

## A MODEL OF LEGAL PROTECTION FOR JUSTICE COLLABORATORS AND WHISTLEBLOWERS IN CORRUPTION CRIMES

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### Abstrak

Artikel ini berfokus pada analisis dan pengembangan konsep perlindungan hukum bagi *justice collaborator* dan *whistleblower* dalam kasus tindak pidana korupsi. Penelitian ini memiliki urgensi mengingat perlindungan terhadap mereka yang berperan penting dalam pengungkapan kejahatan masih belum optimal. Penelitian ini mengidentifikasi celah hukum dalam pengaturan yang ada terkait perlindungan kedua pihak tersebut. Dengan menggunakan pendekatan undang-undang, pendekatan konseptual, dan pendekatan perbandingan hukum, penelitian ini menemukan bahwa perlindungan terhadap *justice collaborator* dan *whistleblower* masih menimbulkan masalah hukum. Hasil penelitian merekomendasikan adanya perlindungan yang lebih komprehensif, tidak hanya saat proses hukum berlangsung, tetapi juga setelahnya. Penghargaan kepada mereka dapat berupa tidak dilakukannya penuntutan atau pemberian hukuman yang lebih ringan. Implikasi dari penelitian ini adalah pentingnya reformasi regulasi untuk meningkatkan perlindungan hukum bagi kedua pihak tersebut.

**Kata kunci:** *Justice Collaborator; Whistleblower; Tindak Pidana Korupsi.*

### Abstract

*This article focuses on analyzing and developing the legal protection concept for justice collaborators and whistleblowers in corruption cases. The urgency of this research lies in the fact that protection for these key figures in crime disclosure remains insufficient. The study identifies legal gaps in the current regulations concerning their protection. Employing statutory, conceptual, and comparative legal approaches, the research reveals that the existing framework for justice collaborators and whistleblowers still faces legal challenges. The findings recommend a more comprehensive protection system, not only during legal proceedings but also after the sentencing. Rewards for their cooperation could include immunity from prosecution or lighter penalties, such as probationary sentencing. The implications of this study highlight the necessity for regulatory reform to enhance legal protection for both justice collaborators and whistleblowers.*

**Keywords:** *Justice Collaborator; Whistleblower; Corruption Crime.*

## INTRODUCTION

Corruption is an act that can damage the life of the nation and state. The increasingly widespread and systematic criminal acts of corruption are also a violation of the social and economic rights of the people. Corruption is an extraordinary crime, crossing national borders and without boundaries. The problem of corruption that is currently being faced is no longer just a national problem for a country but has become a global problem. This is emphasized in the fourth paragraph of the Preamble to the UN Convention on the 2003 United Nations Convention Against Corruption (UNCAC) that “convinced that corruption is no longer a local matter but a transnational phenomenon

that affects all societies and economies, making international corporations to prevent and control it essential".<sup>1</sup>

Corruption comes from the Greek word "corruptio" which means an act that is not good, bad, fraudulent, bribeable, immoral, deviates from sanctity, or violates material, mental, legal, or religious norms. The conditions regarding corruption as an extraordinary crime with inter-professional corruption perpetrators and sophisticated and organized modus operandi are, of course, a big challenge in disclosing and enforcing the law on corruption because it is not uncommon for those caught to be not the main perpetrators. But only the second layer or even executors and even only intermediaries. This means it is common for corruptors seen and proven to be involved in corruption cases as mere accomplices. At the same time, above them, there are still heads who play a large enough role in the practice of corruption or even as big beneficiaries of the proceeds of crime. Obtained. In criminal law, there are 2 (two) purposes of punishment, namely, Special and General Prevention. Special Prevention is the purpose of the law to impact the perpetrators of criminal acts. While General Prevention is an impact that also applies to perpetrators and those who have not committed a crime.<sup>2</sup> In Indonesia, corruption is a crime that receives great attention because it is considered to be very detrimental to the state and society.<sup>3</sup>

Legal provisions for eradicating criminal acts of corruption are regulated in Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes. Various efforts have been made to eradicate criminal acts of corruption. Still, it has been realized that efforts to eliminate corruption are more challenging than turning the palm. The problem of corruption is complex and goes hand in hand with generations, even faster growth than the issue of eradication. In the debate on eradicating corruption, lately, the terms Justice collaborator and Whistleblower are often heard as one approach to eliminating criminal acts of corruption. The terms Justice collaborator and Whistleblower are increasingly well known in Indonesia, especially since the emergence of the cases of Agus Candro, Nazarudin, and the Commissioner General of Police Susno Duadji. The terms Justice collaborator and Whistleblower have different meanings, but there are similarities.<sup>4</sup>

A justice collaborator is a person acting as a witness. The perpetrator who cooperates with the person concerned is one of the perpetrators of a certain crime, admits that the crime committed is not the main actor in the crime, and provides information as a witness

<sup>1</sup> Burhanudin, Burhanudin. "Tindak Pidana Korupsi Sebagai Kejahatan Korporasi." *Jurnal Cita Hukum* 1, no. 1 (2013). <https://doi.org/10.15408/jch.v1i1.2981>.

<sup>2</sup> Budiarsih, Slamet Suhartono, and Ali Ibrohim. "Analisis Terhadap Sanksi Korporasi Pelaku Dumping Limbah Tanpa Izin Perspektif HAM." 04 (2020).

<sup>3</sup> Taufik Rachman, and Lucky Raspati. "Menakar Makna Merugikan Perekonomian Negara dalam Undang-Undang Tipikor." *Nagari Law Review* 4, no. 2 (2021): 225-38.

<sup>4</sup> Hikmawati, Puteri. "Upaya Perlindungan Whistleblower dan Justice Collaborator dalam Tindak Pidana Korupsi." *Negara Hukum: Membangun Hukum Untuk Keadilan dan Kesejahteraan* 4, no. 1 (2016): 87-104. <https://doi.org/10.22212/JNH.V4I1.197>.

in criminal proceedings.<sup>5</sup> In its development, justice collaborators need to get serious attention because they have a key role in disclosing criminal acts of corruption that are difficult for law enforcers to uncover. The key roles possessed by the Justice collaborator include uncovering a crime or the impending occurrence of a crime so that the return of assets from the proceeds of a crime can be achieved to the state, providing information to law enforcement officials, and providing testimony in the judicial process.

