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Protection of Corporate Whistleblowers in the Digital Age: A Critical Analysis of Current Indonesian Frameworks

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Abstract
Corporate whistleblowing plays a key role in ensuring transparency in Indonesian businesses. While the advent of digital technology can help improve the mechanism of corporate whistleblowing, this development still brings its own risks, particularly regarding the privacy of whistleblowers, which can significantly heighten risk of retaliations. This research aims to address the legal adequacy of Indonesia in ensuring the protection of corporate whistleblowers in the digital age, using normative legal research method and statutory approach. Findings of this research highlights the normative uncertainties and disharmony in the realm of witness protection, such as the lack of direct acknowledgement of corporate whistleblowers and the lack of supportive mechanism of digital corporate whistleblowing. In the digital context, there is a lack of mechanisms and compliance to address unique challenges that could arise in digital corporate whistleblowing, in the realm of data privacy. This research proposes a model of legal development consisting of key normative aspects that can be utilized to improve the relevant legal frameworks in Indonesia.

I. Introduction

The concept of whistleblowing has become increasingly prominent in recent years, as individuals within organizations have come forward to expose embezzlement, bribery, and other forms of economic crimes.[1] Whistleblowers play a crucial role in promoting transparency, accountability, and good governance,[2] particularly the private sector, where

[1] Lydia Mechtenberg, Gerd Muehlheusser, and Andreas Roider, "Whistleblower Protection: Theory and Experimental Evidence," *European Economic Review* 126 (2020): 1–34, https://doi.org/https://doi.org/10.1016/j.euroecorev.2020.103447.
[2] Kintan Kartika Sari, "Whistleblowing System: The Effective Solution to Prevent Financial Accounting Fraud?," *Owner* 8, no. 2 (March 31, 2024): 1746–58, https://doi.org/10.33395/owner.v8i2.2316.

public scrutiny is not as intense as how it is with the public sector.[3] However, despite their importance, whistleblowers often face significant risks and challenges, including retaliation, intimidation, and even physical harm.[4] More importantly this issue also threatens the application of Environmental, Social, and Governance (ESG) as an important standard and precursor to economic growth and sustainable development, particularly within the context of ethical responsibilities and transparency.[5] The urgency of tackling this becomes even more relevant as it's important to streamline economic growth and promote ethical business practices at the same time, to prevent the formation of unethical business culture.[6]

In the context of corporate whistleblowing, these challenges are particularly important to be tackled.[7] Corporate whistleblowers often possess sensitive information about the internal workings of companies, which can be crucial in uncovering corporate misconduct such as economic crimes and force those companies to be held accountable.[8] However, they may also face significant barriers to reporting wrongdoing, including confidentiality agreements, non-disclosure clauses, and cultural norms that discourage reporting.[9] Potentials and challenges of corporate whistleblowing practices and supports also come from digital technology. The digital age has, with the widespread use of technology and social media, opened new opportunities for reporting corporate wrongdoing,[10] but also increasing the potential for reprisal that can breach data and privacy rights.[11] The Indonesian context presents unique challenges for corporate whistleblowers, with the country's complex regulatory framework and cultural norms influencing the willingness of individuals to come forward.

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[3] Muhammad Adil, Mediaty, and Haliah, "Accountability and Transparency in the Public and Private Sector," *International Journal Of Humanities Education and Social Sciences (IJHESS)* 1, no. 6 (2022): 857–62, https://doi.org/10.55227/ijhess.v1i6.167.

[4] Heungsik Park, Brita Bjørkelo, and John Blenkinsopp, "External Whistleblowers' Experiences of Workplace Bullying by Superiors and Colleagues," *Journal of Business Ethics* 161, no. 3 (2020): 591–601, https://doi.org/10.1007/s10551-018-3936-9.

[5] Wildan Yudhanto and Alex Johanes Simamora, "Environmental, Social, and Governance Risk on Firm Performance: The Mediating Role of Firm Risk," *Binus Business Review* 14, no. 2 (2023): 223–34, https://doi.org/10.21512/bbr.v14i2.8935.

[6] Abdul Nasser El-Kassar, Leila Canaan Messarra, and Walid Elgammal, "Effects of Ethical Practices on Corporate Governance in Developing Countries: Evidence from Lebanon and Egypt," *Corporate Ownership and Control* 12, no. 3 (2015): 494–504, https://doi.org/10.22495/cocv12i3c5p1.

[7] Sanjay Dhamija, "Whistleblower Policy— Time to Make It Mandatory," *Global Business Review* 15, no. 4 (2014): 833–46, https://doi.org/10.1177/0972150914535142.

[8] Steven Sampson, "Citizen Duty or Stasi Society? Whistleblowing and Disclosure Regimes in Organizations and Communities," *Ephemera* 19, no. 4 (2019): 777–806, https://ephemerajournal.org/contribution/citizen-duty-or-stasi-society-whistleblowing-and-disclosure-regimes-organizations-and-0.

