

THE CONNECTIVITY OF WHISTLEBLOWING ONLINE SYSTEM BETWEEN GOVERNMENT AGENCIES IN INDONESIA: A NEW ROUND OF PREVENTING AND ERA DICATING CORRUPTION

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ABSTRACT

This paper aims to explain the connectivity of whistleblowing online system between the Witness and Victim Protection Agency (LPSK), the Corruption Eradication Commission (KPK), and 17 ministries/institutions that has been established since 2017. The challenges raised in the implementation of the whistleblowing online system are discussed in line with a case of the Ministry of Marine and Fisheries Affairs, a non-participant ministry in the connectivity of whistleblowing online system. The reason for selecting this case is to provide a different view of how a non-aligned institution within the network undertakes efforts in eradicating corruption through whistleblowing system. The discussion still leaves several obstacles to achieving an effective whistleblowing system. These constraints include insecurity of mutation in remote areas due to reporting alleged frauds and a response to a fraudulent that consider reasonable. This article is intended to encourage further discussion and research regarding the implementation of whistleblowing online systems in government agencies in Indonesia.

Keyword: Whistleblowing Online System, Corruption, Good Governance

1. INTRODUCTION

In 2017, the Witness and Victim Protection Agency (LPSK) conducted a connectivity of a whistleblowing online system with 17 ministries/institutions as mandated by the Presidential Instruction Number 10 of 2016 on Actions to Prevent and Eradicate Corruption in 2016 and 2017. The application of TEGAS (Integrated Interagency System), a system developed by LPSK, will meet the needs of ministries/institutions in providing protection for whistleblowers, witnesses, and justice collaborators in each agency provided by LPSK.

In addition to cooperation with LPSK, the 17 ministries or institutions also collaborated with the Corruption Eradication Commission (KPK) in the form of exchanging data and information, monitoring and evaluating the implementation of complaints and connectivity to whistleblowing online system, and coordinating and supervising the implementation of whistleblowing systems. The 17 ministries or institutions involved in the collaboration are the Ministry of Public Works and Housing; the Ministry of Finance; the Ministry of Energy and Mineral Resources; the Ministry of

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Health; the Ministry of Education and Culture; the Ministry of Manpower; the Ministry of Religious Affairs; the Ministry of Villages, Development of Disadvantaged Regions, and Transmigration; the Ministry of Agrarian and Spatial Planning/National Land Agency; the Ministry of Law and Human Rights; the Ministry of Agriculture; the Ministry of Transportation; the Ministry of Social Affairs; the Ministry of Environment and Forestry; the National Police; the Attorney General; and the Secretariat of the Audit Board (BPK).

The connectivity of whistleblowing online system between LPSK, KPK, and 17 ministries/institutions is expected to be able to improve the quality of reports on alleged corruption that occurs in central government agencies. Guaranteed protection of whistleblowers and their families to LPSK that can be directly carried out by the liaison officers of each agency are also expected to make prospective whistleblowers dare to complain of alleged corruption committed around them. This article, therefore, discusses the connectivity of whistleblowing online system between LPSK, KPK, and 17 ministries/institutions along with the possible obstacles ahead. More in-depth discussions are conducted through a case study at the Ministry of Maritime and Fisheries Affairs, a ministry that had not yet been involved in connectivity of whistleblowing online system with LPSK and KPK, to see a different perspective of the implementation of whistleblowing system in the non-aligned institutions within the network.

2. THEORICAL BASIS

Corruption is one of three types of fraud according to Association of Certified Fraud Examiners (ACFE, 2018). Any unlawful acts that can be considered corruption according to the Law Number 31 of 1999 amended by the Law Number 20 of 2001 on Corruption Eradication are those committed that benefit or enrich individual involved or other parties or corporation; or misused authority, opportunity, or means;

that exist because of one's position that may harm the state or economic finances.

One way to reduce the corruption is to minimize the opportunity through a whistleblowing system (Zimbelman et. al., 2012). Whistleblowing system is a method that is assumed to be more effective than internal and external audits and internal controls in the form of actions that reveal an illegal, immoral, or illegal practice carried out by internal parties of the organization, both of those who are still members and former members, so that an action can be established (Near and Miceli, 1985; and Sweeney, 2008).

The Circular Letter of Supreme Court Number 4 of 2011 on Treatment of Whistleblowers and Justice Collaborators in Selected Criminal Cases defines the concept of a whistleblower as a party who knows and reports certain crimes and is not a part of the perpetrators of the crime reported. Furthermore, the criminal acts in question can be in the form of criminal acts of corruption, terrorism, narcotics crime, money laundering, trafficking in persons, or other criminal acts which are organized, and endanger the sustainable development and rule of law.

