

THE US CORRUPTION-HUNTING MODEL

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Abstract

Due to its dramatic effects, corruption is considered an important agenda in almost every country. The main problem in this regard: “How” should this important task, namely the effective fight against corruption, be done? The US corruption-hunting model provides a partial answer to the problem of how to fight corruption. This model allows individuals with knowledge and evidence of corruption that harms the US Federal Government to bring a civil action on behalf of the Government and the public. The corruption-hunting model is an important tool in the US Government's fight against corruption. It contributes to a more functional application of modern management concepts such as transparency and accountability. This model is a public-private partnership model that actively gets private individuals involved in the anti-corruption process. This study suggests using the corruption-hunting model, which has been operating in the USA for approximately 160 years, while constructing various mechanisms to combat corruption. In the analysis of the US corruption-hunting model, the reports of the relevant committees of the congress and academic studies discussing the development of the model, its importance and function in public administration were reviewed, and the structure and functioning of the model were examined within the framework of the legal provisions in force.

Keywords: corruption-hunting model, transparency, punishment, rewarding, deterrence

(Extended English summary is at the end of this document)

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Doi: 10.51655/ejl.2022.11

Received: 23.03.2022

Accepted: 15.05.2022

Introduction

Due to its dramatic effects on society and the state, corruption news has always been on the agenda in almost every country. Corruption is briefly defined as “the abuse of public power for personal gain”.¹ Widespread acts of corruption have many negative consequences, even on the issue of national security. There is a universal consensus that corruption, which is one of the crimes against the society, damages the public, undermines the foundations of the state administration and social structure, erodes the public's trust in the state, and that it is essential to fight against corruption at all levels of the public administration.

The difficulties inherent in judging corrupt acts require special measures to deter, detect and prosecute these acts.² Corruption is difficult to detect by its nature since crime hides due to its nature.³

Traditionally, governments have relied on internal audits, administrative investigations, and inspectorates to detect corruption and other organized crimes. Detecting corruption is often difficult without the cooperation of those who observe closely or are involved in some way in the corrupt activity. Generally, government employees are the first to learn about fraud and pretenses by public contractors.⁴ The corruption-hunting model rewards whistleblowers and engages people within the corruption activity in the anti-corruption struggle. Employees of a company or organization often have more effective access to information about illegal conduct than the best-designed government inspection system. Participants in that transaction have a

¹ Yavaş, G. (2014). “Yolsuzluk ve yolsuzlukla mücadele önlemleri; İtalya örneği”, *Akademik Hassasiyetler*, 1(0), p.1, available at: <https://dergipark.org.tr/en/pub/akademik-hassasiyetler/issue/56456/784665>. (22.09.2021).

² Petty, A. R. (2006). “How qui tam actions could fight public corruption?”, *U. MICH. J. L. Reform*, 39, p.852-853, <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1348&context=mjlr>, (24.8.2021).

³ Kim, S. B. (2016). “Dangling the carrot, sharpening the stick: How an amnesty program and qui tam actions could strengthen Korea's anti-corruption efforts”, *Northwestern Journal of International Law& Business*, 36(1), p.237, available at: <http://scholarlycommons.law.northwestern.edu/njilb/vol36/iss1/5>. (8.8.2021).

⁴ Landy, B. M. (2010). “Deterring fraud to increase public confidence: Why Congress should allow government employees to file qui tam lawsuits”, *Minnesota Law Review*, 94, p. 1255-1258, available at: <https://scholarship.law.umn.edu/mlr/500>, (6.7.2021).

clear advantage in obtaining information about a fraudulent transaction. That is, the main witnesses to corporate fraud are often involved in (or near) the corruption process itself. Therefore, giving various rewards, including impunity, to encourage those involved in such crimes to report it should be seen as a price to pay to prevent corruption.⁵ The reason why corruption-hunting is effective in revealing corruption is that it can use "another bandit to catch a bandit," that is, someone inside the illegal act, and get information from an insider.⁶

The increasing complexity of modern life and the opportunities offered by rapid changes in technology diversify the acts of corruption and make it easier to hide them by disguising them. This situation is expected to increase corruption in number and monetary size. On the other hand, advances in computer technologies and technological innovations such as artificial intelligence offer great opportunities for tracking and detecting corruption acts. Nevertheless, the importance of the human element is still indisputable.

Inside information, which is vital for the fight against corruption, is information provided by a person who has contact, experience, and foresight with the incident or perpetrator of corruption, which is significantly useful in solving the ruse. Due to the necessity and irreplaceable nature of insider trading, corruption-hunting is not just an option, it is also the best option for dealing with economic banditry.⁷ According to Bucy, the most important contribution of corruption-hunting is providing inside information about fraudulent businesses and their perpetrators. Insider information is an invaluable commodity that must be paid for. This commodity must be priced high enough and seen as morally respectable to overcome the disincentives and major risks involved in providing it.⁸ In a study, it was found that there is strong evidence that giving monetary rewards to whistleblowers is effective in

⁵ Depoorter, B. & De Mot, J. (2006). "Whistleblowing: An economic analysis of the False Claims Act", *Sup. Ct. Econ. Rev.*, 14, p.138, available at: https://repository.uchastings.edu/faculty_scholarship/88, (24.7.2021).

⁶ Kim, 2016:259.

⁷ Bucy, P. H. (2002). "Private justice", *Southern California Law Review*, 76(1), p.4-5, available at: https://southerncalifornialawreview.com/wp-content/uploads/2018/01/76_1.pdf, (16.07.2021).

⁸ Bucy, 2002:8.

the fight against fraud, and that monetary rewards are more dominant than psychological factors such as social approval and disapproval.⁹

The corruption-hunting model, which enables non-governmental actors (private individuals seeking rewards) to play a role in the pursuit of corruption, can also be effective in reducing the likelihood of an investigation not being opened or closed, in the face of the possibility that members of the government or persons associated with them are involved in corruption.

In corruption acts, there is a public-private cooperation/partnership created against the public interest. Generally, there are private individuals, such as contractors doing business with the government, at one end of the corruption plot, and public officials at the other end. In the corruption-hunting model, another type of public-private cooperation/partnership is formed to reveal the ruse against the public.

This study claimed that legal regulations are necessary to encourage all citizens, including public employees, to act as corruption hunters, to prevent public fraud, protect public resources, and recover stolen public resources/money. Thus, it is argued that everyone and every segment of society should take an active part in the fight against this corrosive disease.

When establishing mechanisms to solve a problem, it is usual to draw upon and learn from the experiences of other countries. In this respect, it should be stated that it would be useful to consider the corruption-hunting model, which has been operating in the USA for about 160 years and is being tried to be made more effective because its benefits have been seen, while various mechanisms are being devised to combat corruption. This study consists of an effort to make a small contribution to the discussions on this subject.

The consensus on the harms of corruption and the necessity of combating them does not eliminate the main problem in this regard: “How” should an effective fight against corruption be carried out? In this study, as a partial answer to this important question, the corruption-hunting model in the USA is examined.

⁹ Butler J. V., Serra D. & Spagnolo, G. (2017). “Motivating whistleblowers”, *CEIS Tor Vergata Research Paper Series*, 15 (9), 419, p.24, available at: <https://escholarship.org/content/qt2nh1q65g/qt2nh1q65g.pdf?t=qbrd8f>, (19.08.2021), DOI: 10.1287/mnsc.2018.3240.

In the analysis of the US corruption-hunting model, academic studies discussing the development of the model, its importance and function in public administration were reviewed, and the structure and functioning of the model were examined within the framework of the legal provisions in force.

In the first part of the study, some basic concepts related to the corruption-hunting model, the relationship of this model with some modern public management concepts, the importance and function of the model, and some criticisms of the model are discussed. In Chapter Two, some specific types of private justice practiced in the USA, including the corruption-hunting model, are discussed. The third part of the study deals with the historical development of the corruption-hunting model within the framework of the amendments of the False Claims Act, which is the basic legal regulation. In the Fourth Chapter, the functioning of the corruption-hunting cases process is explained within the framework of the legal provisions in force. In the conclusion part of the study, general evaluations and suggestions about the subject are given.

1. Conceptual Discussion on Corruption-hunting

Corruption-hunting (*qui tam* cases) is an abbreviation of the Latin phrase *qui tam pro domino rege quam pro se ipso in hac parte sequitur* and is based on the historical principle that “*he who sues for himself in (public interest) sues also for the king.*” Corruption-hunting is considered to have emerged in the late 13th century, when individuals began to sue in royal courts, both for themselves and on behalf of the Crown.¹⁰ That is, the person who brings the information and sues is considered to have done this for his benefit as well as for the benefit of the king. Corruption-hunting, which has historical roots, combines two different interests: public and private. This feature is unique to corruption-hunting cases.¹¹

According to *the social contract approach*, people have transferred some of their rights and powers to the state for the common

¹⁰ Gilles, M. & Gary Friedman, (Feb.2020). “The new *qui tam*: A model for the enforcement of group rights in a hostile era”, *Texas Law Review*, 3 (98), p.491, available at: <https://texaslawreview.org/the-new-qui-tam-a-model-for-the-enforcement-of-group-rights-in-a-hostile-era/> (10.07.2021).

¹¹ Washington University, (1972). Notes: “The History and Development of *Qui Tam*”, *Washington University Law Review*, Wash. U. L. Q. 081, 1972 (1), p. 83, available at: https://openscholarship.wustl.edu/law_lawreview/vol1972/iss1/7, (9.8.2021).

affairs of the public. So, the real owner of these transferred rights and powers, and assets are the people. Therefore, every citizen is a partner in public assets. In this case, every citizen has the right, duty, and authority to protect the interests of the public. In this respect, it can be thought that the social contract approach provides a philosophical and theoretical basis for the corruption-hunting model.

