

Comparison of Malaysian and Indonesian Whistleblower Legal Protection as a Tool for Criminalization Elimination

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ABSTRACT

Whistleblowers in Indonesia face significant risks due to insufficient legal protection, particularly in cases involving corruption. The absence of comprehensive safeguards often leads to retaliation and even criminalization. This study aims to examine and compare the legal frameworks governing whistleblower protection in Indonesia and Malaysia, with the goal of proposing decriminalization strategies for whistleblowers in Indonesia. Employing a normative juridical approach and comparative legal analysis, this research draws on relevant statutes and case studies from both countries. The results show that Malaysia, through its Whistleblower Protection Act 2010, provides more robust protection mechanisms, including confidentiality guarantees, standardized reporting procedures, legal immunity for disclosures made in good faith, and remedies for reputational harm. In contrast, Indonesia relies primarily on the Witness and Victim Protection Act, which offers limited and less effective protection post-disclosure. Furthermore, Malaysia's framework clearly defines institutional responsibilities and safeguards against workplace retaliation, aspects largely missing in Indonesia. The study concludes that Indonesia should adopt key elements from Malaysia's model to strengthen its legal framework. Enhancing whistleblower protections is essential for promoting transparency, accountability, and a more corruption-resistant governance system.

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1. Introduction

Whistleblowers are essential in revealing many legal transgressions, especially corruption, white-collar crime, and human rights abuses. In numerous nations, whistleblowers are crucial in upholding transparency and accountability, particularly within the public and corporate sectors.¹ Nevertheless, their acts frequently encounter substantial risks, such as intimidation, social coercion, and criminalization. Numerous nations have enacted legal safeguards to protect whistleblowers and incentivize citizens to report misconduct. This research suggests that an appropriate measure is to eliminate or reduce penalties for whistleblowers as a manifestation of good faith within the *Straffuitsluitinggronden* or grounds for exclusion of criminal liability,² which offers justifications for exempting individuals from criminal liability despite their involvement in actions typically classified as criminal offenses.³ This principle acknowledges that actions taken to disclose offenses, despite potentially involving unlawful conduct, should be assessed through the lens of the individual's good intentions to promote justice and serve the public interest.

Indonesia and Malaysia, two Southeast Asian nations grappling with substantial corruption issues, have instituted legal protections for whistleblowers. Law No. 13 of 2006 on Witness and Victim Protection safeguards whistleblowers through various protective mechanisms. Conversely, Malaysia's Whistleblower Protection Act 2010 (WPA) offers explicit legal protections, including the possibility of vacating convictions for lawful disclosures of criminal activities. Indonesia regulates whistleblowers earlier than Malaysia; in fact, whistleblowers in Indonesia are regulated first in the 2002 KPK Law related to mechanisms to protect whistleblowers who provide information related to corruption cases, including protection of identity and prevention of retaliation. In addition, whistleblowers have also been generally regulated in the Witness and Victim Protection Law since 2006. However, although whistleblowers are regulated in several laws and regulations in Indonesia, the fact is that policies related to whistleblowers are still limited and have concrete weaknesses, so often whistleblowers become victims of criminalization.⁴ Even besides that, law enforcers find it difficult to protect the rights of whistleblowers or even get the elimination of punishment as a form of *Straffuitsluitinggronden* or grounds for exclusion of criminal liability. In contrast, whistleblowers in Malaysia are specifically regulated in the Whistleblower Protection Act 2010 (WPA), effective since 2010, which provides extensive legal protection to whistleblowers who report criminal offenses or violations committed in good faith.⁵ This includes protection of identity, immunity from punishment, and protection from retaliation. In fact, in addition to the specific whistleblower provisions in the WPA, in addition, Malaysia provides for

¹ Anissa Dinar Paraswansa and Dwi Cahyo Utomo, 'Whistleblowing Dan Korupsi Pada Sektor Publik: A Systematic Review', *Jurnal Akademi Akuntansi*, 7.1 (2024), 94-113. <https://doi.org/10.22219/jaa.v7i1.31336>.

² Akhmad Fajar Adi Nugroho and R.B. Sularto, 'The Urgency of Corporate Criminal Liability in Criminal Law in Indonesia', *Melayunesia Law*, 4.2 (2020), 130. <https://doi.org/10.30652/ml.v4i2.7776>.

³ Nataliia Zadyraka, 'The Principle of Good Faith as the Principle of Implementation of the Administrative Procedure', *Problems of Legality*, 163, 2023, 68-79. <https://doi.org/10.21564/2414-990x.163.291191>.

⁴ Natalia Vebrianti and Temy Setiawan, 'Whistle Blowing System Based on Indonesia Case Study: Qualitatives Research', *Saudi Journal of Business and Management Studies*, 9.7 (2024), 113-22. <https://doi.org/10.36348/sjbms.2024.v09i07.001>.

⁵ Syahrul Ahmar Ahmad, Noraisah Sungip, and Rahimah Mohamed Yunos, 'Whistleblowing Policy Disclosure Among Malaysian Listed Shariah-Compliant Companies', *Global Journal Al-Thaqafah*, 13.2 (2023), 58-66. <https://doi.org/10.7187/gjat122023-5>.

whistleblowers in the Malaysian Anti-Corruption Commission Act 2009 (MACC), which includes the protection of whistleblowers on corruption and white-collar crime; it provides a legal framework to protect them from retaliation and ensure that their reports are taken seriously.⁶

The data indicated that the implementation of effective whistleblower protection mechanisms can yield tangible financial benefits. In Malaysia, the government estimated that the country lost approximately RM277 billion (around USD 58.4 billion) to corruption between 2018 and 2023. Legal instruments such as the Whistleblower Protection Act 2010 and the Malaysian Anti-Corruption Commission Act 2009 (MACC) have played a significant role in efforts to mitigate these losses. Meanwhile, in Indonesia, Government Regulation No. 43 of 2018 stipulates that individuals who credibly report acts of corruption may receive rewards of up to IDR 200 million (approximately USD 13,175 million), serving as a tangible incentive for the public to report criminal conduct. Furthermore, a study found that strong legal protections significantly influence reporting intentions, with a reported effect coefficient of 0.607 among civil servants.⁷ These data reinforced the argument that a well-designed whistleblower protection system not only encourages disclosures but also helps prevent further financial losses and strengthens governance and accountability frameworks.

