


[ARTICLE]

LEGAL PROTECTION OF WHISTLEBLOWER AND JUSTICE COLLABORATOR AGAINST CORRUPTION IN INDONESIA

Sri Hudiarini¹, Khrisna Hadiwinata², Abdul Chalim³, Shohib Muslim^{*4}

^{1,2,3,4} State Polytechnic of Malang, Indonesia

Contact

Shohib Muslim
State Polytechnic of Malang
Soekarno Hatta No.09 Malang,
Indonesia

shohibmuslim@polinema.ac.id

How to cite

Hudiarini, S., Hadiwinata, K., Chalim, A., & Muslim, S. (2023). Legal Protection of Whistle Blower and Justice Collaborator Against Corruption in Indonesia. Justice! Law Review Journal, 2(02), 101–113. Retrieved from <https://tamanlitera.id/ejournal/index.php/lrj/article/view/113>

History

Received: July 30, 2023
Accepted: August 5, 2023
Published: August 27, 2023

Abstract The corruption in Indonesia, which is an extra ordinary crime, is a serious problem because of various challenges and unclear regulations regarding whistleblowers. This research proposes to improve normative local regulations and customs relating to the protection of witnesses and victims. This research uses normative approach, with statutory and conceptual regulatory approaches. One of the conditions is there are very few reporters and justice collaborators who take refuge. To fulfill the provisions of article 29 of Law no. 13 of 2006 concerning the protection of witnesses and victim institutions, the power of attorney in the form of evidence must comply with the provisions of article 160 paragraph (3) of the Criminal Procedure Code (KUHP), article 1 as many points as possible (27) KUHP, article 185 paragraph (1), article 183 KUHP, while the roles and responsibilities of witnesses and victims. The results of the research explain that the role of justice collaborators and whistleblowers in uncovering corruption incidents that occur is very much needed in upholding justice. Both are important to criminal justice system and are of little use to police, prosecutors, and other legal authorities when reporting crimes. Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 has provided good legal protection for justice collaborators and reporters.

Keywords: legal protection, whistleblower, justice collaborator, corruption

Abstrak: Korupsi di Indonesia adalah kejahatan luar biasa (*extra ordinary crime*) yang menjadi persoalan serius karena belum jelasnya aturan *whistleblower*. Penelitian ini mengusulkan untuk menyempurnakan norma peraturan dan adat istiadat yang berkaitan dengan perlindungan saksi dan korban. Penelitian ini menggunakan pendekatan normatif, perundang-undangan, dan konseptual. Sangat sedikit pelapor dan *justice collaborator* yang berlandung untuk memenuhi ketentuan pasal 29 Undang-Undang no. 13 tahun 2006 tentang perlindungan saksi dan korban, maka surat kuasa berupa pembuktian harus memenuhi ketentuan pasal 160 ayat (3) KUHP, pasal 1 poin sebanyak-banyaknya (27) KUHP, pasal 185 ayat (1), pasal 183 KUHP. Hasil penelitian menjelaskan bahwa *justice collaborator* dan *whistleblower* dalam mengungkap peristiwa korupsi sangat dibutuhkan dalam penegakan keadilan. Keduanya penting bagi sistem peradilan pidana dan tidak banyak berguna bagi polisi, jaksa, dan otoritas hukum lainnya ketika melaporkan tindak pidana. Undang-Undang Nomor 31 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 13 Tahun 2006 telah memberikan perlindungan hukum kepada *justice collaborator* dan pelapor.

Kata Kunci: perlindungan hukum, *whistleblower*, *justice collaborator*, korupsi



A. Introduction

The fifth Pancasila principle, which serves as the cornerstone of the state and embodies the aspirations of the Indonesian people for a just and prosperous society, has given rise to the principle of social justice for all Indonesians. As a result, the state needs to aggressively pursue social justice since it affects people's lives. In actuality, though, the outcomes are far from idealistic. Social inequality, unemployment, and poverty have grown to be unsolved issues.¹

The actual situation demonstrates how many individuals are still impoverished. One of the causes is the growth of corrupt practices, which have been difficult to combat in a targeted way due to their spreading and mushrooming nature. Apart from damaging the country's economy, corruption also leads to the disintegration of social ideals within society. Furthermore, people lack the empathy necessary to discriminate between right and wrong and between illegal and legitimate financial transactions, which erodes public trust in the government.²

