



Witness Protection in Law Enforcement Against Organized Narcotics Cases

Sindi Lestari¹ Saidatul Husna Harahap² Miranda Einilia³

¹Sunan Kalijaga State Islamic University

²State Islamic University Of North Sumatera

Email: sindi19204@gmail.com shusna295@gmail.com mirandaeinilia2004@gmail.com

Article Info	Abstract
Article History Received: 2024-12-05 Revised: 2024-12-11 Published: 2024-12-30 Keywords: <i>Witnesses, Narcotics, Organized, Enforcement</i>	Witnesses play a crucial role in the criminal justice system, particularly in uncovering organized narcotics crimes, where their testimony often becomes the primary evidence for law enforcement. However, witnesses in organized narcotics cases are highly vulnerable to intimidation, threats, and retaliation from criminal syndicates, making legal protection essential to ensure their safety and willingness to testify. This study aims to examine the forms of legal protection provided to witnesses in organized narcotics cases and to analyze the role of the Witness and Victim Protection Agency (LPSK) in safeguarding witnesses throughout the criminal justice process. This research employs an empirical legal research method by combining field research through interviews with officials of the Medan Representative Office of the Witness and Victim Protection Agency and a literature review of statutory regulations, books, and scientific journals. The findings indicate that witness protection is implemented through three primary mechanisms: physical protection, including police security, safe houses, and identity changes; legal protection, including immunity from legal retaliation and special treatment for justice collaborators; and the fulfillment of procedural rights, such as legal assistance, information on case developments, transportation, medical treatment, psychological rehabilitation, and living expenses during the protection period. The study also finds that justice collaborators play a strategic role in exposing organized narcotics networks by providing crucial information that enables law enforcement authorities to identify and prosecute the principal offenders. Therefore, comprehensive witness protection is indispensable for ensuring effective law enforcement, protecting human rights, and improving the successful prosecution of organized narcotics crimes in Indonesia.

I. INTRODUCTION

Based on the Law on the Protection of Witnesses and Victims Law number 13 of 2014, Article 1 paragraph 1 provides the definition of a witness, where a witness is a person who can provide information for the purposes of investigation, investigation, prosecution, and examination in court about a criminal act that the witness hears himself, the witness sees himself, and/or the natural witness himself. This witness is presented as one of the evidence of criminal acts necessary for the implementation of law enforcement. A witness is required to convey what he knows honestly under oath. Being a witness is not as easy as just delivering facts and

the court session is not as calm in theory. *De facto*, of course, there will be resistance from criminal perpetrators who evade what has been conveyed by witnesses. Of course, in this trial there will be chaos which is likely to endanger witnesses at worst.

Every witness to a crime committed individually must always receive threats from the perpetrator. Then it is certain that the threat will be even worse if you become a witness to organized crime. These organized crimes are usually large syndicates that move together in committing crimes. According to Michael Maltz, organized crime is a crime committed by more than one person who has loyalty to his collection

to organize crime. Its scope is related to cruelty, theft, corruption, monopoly, economy, fraud and victimization.(Situmaeng, 2021)

Narcotics crimes are considered one of the organized crimes because they are related to the scope of the crime. Organized narcotics crime usually arises in countries with one main reason, which is countries with high poverty rates and weak governments.(Council of Europe, 2014)

This shows that the narcotics syndicate has no fear of its government, so they dare to commit crimes, even producing and distributing narcotics continuously. In addition to the production and distribution of narcotics, organized narcotics crimes often cause victims. For example, Mexico and Colombia.

Based on actions that will threaten the safety of the witness, there is a need for a guarantee of security and protection from the authorities. For this reason, without being asked for witnesses, the authorities must provide the best security and protection guarantees for witnesses if they later experience threats or intimidation from narcotics syndicates. To facilitate the law enforcement process in a case, witness protection is needed, where this protection can provide peace and readiness of witnesses as well as the courage to convey what witnesses, hearing witnesses, and/or natural witnesses see.

