

A COMPARATIVE ANALYSIS OF WHISTLEBLOWER'S PROTECTION IN INDONESIA AND UNITED STATES OF AMERICA

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ABSTRACT

The researcher classified whistleblowing system, its protection in Indonesia, and compared it with practices in the United States of America (USA). The researcher used the qualitative descriptive method with secondary data, such as legislation, news, articles from competent internet sources, journals, books and presentation materials that related to whistleblowers. It finds that whistleblowing has been proven as one of most effective way to nurture good corporate government. On the other hand, it demands the proper protection for its blowers. This research suggested Indonesian government to improve whistleblowing system through comprehensive legislations and coordination among related institutions. Witness and Victim Protection Agency (Lembaga Perlindungan Saksi dan Korban/LPSK) have a vital role in improving support for the reporters.

Keywords: *whistleblower's protection, whistleblower in Indonesia, whistleblower in USA*

INTRODUCTION

Whistleblowing is frequently defined as the disclosure by organizational members (former or current) of illegal, immoral, or illegitimate practices under the control of their employers to persons or organizations that may be able to effect the action. Whistleblowing is considered one of the most effective methods for stopping illegal or corrupt activities within organizations. Whistleblowing is a powerful mechanism for bringing more ethical climate in public and private institutions (Miceli, Near, & Dworkin, 2008). The act of blowing the whistle and the person who does this arouses some conflicting views and responses (Francis, 2015). Whistleblowers have often taken action only after a lot of soul-searching and a desire for change but their colleagues may feel threatened, guilty, or shamed and management of an organization may focus more on the whistleblower than on the alleged perpetrator of the wrongdoing. It has been widely reported that in many cases it is the whistleblower who ends up being victimized and subject to mistreatment and retaliation. The media also regularly reports on instances where whistleblowers have been treated poorly as a result of reporting on wrongdoings.

A recent example compares and contrasts the good intentions and the practical consequences of deciding to blow the whistle. The whistleblower's personal account of his experience after reporting wrongdoing indicates that he is committed to his organization and is distressed by the way he is treated, that is, sidelined, ignored and finally having no choice but to leave the organization (Armstrong & Francis, 2014).

Generally, whistleblowing is segregated in private and public sectors (Semendawai, 2011). Whistleblowing in private sector starts when the company conducts criminal or illegal practices that impact to financial/economic loss to the country. In doing business, sometimes private sector has to pay facilitation fee to government officer(s). When private sector contributes more to develop a

country, whistleblowing takes the more important role to create clean governance. The example of this is John Doe; pseudonym (Obermaier et al., 2016) and Vincentius Amin Soetanto (Asian Agri Group, Indonesia, 2006). Whistleblowing in public sector usually reveals hidden crime or incompliance in government or public institution, such as police and tax authority. Working culture in public institution is different from private one, while bureaucracy and cliques gain more important than work performance. As a result, manipulation or incompliance within the governmental organization is hardly brought up to the public. For example is W. Mark Felt also known as Deep Throat (Federal Bureau Investigation, USA, 1972, Watergate Case), Agus Condro Prayitno (DPR RI, Indonesia, 2008), and Susno Duadji (Kepolisian RI, Indonesia, 2010).

There are the examples of Indonesian whistleblowing cases and mistreatment experienced by its blowers (Tempo Magazine, 2013), such as Sukotjo Sastronegoro Bambang and Vincentius Amin Sutanto. The case of Sukotjo Sastronegoro Bambang is the corruption of simulator machines for driving license test involving Indonesian Policeman Inspector, General Djoko Susilo. Sukotjo reports the corruption to Indonesian Corruption Watch (ICW) and Corruption Eradication Commission (Komisi Pemberantasan Korupsi/KPK). KPK investigates his report and eventually has sentenced Djoko Susilo with 10-year jail and Rp500.000.000,- fine and assets' confiscation. There are some impacts of whistleblowing to Sukotjo life. Sukotjo and his wife, Sylvia, have experienced terrors from unknown persons to their house at Sumber Sari Indah Estate, Bandung, as well as prank calls threats. They are forced to move several times for safety reason. Besides that, Sukotjo also sentences to jail for three years and ten months based on the report from his business partner, Budi Susanto, due to incapability to fulfill the order from Indonesian Police (700 motorcycle and 556 car simulations).

