

**LEGAL PROTECTION FOR WHISTLEBLOWERS OF
CORRUPTION CRIMES (A CASE STUDY IN CITEMU
VILLAGE, CIREBON REGENCY)**

Divya Vitaloka, Henda
Swadaya Gunung Jati University, Cirebon, Jawa Barat, Indonesia
Email henda@ugj.ac.id

Abstract

Background. The fight against corruption is not solely carried out by law enforcement officials, but also involves individuals who possess knowledge of criminal acts. A new term, Whistleblower, has recently emerged in the legal world. A whistleblower is an individual who exposes or reports a criminal act. They are considered crucial and hold a significant position, thus requiring legal protection.

Objectives. This research aims to analyze the implementation of legal protection for whistleblowers in corruption cases and to identify the challenges in providing this legal protection.

Methodology. This study employs a normative legal research method by examining various formal legal regulations, such as laws, government regulations, and theoretical literature. These sources are then connected to the issues discussed in this research.

Conclusion. The implementation of legal protection for whistleblowers in corruption cases, specifically the fulfillment of their procedural rights, has been realized in accordance with Law No. 31 of 2014 concerning Witness and Victim Protection. The challenges to legal protection for whistleblowers are found in inter-institutional authority, obstacles from law enforcement officials, and issues within the Witness and Victim Protection Agency (LPSK).

Keywords: Corruption, Whistleblower, Protection, Witness, Victim



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INTRODUCTION

The fight against corruption cannot be effectively carried out by law enforcement alone; it requires the active involvement of all parties. This is especially true for individuals who have firsthand knowledge of corrupt acts within their communities and are willing to report them to the authorities. Such reports are often the starting point for the prevention and prosecution of

corruption cases.

However, reporting corruption is not an easy task and can expose individuals to significant risks. These risks are amplified when the reported case involves the whistleblower themselves or powerful officials, who may seek revenge through intimidation and threats (Christin, 2017). Due to these substantial risks, only a few courageous individuals are willing and able to report suspected corruption. In reality, many people who witness malfeasance choose to remain silent rather than report it, largely because the guarantee of legal protection remains uncertain.

The term whistleblower is formally defined in Circular Letter of the Supreme Court of the Republic of Indonesia No. 4 of 2011 as a person who reports a specific criminal act, is not part of the crime, and has knowledge of the reported offense. While whistleblowers are crucial for exposing corruption, they often face a dilemma due to the weak legal protection they receive. When a whistleblower decides to expose the misconduct of colleagues, superiors, clients, or business partners, they risk their personal safety, employment, and income (Irawan, 2017).

Unfortunately, reports from whistleblowers are frequently not followed up on. In many cases, whistleblowers face demotion, job termination, and counter-suits, often becoming entangled in prolonged legal battles. In some instances, they are even designated as suspects themselves, either in the case they reported or in a related criminal offense, with their prosecution taking precedence over or running concurrently with the case they initially brought forward (Usman, 2023).

The role of whistleblowers is indispensable in combating corruption in Indonesia, given the challenges faced by law enforcement. Their presence is considered vital and holds a critical position in breaking the chain of corruption and legal mafias. Therefore, it is only reasonable for a whistleblower to receive protection in the form of legal safeguards, physical safety, and recognition (Usman, 2023).

A compelling case study for this research is that of Nurhayati, the former treasurer of Citemu Village in Cirebon Regency. Nurhayati became a suspect after reporting alleged corruption in the Village Revenue and Expenditure Budget (APBDes) committed by the former village head, Supriyadi. Despite formally reporting the suspected fraud to the head of the Citemu Village Consultative Body, Nurhayati did not receive support. Instead, she was designated as a suspect by the Cirebon Police investigators.

Based on this background, the author argues that there is an urgent need for a detailed,
Divya Vitaloka
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specific, and firm legal framework to protect whistleblowers, given the weak legal guarantees for their crucial role in the criminal justice process. This leads to the formulation of the following research questions:

1. How is the legal protection for whistleblowers in corruption cases implemented?
2. What are the challenges to legal protection for whistleblowers in corruption cases?

This study, titled "Legal Protection for Whistleblowers of Corruption Crimes (A Case Study in Citemu Village, Cirebon Regency)," aims to address these critical issues.

METHOD

Legal Materials

The legal materials used in this research are categorized into three types: primary, secondary, and tertiary sources. This approach ensures a comprehensive analysis of the research topic.