In addition to Justice collaborators, there is also the term Whistleblower, someone who reports acts that indicate acts of corruption within the organization where he works. He has access to adequate information on the occurrence of indications of acts of corruption. Whistleblowers are also called whistleblowers, trumpet-beaters, or fact-revealers.<sup>6</sup> Whistleblower arrangements in Indonesia can be found in Government Regulation Number 43 of 2018 concerning Procedures for Implementing Community Participation and Awarding in the Prevention and Eradication of Corruption Crimes, which mentions the definition of a Whistleblower, namely a person who provides information to law enforcement or commissions regarding the occurrence a criminal act of corruption and not a reporter. These criminal organizations' networks are so strong that their people can dominate various sectors of power, be it the executive, legislative, or judiciary, including law enforcement officials. Not infrequently, a syndicate can be uncovered because one of them is a traitor. One of them acts alone as a Justice collaborator or Whistleblower to reveal their crimes to the public or law enforcement officials.

In the context of positive law, the presence of Justice Collaborators and Whistleblowers needs legal protection so that corruption cases can be dismantled on time. But in practice, this condition is not an easy problem because many things need to be studied on how to place Justice Collaborators and Whistleblowers to eradicate corrupt practices because Justice Collaborators and Whistleblowers should receive protection because this has been expressly regulated in Article 33 of the United Nations Convention Against Corruption (UNCAC). The Indonesian nation has ratified this convention through Law Number 7 of 2006 concerning the United Nations Convention Against Corruption Ratification.

The Corruption Eradication Commission is obliged to protect reporters and witnesses who cooperate in uncovering a case of corruption. Even though there is currently a witness and victim protection institution, which is regulated in Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning the Protection of Witnesses and Victims, there is still no legal protection. A witness who is also a suspect in the same case cannot be acquitted of criminal prosecution if he is proven legally and convincingly guilty. Still, his testimony can be used as a judge's consideration in

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<sup>5</sup> Lilik Mulyadi. *Whistleblower dan Justice Collaborator dalam Upaya Penanggulangan Organized Crime*. Bandung: PT Alumni, 2015.

<sup>6</sup> Firman Wijaya. *Whiste Blower dan Justice Collaborator Dalam Perspektif Hukum*. Jakarta: Penaku, 2012.

mitigating the sentence to be imposed. Several cases show that the legal protection for key witnesses who voluntarily assist relevant law enforcers in uncovering corruption crimes is still very weak. This undermines the public's trust and the government's efforts to encourage citizen participation in fighting corruption. Poor legal protection for reporters and key witnesses can also be a negative note for the seriousness of the Indonesian government to fulfill its commitments as a state party to UNCAC.<sup>7</sup>

One of the cases related to key witnesses and whistleblowers is the case of Vincentius Amin Susanto, former Financial Controller of Asian Agri Group, who reported allegations of tax evasion at his workplace. The Vincent case is the most interesting because it involved an insider from the party suspected of committing the crime. Unlike the other issues, Vincent was previously named a suspect in the embezzlement of Rp 28 billion belonging to PT Asian Agri Oil and Fats Ltd in Singapore, a subsidiary of the Asian Agri Group. When he became a suspect and a fugitive, Vincent fled to Singapore, and he had planned to commit suicide and finally surrendered to the Singapore police because he felt his safety was being threatened in Indonesia. Furthermore, Vincent turned himself in and reported the alleged tax evasion by Asian Agri, which allegedly caused losses to the state of at least IDR 1.3 trillion. Vincent's conviction for embezzlement of his company's money went so smoothly. Vincent was charged with cumulative charges of money laundering and forging letters. The decision of the West Jakarta State Court, which found Vincent guilty and sentenced her to 11 (eleven) years in prison, was strengthened by the Jakarta High Court. The attack on Vincent was not just one case. Investigators from Polda Metro Jaya intend to charge Vincent with a non-criminal passport forgery, which he committed around October 2006 in Singkawang, West Kalimantan.

Furthermore, there is the case of Roni Wijaya, a key witness who contributed to uncovering the Hambalang P3SON project corruption scandal when this press release was issued, he was undergoing the detention process at Cipinang Prison, becoming a defendant and undergoing trial at the South Jakarta District Court. The criminalization of Roni Wijaya occurred even though Roni Wijaya had received legal protection from the KPK. However, investigators at the Directorate of Law Enforcement, the Directorate General of Taxes, the Ministry of Finance, and the Attorney General of the Republic of Indonesia ignored this matter, who said that Roni Wijaya was a witness protected by the KPK because he had good faith in helping the KPK uncover criminal acts of corruption involving PT. Ambassador Citralaras. Not only was the backlash in the form of criminalizing Roni Wijaya also experienced extortion by the prosecutor who handled the Roni Wijaya case, namely on behalf of Martono, S.H., M.H., (Head of the Sub-Directorate for Tax Crimes and Money Laundering Crimes at the Directorate of Prosecution of the Junior Attorney General for Crimes Special Attorney General) and Seremita Purba, S.H., M.H., (Prosecutor at the Attorney General's Office of the Republic of Indonesia). The two

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<sup>7</sup> Zhelin Armeta, Nashriana Nashriana, and Suci Flambonita. "Penerapan Justice Collaborator dalam Penyelesaian Tindak Pidana Korupsi oleh Komisi Pemberantasan Korupsi." *Journal Unsri* (2021).

prosecutors blackmailed Roni Wijaya so that the delegation to stage two (the prosecutor's stage) was postponed.<sup>8</sup>

Then, the case of the defendant Abdul Khoir in the bribery case for the infrastructure project of the Ministry of PUPR in Maluku. The public prosecutor from the KPK initially demanded that the defendant be imprisoned for 2 years and 6 months. Still, the panel of judges sentenced the defendant to a sentence exceeding the prosecutor's demands, namely a prison sentence of 4 years. The investigators have named the defendant Abdul Khoir as a Justice collaborator, and the public prosecutor in his charges has requested that the panel of judges consider the Justice collaborator's determination as a mitigating sentence for the defendant.<sup>9</sup>

The regulation of Justice Collaborators in the legislation in Indonesia is still not regulated clearly and in detail.<sup>10</sup> Several decisions and judges in trying cases of Justice collaborators and Whistleblowers are guided by the Supreme Court Circular Number 04 of 2011 concerning the Treatment of Whistleblowers and Witness Collaborators in Certain Crime Cases. In the Supreme Court Circular Number 04 of 2011 concerning Treatment for Whistleblowers and Witness Collaborators in Certain Crime Cases. A person can be categorized as a Justice collaborator if he is not the main actor, but in the case above, the judge considers him the main actor in the crime he committed. Of course, there are various understandings in the context of the case between investigators and public prosecutors, and judges in determining whether a person can be categorized as a Justice collaborator.

