KOŠICKÁ BEZPEČNOSTNÁ REVUE

KOSICE SECURITY REVUE

Vol. 15, No. 2 (2025), p.140 – 157

ISSN 1338-4880 (print ver.), ISSN 1338-6956 (online ver.)

Legal Protection for Whistleblower Civil Servants in Corruption Cases: A Comparative Study between Indonesia and the United Nations Convention Against Corruption (UNCAC)

Právna ochrana oznamovateľov korupcie z radov štátnych zamestnancov: Komparatívna štúdia medzi Indonéziou a Dohovorom OSN proti korupcii (UNCAC)

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The manuscript was received on 29.10.2025 and was accepted after revision for publication on 24.11.2025

Abstract:

This article examines the adequacy of legal protection for civil servants who report corruption in Indonesia and compares it with the standards of the United Nations Convention against Corruption (UNCAC). Using a normative juridical method and comparative analysis, the study reviews Indonesian statutes (notably Law No. 31/2014 and Law No. 5/2014), implementing regulations on whistleblowing, and UNCAC Articles 32–33. Findings show a persistent regulatory and institutional gap: Indonesia has no dedicated whistle-blower law for civil servants; non-retaliation, anonymity, reinstatement, and compensation guarantees are fragmented or absent; and the mandate and capacity of existing bodies (e.g., LPSK and internal oversight units) are limited. Empirical illustrations indicate recurring retaliation (forced transfers, disciplinary measures, and legal harassment), which suppresses internal reporting and weakens corruption control. In contrast, jurisdictions that more fully operationalize UNCAC provide enforceable non-retaliation rules, job reinstatement, and compensation under independent authorities. The article concludes that aligning Indonesia's framework with UNCAC requires: explicit statutory recognition of civil-servant whistle-blowers; binding non-retaliation with sanctions; reinstatement and compensation mechanisms; an independent protection authority; and SOPs consistent with ISO 37002. Strengthening whistle-blower protection is framed as institutional security governance that enhances organizational resilience and public-sector integrity.

Keywords: *Anti-corruption; Civil servants; Comparative law; Institutional security; Non-retaliation; UNCAC; Whistleblower protection.*

Abstrakt:

Táto štúdia skúma primeranosť právnej ochrany príslušníkov štátnej služby, ktorí oznamujú korupciu v Indonézii, a porovnáva ju so štandardmi Dohovoru OSN proti korupcii (UNCAC). Na základe normatívno-juridickej metódy a komparatívnej analýzy hodnotí indonézske právne predpisy (najmä zákony č. 31/2014 a č. 5/2014), vykonávacie pravidlá k oznamovaniu a články 32–33 UNCAC. Zistenia odhaľujú pretrvávajúcu medzeru: chýba osobitný zákon pre oznamovateľov z radov štátnej služby; zásady zákazu odvety, anonymity, rehabilitácie a kompenzácie sú fragmentárne alebo absentujú; a mandát i kapacita existujúcich orgánov (napr. LPSK a interných kontrolných jednotiek) sú obmedzené. Empirické ilustrácie poukazujú na opakované formy odvety (nútené preloženia, disciplinárne postihy, právne šikanovanie), ktoré tlmia interné nahlasovanie a oslabujú kontrolu korupcie. Jurisdikcie, ktoré dôslednejšie operacionalizujú UNCAC, poskytujú vynútiteľný zákaz odvety, pracovnú reintegráciu a kompenzácie pod dohľadom nezávislých autorít. Štúdia uzatvára, že zladenie indonézskeho rámca s UNCAC si vyžaduje výslovné zákonné uznanie oznamovateľov-štátnych zamestnancov, záväzné sankcionovanie odvety, mechanizmy rehabilitácie a náhrady, nezávislý orgán ochrany a postupy v súlade s ISO 37002. Posilnenie ochrany oznamovateľov sa chápe ako súčasť bezpečnostného riadenia inštitúcií, ktoré zvyšuje organizačnú odolnosť a integritu verejného sektora.

Kľúčové slová: *Inštitucionálna bezpečnosť; Komparatívne právo; Ochrana oznamovateľov; Protikorupcia; Štátni zamestnanci; UNCAC; Zákaz odvety*

Introduction

Corruption constitutes a deeply entrenched structural issue in various countries, including Indonesia. As an extraordinary crime, corruption not only results in significant fiscal losses to the state but also erodes institutional legitimacy, undermines public trust in governance, and exacerbates systemic social inequality. According to Transparency International, Indonesia's Corruption Perceptions Index (CPI) remained stagnant at a score of 34 out of 100 in 2023, placing it at 115th out of 180 countries. [1] Although the 2024 CPI rose slightly to 37, this increase does not necessarily indicate meaningful progress, as the assessment methodology was adjusted. [2] These findings suggest that corruption remains a persistent and unresolved challenge in the country.