While Vincentius Amin Sutanto's case is he is as Group Financial Controller at Asian Agri Group/AAG, tries to corrupt USD 3,1 million from his office. After his attempt fails, he escapes to Singapore. His effort for ask forgiveness to AAG is unresponded. When AAG Management intimidates his family in Medan, Vincentius decides to report their tax manipulation to KPK with the help of Metta Dharmasaputra (a reporter from Tempo Magazine). KPK investigates his report and eventually charges AAG 2,5 trillion rupiah and sentences Suwir Laut (AAG Tax Manager) two years jail with three year probation. Because of this case, AGG must pay tax penalty 2,6 trillion, the biggest tax penalty in Indonesia. AAG assigns private detectives to pursue Vincentius in Singapore that forces him to move from one apartment to another. Vincentius is sentenced six years jail that based on the report from AAG for his corruption attempt.

This paper is focused on comparative analysis of whistleblowing system, mechanism, whistleblower protection in Indonesia and US. Eventually, this article would provide recommendations to Indonesian for improving whistleblowing mechanism and its protection.

METHODS

The researcher uses qualitative descriptive method with secondary data, such as legislation, news, articles from competent internet sources, journals, books and presentation materials, related to whistleblowers.

The Congress enacted the Corporate and Auditing Accountability and Responsibility Act 2002 that is known as Sarbanes-Oxley Act (SOX 2002) after huge corporate scandals such as Enron and Worldcom. Section 806 SOX 2002 provides protection for employees of publicly traded companies who provide evidence of fraud by inserting Section (s) 1514A into Chapter 73 of title 18 of the United States Code. As the improvement of SOX 2012 in protecting whistleblowers, Dodd-Frank Wall Street Reform and Consumer Protection Act 2010 (Dodd-Frank Act) that are passed by the Congress. It includes the significant changes to the whistleblower protection law in the United States by amending

(a) the SOX 2002, (b) Securities Exchange Act 1934, and (c) the Commodity Exchange Act 1936 as well as providing new whistleblower protection in a new act entitled Consumer Financial Protection Act 2010 (CFPA). The Dodd-Frank Act is signed into law by the United States President on 21 July 2010 (Meng and Fook, 2011).

In Indonesia, there are three laws related to whistleblowing, they are (1) UU 31 the year 1999: *Pemberantasan Tindak Pidana Korupsi* (Corruption Eradication), (2) UU 8 the year 2010: *Pencegahan Pemberantasan Tindak Pidana Pencucian Uang* (Money Laundering Prevention and Eradication), (3) UU 13 the year 2006, that is amended by UU 31 the year 2014: *Perlindungan Saksi dan Korban* (Witnesses and Victims Protection). The author compares whistleblower in Indonesia and US in four aspects, (1) coverage and reportable facts, (2) protection, (3) remedies, and (4) mechanism of whistleblowing.

RESULTS AND DISCUSSIONS

Coverage and Reportable Fact of SOX 2002 are (1) the protection under SOX 2002 is afforded to an employee who provides information, causes information to be provided or assists in an investigation regarding any conduct in which he reasonably believes that his employer has violated any rules of the Securities Exchange Commission (SEC) or any Federal law relating to fraud against the company or shareholder. (2) The employee is not required to show that there is the actual violation of the Federal laws as long as he reasonably believes that such violation has occurred. (3) As a result of the Dodd-Frank Act, SOX 2002 applies to not only the employees of any publicly traded company but also to employees of its subsidiaries or affiliates.

Coverage of UU 31 the year 1999: Corruption Eradication in article (a) 42, clause (c) 1; people (individual or corporation) can participate in corruption prevention and eradication efforts. The reportable fact is the article (a) 41, clause (c) 2.1; people can report the indication of corruption to law enforcement agencies as long as he reasonably believes such violation has occurred. Definition of corruptor is people who take benefit for himself/other people/corporation or abuses his authority/opportunity another facility in relation to his position/authority while impacting the financial/economic loss to the country.