The desire and courage of the perpetrators to become Justice collaborators or Whistleblowers in a corruption case should be appreciated, preferably by providing guarantees of legal protection not only for witness witnesses but also for their families. There is also a need for awards given by law enforcers to witness perpetrators in the form of granting relief punishment. To realize this, it is necessary to have a government policy to protect justice collaborators or whistleblowers through the basis of reports submitted on any crime. This protection is essential because it is not impossible for the reporter or discloser of the practice of the crime to be faced with a situation that threatens himself and his family, also threatens his job if the reporter is a subordinate at work, and so on.

The results of previous research and several previous studies are relevant to this research. (1) Research conducted by Abdul Haris Semendawai, with the research title "Determining the Status of Justice Collaborators for Suspects or Defendants in a Human Rights Perspective" focuses on determining the status of Justice Collaborators from a

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<sup>8</sup> Haris Azhar, and Nurkholis Hidayat. "Habis Manis Sepah Dibuang: Cerita Nasib Buruk Yang Menimpa Roni Wijaya Sebagai Whistleblower Kasus Korupsi Proyek Hambalang." *Lokataru* (2020).

<sup>9</sup> Ariyanti, Dwi Oktafia, and Nita Ariyani. "Model Pelindungan Hukum Terhadap Justice Collaborator Tindak Pidana Korupsi di Indonesia." *Jurnal Hukum Ius Quia Iustum* 27, no. 2 (2020): 328-44. <https://doi.org/10.20885/iustum.vol27.iss2.art6>.

<sup>10</sup> Muhammad Junaidi, Amri Panahatan Sihotang, Bahrudin Machmud, and Kukuh Sudarmanto. "Reposisi Kedudukan Justice Collaborator dalam Upaya Pemberantasan Tindak Pidana Korupsi." *USM Law Review* 4, no. 1 (2021).

human rights perspective.<sup>11</sup> (2) Research conducted by Ismaya Dwi Agustina, Muklis Suhendro, and Ricky Rahman, with the research title “The Role of Justice Collaborators in Criminal Cases” focuses on the implementation of legal protection for justice collaborators in criminal cases.<sup>12</sup> (3) Research conducted by Gilang Lagaida, with the research title “A Study of Justice Collaborator Policies about Remission Services” focuses on justice collaborator policies contained in Government Regulation Number 99 of 2012 which regulates tightening remissions for convicts.<sup>13</sup> From the search results, it was not found to specifically write about legal protection for Justice collaborators and Whistleblowers in corruption crimes.

The role of witnesses as Justice collaborators is very important in the context of the process of eradicating corruption, because the Justice collaborators themselves are none other than people involved in the crime or minor actors in the network of these crimes which are used to reveal the brains of the bigger perpetrators so that the crime can be completed and does not stop at just the perpetrators who play a minimal role in the criminal act of corruption.<sup>14</sup> Thus, it becomes the reason for writing the law in this article with the formulation of the problem, namely how is the urgency of legal protection for Justice collaborators and Whistleblowers in criminal acts of corruption.

## METHOD RESEARCH

This research is legal research. Legal research is finding legal rules, principles, and doctrines to answer legal issues.<sup>15</sup> The problem approach in this study uses 3 (three) types of procedures, namely: the statute approach, the conceptual approach, and the comparative approach.

## RESULTS AND DISCUSSION

### Problems in Legal Arrangements for Justice Collaborators and Whistleblowers in Corruption Crimes

Etymologically, Justice collaborator comes from the word justice which means justice, justice, and judge.<sup>16</sup> Meanwhile, collaborator means a friend of cooperation or

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<sup>11</sup> Abdul Haris Semendawai. “Penetapan Status Justice Collaborator bagi Tersangka atau Terdakwa dalam Perspektif Hak Asasi Manusia.” *PJIH* 3, no. 3 (2016). <https://jurnal.unpad.ac.id/pjih/article/view/10354> (accessed March 3, 2024).

<sup>12</sup> Ismaya Dwi Agustina, Muklis Suhendro, and Ricky Rahman. “Peranan Justice Collaborator Dalam Perkara Pidana.” *Ejurnal Uniyos* 2, no. 1 (2018).

<sup>13</sup> Gilang Lagaida. “Kajian Tentang Kebijakan Justice Collaborator dalam Kaitannya dengan Pelayanan Pemberian Remisi.” *Nusantara* 8, no. 3 (2021).

<sup>14</sup> Jacob David Palekahelu, Krisnadi Nasution, and Otto Yudianto. “Perlindungan Hukum Terhadap Saksi Pelaku yang Bekerjasama dalam Perkara Tindak Pidana Korupsi.” *Jurnal Yustitia* 21, no. 1 (2020).

<sup>15</sup> Peter Mahmud Marzuki. *Penelitian Hukum*. Jakarta: Kencana, 2017.

<sup>16</sup> I.P.M. Ranuhandoko. *Terminologi Hukum Inggris Indonesia*. Ketiga ed. Jakarta: Sinargrafika, 2003.

cooperation.<sup>17</sup> Then, the term Whistleblower in English is defined as "whistleblower" why is it called that, because it is like a referee in a sports match, who blows the whistle as a disclosure of the fact that there is an error or the occurrence of a violation. In the Supreme Court Circular Letter Number 04 of 2011 concerning Treatment for Whistleblowers and Witness Collaborators in Certain Crime Cases, it is stated that a reporter of a crime is a person who knows and reports a crime that is not part of the perpetrator. The crime he noted that a cooperating actor (justice collaborator) is one of the perpetrators of a particular crime, regarding the crime he committed, he is not the main actor in the crime and provides information as a witness in the trial process.