In the broader framework of anti-corruption efforts, the role of whistleblowers has emerged as essential, particularly within the civil service bureaucracy where the majority of corruption cases originate and proliferate. As public officials, civil servants possess privileged access to internal processes, financial flows, and decision-making mechanisms that can expose corrupt activities before they become entrenched or cause irreparable damage to public institutions. Their unique position within government structures provides them with firsthand knowledge of irregularities, procedural violations, and systematic abuses that external oversight mechanisms might never detect. [3]

However, empirical evidence from multiple jurisdictions shows a worrying pattern: individuals who bravely report abuses often face serious risks that can fundamentally alter the course of their careers and personal lives, particularly when legal protections are absent or discriminatory enforcement mechanisms are at play. [4] Such risks include forced relocation to remote or unwanted locations, systematic harassment and intimidation, termination of employment, threats to personal safety, and criminal prosecution under various legal pretexts. [5] The psychological impact of

such retaliation is not only felt by the whistleblowers themselves, but also affects their family members, while creating a strong deterrent effect for other potential whistleblowers.

This highlights the inadequacy of legal guarantees and weak institutional protection mechanisms for whistleblowers in Indonesia. It reflects a fundamental contradiction between the state's normative commitment to eradicating corruption and the actual treatment of individuals who dare to reveal irregularities. The gap between policy rhetoric and implementation reality has created an environment where corruption flourishes with a relatively high degree of impunity, while those who seek to expose it face severe risks and consequences.

Legal protection for whistleblowers has become a major concern in the global anti-corruption framework. Article 33 of the United Nations Convention Against Corruption (UNCAC) explicitly urges State Parties to consider implementing legal and administrative measures to protect individuals who, in good faith, report acts of corruption from any form of unjust treatment. [6] Although Indonesia has ratified UNCAC through Law No. 7/2006, its implementation at the national level, particularly in relation to civil servants acting as whistleblowers, remains fragmented and inadequate. The existing legal instrument, namely Law No. 13 of 2006 as amended by Law No. 31 of 2014 concerning the Protection of Witnesses and Victims, only provides general safeguards without specific provisions addressing the unique risks faced by whistleblowers within the government bureaucracy. [7] Protective administrative mechanisms such as immunity from demotion or job displacement and career security guarantees are largely absent. [8]

In practice, civil servants who report corruption frequently become targets of institutional retaliation, ranging from sudden job transfers to criminal charges. Reports from media and academic investigations reveal that whistleblowers are often disciplined or framed as disloyal to institutional interests. [9] The absence of explicit regulatory frameworks creates a chilling effect on whistleblowing efforts, weakening early detection mechanisms against corruption. In contrast, several countries have developed comprehensive whistleblower protection systems. South Korea, for example, enacted the Act on the Protection of Public Interest Whistleblowers, which ensures confidentiality, safeguards against retaliation, and provides compensation and reinstatement mechanisms. [10] The United Kingdom and Australia have also established secure reporting mechanisms backed by independent oversight bodies such as the Public Interest Disclosure Authority (OECD, 2016).

Empirical research by the OECD shows that countries with robust whistleblower protections experience higher reporting rates and more successful corruption prosecutions. [11] Moreover, an experimental study by Mechtenberg et al. (2020) published in the European Economic Review demonstrated that legal protections, particularly anonymity and institutional independence, significantly increase individuals' willingness to report wrongdoing. [12] In Indonesia, platforms such as the Corruption Eradication Commission's (KPK) whistleblowing system and the Ombudsman's complaint mechanism are in place, but their effectiveness is limited, especially for reports originating from within state institutions. The lack of a dedicated whistleblower protection law and reliance on institutional discretion hampers the system's credibility. [13]

Furthermore, domestic academic literature on whistleblower protection remains largely normative and rarely incorporates comparative legal analysis with UNCAC standards. In this context, comparative research between Indonesia's legal framework and UNCAC principles is essential to identify regulatory and institutional shortcomings. Therefore, this study aims to explore: (1) the effectiveness of legal protection for whistleblower civil servants in Indonesia; (2) relevant international provisions under UNCAC; (3) the gap between national and international norms; and (4) recommendations for building a more robust and globally aligned protection system.

Theoretically, this study employs a normative legal approach combined with comparative international legal analysis to expose the existing gap between Indonesia's current legal framework and the standards established under the United Nations Convention Against Corruption (UNCAC). It aims to critically assess how domestic legal instruments fall short of aligning with internationally recognized whistleblower protection norms. From a practical standpoint, the findings of this research are intended to serve as a policy reference for formulating more robust and effective legal measures, particularly in protecting civil servants who report acts of corruption. This includes proposing the development of a dedicated legislative framework specifically aimed at safeguarding whistleblowers within the public sector, thereby addressing the institutional deficiencies present in Indonesia's current system.