Nonetheless, although both nations had legislative structures designed to safeguard whistleblowers, the efficacy of these laws' implementation remains contentious. In Indonesia, despite legal safeguards, whistleblowers frequently face the threat of criminalization or reprisal from aggrieved parties and intimidation by law enforcement personnel. Malaysia has demonstrated a stronger commitment to safeguarding whistleblowers via the Whistleblower Protection Act; however, challenges persist in its execution due to the Malaysian MACC Act and the Whistleblower Protection Act 2010 (WPA).⁸ A comparative analysis of the legal frameworks of these two nations is essential to discern the strengths and weaknesses of each system in delivering effective legal protection to whistleblowers. The study examines how expelling criminal convictions can safeguard whistleblowers and motivate more persons to disclose criminal offenses.⁹

This study thoroughly examined the regulation of whistleblower legal protections in Indonesia and Malaysia and the potential application of expungement within such protections. This study also evaluated the efficacy of whistleblower protection in the two nations by analyzing criminal law, government policy, and case examples to identify the primary distinctions in legal safeguards for whistleblowers. This research seeks to offer recommendations for Indonesia to enhance its whistleblower protection policy, emphasizing the necessity for more robust and stringent regulations to ensure security guarantees for whistleblowers and illustrating how the decriminalization of whistleblowing can act as a progressive reform in criminal law to safeguard whistleblowers. In Indonesia, a primary

⁶ Khairul Anuar Abdul Hadi, Rohana Abdul Rahman, and Zainal Amin Ayub, 'Freedom of Information in Malaysia: International Legal Instruments and Restrictions Under National Law', *UUM Journal of Legal Studies*, 15.1 (2024), 221–47. <https://doi.org/10.32890/uumjls2024.15.1.10>.

⁷ Abdullah Abdullah, 'Juridical Study of Corruption Crime in Indonesia: A Comparative Study', *International Journal of Law, Environment, and Natural Resources*, 2.1 (2022), 45–61. <https://doi.org/10.51749/injurlens.v2i1.22>.

⁸ Hadi, Rahman, and Ayub.

⁹ Yordan Gunawan, Ghyats Amri Wibowo, and Mohammad Hazyar Arumbinang, 'Foreign Fighters in the Ukrainian Armed Conflict: An International Humanitarian Law Perspective', *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 6.2 (2023), 145–57. <https://doi.org/10.24090/volksgeist.v6i2.9315>.

difficulty is the inadequate enforcement of legislation about whistleblower protection, which deters numerous individuals from reporting. In certain instances, whistleblowers may face legal and societal repercussions, including punishment or intimidation. Despite more extensive rules in Malaysia, problems remain regarding the socialization and implementation of the protections afforded by the Whistleblower Protection Act 2010.¹⁰ This research examined how Indonesia can adopt Malaysia's approach, notably on enhanced legal safeguards and the potential decriminalization to promote transparency in reporting legal violations.

2. Research Method

This study employed a comparative legal approach to examine and analyze two or more legal systems to identify similarities, differences, and the effectiveness of legal norms applied within different contexts. This method not only serves to understand how a particular country formulates and implements its legal rules, but also functions as a foundation for designing legal reforms that are more responsive to local challenges by adopting best practices from other jurisdictions. As articulated by K. Zweigert and H. Kötz in *An Introduction to Comparative Law* (1998), the comparative method involves five essential elements: comparable legal systems, a functional approach, historical context, precise legal terminology, and an awareness of legal culture. This approach is particularly relevant in doctrinal legal research that seeks to evaluate how specific legal principles such as whistleblower protection and the doctrine of *straffuitsluitinggronden* (grounds for exclusion of criminal liability) are regulated and applied across different legal systems, in this case, Indonesia and Malaysia. Consequently, the comparative approach is not merely descriptive, but also analytical and normative, offering a rational and structured basis for recommending legal reform grounded in transnational comparative analysis.

3. Results and Discussion

3.1. Concept of Legal Protection against Whistleblower

John Rawls proposed the concept of the 'veil of ignorance', which asserts that principles of justice should be formulated without knowledge of one's social position or economic status to ensure fair and equitable decisions. In the context of whistleblower protection, this principle ensures that individuals who report legal violations are treated fairly and afforded the same protections as others, regardless of their social or economic background. In contrast, Robert Nozick emphasizes the importance of justice in the distribution of outcomes, focusing on individual rights and fair processes.¹¹ Nozick's theory prioritizes the protection of individual rights in reporting violations, without redistributing wealth or unjust state intervention. Although both theories can be linked to whistleblower protection, Rawls's more redistributive approach and Nozick's minimalist and individualistic stance have different legal implications. In the context of Indonesia, the concept of justice embedded in Pancasila and the 1945 Constitution emphasizes equality, dignity, and social justice. Pancasila provides the ethical

¹⁰ Andri Yanto, Faidatul Hikmah, and Nabil Abduh Aqil, 'Reoptimalisasi Perlindungan Hukum Saksi Pelapor (Whistleblower) Dalam Tindak Pidana Korupsi', *Recht Studiosum Law Review*, 02.02 (2023), 2985–9867. <https://doi.org/10.32734/rslr.v2i1.11278>.

¹¹ Micha Gläser, 'Nozick on the Difference Principle', *Politics, Philosophy and Economics*, 22.2 (2023), 126–59. <https://doi.org/10.1177/1470594X231156931>.

and moral framework underpinning Indonesia's legal system.¹² At the same time, the 1945 Constitution outlines the fundamental rights of individuals and the state's duty to protect these rights, focusing on a more comprehensive social justice approach.

Legal safeguards for whistleblowers in this environment must include the concepts of justice articulated in these two significant legal foundations, serving as the guiding tenets of Indonesian society to guarantee that all individuals who disclose offenses receive adequate and equitable protection. The legal protection framework for whistleblowers must ensure justice and well-being throughout all societal strata, as articulated in Pancasila's fifth principle. Article 28D Paragraph (1) asserts, 'Everyone has the right to recognition, guarantees, protection, and certainty of a just law and equal treatment before the law.' The essay underscores the entitlement to equitable legal protection and clarity, so legal safeguards for whistleblowers must encompass the acknowledgement and assurance of their rights. According to H.L.A. Hart in 'The Concept of Law,' the state must adhere to these principles, asserting that law should be comprehended within positive law, where justice is evaluated based on consistency and alignment with the relevant regulations.¹³

Within the framework of whistleblowing as a mechanism for decriminalization, ethical theory offers a moral basis to advocate for safeguarding law and justice.¹⁴ It establishes a moral structure to comprehend the legal protections afforded to whistleblowers. The examination of ethical theories pertinent to the function of whistleblowers in the legal system and the abrogation of punitive measures is as follows:

