

DIMENSION OF WHISTLEBLOWING SYSTEM: URGENSITY OF LEGISLATION STRENGTHENING

Bobby Briando

*Universitas Utara Malaysia
bobby_briando@yahoo.com*

Sri Kuncoro Bawono

*Politeknik Imigrasi
chorobawono@gmail.com*

Tony Mirwanto

*Politeknik Imigrasi
boxtony85@gmail.com*

Abstract

This article aims to explore the strengthening of whistleblowing legislation mechanism viewed from several dimensions. Mainly, the whistleblowing mechanisms are divided into three main dimensions namely Human, Structure and Process. This research is conducted by using qualitative method through some literature studies. The results of the study indicates from those three dimensions of the whistleblowing system there are no legislation which has binding power. In some cases, the whistleblower only receives leniency such as sentence reduction. Additionally, the Whistleblowers in some corruption cases in Indonesia did not received any legal protection. At this time, the regulations are only based on Law No. 13 of 2006 concerning Witness and Victim Protection and the Supreme Court Circular Letter (SEMA) No.4 of 2011 concerning Treatment of Reporting Criminal Acts and Witnesses of Collaborating Actors; however those regulations is inadequate to protect the whistleblowers. In this case, the author concludes the government ought to enact a law which specifically concern about whistleblowing system. This law must explicitly regulates the protection of whistleblowers.

Penulisan artikel ini bertujuan mengeksplorasi mekanisme penguatan legislasi whistleblower dilihat dari beberapa dimensi. Mekanisme whistleblower terbagi dalam tiga dimensi utama yaitu Manusia, Struktur dan Proses. Metode penulisan menggunakan pendekatan kualitatif studi pustaka. Hasil penelitian menunjukkan bahwa dari tiga dimensi sistem whistleblower masih belum memiliki kekuatan legislasi yang mengikat. Pelapor whistleblower hanya menerima keringanan hukuman. Whistleblower dalam kasus korupsi di Indonesia belum mendapat perlindungan hukum yang maksimal. Peraturan yang mengatur hanya berdasarkan pada UU No.13 Tahun 2006 Tentang Perlindungan Saksi dan Korban serta Surat Edaran Mahkamah Agung (SEMA) No.4 Tahun 2011 Tentang Perlakuan Terhadap Pelapor Tindak Pidana dan Saksi Pelaku yang Berkerjasama. Penulis menyimpulkan agar undang-undang yang khusus mengatur tentang whistleblower segera ditetapkan. Dalam undang-undang tersebut minimal harus mengatur secara tegas tentang perlindungan terhadap pelapor tindak pidana (Whistleblower).

Keywords: Whistleblower, Whistleblowing System Dimension, Regulation

Introduction

The increasing number of fraudulent actions which has been revealed these days either on the private sector or public sector has caught public attention in Indonesia. In Indonesia the most sensitive cases and become the main concern is corruption. According to Transparency International's Corruption Perception Index, in 2017, Indonesia got score 36 and listed on 96th of 180 surveyed countries. Compared to the previous year the number is remained the same. This situation shows that Indonesia's Corruption Perception Index is still relatively high and the corruption eradication program seems slow-moving. Prevention Deputy on Indonesian Corruption Eradication Agency, Nainggolan states that there are so many factors that contributes to the fluctuation of Indonesia's corruption index. The problem is caused not only by the low-level corruption such as bribery but also the higher-level corruption such as political corruption.

It's a fact that corruption always leads to many disadvantages. So, everyone has agreed that corruption has to be eradicated. No matter how much the amount that corrupted, the eradication of small

corruption is as important as the big one.¹ A small kind of corruption tends to be bigger if everyone neglects the situation. In this case, to be able to eradicate the corruption, the organization needs to detect the corruption conduct earlier as a prevention. Nowadays, whistleblower has become a new trend and raise popularity as a tool to detect the corruption in the organization.

Whistleblower defined as the member of public institution or private institution who reveals any information about illegal conduct to the authority or public. The information could be illegal activities, unfairness, or faulty that happened within the organization.² Whistleblowing claimed more effective in exposing fraud than the other methods such as internal audit, internal control or even external audit.³ This claim is in line with Biyearly Report to The Nation, published by Association of Certified Fraud Examiners (ACFE) that mentions whistleblowing in the first list tips to reveal fraudulence. Understanding the significance of whistle-blowing has triggered many organization implements the mechanism through some communication facilities such as call center or website.