II. RESEARCH METHODS

This research was prepared using an empirical legal research method, This method focuses on collecting direct data, either through experience, observation, or interaction with sources such as interviews. Where the author interacted with resource persons from the Medan Representative Witness and Victim Protection Institute related to witness protection measures against organized narcotics cases. On the other hand, the author also searches through a literature approach using scientific journals and books.

III. RESULTS AND DISCUSSION

According to Article 1 Number 26 of the Criminal Code, it states: "A witness is a person who can provide information for the purposes of

investigation, prosecution and trial about a criminal case that he hears himself, sees for himself and experiences himself."

According to Article 1 number 6 of Law No. 31 of 2014 concerning Amendments to Law No. 13 of 2006 concerning the Protection of Witnesses and Victims and the Witness and Victim Protection Institution states "Protection is all efforts to fulfill rights and provide assistance to provide a sense of security to Witnesses and/or Victims that must be carried out by the Witness and Victim Protection Institution (hereinafter abbreviated as LPSK) or other institutions in accordance with the provisions of this Law.

Narcotics are substances or drugs derived from plants or non-plants, both synthetic and semi-synthesized, which can cause a decrease or change in consciousness, loss of taste, reduce to eliminate pain and can cause dependence (Law Number 22 of 1997, Article 1 number (1).

In the criminal allegation process, the testimony of witnesses and/or victims who heard, saw, or experienced the crime themselves is valid evidence. Law enforcement often has difficulties when they are unable to present witnesses and/or victims to seek and find the truth about the crimes committed by the perpetrators. It is very important that witnesses and victims are protected during the criminal process. Criminal courts, including military courts, require testimony. Both the events that are requested and the events that are transmitted are basically very helpful in the transmission process. In addition, the expected outcome of the process of collecting witness information is in the interest of fair security.(Komariah, 2015)

Some of the things related to the protection of Witnesses are not limited to, the laws governing the protection of Witnesses, but also when protection is granted, the types of protection available, and the manner in which Witness protection is used in criminal proceedings. The person in charge of witness protection is the Witness and Victim Protection Institution.

The Witness and Victim Protection Institution as the name suggests is not only a forum to protect its victims but also its witnesses in the process of

law enforcement against criminal acts. In the Witness and Victim Protection Institution, narcotics cases are a priority crime. Where special treatment is needed for witnesses and victims. In this case, witnesses in narcotics crimes are more vulnerable to threats from the perpetrator syndicate.

As a container of protection. The Witness and Victim Protection Agency is voluntary. Voluntary is to do so in accordance with the Witness's request and not to act alone.

The protection was given according to the request from the Witness, because only the Witness could feel how disturbed or threatened by the threat of the perpetrator's syndicate. Meanwhile, the person in charge of the Witness and Victim Protection Institution only does so after the request is considered by the leader of the Witness and Victim Protection Institution to be necessary.

The protection received by witnesses includes the following:

1. Physical protection

Protection is given to witnesses if they receive a real threat from the perpetrator syndicate, where this threat is very threatening to him and his family. The physical protection provided is in the form of:

- a. Guard from the police; Here the police are tasked with supervising, protecting, and securing witnesses from the threats of the perpetrator syndicate who may still threaten their safety
- b. Safe houses; The relocation of witnesses to be placed in a place unknown to anyone. This safe house prevents the perpetrator syndicate from finding the location of the witnesses. And the only one who knows about it is the person in charge of witnesses from the Witness and Victim Protection Agency. Even the colleague of the person in charge did not know about it.
- c. Change of Identity; This change of identity is needed to disguise the identity of the witness to protect his privacy. For example, by changing your name, age, address, and others.

2. Legal protection

Legal protection is a form of service that must be provided by the government to provide a sense of security to every citizen. Based on the 1945 Constitution of the Republic of Indonesia, the State is responsible for protection. Human Rights is a very important matter, as outlined in Article 28I paragraph (4) of the 1945 Constitution of the Republic of Indonesia which reads: "The protection, promotion, enforcement, and fulfillment of human rights are the responsibility of the state, especially the government".