- a. Deontological ethics is a moral framework that prioritizes duties and rules that must be followed, irrespective of the consequences of such actions. Immanuel Kant is a prominent philosopher associated with this theory. The fundamental tenet is that actions are deemed correct if they align with moral principles, and an individual's ethical duty to report transgressions underpins these actions. Deontology posits that individuals possess a moral imperative to report violations, as it is an ethical obligation to uphold integrity and justice. Legal protections for whistleblowers reinforce this duty by safeguarding them from retaliation or punishment. Consequently, in a legal context, whistleblower protection is structured to align with deontological principles by providing mechanisms that ensure the act of whistleblowing is recognized and legally safeguarded as an obligation.
- b. Consequentialist ethics evaluates activities based on their results or repercussions. A primary manifestation of this philosophy is utilitarianism, developed by Jeremy Bentham and John Stuart Mill. The fundamental tenet of this theory posits that an activity is deemed correct if it yields the maximum benefit for the largest number of individuals. When assessed in the context of whistleblower protection, it is considered justifiable if it fosters a favorable outcome for society. This consequentialism advocates for legal safeguards for whistleblowers, as revealing infractions can avert more significant societal harm and enhance systemic integrity. Effective protection incentivizes greater reporting of offenses, hence yielding societal benefits. The requisite enforcement of the law thus constitutes legal

¹² Yordan Gunawan, 'Arbitration Award of Icsid on the Investment Disputes of Churchill Mining Plc v. Republic of Indonesia', *Hasanuddin Law Review*, 3.1 (2017), 14–26. <https://doi.org/10.20956/halrev.v3i1.948>.

¹³ Matthew H Kramer, 'Hart and the Metaphysics and Semantics of Legal Normativity', *Ratio Juris*, 31.4 (2018), 396–420. <https://doi.org/10.1111/raju.12223>.

¹⁴ Yordan Gunawan, M. Fabian Akbar, and Eva Ferrer Corral, 'WTO Trade War Resolution for Japan's Chemical Export Restrictions to South Korea', *Padjadjaran Jurnal Ilmu Hukum*, 9.3 (2022), 408–31. <https://doi.org/10.22304/pjih.v9n3.a6>.

protection that guarantees the societal advantages of reporting infractions beyond the possible detriments that whistleblowers may encounter.

- c. Virtue Ethics emphasizes personal character and virtue rather than solely acts or consequences. Aristotle played a pivotal role in the evolution of this philosophy, emphasizing the notion of virtuous action, specifically how actions can embody qualities such as courage, honesty, and integrity. Whistleblower protection exemplifies these characteristics by endorsing bold and just activities. Legal safeguards for whistleblowers commend traits such as bravery in reporting misconduct and integrity in fulfilling ethical responsibilities. Legal frameworks that safeguard whistleblowers embody these principles by assisting those who exhibit moral fortitude. The legal framework must acknowledge and uphold the efforts of whistleblowers grounded in ethical principles, ensuring that the act of disclosing misconduct is esteemed and safeguarded within the judicial system.
- d. The Ethics of Care prioritizes interpersonal relationships, empathy, and attentiveness to the needs of others. Carol Gilligan and others formulated this theory.¹⁵ The central tenet of this ethic is to evaluate moral goodness based on concern and accountability for others, alongside the quality of interpersonal relationships. Whistleblower protection constitutes a facet of social responsibility to safeguard individuals who prioritize truth. Legal safeguards for whistleblowers reflect the ethical principle of care by prioritizing the safety and well-being of those who report misconduct. This principle can be effectively implemented through concrete measures, such as the establishment of confidential hotlines that allow whistleblowers to report violations anonymously, ensuring that their identities remain protected.¹⁶ Furthermore, the institution handling the reports must provide explicit assurances of anonymity to whistleblowers, thus safeguarding them from potential threats or intimidation following their disclosures. Effective legal protection should also encompass safeguards against retaliation, including policies that prevent workplace discrimination or any adverse actions taken against whistleblowers. These provisions ensure that the legal system not only upholds the welfare and security of whistleblowers but also mitigates any negative consequences that could arise from their disclosures.

This theory elucidates the moral and ethical justification for the legal protection of whistleblowers. It advocates for safeguarding whistleblowers to affirm that reporting offenses is esteemed, endorsed, and shielded within the legal framework, reflecting significant moral and ethical principles.¹⁷ The legal protection of whistleblowers is crucial for the realization of justice and ethical standards; therefore, it is essential to establish fundamental criteria for their legal protection, specifically:

1) Non-Reprisal Principle (Non-Retaliation)¹⁸

Whistleblowers must be safeguarded against retaliation or punitive measures for disclosing offenses. Protective legislation and policies must guarantee that whistleblowers are not subjected to threats, intimidation, or harm due to their disclosures. Implementation should involve establishing mechanisms to shield whistleblowers from physical, psychological, or

¹⁵ Talia Schaffer, 'Care', *Victorian Literature and Culture*, 51.3 (2023), 363–66. <https://doi.org/10.1017/S1060150323000621>.

¹⁶ Woo Jin Lee, 'A Study on the Protection System for Whistleblowers in DIRECTIVE (EU) 2019/1937', *The Korea Association for Corruption Studies*, 27.4 (2022), 141–65. <https://doi.org/10.52663/kcsr.2022.27.4.141>.

¹⁷ Ahmad Irzal Fardiansyah, Muhammad Farid, and Ramadani Fitra Diansyah P, 'Additional Legal Protection for Corruption Whistleblowers', *Fiat Justisia: Jurnal Ilmu Hukum*, 18.1 (2024), 19–30. <https://doi.org/10.25041/fiatjustisia.v18no1.3273>.

¹⁸ Bence Udvarhelyi, 'Protection of the Whistleblowers - Eu Requirements and Hungarian Solutions', *Studies in Logic, Grammar and Rhetoric*, 68.1 (2023), 589–610. <https://doi.org/10.2478/slgr-2023-0034>.

social threats. Moreover, it is essential to ensure job security by protecting whistleblowers from termination, demotion, or discriminatory practices in the workplace.

2) Principle of Confidentiality

Whistleblowers' identities must remain confidential to safeguard them from potential retaliation. Legal protections should encompass measures to maintain the confidentiality of the whistleblower's identity throughout the reporting and investigative processes. Consequently, data security protocols or systems must be in place to protect the whistleblower's personal information and prevent unauthorized disclosure.

3) Principle of Procedural Fairness¹⁹

The reporting and management of violations must be equitable and transparent, ensuring that the whistleblower has access to an impartial process for reporting infractions and receiving protection. The procedures for handling these matters should include clear and accessible protocols for reporting and investigating violations. Furthermore, it is essential to provide whistleblowers with access to legal assistance and support.