Being a whistleblower is not an easy task. Someone who works in organization sometimes facing an ethical dilemma whether he should keeps the secret or “blowing the whistle”. Some people think that whistleblower is a traitor who infringe the loyalty norm while the others think that whistleblower is the guardian of higher value rather than loyalty to the organization.⁴ This contradictive view sometimes leads the whistleblower candidate in a confusion that cause a distortion on their mind.

The reluctance of the employee to report the fraud conduct in the organization actually could be overcome through the implementation of effective, transparent, and responsible whistlenlowing system. This system expected to increase employee’s participation in reporting any deviation in private or public sector. Whistleblowing System is part of

¹ Ellysa Diniastri, *Korupsi, Whistleblowing Dan Etika Organisasi* (Universitas Brawijaya, 2010).

² Georgina Susmanschi, “Internal Audit and Whistle-Blowing,” *Economic, Management, and Financial Markets*, vol. 7, no. 4 (2012), p. 415.

³ Paul Sweeney, “Hotlines Helpful for Blowing The Whistlem,” *Financial Executive*, vol. 24, no. 4 (2008), p. 28.

⁴ Joyce Rotchschild and Terance D. Mieth, “Whistle-Blower Disclosures and Management Retaliation,” *Work and Accupations*, vol. 26, no. 1 (1999), p. 107.

internal control mechanism to prevent fraud or deviation and strengthened good governance and clean government.⁵

Whistleblowing behavior could grow because of some reasons, Firstly, economic movement which correlates with the improvement of education quality, skills, and social awareness of the employees. Secondly, today's economic condition has provided an intensive information and become the information driver. Thirdly, information access and the ease of publication have led whistleblowing as an unprevent event in this economical movement.

Some researchers believe whistleblowing is a good deed as a citizen and need to be rewarded;⁶ however, generally, some managers in the organization views whistleblowing as a deviation. They still think whistleblowing is harmful action to the organization. It happens as a kind of revenge from the employee to the managers when the employee's wants doesn't fulfilled by the managers. Gibson, *et al.* mention usually whistle blower in the profit organization is sacked and listed in a blacklist.⁷ While, in non-profit organization, the whistleblower is usually moved to another division, demoted or not recommended to get a promotion.

Park & Blenkinsopp's as well as Winardi's study use Ajzen's theory of planned behavior to explain individual's factors that build an interest to be a whistleblower.^{8,9,10} Those studies reveal 'attitude towards whistle blowing' which become one of the factors has a positive correlation in the interest of whistleblowing. Beside that, some researches also believe

⁵ Rizki Bagustianto and Nurkholis, "Faktor-Faktor Yang Mempengaruhi Minat Pegawai Negeri Sipil Untuk Melakukan Tindakan Whistle-Blowing (Studi Pada BPK RI)", *Jurnal Ilmiah Mahasiswa*, vol. 3, no. 1 (2015), p. 1.

⁶ Terry Morehead Dworkin, and Janet P. Near, "A better statutory approach to whistle-blowing," *Business Ethics Quarterly*, vol. 7, no. 1 (1997), p. 1.

⁷ James Gibson, Jhon M Ivancevich, JR Donnelly, H James, and Robert Konopaske, *Organizations: Behavior, Structure and Processes* (New York: McGraw-Hill Publishing Company, 2012).

⁸ Heungsik Park and John Blenkinsopp. "Whistleblowing as planned behavior—A survey of South Korean police officers," *Journal of business ethics*, vol. 85, no. 4 (2009), p. 545.

⁹ R. D Winardi, "The Influence of Individual and Situational Factors on Lower Civil Servants Whistle-Blowing Intention in Indonesia", *Journal of Indonesian Economy and Business*, vol. 28, no. 3 (2013), p. 361.