Whistleblowing system is a form of commitment for carrying out a clean and free of corruption governance within an organization (Near and Miceli, 1985; Devine and Maassarani, 2011; Verschoor, 2005; and Sweeney, 2008). Additionally, the whistleblowing system becomes a fraud reporting system in order to provide opportunities for employees or internal parties to submit reports on alleged corruption based on evidence that can be accounted for and with good intentions to increase transparency in the administration of government and service to the community. Besides, the existence of the whistleblowing system will encourage disclosure of irregularities or misuse of authority and improve the supervision system that provides protection to whistleblowers.

Unfortunately, many people are reluctant to disclose violations that occur in

the environment where they work. Before a whistleblower discloses a fraud, he/she must be familiar with any possible risks incurred after carrying out these actions. Also, the whistleblower must be prepared to face the worst possibility which brings a negative impact on his/her future, career, and family (Devine and Maassarani, 2011). Several researches find that there are two reasons to fear for disclosing fraud, that is, the fear where the report submitted will not be kept confidential (Verschoor, 2005) and the fear for receiving threats of retaliation from the offender if their identity is uncovered (Rocha and Kleiner, 2005; Curtis, 2006; Mesmer-Magnus and Viswesvaran, 2005; and Liyanarachchi et. al., 2009). To anticipate such fears, a fraud reporting system that guarantees anonymity and maintains the confidentiality of the whistleblower's identity must be established (Zimbelman et. al., 2012). If it can be accomplished, the whistleblower would provide information regarding frauds that can harm the organization without thinking of threats against the safety of themselves or their families.

3. METHOD

This article analyzes the connectivity of whistleblowing online system between LPSK, KPK, and 17 ministries/institutions that has been established since 2017. The challenges raised in implementing the fraud reporting system are discussed in line with a case at the Ministry of Maritime and Fisheries Affairs, a non-participant of the connectivity of whistleblowing online system. The reason for selecting this case is to provide a different view of how a non-aligned institution within the network undertakes efforts to eradicate corruption through whistleblowing system. The method used in this study is literature study method sourced from research articles, legislative material, and relevant ministry reports.

4. RESEARCH RESULT AND DISCUSSION

Legislation on Whistleblowing System in Indonesia

Legislation on whistleblower started with the ratification of several international convention into laws that include 1) United Nations Convention Against Corruption in 2003 which was ratified through the Law Number 7 of 2006. The article 37 of the convention regulates the obligation of each participating country to consider granting relief or reduction of penalties for perpetrators who provide substantial cooperation in investigation or prosecution of crime. 2) United Nations Convention on Transnational and Organized Crime has been ratified through the Law Number 5 of 2009. In the case specifically for justice collaborators, the convention further stipulates that the participating countries are obliged to consider providing immunity from prosecution for persons who provide substantial cooperation in investigation or prosecution.

Furthermore, several laws and regulations related to the whistleblowing system, among others:

1. The Law Number 28 of 1999 on State Administrator that is Clean and Free from Corruption, Collusion and Nepotism in article 9;
2. The Law Number 31 of 1999 amended by the Law Number 20 of 2001 on Corruption Eradication in article 31 and article 41 paragraph (2) letter (e);
3. The Law Number 15 of 2002 amended by the Law Number 25 of 2003 on Money Laundering in article 39 to 43;
4. The Law Number 13 of 2003 on Manpower in article 153 paragraph (1) letter (h) and article 158 paragraph (1) letter (i);
5. The Law Number 7 of 2006 on Ratification of the United Nations Convention Against Corruption (UNCAC), in article 33 UNCAC;
6. The Law Number 13 of 2006 on Protection of Witnesses and Victims in

article 5 to 10;

7. The Law Number 5 of 2009 on Ratification of the United Nations Convention on Transnational and Organized Crime;
8. The Government Regulation Number 71 of 2000 on Procedures for Implementation of Public Participation in Prevention and Eradication of Corruption in article 2 to 6;
9. The Government Regulation Number 57 of 2003 on Procedures for Special Protection of Whistleblowers and Witnesses on Money Laundering;
10. The Presidential Instruction Number 2 of 2014 on the Action of Prevention and Eradication of Corruption Year 2014;
11. The Presidential Instruction Number 7 of 2015 on the Action of Prevention and Eradication of Corruption Year 2015;
12. The Presidential Instruction Number 10 of 2016 on the Action of Prevention and Eradication of Corruption Year 2016 and 2017;
13. The Circular Letter of Supreme Court Number 4 of 2011 on Treatment of Whistleblowers and Justice Collaborators in Selected Criminal Cases.