It is necessary to expand the social base by multiplying effective actors in the fight against corruption and to use all kinds of effective actors and methods within legal limits in a way that will encompass corruption 360 degrees. The corruption-hunting model aims to ensure the *participation* of the people who do not have an official duty on the issue, and the wider public, in the struggle to protect the rights and the interest of the whole society, by giving a considerable proportion of the money returned to the public as a reward to those who reveal corruption and bring them before the judicial authorities. Reward and punishment are important factors (though not the only determinant) in people's motivation. It does not matter whether the person who exposed the corruption is a public official or not. Those who participate in corruption acts can also be rewarded as corruption hunters (according to the nature of their contribution and role).

As the phrase "daylight is an effective germ killer" expresses, *transparency* is a modern management concept that makes corruption difficult and has a deterrent effect. Whistleblowing practices in general and corruption-hunting in particular, can be described as *backdoor transparency*. There are general transparency approaches such as the exercise of the right to information and open government, and specific transparency approaches such as audit transparency, which means that the auditors can access all kinds of information and documents in public institutions (with some exceptions) without any limitations.¹² These transparency approaches are not sufficient to reveal covert and specially designed corruption transactions. Since public institutions and organizations and private organizations/companies that are stakeholders in the corruption acts are more or less closed boxes, it is usually not possible for outside actors to know exactly what is going on

¹² Avcı, İ. (2016). "ABD Federal Kamu Yönetiminde Şeffaflık ve Denetim İlişkisi", M. A. Çukurçayır, H. T. Eroğlu, H. Sağır & M. Navruz (Ed.), In *Kamu Yönetiminde Değişimin Yönü ve Etkileri (Kayfor-13 Bildiri Kitabı)*, p.397, available at: <http://kayforturkiye.blogspot.com/2016/02/kayfor-13-bildiriler-kitabi-kamu.html>.

inside of these organizations. Corruption acts are covered with various transactions and records, that is, the devil looks after his own, in other words, the one who steals the money fits the cover. For this reason, the attitude of the people in the corrupt stakeholder institutions and organizations gains importance. To overcome the difficulty of obtaining information caused by being secretive, it may be possible to gain an insider against corruption by making use of the people in that body. It is a smart and effective method to make use of people who are not directly responsible for tracking and detecting, investigating, and prosecuting corruption, but who of know these acts due to their job or position. Thus, as a backdoor transparency tool, corruption-hunting can make the principle of accountability functional by revealing corrupt acts and transactions that are normally difficult or impossible to detect.

During the negotiations in the US Senate on amending the False Claims Act, it was stated that corruption is very widespread and costly due to the lack of deterrence. According to a study of the US the Government Accountability Office in 1981, many cases of corruption cannot be detected due to the inability to effectively hold public institutions and contractors to account. For this reason, the probability of corruption being prosecuted and eventually punished is low.¹³ So, the ineffective implementation of the principle of accountability is effective in the spread of corruption.

The importance of the corruption-hunting model is directly proportional to the size and prevalence of corruption and the function and effectiveness of the model in the fight against corruption.

In the US Senate Judiciary Committee's Report on the False Claims Act, it was stated that; it is not known exactly how much public money is lost due to corruption; reviewers like the Government Accountability Office, the Department of Justice, and the Inspectorate General, have estimated amounts ranging from hundreds of millions of dollars to more than \$50 billion per year. It was stated that undetected corruption probably reaches much higher amounts.¹⁴ In statistics published by an NGO called Certified Fraud Auditors, it has been claimed that US federal agencies lose about 7% of their income due to

¹³ The Committee on the Judiciary (1986). The False Claims Reform Act Of 1985, (July 28, 1986). (Senate Report) submitted the following Legislative Office Report [To accompany S. 1562], 99th Congress Report 2d Session Senate, p.3, available at: <https://www.justice.gov/sites/default/files/jmd/legacy/2013/10/31/senaterept-99-345-1986.pdf>, (29.8.2021).

¹⁴ The Committee on the Judiciary, 1986:3.

fraud and waste every year.¹⁵ The US Congress has earmarked more than \$500 billion for its operations in Iraq and Afghanistan, and investigations and audits have revealed that billions of taxpayers' dollars are lost to contract fraud, waste, and abuse.¹⁶ Doubts were expressed about the fact that corruption related to the operations in question was not pursued for political reasons.¹⁷ The number and monetary size of the detected corruptions can give an idea about the size and prevalence of the corruptions when the undetected ones are also considered.

Hertz, Assistant Attorney General of the US Department of Justice, made the following points about the content of corruption-hunting cases in the Senate Judiciary Committee: More than half of the approximately 5,800 anti-fraud cases filed since 1986 relate to public health programs. Of the \$12.6 billion recovered through corruption-hunting cases since 1986, more than \$9 billion (about 72 percent) belongs to health programs. The amount of over 1.6 billion dollars recovered from corruption against the Ministry of Defense is in second place. While these recoveries represent a victory for American taxpayers, they also show the extent of corruption. As the Government Accountability Office pointed out, corruption erodes public confidence in the Government in its ability to use public money properly. Corruption-hunting provides an opportunity to regain the trust of taxpayers who believe that the Government is not diligent enough in spending taxpayer money.¹⁸ According to US Department of Health officials, the False Claims Act is the Department of Health's primary civil enforcement tool to protect the integrity of the health benefits programs and fight corruption.¹⁹

¹⁵ The Committee on Oversight And Government Reform (2009). Preventing the plaintiff's attorney: the implications of economic theory for private enforcement of the law through class and derivative actions, House of Representatives, 111. Congress First Session, U.S. Government Printing Office, Serial No. 111-7, available at: <https://www.govinfo.gov/content/pkg/CHRG-111hhrg51325/html/CHRG-111hhrg51325.htm>, (12.8.2021).

¹⁶ The Senate, (2008). The Senate Report 110-431, (2008). Wartime Enforcement of Fraud Act Of 2008, p.2, available at: <https://www.congress.gov/110/crpt/srpt431/CRPT-110srpt431.pdf>, (9.8.2021).

¹⁷ Cited from Senator Leahy by Landy, 2010:1255.

¹⁸ The Committee on the Judiciary, 2008:8.

¹⁹ Bucy, 2002:6.

Senator Leahy stated that corruption has contributed greatly to the economic collapse, and that anti-corruption legislation should be made quickly to ensure that those who contribute to the economic disaster with their corrupt actions are punished and that taxpayers' money is protected from fraudsters.²⁰

As of 2010, many corruption allegations could not be addressed due to budget constraints, as the Government could not allocate enough lawyers and investigators to pursue corruption cases. According to the Department of Justice, even if new corruption-hunting cases do not arrive, it will take more than a decade to resolve cases still pending at the current pace of the investigation. Since the Department of Justice does not have enough personnel to analyze which cases should be prioritized, allegations that may turn into important corruption cases cannot be handled many times.²¹ This information shows that the resources allocated by the US Government to fight corruption are not sufficient.

There are at least three main reasons why anti-corruption regulations are necessary: (i) the need to provide specific incentives to detect fraudulent behavior, (ii) the unwillingness of bureaucracy and judicial authorities to aggressively investigate and prosecute corruption, (iii) the limitation of the resources that can be allocated by the government.²²

The main functions of the corruption-hunting model are; detecting and punishing corruption, compensating for public damage, deterring corruption and increasing public confidence in the state, transformative impact on the corporate culture.

Corruption-hunting has two features that make it successful as an effective combat model: First, it provides “insider information”. Considering the reward (carrot) that he will receive as a result of the case and the punishment (stick) that he will receive if an attempt is launched by others, the corruption hunter will be strongly encouraged

²⁰ The Senate, (2009). Statements On Introduced Bills and Joint Resolutions; Congressional Record, Vol. 155, No. 23, p.1682, available at: <https://www.congress.gov/congressional-record/2009/02/05/senate-section/article/S1679-1>, (11.7.2021).

²¹ Landy, 2010: 1253.

²² Moncus, J. R. (2002). The marriage of the false claims act and the freedom of information act: Parasitic potential or positive synergy? 55, *Vanderbilt Law Review*, p.1550, available at: <https://scholarship.law.vanderbilt.edu/vlr/vol55/iss5/5>, (27.8.2021).

to provide the information s/he has. The second is the “dual claimant” mechanism, where both the corruption hunter and the Attorney general's office can be the plaintiffs together. This mechanism provides both quality control over the process and the litigant parties to control and follow each other during the litigation process.²³ In this dual mechanism, information and documents related to the case are checked by the judicial authorities from the very beginning. This ensures quality work is done to win the case. In addition, this control can prevent people from unfairly victimizing other people by filing lawsuits with hostility and malice or with incomplete information.

There are many examples of the positive consequences of empowering private individuals to sue independently of administration. For example, Arthur Williams, an employee of the United States Air Force, found out that Japanese contractors were overcharged for the services they rendered and reported it to his superiors. However, Williams' superiors started an investigation against him instead of investigating the allegations. Thereupon, Williams filed a corruption-hunting lawsuit under the False Claims Act, and as a result of the lawsuit, the United States got \$34 million back from the Japanese company. As this case demonstrates, public servants can have a unique opportunity to access and prevent fraudulent behavior by contractors.²⁴

The compensatory justice approach requires not only the punishment of perpetrators of corruption but also, and even more primarily, reparation for the harm they have caused to the public. In addition to making modern management concepts such as transparency and accountability more functional, the anti-corruption model also functions to ensure the implementation of the compensatory justice approach. From this point of view, the model does not cover criminal cases, it concerns civil cases involving monetary sanctions. These sanctions include the fixed penalty stipulated for each corruption act, as well as three times the compensation for the unjust gain obtained through corruption.