4) Principle of Accountability

Institutions managing whistleblower reports must be held accountable for safeguarding whistleblowers and addressing reports. Establishing a monitoring and enforcement mechanism to ensure the proper and effective implementation of whistleblower protection is essential. This involves creating a system for reporting violations in the treatment of whistleblowers and overseeing adherence to protection policies.

The four fundamental principles must be incorporated into laws and regulations to offer essential support for whistleblowers. This will promote whistleblowing and safeguard the integrity of legal and social systems.

3.2. The Abolition of Punishment as an Instrument

R. Soesilo, in his analysis of the Criminal Code, defines *expungement* as the scenario in which an offender cannot be penalized despite their actions meeting the criteria of a criminal offense. He categorizes the grounds for this exemption into two types: justificatory grounds (*rechtvaardigingsgronden*), including self-defense (*noodles*) or compliance with a lawful official directive, and excusatory grounds (*schulduitsluitingsgronden*), such as lack of responsibility or necessity (*overmacht*).²⁰ P.A.F. Lamintang, in his book 'Basics of Indonesian Criminal Law,' asserts that the abrogation of penalty may transpire when justification and excuse exist, thus shielding the culprit from penal consequences. Lamintang asserts that the motivations behind actions may be either subjective or objective, contingent upon the perpetrator's intent and the act's context.²¹ Legal protection must adhere to the principles of justice and equilibrium. In their work '*Delik-Delik Khusus*,' Lamintang and Theo Lamintang elucidate that criminal expungement serves as a crucial mechanism for ensuring justice, particularly in instances

¹⁹ Parulian Parulian and Nataliana Bebasari, 'The Role of Whistleblowing as Mediation on the Effect of Organizational Justice on Employee Fraud', *Jurnal Multidisiplin Madani*, 3.10 (2023), 2134–38. <https://doi.org/10.55927/mudima.v3i10.6498>.

²⁰ Theodor Meron, 'Closing the Accountability Gap: Concrete Steps Toward Ending Impunity for Atrocity Crimes', *American Journal of International Law*, 112.3 (2018), 433–451. <https://doi.org/10.1017/ajil.2018.53>.

where the offender, such as a Whistleblower reporting corruption, is deemed undeserving of punishment.

Barda Nawawi Arief asserts that criminal expungement must be within the equitable legal protection paradigm. A pertinent illustration is safeguarding whistleblowers, wherein the abrogation of punishment may be conferred provided the whistleblower acts in good faith and in the public interest. In this regard, whistleblowers should not face penalties for ethical considerations or exceptional circumstances, such as actions aimed at preserving the welfare of others. Sudarto further underscored the necessity of a flexible criminal law approach to balancing societal interests and individual rights. The cessation of criminalization, in this instance, offers legal assurance that whistleblowers will remain exempt from criminal sanctions for their disclosures. This is crucial to mitigate the legal risks that may dissuade individuals from reporting offenses, fostering a more open and transparent environment.²²

As explained by Barda Nawawi Arief and Sudarto, the expungement of penalties can serve as a crucial element of equitable legal protection, particularly in the context of whistleblowers who report violations in good faith for the public interest. Arief asserts that the expungement of penalties must remain within the framework of fair and equal legal protection. At the same time, Sudarto emphasizes the importance of flexibility in the application of criminal law to balance societal interests and individual rights. Based on these theories, the author argues that expunging penalties for whistleblowers is an essential step in encouraging more reporting of legal violations. The expungement of penalties as a protection for whistleblowers ensures that individuals who disclose violations will not face criminal sanctions, thus increasing the likelihood of uncovering concealed offenses. Within this framework, principles such as justice, proportionality, and legal necessity provide the foundation for the fair and equitable implementation of this policy. Consequently, the application of penalty expungement contributes to the creation of a more transparent and accountable legal system, in line with the social justice values outlined in Pancasila and the 1945 Constitution.

3.3. Legal Protection of Whistleblowers in Indonesia

A whistleblower in Indonesia is an individual who discloses actions or conduct that contravene specific laws, ethical standards, or organizational norms, particularly on corruption, abuse of power, or other criminal activities.²³ Whistleblowers are crucial in revealing instances of bribery and other concealed offenses. A whistleblower is an individual who identifies and reports legal violations within their workplace or institution.²⁴ In Indonesia, whistleblowers are frequently linked to cases of corruption, bribery, gratuities, and other criminal offenses, which are reported to law enforcement entities such as the Indonesian Corruption Eradication Commission (KPK), the Indonesia Witness and Victim Protection

²² Muhamad Maulana Yusup, 'Legal Protection for Corruption Crime Reporters (Whistle Blower) in Bandung High Court Decision Number: 32/PID.TPK/2022/PT BDG', *JILPR Journal Indonesia Law and Policy Review*, 5.1 (2023), 138–43. <https://doi.org/10.56371/jirpl.v5i1.175>.

²³ Ade Pipit Fatmawati and Nurul Hidayah, 'Analisis Penerapan Whistleblowing System Dalam Pencegahan Terhadap Kecurangan (Fraud) Pada Pt Pegadaian Kantor Wilayah X Bandung', *Land Journal*, 5.2 (2024), 372–82. <https://doi.org/10.47491/landjournal.v5i2.3639>.

²⁴ Riza Amalia and others, 'The Importance Of Whistleblower Protection In The Environmental Sector', *Journal Of Global Research Publications*, 1.1 (2024), 26–30. <https://doi.org/10.59435/jgrp.v1i1.2024.6>.

Agency (LPSK), or the Police. Various laws and regulations govern whistleblower protection in Indonesia.

- a) Law No. 13 of 2006 on Witness and Victim Protection, subsequently amended to Law No. 31 of 2014, protects whistleblowers reporting criminal offenses.
- b) Government Regulation No. 71 of 2000 on the Procedures for Implementing Community Participation and Recognition in the Prevention and Eradication of Corruption. This regulation mandates that the public, including whistleblowers, actively report corruption offenses and be protected.
- c) The Corruption Eradication Commission (KPK) Regulation No. 2 of 2020 enhances protections for whistleblowers regarding corruption prevention and eradication, encompassing identity confidentiality and whistleblower rights.

Nonetheless, these three regulations provide limited protection, addressing only severe criminal offenses such as corruption and terrorism. Other offenses, including human rights violations and corporate crime, lack sufficient protection. Legal safeguards should prioritize substantive justice over mere procedural justice, as posited by Prof. Satjipto Rahardjo. Rudolf von Jhering similarly contends that law should concentrate on specific objectives, particularly safeguarding individual rights and attaining social justice. Jhering asserts that legal protection aims to shield individual interests from threats or infringements by the state, society, or other individuals.