The rising frequency of corruption cases in Indonesia serves as an illustration of this predicament. 1,018 cases of corruption were reported in 2011; some cases are currently pending in court. According to information from the Deputy Attorney General for Special Crimes D Andhi Nirwanto, the case is one that the attorney general's office, state prosecutor's office, district attorney, and branches of the district attorney in Indonesia handle when carrying out efforts to eradicate corruption. 1,018 corruption instances were included in the study phase, compared to 357 cases that are still in the investigative stage. Out of the thousands of instances involving corruption, 825 of them are currently pending prosecution. 2,920.56 US dollars, or Rp 68.46 billion, were saved from hundreds of instances involving state funds. According to the summary of 357 corruption cases, the Attorney General's Office handled 80 cases, while the High Prosecutor's Offices in East Java and North Sumatra handled 36 cases apiece. Every phase of the inquiry was completed within the same time frame, and the nation's authorities all dealt with corruption charges in differing degrees.³

The top three ranks deal with corruption cases at the research stage, namely 119 cases in Java. Corruption is a criminal act that is difficult to eradicate because the perpetrators of corruption are usually of a strong economic and political position, so that criminal acts of corruption are classified as *"white collar crime, crimes as business, economic crimes, official crime and abuse of power."*

¹ MD Mahfud, "Pancasila Dan UUD 1945 Sebagai Dasar Solusi Persoalan Bangsa," *Makalah Ceramah Umum Universitas Merdeka Malang*, 2012.

² Sinaga Hoplen, "Perlindungan Hukum Bagi Saksi Pengungkap Fakta (Whistleblower) Dalam Perkara Pidana (Analisis Yuridis Terhadap Undang-Undang No. 13 Tahun 2006 Tentang Perlindungan Saksi Dan Korban)," *Tesis*, 2011.

³ Nixon, "Perlindungan Hukum Terhadap Whistle Blower Dan Justice Collaborator Dalam Upaya Pemberantasan Tindak Pidana Korupsi," *Jurnal Perlindungan Hukum*, 2013.

There is a kind of mechanism, one of the main features, which characterizes the corruption crimes as a wrongful act and represents a performance of one of the following acts:

- Bilateral transaction, in which one party - the person in the public or other service (corrupt person), illegally "sells" his/her official powers or services based on the prestige of his/her position and its associated potential, to the individual or legal persons, and the other party (corruptor), acting as the "buyer", purchases a permissibility to use the state or other power structure in his/her favor.
- Adventurous, dynamic bribery of officials by the individual or legal persons, often carried out with a strong psychological effect on them, pressure and subsequent kind of "bribe landing";
- Extortion of bribe or additional remuneration for the implementation (or non-implementation) of legal or illegal actions by public officer from the individual or legal persons.
- We should agree with the position of M. Johnston about the fact that society simply accepts it as the most viable way to achieve the desired result, although the corruption can be gradually eradicated⁴

It naturally takes guts and eyewitnesses with firsthand knowledge of the corrupt activities to be able to expose the corrupt individuals who hold influential political and economic positions. "Whistleblowers" and "justice collaborators" are terms used to describe witnesses who are recognised for their bravery in reporting such incidents, regardless of whether they were directly involved in them or not. Hearing about the whistleblower is encouraging for law enforcement initiatives, particularly those aimed at eliminating corruption.⁵

Examples of abuse suffered by Indonesian whistleblowers, such Sukotjo Sastronegoro Bambang and Vincentius Amin Sutanto, are documented in Tempo Magazine (2013). In the Sukotjo Sastronegoro Bambang affair, Indonesian Policeman Inspector General Djoko Susilo was involved in the hacking of driving license simulator computers. Sukotjo notifies the Corruption Eradication Commission (Komisi Pemberantasan Korupsi/KPK) and Indonesian Corruption Watch (ICW) about the corruption. After looking into his report, KPK found Djoko Susilo guilty and gave him a 10-year prison sentence, a Rp 500,000,000 fine, and the confiscation of his assets. Whistleblowing has certain effects on Sukotjo's life. Sukotjo and his spouse, Sylvia, have encountered terror attacks and hoax calls from unidentified individuals at their home in Sumber Sari Indah Estate, Bandung. They

⁴ A Gumeroy, "Concept And Criminological Characteristics Of Corruption Criminality," *Journal of Legal, Ethical and Regulatory Issues* 19, no. 1 (2016).

