

CROWN WITNESSES AND THE INTEGRITY OF JUSTICE: ETHICAL AND LEGAL REFLECTIONS ON THE *FERDY SAMBO* CASE IN INDONESIA

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ABSTRACT

This study examines the role of crown witnesses in the Indonesian criminal justice system through the case study of *Ferdy Sambo*. While crown witnesses have proven effective in uncovering complex criminal networks, their use raises serious issues regarding credibility, bias, and procedural fairness. The research adopts a normative juridical method, employing statutory and case approach, alongside descriptive-analytical analysis based on secondary data such as court decisions, legal literature, and laws and regulations, with conclusions drawn deductively. The findings indicate that crown witness testimony plays a strategic role in exposing organized crime but remains vulnerable to inconsistencies and motives of leniency that may compromise the rights of the accused and the pursuit of material truth. The novelty of this study lies in a critical analysis of the *Ferdy Sambo* case as a contemporary precedent, revealing the ethical and legal dilemmas surrounding the use of crown witnesses from the perspective of human rights and procedural fairness. Accordingly, the study recommends legal policy reform, including strict statutory limitations on the appointment of crown witnesses in criminal cases, enhanced training for judges and prosecutors, and strengthened legal protections for both crown witnesses and defendants to avoid pressure and manipulation when giving testimony.

Introduction

A crown witness can be understood as a defendant in a criminal case who is presented by the public prosecutor to provide testimony against another defendant in the same case (Sukarjono et al., 2023). Although the term is not expressly regulated in legislation, including in Law Number 8 of 1981 Concerning the Indonesian Criminal Procedure Code, its use continues to appear in the Indonesian criminal justice system. This study highlights the ethical and legal dilemmas surrounding crown witnesses, particularly where their involvement as perpetrators of crimes raises fundamental questions about procedural justice, material truth, human rights protection, and the validity of testimony (Ghonu et al., 2018).

The case of *Ferdy Sambo* in the premeditated murder of Brigadier Josua illustrates the complexity of crown witnesses practice in Indonesia (Adhani, 2023; Syam et al., 2023). Crown witnesses in this case included *Ferdy Sambo* himself, along with Bripka Ricky Rizal, Hendra Kurniawan, Agus Nurpatia, and Arif Rachman Arifin, who provided testimony while accusing one another. This dynamic raises critical questions about the legitimacy of the perpetrator's testimony as valid evidence in the trial proceedings. This issue directly relates to Herbert L. Packer's theory of due process of law (Hiariej, 2024), which requires that every legal process uphold the rights of the accused and guarantee procedural justice. From a human rights perspective, the right to a fair trial is an essential component of legal protection, guaranteed by Article 28D(1) of the 1945 Constitution, and further reinforced by Article 10 of the Universal Declaration of Human Rights (UDHR) and Article 14 of the International Covenant on Civil and Political Rights (ICCPR) (Yahyanto, 2019). In this context, the principle of procedural justice becomes crucial, as the state must balance effective law enforcement with the protection of the accused, ensuring transparency, impartiality, and freedom from external pressure while safeguarding human rights.

The appointment of crown witnesses often occurs when available evidence is insufficient to prove a crime. This practice is linked to the principle of evidence law, namely *Negative Wettelijk Bewijsstheorie*, which stipulates that a judge may issue a verdict only if there are at least two legally valid pieces of evidence and the judge's conviction, as provided in Article 183 of the Indonesian Criminal Procedure Code (Mulyadi, 2007). This theory emphasizes that proof depends not only on quantity but also on the quality and legitimacy of evidence. Within this framework, the use of crown witnesses presents a dilemma: on the one hand, it helps fulfil evidentiary requirements (the principle of minimum proof), but on the other hand, it risks violating the human rights of the accused if crown witness testimony is not strictly monitored.

This study's analysis is grounded in the theory of due process of law as its main framework. The theory underscores that every defendant has the right to a fair legal procedure without discrimination and that the law must limit state authority to prevent abuse of power (Hiariej, 2024). This framework is applied to assess whether the use of crown witnesses in Indonesia aligns with universal standards of justice or whether it creates loopholes that undermine the rights of defendants, particularly in situations of pressure and manipulation during testimony.

Studies on the status and legal mechanisms surrounding accomplice testimony in the criminal justice process have gained substantial attention in Indonesian legal scholarship. For instance, Anggasakti (2016) examined the procedural legitimacy and evidentiary limits of crown witnesses (*saksi mahkota*) in premeditated murder prosecutions through the lens of the presumption of innocence. In the context of the *Ferdy Sambo* case, Fikriyah et al., (2023) analyzed the judicial reasoning and evidentiary weight behind designating Richard Eliezer as a Justice Collaborator, while Perdana and Susanti (2023) evaluated the statutory protection schemes afforded to cooperating accomplices under Law No. 31 of 2014. Although these existing studies provide valuable insights into the evidentiary strength and statutory safeguards for cooperating accomplices, they primarily focus on the normative legitimization of Justice Collaborators. A critical literature gap remains regarding the complex legal and ethical dilemmas created when co-defendants function simultaneously as uncoded crown witnesses via case file splitting (*splitsing*) within Indonesia's criminal proceedings, particularly as demonstrated in the *Ferdy Sambo* trial.