A primary impediment to whistleblower protection in Indonesia is the insufficient assistance from pertinent institutions and the ineffectiveness of law enforcement. Despite the existence of institutions such as the LPSK, numerous whistleblowers assert that the protection offered is frequently sluggish and insufficient.²⁵ Numerous whistleblowers encountering threats or harassment without adequate protection highlight systemic deficiencies, resulting in diminished public confidence in law enforcement and unease among the community. This is because protection remains concentrated on institutions with constrained ability and resources, such as the KPK or LPSK. Consequently, several whistleblower reports require appropriate attention or subsequent action.

Current legislation fails to offer extensive legal safeguards for whistleblowers across multiple sectors. The disjointed nature of laws and regulations has resulted in inadequate protection for whistleblowers reporting crimes beyond corruption or terrorism. Despite rules safeguarding the anonymity of whistleblowers' names, information leaks frequently occur, leading to threats or intimidation of whistleblowers.²⁶ The absence of supervision in preserving their identity heightens the peril to the safety of whistleblowers. Moreover, there exist insufficient physical and psychological safeguards for whistleblowers, particularly when confronted with significant threats post-reporting, resulting in many lacking timely or effective remedies.

The identified deficiencies underscore the pressing necessity for substantial enhancements in Indonesia's whistleblower protection framework, encompassing regulatory measures, law

²⁵ Salundik, 'The Urgency of Witness and Victim Protection Institutions Against Organized Crime Eradication Through the Role of Whistleblowers', *Pena Justisia: Media Komunikasi Dan Kajian Hukum*, 22.3 (2023), 202–14. <https://doi.org/10.31941/pj.v22i3.2956>.

²⁶ Vincentius Patria Setyawan, 'The Importance of Renewing the Whistle Blower Regulation for Corruption Crimes in Indonesia', *Jurnal Hukum Caraka Justitia*, 4.1 (2024), 18–30. <https://doi.org/10.30588/jhcj.v4i1.1833>.

enforcement, and assistance from pertinent agencies. Reforms are essential to instill a sense of safety and security for whistleblowers when reporting criminal activities and bolster public confidence in Indonesia's judicial system and law enforcement. Notwithstanding its limitations, the legal safeguards for whistleblowers in Indonesia possess certain merits, particularly in addressing grave criminal offenses such as corruption. A robust legal foundation, assured identity confidentiality, a secure reporting mechanism, and support from institutions such as the KPK and LPSK reflect the government's dedication to safeguarding whistleblowers. Nevertheless, this protection necessitates ongoing enhancement to encompass a broader spectrum of legal violations and ensure comprehensive safeguarding for all whistleblowers.

3.4. Legal Protection of Whistleblowers in Malaysia

The legal safeguarding of whistleblowers in Malaysia is founded on statutes and policies that shield individuals who report illegal activities or discrepancies across diverse sectors. The primary legal framework is the Whistleblower Protection Act 2010, which ensures the protection of whistleblowers. The Whistleblower Protection Act 2010, referred to as WPA, encompasses significant principles established to confer legal protection to whistleblowers, as follows:²⁷

- 1) Assured identity protection. The WPA ensures the anonymity of the whistleblower's identity to avert reprisal or intimidation from the accused party. Unauthorized disclosure of a whistleblower's identity is deemed a legal infraction.
- 2) Legal Immunity. The WPA stipulates that whistleblowers who report an offense in good faith is granted immunity from both criminal and civil prosecution related to their report. Consequently, whistleblowers cannot be criminally charged or civilly prosecuted for their reporting activities, provided they adhere to the prescribed procedures.
- 3) Protection from Retaliation. The WPA forbids retaliation against whistleblowers, encompassing dismissal, demotion, intimidation, or other adverse acts. Whistleblowers subjected to such activities may pursue legal protection and reimbursement for their damages.
- 4) Criteria for Protected Reports. The WPA mandates that whistleblowers submit reports to a recognized authority, such as a governmental body or sanctioned law enforcement agency. Furthermore, the report must be grounded in good faith and not intended to harm another individual unjustly. Reports made with malicious intent or falsehoods will not be afforded legal protection.
- 5) Inquiry and Follow-up Procedure. The pertinent authority must conduct a comprehensive and impartial inquiry upon report submission. Whistleblowers are entitled to be informed of the investigation's results and the subsequent actions regarding their report.

Despite Malaysia's legal framework safeguarding whistleblowers, its execution encounters numerous obstacles. A primary issue is the inadequate public awareness regarding whistleblower rights and the availability of secure and efficient reporting channels.²⁸ Additionally, there are apprehensions about the agencies' autonomy tasked with receiving and investigating whistleblower reports, potentially undermining public trust in the efficacy

²⁷ Amalia and others.

²⁸ Mohd Al Omar Che Abu Bakar and Mazlina Mohamad Mangsor, 'It's Not Enough to Speak, But to Speak True: Revisiting the Whistleblower Protection Law in Malaysia', *Malaysian Journal of Social Sciences and Humanities (MJSSH)*, 7.11 (2022), 1-14. <https://doi.org/10.47405/mjssh.v7i11.1949>.

of these protections. Although Malaysia's legal framework protects whistleblowers, its implementation faces several challenges. The main issue is the lack of public awareness regarding whistleblower rights and the availability of secure and efficient reporting channels. Additionally, there are concerns about the autonomy of the agencies tasked with receiving and investigating whistleblower reports, which may undermine public trust in the effectiveness of these protections.

In addition to the national legal framework, the private sector in Malaysia also plays a crucial role in creating secure and efficient reporting mechanisms. Many large companies in Malaysia have developed internal whistleblowing policies that allow employees to report violations or unethical behavior internally without fear of retaliation. These policies often include confidential reporting channels, such as confidential hotlines or online platforms for reporting violations. Furthermore, many companies implement internal protections to shield whistleblowers from retaliation, such as termination or demotion, after they report misconduct. These mechanisms not only create a transparent reporting system but also enhance accountability within private organizations.

Furthermore, non-state institutions in Malaysia have also developed similar policies aimed at improving transparency and integrity within their organizations. In many cases, these institutions recognize the importance of whistleblowers in exposing misconduct or violations that might not be visible under external oversight. As a result, they implement internal reporting mechanisms that guarantee protection for whistleblowers while adhering to the principles outlined in the Whistleblower Protection Act 2010. With strong internal policies in place, the private sector and non-state institutions contribute to fostering a reporting culture free from the threat of retaliation, thereby promoting transparency and accountability across various sectors.