In Law Number 35 of 2009 concerning Narcotics in Article 100 paragraph 1, it is stated related to witness protection, which contains:

"Witnesses, whistleblowers, investigators, public prosecutors, and judges who examine cases of Narcotics and Narcotics Precursors and their families must be protected by the state from threats that endanger themselves, their lives, and/or property, both before, during and after the case examination process"

Legal protection for witnesses is obtained as a form of smooth law enforcement in a case. In this case, the legal protection in question can be in the form of the rights of witnesses as human beings that must be respected. For example, the right to life, the right not to be persecuted, the right not to be violent. Even witnesses also receive legal protection from being sued. (Purba et al., 2023)

In the case of perpetrator witnesses or what is often referred to as Justice Collaborators, the perpetrators who do so get the right to have their sentences reduced by the judge as a form of reward because with their testimony they can shed light on the criminal acts.

In Article 10A paragraph (3) of Law Number 31 of 2014, it is stated that the award for testimony can be in the form of: first, leniency for criminal imposition. Second, parole, additional remission and other inmate rights. The enforcement of the award was carried out by the Witness and Victim Protection Institute in the form of recommendations addressed to the public prosecutor, so that it could be included in the judge's decision. This happens if there is a counterclaim from the perpetrator regarding the

testimony submitted by the witness will be suspended until the main case *is inkraht*.

3. Fulfillment of Procedural Witness Rights

Article 5 of Law Number 13 of 2006 states the rights that must be fulfilled by the person in charge of witnesses, including:

- a. Get assistance
- b. Get information about case developments
- c. Getting a translator
- d. Getting a transportation cost placement
- e. Get legal advice
- f. Get cost of living assistance during the coverage deadline

On the other hand, in addition to protection, there is assistance provided by the Witness and Victim Protection Agency to witnesses, including:

- a. Medical assistance; Assistance is provided if the witness is injured from the threatening actions of the perpetrator's syndicate. This assistance is in the form of medical expenses until the witness recovers to the original state.
- b. Psychological help; Assistance is provided if the witness gets a psychological impact from the threat from the perpetrator.

These aids are needed to help the witness to recover and have the courage to prepare to give his or her testimony in court.

In handling organized narcotics cases as priority organized crime cases. Law enforcement in narcotics cases is quite difficult to implement. Organized crime, also known as "organized crime", is defined as a person who has the ability to organize the roles, motives, duties, and functions of each individual from before the crime is committed to carrying out trail removal activities after the crime is committed, which makes it difficult for law enforcement officials. Because narcotics crimes are an unusual crime, law enforcement against them requires firmness and clarity in political policy. The existence and role of witnesses is very important in uncovering criminal cases, starting from the level of investigation, investigation, prosecution to examination in court. The presence of witnesses is also often an important factor in the disclosure of criminal cases (Marpaung et al., 2024).

In fact, it is difficult to find witnesses in organized narcotics cases, because usually the perpetrator must have "cleaned up". In some criminal cases that are carried out jointly, there are perpetrators who choose leniency by becoming witnesses to the perpetrator. This is commonly referred to as Justice Collaborator (Astri et al., 2021).

Justice Collaborators do not come from the main perpetrator, but from the minor perpetrator. Although only a minor perpetrator, his testimony is very important to make the court light. Without a Justice Collaborator, the narcotics case that wants to be revealed certainly cannot be continued if it does not meet the minimum evidence.

Witnesses of cooperating perpetrators or justice collaborators are born from the condition of difficulties for investigators and public prosecutors in uncovering, investigating, and punishing the perpetrators of organized crime that are very detrimental to the interests of the state and the public interest. Justice collaborators have a big role in helping investigators and public prosecutors prove a criminal case. This is because, a justice collaborator is a person who plays a role in the occurrence of an organized crime committed together. The testimony of the justice collaborator can be used as a source of information in relation to reveal the larger brain of the perpetrator so that the crime can be completed and does not stop only at the perpetrator who plays a minimal role in the criminal act (Scott, 2016).