⁵ Putri Hikmawati, "Upaya Perlindungan Whistle Blower Dan Justice Collaborator Dalam Tindak Pidana Korupsi," *Jurnal Negara Hukum* 4, no. 1 (2013).

are compelled to relocate multiple times for security concerns. In addition, according to a claim from his business partner Budi Susanto, Sukotjo was sentenced to three years and ten months in prison for failing to comply with the Indonesian Police's directive, which involved simulating 556 cars and 700 motorcycles)⁶

This is the reality that has occurred: (1) Whistleblower protection is necessary to enable the detection and destruction of corruption situations. However, in practice, these are not simple difficulties, since there are still a lot of unanswered questions and a need to talk about the role that whistleblowers actually play in trying to end corrupt practices. Article 10 Paragraph (2) of Law No. 13 of 2006 provides normative juridical guidance, but it does not provide legal protection for whistleblowers. In actuality, even if a witness who is also a suspect in the same case is found to be legally and convincingly guilty, his testimony may still be taken into account by the judge in order to reduce the recommended punishment. (2) Komariah E. Sapardjaja contends that the effort to eradicate criminal acts of corruption necessitates the role of whistleblower, which is crucial. Whistleblowers are vital, nevertheless, as long as their claims are substantiated by actual facts rather than merely an anonymous letter or rumour, and they are not used as a means of spreading rumours about judges and corruption cases. If a whistleblower report is found, research or public prosecutors need to carefully consider it. They can't just take a whistleblower's report at its value without first testing it⁷. (3) Until now there has been no legislation that specifically regulates whistleblowers in Indonesia. The arrangement is implicitly contained in Law No. 13 of 2006 concerning the Protection of Witnesses and Victims. Other regulations are the Supreme Court Circular Letter Number 4 of 2011 concerning Treatment of Whistleblowers and Cooperative Witnesses (justice collaborator). (4) Both of these Regulations in its implementation are far from expectations to be able to protect the existence of whistleblowers and justice collaborator.

The author is encouraged to conduct research titled "Legal Protection against Whistleblowers and Justice Collaborators related to Eradicating Corruption in Indonesia" in light of the background study description provided above, particularly in light of the corruption conditions in Indonesia."

⁶ Benyamin S Rahardjo, "A Comparative Analysis Of Whistleblower's Protection In Indonesia And United States Of America," *Jurnal Humaniora* 8, no. 2 (2017).

⁷ Muhammad Fajri, "Whistleblower Dan Peran Strategis Di Korporasi Indonesia," *Makalah Policy and Law*, 2009.

B. Methodology

This normative research uses multiple techniques to find legal protection for justice collaborators and whistleblowers in relation to eliminating criminal acts of corruption in Indonesia. The approaches include:

- The statute method

In order to conduct this research, the form of statutory regulations, the content of the regulations, the ontological foundation for the creation of the laws, the philosophical foundation for the laws, and the legal ratio of the laws' provisions are all examined.

- The conceptual method

Legal science opinions and doctrines are found using a conceptual method. Legal principles can be found through an examination of legal doctrines and legal experts' points of view. These can then be utilised to analyse legal concepts that impact policies pertaining to legal protection for justice collaborators and whistleblowers in relation to criminal acts of corruption in Indonesia.

- A historical perspective

It will be possible to learn about the philosophy behind regional government legislation, as well as philosophical advancements and changes that support the legal protection of justice collaborators and whistleblowers in relation to criminal acts of corruption in Indonesia, by periodically examining the evolution of legal institutions.⁸

C. Result and Discussion

Forms of legal protection against the Whistleblower and Justice Collaborator in the attempt to eradicate corruption in Indonesia

Numerous legal innovations or tactics for law enforcement have been employed in the fight against corruption in Indonesia. The latest innovation in the fight against corruption is giving regular people legal protection so they can subsequently testify to authorities about the specifics of crimes they heard about, saw, or even committed themselves. ⁹This innovation is widely referred to as Whistleblower. It is not the same as a Justice Collaborator, who provides legal protection that goes beyond just physical "reliefs"; typically, one of the suspects or defendants with the least amount of involvement is allowed to testify in the same

⁸ Bahder Johan, *Metode Penelitian Hukum* (Bandung: Mander Maje, 2008).