This research is urgently needed due to the absence of clear regulations regarding crown witnesses in the Indonesian Criminal Procedure Code or other laws and regulations. Such gaps create legal uncertainty and risk violating the principles of due process of law and human rights. Accordingly, this study offers crucial insights that may serve as a reference for legal developments in Indonesia, particularly in refining approaches to the use of crown witnesses.

Literature Review

In Indonesian criminal jurisprudence, a crown witness (*saksi mahkota*) refers to a suspect or co-defendant who, upon designation by law enforcement authorities—specifically investigators or public prosecutors—agrees to provide testimony against other co-perpetrators implicated in the same criminal offense. Procedurally, the deployment of a crown witness is utilized as an evidentiary measure of last resort (*ultimum remedium*) when primary evidence is insufficient, covertly concealed, or otherwise difficult for the prosecution to obtain independently.

Because the Indonesian Criminal Procedure Code (*Kitab Undang-Undang Hukum Acara Pidana / KUHAP*) does not explicitly codify or define the term *saksi mahkota*, the practice relies on a procedural technique known as case file severing (*splitsing*). Rooted in Article 142 of the KUHAP, *splitsing* empowers public prosecutors to divide a single joint criminal indictment involving multiple co-defendants into separate, parallel case files (Ningsih & Aryati, 2025). Through this procedural mechanism, an accused individual in one case file is compelled to appear as a formal sworn witness against their co-accused in a parallel case file regarding the exact same underlying sequence of criminal events.

While *splitsing* provides a pragmatic avenue for securing direct testimony, the dual character of an individual acting simultaneously as an accused perpetrator and a prosecution witness creates profound legal, ethical, and constitutional tensions within the criminal justice system. On one hand, insider testimony from an accomplice can significantly fortify the prosecution's case by offering detailed, firsthand accounts that reveal conspiratorial structures, internal decision-making, and hidden elements of intent (*mens rea*).

On the other hand, compelling co-defendants to testify in split trials raises grave concerns regarding procedural fairness and human rights violations. Most notably, the practice infringes upon the privilege against self-incrimination (*nemo tenetur se ipsum accusare*) and jeopardizes the constitutional guarantee to a fair trial (*due process of law*). Furthermore, the inherent evidentiary reliability of co-defendant testimony is fundamentally suspect; such statements are frequently shaped by custodial pressure, institutional coercion, or the implicit expectation of prosecutorial leniency, thereby compromising statement objectivity, neutrality, and fundamental fairness (Mulyati, 2025).

Theoretical Conflicts: Self-Preservation, Credibility, and Human Rights

The academic discourse surrounding the crown witness doctrine exposes a fundamental contradiction between investigative efficiency and constitutional safeguards. Legal scholars emphasizing due process argue that using co-defendants as state witnesses creates an irreconcilable conflict of interest. An accused individual testifying as a crown witness remains under active criminal prosecution for the same underlying facts. Consequently, their primary psychological and legal incentive is self-preservation—specifically, minimizing personal criminal exposure, shifting primary culpability onto co-accused parties, or securing favorable sentencing recommendations (Mulyati, 2025).

This self-preservation motive introduces a severe risk of statement fabrication, tactical exaggeration, and systemic bias. When co-defendants recalibrate their narratives to align with prosecutorial expectations, the integrity of the fact-finding process is compromised, increasing the likelihood of wrongful convictions or distorted judicial conclusions.

Furthermore, the legal architecture governing crown witnesses in Indonesia suffers from a critical institutional gap. Unlike *Justice Collaborators*—who voluntarily cooperate under a codified statutory framework governed by Law No. 31 of 2014 and receive formal protective guarantees via the Witness and Victim Protection Agency (LPSK)—a *saksi mahkota* is designated unilaterally at the discretion of prosecutors or police investigators without automatic statutory protections (Ningsih & Aryati, 2025).

This procedural vulnerability leaves crown witnesses in a precarious legal position: they are stripped of the full shield of procedural rights granted to standard defendants while simultaneously lacking statutory protection against self-incrimination, custodial intimidation, or institutional retaliation. Consequently, scholarly literature increasingly views the uncritical reliance on *splitsing* as a procedural loophole that risks undermining the substantive search for material truth (*materiele waarheid*).

Empirical Application: The Ferdy Sambo Premeditated Murder Prosecution

The high-profile prosecution of former Inspector General Ferdy Sambo regarding the premeditated murder of his aide-de-camp, Nofriansyah Yosua Hutabarat, in July 2022 serves as a definitive case study illustrating the practical complexities and ethical dilemmas of the crown witness mechanism. To dismantle the sophisticated cover-up and institutional obstruction orchestrated within the high-ranking police command structure, public prosecutors heavily utilized case file splitting (*splitsing*).

During the trial proceedings at the South Jakarta District Court, several co-defendants—including Bripka Ricky Rizal, Hendra Kurniawan, Agus Nurpatia, and Arif Rachman Arifin—were formally summoned to give evidence as crown witnesses against Sambo and each other. Their testimonies established crucial factual milestones, confirming the presence of gunshots at Sambo's official residence at Duren Tiga, describing the systematic alteration of digital evidence, and detailing the atmospheric pressure exerted by Sambo immediately following the shooting (Alketbi & Kanaker, 2025; Al-Shaddadi et al., 2025; Alias et al., 2025a; Meita, 2024; Wan Ismail et al., 2021).