¹⁰ Icek Ajzen, "The theory of planned behavior," *Organizational behavior and human decision processes*, vol. 50, no. 2 (1991), pp. 179.

situational factors such as personal cost, and attention towards deviation also contributes to the whistleblowing interest.¹¹

Further, whistleblowing action also could be related with prosocial organizational behavior theory. Brief & Motowidlo states whistleblowing is one of prosocial action of the organization's member to convey some instructions, procedures, or policy which they think is not ethical, illegal and harmful to the individual or organisation's future.¹² Based on the prosocial organizational behavior could be conclude that whistleblowing shows someone's commitment to protect his organization from unethical or illegal threat.¹³

Problem Definition

It could be argued that the main problem in this situation is the lack of regulation which concern on the protection of whistleblower in Indonesia. The protection of whistleblower only implicitly mentioned in Law No.13 Year 2006 concerning on the protection of witnesses and victims. Another regulation is Mahkamah Agung's (Supreme Court) circular letter No. 4 Year 2011 concerning on the protection of justice collaborator. Those regulation is still far from the expectation in protecting the whistleblower. Thus, this paper will explore the dimension of whistleblowing mechanism in order to strenghtened the regulation.

Theoretical Overview

Prosocial organizational behavior theory

Somers & Casal define prosocial organizational behavior as a conduct that carried out by the member of an organization towards someone, group or organization to improve the welfare of those

¹¹ Steven E. Kaplan and Stacey M Whitecotton, "An Examination of Auditors Reporting Intention When another Auditor Is Offered Client Employment," *A Journal of Practice and Theory*, vol. 20, no. 1 (2001), p. 45; R.D Winardi, "The Influence of Individual and... ", p. 361.

¹² Arthur P. Brief and Stephan J. Motowidlo, "Prosocial Organizational Behaviours," *Academy of Management Review*, vol. 11, no. 4 (1986), p. 710.

¹³ Mark J. Somers, and Jose C. Casal, "Organizational Commitment and Whistle-Blowing: A Test of the Reformer and the Organization Man Hypotheses," *Group & Organization Management*, vol. 19, no. 3 (1994), p. 270.

subjects.¹⁴ However, prosocial behavior is distinct to altruistic behavior. Brief & Motowidlo argue that prosocial behavior is a social positive behavior which intend to bring advantages not only for the people in the community but also for themselves.¹⁵

It is argued that whistle-blowing is related to prosocial behavior. Brief & Motowidlo believe whistle-blowing is one of thirteen kinds of prosocial organizational behavior.¹⁶ Dozier & Miceli also believe that whistle-blowing could be seen as prosocial organizational behavior since the behavior is not only bring benefit to someone else but also to the whistleblower itself.¹⁷

Prosocial behavior theory has some antecedent variables which divided into two big groups. Firstly, individual antecedent which comes from the individual behavior of the prosocial conduct such as responsibility to the environment, morality, and empathy. Secondly, contextual antecedent which comes from working environment context such as norm factor, cohesiveness, role model, leadership, work pressure, organization commitment, and other things that influence individual feeling, pleasure, or displeasure.¹⁸

Theory of Planned Behavior

Theory of Planned Behavior (TPB) is a psychological theory that proposed by ada Brief & Motowidlo.¹⁹ This theory explains the relations between attitude and behavior. TPB emerges as the answer from the failure of attitude in predicting an actual behavior. TPB proves that intention is more accurate in predicting actual behavior and comes as a proxy that connecting attitude and actual behavior.

¹⁴ Arthur P. Brief and Stephan J. Motowidlo, "Prosocial Organizational... ", p. 710.

¹⁵ Janella B. Dozier and M. P. Miceli, "Potential Predictors of Whistle-Blowing: A Prosocial Behaviour Prpspective", *Academy of Management Review*, vol. 10, no. 4, (1985), p. 823.

¹⁶ Arthur P. Brief and Stephan J. Motowidlo, "Prosocial Organizational... ", p. 710.

¹⁷ Janella B. Dozier and M. P. Miceli, "Potential Predictors of... ", p. 823.