Connectivity of Whistleblowing Online System between LPSK, KPK, and 17 Ministries/Institutions

LPSK has an important role in developing a whistleblowing online system in Indonesia. Started back in 2014, through the Presidential Instruction Number 2 of 2014 on the Action of Prevention and Eradication of Corruption Year 2014, LPSK was given a mandate as the institution responsible for implementing a whistleblowing system and resolving integrated public complaints handling in 17 ministries/institutions. The determinant of success in this action is the increasing protection of whistleblowers in the context of eradicating corruption and encouraging disclosure of irregularities or misuse of authority within ministries/agencies.

In the following year, the agency was instructed for a responsible action on the implementation of the whistleblowing system through the Presidential Instruction Number 7 of 2015 on the Action of Prevention and Eradication of Corruption Year 2015. The success criteria that must be satisfied are results of the evaluation of whistleblowing system in ministries/agencies.

In the Action of Prevention and Eradication of Corruption Year 2016 and 2017 through the Presidential Instruction Number 10 of 2016, LPSK was assigned as the institution in charge of optimizing the whistleblowing system by preventing and eradicating corruption in ministries/agencies and the private sector. The criterion of success that must be achieved is the increasing quality of the implementation of the whistleblowing system in 17 ministries/institutions. The climax, in the third quarter of 2017, there has been connectivity between LPSK and 17 ministries/institutions through the application of TEGAS whistleblowing online system that met the needs of ministries/institutions in providing protection for whistleblowers, witnesses, and judicial collaborators in each institution to LPSK.

Despite the growing number of ministers or institutions implement a whistleblowing system, KPK reported three remaining ministries/institutions that did not accept complaints through whistleblowing online system channel. Related to the specificity of complaint reports of corruption, there were nine ministries/institutions that specifically direct the whistleblowing online system for complaints of corruption while the three others did not specifically regulate the matter.

Viewed from the source of the reporting party, there were nine ministries/institutions that specialized in whistleblowing online systems for reporting from internal parties of the organization and there were three that were not directed for internal purposes. In

terms of the anonymity of whistleblowers, there were 10 ministries/institutions that implemented the anonymity of their reporters and two others did not.

Furthermore, KPK applied data exchange with ministries/institutions through the transfer of complaints that should be the domain of the institutions concerned. In 2016, KPK forwarded 19 complaints to Government Internal Supervisory Apparatus (APIP) consisting of the Ministry of Agrarian and Spatial Planning/National Land Agency (one letter); the Ministry of Energy and Mineral Resources (one letter); the Ministry of Education and Culture (one letter); the Ministry of Law and Human Rights (one letter); the Ministry of Religious Affairs (five letters); the Ministry of Health (one letter); the Ministry of Transportation (one letter); the Ministry of Public Works and Housing (one letter); the Ministry of Finance (one letter); the Ministry of Social Affairs (two letters); and the National Police (two letters). KPK also expected that the ministries/institutions would forward the letter to KPK if they found reports involved in the KPK's domain.

Whistleblowing System at the Ministry of Maritime and Fisheries Affairs

The Ministry of Maritime and Fisheries Affairs (KKP) was not one of the ministries/institutions participating in the whistleblowing online system since the Presidential Instruction Number 2 of 2014 on the Action of Prevention and Eradication of Corruption Year 2014. However, it did not imply that KKP did not implement a fraud reporting mechanism through a whistleblowing system. In 2013, KKP issued Ministerial Regulation of the Minister of Maritime and Fisheries Affairs Number 31 of 2013 on Guidelines for Complaint Handling of Whistleblower and Public Complaints in the Minister of Maritime and Fisheries Affairs followed by the Ministerial Decree of the Minister of Maritime and Fisheries Affairs Number 28 of 2014 on Complaints Handling Team of the Minister of Maritime and

Fisheries Affairs and Ministerial Decree of the Minister of Maritime and Fisheries Affairs Number 65 of 2014 on Complaint Handling Secretariat Team of the Minister of Maritime and Fisheries Affairs.

Additionally, Article 3 of the Ministerial Regulation of the Minister of Maritime and Fisheries Affairs Number 31 of 2013 states that "Every employee who sees or knows the alleged abuse of authority, violations of discipline of officials/employees, and/or suspected criminal acts of corruption, collusion, and nepotism in the Ministry must submit a complaint." The public can also submit reports if they see or know about alleged abuse of authority, obstacles in service to the public, and/or allegations of criminal acts of corruption, collusion and nepotism within the Ministry of Maritime and Fisheries Affairs.

Nonetheless, there were still many obstacles at the beginning of the implementation of the whistleblowing system at KKP, among which were the lack of budget support for the management of incoming complaints, lack of trained human resources that handle complaints, handle complaint tasks were still considered additional tasks resulting in a lack of performance of employees to handle the complaints, and complaint management teams have not been established to the level of technical implementation units (UPT).

For those reasons, KKP have continued making improvements starting from integrating of information technology-based complaint management, training and improving the competence of human resources that manage complaints, to implementing transparent and accountable mechanisms and procedures by tiering from the lowest to the highest level of unit.