When compared in terms of the number of lawsuits filed and monetary provisions taken, it is seen that the corruption-hunting model is much more successful than other private justice models. While it is acknowledged that many civil lawsuits are aimed at an environmental-enhancing solution rather than monetary consequences, for example,

²³ Bucy, 2002:53.

²⁴ Landy, 2010:1258.

the \$16.6 million from green-citizen lawsuits from 1988 to 2000 remains very low compared to the \$3.9 billion (accounting for 0.43% of total fraud hunting decisions) received in corruption-hunting cases.²⁵ The US Department of Justice reported that more than \$2.2 billion was recovered from corruption-hunting lawsuits in the last fiscal year ended September 30, 2020.²⁶ Senator Leahy claims that \$15 is recovered for each dollar spent on the corruption-hunting case in the healthcare field.²⁷ These figures strikingly illustrate the positive function of corruption-hunting initiatives in protecting public resources.

The *deterrent effect* of corruption-hunting is significant: This effect is due to two factors: First, as a result of the incentives offered, the likelihood that one party of the corruption act will "sell" other stakeholders is increased. Second, prosecutors' access to more robust evidence as a result of insider information increases the likelihood of conviction. Thus, the increased risk of exposure and conviction may cause people to stay away from crime. The Government Accountability Office estimates that over 300 billion dollars of corruption were deterred as a result of the corruption-hunting model between 1986 and 1998.²⁸ It is argued that "the surveillance of millions of eyes" is effective in deterring illegal activities.²⁹ Corruption, which has so far been deterred by the corruption-hunting model, is estimated to reach hundreds of billions of dollars.³⁰ In the final analysis, the deterrent function of corruption-hunting is much more important than punishing criminals and recovering unjustly received money from the public. Therefore, it can be said that the uncalculated utility of the model is much greater than the calculated monetary benefit. The deterrent function of corruption-hunting serves as preventive and protective medicine against the corruption disease that corrodes society and collapses the economy.

As a cumulative result of corruption-hunting, people's trust in the democratic system increases, corruption acts are more effectively

²⁵ Bucy, 2002:54.

²⁶ The U.S. Department of Justice, *The False Claims Act*, 31 U.S.C. §§ 3729-3733 (FCA), available at: <https://www.justice.gov/civil/false-claims-act>, (08.08.2021).

²⁷ Landy, 2010:1256.

²⁸ Petty, 2006: 875.

²⁹ Gilles & Friedman, 2020:493-494.

³⁰ Taxpayers Against Fraud Education Fund, what is the False Claims Act?, available at: <https://www.taf.org/false-claims-act>, (4.9.2021).

deterred; people believe more in a system on which they feel they have more influence.³¹ Corruption-hunting is a promising approach that empowers citizens to make demands on behalf of consumers, workers, the others, representing the common interests. The person who brings the case of corruption-hunting takes on the role of the state showing the interest of the parent to the citizens by filing the case on behalf of all citizens harmed by illegality.³²

The corruption-hunting model can have a *transformative effect on the corporate culture*. This model is more than money, it is also about changing corporate culture. Instead of encouraging or rewarding deception, companies now spend significant sums on sophisticated and meaningful compliance programs. This shift in values-based decisions and corporate culture that ordinary Americans make every day at work may be the model's most enduring legacy.³³ The nature of the corruption-hunting model has the potential to change social values more than any other practices of private justice or most legal mechanisms. It supports the understanding that protecting the interests of the wider community is more valuable than protecting the interests of its own close circle.³⁴ So, in addition to its monetary gains and deterrent functions, the potential of this model to change, shape, and discipline the business culture over time should be considered as a long-term effect and benefit.

Various *criticisms* have been leveled against the corruption-hunting model. Some researchers argue that the rise of corruption-hunting was fueled by 'professional' bounty hunters rather than by classic whistleblowers using first-hand "insider" information. They argued that these professional bounty hunters filed serial corruption-hunting cases, and these cases were too lawyer focused.³⁵ The involvement of lawyers in the process can be seen as a result of the legal processes requiring expertise. In addition, this situation shows that the

³¹ Petty, 2006:876

³² Gilles & Friedman, 2020:489, 494.

³³ Taxpayers Against Fraud Education Fund, what is the False Claims Act?, available at: <https://www.taf.org/false-claims-act>, (4.9.2021).

³⁴ Bucy, 2002:54.

³⁵ Engstrom, D. F. (2012). "Harnessing the private attorney general: Evidence from Qui tam litigation", *Columbia Law Review*, 112:1244, available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2290847, (10.7.2021).

award dimension of the model actively involves professional lawyers in the process.

It has been argued that some public servants may spend all their time reviewing government contracts to file a fraud case for profit, by disrupting their usual official duties while hunting for corruption. In addition, it has also been claimed that state inspectors may consider personal gain by hiding (not reporting) the information they have obtained about corruption due to their duties.³⁶ It can be said that these criticisms are too hypothetical and based on possibilities that may create an exception in general practice.

A study by the US Board of Merit Systems found that public servants do not report corruption because they fear retaliation. According to the survey, only 7% of Federal public employees reported fraud, waste, or abuse of which they were aware, and 44% of them stated that they experienced retaliation.³⁷ Whistleblower protection laws aim to encourage public employees to report on issues such as corruption, waste, misconduct, and health and safety hazards by introducing some protective provisions. The law has provided for strong sanctions against those who retaliate against those exercising such legal rights. However, despite these legal provisions, public employees are often reluctant to report because they fear retaliation from their superiors, and they think they will have limited protection after reporting.³⁸ Because it is very difficult to denounce your employer, colleagues, and friends by acting emotionally, personally, intellectually, and professionally. This type of disclosure can endanger businesses and lives. Perhaps it can lead to the death of an employer; friends being imprisoned, losing a job or being ostracized from society, and paying large fines and attorneys' fees. Being a whistleblower can have serious consequences: being fired or demoted; it is difficult to find another job due to prejudices from other employers; exclusion; family difficulties, stress-related physical and psychological disorders. The whistleblowers described the revelation of the insider leaks as a

³⁶ Landy, 2010: 1260-61.

³⁷ Merit Systems Protection Board, (2003). "The Federal Workforce for the 21st Century: Results of the Merit Principles Survey 2000", X, September 2003, available at: <https://www.mspb.gov/mspbsearch/viewdocs.aspx?docnumber=253631&version=253918&application=acrobat>, (12.7.2021).

³⁸ Merit Systems Protection Board Report, 2003:33-35.

nightmare. In addition, as a result of inadvertent and unfair investigations, the market reputation of the accused companies may be seriously damaged.³⁹

Another criticism of the corruption-hunting model is that public officials earn privately from the information they obtain during their official duties. This situation may create the idea of injustice among the public.⁴⁰ It can be said that this criticism is based on a weak thesis in the face of the gains to be made by the public. According to Senator Grassley, public officials (government auditor, inspector/investigator, attorneys, etc.) who are exclusively tasked with investigating and reporting corruption, whose job or part of their job is to pursue corruption, should not be allowed to take on the role of corruption hunters.⁴¹ It is natural that state employees, whose duty is to monitor and investigate corruption, should not be allowed to file corruption-hunting cases. This exception will prevent the public from paying twice for the same result. On the other hand, too many exceptions can narrow the pool of potential corruption hunters to such an extent as to neutralize the deterrence of this model.⁴² Crimes such as fraud and forgery committed against the government are essentially crimes against the whole society. The costs to be incurred to prevent these crimes can be seen as relatively small and bearable costs relative to the earnings.

2. Private Justice Models in the USA

Why was there a need for private persons to prosecute, that is, for special justice practices such as corruption-hunting, when there is a large state organization, and public institutions organized in almost every field to serve the society and protect the public interest, with budgets and authorizations?

The capture theory partially answers this question. According to the capture theory put forward by Stigler in the 1970s, regulated industries have a strong, persistent, and close interest in influencing authorities using public power. In general, however, ordinary citizens do not have this motivation and power. It is unlikely that individuals

³⁹ Bucy, 2002:61-62.

⁴⁰ Petty, 2006: 879.

⁴¹ The Committee on the Judiciary, (2009). To amend The False Claims Act, A Bill, available at: <https://www.govinfo.gov/content/pkg/BILLS-111s458is/xml/BILLS-111s458is.xml>, (15.7.2021).

⁴² Petty, 2006:887-888.

will lobby, like the industries, about the actions whose results they are affected. Officials using public power can be seized by industries or stakeholders that they are responsible for regulating and pursuance.⁴³ Thus, some public administrators, who are obliged to act in the public interest, can shape the regulations and practices in a way that will serve their private interests by entering into a relationship with the people and organizations in the sector they are addressing. Lobbying activities that are effective in the US system support this view. In other countries, there are pressure groups that lobby implicitly, although their work is not called lobbying.

The concept of private justice generally refers to the empowerment of non-official private persons to fight against violations of the law. In cases where official institutions and persons become or may become to serve the interests of private enterprises and individuals, or when their inspection capacities are insufficient, it was seen as a smart way to spread oversight powers to as many as possible private individuals and non-governmental organizations, thus special justice practices emerged.

Private justice occurs when private individuals detect and sue for public damages. Complaining or litigation by persons who have been harmed by an act (victim private justice model); litigation by persons in a class status to protect their personal and class interests (hybrid/private justice model), citizens complain and file lawsuits for the common good of society even though they have not personally suffered any harm from an action (common benefit private justice model) are included in the concept of private justice. These lawsuits can be brought because of the public harm or simply the threat of public harm. Citizen cases in many environmental laws and some consumer protection laws and the anti-corruption provisions of the False Claims Act are prime contemporary examples of common-interest private justice cases.⁴⁴ Major private justice practices in the US federal public administration are briefly discussed below.

