'. 1 January 2023. <https://doi.org/10.24090/volksgeist.v6i1.7246>.
- Silalahi, David Hariady. *TINJAUAN YURIDIS JUSTICE COLLABORATOR DALAM MEMBANTU MENGUNGKAPKAN TINDAK PIDANA KORUPSI*. 7 June 2024. <https://repository.uhn.ac.id/handle/123456789/10827>.
- Syarif, Muhammad, Rizki Ramadhani, Muhammad Aji Wisnu Graha, Tri Yanuaria, Mohamad Hidayat Muhtar, Nur Asmah, Muh Akbar Fhad Syahril, Rizky Dwi Utami, Ahmad Rustan, and Hanry Setiawan Nasution. *METODE METODE PENELITIAN PENELITIAN HUKUM HUKUM*. GET Press Indonesia, 2024. [https://www.researchgate.net/profile/Mohamad-Hidayat-Muhtar/publication/381460823\\_METODE\\_PENELITIAN\\_HUKUM/links/666e76f8de777205a32ff37b/METODE-PENELITIAN-HUKUM.pdf](https://www.researchgate.net/profile/Mohamad-Hidayat-Muhtar/publication/381460823_METODE_PENELITIAN_HUKUM/links/666e76f8de777205a32ff37b/METODE-PENELITIAN-HUKUM.pdf).
- Syarifuddin, La, M. Fauzi, and Musthafa Musthafa. 'Pertimbangan Anak Sebagai Saksi Mahkota (Kroongetuige) Dalam Tindak Pidana Narkotika'. *Doh Gisin* 2, no. 1 (June 2025): 1. <https://doi.org/10.30872/dohgisin.v2i1.3038>.
- Tambunan, Syofia Marlianti. 'Crown Witnesses in Indonesian Criminal Procedure: A Critical Review of Legal Status and Legitimacy'. *Research Horizon* 5, no. 2 (April 2025): 2. <https://doi.org/10.54518/rh.5.2.2025.447-456>.
- Yusuf, Arni, Fence m Wantu, and Mohamad Hidayat Muhtar. 'DISPARITAS PUTUSAN HAKIM DALAM TINDAK PIDANA PENIPUAN DAN IMPLIKASINYA TERHADAP KEPASTIAN HUKUM'. *SINERGI : Jurnal Riset Ilmiah* 2, no. 2 (February 2025): 2. <https://doi.org/10.62335/sinergi.v2i2.923>.