IV. CONCLUSION

A. Conclusion

Witness protection in organized narcotics cases does require special or extra treatment, because the threats and intimidation given by the perpetrator syndicate really threaten the lives of witnesses and their families. The threat given can cause the worst possibility in the form of loss of life carried out by the perpetrator syndicate. In this case, the Witness and Victim Protection Institution must act as the person in charge to provide protection,

whether it is physical protection such as police guard, safe houses and change of identity or legal protection received by witnesses. Then the witness is entitled to assistance also from the Witness and Victim Protection Institution in the form of medical assistance and psychological assistance.

Organized narcotics crimes are included in extraordinary crimes committed together, where each perpetrator has their own role and function in carrying out their crimes. Basically, it is very difficult to find witnesses for narcotics syndicates, but in some cases there are often Justice Collaborators who are minor perpetrators who act as witnesses. As a form of reward, it is given to witnesses who reduce the sentence of the crime they committed.

Witness protection is indeed necessary to carry out law enforcement, especially in organized narcotics crimes. With the maintenance and protection of witness rights, witnesses can deliver their testimony straightforwardly, firmly, and courageously.

B. Suggestions

Narcotics crimes are present because of the large number of poor people with weak governments. As a government, we must dare to act decisively against organized narcotics cases so that they do not become bigger and threatening. Equitable distribution of education is also needed so that people can understand the dangers of organized narcotics crimes. Equitable distribution of welfare is also important to overcome the poverty that has become rampant. The people must cooperate with each other to create common welfare.

REFERENCE LIST

- Astri, I. L., Sunaryo, S., & Jatmiko, B. D. W. (2021). Perlindungan Hukum Terhadap Justice Collaborator Dalam Tindak Pidana Narkotika. *Indonesia Law Reform Journal*, 1(1), 32–49. <https://doi.org/10.22219/ilrej.v1i1.16122>
- Council of Europe. (2014). *White Paper on transnational organised crime*. <https://edoc.coe.int/en/organised-crime/6837-white-paper-on-transnational-organised-crime.html#>
- Komariah, M. (2015). Perlindungan Hukum Saksi Dan Korban Oleh Lembaga Perlindungan Saksi Dan Korban (Lpsk). *Jurnal Ilmiah Galuh Justisi*, 3(2), 229. <https://doi.org/10.25157/jigi.v3i2.421>
- Marpaung, Z. A., Lubis, F., & Panjaitan, B. S. (2024). *Kesaksian Justice Collaborator sebagai Keringanan Hukuman dalam Mengungkap Kejahatan Narkotika dan Kaitannya Masalah Mursalah*. 1(2), 93–102. <https://doi.org/10.15575/jaa.v1i2.790>
- Purba, T. M. R., Siahaan, P. G., & Batu, D. P. L. (2023). *Perlindungan Hukum Bagi Saksi Dalam Proses Peradilan Pidana Ditinjau dari Undang Undang Nomor 13 Tahun 2006*. 1(4).
- Satria, H. (2016). Menakar Perlindungan Justice Colaborator Quo Vadis Justice Collaborator. *Jurnal Konstitusi*, 13(2), 1–24.
- Situmaeng, S. M. T. (2021). Buku Ajar Kriminologi. In *Rajawali Buana Pusaka*. <https://elibrary.unikom.ac.id/id/eprint/4446/7/BAHAN AJAR KRIMINOLOGI.pdf>
- Undang Undang Dasar Negara Republik Indonesia Tahun 1945
- Undang Undang Nomor 13 Tahun 2006 tentang Perlindungan dan Hak Saksi dan Korban
- Undang Undang Nomor 31 Tahun 2014 tentang Perlindungan Saksi dan Korban
- Undang Undang Nomor 22 Tahun 1997 tentang Narkotika
- Undang Undang Nomor 35 Tahun 2009 tentang Narkotika