The introduction of these accomplice testimonies was undeniably vital to the trajectory of the trial. Given the extensive tampering with digital forensics, destruction of CCTV footage, and initial fabrications presented by the primary perpetrator, the crown witnesses provided an indispensable chronological narrative from individuals operating inside Sambo's immediate circle (Meita, 2024; Alias et al., 2025b).

However, the trial records also exposed the extreme volatility of relying on co-defendant evidence. Throughout the investigative and early trial phases, several crown witnesses presented shifting, contradictory, and recalibrated statements as they navigated the dual pressures of institutional loyalty to Sambo and the imperative to reduce their own criminal liability. This constant shifting of testimonies sparked intense judicial debate regarding statement validity, objectivity, and procedural fairness, demonstrating how easily accomplice evidence can obscure the historical reality of an offense when witnesses are driven by personal self-interest (Meita, 2024).

The Fundamental Judicial Dilemma in Indonesian Law Enforcement

The Ferdy Sambo case crystallizes a profound, unresolved dilemma embedded within Indonesia's criminal procedure system. On one side of the debate, the crown witness mechanism is defended as a practical necessity—an indispensable evidentiary tool capable of piercing walls of silence, overcoming power imbalances, and securing access to internal information without which high-level state corruption and organized masterminds would escape justice.

On the other side, the dual status of an individual functioning simultaneously as an accused defendant and a key prosecution witness fundamentally threatens the coherence of procedural law (Dewi et al., 2023). When court decisions rely heavily on accomplice accounts that are inherently vulnerable to self-serving bias, intimidation, and procedural coercion, the consistency, validity, and moral authority of the judiciary are called into question.

Ultimately, the existing literature emphasizes that while crown witnesses can assist in exposing complex criminal acts, their uncoded use through *splitsing* creates systemic vulnerabilities. To preserve judicial integrity, protect constitutional rights, and ensure that the pursuit of material truth remains grounded in fairness, the legal framework governing accomplice testimony in Indonesia requires comprehensive statutory reform, rigorous judicial oversight, and strict rules requiring independent physical corroboration (Dewi et al., 2023; Mulyati, 2025).

Methodology

This study examines the role of crown witnesses in the Indonesian criminal justice system using normative juridical research. The approaches employed are statutory and case-based. The data sources consist of secondary materials, including court decisions, legal doctrines, legislation, and legal literature in the form of books, journals, and other scholarly articles. Data analysis was conducted qualitatively through several systematic stages (Creswell & Poth, 2016). First, data reduction, which involved sorting and filtering the collected legal data so that only information relevant to the role of crown witnesses was retained. Second, data presentation, which entailed compiling the findings in a descriptive-analytical format to clearly illustrate the relationship between norms, doctrines, and judicial practices. Third, data verification, carried out by comparing various legal sources—such as legal theories, legal principles, and statutory provisions—to ensure the consistency, validity, and relevance of the analysed data. This verification process employed triangulation of legal sources, namely cross-examining primary, secondary, and tertiary legal materials to enhance the validity of the findings. This verification process is carried out through triangulation of legal sources, namely cross-examining primary, secondary, and tertiary legal materials to obtain data with greater assurance of validity. Finally, drawing conclusions, which involved formulating the results of the analysis to deductively address the legal issues surrounding the dilemma of using crown witnesses in the Indonesian criminal justice system.

Findings and Discussion

Findings

The criminal justice system serves as a foundational pillar for maintaining public security, upholding constitutional governance, and ensuring the equitable administration of justice (Husin & Budi Rizki Husin, 2022). Within complex criminal proceedings, one of its most strategic and contentious mechanisms is the utilization of the crown witness (*saksi mahkota*). A crown witness is typically an accomplice or co-perpetrator who provides pivotal insider testimony to illuminate covert operations, penetrate clandestine criminal hierarchies, and assist law enforcement in resolving intricate offenses that would otherwise remain unprosecuted (Hardum, 2024).

From a historical perspective, the legal construct of the crown witness originated in 18th-century English common law as a pragmatic enforcement doctrine tailored to dismantle organized criminal conspiracies (Lippman, 2020). In contemporary Anglo-American jurisprudence, this principle operates through formalized procedural channels centered on the exchange of incriminating testimony for prosecutorial leniency, charge reductions, or statutory immunity. In England and Wales, the mechanism is recognized as the crown witness or *supergrass* system, wherein an offending party collaborates with prosecutors to testify against co-conspirators under structured legal frameworks like the Serious Organised Crime and Police Act 2005 (SOCPA) (Muharikin, 2015). Similarly, the United States legal system relies extensively on the "cooperating witness" doctrine, seamlessly integrated with plea bargaining protocols under Rule 11 of the Federal Rules of Criminal Procedure. In both jurisdictions, accomplice testimony is bounded by statutory protection schemes and direct judicial oversight to mitigate procedural abuse (Muharikin, 2015).

In the Indonesian legal context, a crown witness is generally defined as an accomplice who agrees to testify against fellow co-defendants in exchange for prosecutorial leniency or mitigated sentencing. However, the operationalization of this practice introduces profound structural and ethical dilemmas within Indonesian criminal procedure. First and foremost is the issue of witness credibility: because crown witnesses give evidence under the overriding motive of mitigating their own criminal exposure, their statements carry an inherent risk of fabrication, exaggeration, or malicious self-preservation intended to shift culpability onto others (Morgan, 1946). When dishonest or distorted testimony is introduced for personal gain, it compromises the integrity of the fact-finding process and elevates the risk of miscarriages of justice (Allen et al., 2020). Furthermore, the practice creates severe potential for prosecutorial overreach, as custodial pressure or coerced confessions can be leveraged against vulnerable defendants, directly compromising procedural fairness (Jacobs & Jackson, 2017).