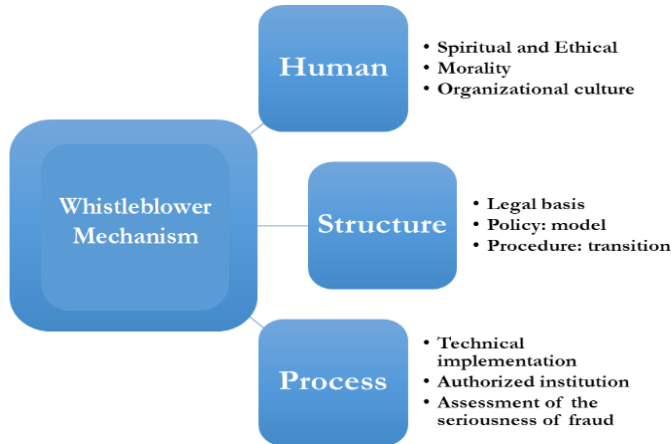
¹⁸ Arthur P. Brief and Stephan J. Motowidlo, "Prosocial Organizational... ", p. 710.

¹⁹ Icek Ajzen, "The theory of ...".

Ajzen argues intention assumed to capture motivation factors influencing an individual behavior.²⁰ Further, TPB mentions that conceptually, intention has three influencing determinants. First determinat is attitude towards behavior. This determinant is tiers where someone evaluating if some behaviors are right or wrong. The second determinant is social factor which called subjective norm. This refer to social pressure perception about what to do or not to do. The third determinant is perceived behavioral control which refers to the ease or difficulty that faced in conducting a behavior. Those three determinant relatively differ in every behavior and context. Thus, the implication in some case might be found that only attitude influence intention, or perceived behavioral control could explain intention, or those three influencing each other.

Discussion

Nowadays, Whistleblower phenomena is raising attention in Indonesia. Especially in some cases like Khairianysah, and Susno Duadji that reveal corruptive conduct in their organisations.



Source: National Committee on Governance Policy (KNKG)

Whistleblower could be defined with many definitions. Sometimes it could be defined as witness, or fact revealer. However, there is still no

²⁰ Icek Ajzen, “The theory of ...”.

exact meaning of whistleblower in Bahasa Indonesia. Whistleblower usually dedicated to someone who reveal or report an illegal conduct in their organization to public or internal auditor.

Basically, whistleblower is like a hammer. He could unveil some cases or scandals which involving their colleagues or their boss. However no one can mention what is the defined categories of a whistleblower.

Human Dimension

Park & Blenkinsopp states in this atomistic, impersonal, and challenging community led by market and capitalism has made people hard to find their own identity.²¹ In that kind of community, their identity becomes so abstracts. Further, the social awareness in the community also disappear gradually. People will not think that what they do to the community will bring some positive impact for themselves and for the future.

The strengthening of ethical values including spiritual value which supported by common sense become so important for public servant. The public servant need to be accountable not only for the organisation but also for the public. With the common sense, people can choose which is right or wrong. Therefore, everyone in the community can contribute to the changes especially through the role of whistleblower. Further, without spiritual and ethics in social life, the impact for the community is so massive. For instance, deviation conduct such as corruption. As we know, one thing that contributes to the adversity of this nation is the high number of corruption.²²

Besides that, morality aspect also have an important roles as the other values seems devaluated. This is crucial as morality is one of social life aspects that can be related to the other social practices.²³ Whistleblowing requirement is not without a reason. Ethical values become the fundamental reason why people choose to be a whistleblower. In this case, they consider the morality aspect that used

²¹ Heungsik Park and John Blenkinsopp. "Whistleblowing as planned... ", p. 545.

²² Rizki Bagustianto and Nurkholis, "Faktor-Faktor Yang Mempengaruhi... ", p. 1.

²³ A. F Sikula, *Applied Management Ethics* (Chicago: Richard D. Irwin, 1996), p.

as a basis for them to reveal the corruptive or illegal conduct which usually organized neatly.²⁴

Further, Public servant's view on whistleblowing also affects the intention of him to become a whistleblower. The public servant becomes a whistleblower has to have cognitive component or believe that whistleblowing has some positives impact such as protecting the organization, eradicating corruption, emerging anticorruption culture, and building self-reputation.²⁵ Then, the believe in those positive consequence also evaluated through some subjective evaluations based on the individual value that brings emotional reaction. Only the positive emotional evaluation that can trigger someone's intention to become a whistleblower.²⁶

Generally, organization culture in Indonesia is based on collectivism which is solidarity among members in the organization is more priorities than the member itself. This is shown when there is an investigation about some cases in the organization they tend to help each other to cover the problem. Some problems sometimes be tolerated in the name of loyalty even it is violating the regulations.