2.1. Whistleblower Reward and Protection Regulations

The US Congress has made legal regulations that provide monetary rewards to public officials who report works and transactions that harm the public, such as fraud, abuse, mismanagement, and waste,

⁴³ Kenton, W. (2021). "Regulatory Capture", available at: <https://www.investopedia.com/terms/r/regulatory-capture.asp>, (8.7.2021).

⁴⁴ Bucy, 2002:4,13,31.

to the relevant authorities. For example, inspectors general may give a monetary reward not less than \$ 10,000 or not exceeding 1% of the savings provided to the public official who provides the prevention of damage by reporting fraud, waste, mismanagement to the inspector general. The President of the United States can also award a \$20,000 reward to public servants who cause significant savings by reporting acts that cause public harm. The President can give 50 such awards in a financial year.⁴⁵

There is also the Whistleblower Protection Act, which aims to protect federal employees who report violations of law, mismanagement, massive waste, abuse of power, etc. Under this law, if federal agency officials take or threaten to take action in retaliation against an employee or whistleblower who discloses such acts, they violate the Whistleblower Protection Act.

2.2. Citizen Suits

Citizens' lawsuits are scattered in various laws, especially in environmental and consumer rights laws. Under the Citizens' Litigation Act of 1972, with the exceptions set forth by law, any person shall be liable to any person, to the U.S. Government, and to any person alleged to have violated or contributed to the violation of any provision, condition, permit, standard, prohibition, or order outlined in this section. Any citizen may bring a civil action against the director on his or her behalf in cases where the director is alleged to have failed to perform any act or duty that is not at his discretion.⁴⁶

According to the provision of the law, civil lawsuits can be brought against persons who violate certain legislation (for example, polluting the environment), as well as against public administrators who do not fulfill their legal duty and neglect it. This feature makes the citizen litigation process interesting and opens up a wide scope for the supervision of managers by citizens. In addition to executive liability for managers who do wrong, negligent liability for those who do not fulfill their duties or do it incompletely is also included in the law.

⁴⁵ Congressional Research Service Report. (2008). Federal employee awards and incentives: Title 5 authorities and potential issues for congress, CRS, December 9, 2008, p.4-5, available at: <https://crsreports.congress.gov/product/pdf/R/R40031/2>, (13.7.2021)

⁴⁶ 42 U.S. Code § 6972 - Citizen suits, (a) (12), available at: <https://www.law.cornell.edu/uscode/text/42/6972>, (23.7.2021).

Citizens' lawsuits have produced positive results on issues such as deterring violations, bringing unknown violations to the attention of the government and the public, by increasing awareness in public institutions and citizens related to the environment. The U.S. Environmental Protection Agency (EPA) and the Department of Justice are in support of civil litigation. According to the EPA, citizen lawsuits have a great deterrent effect. Citizen lawsuits also have more flexibility than official prosecutors in resolving the case by negotiating with the defendant (for example, polluters). However, the incentive aspect is lacking that because citizens' lawsuits do not provide any financial benefit to the plaintiffs.⁴⁷

2.3. Private Attorney General

The concept of a special attorney general was first used in a decision of the US Supreme Court in 1943. In that resolution, it was stated that "...to justify the public interest, Congress may authorize a private citizen to use as a private Attorney General." The concept has become widespread since the 1970s due to its usefulness. But the content of the concept is surprisingly variable; it is sometimes used to designate plaintiffs, sometimes defendants, and typically lawyers.⁴⁸ In other words, although it is used so frequently, there is uncertainty in the scope of the concept.

In the US administrative and legal literature, the term "Special Attorney General" refers to "bounty hunters" unharmed by the alleged misconduct who sue for the public good by asserting a public right on behalf of the public or the state. Corruption-hunting plaintiffs are also special prosecutors who complete the work of the Attorney General. A special prosecutor can also be a lawyer hired against those who cause public harm, who defend the interests of the public while defending the interests of their clients.⁴⁹ On the other hand, if the Attorney General's Office does not intervene in a corruption-hunting case, the corruption hunter who continues the case will "replace" the Attorney General. It represents the Government and is seen as a permanent derivative of the

⁴⁷ Bucy, 2002:40-41,43.

⁴⁸ Rubenstein, W. B. (2019). "On what a "private attorney general" is- and why it matters", *Vanderbilt Law Review*, 57(6), p. 2130, 2134, available at: <https://scholarship.law.vanderbilt.edu/cgi/viewcontent.cgi?article=1699&context=vlr> (2.9.2021).

⁴⁹ Petty, 2006:877.

government position, a proxy of the Government's interests. However, in this case, the corruption hunter replaces the Attorney general only for the compensation of pecuniary damages, not for imposing legal or criminal sanctions.⁵⁰

American legal practice relies on a unique proportion of private plaintiffs called "private attorneys general" to enforce certain laws that are largely within the jurisdiction of public agencies in other countries' legal systems. This system of enforcement, run through "private attorneys general", is most closely associated with federal antitrust and securities laws and common law derivative action, but similar institutional arrangements have recently been developed in the areas of environment, "mass tort" and employment discrimination.⁵¹

2.4. The Bounty System

The reward system, unlike the private attorney general practice, does not allow for a private lawsuit to be filed. The Securities Exchange Act of 1934 authorizes the Securities and Exchange Commission (SEC) to reward individuals who report their involvement in insider trading. The bounty hunting system deals only with actions that give rise to civil liability. The reward is limited to 10% of the money raised as a result of the lawsuit. Although the reward system is an excellent prosecution tool, it has not been as useful as the corruption-hunting model in the fight against corruption due to the scarcity and uncertainty of the reward.⁵²

2.5. Department of Justice Antitrust Leniency Program

The leniency or remorse program encourages and rewards self-reporting of violators of anti-trust laws, by pardoning those who confess and report it first to the relevant authority.

In 1993, the US Department of Justice published the Institutional Leniency Policy Document, establishing a Leniency Program. The Program is a mechanism that allows a company to avoid criminal

⁵⁰ Rubenstein, 2019:2144-2145.

⁵¹ Coffee Jr., J. C. (1986). "Understanding the plaintiff's attorney: the implications of economic theory for private enforcement of the law through class and derivative actions", *Colum. L. Rev.*, 86(4), p.669, available at: https://scholarship.law.columbia.edu/faculty_scholarship/26, available at: (31.7.2021).

⁵² Petty, 2006:878.

prosecution despite violating federal competition laws by reporting (that is, by expressing regret) an illegal cartel activity (such as price negotiation, rigging bid-rigging, and market splitting) that it was involved in, to the Antitrust Division. Thus, the company expressing its remorse can obtain two types of amnesty, commonly referred to as “Type A” tolerance and “Type B” tolerance. The main difference between the two is that Type A indulgence is possible before an investigation into illegal activity is opened, whereas Type B indulgence is possible if a statement of regret is made after an investigation has been opened (but before any evidence likely to result in a conviction has yet been obtained). This practice, which has been in effect for nearly 30 years, has been an important driving force for criminal competition lawsuits, and some of the major antitrust lawsuits in this period started with repentance applications.⁵³

Cartels that cause economic damage by destroying competition are often difficult to detect and investigate. The cooperation of those involved in this crime is important in uncovering and punishing illegal practices. For this reason, those who report their crimes in cooperation with the official authorities are provided with a reduced sentence or even full impunity, depending on the situation. Leniency Programs help competition agencies access first-hand evidence and identify and eliminate clandestine cartels.⁵⁴

The Leniency Program is largely successful by creating distrust among those involved in the crime of cartelization. Because the reward structure of the Program can start a confession race among these people. This puts a lot of pressure on each participant to hurry, as the company that confesses first will receive full amnesty.⁵⁵ Within the scope of this policy, cooperation in return for corporate amnesty has become an important tool in the conduct of criminal competition cases.⁵⁶

⁵³ Cieslak, J. (2021). “The Department of Justice Antitrust Division’s leniency program”, available at: <https://www.theantitrustattorney.com/the-department-of-justice-antitrust-divisions-leniency-program/>, (25.8.2021).

⁵⁴ ICC Commission on Competition. “ICC Leniency Manual” First Edition 2016, 4, available at: <https://iccwbo.org/content/uploads/sites/3/2016/11/ICC-Leniency-Manual-First-Edition-competition.pdf>, (25.8.2021).

⁵⁵ Kim, 2016:253.

⁵⁶ Kobayashi, B. H. (2001). “Antitrust, agency and amnesty: An economic analysis of the criminal enforcement of the antitrust laws against corporations”, *George Washington Law Review*, 69 (715-744), p.3, *George Mason Law & Economics*

Kim argues that an effective fight against corruption can be achieved through the adoption of two regulatory tools that have proven very successful in detecting and deterring complex white-collar crime in the United States: (i) the Antitrust Amnesty Program and (ii) the Corruption-hunting Model. According to him, this legal framework will create a “carrot and stick” mechanism, thus making the struggle cost-effective and efficient by both encouraging those who violate the law to confess their crimes and informing third parties with knowledge.⁵⁷ In this respect, it has been claimed that the corruption-hunting model is superior to other forms of incentives in encouraging the reporting of corruption committed against the public, as it gives the plaintiff significant initiative over the process.⁵⁸

2.6. The Corruption-hunting Model

The corruption-hunting model means that all citizens can sue for the common good of the society by using certain powers within the special justice approach. It is possible to characterize corruption-hunting as a kind of public-private partnership model designed against the economic robbery of the public.