In Indonesia, witnesses who are also perpetrators are known by several terms, namely: (1) Witnesses for suspects; (2) Collaborating Witnesses; and (3) Crown Witnesses. A person can be said to be a Whistleblower if he meets two criteria: (1) A Whistleblower submits or discloses a report to the competent authority, the mass media, or the public. In this way, it is hoped that the alleged crime can be uncovered; (2) A Whistleblower is an insider, that is, a person who discloses allegations of violations and crimes that have occurred at his place of work or where he is.<sup>18</sup>

Juridically, the term Justice collaborator can be found in Supreme Court Circular 04 of 2011 concerning the Treatment of Whistleblowers and Witness Collaborators in certain criminal cases. In the circular letter, it is formulated that a Justice collaborator is a perpetrator of a certain crime, but not the main actor, who admits his actions and is willing to be a witness in the judicial process. In the joint Decree between the witness and Victim Protection Agency, the Attorney General's Office, the Police of the Republic of Indonesia, the KPK, and the Supreme Court, a Justice collaborator is a witness who is a perpetrator of a crime who wants to cooperate with law enforcement officials to dismantle a case and even return assets. From the crime of corruption if the investment is in him. As for how to determine a person can be defined as a Justice collaborator following the Supreme Court Circular Letter Number 04 of 2011 concerning Treatment for Whistleblowers and Witness Collaborators in Certain Crime Cases, namely:

1. The person concerned is one of the perpetrators of a particular crime;
2. Confessing the crime he committed;
3. Not the main perpetrator in the crime; and
4. Provide information as a witness in the judicial process.

The protection regulations for being a Whistleblower and a Justice collaborator have different protections from each other. In the provisions of Article 10 of Law Number 13 of 2006 concerning the Protection of Witnesses and Victims, it is stated that a Whistleblower cannot be prosecuted criminally and civilly for reports, testimony that will be being or has been given. Meanwhile, a Justice collaborator or witness in the same case cannot be

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<sup>17</sup> John M. Echols and Hassan Shadily, *Kamus Inggris Indonesia* (Jakarta: Gramedia Pustaka Utama, 2005).

<sup>18</sup> Abdul Haris Semendawai. *Memahami Whistle Blower*. Jakarta: Lembaga Perlindungan Saksi dan Korban (LPSK), 2011.

acquitted of criminal charges if proven legally and convincingly guilty. However, related to his testimony can be used as a judge's consideration in mitigating his sentence.

Previously, Justice collaborators and whistleblowers were regulated in Law Number 13 of 2006 concerning the Protection of Witnesses and Victims. However, with time and in its implementation, deficiencies still needed to be found in holding the protection of witnesses. There are still many areas for improvement in the regulation regarding the role of Justice collaborators in its performance due to the different interpretations of this Article by the public and law enforcement officials themselves. This weakness can be seen from: (1) the role of the cooperating actor must be in court; (2) the scope of the cooperating actors; (3) the provision of uncertain protection; (4) unclear requirements; (5) limited awards; (6) there is no certainty in awarding.<sup>19</sup>

In its development, the Supreme Court provided instructions through the Supreme Court Circular Number 04 of 2011 concerning Treatment for Whistleblowers and Witness Collaborators in Certain Crime Cases and Joint Regulations of the Minister of Law and Human Rights of the Republic of Indonesia, Attorney General of the Republic of Indonesia, Head of the National Police of the Republic of Indonesia, Corruption Eradication Commission of the Republic of Indonesia, Chairman of the Indonesian Witness and Victim Protection Agency on Protection for Complainants, Reporting Witnesses and Collaborating Witnesses. However, these regulations still have drawbacks, namely the nature of the rules themselves, which are only in the form of circulars that are interpreted to be followed or not followed, depending on the subjectivity of the law enforcers themselves.

The existence of the problems mentioned above, especially those contained in Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning the Protection of Witnesses and Victims, determines the definition of witnesses and witness witnesses as stated in Article 1, namely: (1) Witnesses are is a person who can provide information for investigation, investigation, prosecution, and examination before a court of law regarding a crime that he heard about, saw himself and experienced himself. (2) Perpetrator Witnesses are suspects, defendants, or convicts who cooperate with law enforcement to uncover an act in the same case.

In providing better legal protection guarantees to Justice collaborators and Whistleblowers, Article 10 of Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning the Protection of Witnesses and Victims states that, in essence, witnesses, victims, witnesses, and/or the reporter cannot be prosecuted both criminally and civilly, but in good faith. Then, Article 10A of the Law states, in essence: (1) Witnesses can be given special treatment in the examination process and appreciation for the testimony given. (2) Special handling, as referred to in paragraph (1), is in the form of a. separation of places of detention or places of serving a crime between the Witnesses and suspects, defendants, and convicts whose crimes have been disclosed; b. separation

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<sup>19</sup> Supriyadi Widodo Eddyono. "Prospek Penggunaan Pelaku yang Bekerjasama di Indonesia." 1 (2011): 104-8.



of filings between the dossiers of the perpetrator witnesses and the dossiers of suspects and defendants in the investigation and prosecution of the criminal acts they disclosed; and c. testify before the court without dealing directly with the defendant whose crime was revealed. (3) The award for the testimony, as referred to in paragraph (1), is in the form of: a. relief from sentencing; or b. conditional release, additional remissions, and other convict rights under the provisions of the laws and regulations for Perpetrator Witnesses with convict status. (4) In order to obtain an award in the form of a reduced criminal conviction, as referred to in paragraph (3) letter a, the LPSK shall provide a written recommendation to the public prosecutor to be included in its charge to the judge. (5) To obtain awards in the form of parole, additional remissions, and other convict rights as referred to in paragraph (3) letter b, the LPSK shall provide a written recommendation to the minister administering government affairs in the field of Law.

