



## Guarantee for the Protection of Human Rights Against Witnesses Criminal Reporters of Corruption According to the Laws of Witnesses and Victims

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### **Abstract**

The type of research used in this research is normative legal research. Implementation of the protection process for reporting witnesses in the corruption court based on Law of the Republic of Indonesia Number 13 of 2006 concerning Protection of Witnesses and Victims as amended by Law of the Republic of Indonesia Number 31 of 2014 concerning Protection of Witnesses and Victims, the process mechanism hasn't been regulated in detail and completely in practice it cannot be done optimally.

**Keywords:** *Guarantee; Human Rights; Victims*

### **Introduction**

The protection of human rights is the benchmark in this study, so that the human rights of the witnesses who report in the crime of corruption are guaranteed in protecting the principles and principles of human rights as regulated by law. At the level of criminal acts of corruption, it's necessary to understand the root causes of the growth of corruption in Indonesia and the extent to which the protection of human rights of reporting witnesses in cases of corruption in Indonesia will be discussed in this study.

Corruption in Indonesia is widespread and carried out systematically. It's development continues to grow and continues to increase from year to year, both in terms of the number of corruption crimes that have occurred and the amount of state financial losses. Finally, the criminal case of corruption is corruption in the case of Indonesian lobster seeds which will be exported abroad by the Minister of Fisheries and Marine Affairs, where lobster seeds must be developed in Indonesia as a domestic product and productivity which will later be raised for food and restaurant products in the country has been corrupted to be traded and bought and sold abroad.

The criminal act of corruption is also related to the process in criminal court, which also requires finding based on evidence or evidence in the form of witness statements. This is considered important because the success of a criminal justice process depends very much on the evidence that is successfully uncovered or found. The existence of witnesses in the criminal justice process has so far received little attention from the public and law enforcers. (Sharma et al., 2018)

Protection of witnesses and victims is a guarantee of rights provided by the state, so it has implications for the government's obligation to protect the rights of witnesses and victims, both in regulating legal substance and the most important thing is in the application of established norms. Guarantee of rights through legal norms gave birth to Law of the Republic of Indonesia Number 13 of 2006 concerning Protection of Witnesses and Victims (Law on Witnesses and Victims), which is a *lex specialis* for the protection of witnesses and victims in Indonesia.

The protection of human rights for reporting witnesses, especially in granting rights which are considered to be used in the trial process, is a form of appreciation for the witness's own contribution in the trial process. The implication is the emergence of courage in the community in reporting allegations of corruption.(Kleden, 2019)

### **Research Method**

The type of research used in this research in normative legal research.("Does the Existence of Definition Phrase About Human Rights?," n.d.)

### **Discussion**

#### **Forms of Human Rights Protection Against Witnesses Reporting in Corruption Crime.**

The role of witnesses and victims is very central in finding the clarity of legal facts as an effort to reduce the criminality index (crime), the role of witness testimony is very important, especially in crimes classified as *extraordinary crime* and as one of the legal means of evidence listed in Article 184 of the Indonesian Law Criminal Procedure Code (KUHAP).

Article 1 point 8 of the Witness and Victim Law states that protection is all efforts to fulfill rights and provide assistance to provide a sense of security to Witnesses and / or Victims which must be carried out by the Witness and Victim Protection Agency or other institutions in accordance with the provisions of this Law. Several forms of protection of human rights for reporting witnesses in criminal acts of corruption include special treatment for reporting witnesses; Protection of the Right to Security and Personal Data; Protection of Rights to Assets and Life; and Protection of Rights to Written and Oral Information in Corruption Criminal Case Examination.(Bakirci, 2019)

First, special treatment for reporting witnesses, this means that law enforcement officers in conducting investigations into criminal cases always try to obtain witness testimony as the most important evidence, therefore the importance of witness testimony, it's appropriate for a witness to receive special treatment. Moreover, the results of evidence by means of evidence stipulated by law are not sufficient to prove the mistakes of the accused against the defendants. The defendant was released from punishment. On the other hand, if the defendant's guilt can be proven by means of evidence as stated in Article 184 of the Criminal Procedure Code, the defendant must be found guilty. Therefore, the judges must be careful, careful and mature in assessing and considering the problem of evidence.(Maulana, 2017)

Second, Protection of the Right to Security and Personal Data. This implies that there is a need for rights that must be protected in relation to the personal security system possessed by the reporting witness in a criminal act of corruption, because if personal security is protected, there is no physical or psychological threat in the case of the reporting witness's personal data.