This is a pity, considering this is not accordance to the anticorruption spirit. This is also could hinder the whistleblowing mechanism. It would be better if the public servant has a commitment that could bring some positives effect for the organization as mentioned by Mowday, Steers, & Porte.²⁷ They defines organisastion commitment as a relative identification power and individual involvement in organisation which could be mentioned through three interrelated factors: Firstly, the belief on organisation's value; secondly willingness to do some effort in the name of the organizationl thirdly, willingness to protecting the membership within the organization. The employee who has commitment to the organization seems having a better sense of belonging to the organization. They will improve their achievement, and have a belief to achieve the organization's objectives. They also

²⁴ Ellysa Diniastri, *Korupsi, Whistleblowing dan...* .

²⁵ Rizki Bagustianto and Nurkholis, "Faktor-Faktor Yang Mempengaruhi..." , p. 1.

²⁶ Ellysa Diniastri, *Korupsi, Whistleblowing dan ...* .

²⁷ Richard T. Mowday, Richard M Steers, and Lyman W Porter, "The Measurement of Organizational Commitment", *Journal of Vocational Behavior*, vol. 14 (1979), p. 224.

willingly become a whistleblower because they believe they could protect the organization.²⁸

Structure Dimension

At the moment, Indonesia does not have any specific regulation which concern on whistleblowing.²⁹ The regulation that mention about whistleblowing only existed in UU No.13 year 2006 concerning the protection of witnesses and victims. Substantially, the Law only regulates public crime which covers the process of protecting the witnesses and the victims. However, contextually whistleblowing should be regulated in the corporate crime. Further the law also not mention explicitly about the whistleblowing and the protection to the whistleblower. In the article no. 10 (3), the intention of the informant or whistleblower become the main requirement for them to get a protection. Someone who following the whistleblower protection system needs to fulfill some criterias which needed to make sure the protection system will be effective.³⁰

Those criteria are willingness to become a witnesses, follow the regulations on safety procedure, not communicate with the other people without institution's approval, and not tell the exact location during the protection. Based on the recent update, Mahkamah Agung (Supreme Court) published a circular letter No.4 year 2011 which accordance to the article no.10 Law No. 13 year 2006. This letter comes up as a guidance for the Judge to give a special treatment for the whistleblower. This treatment are giving protection, and rewards for the whistleblower. The needs a regulation in supporting whistleblower also mentioned by Diniastri.³¹ She believes to strengthening the whistleblowing, system, we needs a sectoral and internal mechanism that could facilitate the process.

Based on the concept by KNKG (National committee in governance poly) there are two keywords which related to whistleblower there are the informant and the violation. Practically,

²⁸ Andrew Sikula Sr., "Moral Management Methodology/Mythology: Erroneous Ethical Equations", *Ethics & Behavior*, vol. 19, no. 3 (2009), p. 253

²⁹ Rizki Bagustianto and Nurkholis, "Faktor-Faktor Yang Mempengaruhi... ", p. 1.

³⁰ Ellysa Diniastri, *Korupsi, Whistleblowing dan...*

³¹ Ellysa Diniastri, *Korupsi, Whistleblowing dan...*

these two words could be related and become the violation informant which known as whistleblower. Usually the informant comes from internal member of the organization. However, there is also chance that the reports comes from the external side. One of the requirements to become a whistleblower in this concept is having an information, evidence, a accurate prediction about the violation. The report is a fact that happen not an opinion based on dislike to the organization.

The main purpose of this report system is to reveal the violation or illegal, unethical, or immoral conduct which could disadvantage the other member of the organization or the organization itself. The violation itself could be defined as any act that

Violate the regulations such as: 1. Violation on regulation; 2. Violation on organization code of ethics 3. Violation on accounting principle 4. Violation on policy and organization standard operating procedures 5. Others violation which bring impact on organisation's financial or non financial situation.