This study adopts a normative legal approach, focusing on the systematic analysis of statutory regulations and legal doctrines that shape the current legal framework. This approach is suitable for addressing the primary objective of the research, which is to examine the consistency and adequacy of Indonesia's positive law in relation to whistleblower protection, particularly for civil servants, and to assess the applicability of international instruments such as the United Nations Convention against Corruption (UNCAC) as benchmarks for legal reform. [14]

In addition, a comparative legal method is employed to contrast Indonesia's legal system with the provisions of UNCAC and the experiences of other countries that have successfully established comprehensive whistleblower protection mechanisms. The comparative analysis is conducted not only at the normative level but also includes institutional frameworks, implementation strategies, and recovery mechanisms for whistleblowers. Countries such as South Korea, Australia, and South Africa are used as reference points due to their strong alignment with UNCAC principles and effective institutional practices. [15]

The data sources utilized in this research are categorized into three types. First, primary legal materials include Indonesian laws such as Law No. 31/1999 in conjunction with Law No. 20/2001 on the Eradication of Corruption, Law No. 5/2014 on Civil Service, as well as government regulations and presidential decrees related to whistleblowing mechanisms. UNCAC, ratified by Law No. 7/2006, serves as the key reference for international standards. Second, secondary legal materials comprise academic literature, peer-reviewed journal articles, and institutional reports from organizations like the OECD and Transparency International. [16] Third, tertiary legal sources include legal dictionaries, legal encyclopedias, and technical guidelines such as ISO 37002:2021 on whistleblowing management systems, which provide conceptual clarity and terminological precision. [17]

For data analysis, the study applies a qualitative normative method, involving the systematic interpretation of legal provisions to identify normative gaps, ambiguities, and inconsistencies between Indonesia's domestic regulations and UNCAC standards. This analysis involves formulating legal issues, examining statutory and regulatory texts, conducting comparative evaluations with international systems, and producing normative conclusions that can guide legislative and policy reform. Thus, the research aims not only to describe the existing legal framework but also to offer practical contributions to the advancement of whistleblower protection in Indonesia's public sector.

1. Legal Framework for the Protection of Civil Servant Whistleblowers in Indonesia

Indonesia's national regulatory framework for the protection of whistleblowers, particularly civil servants (Aparatur Sipil Negara, ASN), reflects a progressive yet insufficient legal commitment. Law No. 31 of 2014 on the Protection of Witnesses and Victims, amending Law No. 13 of 2006, defines a whistleblower broadly in Article 1(4) as "a person who provides information regarding a criminal act." While some provisions, such as Articles 6 to 8 governing whistleblower certificates and confidentiality guarantees, have the potential to provide substantive protection, the law does not specifically recognize civil servants as whistleblowers. [18] Consequently, the Witness and Victim Protection Agency (LPSK) frequently rejects whistleblower protection requests from ASN, classifying them merely as internal informants. [19,5]

Regulations such as Government Regulation No. 43/2018 and the Corruption Eradication Commission's (KPK) internal guidelines on Whistleblowing System (WBS) are administrative measures to address the lack of protection for whistleblowers. These regulations require public institutions to establish internal reporting mechanisms, reflecting important progress in the development of reporting infrastructure. However, the implementation of the policy still shows significant gaps between normative objectives and operational realities on the ground.

A comprehensive study conducted by Transparency International in 2021 revealed that around 68% of government agencies in Indonesia do not have adequate Standard Operating Procedures (SOPs) to ensure whistleblower confidentiality, the existence of independent investigation units, transparent handling processes, or effective legal protection for whistleblowers. [20] These findings indicate that most government agencies fail to implement even the most basic protection measures, despite regulations requiring it. The absence of these basic protections leaves state civil servants who utilize internal reporting mechanisms more vulnerable to risk, rather than receiving proper protection.

While well-intentioned, whistleblowing system (WBS) programs are generally procedural and formalistic, without adequate administrative sanctions or enforcement mechanisms to ensure compliance. The absence of sanctions against superiors who ignore reports or retaliate against whistleblowers creates a protection system that exists only in writing, but is not supported by the institutional commitment necessary for it to function effectively. This reflects a classic implementation gap, where policy objectives are weakened by weak enforcement mechanisms at the operational level.