Furthermore, it is explained in Article 5 paragraph (2) Government Regulation Number 71 of 2000 concerning Procedures for Implementing Community Participation and Giving Awards in the Prevention and Eradication of Corruption Crimes which regulates the rights and protection of each witness and reporter, if in the investigation and During the investigation, there is strong evidence of the involvement of the person concerned in a criminal act of corruption, so the person concerned is not given the protection of legal status but is still given protection in the judicial examination process.

Article 41 paragraph (2) letter e of Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Criminal Acts of Corruption. In essence, it explains that people who play a role in helping efforts to eradicate and prevent criminal acts of corruption are entitled to legal protection. KUHAP has included provisions regarding protecting the human rights of suspects or defendants.<sup>20</sup> However, the Criminal Procedure Code does not explicitly regulate legal protection for Justice collaborators and Whistleblowers.

In its development so far, regulations governing protection for Justice collaborators and Whistleblowers are only contained in Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning the Protection of Witnesses and Victims and Supreme Court Circular Letter Number 04 of 2011 concerning Treatment For Whistleblowers and Witnesses Who Collaborate (Justice Collaborators) in Cases of Certain Crimes.<sup>21</sup> Even though protection for Justice collaborators and Whistleblowers has been regulated in Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning the Protection of Witnesses and Victims, this Law only regulates special handling in the process of examining Justice collaborators and Whistleblowers who are separated from suspects, defendants, and convicts whose crimes have been

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<sup>20</sup> and Syahrul Alamsyah Adwi Mulyana Hadi, Anik Iftitah, "Restorative Justice Through Strengthening Community Legal Culture in Indonesia: Challenges and Opportunity," *Mulawarman Law Review* 8, no. 1 (2023), <https://doi.org/https://doi.org/10.30872/mulrev.v8i1.1140>.

<sup>21</sup> Anik Iftitah, ed., *Perkembangan Hukum Pidana Di Indonesia* (Sada Kurnia Pustaka, 2023), <https://sadapenerbit.com/2023/10/23/perkembangan-hukum-pidana-di-indonesia/>.

disclosed, as well as awards for the testimony given. This award is given as relief from criminal imposition or in the form of parole, additional remissions, and other convict rights.

Protection for Justice collaborators and Whistleblowers is currently new in the form of physical and psychological protection, special handling, legal protection, and awards. There are no specific, clear, and definite regulations regarding protecting a Justice collaborator. The status quo triggers perpetrators who will testify as Justice collaborators to uncover corruption cases to be reluctant to give their statements because they consider that there is no certainty of optimal rewards and protection.

### **The Urgency of Legal Protection for Justice Collaborators and Whistleblowers in Corruption Crimes**

Corruption is an activity carried out to enrich oneself or a group, where this activity violates the law because it has harmed the nation and state. Various developments in the mode of operation in committing criminal acts of corruption have succeeded in hampering the law enforcement process because the legal rules that form the basis for preventing and eradicating criminal acts have not been adapted to the needs of law enforcers against corruption. Prevention of criminal acts of corruption has become a necessity to be carried out because the wounds suffered by the public cannot be completely healed. In eradicating criminal acts of corruption, the role of honest, professional, and integrity law enforcement officials is needed. The role of an investigator is very important to find evidence related to state losses which are the initial evidence for alleged corruption.<sup>22</sup>

Losses resulting from unrevealed corruption cases may be insignificant. One reason is the lack of evidence of witness testimony. Success in solving a crime is highly dependent on the testimony of witnesses who have been uncovered. In resolving corruption, especially about witnesses, not a few stops in the middle of the road because this is due to the absence of witnesses who can support the duties of law enforcement. The witness feels reluctant to give true testimony because he may receive threats or intimidation from the perpetrators of the crime.

In such a situation, of course, law enforcement officials, be it the police, the prosecutor's office, or even the Corruption Eradication Committee, will experience problems in uncovering the perpetrators who play a very large role in corruption cases due to a large amount of power possessed by the alleged main actors, or the lack of evidence and information that can reveal who the main actors are because of the lack of participation or activeness of the perpetrators who have been caught to disclose information and data supporting the development of the intended investigation. Therefore, in practice, there are many law enforcement in organized crime. It is not uncommon to take an approach through the determination of witness witnesses who

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<sup>22</sup> Adami Chazawi. *Hukum Pidana Korupsi di Indonesia*, edisi revisi. Yogyakarta: PT RajaGrafindo Persada, 2016.

cooperate with law enforcement, as happened in narcotics crimes, transnational crimes, money laundering, and terrorism, and is no exception with corruption crime.<sup>23</sup> Efforts to tackle corruption, which includes organized crime in Indonesia, really need the important role of Justice collaborators and Whistleblowers.<sup>24</sup>

In addition to implementing the strategy of determining Justice collaborators, another thing that is also necessary to increase the participation and role of the community in uncovering a case of corruption is involving the community to report any corrupt practices they know about to realize this, and it is necessary to have a policy of protection against Whistleblowers or revealers of corruption cases through submitted reports.

Juridically, the arrangements regarding Justice collaborators and Whistleblowers have been regulated in the provisions of Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning the Protection of Witnesses and Victims, United Nations Convention Against Corruption (UNCAC), Law Number 20 of 2006. 2001 concerning Amendment to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes, Law of the Republic of Indonesia Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning the Corruption Eradication Commission, Law of the Republic of Indonesia Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes, Joint Regulation of the Minister of Law and Human Rights of the Republic of Indonesia, the Attorney General of the Republic of Indonesia, the Head of the Indonesian National Police, the Corruption Eradication Commission of the Republic of Indonesia, the Chairperson of the Indonesian Witness and Victim Protection Agency Number: M.HH-11.HM..03.02.th. 2011 Number: PER-045/A/JA/12/2011, Number: 1 of 2011, Number: KEPB-02/01-55/12/2011 Number: 4 of 2011 Concerning Protection for Complainants, Reporting Witnesses and Perpetrator Witnesses Cooperation, and Circular of the Minister of Administrative Reform and Bureaucratic Reform of the Republic of Indonesia Number: 08/M.PAN-RB/06/12 dated 29 June 2012 concerning the Complaint Handling System (Whistleblower System) for Corruption Crimes within Ministries/Agencies and Regional Governments.