⁹ Loyens, Kim dan Wim Vandekerckhove. "Whistleblowing from an International Perspective: A Comparative Analysis of Institutional Arrangements. *Journal Administrative Science*". 2018

case and be exonerated of all charges if he is able to uncover the criminal act of corruption.¹⁰

We will discuss these two legal breakthroughs in our writing this time, as follows:

1. *Whistleblower*

The English phrase "whistleblower" is commonly understood to mean "whistle blower," akin to the referee in a football match or other sporting event who sounds the whistle to reveal the existence of a rule infraction. The definition of a "whistle whistle" in this essay is a person who informs the public about facts regarding a scandal, risk, malpractice, or corruption. In the process of eliminating corruption, the word "whistleblower"—which refers to those who work for an institution or organization, have formerly worked there, or are members of that organization—is sometimes used interchangeably with "revealing disgrace." Generally speaking, breaking the requirements entails breaking the law and any regulations that endanger the public or the public interest.¹¹ These include, among many other things, workplace safety infractions and corruption. Different nations have different regulations governing the development of whistleblowers, such as:

The Whistleblower Act of 1989 governs whistleblowers in the United States. In the US, whistleblowers are shielded from acts of discrimination, harassment, threats, demotion, and temporary termination. In South Africa, whistleblowers are protected from adverse consequences or losses associated with their employment status under Article 3 of the Protected Social Security Act Number 26 of 2000.

In Canada, Section 425.1 of the Criminal Code of Canada governs whistleblowers. The employer cannot punish a whistleblower for disclosing information to the government or law enforcement agencies, demote them, fire them, or take any other action that would negatively affect their ability to do their job. The employer also cannot respond to a whistleblower.¹²

According to PP No. 71 of 2000, persons who report suspected instances of criminal corruption to commissions or law enforcement are considered whistleblowers in Indonesia, however they are not considered informants. The definition of "whistleblower" in Law Number 13 of 2006 concerning Protection of Witnesses and Victims solely relates to witnesses; it does not define "disclosure of facts." A person who can offer information in the interests of an investigation, study, prosecution, and examination in a court hearing on a criminal case that he

¹⁰ Kim Loyens and Vandekerchoye Wim, "Whistleblowing from an International Perspective: A Comparative Analysis of Institutional Arrangements," *Journal Administrative Science* 1, no. 1 (2018).

¹¹ Abdul Semendawai Haris, "Memahami Whistle Blower. Lembaga Perlindungan Saksi Dan Korban (LPSK)," *Jurnal Komnas* 1, no. 1 (2011).

¹² Firman Wijaya, *Firman Whistle Blower Dan Justice Collaborator Dalam Perspektif Hukum* (Bandung: Mandar Maju, 2012).

himself heard, saw, or experienced himself is referred to as a witness under Law No. 13 of 2006.¹³

The person who is aware of and discloses specific criminal activities but is not one of the named offenders of the crime is considered a whistleblower, according to SEMA Number 4 of 2011. In actuality, though, the whistleblower occasionally participates in the crime and plays a little part. Many perspectives frequently show that a whistleblower is a reporting witness, or someone who alerts law enforcement or investigators to a criminal act of corruption or conspiracy.¹⁴

The forms of protection also vary ranging from getting a new identity, safe new residence (safe house), psychological services, and living costs during the period of protection.

- a. Provide information or testimony regarding a violation or crime that is known freely, fearlessly or threatened.
- b. Obtain information about the follow-up or progress in handling the Witness Protection Agency against violations or crimes that have been revealed.
- c. Get remuneration or rewards from the state for testimonies that have been revealed because the testimony is able to uncover a greater crime.
- d. Furthermore, in accordance with Article 10 of Act Number 13 of 2006, LPSK also protects whistleblowers in the form of:
 - 1) witnesses, victims and reporters cannot be prosecuted legally according to both criminal and civil laws;
 - 2) witnesses who are also suspects cannot be exempt from prosecution if they are found guilty, but their testimony can be taken into consideration by the judge in the case of the sentence to be imposed¹⁵

Furthermore, whistleblowers receive non-physical as well as physical protection. For instance, physical protection involves hiding the name of the whistleblower, getting them into a safe place, and covering their family. It is anticipated that the whistleblower will be shielded from threats, intimidation, and acts of retaliation through physical protection. Non-physical protection includes psychological support, efficient contact with the agency handling the report to guarantee the development of report handling, and shielding the whistleblower from the possibility of being fired from his place of employment or criminalised. Rewarding whistleblowers is also connected to the protection system.¹⁶

2. Justice Collaborator

¹³ Jimly Asshiddiqie, *Konstitusi Dan Konstitusionalisme Indonesia* (Jakarta: Sekretariat Jenderal dan Kepaniteraan Mahkamah Agung, 2006).