Structure that need to be fulfilled in the report mechanism as stated by Diniasti,³² such as:

1. Infrastructure and report mechanism
 Organisation needs to provide a system that used to deliver a report about the violating conduct such as email or special address which cannot be accessed beside by the whistleblowing system operators. This systems needs to be informed to all of the employee in the organization.
2. Confidentiality
 The identity of the informant is the most important thing to be secure in this system, The identity and information is restricted to the whistleblower operators and the file needed to put in a safe place. The systems also should be opened for the anonymous informant and there is no discrimination towards the anonymous.
3. Immunity right
 Organisation have to develop a culture that involve the employee to report every violation conduct they have seen. This is important to give them immunity rights to the informant who already report the violation.
4. Communication with the informant

³² Ellysa Diniastri, *Korupsi, Whistleblowing dan...* .

The communication with the informant established through one single mechanism for instance only one whistleblowing operator who received the report. In the communication the informant also received the updates about the problem.

5. Investigation

Investigation process is conducted as a follow up the report. This process done by the investigation officer. In serious and sensitive cases, the involvement from external investigator is needed.

6. Report Mechanism

The internal report system needs to design carefully. So it can make sure that every single reports need to be followed up, and some systemic cases needs to be forwarded to the organization leader as a prevention

Personal cost of reporting is the employee's view on the risk of counter from the other members of organization. This also could affect the intention to report the *wrongdoing act*.³³ The counter act could be intangible action such as imbalance performance score from the supervisor, or sacked from current position.³⁴ The other action that could be happened such as weakening the reporting process, isolation on the whistleblower or the other discrimination to the whistle blower.³⁵ Diniastri also mentions that personal cost is not only the impact of the perpetrators' revenge but also negative stigma that states reporting violation within organization is unethical conduct.³⁶

The bigger personal cost the lesser people's intention to do the whistleblowing. Personal cost could be based on subjective view, this means expectation people on the personal cost could be varied. However, Near & Miceli believe the same lines of revenge could be found.³⁷ The person who sacked because of reporting the wrongdoing think that he paid a lot from the report. Therefore, the whistleblowing

³³ Georgina Susmanschi, "Internal Audit and... ", p. 415.

³⁴ L. P. White and L. W. Lam, "A Proposes Infrastructural Model for the Establishment of Organizational Ethics Systems", *Journal of Business Ethics*, vol. 28 (2000), p. 35.

³⁵ J. P. Near and M. P. Miceli, "Organizational Dissidence: The Case of Whistle-Blowing", *Journal of Business Ethics*, vol. 4, no. 1 (1985), p. 1.

³⁶ Ellysa Diniastri, *Korupsi, Whistleblowing dan...*

³⁷ J. P. Near and M. P. Miceli, "Organizational Dissidence: ... ", p. 1.

would make people expect that the report could make the organization and management concern about the complaint.³⁸

Process dimension

Before making a report, the whistleblower ought to understand the limitation which could be mentioned as a violation or wrongdoing. This is important to make sure that the report is not assumed as a fiction, lie, or a slander. At the moment, there is no regulation that specifically mention which conduct is prohibited and could affect public needs. However, in some laws and regulations already mention the instance of the violation even though not specifically. And those laws and regulations could be used as a basis by the whistleblower to report the violations.

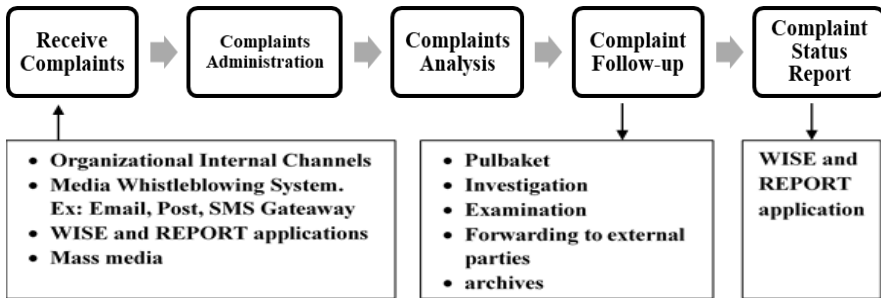
Some example on violating action based on law and regulation such as: 1. Criminal cases, 2. Corruption cases which mentioned in Corruption crime law. 3. Narcotics and drug abuse. 4. Terrorism action, Etc. Besides those, some actions such as abuse of power and other actions that cause disadvantages for the public also could be reported through whistle blowing mechanism.