Coverage of UU 8/2010: Money Laundering Prevention and Eradication in the article (a) 84: a person who reports the indication of money laundering action must be specially protected by Government, from threats endangered himself, his assets, including his family. Reportable facts are money laundering activities as explained in the article a 3,4,5, such as a.3: place, transfer, spend, pay, donate, deposit, bring abroad, transform, exchange, or other execution related to the asset, generated from criminal action, referred to A.2 clause 1. A.4: hide the origin, source, location, usage, transfer of right and ownership of assets, generated from criminal action, referred to A.2 clause 1. A.5: receive or acquire placement, transfer, payment, donate, deposit, exchange or usage of assets, generated from criminal action, referred to A.2 clause 1.

Coverage of UU 31/2014 is Witnesses and Victims Protection. Witnesses are people who can provide information or the purpose of investigation, litigation, prosecution, and examination in the court proceeding on offense, which they hear, see, and/or experience themselves. Executor witnesses are suspects, defendants, convicts who collaborate with law enforcer to disclose criminal actions in a certain case. Victims are people who have suffered from physical and mental harm, and/or economic loss due to a violation of criminal law. Reporters: people who report, inform, or explain to law enforcer regarding ongoing, future or potential criminal action. While reportable facts are not regulated yet.

Protection of whistleblowing (WB) in the US is focused on the employee who works in public listed and subsidiaries, for reporting any indication of violence and fraud against SEC or federal law. SOX 2002 is the main regulation and latter was amended by Act 2010 (Dodd-Frank Act) and Consumer Financial Protection Act 2010 (CFPA). While Indonesian WB protection is intended to people, not limited to the employee, who are reporting the indication of corruption (UU 31/1999) or money laundering (UU 8/2010). Promulgation of UU 31/2014 expanded coverage to related persons (witness, executor witness, and victim).

The similarity of US and Indonesian system is reporting based on the indication of fraud or violation. Authorized institutions such as KPK and policemen are the ones to check, follow up, and investigate whistleblowing. However, the scope of Indonesian protection system and reportable facts are quite complicated since it regulated by three separate laws and creates confusion to the public.

The protection for people who do whistleblowing can be seen in SOX 2002. The protections of it are (1) an employee is still entitled to protection under s.1514A if the action that he complains of does not amount to a crime. The information must be provided to a Federal regulatory or law enforcement agency, any member of Congress or any committee of Congress or the employee's supervisor or someone appointed by the company to investigate complaints of violation of law by the company. (2) These companies are not allowed to discharge, demote, suspend, threaten, harass or in any manner discriminate against an employee due to the protected disclosure of information as mentioned in the preceding paragraph. (3) Any employee who faces such detrimental acts may file a complaint with the Secretary of Labor within 180 days after the occurrence of the violation of s.1514A. On the other hand, the employee bears the obligation to prove that he/she has knowledge of his protected disclosure and the protected disclosure is a contributing factor resulting in retaliation acts taken against him.

Protection of Securities Exchange Act 1934 is Section 922 Dodd-Frank Act also prohibits any retaliation taken against an employee for disclosing information to the Commission, initiating, testifying, or assisting in any investigation or judicial or administrative action of the Commission or in making disclosure as required or protected under SOX 2002 or relating to any securities law within the jurisdiction of the Commission. The employee is entitled to bring a legal action against the employer as a result of any retaliation suffered due to the earlier mentioned protected activities.

Regarding protection of the whistleblower can be seen in Consumer Financial Protection Act 2010. Section 1057 CFPA 2010 provides protection for employees of any organization providing financial products or services to consumers from any retaliation as a result of disclosure of information, testifying, or assisting in any investigation relating to the violation of this Act or objecting to or refusing to participate in any activity to be in violation of this Act. The whistleblower protection is available if the information or assistance in any related investigation is rendered to the whistleblower's employer or the Consumer Financial Protection Bureau, or any other state, local, or Federal, government authority or law enforcement. Any employee who is discharged or suffered from any retaliation as a result of a breach of S.1057 may file a complaint with the secretary of labor within 180 days after such violation occurs.

UU 31 the year 1999 about Corruption Eradication gives protection to the people who do this act. Article a.41 explains legal protection for people to execute his rights to report, seek guidance, and get updates, as regulated in a.41 clause (a) up to (c). This article also explains that gives protection to present before the court as the witness (reporting witness, witness or expert witness) as regulated by law.