Moreover, the implementation of these regulations fails to address the underlying cultural and structural barriers to whistleblowing in Indonesia's hierarchical and rigid bureaucracy. The overemphasis on procedural compliance, rather than substantive safeguards, reflects a technocratic approach that ignores the human dimension of whistleblowing practices as well as the complexity of social dynamics that influence reporting behavior within government institutions.

The most crucial gap in Indonesia's whistleblower protection framework lies in the absence of effective anti-retaliation and restoration of status mechanisms. International best practice emphasizes that comprehensive protection requires not only preventive measures, but also a robust remedy system to address cases of retaliation and restore the position and reputation of whistleblowers. The absence of such mechanisms in Indonesia creates a situation where retaliation is commonplace, while remedies are almost non-existent.

The comprehensive report of the National Commission on Human Rights (Komnas HAM) in 2022 recorded more than 35 cases in which state civil servants who acted as whistleblowers experienced various forms of repressive actions. These forms of retaliation include forced transfer to remote areas, demotion, denial of promotion, and criminalization through legal instruments such as the Electronic Information and Transaction Law (UU ITE). The findings show a systematic pattern of retaliation across different government agencies and jurisdictions, indicating that the problem is structural rather than incidental.

The case of Tri Yanto, an internal auditor at the National Amil Zakat Agency (Baznas) in West Java, is a clear illustration of the failure of the whistleblower protection system in Indonesia. After reporting alleged bribery practices within the agency, Tri Yanto was subjected to a series of coordinated retaliatory actions, including forced transfer to a non-strategic position, criminalization through the Electronic Information and Transaction Law (UU ITE), and ongoing harassment aimed at damaging his personal integrity and professional reputation (SAFEnet, 2025). [21] Despite acting in good faith and carrying out his professional obligations, Tri Yanto did not receive adequate institutional protection. He was never reinstated to his former position nor did he receive compensation for his losses.

This case reflects the systematic failure of Indonesia's legal framework to provide effective protection for civil servants acting as whistleblowers. The absence of a strong anti-retaliation mechanism allowed the perpetrators of the retaliation against Tri Yanto to act with impunity. In addition, the unavailability of adequate remedies meant that victims had no access to justice or compensation for their losses. The message of this case is clear: state civil servants who report corruption risk facing serious consequences with no guarantee of protection or remedy.

Similar incidents have occurred in several state-owned enterprises and ministries, where whistleblowers were reassigned to remote areas under the pretext of “organizational needs,” without approval from disciplinary commissions or provisions for restoring their original positions. [22] These cases indicate that retaliation against whistleblowers has become a common practice in Indonesian government institutions. Superiors or supervisors often feel they have the discretion to take action against whistleblowers without fear of sanctions or legal accountability.

The systematic nature of retaliation against whistleblowers suggests that the problem is not simply an individual failure, but a reflection of an erroneous institutional culture - one that views whistleblowing as a form of disloyalty, rather than a manifestation of integrity. The cultural dimension of the problem cannot be addressed through legal reform alone; it requires a comprehensive institutional transformation, which includes revamping the values, norms and underlying assumptions that have shaped the behavior of government officials.

Under Law No. 5 of 2014 on Civil Servants, managerial authorities retain significant discretion over transfers, promotions, and disciplinary actions, without sufficient external oversight or accountability mechanisms. [23] This broad discretionary authority creates a high potential for abuse and undermines existing legal protection mechanisms by providing supervisions with numerous administrative tools that can be used to retaliate against whistleblowers. The discretionary nature of the powers of administrative officials makes proving that an action was taken in retaliation for whistleblowing extremely difficult. Retaliatory measures are often disguised as legitimate managerial policies, creating a situation where repressive measures against whistleblowers appear to be routine administrative procedures. Consequently, whistleblowers have almost no effective opportunity to challenge or challenge such measures through formal mechanisms.

Moreover, Indonesia’s paternalistic and hierarchical bureaucratic culture often stigmatizes whistleblowers as institutional traitors rather than agents of integrity and accountability. The cultural dimension of the problem reflects deeper social values, where loyalty and harmony are considered more important than transparency and accountability. The dominance of these values undermines the effectiveness of legal reforms, as they create strong social pressures on individuals who wish to report abuses. As a result, even where legal protections exist, the potential for reporting is often hampered by reluctance stemming from unsupportive social norms. Cultural stigmatization of whistleblowing occurs at various levels, from interactions between individuals in the work environment to institutional policies that implicitly discourage reporting. This creates a pressurized social environment in which state civil servants prefer to remain silent on corrupt practices-not so much for fear of legal consequences, but for fear of social ostracism and professional isolation.