The corruption-hunting model (Qui tam cases) is regulated in the False Claims Act.⁵⁹ The provisions of this law allow private individuals with direct knowledge and evidence of corruption against the U.S. Federal Government to bring an action on behalf of the Government. This law encourages corruption hunters by protecting people who report corruption from retaliation and by giving them a share of the money recovered from the lawsuit.⁶⁰

The corruption-hunting case is case civil. In this model, by giving the authority to sue private individuals outside the state, a mechanism has been tried to be created that can eliminate the inadequacy of capacity, malfunctions in the relevant departments of the public administration, or the inconveniences that may arise from dirty relations

Research Paper No. 02-04, available at:
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=305260, (21.8.2021).

⁵⁷ Kim, 2016:252.

⁵⁸ Petty, 2006:872.

⁵⁹ 31 U.S. Code § 3729 – 3733 False Claims Act, available at:
<https://www.law.cornell.edu/uscode/text/31/3729>, (24.7.2021).

⁶⁰ Taxpayers Against Fraud EducationFund, what is the False Claims Act?, available at:
<https://www.taf.org/false-claims-act>, (4.9.2021).

between public officials and corrupt people. The corruption-hunting model aims to prevent corruption by using financial incentives (carrot) in addition to deterrence-based punishment (stick).⁶¹

The corruption hunter can file a lawsuit in person or initiate an initiative through his lawyers who are the professional assistants of corruption hunters, are neither superman nor bogeyman, although they receive great attention in the popular and academic press.⁶² Since the anti-corruption case is a legal process, it is usual to involve lawyers in the process.

Frauds and forgeries in goods and services contracts and the fulfillment of these commitments in all sectors such as finance, agriculture, construction, cyber security, and customs, especially in the health and defense sectors may be the subject of anti-corruption lawsuits.⁶³ It is stated in the False Claims Act (article 3729/d of the law) that the provisions of the corruption-hunting case will not be applied to the claims related to the taxes within the scope of the Income Law. There are specific provisions for rewarding whistleblowers for tax evasion.⁶⁴

3. The Development of Legal Regulations Regarding the Corruption-hunting in the USA

In the early stages of English criminal law, at the end of the thirteenth century, to compensate for the inadequacy of the police force in enforcing the penal laws, Parliament passed legislation allowing private persons to prosecute violators of the penal laws and ordering one-quarter of the fine imposed on the offender to be granted to the plaintiff. Over time, these provisions began to be used in the implementation of a wider part of penal laws.⁶⁵

Corruption-hunting cases are derived from English customary law. With the introduction of English law to North America by the

⁶¹ Depoorter & De Mot, 2006:136.

⁶² Engstrom, 2012:1318.

⁶³ Phillips & Cohen LLP, "Common types of qui tam whistleblower cases", available at: <https://www.phillipsandcohen.com/common-types-qui-tam-cases>, (24.8.2021).

⁶⁴ Internal Revenue Code (IRC), available at: <https://www.irs.gov/compliance/internal-revenue-code-irc-7623b>, (02.08.2021).

⁶⁵ Washington University, (1972). Notes: "The History and Development of Qui Tam," *Washington University Law Review*, Wash. U. L. Q. 081, 1972 (1), p.86, available at: https://openscholarship.wustl.edu/law_lawreview/vol1972/iss1/7, (9.8.2021).

British colonial administration, corruption-hunting cases found application in the United States, and the British principal and procedural provisions were generally adopted.⁶⁶ The first U.S. Congress passed laws that allowed private individuals to sue those who caused public harm, and that if the case was won, both the plaintiff and the public administration would be given a certain share. These narrow-scoped legal regulations were abolished over time. In this area, the only federal law that has led to many lawsuits since the 19th century and remains important today is the False Claims Act.⁶⁷

3.1. False Claims Act of 1863

During the American Civil War, the Federal Union Army suffered greatly from defective weapons, unexploded cannonballs, putrid food, lame mules, and rotten blankets supplied to the army by suppliers. Thereupon, President Lincoln requested in 1863 that Congress urgently pass a law to prevent fraud related to the supply of supplies to the military, and in response to this request, the federal False Claims Act (FCA) was enacted. This Law includes civil and criminal liability provisions for acts of defrauding the Government by receiving unfair payments by fraudulent behavior.⁶⁸ The False Claims Act aimed to strengthen the state's ability to uncover corruption and prosecute criminals. This law was seen as a weapon against corruption that harmed the public.⁶⁹

The Act of 1863, which remained in effect for 80 years in its original form, stipulated that for each corrupt act that caused harm to the public, a fine of \$2,000 was to be compensated, the damage would be compensated with double the amount. If the lawsuit filed by individuals on behalf of the Government was successful, half of the public damage compensated would be given to the corruption hunter.⁷⁰

⁶⁶ Purcell Jr. E. (1993). "Qui tam suits under the false claims amendment act of 1986: The need for clear legislative expression", *Cath. U. L. Rev.* 42(4), p.937, 939. available at: <https://scholarship.law.edu/cgi/viewcontent.cgi?article=1687&context=lawreview>, (25.8.2021).

⁶⁷ Petty, 2006:864.

⁶⁸ Petty, 2006:865.

⁶⁹ Purcell Jr. E., 1993: 935.

⁷⁰ Petty, 2006:865.

Significant changes have been made twice (in 1943 and 1986) in the basic provisions of the original False Claims Act, which was enacted in 1863, and both amendments had substantial and striking effects on corruption prosecutions.⁷¹

3.2. Amendments of 1943 to the False Claims Act

In 1943, a court decided to pay compensation (despite the Attorney General's objection) to a person who filed a corruption-hunting case using already publicly available information, which was included in a previously submitted prosecution indictment. The Government argued that this approach invalidated the existence of the law, which was intended to encourage the exposure of hidden corruption.⁷² Even the repeal of the False Claims Act was voted on in Congress after the Attorney General's letter to Congress complaining that corruption-hunting cases had become parasitic acts and abused, but the voting process could not be completed. Upon counter-objections that the corruption of some contractors selling goods to the army endangered the lives of the soldiers, the law was changed instead of being completely repealed.⁷³

Amendments made in 1943 mandated that corruption-hunting cases be based on information not available to the Government.⁷⁴ In addition, with these amendments, it was ordered that the corruption hunter would present supporting evidence to the Department of Justice, which will examine the file for a certain time period to decide whether to file a lawsuit. In this environment, the application area of the Law was also narrowed by some courts.⁷⁵ Thus, the 1943 amendments prevented some abuses, but also made it difficult to open corruption-hunting cases.⁷⁶

⁷¹ Moncus, J. R. (2002), "The marriage of the false claims act and the freedom of information act: Parasitic potential or positive synergy?", *Vanderbilt Law Review*, 55, p.1554, available at: <https://scholarship.law.vanderbilt.edu/vlr/vol55/iss5/5>, (27.8.2021).

⁷² Moncus, 2002:1555.

⁷³ Petty, 2006:865-866.

⁷⁴ Purcell Jr., E. 1993:936

⁷⁵ Moncus, 2002:1555-56.

⁷⁶ Petty, 2006:867.

3.3. Amendments of 1986 to the False Claims Act

With the change of conditions over time, changes in legal provisions are also needed. In response to the questions of why corruption in public services is so common, why it is seldom detected and seldom prosecuted, the debates held in the Senate's committee on amending the False Claims Act revealed that there are serious obstacles to obtaining information about corruption, that there are weaknesses in both investigation and litigation tools. It was stated that legal improvements should be made to correct it.⁷⁷

The False Claims Act took its current form mainly with the 1986 amendments. With these changes, Congress aimed to make it easier for private individuals to file corruption-hunting lawsuits, thus enabling citizens to contribute more to the fight against the growing sophisticated and pervasive corruption problem.⁷⁸ The 1986 amendments have three purposes: (i) to further encourage those with knowledge of corruption to report it; (ii) to prevent parasitic corruption hunters from using already publicly available information, (iii) to encourage and support government action.⁷⁹ Changes made for this purpose have been in three main areas: determining damages and rewards, documentation procedures, and the status of corruption hunters.⁸⁰

The 1986 amendments provided for the imposition of triple penalties instead of twice the resulting public damage, increased the rate of rewards to be given to corruption hunters, set a generous mandatory minimum share rate, eased the requirement for proof of intent, extended the statute of limitations, relaxed the provisions preventing litigation, allowed corruption hunters who faced retaliation from employers to sue.⁸¹ These are the changes that encourage litigation and increase the chances of success for the plaintiffs.

Initiating a corruption-hunting case using information the government already had was completely blocked by the 1943 amendments. With the changes made in 1986, if the whistleblower is

⁷⁷ The Committee on the Judiciary, 1986:4.

⁷⁸ The Committee on the Judiciary, 1986:2.

⁷⁹ Moncus, 2002:1550.

⁸⁰ Purcell Jr., E. 1993:944.

⁸¹ Bucy, 2002: 45-46

the "original source" of corruption-related information, it is possible to file a lawsuit.⁸²

After the 1986 changes, there was an explosion in the number of corruption-hunting cases.⁸³ In the period from 1943 to 1986, approximately six corruption-hunting cases were filed with the Department of Justice per year, while from the coming into force of the 1986 amendments, an average of 240 fraud hunting cases were filed annually.⁸⁴ While the False Claims Act was largely ignored between 1863 and 1943 and was hardly used between 1943 and 1986, the law was used very frequently at the federal level after 1986. As a reflection of that many states enacted laws similar to the False Claims Act.⁸⁵

It must have been seen from the experiences that the provisions in force in the period before 1986 and weakening the corruption-hunting model enervated the fight against corruption and facilitated the work of people with corrupt intentions.