1. Primary Legal Materials

These are the main sources of legal information, drawn directly from formal regulations and statutes relevant to the legal protection of corruption whistleblowers.

The primary legal materials for this study include:

- Law No. 31 of 2014, which amends Law No. 13 of 2006 on Witness and Victim Protection.
- Supreme Court Circular Letter No. 4 of 2011 on the treatment of whistleblowers and justice collaborators.

2. Secondary Legal Materials

Secondary legal materials provide analysis, commentary, or a summary of the law. They are used to supplement the primary sources and provide a broader context.

For this research, these materials consist of:

- Academic works such as theses and dissertations.
- Relevant books and journals.

- Legal opinions and expert commentaries.
- Official documents related to the research subject.

3. Tertiary Legal Materials

These materials serve as a guide to locate and understand the primary and secondary sources. They provide explanations and references to help interpret the law. The tertiary legal materials used in this study include:

- Legal dictionaries.
- General dictionaries and encyclopedias.

LITERATURE REVIEW

General Overview of Corruption Crimes

In Dutch criminal law, the term for a criminal act is "strafbaar feit," which combines the words *straf* (punishment, penalty), *baar* (can be, able), and *feit* (act, event). Thus, it refers to an act that can be penalized (Chazawi, 2007). The Indonesian encyclopedia traces the word "corruption" to the Latin term *corruptio*, meaning bribery, and *corruptore*, meaning to destroy or corrupt. Corruption occurs when state officials and bodies abuse their authority through bribery, falsification, and other misuse of power.

Corruption is a conscious act, and perpetrators are typically individuals with access to opportunities and power, which they exploit for personal gain (Harkisnowo, 2002). The root causes of corruption can be broadly categorized as either internal or external factors.

1. Internal Factors: These are personal drivers stemming from an individual's character, such as greed, a weak moral compass, and a materialistic or consumerist lifestyle.

2. External Factors: These are societal and institutional influences, including the lack of exemplary leadership, weak commitment to law enforcement, inadequate integrity and professionalism, immature internal control systems within bureaucracies, and a general decline in honesty, shame, ethics, and morals (Hidayah, 2018). Combating corruption requires a multi-pronged approach, including strong institutional support, robust legal frameworks, active public participation, and media oversight.

General Overview of Whistleblowers

The term "whistleblower" originates from the practice of British police officers blowing a whistle to signal a crime. The whistle was also used as a warning to other law enforcement officials of impending danger. A whistleblower can be seen as an individual who "blows the whistle" to expose wrongdoing (Mulyadi, 2015).

According to Government Regulation No. 71 of 2000, a whistleblower is defined as a person who provides information about a corrupt act to law enforcement or a relevant commission, without being a formal witness. However, Law No. 31 of 2014 concerning Witness and Victim Protection does not explicitly define the term "whistleblower," but instead defines a "witness" as someone who can provide information for the purpose of investigation, prosecution, and trial. A witness provides information based on what they have personally seen, heard, or experienced.

A witness holds a critical position in the criminal justice process from the very beginning. Their testimony serves as primary evidence and is fundamental for a judge to determine the guilt or innocence of a defendant. The role of a witness is therefore vital for upholding law and justice (Fitriasih, 2002). To receive protection from the Witness and Victim Protection Agency (LPSK), witnesses and victims must follow specific procedures outlined in Article 28-36 of Law No. 31 of 2014, which amends Law No. 13 of 2006.

Theoretical Framework

1. Legal System Theory: According to R. Subekti (Syahrani, 2008), a system is an organized arrangement or structure, a whole composed of interconnected parts. These parts are arranged based on a plan and are the result of deliberate thought to achieve a specific goal.

2. Legal Protection Theory: Fitzgerald's theory of legal protection posits that law serves to integrate and coordinate various interests within society. In the interplay of these interests, protecting one interest often requires limiting others. Law holds the highest authority to determine which human interests need to be regulated and protected (Rahardjo, 2000).

3. Legal Certainty Theory: According to Sudikno Mertokusumo, legal certainty is the guarantee that a law will be enforced and applied consistently.

DISCUSSION

Implementation of Legal Protection for Whistleblowers in Corruption Crimes

To uncover corruption, public participation is crucial. This can be manifested through

actions such as seeking, obtaining, and providing information about criminal acts of corruption, as well as offering responsible opinions and suggestions for their prevention and eradication. To assess the practical implementation of whistleblower protection, this study analyzed the case of Nurhayati, the treasurer of Citemu Village. She acted as a whistleblower for alleged corruption committed by the former village head, Supriyadi.