The disharmony between the State Civil Apparatus Law (UU ASN) and the Witness and Victim Protection Law further exacerbates this problem by creating overlapping and conflicting legal frameworks. Differences in protection standards and law enforcement mechanisms between the two laws result in uncertainty in the application of protection for whistleblowers. In general, whistleblower protection is more focused on criminal justice proceedings and does not cover administrative aspects of employment, creating significant gaps in protecting civil servants who are victims of work-related retaliation. This disharmony reflects broader structural problems in Indonesia's legal system, where different regulations often contain contradictory norms or overlapping jurisdictions, creating legal uncertainty. The absence of a unified approach to whistleblower protection leaves civil servants vulnerable to being caught between different legal frameworks without receiving effective protection from any of them. Thus, the current regulations tend to be symbolic, providing formal protection on paper but failing to address the structural and cultural issues faced by whistle-blowers in public institutions in Indonesia. The

gap between normative rhetoric in legislation and implementation in the field clearly weakens the credibility of the corruption eradication agenda. Furthermore, it sends a strong signal that the state has not shown a serious commitment to protecting individuals who dare to report violations.

Moreover, although PP No. 43/2018 and KPK's WBS guidelines formally require agencies to implement secure internal reporting channels, the absence of sanctions against retaliatory supervisors, such as those who disregard reports or impose premature disciplinary actions, renders such systems functionally ineffective. [24] The regulatory framework creates obligations without corresponding enforcement mechanisms, resulting in widespread non-compliance and continued vulnerability for whistle-blowers. The case of Tri Yanto starkly illustrates the practical shortcomings of existing regulatory frameworks. After disclosing alleged bribery, he was criminalized under the ITE Law and forcibly reassigned, yet he was never reinstated to his former position. [21] This example highlights how formal regulations fail to meet the threshold of effective protection: retaliation in the form of reassignment or legal harassment proceeds unchecked, without compensation or institutional redress.

Table 1. Selected Cases of Retaliation and the Status of Protection Outcomes

Whistleblower	Position	Retaliatory Action	Recovery Status
Tri Yanto	Internal Auditor, Baznas West Java	Forced transfer; charged under the ITE Law	No reinstatement or compensation
ASN (SOE X)	Financial Officer in a State-Owned Enterprise	Reassigned to remote region without procedural approval	No reinstatement
Susno Duadji	Senior Police Official, whistleblower in Gayus case	Investigated in SALS bribery case despite whistleblower status	Despite formal protection, still prosecuted

Source: Hardoko (2010); SAFEnet (2025); Tempo (2024). [25,21,9]

According to Table 1, these cases exemplify a systemic failure in enforcing whistleblower protections, particularly for civil servants. The regulatory framework, especially Law No. 5 of 2014 on the State Civil Apparatus (ASN), grants supervisors wide discretionary powers over administrative sanctions and transfers, mechanisms that are rarely subject to external review. [26,9]

The discretionary nature of administrative authority opens up many opportunities for abuse, as superiors can utilize formally legitimate administrative instruments for illegitimate retaliatory purposes. The absence of clear criteria in administrative decision-making, coupled with weak external oversight, makes such actions difficult to challenge. Even when whistle-blowers have acted in good faith and discharged their professional obligations, available mechanisms are often insufficient to provide effective protection or remedy. As a result, retaliation against whistle-blowers continues with a relatively high level of impunity, creating a significant deterrent

effect and inhibiting the courage of individuals to report violations in the future. This directly undermines the effectiveness of efforts to combat corruption. The systematic nature of the problem suggests that reforms cannot be limited to updating the legal framework alone, but must also include transforming institutional culture, strengthening accountability mechanisms, and improving law enforcement systems that are more responsive and have integrity.

The disconnect between whistle-blower protection laws and civil service regulations illustrates a broader legal disharmony. Whistle-blowers lack formal legal standing to claim reinstatement or seek redress through administrative courts, creating a situation where they suffer retaliation with limited recourse to formal remedies.

Furthermore, Indonesia's bureaucratic culture remains heavily influenced by hierarchical loyalty and familialism, framing whistleblowing not as an act of civic integrity but as institutional betrayal. The cultural dimension of the problem demands long-term efforts that focus on changing institutional values and norms. Legal reforms alone are not sufficient, but must be followed by a more thorough cultural transformation to create an enabling environment for sustainable whistleblowing practices.

Cultural resistance to whistleblowing reflects a deeper tension between traditional values that prioritize loyalty and harmony and modern governance principles that emphasize transparency and accountability. Overcoming this tension requires a long-term and sustained effort to shape a new institutional culture, one that upholds integrity and accountability without compromising social cohesion or institutional effectiveness. The persistence of cultural barriers to whistleblowing suggests that legal reforms alone are insufficient to achieve effective protection for whistle-blowers. Comprehensive reforms must include efforts to examine and change the underlying values and assumptions that shape bureaucratic behavior within government institutions. This requires a long-term process to build an institutional culture that actively supports transparency, accountability and the moral courage to report wrongdoing.