3.4. Amendments of 2009 to the False Claims Act

In 2009, the Fraud Enforcement and Recovery Act of 2009 (FERA) was enacted, and some changes were made to the False Claims Act. These changes have significantly expanded the scope of responsibility of individuals and organizations that sell goods and services to the government, particularly healthcare providers and suppliers that receive federal funding through public health benefits. For example, it has been made easier for a person to be held liable under the reverse false claims provision for money or commodities that are required to be paid or delivered to the government.⁸⁶ These changes, like the 1986 amendments, were in the direction of strengthening the False Claims Act.

⁸² Petty, 2006:867; Bucy, 2002:47.

⁸³ Moncus, 2002:1557.

⁸⁴ Bucy, 2002:48.

⁸⁵ Petty, 2006:869.

⁸⁶ Akin Gump Strauss Hauer & Feld LLP. (2009). "Health industry alert, 2009 amendments to false claim act pose new challenges for the health care industry", p.1-2, available at: https://www.akingump.com/a/web/1454/aogL1/090602_2009-amendments-to-false-claims-act.pdf, (9.8.2021).

3.5. Corruption-hunting Regulations at the State Level in the USA

As reflections of the federal False Claims Act, 29 states and the District of Columbia have enacted mini-fraudulent billing laws.⁸⁷ They have regulations similar to the federal False Claims Act.

In Arkansas, whistleblowers are rewarded, but private individuals are not allowed to sue for embezzlement. In Colorado, Connecticut, Michigan, Louisiana, Tennessee, and Texas, only healthcare fraud hunting cases can be filed. Five states allow civil servants to file a corruption-hunting suit if they first report the fraud to the Government and the Government does not take action within a reasonable time. The trend at the state level is to broaden the scope of corruption-hunting.⁸⁸

Generally, private individuals are not allowed to sue state-level corruption in federal courts. The US Supreme Court has decided that the citizens of a state can file a lawsuit against their state in federal courts only if the state consents to the case.⁸⁹

4. How does the Anti-Corruption Process Works?

4.1. Behaviors Subject to Corruption-hunting Case

Behaviors that may be the subject of a corruption-hunting lawsuit under the False Claims Act include⁹⁰;

a) Knowingly submitting or causing to be submitted a document containing a false or fraudulent request to public administrations for payment or approval;

b) Knowingly create, use or cause to be created or used a false record or document for an unfair and false request;

c) Knowingly deliver less than necessary or cause to be delivered of money or property that is supposed to be delivered to public administrations;

d) Cheating on payment and delivery documents made to public administrations, issuing and using receipts containing false information;

⁸⁷ Gilles & Friedman, 2020:492.

⁸⁸ Petty, 2006:869-870.

⁸⁹ Petty, 2006:883.

⁹⁰ 31 U.S. Code § 3729 – 3733 False Claims Act, <https://www.law.cornell.edu/uscode/text/31/3729>, (24.7.2021).

e) Knowingly purchasing public goods from any unauthorized public official or putting the public under an obligation or debt commitment,

f) Knowingly prepare, use or cause to be drawn up or used a false record or document regarding any payment or transmission obligation to public administrations, knowingly concealing or avoiding or reducing the obligation to pay.

g) Setting up a bench to obtain fraudulent gains in the above-mentioned matters.

According to the legal provisions above, to win a fraud hunting case, the plaintiff must prove three elements:

1. Defendant has submitted or caused a request for payment or approval to the Federal government.

2. Defendant's request for payment or approval is false and fraudulent.

3. The defendant knowingly made a false and fraudulent payment or confirmation request.

The False Claims Act did not attribute legal liability only to actions such as knowingly submitting false or fraudulent payment requests to the Federal Government, using false documents to obtain overpayment, or setting up a ploy to do so; it also imposes responsibility on acts (reverse false claims) to hide, prevent or reduce the obligation to pay money to the government.⁹¹ In summary, these legal provisions show that fraudulent acts of (i) taking more than what is required from the public or (ii) paying less than what is due to the public are the subject of anti-corruption cases.

4.2. Filing and Execution of Corruption-hunting Case

Article 3730 of The False Claims Act includes provisions regarding the procedure for filing a corruption-hunting case. According to this;

- If a person finds that article 3729 has been violated, he or she can bring a civil action on behalf of themselves and the United States Government. Since the case will be filed on behalf of the Government, the corruption hunter presents all the material evidence and information he has about the corruption he will prosecute at the Attorney General's Office. The corruption hunter explains the reasons for the case in front of the camera. The Attorney General's Office examines the material

⁹¹ Akin Gump Strauss Hauer & Feld LLP. (2009):1.

evidence within 60 days and decides whether to intervene in the case or not. During this period, the file is kept confidential and is not notified to the defendant. The 60 day period may be extended by a court decision, upon the request of The Attorney General's Office with a justified reason. After this period expires, if a lawsuit is to be filed, the defendant is given at least 20 days to answer the allegations against him/her.

- At the end of the period, if the Office of the Chief Prosecutor notifies the court that it will not take over the case, the corruption hunter has the right to conduct the case on his own. In this case, a copy of the case file is given to the Attorney General's Office, upon request. In case of showing a just cause, the Attorney General's Office may join the case later with a court decision without limiting the rights of the corruption hunter. After a corruption-hunting case has been opened, no one other than the Attorney General's Office can intervene in the case, or file another lawsuit on that matter, citing the grounds of the ongoing case.

- If the Attorney General's Office decides to take over the case at the end of the review period; it takes the initiative in the case, and has primary responsibility for the prosecution of the case, regardless of the actions of the person who brought the case. In this case, the corruption hunter has the right to continue as a party to the case within the limits of the law.

The Attorney General's Office, for justifiable reasons, has the authority to request the court to reject the case, to decide the case with conciliation that because the conciliation proposal of the defendant is reasonable, to conclude the case with alternative solutions, to limit the plaintiff's request for hearing a witness in terms of number and time, to limit the participation of the corruption hunter.

If the defendant shows that the corruption hunter's unrestricted participation in the case will be for harassment or cause excessive burden or unnecessary expense for the defendant, the court may order restrictive measures such as limiting the number of the corruption hunter's hearings. In such cases, the corruption hunter has the right to appeal to the court against requests such as limitation of his role, dismissal of the case, or settlement.

- If the Attorney General's Office indicates that a discovery made within the scope of a corruption-hunting case will interfere with a criminal or civil investigation or prosecution arising from the same events, such discovery may be delayed by the court for 60 days. The court may extend the 60-day period upon a request with just cause.

- Regardless of the stage of the proceedings initiated by the corruption hunter, the Attorney General's Office may pursue the claim through any alternative law available to it, including any administrative action for the determination of a fine. If an alternative solution is reached as a result, the person initiating the case will have the same rights as if the case continued under this Act.

Whether the case is filed by the public authority or the corruption hunter, in both cases, if the case is won, the corruption hunter gets his share of the monetary gain.⁹² At this point, it should be noted that the False Claims Act does not provide for injunctive relief, but only allows a claim for compensation.⁹³

The Attorney General's power to reject a corruption-hunting attempt is not unlimited. The request in this direction is decided by the court. If the Attorney General's Office decides to reject or terminate a corruption-hunting case unilaterally without any judicial review, it would be contrary to the system's *raison d'être*, and the authorization of the citizen may lose its meaning. Because the system may not work properly due to reasons such as excessive workload, carelessness, lack of equipment and capacity, or political pressures of the relevant judicial authorities. As a matter of fact, in a corruption-hunting application, the Attorney General initially argued that the decision to dismiss the corruption-hunting cases was within its discretion and therefore not subject to judicial review. The Court rejected this claim and asked for evidence to show that the dismissal of the case was rationally related to a legitimate public interest, not arbitrary and volatile judgments.⁹⁴ The fact that the dismissal of the case is possible only with the evidence to be presented at a hearing before the court is important in terms of checking whether the decision made by the Office of the Chief

⁹² Gilles & Friedman, 2020:492.

⁹³ Ma, J. Y. (2016), "Undue delegation: Private delegation and other strategies to challenge admitting-privileges laws", *Columbia Journal of Gender and the Law*; 30(2), p. 595, available at: <https://journals.library.columbia.edu/index.php/cjgl/article/view/2737/1242>, (26.8.2021).

⁹⁴ United States ex rel. Sequoia Orange Co. v. Sunland Packing House Co., 912 F. Supp. 1325, 1328 (E.D. Cal. 1995), p.12, available at: <https://casetext.com/case/us-sequoia-orange-v-sunland-packing-edcal-1995?cfchljschltk=&pmd48fdebe4836d595c9d7bd018c462f755bdd0e6b4-1628420737-0-gqNtZGzNAk2jcnBszQli>, (8.8.2021).

Prosecutor is in the public interest and for the healthy functioning of the system.

If the Attorney General joins the case, the corruption hunter will also be a party to the case, and there will be "two plaintiffs" in the case. Owing to the dual plaintiff system, the Attorney General's Office monitors and audits, on behalf of the public, the quality of a corruption hunter's work throughout a case. Since the Attorney General's Office has the legal authority to take action to dismiss an inappropriate case, it can request the court to reject inappropriate attempts without public disclosure.⁹⁵ Thanks to these procedural provisions, the information revealed is scanned and double-sided. This situation strengthens the sanction and deterrence quality of the model. This feature of the corruption-hunting model is perhaps its most valuable defining feature. This dual control function is particularly important for a whistleblowing program.⁹⁶ In short, the presence of two plaintiffs in the case provides double-sided control for the healthy execution of the process.