While the legal safeguards for whistleblowers in Malaysia are crucial for promoting transparency, accountability, and combating corruption, their effectiveness significantly relies on consistent enforcement, heightened public awareness, and robust institutional backing. Malaysian criminal law employs concepts for the protection of whistleblowers that are fundamentally akin to those in Indonesian criminal law. Key legal elements of whistleblower protection in Malaysia encompass:

1) Principle of legality (*Nullum Crimen Sine Lege*)²⁹

This theory asserts that individuals cannot be penalized unless their acts are expressly governed by law. In the realm of whistleblowers, this signifies that explicit and unambiguous legislation, such as the Whistleblower Protection Act 2010, must safeguard the act of reporting by whistleblowers. This legislation offers legal safeguards to whistleblowers, ensuring they are not liable for criminal penalties provided they comply with relevant reporting requirements.

2) Non-Retroactivity Principle

This idea underscores that criminal law is not applicable retrospectively. Consequently, whistleblowers in Malaysia are safeguarded by the laws in effect at the time of their revelation rather than by any legislation implemented subsequently. This concept guarantees that the safeguarding of whistleblowers remains unaffected by subsequent legal alterations following the submission of the report.

²⁹ Solomon I Ifejika, 'The Need For Statutory Protection For Whistleblowers In Nigeria', *Journal of Anti-Corruption Law*, 3.1 (2023), 56–75. <https://doi.org/10.14426/jacl.v3i.1304>.

- 3) Principles of Fairness (Fairness and Justice)³⁰
Equity is an essential tenet in criminal jurisprudence, encompassing whistleblower safeguarding. Malaysian legislation safeguards whistleblowers against penalties or harm from their disclosures, provided such activities are undertaken in good faith. The principle of fairness guarantees that reporting safeguards both societal interests and the individual rights of the whistleblower, particularly with protection from retaliation or intimidation.
- 4) Principles of Proportionality³¹
The principle of proportionality asserts that punishments or legal measures must correspond to the severity of the offense committed. In the context of whistleblowers, this implies that actions undertaken by whistleblowers, if they seek to reveal infractions and promote the public interest, should not be subjected to disproportionate penalties. The notion of proportionality affords legal protection to whistleblowers, encompassing exemption from disproportionate criminal or civil accusations.
- 5) Principle of Good (Good Faith)³²
The Whistleblower Protection Act 2010 in Malaysia is predicated on good faith, signifying that the whistleblower must reveal offenses to serve the public interest and be devoid of evil intent. The legislation fully safeguards whistleblowers who operate in good faith. However, the whistleblower will not receive legal protection if the report is submitted with evil intent or to hurt others without a valid foundation.
- 6) Principle of Freedom from Intimidation and Revenge
Whistleblower protection in Malaysia is founded on safeguarding individuals from intimidation or retaliation. Whistleblowers who disclose offenses are protected against reprisal, including termination, demotion, or other detrimental acts. This principle was enacted by the Whistleblower Protection Act 2010, which established a grievance procedure and legal safeguards for individuals facing retribution after reporting infractions.

Collectively, these principles illustrate that Malaysian criminal law emphasizes fairness, transparency, and safeguarding those who expose offenses in good faith, especially regarding whistleblower protection. The Whistleblower Protection Act 2010 serves as the primary legal framework for protecting the rights of whistleblowers against criminal threats or punishments. The following are key provisions of the Whistleblower Protection Act 2010 that are pertinent:

- 1) Section 6 of the Whistleblower Protection Act (WPA) safeguards whistleblowers from reprisals, including termination, demotion, intimidation, or other detrimental actions stemming from their disclosures. Protection is granted if the report is submitted in good faith and pertains to a verifiable alleged offense.
- 2) Section 7 WPA, Confidentiality of Identity. This provision safeguards the identity of the whistleblower. The whistleblower's identity shall remain confidential unless authorization is obtained from the whistleblower or disclosure is mandated by legal

³⁰ Sunaryo, 'Konsep Fairness John Rawls, Kritik Dan Relevansinya', *Jurnal Konstitusi*, 19.1 (2022), 1-22. <https://doi.org/10.31078/jk1911>.

³¹ Sarbini Sarbini, 'Eksistensi Asas Proporsionalitas Dalam Hukum Perjanjian: Manifestasi Dan Dinamika', *Al Qisthas Jurnal Hukum Dan Politik*, 13.1 (2022), 1-26. <https://doi.org/10.37035/alqisthas.v13i1.6465>.

³² Afif Khalid, 'Analisis Itikad Baik Sebagai Asas Hukum Perjanjian', *Jurnal Legal Reasoning*, 5.2 (2023), 109-22. <https://doi.org/10.35814/jlr.v5i2.4644>.

procedures. This seeks to safeguard whistleblowers against intimidation or threats arising from their reports.

- 3) Section 11 of the WPA, Legal Immunity, grants immunity to whistleblowers from criminal or civil prosecution for their reports. This encompasses immunity against allegations of defamation or violation of confidentiality, provided the reporting is conducted in good faith and not meant to harm another party.
- 4) Section 10 WPA, Liability for Unfounded Reporting. The law offers protection while simultaneously cautioning against the misuse of reports. Whistleblowers who disseminate false information or act in poor faith may face legal repercussions due to the principle of good faith underlying the legal safeguards.

A pertinent example of whistleblowers in Malaysia is the 1 Malaysia Development Berhad case, also called the 1MDB case. In this instance, whistleblowers facilitated the revelation of one of the most significant corruption scandals in Malaysia's history, wherein high-ranking officials, including former Prime Minister Najib Razak, embezzled billions of dollars from state investment funds.³³

Key whistleblowers in this case, such as Xavier Justo, provided important information and documents related to the misappropriation of funds in 1MDB. Although Justo was not a whistleblower who received direct protection under the Whistleblower Protection Act 2010 (as he was outside Malaysia), his revelations triggered investigations in many countries, including the United States and Switzerland, and legal action against the perpetrators. Ultimately, the 1MDB case serves as a reminder of Malaysia's need for more robust whistleblower protection. The Whistleblower Protection Act 2010 aims to protect whistleblowers from retaliation. However, the 1MDB case shows that whistleblowers involved in significant scandals still face challenges regarding security and adequate legal protection. The case indicates that whistleblowers play an essential role in exposing major corruption cases and the importance of strengthening legal protections so that whistleblowers can report similar instances without fear of retaliation or punishment.³⁴