A whistleblower also needs to know about the institution which has authority to reveal some cases and give them protection. Its is important as It is related to the report process so the process will be correct and fast. In Indonesia the report could be send to some institution which has authority to process whistleblowing cases such as Corruption Eradication Committee, etc.

One thing that needs to be understood by the whistleblower is the risk of his action. This should be considered, as Indonesia hasn't have a law or regulation that specifically concern on the whistleblowing protection. In some cases, we found that the whistleblower was criminalized as a consequence of his action, such as Susno Duadji, Vincent Khairiansyah, and Agus Condro. Those cases show that the process of revealing internal cases could dangered the whistleblower itself. The risk that are faced not only about positions, money, or their ownlife, but also their family life. For instance, an employee could be sacked and also putted in a blacklist, demoted, or even criminalized like Susno Duadji and Agus Condro. The worst risk that could be faced is someone could be murdered such as in Keraton Solo case.

³⁸ Janella B. Dozier and M. P. Miceli, "Potential Predictors of... ", p. 823.

Further, someone would be considered as a whistleblower if he report the case by his own good faith After that the institution would set that person as a whistleblower which should be protected. There are some procedures in the mechanism as draws in this diagram:



In the assessment process, the assessor ought to have a skill and experience in interpreting the result of the report. This is needed to find out that the findings are related to the regulation. So the misperception and miss communication in the next step could be minimized. In the assessment process, the assessor needs to prioritize the confidential of the informant. The identity of the informant should be kept and classified.³⁹

The level of the violation also become focus of whistleblowing process system. The member of organization who observes violation conduct becomes more reluctant to do the whistleblowing if the violation is serious.⁴⁰ Further, the organization would affected more disadvantage from more serious violation than the less one.⁴¹ Every member's perception to the seriousness of some violation could be differ to each other. The perception was developed not only by the seriousness of the problem but also the kind of violation. Near & Miceli state the member of the organization might have different reaction to some kinds of violation.⁴² Even though the kind of violation related to the perception, the seriousness of violation conduct could not measured by the kind of violation.

³⁹ J. P. Near and M. P. Miceli, "Organizational Dissidence: ...", p. 1.

⁴⁰ J. P. Near and M. P. Miceli, "Organizational Dissidence: ...", p. 1.

⁴¹ R.D Winardi, "The Influence of Individual and...", p. 361.

⁴² Janella B. Dozier and M. P. Miceli, "Potential Predictors of...", p. 823.

The seriousness problem can be measured differently. Some previous researches using quantitative perspective to measure the seriousness level of wrongdoing action. Bagustianto & Nurkholis in their research using materialistic concept in accounting so the seriousness level of the action could be measured based on the value of wrongdoing action.⁴³ The qualitative approach is the most viable research that can be conducted in regards this issue as the indicators are clear, measureable, and can be observed. Another study done by Curtis through qualitative approach.⁴⁴ In his study he reveals some wrongdoing action which disadvantage the other people and the number of wrongdoing action.

The study which done by Bagustianto & Nurkholis concludes materialistic factor influences the ethical and someone's attitude positively.⁴⁵ Another finding is ethics and someone's attitude consistently cause great different on the intention to report some violation. Another findings that concludes seriousness level of wrongdoing significantly affect whistleblowing intention also revealed by Sulawesi Selatan government's internal auditor.⁴⁶ On the other side, different result revealed by Kaplan & Whitecotton study which states perception of seriousness is not related to the intention of auditor to report questionable behavior from his collagues.⁴⁷

Whistleblower based on Indonesia law

In Indonesia, as previously explained the Law No. 13 year 2006 concerning Witnesses and Victims Protection does not mention clearly about the definition of whistleblower and states that this regulation also protecting the whistleblower. The regulation about whistleblower explicitly mentioned in article No. 10. The article mentions that:

1. Witness, victim, and informant can not be sued

⁴³ Rizki Bagustianto and Nurkholis, "Faktor-Faktor Yang Mempengaruhi... ", p. 1; Ellysa Diniastri, *Korupsi, Whistleblowing dan ...*

⁴⁴ Mary B. Curtis, "Are audit-related ethical decisions dependent upon mood?", *Journal of Business Ethics*, vol. 68, no. 2 (2006), p. 191.

⁴⁵ Rizki Bagustianto and Nurkholis, "Faktor-Faktor Yang Mempengaruhi... ", p. 1.