¹⁴ Asshiddiqie.

¹⁵ Habeeb Salihu, "Whistleblowing Policy and Anti-Corruption Struggle in Nigeria: An Overview," *African Journal of Criminology and Justice Studies: AJCJS* 2, no. 1 (2018).

¹⁶ Whistleblowing, "Whistleblowing In Australia— Transparency, Accountability ... But Above All, The Truth, Research Note," *Analysis And Advice For The Parliament*, 2019.

The legal definition of a justice collaborator is defined in Circular MA (SEMA) No. 4 of 2011 about Treatment of Justice Collaborators and Whistleblowers. The Justice Collaborator at the SEMA was perceived as a specific criminal, but not the primary actor, who took responsibility for his acts and agreed to testify in court. The Attorney General's Office, the Indonesian Police, the Corruption Eradication Commission, the Supreme Court, and the Witness and Victim Protection Agency (LPSK) signed a joint decree. A Justice Collaborator is a witness who has also committed corruption, but who is ready to work with law enforcement to build a case and even return assets that were obtained through the crime if they are in his control.¹⁷ Under SEMA No. 4 of 2011, there are a number of criteria that must be met in order for someone to be considered as a Justice Collaborator. These include: The individual in question is one of the particular criminal offenders listed in this SEMA, admits to committing the crime, does not play a major role in it, and cooperates with the legal system by offering information as a witness.

Any suspect who has committed a crime both on their own initiative and at the request of the legal system is considered a justice collaborator. They assist law enforcement in gathering evidence so that investigations and prosecutions might be successful. A justice collaborator is defined as follows in Article 52 paragraph (1) of the 2011 Corruption Bill: "If a suspect or defendant whose role is the least can help uncover the corruption, he can be freed from criminal prosecution and used as a witness in the same case." Paragraph (2) of Article 52: "If there are no suspects or defendants whose role is light in criminal acts of corruption ... then those who help uncover criminal acts of corruption can be reduced by penalties."

With the exception of Republic of Indonesia Law Number 13 of 2006 concerning Witness/Victim Protection, the Indonesian Criminal Procedure Code (KUHP) does not contain any regulations pertaining to whistleblowers or justice collaborators. A justice collaborator is not granted any "privileges" by this statute, with the exception of "whistle blower" status. Justice collaborators can receive "remission" in addition to physical protection from the law. The prosecutor's requests, the judge's sentencing during the trial, or even the likelihood of being exonerated from prosecution can all be gathered from the remission. The 2000 UN Convention Against Organised Crime, which Indonesia has accepted, and the 2003 UN Anti-Corruption Convention both contain regulations governing pardons for justice collaborators.

Based on the theory of the implementation of law in society from Lawrence M. Friedman which is associated with this writing, namely:

1. Components of Structure
- 1.1. LPSK

¹⁷ Nurma Rosyida, "The Position of Justice Collaborator to Reveal Corruption in Financial Management of Regional Government," *Jurnal Yuridika* 35, no. 1 (2018).

LPSK as an institution that is given a mandate by law in providing protection to witnesses and victims, since its establishment on August 8, 2008 has never provided protection to whistleblowers. [4]

1.2. KPK

The KPK once gave legal protection to a whistleblower in 2004 in a corruption case at the General Election Commission. In the case that dragged former members of the General Election Commission (KPU), Mulyana, the KPK admitted that the role of the whistleblower in the disclosure of this case was very crucial¹⁸

The legal protection provided by KPK to the whistleblower in this case is to provide a safe house, then guard the whistleblower and their family. The protection will be provided by the KPK. Previously, KPK and the whistleblower make an agreement that the whistleblower does not divulge his information to other parties and the media so that KPK can provide maximum protection. If the whistleblower violates the provisions of the agreement, KPK will stop providing protection. Besides KPK does not guarantee the safety of the whistleblower anymore¹⁹ Before LPSK, KPK could immediately provide protection. Whereas after LPSK, KPK in providing protection will coordinate with LPSK so that KPK and LPSK do not compete with each other in terms of the authority to grant protection.