This reveals a deep structural and cultural gap: the existing regulations are largely formalistic and fail to address the normative values embedded within public institutions. Without enforcement mechanisms and cultural transformation, retaliation persists with impunity, undermining the very spirit of legal reform and contributing to the persistence of corruption within government institutions. The formalistic nature of the prevailing regulations reflects a more fundamental problem in Indonesia's approach to legal reform, namely the tendency to prioritize the creation of new laws and regulations without adequate attention to the effectiveness of their implementation and enforcement. This results in a legal framework that is normatively strong, but weak in implementation, so that the substantive objectives of the regulation fail to be achieved in practice.

2. International Standards on Whistleblower Protection under UNCAC

The United Nations Convention Against Corruption (UNCAC) establishes whistleblower protection as a fundamental element in modern anti-corruption frameworks. This provision reflects an important development in the international

legal approach that places whistleblower protection as a key strategy in the fight against corruption. The articles on whistleblower protection in UNCAC reflect the growing global consensus that the effectiveness of corruption eradication efforts depends not only on the strength of law enforcement, but also on the existence of a comprehensive protection system for individuals who dare to reveal corrupt practices.

Article 32 of the United Nations Convention Against Corruption (UNCAC) provides for the protection of witnesses and whistleblowers in criminal justice proceedings. This provision establishes minimum standards related to physical security, psychological support, and procedural protection, including mechanisms for examination through electronic media and confidentiality of identity. [27] This article explicitly recognizes that the effectiveness of the criminal justice system in prosecuting corruption depends heavily on the willingness of witnesses and whistleblowers to come forward and provide testimony, which in turn is determined by the extent to which they feel safe from threats of retaliation.

The provisions in Article 32 reflect an understanding that witness protection in corruption cases requires a special approach that differs from conventional witness protection programs. This is due to the complexity of corruption cases which often involve influential actors with access to significant resources and power, making witness protection a serious challenge. The article's emphasis on comprehensive protection, including physical security, psychological support and procedural safeguards, demonstrates recognition of the high level of risk faced by individuals who come forward to report corruption.

Meanwhile, Article 33 calls on State Parties to consider adopting "appropriate measures" within their domestic legal systems to shield individuals who report corruption in "good faith" and on "reasonable grounds" from any form of unfair treatment, including administrative reprisals, professional sanctions, or retaliatory actions. [6] This provision extends protection beyond the criminal justice context to encompass the broader range of retaliation that whistleblowers may face in their professional and personal lives.

The “good faith” standard set out in Article 33 reflects a balanced approach between the protection of legitimate whistleblowers and the prevention of potential abuse of protective mechanisms. This provision recognizes that whistleblower protection should be afforded to individuals who sincerely believe they are reporting a violation, even if the report is ultimately proven to be false or incomplete. The requirement of “reasonable grounds” ensures that protection only applies to reports that are based on credible information, while excluding reports that are frivolous or maliciously motivated.

The UNCAC framework articulates five core pillars essential for effective whistleblower protection: (1) physical and psychological protection, including relocation support and security escort; (2) anonymity, to safeguard the whistleblower’s identity; (3) non-retaliation, ensuring freedom from demotion, dismissal, or transfer; (4) restoration and compensation, including reinstatement and monetary redress for damages; and (5) legal access, ensuring the whistleblower's right to initiate legal proceedings and receive legal aid where necessary. [28,6] Under UNCAC, whistleblowing is not merely an administrative protocol, but it is affirmed as a fundamental human right and a tool for institutional integrity.

Countries like South Korea and South Africa have translated UNCAC principles into robust domestic frameworks. South Korea's Whistleblower Protection Act offers compensation ranging from USD 12,000 to 20,000 and mandates reinstatement for civil servants who were transferred or dismissed due to whistleblowing. It also establishes an independent body to oversee whistleblower protection. [10] South Africa's Protected Disclosures Act imposes sanctions on retaliatory supervisors and allows civil and criminal litigation against those responsible for retaliation5. According to an OECD (2016), the adoption of these UNCAC-aligned norms has resulted in increased internal reporting and reduced institutional intimidation in both countries.

UNCAC further introduces a peer-review mechanism through the Implementation Review Mechanism (IRM), which evaluates how State Parties have implemented provisions such as Articles 32 and 33. In past IRM assessments, Indonesia has received criticism for its inadequate implementation, particularly concerning non-retaliation and restoration of employment, despite having ratified the Convention since 2006. [28,27] From a theoretical standpoint, UNCAC positions whistleblowing as both a manifestation of fundamental rights and a mechanism of institutional reform. It calls for a holistic approach that integrating legislation, institutions, procedures, and mechanisms for review and restitution. This comprehensive vision stands in contrast to Indonesia's fragmented and administrative model, which falls short in providing substantive protections for civil servants acting as internal whistleblowers. The concept of whistleblowing as a legitimate form of institutional participation remains largely unrecognized within Indonesian administrative and civil service law.