⁴⁶ R.D Winardi, "The Influence of Individual and... ", p. 361.

⁴⁷ Steven E. Kaplan and Stacey M Whitecotton, "An Examination of... ", p. 361.

2. Someone who become witness and suspect at the same time cannot be freed from charge, if he proved wrong in some cases. But the information that he given could be a consideration in the court.
3. The clause which mentioned in first particle is not valid for someone who give information without a good willing.

Even though that article No.10, law no. 13 year 2006 does not mention the informant as a whistleblower, but the informant in this law could be defined as someone who gives information to the law enforcer about some crimes. However the witnesses who also a suspect cannot be freed from a accusation. This particle causes a polemic in some case this cause uncertainty about the regulation and not protecting the whistleblower. Because in some cases the whistleblower also act as a perpetrators.

Indonesian supreme court has shown his commitment to support the protection of witnesses and victims by issuing Supreme Court's circular letter. The important point of this circular letter is the special treatment for people who categorized as informant and witness and perpetrators who help to reveal the case.⁴⁸ The special treatment could be mentioned like protection and rewards. In some case, if the reported sue the informant with some accusations, the case which involves the reported person would be prioritized.⁴⁹

Further, The law no. 13 year 2006 concerning the witness and victims protection does not mention the legal protection for the whistleblower. Even though the whistleblower should be protected based on article 33 United Nations Convention Against Corruption (UNCAC). This convention also has ratified by Indonesian government through Law No.7 year 2006. In addition, Law No. 30 year 2002 also mentioned that Corruption Eradication Committee has to protect the informant of corruption conduct. Law No.13 of 2006 concerning Protection of Witnesses and Victims does not explicitly mention the existence of legal protection for whistleblowers.

⁴⁸ Bobby Briando, Iwan Triyuwono, and Gugus Irianto, "Gurindam Etika Pengelola Keuangan Negara", *Jurnal Akuntansi Multiparadigma*, vol. 8, no. 1 (2017), p. 1.

⁴⁹ Bobby Briando, "Prophetical Law: Membangun Hukum Berkeadilan dengan Kedamaian", *Jurnal Legislasi Indonesia*, vol. 14, no. 3 (2017), p. 313.

Thus, a law that concern specifically on whistleblower is needed at the moment. This law projected to make sure the mechanism of revealing and protection to the whistleblower in some cases which disadvantage the public. Nixon Kalo, Kamello, & Mulyadi also argues that the special law about whistleblower needs to regulate some situations,⁵⁰ likewise:

- a. Whistleblower could not be sued because of revealing some information for the public interest
- b. Disadvantaging the whistleblower stated as a revenge and could be stated as a crime.
- c. Public institution have to set some procedures to protect their officers in revenge actions.
- d. Public officers has rights to raise an objection or judicial review as administrative sanction from a revenge action.
- e. The law enforcer has to integrated and have same objective to protect the whistleblower.
- f. The whistleblower protection also needs to protect the whistleblower's family from physical or psychological and the other disadvantages.

Conclusion

Indonesia still does not have legislation, which specifically concern on whistleblower. Explicitly the regulation about whistleblowing stated in article no.10 law No.13 year 2006 regarding witnesses and victim protection and Supreme court's circular letter No.4 year 2011 regarding the whistleblower and justice collaborator however, the legislation is not strong enough and cannot protect those two comprehensively. National Commission on National Governance has mentioned three dimension of whistleblower those are Human, Structure, and System. Every dimension has some weaknesses in legislation. The commission actually has issued a guidance in whistleblowing system; however practically it does not have legal basis to protect the whistleblower in court. Thus, the needs of a legal guarantee in law or government regulation that regulate the whistleblower. The law enforcement also needs to be

⁵⁰ Syafruddin Kalo Nixon, Tan Kamello, and Mahmud Mulyadi, "Perlindungan Hukum Terhadap Whistleblower Dan Justice Collaborator Dalam Upaya Pemberantasan Tindak Pidana Korupsi", *USU Law Journal*, vol. 1, no. 2 (2013), p. 40.

integrated from police, attorney, judge, corruption eradication commission, and the others stakeholders. Then, the law enforcer will have the same view on whistleblower protection.

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