[9] Ian Bron, "Square Peg in a Round Hole? Three Case Studies into Institutional Factors Affecting Public Service Whistleblowing Regimes in the United Kingdom, Canada, and Australia" (Carleton University, 2022), 10.22215/etd/2022-15155.

[10] Isabelle Adam and Mihály Fazekas, "Are Emerging Technologies Helping Win the Fight against Corruption? A Review of the State of Evidence," *Information Economics and Policy* 57 (2021): 1–14, https://doi.org/https://doi.org/10.1016/j.infoecopol.2021.100950.

[11] Thomas Olesen, "Whistleblowing in a Time of Digital (in)Visibility: Towards a Sociology of 'Grey Areas,'" *Information Communication and Society* 52, no. 2 (2020): 1–16, https://doi.org/10.1080/1369118X.2020.1787484.

From a theoretical perspective, the protection of corporate whistleblowers can be understood through the lens of agency theory and the concept of "responsive regulation." Agency theory posits that individuals within organizations may act in ways that are not in the best interests of the organization or society, and that whistleblowing can serve as a crucial mechanism for correcting these agency problems.[12] Responsive regulation, meanwhile, suggests that regulatory frameworks should be designed to encourage compliance and cooperation, rather than simply punishing non-compliance.[13] This framework highlights the importance of creating a culture of transparency and accountability within organizations, and of providing robust protections for whistleblowers who come forward to report wrongdoing.

The protection of corporate whistleblowers also intersects with broader debates about the role of corporate governance and regulatory oversight in preventing corporate misconduct. Effective whistleblower protection frameworks can serve as a critical component of a broader system of checks and balances, helping to prevent corporate wrongdoing and promote a culture of compliance. However, the design and implementation of such frameworks can be complex, requiring careful consideration of competing interests and priorities. This is especially true when the context of digital technology is taken into account, which shows the important interplay between corporate governance and aspects of data governance such as data protection and privacy. As the process of whistleblowing can now involve the utilization of digital platforms, the protection of whistleblowers in digital environments becomes a significant factor that must not be overlooked.

Literatures have been fairly consistent in considering whistleblowing as a part of significant aspect of corporate governance, as highlighted by a study.[14] Building upon the study's findings, it is evident that whistleblowing mechanisms not only reduce instances of earnings manipulation but also enhance corporate transparency. Additionally, the research underscores the importance of robust whistleblowing frameworks in fostering ethical business practices and mitigating financial mismanagement. Another study highlights an even more comprehensive analysis regarding this, by categorizing whistleblowing through five critical questions: Who, What, How, Why, and to Whom.[15] This framework aids in understanding the intricate decision-making process of whistleblowers and highlights the ethical dilemmas they face. The framework also underscores the importance of considering both internal and external whistleblowers, reflecting on how various stakeholders can influence organizational transparency and ethical standards. Additionally, the study emphasizes the need for robust internal

[12] Vivienne Brand, "Corporate Whistleblowing, Smart Regulation and Regtech: The Coming of the Whistlebot?," *University of New South Wales Law Journal* 43, no. 3 (2020): 801–26, https://doi.org/10.53637/rplt3947.

[13] Nadia Dabee, "How to Regulate the Due Diligence Duties of Officers under the Health and Safety at Work Act 2015," *Victoria University of Wellington Law Review* 51, no. 3 (2020): 379–412, https://doi.org/10.26686/vuwlr.v51i3.6609.

[14] Olayinka Erin and Omololu Adex Bamigboye, "Does Whistleblowing Framework Influence Earnings Management? An Empirical Investigation," *International Journal of Disclosure and Governance* 17, no. 2 (2020): 111–22, https://doi.org/10.1057/s41310-020-00078-x.

[15] Barbara Culiberg and Katarina Katja Mihelič, "The Evolution of Whistleblowing Studies: A Critical Review and Research Agenda," *Journal of Business Ethics* 146, no. 4 (2017): 787–803, https://doi.org/10.1007/s10551-016-3237-0.

mechanisms and clear reporting channels to encourage whistleblowing, thereby promoting a culture of integrity and accountability within organizations.

In the digital context, corporate governance has been closely associated with digital governance, as a study highlights that this interplay is important in maintaining effective control, coordination, incentives, and trust within organizations.[16] This association is crucial for ensuring performance in digital exchange relationships, particularly as digital technologies facilitate large-scale interactions and transactions that traditional analog governance mechanisms may not adequately address. The study also critically emphasizes the importance of government roles in regulating digital governance, suggesting that policymakers need to enforce compliance and address accountability to prevent issues such as biased decision-making and ensure the integrity of digital networks. Economic crime also remains one of the key issues of the development of literatures regarding corporate governance, as outlined by a study.[17] The study also crucially highlights the importance of digital governance as an important of the taxonomy of fraud, mainly through the element of capability. It argues that knowledge of digital governance can be used as a way to commit economic crimes, which in turn raises the urgency of government involvement in preventing it through a comprehensive legal framework.