UU 8/2010 is about Money Laundering Prevention and Eradication that gives protection to the whistleblower. It is regulated on A.83-87. In a.83 is about the secrecy of whistleblower's identity. Article a.84 talks about government protects whistleblowers from threats (both physical and properties), including his family. Article a.85 says the witness, public prosecutor, judge, and others

related to money laundering process in court are prohibited from disclosing whistleblower's name and address in order to protect him. Article a.86 witness of money laundering case must be protected from threats (both physical and properties), including his family. And article a.87 says people who report an offense or witness of money laundering gets protection from criminal or civil code prosecution on the report or testimony.

UU 31/2014 about Witnesses and Victims Protection explains in article a. 5 until a.10. Article a.5 explains protection to witnesses and victims, such as the right to (1) obtain protection of their personal, family and property safety, against any threat which is related to the testimony which they will give, are giving, or have given, (2) participate in selecting and determining the form of protection and security assistance, (3) give information without any pressure, (4) obtain a translator, (5) be free from any misleading questions, (6) be informed about the development of court proceedings, (7) be informed about court's verdict, (8) be informed about the release of the offender, (9) get identity secrecy, (10) obtain a new identity, (11) obtain temporary relocation, (12) obtain new relocation, (13) obtain reimbursement for transport expenses as necessary, (14) obtain legal advice, (15) obtain living expenses temporarily until the protection is terminated, and (16) obtain protection of their personal, family and property.

Article a.6 about Victims through Witnesses and Victims Protection are entitled to request to the court; medical services and psycho-social rehabilitation services. Article a.8 about Victims through Witnesses and Victims Protection as stated in A.5 are valid since the investigation stage starts and ends in accordance with the provision stipulated in this law. Article a.9 talks about (1) witnesses and/or victims who feel a serious threat, upon the judge's approval, can give their testimony without being present in the court where the offence is being tried, (2) the witnesses and/or victims as stipulated in clause (1) can give their testimony in writing which is presented in front of an authorized official and sign their signature in a dossier containing that testimony, (3) witnesses and/or victims as stipulated in clause (1) accompanied by an authorized official can also give their testimony which can be heard directly through an electronic means.

Article a.10 explains that (1) witnesses, victims and people who report an offense should not be prosecuted on the criminal or civil code on the report or testimony which they will give, are giving, or have given unless his report or testimony is provided without good intention. (2) If witnesses, victims, executor witnesses, and reporters face the lawsuit because of their testimony/report, they will give, are giving, or have given, the lawsuit should be postponed until case from their testimony/report has become *res judicata*/had legal authority (A.10 UU 31/2014).

The Indonesian government has been developing coverage of protection for the blowers since 1999. Starting for the blower him/herself (UU 31/1999), then expanded to blower's family (UU 08/2010), and related persons (witness, executor witness, victim) in UU 31/2014. These efforts show seriousness in promoting whistleblowing practice. Compared to US system, Indonesian legislation has no due date to report if retaliation occurs. By setting the time limit, the whistleblower is pushed to report retaliation to authorized institution right away. It avoids case expiration, and the institution/auditors are still able to collect fresh data when investigating it.

The remedies of SOX 2002, such as the courts are entitled to grant all relief necessary to make the employee whole. The remedies include reinstatement with a number of back wages with interest and compensation for special damages such as litigation costs and expert witness fees. Any person who retaliates against an employee for making a protected disclosure, for instance, taking any action harmful to the employee or interfering in any manner with his lawful employment or livelihood commits an offense. Any agreement to exclude the rights and remedies of employees under SOX 2002 cannot be waived or excused. A pre-dispute arbitration agreement provides that any dispute arising from SOX 2002 to be settled by arbitration is void.

Section 922 Dodd-Frank Act makes a significant change to the whistleblower protection law by inserting new provisions into the Securities Exchange Act 1934 (SEC 1934). It states that the Securities Commission shall pay an award to whistleblowers who voluntarily provide original information to the Commission that leads to the successful enforcement of a covered judicial or administrative action. The whistleblower is entitled to an amount of 10 to 30% of the monetary sanctions (exceeding USD 1 million) that imposed in the covered judicial or administrative action. The amount payable to the whistleblower is determined at the discretion of the Commission. It would have to take into account the significance of the information and the degree of assistance that is provided by the whistleblower to the success of the covered judicial or administrative action, the interest of the Commission in deterring violations of the securities laws and any additional relevant factors. The award payable to the whistleblower is paid from the Securities and Exchange Commission Investor Protection Fund.