The policy of handling and giving special treatment to Justice collaborators and Whistleblowers has been put into effect since 2003 until now. However, there are still various problems faced with maximum efforts to carry out handling in disclosing a specially organized crime, such as corruption cases. The existence of Justice collaborators and Whistleblowers is very strategic in uncovering crimes that have an organized nature, and it is not uncommon for these countries to give awards to those who are willing to cooperate with law enforcement officials. One aspect of giving the award is to provide leniency for Justice collaborators.

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<sup>23</sup> Lilik Mulyadi. *Whistleblower dan Justice Collaborator dalam Upaya Penanggulangan Organized Crime*. Bandung: PT Alumni, 2015.

<sup>24</sup> Esti Kanti Pertiwi, and Noor Rahmad. "Tinjauan Norma Hukum Justice Collaborator dan Whistleblower Pada Tindak Pidana Korupsi." *PERSPEKTIF* 25, no. 2 (2020).

In Indonesia, legally, there is a space for awarding justice collaborators who work with law enforcement officials to disclose intellectual brains or the main key in an organized crime, namely corruption. However, in practice, it often creates difficult or reversed conditions. Furthermore, this is reflected in the decision on a case involving the former chairman of the Regional Representatives Council and Damayanti Wisnu Putranti, a former member of the House of Representatives. In the case involving the two national political figures, the judge in deciding the case referred to did not distinguish between the main actor and the witness actor who collaborated with law enforcement officials, even though, according to the public prosecutor, the elements of a person who could be imposed on witness perpetrators who cooperated had been fulfilled. In their decision, the panel of judges sentenced Irman Gusman to 7 (seven) years in prison and Damayanti Wisnu Putranti to 4 (four) years.<sup>25</sup>

Justice collaborators can only receive awards by obtaining a written recommendation from the witness and victim protection agency, which will later be given to law enforcers who handle the legal process. Success in the examination stage of a criminal case will affect the success or failure of the examination in court in the future.<sup>26</sup> So there needs to be hard work from law enforcers in handling criminal acts and determining whether or not someone can become a Justice collaborator.

From several existing problems related to the handling of Justice collaborators and Whistleblowers, which is very urgent, the regulation regarding Justice collaborators and Whistleblowers should be included in the revision of the Criminal Procedure Code. Bearing in mind that the Criminal Procedure Code is part of the formal criminal law instruments that determine various procedural examinations of cases in the criminal justice system in Indonesia. Because witness and victim protection institutions are not included in the criminal justice system, the problem arises regarding recommendations that receive less consideration from law enforcement because they have two options. Namely, they may be considered or not considered.<sup>27</sup> Legal protection arrangements for Justice collaborators and Whistleblowers must be included in the revision of the Criminal Procedure Code. This is because many institutions have the authority to receive and handle reports from a Justice collaborator and Whistleblower. It is necessary to affirm each institution's authority, functions, and duties in the procedures for handling and providing protection for Justice collaborators and Whistleblowers through the revision of the Criminal Procedure Code. Suppose these provisions are included in the revision of the Criminal Procedure Code. In that case, they can become solid guidelines and foundations for law enforcers in protecting justice collaborators, considering that the

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<sup>25</sup> Puluhalawa, Moh Danial, Fenty U Puluhalawa, and Dian Ekawaty Ismail. *Anotasi Perlindungan Hukum Whistleblower dan Justice Collaborator dalam Upaya Pemberantasan Tindak Pidana Korupsi*. LVI, 2020.

<sup>26</sup> M. Yahya Harahap. *Pembahasan Permasalahan dan Penerapan KUHAP, Pemeriksaan Sidang Pengadilan, Banding, Kasasi, dan Peninjauan Kembali*. Edisi kedua. Jakarta: Sinar Grafika, 2009.

<sup>27</sup> Muhammad Iqbal Lubis. "Pelindungan Hukum Terhadap Justice Collaborator dalam Hukum Pidana di Indonesia." *USU Law Journal* 7 (2019): 61.

Criminal Procedure Code is a formal guideline that is binding and imperative. For law enforcement agencies.

A person in his lawsuit can be classified as a Justice collaborator or not, as long as he adheres to the Circular Letter of the Supreme Court of the Republic of Indonesia Number 4 of 2011 concerning Treatment for Whistleblowers and Witnesses who cooperate (Justice collaborators) in certain criminal cases. Supreme Court Circular Letter Number 04 of 2011 concerning Treatment for Whistleblowers and Witness Collaborators in Certain Criminal Cases is an internal rule that judges can use if the provisions regarding the case to be decided have not been regulated in the statutory regulations.<sup>28</sup> The Applicability of Supreme Court Circular Letter 04 of 2011 concerning Treatment for Whistleblowers and Witness Collaborators in Certain Crime Cases is limited to courts, therefore other law enforcement is still not some laws and regulations provide detailed protection for Justice Collaborators and Whistleblowers. Even though the common perception between law enforcers so that there is no overlap is important so that the protection of Justice collaborators and Whistleblowers is realized optimally.

Concerning other law enforcers, a Joint Regulation has been agreed upon between the Minister of Law and Human Rights, the Attorney General, the National Police Chief, the Corruption Eradication Commission, and the Head of the LPSK Number: M.HH-11.HM.03.02. Th. 2011 Number: PER-045/A/JA/12/2011, Number: 1 of 2011, Number: KEPB-02/01-55/12/2011, Number 4 of 2011 concerning Protection for Complainants, Reporting Witnesses and Perpetrator Witnesses Cooperate, formed to set the equation of perception. There are 4 (four) main things are regulated, namely physical and psychological protection, legal protection, special handling, and obtaining awards. All of these rights can be obtained if the approval of law enforcement is obtained. Besides that, placing protection for Justice collaborators and Whistleblowers into the revision of the Criminal Procedure Code is the application of one of the objectives of formal criminal law, namely to protect the rights and freedoms of people and citizens.