While the development of relevant literatures has provided the important building blocks in understanding the role of transparency in corporate governance, other highly specific aspects such as digital governance and whistleblowing mechanisms are not often mentioned in the same breath. This research gap leaves a significant hole in the effort to protect whistleblowers, which in turn threatens the level of transparency in corporate governance and the prevention of corporate economic crimes. This research aims to fill this gap by analyzing ways to improve corporate transparency, by uniquely focusing on the legal protection of corporate whistleblowers. Through a comprehensive review of relevant legislations, this study will identify areas of strength and weakness in Indonesia's whistleblowing frameworks by evaluating the relevant legal norms and how they relate to transparency, accountability, and good governance, particularly in the digital context. The findings of this research will contribute to a deeper understanding of the challenges and opportunities facing corporate whistleblowers in Indonesia, and will inform recommendations for improving the country's whistleblowing frameworks to better protect these critical actors.

2. Research Method

This research utilizes the normative legal research method to explore and scrutinize the legal norms that exist within the relevant positive laws.[18] Typically, analysis using the

[16] Marvin Hanisch et al., "Digital Governance: A Conceptual Framework and Research Agenda," *Journal of Business Research* 162 (2023): 1–13, https://doi.org/https://doi.org/10.1016/j.jbusres.2023.113777.

[17] Rakesh Kumar Sehgal and R L Koul, "Mitigating White Collar Crimes: A Governance Reform Agenda," in *Facets of Corporate Governance and Corporate Social Responsibility in India*, ed. Harpreet Kaur (Singapore: Springer Singapore, 2021), 33–47, https://doi.org/10.1007/978-981-33-4076-3_3.

[18] Hari Sutra Disemadi, "Lenses of Legal Research: A Descriptive Essay on Legal Research Methodologies," *Journal of Judicial Review* 24, no. 2 (2022): 289–304, https://doi.org/10.37253/jjr.v24i2.7280.

normative legal research method involves the employment of legal material sources. In this paper, the legal material sources employed are secondary data in the form of primary law sources, to extract the legal norms that are embedded within the relevant legal framework, as a legal basis to analyze a specific legal issue.[19] This method allows for a deep dive into the intricacies provided by the relevant legal frameworks in analyzing a complex issue such as whistleblowing, especially when the interplay with digital governance is also taken into account. Secondary data employed in this research are Law No. 31 of 2014 on Amendment to Law No. 13 of 2006 on Witness and Victim Protection, Law No. 11 of 2008 on Electronic Information and Transactions, Law No. 27 of 2022 on Personal Data Protection, and Supreme Court Circular Letter No. 4 of 2011 on the Treatment of Whistleblowers and Justice Collaborators in Certain Criminal Cases.

3. Results and Discussion

3.1. Overview of Indonesian Whistleblowing Legislation

Generally, whistleblowing is an important element of a legal system, particularly one that strives to enhance the development of a nation, which involves fairness and integrity in economic developments.[20] In countries with emerging economies, such as Indonesia, the role of corporate whistleblowing is especially crucial not just for the public sector, but also for the private sector as a part of corporate governance, due to the high risk of frauds. This is mainly because of the rather high risk corporate economic crimes associated with developing countries, such as bribery, corruption, and money laundering, also increases.[21] If left unchecked, these crimes can undermine the very foundations of economic growth, stifling innovation, and deterring investment.[22] By providing a mechanism for reporting wrongdoing, corporate whistleblowing can help to ensure that economic development is achieved in a fair and transparent manner.

As a growing economy, Indonesia is often heavily affected by the dynamics of the global economy. This due to the globalized nature of the current economic trends, which puts the Indonesian economy of significant risk, particularly the risk associated with economic crimes. [23] The country's rapid economic growth has created new opportunities for corruption and other forms of wrongdoing, which can have far-reaching consequences for

[19] David Tan, "Metode Penelitian Hukum: Mengupas Dan Mengulas Metodologi Dalam Menyelenggarakan Penelitian Hukum," *NUSANTARA: Jurnal Ilmu Pengetahuan Sosial* 8, no. 8 (2021): 2463–78, http://jurnal.um-tapsel.ac.id/index.php/nusantara/article/view/5601.

[20] Bolanle Ogungbamila, Bamidele Emmanuel Osamika, and Emmanuel Dada Job, "Whistleblowing and Corrupt Tendencies among Selected Employees in Three Public Organizations: Roles of Corruption Tolerance, Punishment Anxiety, and Neutralization," *Journal of Management Studies and Development* 3, no. 2 (May 1, 2024): 95–119, https://doi.org/10.56741/jmsd.v3i02.535.