Table 1. Comparative Framework of Accomplice Testimony Across Jurisdictions

Jurisdiction	Legal Terminology	Primary Procedural Mechanism	Statutory Safeguards and Oversight
England and Wales	Crown Witness / Supergrass	Direct prosecutorial cooperation agreements in exchange for sentence discounts or immunity	Regulated under the Serious Organised Crime and Police Act 2005 (SOCPA); formal placement in witness protection schemes
United States	Cooperating Witness	Plea bargaining under Rule 11 of the Federal Rules of Criminal Procedure	Codified judicial oversight; federal sentencing guidelines; US Marshals Witness Security Program (WITSEC)
Indonesia	Crown Witness	Procedural separation of single indictment files into parallel cases (<i>splitsing</i>)	No explicit statutory definition in KUHP; lacks automatic protection under the Witness and Victim Protection Agency (LPSK)
Indonesia	Justice Collaborator	Voluntary accomplice cooperation under Law No. 31 of 2014 (Article 10A)	Formal statutory framework; statutory immunity/sentence reduction recommendations overseen directly by LPSK

Legal scholars remain sharply divided over the legitimacy of accomplice testimony. Proponents argue that crown witnesses are functionally indispensable for uncovering sophisticated criminal networks, noting that insider accounts often provide the sole direct evidence capable of proving criminal intent and organizational structure when independent physical evidence is lacking (Grosso & O'Brien, 2017; Allen et al., 2020). Conversely, critics contend that uncritical reliance on crown witnesses obscures the search for material truth (*materiele waarheid*).

A critical procedural distinction exists between a Justice Collaborator and a *Saksi Mahkota* in Indonesia. Under Article 10A(3) of Law No. 31 of 2014, a *Justice Collaborator* voluntarily cooperates with law enforcement, satisfies codified statutory criteria, and receives formal protection and sentence reduction recommendations overseen by the Witness and Victim Protection Agency (LPSK) (Semendawai, 2016). In contrast, a *saksi mahkota* is designated unilaterally through prosecutorial discretion via the practice of severing joint indictment files (*splitsing*) pursuant to the Indonesian Criminal Procedure Code (KUHP) (Wijaya, 2012). Because crown witnesses are simultaneously co-defendants in split trials involving the same factual matrix, they frequently engage in tactical blame-shifting to minimize their personal liability (Williams, 1962). Consequently, co-defendant testimonies often contradict one another, destabilizing evidentiary consistency, confusing the court, and unfairly cornering co-accused parties without independent corroboration (Hammar & Renjaan, 2022).

Ironically, the practical implementation of crown witnesses in Indonesia is executed without statutory protective guarantees from the LPSK (Syafii, 2023). Because their designation is initiated directly by police investigators or public prosecutors through *splitsing*, defendants' constitutional rights are indirectly diminished as they are compelled to give incriminating testimony in parallel proceedings arising from the same offense (Wijaya, 2012). This institutional asymmetry creates severe procedural vulnerabilities: crown witnesses remain fully accountable as criminal defendants yet lack statutory guarantees regarding the safety and evidentiary weight of their testimony. This structural gap creates negative public perceptions of judicial neutrality and reflects systemic inconsistencies in the treatment of individuals contributing to the pursuit of truth (Sasmito, 2012).

The landmark prosecution of former Inspector General Ferdy Sambo exemplifies the operational complexities and ethical tensions surrounding crown witnesses in Indonesian criminal trials. Centered on charges of premeditated murder and obstruction of justice within a high-ranking police command structure, the trial hinged heavily on conflicting statements provided by co-defendants who functioned simultaneously as accused parties and crown witnesses against Sambo and each other.

Table 2. Matrix of Accomplice Roles and Evidentiary Status in the Ferdy Sambo Case

Party / Defendant	Dual Legal Status	Primary Evidentiary Function	Judicial Scrutiny & Outcome
Ferdy Sambo	Mastermind / Main Defendant	Primary subject of accomplice testimony; denied allegations of direct shooting orders	Convicted of premeditated murder; initial death sentence maintained through high-level corroborative physical evidence
Richard Eliezer (Bharada E)	Co-Defendant & Justice Collaborator	Acted as the primary shooter under orders; provided insider testimony dismantling the cover-up	Granted <i>Justice Collaborator</i> status by LPSK; received a significantly reduced sentence (1.5 years) due to crucial cooperation
Ricky Rizal and Kuat Ma'ruf	Co-Defendants & <i>Saksi Mahkota</i>	Testified regarding the timeline and events at Magelang and Saguling; presented shifting accounts	Testimonies faced heavy judicial skepticism due to inconsistencies and perceived self-preservation motives; received substantial prison terms

An analysis of trial records, judicial rulings, and academic literature confirms that crown witnesses are highly prone to providing recalibrated or biased testimony to secure sentence mitigation (Fyfe & Sheptycki, 2005). In the Sambo proceedings, initial contradictions among co-defendants cast doubt on the overall reliability of accomplice evidence. While accomplice statements significantly influenced the trajectory of the trial by establishing the narrative sequence, over-reliance on uncorroborated accomplice testimony without stringent judicial safeguards risks generating arbitrary or erroneous verdicts (Azizi, n.d.). Trial records reveal that judges and prosecutors occasionally accepted crown witness statements without sufficient cross-examination, highlighting systemic vulnerabilities in balancing procedural and substantive fairness within Indonesia's criminal justice system.