The case revealed that from January 2018 to December 2020, Supriyadi, along with Nurhayati as the village's financial officer, was allegedly involved in the misuse of the Village Revenue and Expenditure Budget (APBDes) for those years. Although Nurhayati was initially considered an accomplice, the facts revealed she was forced to hand over the funds due to threats from Supriyadi.

In response, the Witness and Victim Protection Agency (LPSK) granted Nurhayati protection as a reporter and witness in the corruption case. This protection included procedural rights, legal protection, and physical security. However, despite her cooperation, Nurhayati, along with the Village Consultative Body, reported the misconduct to the Cirebon City Police in March 2020. A year later, on December 2, 2021, Nurhayati was shockingly named a suspect and received a notice of investigation.

According to Law No. 31 of 2014, witnesses and victims have the right to legal protection. The law's general provisions explicitly state that witnesses and victims are entitled to a range of protections, including:

- Security for themselves, their family, and their property.
- Freedom from threats related to their testimony.
- The ability to provide statements without pressure.
- Confidentiality of their identity.
- Temporary or new residence.
- Legal and financial assistance.

Furthermore, Supreme Court Circular Letter No. 4 of 2011 emphasizes the need for a conducive environment for public participation in uncovering serious crimes like corruption. It states that legal protection and special treatment must be extended to anyone who provides information that helps law enforcement.

Fortunately, Nurhayati's case took a turn when the Cirebon Regency Public Prosecutor's Office issued a letter of termination of prosecution (SKP2) on March 1, 2022. This decision

was based on the lack of sufficient preliminary evidence against Nurhayati, as stipulated by Article 17 of the Criminal Procedure Code (KUHP). This outcome highlights the critical need to ensure that individuals who report crimes are not unjustly targeted as suspects. Doing so would encourage more people to come forward without fear of reprisal, fostering a more secure environment for whistleblowers and the public.

Challenges to Legal Protection for Whistleblowers

Despite the existence of laws and regulations aimed at protecting whistleblowers, there are several shortcomings in their implementation in Indonesia. These issues are often rooted in different interpretations of the law among the public and law enforcement officials, creating significant weaknesses in the system. The main challenges identified in this study are:

1. **Challenges from Law Enforcement Officials:** While the Witness and Victim Protection Agency (LPSK) is mandated to provide protection, the police are constitutionally responsible for maintaining security. This dual authority can create issues. In Nurhayati's case, investigators seemed to dismiss her status as a whistleblower, arguing that the Village Consultative Body was the formal reporter. However, Nurhayati's internal report to the body, which was then forwarded to the police, clearly qualifies her as a whistleblower. Furthermore, law enforcement officials allegedly threatened Nurhayati, demonstrating a lack of understanding that protection should be provided from the moment a report is made. This behavior undermines public trust and creates an unsafe environment for potential whistleblowers.
2. **Challenges of Inter-institutional Authority:** The involvement of multiple institutions in handling whistleblower reports can lead to jurisdictional conflicts. The implementation of laws like Law No. 31 of 2014 is often hindered by a lack of shared understanding regarding the functions, responsibilities, and authorities of different agencies.
3. **Challenges from the Witness and Victim Protection Agency (LPSK):** The effectiveness of the LPSK is limited by its centralized presence. The agency's services are primarily located in Jakarta, the capital, which makes it difficult for individuals in other regions to access timely and direct protection.

CONCLUSION

1. **Implementation of Whistleblower Protection:** The implementation of legal protection for

whistleblowers in corruption cases, specifically the fulfillment of their procedural rights, has been realized in accordance with Law No. 31 of 2014. However, the practical application of this protection still has shortcomings. The main issue is the inconsistent interpretation of legal articles, which creates weaknesses in how whistleblower roles are regulated and protected.

2. Challenges to Legal Protection: Several obstacles hinder the effective legal protection of whistleblowers in corruption cases. These challenges include:
 - Inter-institutional conflicts: Different agencies involved in handling whistleblower cases often have overlapping responsibilities, leading to a lack of coordination and potential friction.
 - Challenges from law enforcement: Law enforcement officials often show a limited understanding of whistleblower cases and may fail to provide adequate security. This leaves whistleblowers vulnerable to threats and can discourage others from coming forward.

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