The discourse on the legal safeguarding of whistleblowers in Malaysia does not openly advocate for the cessation of the criminalization of whistleblowers, a sentiment echoed by other criminal law specialists in Indonesia. In Malaysia, protection is emphasized by preventing retaliation, safeguarding the confidentiality of the whistleblower's identity, and providing immunity from criminal or civil charges for reports made in good faith.³⁵ Furthermore, the legal discourse in Malaysia lacks numerous criminal law experts advocating for the explicit abolition of penalties for whistleblowers, in contrast to the arguments presented by Indonesian criminal law scholars. Nonetheless, several legal experts and organizations have urged for enhanced protections for whistleblowers in Malaysia, including the extension

³³ Su Hie Ting and others, 'Framing of 1Malaysia Development Berhad (1MDB) Financial Scandal by English and Chinese Newspapers Published in Malaysia', *Jurnal Komunikasi: Malaysian Journal of Communication*, 40.1 (2024), 43–60. <https://doi.org/10.17576/JKMJC-2024-4001-03>.

³⁴ Abdul Muein Abadi, '1MDB's Impact on Malaysia's Relations with the United States and China during Najib Razak's Era (2009-2018)', *International Journal of Academic Research in Business and Social Sciences*, 13.11 (2023), 8106–19. <https://doi.org/10.6007/ijarbss/v13-i11/19807>.

³⁵ Nurul Anessa Rosley, Hasnizam Hashim, and Norman Zakiyy Chow Jen-T'Chiang, 'Combating the Macau Scam in Malaysia: Strategies for Mitigation and Resolution from Civil Law and Shari'ah Perspectives', *Law, Policy, and Social Science*, 2.2 (2023), 30–44. <https://doi.org/10.55265/lpssjournal.v2i2.40>.

of immunities or the fortification of legal safeguards to empower them to report misconduct without the apprehension of criminal repercussions or retaliation.

In some of his research on whistleblowers and human rights, a criminal law expert in Malaysia, stated the importance of protecting whistleblowers through immunity mechanisms. He argues that whistleblowers who report criminal offenses, especially cases of corruption and human rights violations, should be given broader legal protection, including immunity from prosecution that could complicate or penalize the act of reporting. However, Andrew Khoo,³⁶ a Member of the Malaysian House of Representatives, who was previously a lawyer and a human rights activist, emphasized the need for further reforms to the Whistleblower Protection Act 2010. According to Khoo, although this legislation provides protection, its scope remains limited, particularly for whistleblowers who violate other laws when reporting violations. Khoo suggested that the scope of reporting institutions should be expanded to include more sectors and institutions capable of receiving reports, along with stronger protection for anonymous whistleblowers. Additionally, he proposed the decriminalization of whistleblowers acting in good faith and for the public interest to ensure that whistleblowers are not subjected to criminal penalties or other sanctions when they act to expose violations that are crucial for the public interest. Azmi Sharom, a legal academic who often speaks on civil liberties and transparency, although he did not specifically mention the removal of criminal penalties, argued that whistleblowers should not face criminal penalties when they report offenses important to the public interest.³⁷

Numerous legal professionals in Malaysia prioritize enhancing protections and revising the legal framework to facilitate whistleblowers in reporting without fear of reprisal or penalty. Nevertheless, direct appeals for the decriminalization of whistleblowers are infrequently addressed.³⁸ The discourse in Malaysia primarily centers on the significance of civil liberties, identity safeguarding, and the necessity for legal protection against physical and civil threats. While criminal law specialists in Malaysia have not extensively discussed eliminating criminal penalties for whistleblowers, numerous professionals have advocated for enhancing legal protections, including immunity from criminal prosecution for individuals acting in good faith.

3.5. Implications and Recommendations for Improving Legal Protection for Whistleblowers

3.5.1. Implications for Policy

In Indonesia, legal safeguards for whistleblowers are still evolving, with policies enacted via regulations such as Law No. 13 of 2006 on Witness and Victim Protection and the functions of the Witness and Victim Protection Agency (LPSK). Nonetheless, the execution and efficacy of

³⁶ Razana Juhaida Johari and others, 'Factors Influencing Whistleblowing Intentions among Government Officials: A Malaysian Study', *Journal of Management World*, 2024.1 (2024), 13–20. <https://doi.org/10.53935/jomw.v2024i1.270>.

³⁷ Aleksandra Samonek, 'Violation of Privacy in Migration Control Decreases Citizens' Liberties and Public Accountability', *Prace Historyczne*, 146.3 (2019), 637–47. <https://doi.org/10.4467/20844069ph.19.036.10390>.

³⁸ Syahrul Ahmar Ahmad and others, 'Development of a Crafted Malaysian Whistleblowing Policy Disclosure Index', *Advances in Social Sciences Research Journal*, 10.4 (2023), 25–33. <https://doi.org/10.14738/assrj.104.14044>.

this protection should be enhanced, particularly in instances of corruption. In Indonesia, whistleblowers reporting legal crimes may encounter retaliatory threats, including termination, intimidation, or even criminal charges for allegedly disclosing state secrets or breaching administrative protocols. The absence of robust legal protections diminishes individuals' willingness to report, rendering anti-corruption legislation on whistleblowers frequently ineffective. In contrast, Malaysia possesses a more comprehensive legal framework under the Whistleblower Protection Act 2010, which ensures protection against retribution and forbids the criminalization of whistleblowers who report violations in good faith.

Malaysia's protection policy is more extensive and may motivate Indonesia to enhance its protection system. Despite explicit legislation, Malaysia faces regular implementation challenges, particularly in high-level offenses. This comparison indicates that Indonesian rules require enhancement to foster a more supportive atmosphere for whistleblowers. Like those established in Malaysia, enhanced legal safeguards can motivate whistleblowers to disclose legal infractions without apprehension of prosecution or retribution. This may also bolster anti-corruption and legislative reform initiatives in Indonesia.

Indonesia's legal system continues to see whistleblowers unfavorably, particularly when the disclosures pertain to state secrets or sensitive information. Whistleblowers frequently face criminal penalties if they have breached regulations. Consequently, the decriminalization of whistleblowers who report in good faith continues to pose a hurdle. Strengthening legislative protections can enable Indonesia to foster a more favorable atmosphere for whistleblowers. Eliminating criminal penalties for good-faith whistleblowers may promote increased reporting of legal infractions and enhance openness.