Discussion

The utilization of crown witnesses (*saksi mahkota*) represents a pragmatic legal mechanism that emerged from evidentiary necessity in prosecuting complex criminal cases, particularly those involving sophisticated, organized networks, systemic corruption, and high-level institutional conspiracies (Hardum, 2024). Within procedural law, this mechanism is often viewed as a strategic breakthrough because it provides law enforcement agencies with insider access to internal operational hierarchies and covert decision-making processes that are otherwise impenetrable through conventional investigative techniques. The practical necessity and operational utility of this mechanism were vividly demonstrated in the landmark prosecution of former Inspector General Ferdy Sambo, where the insider testimonies of co-defendants proved instrumental in shaping the factual matrix and narrative trajectory at trial.

However, the fundamental theoretical dilemma surrounding the crown witness doctrine centers on a core evidentiary question: can an individual who is actively implicated as a co-perpetrator in a serious crime offer objective, honest, and reliable testimony under oath? Allowing an accused perpetrator to testify against their accomplices inherently introduces intense skepticism regarding statement veracity. As Adhani (2023) observes, crown witnesses almost universally operate under the expectation of tangible legal rewards, such as sentence discounts, dropped charges, or special custodial privileges, which inherently compromises the neutrality and truthfulness of their accounts. In the Ferdy Sambo case, co-defendants continuously delivered shifting and contradictory statements during initial police interrogations (Palguna, 2022). This volatility underscores critical concerns regarding witness credibility and confirms that, in the absence of stringent legal frameworks and independent corroboration, accomplice testimony is highly susceptible to self-preservation bias, tactical blame-shifting, and structural manipulation.

Despite these inherent vulnerabilities, crown witnesses exerted a decisive influence on the judicial outcome of the Sambo trial. The South Jakarta District Court admitted and prioritized accomplice accounts because their insider testimony was deemed essential for penetrating the police cover-up and establishing Sambo's role as the intellectual mastermind (*intellectualis*) behind the premeditated murder of Brigadier Nofriansyah Yosua Hutabarat. Both prosecutors and trial judges relied heavily on these co-defendant narratives to construct the formal indictment, substantiate criminal charges, and formulate the final judicial verdict. The accomplice accounts successfully exposed top-down command structures,

systemic evidence tampering, digital fabrication, and coordinated efforts to obstruct justice following the shooting.

Crucially, while the co-defendants participating as crown witnesses were physically involved in the execution of the crime, the trial court concluded that they acted under administrative duress, institutional coercion, and disparity of power rather than as primary masterminds. Their willingness to testify—most notably exemplified by Richard Eliezer (Bharada E)—was recognized by the judiciary as a courageous act of truth-telling that dismantled a narrative previously obscured by institutional pressure and power imbalances (Nufus, 2022). Consequently, the judicial panel granted specialized legal consideration and sentence mitigation to reflect their pivotal role in uncovering the historical truth of the offense.

Theoretical and Statutory Evaluation under Indonesian Criminal Procedure

The operationalization of crown witnesses in the Ferdy Sambo trial can be rigorously evaluated through two foundational legal frameworks within procedural jurisprudence: the Theory of Due Process of Law and the principle of *Negative Wettelijk Bewijstheorie* as codified under Indonesian law (Hiariej, 2024).

The Due Process of Law Perspective

From the perspective of due process of law, the criminal justice system must rigorously safeguard the fundamental rights of all accused persons, ensuring access to an impartial tribunal, procedural equality, and a fair trial free from arbitrary state interference (Hiariej, 2024). This constitutional principle dictates those investigative strategies—including the deployment of crown witnesses—must never violate fundamental human rights or the privilege against self-incrimination (*nemo tenetur se ipsum accusare*). Absolute or uncritical judicial reliance on a single accomplice who is simultaneously a co-defendant risks generating profound miscarriages of justice, particularly when such testimony is extracted through implicit promises of leniency, prosecutorial inducement, or custodial intimidation.

However, as Fuady (2012) asserts, if accomplice testimony is subjected to rigorous cross-examination in open court, tested through adversarial probing, and systematically corroborated against independent physical evidence, its admission does not inherently violate the principles of due process. Conversely, where these procedural safeguards are absent or inadequately enforced, accomplice testimony must be ruled inadmissible to prevent the erosion of constitutional rights and procedural fairness.

Analysis under Negative Wettelijk Bewijstheorie

Second, under the statutory evidentiary rule of *Negative Wettelijk Bewijstheorie*, codified in Article 183 of the Indonesian Criminal Procedure Code (*KUHAP*), a judge is prohibited from imposing a criminal conviction unless they possess at least two valid legal items of evidence (*sekurang-kurangnya dua alat bukti yang sah*) and derive personal judicial conviction (*keyakinan hakim*) that the defendant committed the alleged offense (Judge, 2020). This statutory principle maintains a delicate balance between formal statutory proof and subjective judicial evaluation.