However, a whistleblower is not entitled to any reward if he is an employee of the Commission or any other organizations that related to law enforcement. Under the condition where he is convicted of a criminal violation related to the judicial or administrative action which he would otherwise receive an award under s.922 where he gains the information through the performance of an audit of financial statements required under the securities laws or when disclosure of information to the Commission is not in compliance with the requirements of the Commission. Disclosure of information to the Commission can be made anonymously through an attorney. However, the whistleblower shall disclose his identity prior to the payment of the award. The Commission is expressly required to protect the anonymity of the whistleblower.

The remedies of Consumer Financial Protection Act 2010 that the whistleblower is entitled similarly to the remedies that are provided by SOX 2002. Nonetheless, if the Secretary of Labor finds that a complaint that is made by the employee is frivolous or has been brought in bad faith, the employee can be made to pay to his employer reasonable attorney fee not exceeding USD 1000. UU 31/1999: Corruption Eradication's remedies explain in article a.42. It says that government will provide the award to people who are helping out the prevention, eradication, and disclosure of corruption. While the remedies of UU 8/2010: Money Laundering Prevention and Eradication is not regulated.

The remedies of UU 31/2014 about Witnesses and Victims Protection are in article a.7 and a. 7A. Article a.7 says (1) victims through Witnesses and Victims Protection are entitled to request to the court the right to compensate in a case of serious human rights violations and get restitution or compensation which is born by the offender, (2) decision on compensation and restitution is given by the court. While article a.7A says victims of the criminal case are entitled to get compensation of asset or income lost, direct affliction as the result of criminal actions or medical services and/or psychological. US system regulates remedies specifically; it is started with SOX 2002 to pay back salary with interest and compensation of litigation cost. Moreover, SEC 1934 provides the monetary reward, amounted to 10-30% of monetary sanctions exceeding USD 1 million. The Indonesian government also stipulates award to whistleblowers but do not mention the specific amount (UU 31/1999 and UU 31/2014). It could impact many rooms for negotiation, moreover corruption between the personnel from authorized institution and whistleblowers who entitled monetary compensation.

Mechanism of regulated separately is in section US Office of Special Counsel (The U.S OSC, 2017). US Office of Special Counsel (OSC) is independent federal investigative and prosecutorial agency. OSC basic authorities come from 4 federal statutes; the Civil Service Reform Act, the Whistleblower Protection Acts, the Hatch Act and the Uniformed Services Employment & Reemployment Rights Act (USERRA).

OSC function encompasses six aspects. The first is Prohibited Personnel Practices (PPP). It protects federal employees from improper personnel actions, including retaliation for whistleblowing.

PPP encompasses 13 prohibited actions, they are discrimination, considering inappropriate recommendations, coercing political activity, obstructing competition, influencing withdrawal from competition, granting unfair advantage, nepotism, whistleblower retaliation, other retaliation, other discrimination, veterans preference, violating rules that implement a merit system principle, imposing non-disclosure agreement that does not allow whistleblowing. OSC has jurisdiction over PPP that committed against most employees, the applicant for employment and former federal employees in executive branch agencies, and the Government Printing Office. However, there are some agencies over which OSC that does not have the authority or has limited authority. The second is Disclosure of Wrongdoing. It provides a safe channel for federal employees to disclose wrongdoing. The third is Hatch Act that protects the integrity of federal government and certain state and local agencies from prohibited political activity. The fourth is USERRA that protects the employment and reemployment rights of veterans, guardsmen, and reservists. The fifth is Alternative Dispute Resolution that offers mediation to complainants and agencies in selected cases. And the sixth is Outreach, Training and 2302(c) Certification that offers speakers, educational materials, and training to agencies.