[21] Halim Usman and Yohanes Rura, "Pengaruh Personal Cost Dan Pemberian Reward Terhadap Tindakan Whistleblowing," *Equilibrium* 10, no. 1 (2021): 1–8, https://journal.stiem.ac.id/index.php/jureq/article/view/640.

[22] Krisztina Pusok, "Public-Private Partnerships and Corruption in the Water and Sanitation Sectors in Developing Countries," *Political Research Quarterly* 69, no. 4 (2016): 678–91, https://doi.org/10.1177/1065912916658552.

[23] Totok Sugiarto, "Analisis Terhadap Kebijakan Kriminal Dalam Penanggulangan Tindak Pidana Ekonomi Indonesia," *Jurnal Cakrawala Hukum* 5, no. 2 (2014): 219–33, https://jurnal.unmer.ac.id/index.php/jch/article/view/745.

the economy and society as a whole.[24] For example, corruption in the natural resource extraction sector can lead to environmental degradation, which in turn can cause serious financial damage to Indonesia's economy.[25] Bribery and money laundering can also threaten the economy, as it distorts market competition and undermine trust in institutions.[26] By protecting corporate whistleblowers, Indonesia can help to prevent these crimes and promote a more sustainable and equitable economic development.

In this context, the protection of corporate whistleblowers is essential for promoting integrity and accountability in the Indonesian economy. Whistleblowers play a critical role in exposing wrongdoing and bringing perpetrators to justice, and their protection is essential for ensuring that they can report crimes without fear of retaliation or reprisal.[27] From the legal standpoint, there needs to be a degree of legal certainty that can safeguard the rights of whistleblowers, particularly in the digital age where their information can be stolen or accessed illegally, which in turn can threaten their safety. The analysis of the relevant legal frameworks for the protection of whistleblowers then becomes a topic of utmost importance, highlighting the urgency to examine the current state of Indonesian whistleblowing legislation.

Indonesia governs the intricacies of whistleblowing through Law No. 31 of 2014 on Amendment to Law No. 13 of 2006 on Witness and Victim Protection (Revised Witness and Victim Protection Law).[28] The law defines a whistleblower as person who provides a report, information, or statement to law enforcement regarding a criminal offense that will, is, or has occurred. However, it's important to note that in the original regulation in Indonesian, the term used is "*pelapor*" which is a more generalized term that can include whistleblower, informants, complainants, or anyone who reports an incident or offense. This linguistic discrepancy can lead to confusion and misinterpretations, particularly in legal contexts where precise definitions are crucial. Another key definition provided by Article 1 is "*saksi pelaku*", which translates to justice collaborator, and defined by Article 1 number 2 as a suspect, defendant, or convict who cooperates with law enforcement to uncover a criminal offense in the same case.

This legislation provides a comprehensive protection to whistleblowers, mainly through Article 5 paragraph (1), which guarantees the safety of whistleblowers, along with other facilities provided by the government to ensure their well-being. The Revised Witness and Victim Protection Law also crucially governs the legal immunity for whistleblowers acting in good faith through Article 10 and the duties of Witness and Victim Protection Agency

[24] Daffa Abiyoga, "Studi Pemetaan Hukum Tindak Pidana Ekonomi Di Indonesia," *COURT REVIEW: Jurnal Penelitian Hukum* 1, no. 1 (May 1, 2021): 1–12, https://doi.org/10.69957/cr.v1i1.15.

[25] Roni Saputra and Totok Dwi Diantoro, "Implementasi Dan Pengaturan Valuasi Kerugian Ekologis Dalam Perhitungan Kerugian Negara Di Perkara Korupsi Sektor Industri Ekstraktif," Policy Paper (Jakarta Selatan, June 24, 2024), https://icw.or.id/Zre9.

[26] Emmanuelle Auriol, Erling Hjelmeng, and Tina Søreide, "Corporate Criminals in a Market Context: Enforcement and Optimal Sanctions," *European Journal of Law and Economics* 56, no. 2 (2023): 225–87, https://doi.org/10.1007/s10657-023-09773-w.

[27] Bobby Briando, Sri Kuncoro Bawono, and Tony Mirwanto, "DIMENSION OF WHISTLEBLOWING SYSTEM: URGENSITY OF LEGISLATION STRENGTHENING," *Jurnal Hukum Dan Peradilan* 8, no. 3 (2019): 371–90, https://doi.org/10.25216/jhp.8.3.2019.371-390.

[28] Dudung Mulyadi, "Efektivitas Undang-Undang Nomor 31 Tahun 2014 Tentang Pelindungan Saksi Dan Korban," *Jurnal Ilmiah Galuh Justisi* 4, no. 1 (2016): 15–26, https://doi.org/10.25157/jigj.v4i1.408.