Still in order to improve the sustainable whistleblowing system, KKP undertook a medium-term action plan divided into three periods. The first period was in December 2017, when KKP integrated the complaints system at the top level and in the area of the Java region; drafting a draft revision of Ministerial Regulation

of the Minister of Maritime and Fisheries Affairs Number 31 of 2013 on Guidelines for Complaint Handling of Whistleblower and Public Complaints in the Minister of Maritime and Fisheries Affairs; drafting Ministerial Decree on Integrated Complaints Handling Team in the the Minister of Maritime and Fisheries Affairs; and implementing an application called LAPOR!-KSP.

In the second period that was from January to March 2018, KKP continued integrating the complaints system in Bali, Sumatra, Kalimantan, Sulawesi, and Papua; finalizing the revision of Ministerial Regulation of the Minister of Maritime and Fisheries Affairs Number 31 of 2013 on Guidelines for Complaint Handling of Whistleblower and Public Complaints in the Minister of Maritime and Fisheries Affairs; and finalizing the draft of Ministerial Decree of the Minister of Maritime and Fisheries Affairs on Integrated Complaints Handling Team in the the Minister of Maritime and Fisheries Affairs.

The last period will be on April to December 2018 which will be completed by disseminating the Ministerial Regulation of the Minister of Maritime and Fisheries Affairs related to Complaints Handling at the Minister of Maritime and Fisheries Affairs; monitoring and evaluating the implementation of the complaints system integration; updating data and appreciating complaints management officers in semester I and II; and initiating whistleblowing system integration in collaboration with KPK and LPSK.

The condition of the whistleblowing system that occurred experienced by KKP in 2016 was quite interesting. It was noted that there were 208 complaints accepted through various channels, namely website at whistleblower.kkp.go.id (13 complaints), TPP secretariat (three complaints), letters (17 complaints), SMS (59 complaints), and e-mail (116 complaints). Of the 208 complaints, only six complaints or 2.88 percent that were suspected of corruption with three cases being sanctioned.

Problems, however, that emerged in 2016 were the lack of coordination between echelon I unit which caused less optimal handling of coming in complaints reports and the lack of human resources for managing complaints. Coordination between echelon I unit in ministries/institutions will be an institutional obstacle in resolving complaint reports that will be experienced by agencies having a lot of separate complaint channels and are also handled separately by each unit. For this reason, an integrated reporting channel is vital starting from the UPT level to the echelon I which involves a special team unit.

Challenges in the Implementation of Whistleblowing Online System in the Government Agencies

The implementation of a whistleblowing online system in the ministries/institutions in Indonesia still leaves a number of questions. The first is related to the security of the whistleblower. There is fear for threat of being transferred to remote areas if an employee reports suspected frauds. It happens a lot in ministries/institutions that have vertical offices up to the district/city level, even worse when the alleged frauds that occur is thought to be capable of causing noise in the office.

A good whistleblowing system must provide protection to whistleblowers by protecting the confidentiality of their identity (Devine and Maassarani, 2011; and Verschoor, 2005). Such protection is provided for those who provide identity and information that can be used to contact them. Although permitted, submission of anonymous reports, or without identity, is not recommended. Anonymous reporting makes it difficult to communicate for follow-up reporting. The whistleblower must also be protected by retaliation from the reported party or organization. The protection includes that from pressures, delaying promotions, dismissals, lawsuits, and physical abuses. It is not only for the whistleblowers themselves but may also be extended to members of their family.

Finally, the next problem is the presence of the opinion of employees who judge a fraud is a natural thing that happens. When a deviant matter, such as budget mark-up or falsification of official travel, has been deemed reasonable by the majority of employees even becoming a source of funding for an office activity, any whistleblowing system will be useless.

5. CONCLUSION

One of the government's commitments to prevent and eradicate corruption in government agencies is by integrating a whistleblowing online system in 17 ministries/institutions with LPSK and KPK. Internal parties who are more aware of the surrounding environmental conditions are expected to actively report any violation that indicates corruption in their organizations. The case in the Ministry of Maritime and Fisheries Affairs, a non-participant of the connectivity of whistleblowing online system, explains that government institution has a strong commitment to develop a whistleblowing system. The connectivity of the whistleblowing online system still leaves some challenges, that is, the security of the whistleblowers including the security from pressures, delaying promotions, dismissals, lawsuits, and physical abuses; and the response to a violation considered reasonable. This paper recommends each government agency to develop a whistleblowing system by considering its effectiveness in disclosing fraud that occurs within their organization. In order for a whistleblowing system to work properly, the organization must ensure the security of its employees to encourage them to report any alleged fraud happening around them. This article is expected to be a lighter that can ignite deeper discussion and research on whistleblowing online system connectivity between government agencies in Indonesia.

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