This differs from countries that provide complete legal protection arrangements for Justice collaborators and Whistleblowers, such as the United States, the Netherlands, and Germany. The explanation will be explained as follows:

#### **1. Justice Collaborator Arrangements in the United States**

The United States of America has a witness protection agency called witness security (WITSEC). Its legal basis is the Witness Protection Act 1984 (the Witness Protection Act). In this law, the United States protects the physical security of witnesses who are at risk by placing a new and secret residence through new housing names and identity details. The Witness Protection Reform Act of 1984 (Witness Protection Act 1984) also regulates the types of witnesses who qualify for witness protection programs where there are implications in procedures and administration, such as ordinary witnesses, divided into witnesses within the federal sphere and local scope within the US.

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<sup>28</sup> Ahmad Yunus. "Penetapan Pelaku Tindak Pidana Korupsi Sebagai Justice Collaborator Dalam Praktik." 24 (2017): 4765.

Marshal Service. Witnesses with detainee status fall within the scope of the US Marshal Bureau of Prisons. Witnesses with foreign status under the auspices of the US Marshal Service Immigration Office, convict status under the auspices of the US Marshal Bureau of Prisons, and witnesses with the status of informants or informants who are included in a program under the auspices of the US Marshal Service. As for the awarding of rewards given by law enforcers to Justice Collaborators, namely:

- a. Non-target letters are letters provided by prosecutors for investigative witnesses. Non-target letters are used at the beginning of an investigation and are given only to those who have minimal involvement in criminal acts, especially in cases involving multiple parties, where usually the witness has knowledge of criminal acts but is worried about cooperating with law enforcement for fear of involved in the prosecution.
- b. No-prosecution agreement, namely an agreement not to charge a witness for a particular crime that occurred in exchange for full cooperation and honest testimony.
- c. Immunity in certain circumstances is used as a reward for a witness who is under oath, whether in front of investigators, a jury, or in court.
- d. Collective agreement (plea agreement) as part of a bargain (plea bargain), in which the accused must first plead guilty to one or more crimes committed.

## **2. Justice Collaborator Arrangements in the Netherlands**

Protecting justice collaborators in the Netherlands use Witness Agreements/Witness Agreements, namely agreements between the Public Prosecutor and witnesses, to provide testimony in exchange for rewards such as leniency. Nevertheless, the witness agreement instrument for fighting crime is not widely used in the administration of Dutch criminal justice. The provisions of this witness agreement are contained in the Dutch Criminal Procedure Code Title III, Section 4B-4D (Article 226g-226l of the CCP). The importance of information, evidence, and testimony provided by Collaborating Witnesses is a major factor in granting status as a Justice Collaborator. In the Netherlands, the principle of making perpetrator witnesses as Justice Collaborators is known as the principle of subsidiarity. In the Netherlands, witnesses who agree with the Public Prosecutor cannot testify anonymously. This is very important to ensure adequate physical protection for witnesses. When the public prosecutor is negotiating with the witness, he may introduce the witness to the witness protection service to assess the need for physical protection measures for the witness (Article 226l CCP) in the event of an agreement between the witness and the witness protection service regarding the terms and conditions for the physical protection of the witness and generally some members of his family as well. The type of protection can vary from a new identity to a new home in another city or country or even a new look if necessary even with plastic surgery.

## **3. Justice Collaborator Arrangement in Germany**

Witnesses for perpetrators in Germany are called state witnesses (*staatszeugen*) or better known as *kronzeugen*, where the information provided by *kronzeugen* is used to uncover other actors involved in organized crime. Its legal basis is the *Zeugenschutz-harmonisierungsgezet* (Harmonization of Witness Protection Act). The forms of protection that can be provided are:

- a. The witness is given an interlocutor so that the witness can tell about the state of danger that is currently engulfing him;
- b. Assistance for self-defense is provided with security for oneself;
- c. Supervision of witnesses and protection of witnesses' assets;
- d. guard according to the residence of the witness;
- e. Operational measures for potential attackers;
- f. New residential area;
- g. New identity; for the sake of maintaining the safety of witnesses after helping the state disclose information on criminal acts;
- h. Change in appearance; to protect the witness' life in extreme cases, the witness is given financial assistance to change his face through surgery; and
- i. Separation of places of detention.

Thus, the regulation of Justice collaborators and Whistleblowers is inadequate concerning legal protection and rewarding actors who have collaborated with law enforcement to dismantle a corruption case. Rewards and punishments regulation for a whistleblower and justice collaborator need to be formulated by referring to the conceptual distinction between these two terms. Assuming a whistleblower is a person that provides reports or testimonies regarding an alleged criminal act to law enforcement officials, then a justice collaborator is a culprit that reveals a crime. The conceptual distinction, rewards, and punishments for both parties are different. For a whistleblower that dares to reveal a criminal case, inherent government agencies, particularly committed by their superiors, affect the importance of a wider community. The rewards need to be in the form of promotion that report embezzled taxes, either in the form of money or goods, need to be in the form of promotion to the director of a company to prevent fraudulent activities.<sup>29</sup>

## CONCLUSION

The results of this study found that the regulation regarding Justice collaborators and Whistleblowers still cause problems. The urgency of legal protection for Justice collaborators and Whistleblowers in cases of criminal acts of corruption is an urgent need for Indonesian law because a Justice collaborator and Whistleblower is a person who has the potential to receive physical and non-physical threats because he has worked with law enforcement to uncover an extraordinary crime, in this case, the case of corruption. In

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<sup>29</sup> Mahrus Ali. "Reward and Punishment for Whistleblower and Justice Collaborator in Indonesia: A Regulatory Analysis." *International Journal of Law and Politics Studies* (2023).

the future, it is necessary to regulate the protection and rewards for Justice collaborators and Whistleblowers to be formulated in a special law or regulation or formulated through an article provision contained in several regulations related to Justice collaborators and Whistleblowers. The form of legal protection for Justice collaborators and Whistleblowers is not only personal protection but also for their families. As a form of appreciation for Justice collaborators and Whistleblowers, there is no need to carry out a prosecution process or only be released from light punishment in the form of imposition of probation as it is known in The United States, The Netherlands, and Germany.