(LPSK), along the oath of confidentiality among LPSK members. Furthermore, Article 28 paragraph (1) outlines that LPSK protection for witnesses and/or victims is conditional on the importance of their testimony, the level of threat they face, medical or psychological analysis results, and their criminal record. This protection can also be withdrawn, when the whistleblower acts in bad faith, as governed by Article 32A.

More importantly, the Revised Witness and Victim Protection Law also governs the penal consequences of those who obstruct or harm whistleblowers, through the provisions provided by Article 37 up to Article 41. Perhaps the most important provision of the Witness and Victim Protection Law in the context of corporate governance is the provision that criminalizes the acts provisioned by Article 37 up to Article 41, within the specific context of corporation. This provision not only improves the overall outlook of the Indonesian legal framework on corporate governance, but also provides a narrower recognition of whistleblowing in corporations, which is significant as the law itself lacks specific definition for whistleblower at general, let alone corporate whistleblower.

Another key legal source that provides the protection of whistleblowers is Supreme Court Circular Letter No. 4 of 2011 on the Treatment of Whistleblowers and Justice Collaborators in Certain Criminal Cases.[29] This circular letter was made to add guidelines for the relevant courts in Indonesia in providing a specific set of treatments for whistleblowers and justice collaborators, in accordance to the Witness and Victim Protection Law, which at the time had not yet been amended. This circular letter, interestingly, addresses serious crimes in specific, such as corruption, terrorism, narcotics offenses, money laundering, and human trafficking. It acknowledges the severe threats these crimes pose to societal stability and the importance of fostering public participation in uncovering such offenses. However, this can create the indication that the special treatments that the circular letter was trying to accommodate shouldn't be applied in cases deemed less severe, at least by the metrics implied by the circular letter itself.

The specific mention of serious crimes is also not in line with the Revised Witness and Victim Protection Law. The Revised Witness and Victim Protection Law, as highlighted previously, added the acknowledgement of corporate whistleblowing. Although this acknowledgement is not direct in nature, it still inherently shows that the Indonesian legal system does put a great deal in tackling corporate crimes through corporate governance. Therefore, corporate crimes such as embezzlement, fraud, tax evasion, and anti-competitive practices. Barring money laundering, corporate crimes that are primarily financial in nature are not often regarded as organized crime,[30] much like what is implied by the specific mentions of severe crimes in the circular letter. This issue highlights a disharmony that could undermine the effort to protect corporate whistleblowers.

[29] Ester Johana Elisabeth and Wiwik Afifah, "Kesesuaian SEMA Nomor 4 Tahun 2011 Yang Mengatur Eksistensi Whistleblower Dan Justice Collaborator Terhadap Undang-Undang Nomor 8 Tahun 2010," *Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance* 3, no. 2 (January 20, 2023): 1651–64, https://doi.org/10.53363/bureau.v3i2.271.

[30] Financial corporate crimes are deeply embedded in organizational contexts, with organizational strategies, incentives, and cultures playing a significant role in enabling these crimes, distinguishing them from the operations of organized crime groups. *See* Judith van Erp, "The Organization of Corporate Crime: Introduction to Special Issue of Administrative Sciences," *Administrative Sciences* 8, no. 3 (2018): 1–12, https://doi.org/10.3390/admsci8030036.

In the digital context, both the Revised Witness and Victim Protection and the Supreme Court Circular Letter on Treatment of Whistleblowers and Justice Collaborators in Certain Criminal Cases do not recognize the possible expansion of urgency to protect whistleblowers in the digital realm. While not implying a normative disharmony, this problem outlines the lag of development in legal framework for the protection of corporate whistleblowers who are acting in good faith using various kinds of digital technologies while facing significant privacy and safety risks.

Table 1: Weaknesses of Legal Sources for Whistleblower Protection

Legal Source	**Weaknesses**
Law No. 31 of 2014 on Amendment to Law No. 13 of 2006 on Witness and Victim Protection	1. Whistleblowers are protected under the umbrella term *"pelapor"*, which is more generalized and might not be capable in providing enough nuances associated with whistleblowing, along with its specific needs for protection.
	2. No mention of protection measures for retaliation and exposure in the digital context.
	3. Corporate whistleblowing is only briefly acknowledged indirectly through the penal provision for the acts of obstructing or harming whistleblowers.
Supreme Court Circular Letter No. 4 of 2011 on the Treatment of Whistleblowers and Justice Collaborators in Certain Criminal Cases	1. Guidelines for judicial discretion are ambiguous, causing potential inconsistency.
	2. Limited applicability, focusing mainly on serious crimes, potentially excluding other whistleblowing scenarios.
	3. Over-reliance on judicial discretion, leading to variability in the protection provided.
	4. Lacks enforcement mechanisms to ensure adherence to the guidelines.
	5. No mention of protection mechanisms in the digital realm.