The crown witness doctrine finds legal relevance within this statutory framework: when independent physical evidence is insufficient to prove complex intent or internal conspiratorial agreements, accomplice testimony can serve as a valid item of witness evidence (*keterangan saksi*) under Article 184 of the *KUHAP* to fulfill the minimum statutory threshold (Yuwono, 2011). Thus, the crown witness mechanism is not inherently incompatible with Indonesian statutory proof; rather, it functions as a supplementary evidentiary instrument to assist the court in satisfying statutory burdens of proof. Provided that its application is strictly regulated, subjected to judicial scrutiny, and evaluated alongside corroborative forensics, the use of crown witnesses does not inherently conflict with constitutional rights or procedural justice (Chaerudin et al., 2025). Transparent statutory rules defining the scope, limits, and admissibility of accomplice accounts are therefore imperative to ensure that their deployment remains proportionate, fair, and aligned with constitutional due process.

Policy Recommendations for Systemic Reform

Based on the synthesis of empirical findings and theoretical analysis, four strategic recommendations are proposed to reform Indonesia's criminal justice system:

- i. **Codification of a Dedicated Statutory Framework:** Parliament must enact comprehensive legislation within the reformed *KUHAP* to explicitly define, regulate, and limit the use of accomplice testimony. This framework must eliminate informal prosecutorial *splittings* and establish clear legal standards regarding witness credibility, voluntariness, and the mandatory exclusion of uncorroborated accomplice statements.
- ii. **Strict Judicial Gatekeeping and Corroboration Rules:** The judiciary must adopt stringent screening protocols for admitting crown witnesses. Courts should enforce a strict rule of evidence requiring that no conviction rest solely or decisively on the uncorroborated testimony of an accomplice, thereby ensuring that insider statements are verified by independent physical, forensic, or digital evidence.
- iii. **Specialized Judicial and Prosecutorial Training:** The Supreme Court and the Attorney General's Office should implement specialized training modules focusing on the ethical management and rigorous cross-examination of crown witnesses. Enhancing the capacity of judges and prosecutors to detect self-serving bias will minimize error and uphold substantive fairness.
- iv. **Harmonization of LPSK Protection and Justice Collaborator Status:** The legal framework must eliminate the procedural gap between informal *saksi mahkota* and statutory *Justice Collaborators*. Full protective measures overseen by the Witness and Victim Protection Agency (LPSK) must be extended to eligible accomplices to protect them from institutional retaliation, intimidation, or coercive pressure during trial proceedings.

By implementing these structural reforms, Indonesia's criminal justice system can achieve an optimal balance between investigative efficiency and human rights protections, ensuring that the pursuit of material truth (*materiele waarheid*) remains firmly grounded in procedural justice and judicial integrity.

Conclusion

This research confirms that the use of crown witnesses in the Indonesian criminal justice system plays a strategic role while simultaneously posing fundamental challenges to the integrity of judicial proceedings. Although crown witnesses can assist in uncovering organized and complex criminal structures, the credibility of their testimony is often questioned due to personal motives for seeking leniency. The analysis of the *Ferdy Sambo* case demonstrates that inconsistencies and bias in crown witness testimony have the potential to undermine evidentiary validity and cast doubt on the principle of substantive justice. The novelty of this research lies in its proposal for a legal reconstruction model of crown witness policy through the establishment of a specific law on crown witnesses. Such legislation would strictly regulate appointment mechanisms, credibility verification, and legal protection. Crown witnesses should be positioned not merely as supplementary evidence but as legal instruments subject to standards of objectivity, transparency, and accountability. This reform is crucial to prevent abuse of prosecutorial authority in case-splitting under Article 142 of the Indonesian Criminal Procedure Code, while ensuring compliance with the principles of due process of law and fair trial as integral components of human rights protection.

Practically, this study recommends several concrete steps. First, implementing a pre-appointment evaluation mechanism for crown witnesses through an independent institutions or judicial oversight to ensure objectivity. Second, developing technical guidelines for evidence that require consistent cross-examination between crown witnesses and other forms of proof. Third, enhancing the competence of judges and prosecutors through continuing legal education focused on evidentiary ethics and the rights of the accused. Fourth, strengthening legal protection for crown witnesses to safeguard them against pressure, intimidation, and manipulation during testimony. Thus, the use of crown witnesses in Indonesia is not only relevant to the application of the *Negative Wettelijk Bewijstheorie* but also carries broader implications for the development of legal theory and human rights protection. Crown witnesses reflect a legal effort to balance law enforcement interests with the rights of the accused, particularly within the

principle of minimum proof, which requires two valid pieces of evidence and judicial conviction. In practice, their use must align with due process of law by ensuring strict direct and cross-examination mechanisms and assessing consistency with other evidence. This approach both upholds evidentiary standards and manifests respect for human rights, especially the right to a fair trial. Accordingly, these findings contribute theoretically to strengthening the integration of evidentiary theory and human rights principles in criminal law. Without strict enforcement of protection mechanisms, however, the use of crown witnesses risks conflicting with the primary objectives of law: ensuring substantive justice and safeguarding human dignity within Indonesia's criminal justice system.