Third, protection of the rights to assets and lives. This is considered important because when there is a threat of violence against the assets and lives of an unknown party (thugs) in the form of a

criminal act of corruption, of course it must provide a sense of security and comfort for the reporting witness in a criminal act of corruption. Another concern is that there are other criminal acts related to the threat of violence, such as theft or murder which results in the life of witnesses who report criminal acts of corruption.

Fourth, Protection of the Right to Written and Oral Information in Corruption Criminal Case Examination. Without witnesses who provide information and information obtained from the reporter, the settlement of corruption cases starting from the investigations, investigations, prosecutions and examinations in court will not be carried out as expected. This of course will be very detrimental to society and the government in efforts to prevent and eradicate corruption.

### **Future Legal Guarantee Protection of Human Rights Against Witnesses Reporting in Corruption Crime**

The formation of the law, considering all forms of law, is a consideration of existing basic human values. In this regard, according to what Paton said, rights are individual interests, these interests are not created by the state, because these interests already exist in social life and the state only chooses which ones should be protected. In other words, rights have existed before being stipulated by law, which means that rights are original, the law guarantees through legal certainty as a form of recognition of the principle of legality.(Citranu, 2019)

Regulations on the protection of the rights of reporting witnesses and perpetrator witnesses in criminal acts of corruption, as described above, are quite adequate in the regulatory aspects, this is evidence by changes to several regulations and the birth of several provisions of laws and regulations that guarantee the rights of reporting witnesses and perpetrator witnesses.(“EKSISTENSI JUSTICE COLLABORATOR DALAM TINDAK PIDANA KORUPSI (TINJAUAN YURIDIS PUTUSAN NOMOR: 124/PID.SUS/TPK/2015/PN/JKT.PST),” 2017)

The implementation isn't able to provide the maximum, this can be measured that the reporting party is still lacking the courage to reveal his testimony and the public's misperception that is still strong towards witnesses.(Sunarto, 2016) For this reason, it's necessary to explore the problem in depth to find the right solution for the consideration of the formation of new laws. In general, criminal law functions to regulate and organize community life in order to create and maintain public order.

Legal guarantees in the future in the framework of legal development and human rights for reporting witnesses, so that later it will generate courage and awareness to reveal their testimony and their perceptions of corruption crimes can be done in a number of ways including: (1) Reporting Witnesses as *Justice Collaborators*; (2) Digitalization of Personal Security for Reporting Witnesses.(Rosyida et al., 2019)

First, the Reporting Witness are *Justice Collaborator*. The protection of *justice collaborator* laws in Indonesia is still very weak. This can be seen in terms of: first, the real problem which shows the fact that *justice collaborators* don't get appreciation and protection, and even become suspects and witnesses who report on cases of corruption that they report; and second, material and formal problems in various regulations. *Justice collaborators* in Indonesia also have been made suspects and witnesses to report cases of corruption and have been criminalized for other cases.(Gultom, 2020)

Second, digitization of personal security for reporting witnesses. The need for assurance of certainty and protection of human rights for reporting witnesses in criminal acts of corruption in accordance with the Law on Witnesses and Victims in effect in Indonesia. This guarantee isn't only in formal and material forms, but also the digitization of personal data security for the reporting witness with the awareness of disclosing information and providing information in a criminal act of corruption.(“PERLINDUNGAN HUKUM TERHADAP WHISTLEBLOWER DAN JUSTICE

COLLABORATOR DALAM UPAYA PEMBERANTASAN TINDAK PIDANA KORUPSI,” 2013) The digitization of personal security for reporting witnesses can be in the form of security of personal assets or security of personal identity for witnesses who report criminal acts of corruption. In the end, at the level of upholding the rights of the reporting witnesses, the witnesses still receive guarantees of protection and security in a criminal act of corruption.

### **Conclusion**

Implementation of the protection process for reporting witnesses in the corruption court based on Law of the Republic of Indonesia Number 13 of 2006 concerning Protection of Witnesses and Victims as amended by Law of the Republic of Indonesia Number 31 of 2014 concerning Protection of Witnesses and Victims, the process mechanism hasn't been regulated in detail and completely in practice it cannot be done optimally. The results of the study explain that the Human Rights Protection Process of Reporting Witnesses in Corruption Crimes is carried out by disguising the name or identity of the Reporting Witness with the aim of providing protection and a sense of security to the reporting witness and their family and assets. In fact, this process hasn't been able to provide maximum protection to Reporting Witnesses.

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