Sources: Primary law (Law No. 31 of 2014 on Amendment to Law No. 13 of 2006 on Witness and Victim Protection and Supreme Court Circular Letter No. 4 of 2011 on the Treatment of Whistleblowers and Justice Collaborators in Certain Criminal Cases).

The table highlights significant weaknesses in both Witness and Victim Protection Law and Supreme Court Circular Letter No. 4 of 2011 regarding the protection of corporate whistleblowers. Key issues include ambiguous guidelines, limited applicability, and lack of digital context considerations. These weaknesses imply a systemic vulnerability in the legal framework that fails to adequately protect whistleblowers, potentially discouraging the reporting of corporate misconduct. Theoretically, this gap undermines agency theory and responsive regulation, as it hinders the ability to correct organizational malpractices and promote compliance, ultimately jeopardizing the integrity of corporate governance in Indonesia.

3.2. Confidentiality and Anonymity Protections in the Digital Age

The notion of confidentiality and anonymity is a cornerstone of whistleblowing, as it's an important aspect of protection from retaliation.[31] Without these protections, individuals would be hesitant to report wrongdoing, fearing retaliation and reprisal.[32] However, the digital age has further complicated the efforts to ensure protection of whistleblowers by making it increasingly difficult to maintain confidentiality and anonymity.[33] The proliferation of social media, email, and online platforms has created new avenues for whistleblowers to report wrongdoing, but it also poses significant risks to their confidentiality.[34] If a whistleblower's identity is compromised, the consequences can be severe, and can potentially lead to the victimization of whistleblowers.[35]

From a theoretical standpoint, the concept of informational self-determination is crucial in understanding the importance of confidentiality and anonymity. This idea posits that individuals have a right to control their personal information and decide how it's shared with others.[36] Whistleblowers must often rely on technological solutions to protect their privacy and exercise their right to informational self-determination, given the inadequate legal protections available to them.[37] When an individual reports wrongdoing, they're exercising their right to control their personal information and share it with others in a way that promotes accountability and transparency. However, the utilization of digital technology doesn't come without a risk, and this risk must be properly analyzed to ensure that the practice of corporate whistleblowing can be protected.

Providers of digital platforms play a key role in ensuring this, as they are responsible in protecting data and the privacy of their users. Unfortunately, the development of legal framework regarding this has only been primarily pushed by the effort to stimulate and protect the e-commerce sector.[38] In Indonesia, this can be seen with the development of

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[31] Maria Francisca da Costa Fernandes, "Whistleblowing Disclosure in Leading Sustainable Corporations: A Content Analysis of Whistleblowing Policies" (Católica Porto Business School, 2022), http://hdl.handle.net/10400.14/39437.

[32] Tanya M. Marcum, Jacob A. Young, and Ethan T. Kirner, "Blowing the Whistle in the Digital Age: Are You Really Anonymous? The Perils and Pitfalls of Anonymity in Whistleblowing Law," *DePaul Business and Commercial Law Journal* 17, no. 1 (2019): 1–38, https://via.library.depaul.edu/bclj/vol17/iss1/1/.

[33] Philip Di Salvo, "Securing Whistleblowing in the Digital Age: SecureDrop and the Changing Journalistic Practices for Source Protection," *Digital Journalism* 9, no. 4 (2021): 443–60, https://doi.org/10.1080/21670811.2021.1889384.

[34] Hengky Latan, Charbel Jose Chiappetta Jabbour, and Ana Beatriz Lopes de Sousa Jabbour, "Social Media as a Form of Virtual Whistleblowing: Empirical Evidence for Elements of the Diamond Model," *Journal of Business Ethics* 174, no. 3 (2021): 529–48, https://doi.org/10.1007/s10551-020-04598-y.

[35] Inez Dussuyer and Russell G. Smith, "Understanding and Responding to Victimisation of Whistleblowers," *Trends and Issues in Crime and Criminal Justice* (Canberra, 2018), https://doi.org/10.52922/ti118239.

[36] Rachel Melis, "Anonymity Versus Privacy in a Control Society," *Journal of Critical Library and Information Studies* 2, no. 2 (2019): 1–26, https://doi.org/10.24242/jclis.v2i2.75.

[37] Fanny Hidvégi and Rita Zágoni, "How Technology Enhances the Right to Privacy – A Case Study on the Right to Hide Project of the Hungarian Civil Liberties Union," *Journal of National Security Law & Policy* 8, no. 3 (July 21, 2016): 531–51, https://jnslp.com/2016/07/21/technology-enhances-right-privacy-case-study-right-hide-project-hungarian-civil-liberties-union/.