References

- Adhani, N. (2023). *Kedudukan Justice Collaborator dalam peradilan pidana pembunuhan berencana pada kasus Richard Eliezer* (Skripsi, Universitas Islam Indonesia). Repository UII.
- Alias, M. A. A., Wan Ismail, W. A. F., Baharuddin, A. S., Hashim, H., & Mallow, M. S. (2025a). An appraisal of the legal framework governing the admissibility of electronic documents as evidence in Malaysian Shariah courts: Current practices and future legal directions. *IIUM Law Journal*, 33(2), 69–108. <https://doi.org/10.31436/iiumlj.v33i2.1077>
- Alias, M. A. A., Wan Ismail, W. A. F., Baharuddin, A. S., Hashim, H., & Tuan Ibrahim, T. M. F. H. (2025b). Digital forensics and the admissibility of electronic evidence in Malaysian Syariah courts: Towards a standardised legal framework. *LexForensica: Forensic Justice and Socio-Legal Research Journal*, 2(1), 84–91. <https://doi.org/10.33102/6grx4619>
- Alketbi, A. S. S., & Kanaker, O. (2025). Dawr al-i'lām al-raḡamī fī tashkīl al-huwiyyah al-waṭaniyyah: dirāsah muḡāranah bayna al-Imārāt wa-Māliziya fī ḡaw' al-siyāsāt al-i'lāmiyyah: The role of digital media in shaping national identity: A comparative study between the United Arab Emirates and Malaysia in light of media policies. *Law, Policy and Social Science*, 4(1), 132–153. <https://doi.org/10.55265/lpssjournal.v4i1.52>
- Allen, R. J., Hoffmann, J. L., Livingston, D. A., Leipold, A. D., & Meares, T. L. (2020). *Criminal procedure: Investigation and the right to counsel* (4th ed.). Wolters Kluwer.
- Al-Shaddadi, S. M. S. A., Abdul Rab, M. A., & Abdul Halim, M. A. (2025). Huḡjiyyat al-kitābah al-iliktirūniyyah lil-'uḡūd al-idāriyyah fī al-tashrī' al-imārātī wa-al-muḡāran: The evidentiary value of electronic writing in administrative contracts under UAE and comparative legislation. *Law, Policy, and Social Science*, 4(1), 201–235. <https://doi.org/10.55265/lpssjournal.v4i1.86>
- Anggasakti, T. (2016). Penggunaan saksi mahkota dalam pembuktian perkara pembunuhan berencana berdasar asas praduga tidak bersalah (*presumption of innocence*). *Jurnal Verstek*, 4(2), 112–121.
- Azizi, A. H. (2022). *Pertimbangan hakim dalam dugaan rekayasa kasus tindak pidana pembunuhan berencana* (Bachelor's thesis, UIN Syarif Hidayatullah Jakarta). Institutional Repository UIN Syarif Hidayatullah.
- Chaerudin, M. A. Y. C., Maskur, A., & Adila, A. H. (2025). Prinsip keadilan prosedural sebagai landasan pertimbangan hakim dalam kasus pencurian ayam. *Jurnal USM Law Review*, 8(1), 509–529.
- Creswell, J. W., & Poth, C. N. (2016). *Qualitative inquiry and research design: Choosing among five approaches* (4th ed.). SAGE Publications.
- Dewi, I. A. K. C., Dewi, A. A. S. L., & Widyantara, I. M. M. (2023). Kedudukan saksi mahkota dalam proses pembuktian tindak pidana di Indonesia. *Jurnal Preferensi Hukum*, 4(2), 124–129. <https://doi.org/10.22225/jph.4.2.7138.124-129>
- Fikriyah, A., Masyhar, A., & Wulandari, C. (2023). Justice Collaborator dalam pertimbangan hakim memutus perkara. *Jurnal Hukum & Pembangunan*, 53(3), 513–520. <https://doi.org/10.21143/jhp.vol53.no3.3412>
- Fuady, M. (2012). *Teori hukum pembuktian pidana dan perdata*. PT Citra Aditya Bakti.
- Fyfe, N., & Sheptycki, J. (2005). *Facilitating witness co-operation in organised crime cases: An international review*. Home Office Online Report.
- Ghonu, I., Sofyan, A. M., & Azisa, N. (2018). The role of the crown witness in the process of proving criminal cases in Indonesia. *Musamus Law Review*, 1(1), 21–39. <https://doi.org/10.35724/mularev.v1i1.921>
- Grosso, C. M., & O'Brien, B. (2017). Grounding criminal procedure. *The Journal of Gender, Race & Justice*, 20(1), 53–82.