2. Components of Structure

2.1. LPSK

Article 10 paragraph (1) of Law Number 13 of 2006 concerning Witness and Victim Protection is the legislation that provides legal protection to a whistleblower and serves as the foundation for that protection (PSK Law). Article 10 paragraph (1) of the PSK Law stipulates those reports, testimony that will, are, or have been given cannot result in legal or civil prosecution for witnesses, victims, or reporters. According to the PSK Law, a whistleblower is the same as a reporter. According to the definition of this term given in PSK Law's Article 10 paragraph (1) explanation, a reporter is a person who informs law enforcement about the commission of a criminal crime.

The Supreme Court Circular Letter (SEMA) Number 4 of 2011 about Treatment for Whistleblowers and Witnesses of Actors who Cooperate in Certain Crimes is another legal foundation that is utilised to grant legal protection to whistleblowers. According to SEMA Number 4 of 2011, a whistleblower is a person who, while not the actual offender of the reported crime, learns about and reports certain illegal activities that are subject to SEMA regulations.

¹⁸ Nur Wahyuni, "Perlindungan Hukum," *Makalah*, 2011.

¹⁹ Wahyuni.

The Joint Regulation of the Ministry of Law and Human Rights, KPK RI, Indonesian Attorney General's Office, National Police, and LPSK concerning Protection for Reporters, Reporting Witnesses, and Collaborating Witnesses is another legal framework that offers a foundation for protecting whistleblowers in addition to the two regulations.²⁰

Forms of legal protection against the Whistleblower and Justice Collaborator on the attempt to eradicate corruption in Indonesia in the future

A crucial and strategic function for justice collaborators is to assist law enforcement in their efforts to find and expose criminal activity. This is so because an individual who participates in the commission of organized crime or a group crime, like a corrupt crime, is considered a Justice Collaborator. However, a criminal act of corruption does not always have the position of a Justice Collaborator at its core. These individuals may be a valuable source of information about the existence of suspects and other evidence related to corrupt crimes that law enforcement has not yet discovered.²¹

As a result, the function of justice collaborator is a potent tool for exposing and eliminating organised crime, including both sensational and serious crimes including criminal activities. Justice collaborators can be employed as verification tools for the disclosure of new types of criminal activity, including acts of corruption that negatively impact the nation's economy and forms of corruption that use technology, financial support from the proceeds of corporate crime, customer fraud, illegal labour, fishing, and cybercrime.²²

One of the current issues in Indonesia is that the Criminal Procedure Code does not govern the Justice Collaborator system. Only an actor's rights inside the criminal justice system are governed by the rules of the Criminal Procedure Code. Regarding the criminal procedure law itself, the Criminal Procedure Code (KUHP) rules are revised by giving suitable arrangements in criminal justice, which in turn carries out the arrangement of witnesses in collaboration (Justice Collaborator). A rule pertaining to crown witnesses who have not previously secured arrangements in the criminal justice system is incorporated in the current draught revision of the Criminal Procedure Code.²³

The Criminal Procedure Code, however, does not recognize the phrase "justice

²⁰ Haris, "Memahami Whistle Blower. Lembaga Perlindungan Saksi Dan Korban (LPSK)."

²¹ Narayan Prasad Panthee, "Securing Protection And Cooperation Of Witnesses And Whistle-Blowers In Nepal," *Jurnal Unafei* 1, no. 1 (2018).

²² Supriyadi Eddyono Widodo, *Berawal Dari Melawan La Cosa Nostra: Lahirnya Witnes Security Di Amerika Serikat*. (AS: ELSAM, 2006).