Table 2. Indonesia vs UNCAC and Reference Countries

Aspect	**Indonesia**	**UNCAC / Reference Countries**
Definition of Whistleblower	"A person providing information" (Law No. 31/2014); lacks explicit recognition of civil servants	Whistleblower acting in "good faith"; includes civil servants under specific laws in Korea and South Africa45
Non-retaliation	No sanctions for superiors initiating transfers or criminalization	Strict sanctions, civil/criminal litigation, job reinstatement and financial compensation (Korea, South Africa)
Financial Compensation	No legal provision for monetary compensation	Direct compensation schemes (e.g., South Korea)
Job Reinstatement	Not guaranteed; administrative penalties may remain	Mandatory reinstatement and restoration of employment status (UNCAC-compliant)
Legal Access	Limited by LPSK mandate; civil/administrative litigation rarely pursued	Broad access to legal mechanisms, including pro bono legal aid (South Africa)

Independent Institutions	LPSK primarily serves general criminal witnesses, not internal ASN whistleblowers	Specialized whistleblower protection authorities (e.g., Australia, UK, South Korea)
Organizational Culture	Patriarchal, hierarchical, lack of routine SOP audits	Anti-corruption training, routine audits of WBS systems, public campaigns on whistleblower rights

Source: Act on the Protection of Public Interest Whistleblowers (Act No. 10472) (2011); Law No. 31 of 2014 on the Protection of Witnesses and Victims (2014); Protected Disclosures Act 26 of 2000 (as Amended by Protected Disclosures Amendment Act 5 of 2017) (2000); Transparency International Indonesia (2023). [10,18,29,20]

3. Comparative Assessment: Strengths and Weaknesses of Indonesia Relative to UNCAC

Compared to the standards outlined in the United Nations Convention Against Corruption (UNCAC), Indonesia demonstrates initial regulatory progress through formal instruments such as Law No. 31/2014 on Witness and Victim Protection and the establishment of Whistleblowing Systems (WBS) in various public institutions. However, the effectiveness of these regulations is severely undermined by weak implementation, rendering whistleblower protections vulnerable to bureaucratic retaliation. [18]

From a preventive perspective, UNCAC emphasizes the establishment of secure, independent, and multi-tiered reporting mechanisms that cover both internal and external channels. While some of these elements exist in Indonesia's framework, they have not materialized into a cohesive or functional system. As a result, WBS mechanisms in many institutions serve more as symbolic compliance rather than operational safeguards. [15]

In terms of repressive measures, UNCAC mandates legal consequences for acts of retaliation, such as sanctions for unlawful transfers or dismissals of whistleblowers. In contrast, Indonesian law lacks comparable provisions. Instead, the civil service legal framework grants supervisor's broad discretion over transfers and administrative sanctions, often without the need for formal justification or external review.[26] This legal asymmetry exposes whistleblowers to punitive actions even when their reports are made in good faith, a clear deviation from UNCAC principles. [30]

Regarding restoration and compensation, Indonesia lags significantly. Countries like South Korea and South Africa provide clear mechanisms for job reinstatement and financial restitution. [10,29] In Indonesia, there are no equivalent legal pathways, meaning civil servants who are demoted or reassigned as retaliation often face lasting damage to their careers and well-being, with no institutional means to return to their original status. [19]

Indonesia's regulatory shortcomings are compounded by normative inconsistencies, particularly between the Civil Servants Law and the Whistleblower

Protection framework. The Witness and Victim Protection Agency (LPSK) lacks the mandate to pursue reinstatement or employment restoration, as such matters fall outside the scope of its legal authority under civil service law. [18] Meanwhile, UNCAC encourages the establishment of a centralized and independent oversight body with the legal mandate to issue binding administrative decisions and monitor institutional compliance, something Indonesia has yet to develop. [30]

Finally, in terms of organizational culture, UNCAC advocates for fostering a pro-whistleblower environment through regular awareness campaigns, training, and systematic evaluations. In Indonesia, such efforts are often sporadic and lack institutional integration. WBS procedures are rarely subject to periodic audit or performance reviews, relying instead on the discretionary initiatives of individual agencies. [31] This lack of cultural embedding renders whistleblowing a marginal and often stigmatized act within hierarchical governance structures, rather than a legitimate expression of public accountability.