[38] Dedon Dianta, "Urgensi Penegakan Hukum E-Commerce Di Indonesia: Sebuah Tinjauan Yuridis," *Arus Jurnal Sosial Dan Humaniora* 3, no. 1 (2023): 1–14, https://doi.org/10.57250/ajsh.v3i1.173.

digital laws such as Law No. 11 of 2008 on Electronic Information and Transactions (EIT Law), which has been amended twice through Law No. 19 of 2016 on Amendment to Law No. 11 of 2008 on Electronic Information and Transactions and Law No. 1 of 2024 on Second Amendment to Law No. 11 of 2008 on Electronic Information and Transactions. The legal politics implied by this development leaned more towards e-commerce as an important agenda of Indonesia's economic development. It wasn't until Law No. 27 of 2022 on Personal Data Protection (PDP Law) did Indonesia show a narrower focus for data protection and privacy in its legal politics.[39]

Trust is a critical component in the whistleblowing process. Whistleblowers need to trust that their confidentiality and anonymity will be protected in order to feel secure in reporting wrongdoing. Providers of digital platforms must develop and maintain the trust their users have given them, by ensuring that their identity will not be leaked, and they will not be identified without their permission. This is even more important in the context of whistleblowing, as it can significantly affect the risks associated with the practice of corporate whistleblowing, which can directly impact the well-being of whistleblowers involved. Unfortunately, trust as a principle of paramount importance in this issue is not mentioned as a principle in the PDP Law. The PDP Law's emphasis on principles such as protection, legal certainty, and confidentiality in Article 3 addresses critical aspects of data protection, but the absence of trust as an explicit principle overlooks its fundamental role in encouraging individuals to share sensitive information within protected systems. This omission is significant because trust serves as a cornerstone for the effective implementation of data protection measures, potentially limiting the law's capacity to fully safeguard individuals' rights and promote transparency in various contexts where data sharing is crucial.

The Indonesian Personal Data Protection (PDP) Law, while a significant step forward in data protection, presents several weaknesses when examined in the context of corporate whistleblowing in the digital era. These shortcomings could potentially hinder the effectiveness of whistleblowing mechanisms and the protection of whistleblowers, particularly in corporate settings where digital technologies are increasingly utilized. The following table outlines key weaknesses identified in the PDP Law:

Table 2: Weaknesses of the PDP Law in the Context of Corporate Whistleblowing in the Digital Era

Weakness	Relevant Article(s)
Lack of specific provisions for whistleblower protection	N/A
Absence of explicit recognition of corporate whistleblowing	N/A
Insufficient safeguards for anonymity in digital platforms	Article 17
Inadequate measures for protecting whistleblowers from retaliation	N/A
Absence of specific guidelines for secure digital reporting channels	N/A

[39] Elfian Fauzi and Nabila Alif Radika Shandy, "Hak Atas Privasi Dan Politik Hukum Undang-Undang Nomor 27 Tahun 2022 Tentang Pelindungan Data Pribadi," *Jurnal Lex Renaissance* 7, no. 3 (2022): 445–61, https://doi.org/10.20885/jlr.vol7.iss3.art1.

Lack of provisions for whistleblower confidentiality in digital environments	Article 36
Insufficient guidance on data retention periods for whistleblowing reports	Article 42
Absence of specific provisions for handling whistleblowing data breaches	Article 46
Limited recognition of the role of technology in facilitating whistleblowing	N/A

Sources: Primary law (Law No. 27 of 2022 on Personal Data Protection)

The PDP Law's broad approach to data protection reveals several weaknesses in addressing complex corporate scenarios. Article 17's provisions for anonymity in digital environments lack specificity, potentially compromising secure information sharing. This issue is compounded by the absence of specific guidelines for secure digital communication channels, a critical oversight in today's technology-driven business world. The law's shortcomings extend to data management, with Article 42 providing insufficient guidance on retention periods, potentially hindering long-term corporate investigations. Similarly, Article 46's general provisions for data breach notifications fail to address the unique needs of sensitive corporate cases. The law's broad confidentiality requirements in Article 36 and inadequate provisions for protecting anonymity in data processing in Article 35 further expose sensitive corporate information to risk.

These weaknesses ultimately add to the existing ones already identified from the Witness and Victim Protection framework, which creates a serious urgency that needs to be addressed. In the perspective of corporate governance, this urgency is intensified by the growing public sentiment against corporate crimes, which demands more stringent measures to hold corporations accountable for their actions.[40] Only by identifying and analyzing these weaknesses can Indonesia improve its protection for corporate whistleblowers, by introducing key changes to the relevant legal framework, particularly within the context of digital technology. The most urgent need that comes after identifying and analyzing this issue is the process of normative construction that can help tackle some of the issues faced by whistleblowers in their pursuit of safety after exposing corporate crimes.