The examples of how OSC process to handle Prohibited Personnel Practices (PPP) are federal employees, former federal employees and applicants for federal employment can file a claim of a PPP with OCS by completing Form 11. Then employees or applicants may request that the Special Counsel seeks to delay or stay, an adverse personnel action pending an OSC investigation (called Delaying Proposed Personnel Actions). If the Special Counsel has reasonable grounds to believe that the proposed personnel action is the result of a PPP, OSC may ask the federal agency involved to delay the personnel action. If the agency does not agree to a delay, OSC may then file a legal request for a stay with the Merit Systems Protection Board (MSPB) to delay the personnel action (OSC cannot delay a personnel action on its own authority). OSC can seek corrective action (meaning an action that corrects what happened to the employee or applicant), disciplinary action (meaning an action that penalizes the federal official(s) who committed the PPP), or both. OSC also has the authority to request that the MSPB discipline federal officials who committed PPPs. The law allows the Special Counsel to decide which cases are the most appropriate for disciplinary action. Penalties for committing a PPP include removal, reduction in grade (demotion), and debarment from federal employment for up to five years, suspension, reprimand, a fine of up to \$ 1000, or some combination of these penalties.

Individual Right of Actions (IRA) with the Merit Systems Protection Board Employees or applicants who allege that they experience retaliation because of whistleblowing under 5 U.S.C. section 2302(b)(8) may seek corrective action in appeals to the MSPB. Such an appeal is known as an individual right of action (IRA). By law, the employee or applicant must first seek corrective action from OSC before filing an IRA. None of the Indonesian laws (UU 31/1999, UU 8/2010, UU 31/2014) stipulates the reporting mechanism.

The US has stipulated systematic mechanism of reporting. A person is able to predict time and effort before reporting fraud/violation to OSC. On the other hand, the absence of the mechanism in Indonesia will create confusion for the whistleblower to report and follow it up. Eventually, it impacts to the low rate of whistleblowers. As the summary, slowly but sure, the Indonesian government has been developing whistleblowing mechanism and protection. It is shown by revision of Witnesses and Victims Protection Law, the latest by UU 31/2014. This constitution improves several aspects, such as (1) expansion coverage of protection for executor witnesses (*saksi pelaku*), reporters (*pelapor*), and experts (*saksi ahli*), including person who disclose information even though do not listen, see, experience it by himself, as long as it is related to the case (a.5, UU 31/2014), (2) expansion restitution for victim of criminal case (a.7A, UU 31/2014), (3) delay of legal sue for a court judgment which has become *res judicata* or has legal authority (a.10 UU 31/2014), (4) special treatment for executor witness, as stated in a.10A, clause 2, such separation of detainment place among executor witness, suspect, defendant and/or prisoner, (5) expansion of LPSK's authority, as stated in a.12A.

On the other hand, comparing to US system, Indonesia still lacks these whistleblowing aspects. Definition of whistleblowing is the classification of prohibited actions and reportable facts. Indonesia has no specific regulation(s) to explain prohibited actions resulting in the loss to the public. Prohibited actions are explained separately in UU 8/2010 about Money Laundering Prevention and Eradication, UU 31/1999 about Corruption Eradication Law, UU 35/2009 about Anti-Drug Law, and UU 9/2013 about Anti-Terrorism Law.

There is no specific mechanism of whistleblowing as well as protection for the blowers, such as assigned government agency/body/commission to follow up whistleblowing. Currently, Indonesia has several institutions which able to receive and follow up whistleblowing, such as LPSK, KPK, Ombudsman of Republik Indonesia, Judicial Commission, Indonesian Financial Transaction Reports and Analysis Center. However, Indonesian Government does not have stipulated institution(s) to handle whistleblowing and coordination among them in following the report up. Then there is medium for a person to report whistleblowing (such as email, telephone and fax number, postal address). There is no procedure to follow up whistleblowing, encompassing who to receive report, how to follow up report and maximum period for investigation, how to contact the reporter, time limit for the blowers to report after facing fraud/violation, time limit for the institutions to follow up receiving report, how reporter is able to track progress of his reports, how to maintain secrecy of the reporter, such as name, address and telephone number. There is no clear protection from government to whistleblower. There is no reward for the whistleblower who is doing as justice collaborator, including how to settle reward to the eligible one(s). By not mentioning reward amount, it will trigger another room for negotiation between the institution(s) and the reporter which eventually created corruption. There is no promulgation and socialization of the mechanics to the public.

Lack of those factors is impacted to the willingness of a person to be the whistleblower. As an example, Vincentius Amin Sutanto explains his struggle to report tax manipulation of Asian Agri Group. Lack of information, he asks help from Metta Dharmasaputra, a Tempo Reporter to establish connection to KPK. After reporting facts, both of them get sued from AAG for cash manipulation for Vincentius and defamation for Metta (Dharmasaputra, 2013). Furthermore, investigation process runs very slow, since Indonesian government has to decide which institution to handle the case, either KPK of Tax Office. It took six years (2006-2012) to settle the biggest tax case in Indonesian history.