4. Legal Implications and Recommendations for Regulatory Reform in Indonesia

The preceding analysis highlights the need for a systematic reform of Indonesia's legal and institutional framework to bring it in line with the standards set by the United Nations Convention Against Corruption (UNCAC). This reform agenda should encompass five key dimensions: regulatory harmonization, institutional strengthening, procedural alignment, cultural transformation, and evaluation mechanisms.

First, regulatory harmonization is the necessary starting point. Law No. 31 of 2014 should be revised to explicitly define civil servants (ASN) as whistleblowers and include binding non-retaliation clauses that criminalize unjustified transfers, demotions, or dismissals. It must also mandate job reinstatement and financial compensation for whistleblowers. Simultaneously, Law No. 5 of 2014 on Civil Servants must be amended to restrict managerial authority from imposing administrative sanctions on whistleblowers acting in good faith. [26,18] Second, a dedicated Whistleblower Protection Act for Civil Servants should be enacted. This law must serve as the highest legal instrument, regulating procedures, rights, independent institutions, compensation, and penalties for retaliation. It should cover: (a) the definition and eligibility of ASN whistleblowers; (b) internal and external reporting procedures; (c) guarantees of confidentiality and anonymity; (d) legal protection and restitution; (e) sanctions against retaliators; and (f) the creation of an independent authority to manage whistleblower protection and resolution. [32]

Third, institutional reform is needed. This includes either strengthening the mandate and capacity of LPSK or establishing an independent Whistleblower Protection Authority (WPA) under the supervision of the Parliament or Corruption Eradication Commission (KPK). The WPA must have legal powers to receive complaints, issue binding administrative decisions, facilitate job restoration and compensation, reverse unlawful transfers, and represent whistleblowers in court. The KPK and the Ombudsman can act as strategic partners in the domains of prevention and monitoring. [15] Fourth, from a procedural and cultural standpoint, a national SOP aligned with UNCAC and ISO 37002:2021 must be adopted. This should structure

whistleblowing as a tiered process beginning with internal reporting under WPA oversight. Regular training programs must be introduced for civil servants, supervisors, and law enforcement officers to instill a whistleblowing-friendly culture. Public campaigns should emphasize the constructive role of whistleblowers in promoting clean governance. [17]

Fifth, evaluation and transparency must be prioritized. Annual audits of WBS implementation, public oversight through regular reports (such as WPA annual reports), and the integration of audit results into regulatory updates are essential. Indicators of success should include the number of internal reports, the rate of resolved cases, and the decline in retaliatory practices such as transfers and demotions. [31] Through these comprehensive measures, Indonesia can fulfill its international obligations under UNCAC while reinforcing democratic accountability and public sector integrity. Whistleblowing must be recognized not as criminal defiance but as a legitimate, rights-based form of civic participation in anti-corruption efforts.

Conclusion

The legal protection of civil servants (ASN) who act as whistleblowers in disclosing corruption is a strategic imperative for strengthening accountable governance in Indonesia. The findings of this study reveal that while Indonesia has established general frameworks, such as Law No. 31 of 2014 on Witness and Victim Protection, these remain fragmented and fail to offer robust, specific safeguards for ASN whistleblowers. Numerous documented cases of retaliation, ranging from forced transfers and demotions to psychological intimidation, underscore the absence of reliable legal and institutional mechanisms to ensure security and justice for whistleblowers. By contrast, UNCAC provides a comprehensive framework through Articles 32 and 33, which obligate State Parties to ensure protection through anonymity, non-retaliation, and recovery. Comparative studies with countries like South Korea and South Africa illustrate how the domestic adoption of UNCAC principles has fostered a strong culture of internal reporting and enhanced systemic anti-corruption efforts. The contrast between Indonesia's current framework and the UNCAC model reveals significant normative and institutional gaps. Indonesia lacks a dedicated law for whistleblower protection in the civil service and has yet to integrate the core principles of UNCAC into its national regulations. Furthermore, the limited authority of LPSK, the absence of an independent protection agency, and the weak enforcement of WBS mechanisms contribute to the persistent vulnerability of whistleblowers in the public sector.

Therefore, this study recommends urgent regulatory reforms, including the harmonization of existing laws with UNCAC standards, the enactment of a specific whistleblower protection law for civil servants, and the institutional strengthening of protection agencies such as LPSK and internal supervisory units within ministries and government agencies. These efforts must be supported by legal literacy programs, ethics training, and reward mechanisms to encourage responsible and courageous reporting. In sum, enhancing legal protection for civil servant whistleblowers is not merely a technical exercise in governance but represents a critical transformation in legal culture and public administration. It is a step toward building a corruption-free

government grounded in the protection of fundamental human rights and democratic integrity.

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