3.3. Future Legal Development

The analysis of Indonesia's current legal framework for corporate whistleblower protection reveals significant gaps, particularly in addressing the challenges posed by the digital era. Normative uncertainties and disharmony within the Witness and Protection Law framework, along with the lack of specificity in dealing with complex scenarios involving sensitive corporate communications in the PDP Law, highlight the urgency to enhance the protection of corporate whistleblowers in the digital age. A holistic approach is needed to provide solutions to the weaknesses in the relevant legal framework, to ensure that both legal frameworks can work hand-in-hand in ensuring the legal certainty and the actual protection of corporate whistleblowers in the digital age. From this

[40] Husna Sartika, Eddy Purnama, and Ilyas Ismail, "Standard Patterns of Considerations in Law, District Regulation and Qanun Based on Legal Rules in Indonesia," *Pancasila and Law Review* 2, no. 2 (2021): 121–32, https://doi.org/10.25041/plr.v2i2.2446.

perspective, a legal system must be able to tackle the challenges brought for by the digital technology, which is becoming increasingly integrated in many parts of everyday life.[41] This research proposes a model for legal development that aims to address these gaps while considering the unique challenges of the digital age and the specific context of corporate whistleblowing in Indonesia.

Table 3: Proposed Normative Construction for Enhanced Data and Witness Protection

Aspect	**Proposed Development**	**Target Law**
Definition	Introduce specific legal definition for corporate whistleblowers	Witness and Victim Protection Law
Digital Anonymity	Enhance provisions for anonymity in digital environments	PDP Law
Data Retention	Establish clear guidelines on data retention periods for sensitive reports	PDP Law
Retaliation Protection	Strengthen measures to protect witnesses from various forms of retaliation	Witness and Victim Protection Law
Secure Digital Channels	Mandate establishment of secure digital channels for sensitive communications	PDP Law + Witness and Victim Protection Law
Confidentiality in Digital Environments	Strengthen provisions for maintaining confidentiality in digital contexts	PDP Law
Data Breach Handling	Develop specific protocols for handling breaches of sensitive data	PDP Law
Technology Integration	Recognize and regulate the role of emerging technologies in data protection	PDP Law
Corporate Governance Integration	Integrate data protection principles into broader corporate governance regulations	PDP Law

The proposed normative construction addresses key weaknesses in both the PDP Law and the Witness and Victim Protection Law. For the PDP Law, enhancements focus on digital anonymity and confidentiality in digital environments. These changes aim to create a robust system for protecting sensitive information in the digital age. The law would require establishment of secure digital channels for sensitive communications and mandate specific protocols for handling data breaches. For this specific normative aspect, it might be better that both Witness and Victim Protection Law and PDP Law to cover some of its aspects. More generalized provision that involves the establishment of secure line of communication can be added to the Victim and Protection Law, while the secure digital line of communication can be added in the PDP Law for some circumstances, such as criminal proceedings.

[41] Olha Zyhrii et al., "Law and Technology: The Impact of Innovations on the Legal System and Its Regulation," *Social and Legal Studios* 6, no. 4 (2023): 267–75, https://doi.org/10.32518/sals4.2023.267.

For the Witness and Victim Protection Law, the most significant change is the introduction of a specific legal definition for corporate whistleblowers. This addresses the current ambiguity and provides clear protection for those reporting corporate misconduct. The normative aspect would also strengthen measures against various forms of retaliation, crucial in corporate settings where power dynamics can be complex. These changes, combined with the enhancements to the PDP Law, would create a comprehensive framework for protecting those who report wrongdoing in corporate environments. The integration of data protection principles into broader corporate governance regulations further reinforces this protection, as it helps safeguard the privacy of corporate whistleblowers by preventing identification.

4. Conclusion

Normative analyses showed a couple of different problems in the relevant legal frameworks for the protection of whistleblowers. The problems unfortunately span across two key legal domains: witness protection and data privacy. The Witness and Victim Protection Law is riddled with normative uncertainties and disharmony with the Supreme Court Circular Letter No. 4 of 2011. Meanwhile, the Personal Data Protection Law, despite being the most comprehensive legal framework for data privacy in Indonesia to date, falls short in addressing the unique challenges faced by whistleblowers in digital corporate environments. These gaps in both domains create a precarious situation for corporate whistleblowers, potentially discouraging the reporting of misconduct and hindering efforts to promote transparency and accountability in Indonesian businesses. This research proposes a model of legal developments consisting of key normative aspects that serves as a suggestion that Indonesia can consider to enhance its protection of corporate whistleblowers. Limitation of this research comes from its own model, which needs to be tested or supported further by qualitative data that can be gathered by asking the opinions of corporate workers to draw their perceived level of safety in the context of corporate whistleblowing.

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