## REFERENCES

- Abdul Haris Semendawai. *Memahami Whistle Blower*. Jakarta: Lembaga Perlindungan Saksi dan Korban (LPSK), 2011.
- — —. “Penetapan Status Justice Collaborator bagi Tersangka atau Terdakwa dalam Perspektif Hak Asasi Manusia.” *PJIH* 3, no. 3 (2016). <https://jurnal.unpad.ac.id/pjih/article/view/10354> (accessed March 3, 2023).
- Adami Chazawi. *Hukum Pidana Korupsi di Indonesia*, edisi revisi. Yogyakarta: PT RajaGrafindo Persada, 2016.
- Adwi Mulyana Hadi, Anik Iftitah, and Syahrul Alamsyah. “Restorative Justice Through Strengthening Community Legal Culture in Indonesia: Challenges and Opportunity.” *Mulawarman Law Review* 8, no. 1 (2023). <https://doi.org/https://doi.org/10.30872/mulrev.v8i1.1140>.
- Ahmad Yunus. “Penetapan Pelaku Tindak Pidana Korupsi Sebagai Justice Collaborator Dalam Praktik.” 24 (2017): 4765.
- Ariyanti, Dwi Oktafia, and Nita Ariyani. “Model Pelindungan Hukum Terhadap Justice Collaborator Tindak Pidana Korupsi di Indonesia.” *Jurnal Hukum Ius Quia Iustum* 27, no. 2 (2020): 328–44. <https://doi.org/10.20885/iustum.vol27.iss2.art6>.
- Budiarsih, Slamet Suhartono, and Ali Ibrohim. “Analisis Terhadap Sanksi Korporasi Pelaku Dumping Limbah Tanpa Izin Perspektif HAM.” 04 (2020).
- Burhanudin, Burhanudin. “Tindak Pidana Korupsi Sebagai Kejahatan Korporasi.” *Jurnal Cita Hukum* 1, no. 1 (2013). <https://doi.org/10.15408/jch.v1i1.2981>.
- Esti Kanti Pertiwi, and Noor Rahmad. “Tinjauan Norma Hukum Justice Collaborator dan Whistleblower Pada Tindak Pidana Korupsi.” *PERSPEKTIF* 25, no. 2 (2020).
- Firman Wijaya. *Whiste Blower dan Justice Collaborator Dalam Perspektif Hukum*. Jakarta: Penaku, 2012.
- Gilang Lagaida. “Kajian Tentang Kebijakan Justice Collaborator dalam Kaitannya dengan Pelayanan Pemberian Remisi.” *Nusantara* 8, no. 3 (2021).
- Haris Azhar, and Nurkholis Hidayat. “Habis Manis Sepah Dibuang: Cerita Nasib Buruk Yang Menimpa Roni Wijaya Sebagai Whistleblower Kasus Korupsi Proyek Hambalang.” *Lokataru* (2020).
- Hikmawati, Puteri. “Upaya Perlindungan Whistleblower dan Justice Collaborator dalam Tindak Pidana Korupsi.” *Negara Hukum: Membangun Hukum Untuk Keadilan dan Kesejahteraan* 4, no. 1 (2016): 87–104. <https://doi.org/10.22212/JNH.V4I1.197>.



- I.P.M. Ranuhandoko. *Terminologi Hukum Inggris Indonesia*. Ketiga ed. Jakarta: Sinargrafika, 2003.
- Iftitah, Anik, ed. *Perkembangan Hukum Pidana Di Indonesia*. Sada Kurnia Pustaka, 2023.  
<https://sadapenerbit.com/2023/10/23/perkembangan-hukum-pidana-di-indonesia/>.
- Ismaya Dwi Agustina, Muklis Suhendro, and Ricky Rahman. "Peranan Justice Collaborator Dalam Perkara Pidana." *Ejurnal Uniyos* 2, no. 1 (2018).
- Jacob David Palekahelu, Krisnadi Nasution, and Otto Yudianto. "Perlindungan Hukum Terhadap Saksi Pelaku yang Bekerjasama dalam Perkara Tindak Pidana Korupsi." *Jurnal Yustitia* 21, no. 1 (2020).
- John M. Echols and Hassan Shadily, \*Kamus Inggris Indonesia\* (Jakarta: Gramedia Pustaka Utama, 2005).
- Lilik Mulyadi. *Whistleblower dan Justice Collaborator dalam Upaya Penanggulangan Organized Crime*. Bandung: PT Alumni, 2015.
- M. Yahya Harahap. *Pembahasan Permasalahan dan Penerapan KUHAP, Pemeriksaan Sidang Pengadilan, Banding, Kasasi, dan Peninjauan Kembali*. Edisi kedua. Jakarta: Sinar Grafika, 2009.
- Mahrus Ali. "Reward and Punishment for Whistleblower and Justice Collaborator in Indonesia: A Regulatory Analysis." *International Journal of Law and Politics Studies* (2023).
- Muhammad Iqbal Lubis. "Pelindungan Hukum Terhadap Justice Collaborator dalam Hukum Pidana di Indonesia." *USU Law Journal* 7 (2019): 61.
- Muhammad Junaidi, Amri Panahatan Sihotang, Bahrudin Machmud, and Kukuh Sudarmanto. "Reposisi Kedudukan Justice Collaborator dalam Upaya Pemberantasan Tindak Pidana Korupsi." *USM Law Review* 4, no. 1 (2021).
- Peter Mahmud Marzuki. *Penelitian Hukum*. Jakarta: Kencana, 2017.
- Puluhulawa, Moh Danial, Fenty U Puluhulawa, and Dian Ekawaty Ismail. *Anotasi Perlindungan Hukum Whistleblower dan Justice Collaborator dalam Upaya Pemberantasan Tindak Pidana Korupsi*. LVI, 2020.
- Supriyadi Widodo Eddyono. "Prospek Penggunaan Pelaku yang Bekerjasama di Indonesia." 1 (2011): 104-8.
- Taufik Rachman, and Lucky Raspati. "Menakar Makna Merugikan Perekonomian Negara dalam Undang-Undang Tipikor." *Nagari Law Review* 4, no. 2 (2021): 225-38.
- Zhelin Armeta, Nashriana Nashriana, and Suci Flambonita. "Penerapan Justice Collaborator dalam Penyelesaian Tindak Pidana Korupsi oleh Komisi Pemberantasan Korupsi." *Journal Unsri* (2021).