The involvement of the Attorney General's Office in the case increases the chances of success in the case many times over because the power of the Office to investigate and document events, and the opportunity to employ experts is incomparable with individuals. As a matter of fact, from October 1, 1986, to September 30, 2000, only 2.1% of the corruption-hunting cases in which the Attorney General's Office intervened were rejected; 71.1% of the cases where it did not intervene were rejected. Therefore, from the beginning of the case, corruption hunters present a comprehensive, complete and convincing report to the Attorney General's Office to ensure their intervention in the case. In the report, they must state how the defendant committed corruption in violation of the legislation on which the allegations are based, identify witnesses, if any, and possible information on the matter, and explain how the corruption was committed, as well as what evidence is available to prove it was "knowingly" committed.⁹⁷

⁹⁵ Bucy, 2002:50, 53.

⁹⁶ Casey, A. & Niblett, A., (2014). "Noise reduction: The screening value of qui tam", *Washington University Law Review*, 91, p.1173, available at: https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=12541&context=journal_articles, (03.09.2021).

⁹⁷ Bucy, 2002:51-52, 69.

4.3. Rewards and Penalties to be Decided in Corruption-hunting Cases

The monetary reward that citizens, who do not have an official duty to explore and investigate corruption, hope to obtain in taking on the role of corruption hunter is an important source of motivation. The reward one hopes to win as a result of the lawsuit must be large enough to take many risks and hunt for corruption.

The reward to be given to the corruption hunter is regulated in article 3730/d of the False Claims Act. The size of this award varies depending on whether the Attorney General is involved in the case and the corruption hunter's contribution to the process. According to this;

a) If the Attorney General's Office intervenes in the corruption-hunting case, the corruption hunter is given 15-25% of the proceeds of the lawsuit.

b) If the Attorney General's Office does not file a lawsuit and the corruption hunter carries out the case on his own, an amount of 25-30% of the proceeds of the lawsuit or settlement will be given to the corruption hunter.

The amount of the award to be determined between these minimum and maximum rates is decided by the court according to how much the person contributes to the prosecution of the case. If it is determined by the court that the lawsuit in question is based on the disclosure of information from a hearing, audit, investigation, or news media in another official institution, other than the information provided by the corruption hunter, the court may decide the award amount that it deems appropriate, up to 10% (provided that the plaintiff is the original source of the information).

The fraud hunter will also be paid for reasonable expenses, reasonable attorneys' fees, and expenses that he or she has been compelled to incur within the scope of the court's determination. All these costs, fees, and expenses are taken from the defendant, that is, they are covered by the proceeds provided by the lawsuit.

c) If it is determined that the anti-corruption case was brought by the person who planned and initiated the illegal act, the court, if it deems appropriate, may reduce the share of the person, taking into account his role in referral of the case and other circumstances. If the person who brought the case has been convicted in a criminal case for his role in the violations specified in article 3729, that person is excluded from the

civil case and cannot receive a share of the proceeds from the case. This does not prejudice the Attorney General's right to continue the case.

d) If the Attorney General's Office does not proceed with the case and the case is carried out by a corruption hunter, and if it is determined by the court that the plaintiff filed a lawsuit with a grudge, malice, animosity, or with the motive of harassment motive and it is determined by the court that the defendant is right, the court may order the defendant to be paid reasonable attorney's fees and expenses.

It can be thought that the burden of some costs to the plaintiff as a result of filing a lawsuit with weak evidence or personal grudge will force corruption hunters to think twice and to provide quality information and prevent the relevant institutions and courts from being busy unnecessarily.

According to the law, a court decides to pay a penalty of between 5,000 and 10,000 USD per claim, in addition to compensation of three times the damage suffered by the public, within the scope of civil liability, to persons who commit an action within the scope of Article 3729.⁹⁸ These fixed penalty amounts are updated from time to time. By 2021, the penalty is between \$5,500 and \$11,000.⁹⁹

The reward for the corruption hunter is an important motivator. However, monetary reward alone may not always produce the desired result in mobilizing people. At this point, the effect of the current administrative and social culture in the country is important. If reporting abuses against the public is seen as reprehensible snitching rather than a "civic duty," the effectiveness of private justice practices such as corruption-hunting may be diminished. So, the reward to be provided to the corruption hunter must be high enough to eliminate such social and cultural barriers.

On the other hand, some argue that increasing the reward too much will reduce the effectiveness of the model. According to Casey & Niblett, the fraud hunting model should include an effective information sifting mechanism to improve the quality of the information provided and reduce the cost of implementation. Effective information sifting is particularly important for a whistleblowing program. Thus, the relevant institution can detect, prosecute and deter fraud at a lower cost. In a model without an effective information sifting mechanism, high rewards cause an excessive flow of information,

⁹⁸ Purcell Jr., E. 2006:867.

⁹⁹ The False Claims Act: A Primer, 2021:1.

flooding the institution with low-quality information, namely “noise.” If the agency's capacity is limited and cannot distinguish well between low- and high-quality information, scarce resources can be diverted to ineffective investigations. In this case, an excessive increase in the rewards may reduce the effectiveness of corruption-hunting by causing excessive information flow.¹⁰⁰

It has also been argued that for a whistleblowing system to be effective, it is necessary to differentiate the reward ratio according to the personal costs incurred by the individuals.¹⁰¹ This may be taken into account by the courts, which will decide on the amount of the award.

The amount of reward a corruption hunter can receive as a result of a lawsuit can be calculated on a hypothetical example. For example, if a lawsuit is filed alleging corruption of \$2,000,000 in a falsely inflated government contract, three times the public loss ($2,000,000 \times 3 = \$6,000,000$) could be reimbursed. If the Attorney General's Office intervenes and the case is won, the corruption hunter could receive a personal compensation of between 15% and 25%, which corresponds to the amount of \$900,000 to \$1,350,000.¹⁰²

Since the sums that the Attorney General can claim in these cases are often large, the share given to the corruption hunter can also reach significant amounts. For example, in the United States, a \$731.4 million judgment and another \$631 million settlement from one of the nation's largest chains of hospitals as a result of corruption-hunting lawsuits; 559 million dollars was obtained from another hospital chain. From the 1986 amendments to the end of the 2005 fiscal year, 9.6 billion dollars were recovered to the public within the scope of corruption-hunting, and the share of corruption hunters was more than 1.6 billion dollars.¹⁰³

4.4. Litigation Ban and Protection from Retaliation

Article 3130 of the False Claims Act, subparagraph (e) and its following, provisions regarding the protection of corruption hunters

¹⁰⁰ Casey & Niblett, 2014: 1175-1176.

¹⁰¹ Gulcicek, B. (2020). “Tüm Yönleriyle İhbar İkramiyesi Müessesesi”, Vergi Mufettisleri Dernegi, p.73, available at: <https://www.vergiraporu.com.tr/upimage/org/tumyonleriyleihbar237885.pdf>, (18.9.2021).

¹⁰² Depoorter & De Mot, 2006:140.

¹⁰³ Petty, 2006:868.

against retaliation and exception provisions have been introduced for some public officials and cases regarding corruption-hunting.

Members of the armed forces are not subject to prosecution under this law for their service in the armed forces. A fraud hunting case or trial cannot be brought against Members of Congress, members of the judiciary, and executive branch employees specified in the relevant article Ethics in Government Act of 1978, based on evidence or information known to the Attorney General's Office.

If the information on which the case is based has been made public in a federal judicial or administrative hearing, in the Congress, in a federal report, audit, or investigation, or the news media, or the person filing the case is not the original source of information; if the Attorney General does not want the case to be heard, the court dismisses the case.

The government is not responsible for the costs incurred by a person in filing a lawsuit under the provisions of this law.

If any employee, contractor, or agent is subject to retaliation, such as dismissal, demotion, suspension of promotion, threats, harassment, or any other form of discrimination, for attempting to sue under the scope of corruption-hunting, he/she has the right to benefit from all the assistance specified in this law to compensate for the damage suffered. Victims of retaliation must file a civil action within three years from the date of retaliation to exercise these legal rights.

4.5. Timeout in Corruption-hunting Lawsuits

A lawsuit cannot be filed after six years from the date on which one of the violations listed in Article 3729 was committed, or more than three years from the date when the incident became known to the authorized persons and should have been learned under reasonable conditions. In any case, the statute of limitations will expire when 10 years have passed from the date of the violation, whichever is later.

If the Attorney General's Office decides to take over the case or participate in a lawsuit that has already been filed, it may present its complaint to the court and amend the complaint in the previously filed suit to clarify or add a new claim to the subject matter of the case. This does not affect the statute of limitations for the present case.

Conclusions

The fact that corruption is one of the burning issues that always occupy the agenda indicates that there are important shortcomings in the detection and punishment of these illegal acts. In that case, besides determining what kind of shortcomings and glitches exist in the anti-corruption tools and systematics, it is also necessary to ponder on what methods could be used for the detection and punishment of these acts and the return of what was taken from the public to the public. Issues such as how the considered methods will be constructed in the state and social order, how they will work, how deterrent and effective they can be, whether they will be adopted in the society, their sustainability and adaptation to changing conditions point to the problem areas that need to be solved in this regard.

Corruption-hunting is a model that allows any citizen with direct knowledge of a corruption case against the U.S. Federal Government to sue on behalf of the Government, protecting the litigant from retaliation, and encouraging people to engage in corruption-hunting by giving a certain share of the money recovered from the case.

When it is accepted that every citizen has a right and a share in what belongs to the public, empowering the citizens to protect the rights and interests of the public acts as an encouragement for broad segments to embrace the public interests, widening the base of the fight by involving as many individuals as possible in the fight against corruption, thus raising the awareness of citizenship.

All corruption behaviors need more or less secrecy. It is important to rarify this secrecy, to destroy the sense of secrecy. The corruption-hunting model is based on rewarding those who know about corruption for providing “inside information.” The legal awards envisaged to be given as a result of corruption-hunting cases are final, the award is not left to the personal discretion of the administrators, but is legally guaranteed.