- Hakim, N. W., & Anam, A. K. (2020). Implementasi konsep keadilan dengan sistem negatif wettelijk dan asas kebebasan hakim dalam memutus suatu perkara pidana ditinjau dari Pasal 1 Undang-Undang No. 4 Tahun 2004 tentang Kekuasaan Kehakiman. *Jurnal Ilmu Hukum*, 3(1), 45–60.
- Hammar, R. K. R., & Renjaan, H. (2022). The role of common law in the criminal justice system regarding capital punishments in Indonesia: An evaluation of the legal framework and implications. *International Journal of Criminal Justice Sciences*, 17(1), 287–298.
- Hardum, S. E. (2024). Kajian yuridis perlindungan hukum terhadap saksi mahkota dalam mengungkapkan kasus pidana. *Jurnal Ilmu Hukum, Humaniora dan Politik (JIHHP)*, 4(5), 612–625.
- Hiariej, E. O. S. (2024). *Prinsip-prinsip hukum pidana: Edisi penyesuaian KUHP Nasional*. Rajawali Pers.
- Husin, K., & Husin, B. R. (2022). *Sistem peradilan pidana di Indonesia*. Sinar Grafika.
- Jacobs, J. A., & Jackson, J. (Eds.). (2017). *The Routledge handbook of criminal justice ethics*. Routledge.
- Lippman, M. (2020). *Law and society* (3rd ed.). SAGE Publications.
- Meita, A. D. (2024). Analisis framing pada pemberitaan kasus pembunuhan Ferdy Sambo di media online Kumparan.com dan Tribunnews.com. *Da'watuna: Journal of Communication and Islamic Broadcasting*, 4(1), 393–407. <https://doi.org/10.47467/dawatuna.v4i1.3811>
- Meita, A. D. (2024). Analisis framing pada pemberitaan kasus pembunuhan Ferdy Sambo di media online Kumparan.com dan Tribunnews.com. *Da'watuna: Journal of Communication and Islamic Broadcasting*, 4(1), 393–407.
- Morgan, E. M. (1946). The law of evidence, 1941–1945. *Harvard Law Review*, 59(4), 481–576.
- Muharikin, I. M. (2015). *Kedudukan saksi mahkota dalam proses peradilan pidana di Indonesia berdasarkan asas non-self incrimination* (Master's thesis, Universitas Brawijaya). UB Repository.
- Mulyadi, L. (2007). *Pembalikan beban pembuktian tindak pidana korupsi*. PT Alumni.
- Mulyati, N. (2025). 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(4), 725–734.
- Ningsih, S. A., & Aryati, R. (2025). 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*, 8(2), 33–42.
- Nufus, W. H. (2022, November 30). “Babak baru sidang pembunuhan Yosua, Eliezer-Kuat-Ricky saling bersaksi. *Detiknews*”. <https://news.detik.com/berita/d-6434189/babak-baru-sidang-pembunuhan-yosua-eliezer-kuat-ricky-saling-bersaksi>
- Palguna, F. A. (2022, December 16). “Saling tuding memberi kesaksian palsu di sidang Ferdy Sambo cs, ini kata pakar hukum”. *Tempo*. <https://www.tempo.co/hukum/saling-tuding-memberi-kesaksian-palsu-di-sidang-ferdy-sambo-cs-ini-kata-pakar-hukum-239019>
- Perdana, G. P., & Susanti, R. (2023). Perlindungan hukum terhadap Justice Collaborator dalam kasus pembunuhan berencana (Studi pada kasus Richard Eliezer). *Wijayakusuma Law Review*, 5(1), 59–68. <https://doi.org/10.51926/wlr.v5i1.132>
- Sasmito, I. A. (2012). Kajian teoritik dualisme dasar hukum kehadiran kroongetuige dan nilai pembuktian berdasarkan Undang-Undang Nomor 8 Tahun 1981 tentang Hukum Acara Pidana. *Jurnal Masalah-Masalah Hukum*, 41(3), 382–391.
- Semendawai, A. H. (2016). Penetapan status justice collaborator bagi tersangka atau terdakwa dalam perspektif hak asasi manusia. *Padjadjaran Jurnal Ilmu Hukum*, 3(3), 468–490.
- Sukarjono, B., Chairani, M. A., Pradhana, A. P., & Ardiani, L. (2023). Peranan saksi mahkota dalam perkara tindak pidana kasus pembunuhan berencana Brigadir Joshua dikaitkan dengan asas non self incrimination. *Yustisia Merdeka: Jurnal Ilmiah Hukum*, 9(1), 68–84. <https://doi.org/10.33319/yust.v9i1.102>
- Syafii, U. A. (2023). *Perlindungan hukum oleh Lembaga Perlindungan Saksi dan Korban (LPSK) dan implikasinya terhadap peran Justice Collaborator dalam mengungkap kejahatan* (UIN Walisongo). Institutional Repository UIN Walisongo.
- Syam, N. R., Marsuni, L., & Arsyad, N. (2023). Tinjauan hukum terhadap saksi pelaku yang bekerjasama (Justice Collaborator) dalam proses persidangan di Indonesia. *Journal of Lex Theory (JLT)*, 4(2), 378–390.

- Wan Ismail, W. A. F., Baharuddin, A. S., Abdul Mutalib, L., & Alias, M. A. A. (2021). A systematic analysis on the admissibility of digital documents as evidence in Malaysian Syariah courts. *Pertanika Journal of Social Sciences & Humanities*, 29(3), 1981-1996.
- Wijaya, F. (2012). *Whistleblower dan Justice Collaborator dalam perspektif hukum*. Penaku.
- Williams, G. (1962). *Criminal law: The general part* (2nd ed.). Stevens & Sons.
- Yahyanto, Y. (2019). The contribution of human rights in thinking on renewing the Book of Law of Criminal Events (code). *Justicia Islamica*, 16(2), 395–426. <https://doi.org/10.21154/justicia.v16i2.1691>
- Yuwono, S. T. (2011). *Kajian kedudukan dan nilai pembuktian saksi mahkota sebagai alat bukti dalam pembuktian tindak pidana korupsi* (Master's thesis, Universitas Sebelas Maret). UNS Digital Library.