LPSK as authorized agency to protect witness and victim protection is still struggling to manage its financial sufficiency. Abdul Haris Semendawai, the Head of LPSK is reported growing number of protection requests from 1183 cases in 2013, 1.890 cases in 2014, and 1002 cases in 2015 up to August. On the other hand, LPSK budget allocation is insufficient to fund rising number of protection request. In 2015, LPSK granted 140 billion rupiah allocation, which 89 billion rupiah for new building construction and the rest for daily operations (Putra, 2015). However, in 2016, LPSK has got the smaller allocation from 90 billion to 7,4 billion rupiah due to nationwide budget revision on June 8th, 2016 (Simanjuntak, 2016). While public demands LPSK to work faster and more professional, the institution needs to improve personal skill as well recruit more experts. LPSK has to manage its contractionary budget allocation to be able to meet the target.

CONCLUSIONS

In conclusion, the Indonesian government is challenged to improve whistleblowing system in promoting clean governance, both in public and private institutions. Although LPSK has enacted revision of Witness and Victims Protection Law (UU 31/2014), many homework to finish in order to in same par with US system. Along with stronger KPK efforts in doing caught in the act for corruptors, protection of witness and victims should be improved.

Whistleblowing system is one of proven method to establish good and clean governance. By empowering it, Indonesia will be able to gain more confident from investors to invest their fund in this country. Based on Corruption Index, released by www.tradingeconomics.com, Indonesia's figure rises gradually from 2006-2015, ranging from 24 in 2006 to 36 in 2015. The higher index means better transparency and corruption control. Eventually, Indonesian Tax Amnesty efforts to bring offshore funds back to the country should be augmented by continuous clean and good governance efforts.

REFERENCES

- Armstrong, A., & Francis, R. D. (2014). Protecting the Whistleblower. In B. Rider (Ed.), *Handbook on International Crimes*. University of Cambridge London: Routledge.
- Dharmasaputra, M. (2013). *Saksi Kunci*. Jakarta: Tempo.
- Francis, Sir R. (2015). *Freedom to Speak Up: A Review of Whistleblowing in the NHS*. London: Department of Health, UK Government.
- Meng, T. P., & Fook, O. S. (2011). Comparative Analysis of Whistleblower Protection Legislations in England, USA, and Malaysia. *African Journal of Business Management* 5(27), 11246-11255. Retrieved on August 2016 from <http://www.academicjournals.org/AJBM>.
- Miceli, M. P., Near, J. P., & Dworkin, T. M. (2008). *Whistleblowing in Organizations*. New York: Lea's Organization and Management Series: Routledge/Taylor & Francis.
- Obermaier, F., Obermayer, B., Vanessa, W., & Jaschensky, W. (2016). *About the Panama Papers, Germany; Süddeutsche Zeitung (SZ)*. Retrieved on July 2016 from <http://panamapapers.sueddeutsche.de/articles/56febf0a1bb8d3c3495adf4/>.
- Putra, P. (2015, 15 Sept). *7 Tahun Hadir, LPSK Keluhkan Kurangnya Anggaran*. Retrieved on September 2016 from <http://news.liputan6.com/read/2317967/7-tahun-hadir-lpsk-keluhkan-kurangnya-anggaran>.
- Semendawai, A. H. (2011). *Memahami Whistleblower*. Jakarta: Lembaga Perlindungan Saksi dan Korban.
- Simanjuntak, R. (2016, 8 June). *Anggaran Dipotong Rp 7,4 M, LPSK Ngaku Tak Bisa Berbuat Banyak*. Retrieved on September 2016 from <http://nasional.sindonews.com/read/1115052/13/anggaran-dipotong-rp7-4-m-lpsk-ngaku-tak-bisa-berbuat-banyak-1465383994>.
- Tempo. (2013). *Jalan Pedang Si Pembocor*. Jakarta: Tempo Magazine.
- The U.S. Office of Special Counsel (OSC). (2017). *What we do*. USA: US Office of Special Counsel. Retrieved from <https://osc.gov/Pages/WhatWeDo.aspx>