In this model, the person who has information and evidence about corruption not only makes a report but also becomes a party to the lawsuit filed for the return of what has been taken from the public. Equipping people about corruption with control power during the trial is considered a factor that strengthens the model.

The anti-corruption model has some safety valves in itself in terms of both effective litigation and preventing baseless lawsuits:

- The corruption hunter first gives the information and evidence he has to the Attorney General’s Office and explains his allegations in

detail, and this information and evidence are examined for a certain period of time.

- If the government is involved in the case, there are two plaintiffs in corruption-hunting cases: the corruption hunter and the Attorney General's Office. This situation increases the possibility of effective execution of the process by giving the parties the opportunity of mutual control.

- The fact that the plaintiff, who has caused the victimization of the defendant by filing an unfair lawsuit, is faced with various sanctions, is also a precaution to prevent the opening of an unfair lawsuit. Since the judicial authority, to which corruption information and documents are conveyed, has the possibility and opportunity to examine the issue, the filing of unnecessary or personal enmity lawsuits can be prevented, and the lawsuits brought (due to the active contribution of experts) can be of higher quality and result.

The deterrent effect of the model is much more important and functional than the return of money to the public. Reducing corruption by deterring it will ease the investigation burden of the administration and increase investigation capacity in other areas.

The possibility of insider information as corruption hunters by those involved in the process of corruption acts as a deterrent to corruption from the very beginning. Because corruption consists of sustainable actions as long as it can be hidden. Providing inside information to judicial authorities, the possibility of one of them selling them greatly increases the risk of investigation and conviction for those who engage in illegal behavior.

To strengthen the model of corruption hunting, confession of corruption should be strongly encouraged. For this purpose, it is necessary not only to provide monetary rewards, it will also be useful to promise full impunity or a large reduction in punishment to the informant involved in the corruption act. A legal regulation that will ensure this will significantly increase the deterrence of the model.

The punitive aspect of the model (paying three times the compensation for the public damage caused) is another factor that greatly strengthens the deterrent function.

The success of the model shows itself in terms of punishing the perpetrators, compensating the damage, and being effective in terms of deterrence.

Strengthening the lawyers who will work in this field by giving extra authorization to take the actions in the research process can also increase the effectiveness of the model.

One notable area of concern for corruption is the immeasurable damage suffered by society in terms of money. Corruption; also causes many losses that cannot be measured in Money, by destroying business ethics, causing bad habits to be established, blackmailing public administrators, causing them to be dragged into illegal businesses, and undermining the public's trust in the state. The corruption hunting model not only provides compensation for material damages, but also has a preventive and protective feature against the occurrence of non-material social damages due to its deterrent effect. An effective anti-corruption model can train and discipline business conduct in public administration and contribute to the formation and establishment of positive behavior patterns in the long run.

The fact that corruption-hunting cases are based on the initiative of private individuals other than the Government may alleviate or prevent political pressure in the process of corruption-hunting cases, as well as reduce the allegations and suspicions that these cases are brought for political purposes.

Legal regulations alone are not sufficient in the fight against corruption, and the prevailing culture in the country is also effective. A social culture that sees reporting corruption crimes against the public as spying and denigrates it and an understanding that regards it as a patriotic duty and applauds will have different results. The awareness that every member of the society is a “partner/stakeholder” and reporting corruption is a civic duty should be placed on public assets. Although changing the social and administrative culture positively is a long and troublesome process, efforts in this direction should be continued persistently.

The corruption-hunting model is a sub-system within the state administration upper system. The holistic system setup should be fit for purpose, and the parts that make up the whole should support this setup. Sub-systems that are not compatible with the upper system cannot serve the purpose effectively. On the other hand, if there are no sub-systems that will animate and support the upper system, the system becomes an empty entity and cannot be successful.

When evaluated within this framework, although corruption-hunting is an important mechanism in the fight against corruption, it would not be right to attribute an excessive meaning or function to it.

This model does not have the power to prevent corruption on its own, but it can serve the purpose in a holistic system that is designed to fight corruption, where modern management principles such as transparency and accountability function effectively and encompass the corruption problem 360 degrees. For this, a strong, independent, and effective judicial mechanism, a sensitive and effective public opinion against corruption; independent media; a political will willing to fight; effective legislative oversight; basic institutions, such as an effective bureaucratic control that works on time, must work effectively.

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Extended Abstract

Corruption can be briefly defined as "the abuse of public power for personal gain"¹⁰⁴. Corruption is a common problem in all world societies that causes great harm. There are estimates that corruption figures in US federal agencies reach up to \$50 billion a year. It has been stated that possibly undetected corruption reaches much higher amounts.¹⁰⁵ It has been claimed that US federal agencies lose about 7% of their revenue each year to corruption and waste.¹⁰⁶ Although widespread corruption has many negative consequences, up to the national security issue, the difficulties inherent in prosecuting these acts suggest that special measures are needed to deter, detect and prosecute corruption.¹⁰⁷ Because the detection of corruption and bribery is difficult by nature, the crime hides due to its nature¹⁰⁸.

The consensus on the harms of the corruption problem and the necessity of combating them also reveals the main problem in this regard: "How" should this important task, namely the effective fight against corruption, be done? In this study, as a partial answer to this important question, the corruption-hunting model applied in the USA is examined.

Corruption-hunting attempts (*qui tam* cases) are based on the historical principle that "he who sues for himself in a matter of (public interest) sues also for the king".¹⁰⁹ Corruption-hunting involves and combines public and private interests. This feature is unique to corruption-hunting cases.¹¹⁰ Here, public participation in the fight against corruption is ensured.

Why is there a need for special justice practices such as corruption-hunting, even though there is a comprehensive state organization, prosecutors' offices, police, inspectorates, and many other oversight organizations in a country? Because it is necessary to eliminate the inadequacy of capacity, malfunctions in the relevant units

¹⁰⁴ Citing Lambsdorff, Yavaş, 2014:1.

¹⁰⁵ The Committee on the Judiciary, 1986: 3.

¹⁰⁶ The Committee On Oversight And Government Reform, 2009.

¹⁰⁷ Petty, 2006: 852-853.

¹⁰⁸ Kim, 2016: 237.

¹⁰⁹ Gilles & Friedman, 2020: 491.

¹¹⁰ Washington University Law Review, 1972:83.

of the state administration, or the drawbacks that may arise from dirty relations between public officials and those who are corrupt.

Corruption acts are carried out through a public-private cooperation/partnership created against the public. Generally, there are private individuals, such as contractors doing business with the government, at one end of the corruption plot, and public officials at the other end. In the corruption-hunting model, another type of public-private cooperation/partnership is established to expose the plot against the public.

According to Bucy, the most important contribution of corruption-hunting is providing inside information about fraudulent businesses and their perpetrators.¹¹¹ It is often very difficult to detect corruption without the cooperation of those who are closely observing the event or who are somehow involved in the corruption activity.¹¹²

Transparency is a modern management concept that makes corruption difficult and also has a deterrent function. Corruption-hunting can be characterized as backdoor transparency. Corruption-hunting can also play an important role in realizing the principle of accountability by disclosing information about corruption.

The deterrent effect of corruption-hunting is due to two factors: the possibility that one of the collaborators of the corrupt act will ‘throw under the bus’ other stakeholders as a result of the rewards offered, and the increased probability of conviction due to the insider flow. Government Accountability Office estimates that over \$300 billion of corruption was deterred as a result of the corruption-hunting model between 1986 and 1998.¹¹³ In the final analysis, the deterrent function of corruption-hunting is much more important than the recovery of what was stolen from the public.

The fraud hunting model (Qui tam cases) is regulated in sections 3729-3733 of the US Federal Fraud Claims Act.¹¹⁴ The provisions of this law allow private individuals with direct knowledge of corruption against the U.S. Federal Government to bring an action on behalf of the Government. This law encourages corruption-hunting by protecting people who report corruption from retaliation and giving them a share

¹¹¹ Bucy, 2002:8.

¹¹² Landy, 2010:1255.

¹¹³ Petty, 2006:875.

¹¹⁴ The False Claims Act: A Primer, 2021:1.

of the money recovered from the lawsuit.¹¹⁵ The False Claims Act, which was accepted by the US Congress in 1863, has undergone significant changes in 1943 and 1986 in the historical process.

Under current legal provisions, any person who has knowledge and evidence that one of the violations specified in the law has occurred may bring a civil action on behalf of himself and the United States Government. This person (corruption hunter) submits to the Government all material evidence and information he has about the corruption he is going to prosecute. On behalf of the Government, the Attorney General will review the material evidence and information within 60 days and decide whether to intervene in the case. During this time, the file is kept confidential. At the end of the period, if the Attorney General notifies the court that it will not take over the case; the corruption hunter has the right to conduct the case on his own. If the Attorney General's Office decides to take over the case at the end of the review period; it has primary responsibility for the prosecution of the case. In this case, the corruption hunter has the right to continue as a party to the case within the limits of the law. If the case is successful, an amount of 15-30% of the compensation awarded by the court, depending on the situation, is awarded to the corruption hunter.

The two main features that make this model successful are that it provides inside information and the “dual plaintiff ” mechanism, in which both the corruption hunter and the prosecutor's office can be the plaintiff together.¹¹⁶

In this study, it is stated that the corruption-hunting model, which was derived from English law and later adopted by the USA and has been widely used for about 160 years, is an effective tool in the fight against corruption, and it is beneficial for other countries to benefit from this model.

¹¹⁵ Taxpayers Against Fraud Education Fund, 2021.

¹¹⁶ Bucy, 2002:53.