²³ Satjipto, *Penegakan Hukum Progresif* (Jakarta: PT Kompas Media Nusantara, 2010).

collaborator" to refer to an individual who assists law enforcement in identifying criminal activity due to variances in terminology. Crown witness is a legal term from the Dutch *Wetboek van Strafvordering* that is used in the Criminal Procedure Code (KUHP). When compared from the perspective of taking the initiative to disclose information about a crime, there are notable distinctions between the crown witnesses as defined by the Criminal Procedure Code and the Justice collaborator, a term that was adopted from the United States, despite the fact that both are criminal perpetrators. Law enforcement officials took the initiative to provide information at the crown witness, as they were having trouble revealing a crime due to a lack of other evidence (*minimum bewijs*). As a result, law enforcement officers used a minimally involved perpetrator as a witness against other perpetrators by creating separate case files (*split*) between crown witnesses and other actors.

Unlike the Justice Collaborator, who takes the initiative to help law enforcement officers by providing information about criminal acts and the involvement of other main actors in criminal acts, the perpetrator in this case acknowledges his actions and takes responsibility for them. Therefore, the term "justice collaborator," which is meant to refer to someone who assists law enforcement officers in disclosing criminal acts, has a different meaning than the term "crown witness," which is currently used in the revision of Law Number 8 of 1981 concerning the Criminal Procedure Code to refer to a perpetrator who is used as a witness by law enforcement officials. A justice collaborator can comprehensively unearth a crime, especially ones connected to criminal organizations, and works to aid verification and prosecution. In this regard, Indonesian corruption charges have never been handled alone. Rather, they are collaborative in character, and the fact that the provisions of justice collaborator exist is a legal loophole that should improve the way in which evidence is gathered and presented during the trial.

Therefore, it is necessary to carefully and thoroughly study the nature of existence and the role of Justice collaborator in criminal justice in order to formulate a criminal law policy in the context of reforming Indonesian criminal law, particularly criminal procedural law related to the regulation of Justice collaborator. In order to accomplish the intended aims of eliminating criminal acts of corruption and realizing a just and prosperous Indonesian society, it is for the purpose of the politics of criminal law related to Justice collaborator in criminal justice, especially criminal acts of corruption.²⁴

In light of the foregoing explanation, it makes sense that the author concludes that, given the difficulties in exposing corruption cases, we ought to have seized upon innovations thought to be more potent in combating all types of crime that are undergoing diverse developments. Improvements to rules that are thought to be out of date because they are unable to keep up with current developments, leading to an

²⁴ Iheb Chalouat, "Law and Practice on Protecting Whistle-Blowers in the Public and Financial Services Sectors," *Journal International Labour Office* 1, no. 1 (2018).

increase in the motivations behind and methods of committing crimes, are implemented in certain instances. This is due to the fact that the state criminal justice system upholds the legality principle, which states that an action cannot be punished before any laws governing it have been established.²⁵

According to the author, since the criminal justice system relies heavily on whistleblowers and justice collaborators, particularly when it comes to supporting law enforcement officers with evidence gathered from the examination stage through the trial stage, it is imperative that legal forms be developed in the form of government policies as a thank you for their assistance in revealing organized crime. Furthermore, in order to gain a deeper understanding of the provisions governing whistleblowers and justice collaborators, as well as criminal law policies, the author will conduct a more thorough examination of Law No. 31 of 2014, which serves as a supplement to Law Number 13 of 2006 concerning Witness and Victim Protection.

D. Conclusion

The investigation stage of the court inspection procedure is substantially aided by the presence of a justice collaborator and whistleblower in exposing incidents of corruption that take place in the surrounding environment. Both of them are essential to our criminal justice system and can be of little use to the police, prosecutors, and other legal authorities when it comes to reporting criminal offences.

That certain criminal law policies implemented in Law Number 31 of 2014 regarding modifications to Law Number 13 of 2006 have created a favorable impression in terms of offering protection—both legal and physical—as well as special treatment and gratitude to justice collaborators and whistleblowers.

DAFTAR PUSTAKA

- Asshiddiqie, Jimly. *Konstitusi Dan Konstitusionalisme Indonesia*. Jakarta: Sekretariat Jenderal dan Kepaniteraan Mahkamah Agung, 2006.
- Astuti, Syafriana. "Perlindungan Hukum Terhadap Whistle-Blower Dalam Penyelesaian Tindak Pidana Korupsi." *Jurnal Hukum*, 2014.
- Chalouat, Iheb. "Law and Practice on Protecting Whistle-Blowers in the Public and Financial Services Sectors." *Journal International Labour Office* 1, no. 1 (2018).
- Cronin, Eileen, and Aicha Afifi. *Review Of Whistle-Blower Policies And Practices In United Nations System Organizations*. Geneva: United Nations, 2018.
- Fajri, Muhammad. "Whistleblower Dan Peran Strategis Di Korporasi Indonesia." *Makalah Policy and Law*, 2009.