In this comparison, Malaysia is more advanced in offering whistleblowers legal protections. Indonesia must enhance policies to mitigate the risk of criminalization for whistleblowers.³⁹ This research highlights the necessity for reforms in Indonesia to conform to the international standards established in Malaysia. By fortifying legal protections, Indonesia can develop a legal framework that is more adept at addressing law violations and enhancing the whistleblowing system without the threat of retribution. A comparative analysis of Indonesia and Malaysia reveals that robust legal protection for whistleblowers is crucial in eliminating criminalization for those acting in good faith. This can promote increased whistleblowing, bolster anti-corruption initiatives, and foster public confidence in the legal system. Indonesia can draw insights from Malaysia's experience to refine its legal protection framework to international standards.

3.5.2. Recommendations for Policy

Research findings indicate that Indonesia should formulate a dedicated statute for whistleblower protection akin to Malaysia's Whistleblower Protection Act. Presently, Indonesia depends on general legislation, such as Law No. 13 of 2006 on Witness and Victim Protection, which inadequately addresses Whistleblower safeguarding requirements. A specialized law would encompass provisions that offer explicit legal assurances to

³⁹ Pupung Purnamasari, 'Early Warning System: The Role of Whistle-Blowers To Reduce Corruption in Indonesia and Malaysia', *Jurnal Riset Akuntansi Kontemporer*, 15.1 (2023), 27–36. <https://doi.org/10.23969/jrak.v15i1.6917>.

whistleblowers, ensuring they are not subjected to legal repercussions for disclosing information, provided their reports are made in good faith.

Malaysia's 2010 Whistleblower Protection Act establishes a right-to-immunity policy, ensuring the confidentiality of whistleblower personal data. Indonesia should implement a policy that provides legal protection to whistleblowers who report in good faith. Guaranteeing that whistleblowers are not punished just for disclosing potentially critical information to avert or reveal legal infractions is crucial. Immunity should be conferred, particularly in reporting corruption, human rights abuses, and legal violations in both public and commercial sectors. This immunity policy must be codified into whistleblower legislation to ensure that whistleblowers have no interference, distress, or apprehension. Furthermore, the LPSK (Witness and Victim Protection Agency) in Indonesia, which will certainly engage directly with whistleblowers, must reinforce its procedures and security measures available to them, encompassing both human resources and authority, to guarantee the effective protection of whistleblowers. LPSK must collaborate with anti-corruption agencies, such as the KPK (Corruption Eradication Commission), to offer more extensive protection to whistleblowers, particularly in situations involving senior officials.

Examining the challenges in the legal protection of whistleblowers in Indonesia and Malaysia reveals the necessity for future policy formulation, specifically establishing an independent entity tasked with safeguarding whistleblowers and supervising the enforcement of legal protections. This entity must possess the authority to examine offenses against whistleblowers and impose penalties for any infractions. Indonesia and Malaysia can cooperate in exchanging best practices via ASEAN or other international platforms to enhance whistleblower protection. Insights gained from countries such as the United States and the European Union, which have successfully improved this protection, can inform the formulation of more effective regulations. Both nations must establish reporting mechanisms that enable whistleblowers to anonymously disclose legal infractions, ensuring their safety and protection from potential reprisals. The prioritization of secure technology and personal data protection is essential to safeguard the confidentiality of the whistleblower's identity. The use of digital technologies, such as app-based anonymous reporting systems and blockchain, can significantly enhance whistleblower protection. Anonymous reporting applications equipped with end-to-end encryption ensure the confidentiality of the whistleblower's identity, while blockchain securely stores reports transparently, preventing unauthorized data alteration.⁴⁰ Artificial Intelligence (AI) can also be utilized to filter and analyze reports, accelerate follow-up actions, and detect patterns of violations. Moreover, protecting the personal data of whistleblowers is a critical aspect that must be safeguarded with appropriate policies to ensure data security. By implementing these technologies, the reporting process becomes more efficient and transparent, enhancing trust in the reporting system and providing better protection for whistleblowers. Overall, the comparison between Indonesia and Malaysia indicates that while Malaysia possesses more advanced whistleblower protection legislation, significant improvements are still necessary in both nations. Policymakers must collaborate with pertinent institutions to foster a more supportive environment for whistleblowers, enabling them to effectively contribute to accountability and transparency in both the public and private sectors.

⁴⁰ Butrus Mbimbi, David Murray, and Michael Wilson, 'Preserving Whistleblower Anonymity Through Zero-Knowledge Proofs and Private Blockchain: A Secure Digital Evidence Management Framework', *Blockchains*, 3.2 (2025), 7. <https://doi.org/10.3390/blockchains3020007>.

Following the enhancement of policies and structures, the government's subsequent objective is to educate the public on the significance of reporting legal violations and to inform them about whistleblower rights. This education can be disseminated through mass media, civil society organizations, and educational institutions, which should actively participate in campaigns that foster a culture of reporting violations without fear of retaliation. In summary, the comparison between Indonesia and Malaysia indicates that while Malaysia possesses more advanced whistleblower protection legislation, both nations exhibit considerable potential for improvement. Policymakers must collaborate with pertinent institutions to cultivate a more supportive environment for whistleblowers, reinforcing accountability and transparency in both the public and private sectors.

4. Conclusion

Although Indonesia has the Witness and Victim Protection Law (LPSK) intended to protect whistleblowers, its implementation faces significant challenges, particularly in protecting whistleblowers from criminalization. While LPSK is meant to provide protection, in practice, many whistleblowers still face the risk of legal retaliation. In this context, it is essential to evaluate the weaknesses of the current system of whistleblower protection in Indonesia. One major weakness is the lack of clear mechanisms to prevent the criminalization of whistleblowers who report violations, especially in corruption cases. The current system also fails to provide adequate protection concerning the security of whistleblower identities and protection from retaliation or intimidation. Based on these findings, it is recommended that Indonesia adopt key elements from more effective whistleblower protection systems, such as those implemented in Malaysia. A primary recommendation is to strengthen regulations by creating more secure and automatic reporting mechanisms, where legal protection is granted as soon as a report is made, regardless of institutional authorization. Additionally, to improve implementation, it is vital to establish an independent unit or institution within the justice system that handles whistleblowing cases transparently and protects whistleblowers from potential legal risks or retaliation. This institution should also be responsible for providing legal and psychological assistance to whistleblowers and ensuring that investigations proceed fairly and swiftly. Furthermore, specialized training for law enforcement officers is necessary to ensure they understand the vital role of whistleblowers and support their protection. By implementing these policies, it is expected that the Indonesian legal system can become more transparent and accountable, creating a safer environment for whistleblowers to report legal violations without fear of retaliation or criminalization.

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