²⁵ Syafriana Astuti, "Perlindungan Hukum Terhadap Whistle-Blower Dalam Penyelesaian Tindak Pidana Korupsi," *Jurnal Hukum*, 2014.

- Gumeroy, A. "Concept And Criminological Characteristics Of Corruption Criminality." *Journal of Legal, Ethical and Regulatory Issues* 19, no. 1 (2016).
- Haris, Abdul Semendawai. "Memahami Whistle Blower. Lembaga Perlindungan Saksi Dan Korban (LPSK)." *Jurnal Komnas* 1, no. 1 (2011).
- Hikmawati, Putri. "Upaya Perlindungan Whistle Blower Dan Justice Collabolator Dalam Tindak Pidana Korupsi." *Jurnal Negara Hukum* 4, no. 1 (2013).
- Hoplen, Sinaga. "Perlindungan Hukum Bagi Saksi Pengungkap Fakta (Whistleblower) Dalam Perkara Pidana (Analisis Yuridis Terhadap UndangUndang No. 13 Tahun 2006 Tentang Perlindungan Saksi Dan Korban)." *Tesis*, 2011.
- Johan, Bahder. *Metode Penelitian Hukum*. Bandung: Mander Maje, 2008.
- Loyens, Kim, and Vandekerchoye Wim. "Whistleblowing from an International Perspective: A Comparative Analysis of Institutional Arrangements." *Journal Administrative Science* 1, no. 1 (2018).
- Mahfud, MD. "Pancasila Dan UUD 1945 Sebagai Dasar Solusi Persoalan Bangsa." *Makalah Ceramah Umum Universitas Merdeka Malang*, 2012.
- Mubarok, Ahmad Fikry. "Pemberlakuan Restorative Justice Bagi Whistleblower Dalam Tindak Pidana Korupsi." *Begawan Hukum Indonesia*, 2012.
- Nixon. "Perlindungan Hukum Terhadap Whistle Blower Dan Justice Collaborator Dalam Upaya Pemberantasan Tindak Pidana Korupsi." *Jurnal Perlindungan Hukum*, 2013.
- Panthee, Narayan Prasad. "Securing Protection And Cooperation Of Witnesses And Whistle-Blowers In Nepal." *Jurnal Unafei* 1, no. 1 (2018).
- Rahardjo, Benyamin S. "A Comparative Analysis Of Whistleblower's Protection In Indonesia And United States Of America." *Jurnal Humaniora* 8, no. 2 (2017).
- Rosyida, Nurma. "The Position of Justice Collaborator to Reveal Corruption in Financial Management of Regional Government." *Jurnal Yuridika* 35, no. 1 (2018).
- Salihu, Habeeb. "Whistleblowing Policy and Anti-Corruption Struggle in Nigeria: An Overview." *African Journal of Criminology and Justice Studies: AJCJS* 2, no. 1 (2018).
- Satjipto. *Penegakan Hukum Progresif*. Jakarta: PT Kompas Media Nusantara, 2010.
- Suratno. "Perlindungan Hukum Saksi Dan Korban Sebgai Whistle Blower Dan Justice Collaborators Pada Pengungkapan Kasus Korupsi Berbasis Nilai Keadilan." *Jurnal Hukum* 1 (2017).
- Wahyuni, Nur. "Perlindungan Hukum." *Makalah*, 2011.
- Wardani, Dian Eka. *Perlindungan Hukum Terhadap Para Pelaku Whistle Blower Pada Tindak Pidana Korupsi*. Makasar: Panca Usaha, 2017.
- Whisteblowing. "Whistleblowing In Australia— Transparency, Accountability ... But Above All, The Truth, Research Note." *Analysis And Advice For The Parliament*, 2019.
- Widodo, Supriyadi Eddyono. *Berawal Dari Melawan La Cosa Nostra: Lahirnya Witnes Security Di Amerika Serikat*. AS: ELSAM, 2006.
- Wijaya, Firman. *Firman Whistle Blower Dan Justice Collaborator Dalam Perspektif Hukum*. Bandung: Mandar Maju, 2012.