

Analysis of the Perception of Whistleblowers in Nigeria

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Abstract: In Nigeria, which was chosen as a case study, public sector whistleblowers are protected by the Anti-Corruption Act and few other provisions scattered around separate acts. This leads to the conclusion that private sector whistleblowers are not protected from retaliation. Regulation is not the only aspect that needs re-evaluating, as statistics clearly show negative attitude towards whistleblowing and whistleblowers. 74% of the surveyed people would not react when witnessing corruption and 13% of civil servants and 1% of citizens and business owners who personally experienced corruption, actually reported the cases. Many of the illegal or unethical behaviours can be summed up as corruption and as a result the statistic is worrying. However, the attitudes are changing in Nigeria, which can be read from the survey carried out for the purpose of this thesis, which concluded that only 28% would stay passive when witnessing illegal or unethical activities in their working place. Therefore the statement that the attitudes towards whistleblowing seem to be changing is true and to motivate whistleblowers even more, the existing regulations need to be critically re-evaluated. One way to provide incentives and protection to whistleblowers through anonymity is to establish national whistleblower hotlines that would receive tips and follow up on them, if necessary.

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I. Introduction

Whistleblowers present a significant checkpoint in the Nigerian workforce. Without whistleblowers' labors, entire industries would continue to mistreat workers and put the public in jeopardy. Exposure of wrongdoing in private or public organization in the public interest to the authorities in charge is known as 'whistleblowing' is globally gaining acceptance.

It is no longer outlandish that some 'brave' present or past employees or even a member of the public exposes a big financial scandal, mismanagement of public funds or serious violation of health and safety guideline. The disclosure made could be devastating both to the organization reported and to the person making the report. Generally, because of the continuation of the common law duties of trust, loyalty and confidence a whistle-blower could be legally dismissed and prosecuted. Hence many countries are now abandoning this old harsh common law principle in favor of laws protecting whistleblowers against any penalty of their disclosure. Among these countries is Nigeria.

The present paper is to analyse the perception of whistleblowers in Nigeria with the view of making recommendation.

II. Conceptual Clarification Of Terms

Sule (undated) identified some conceptual elements to clarify some of the cloudy areas of whistle blowing. They identified the following:

- a. An individual: To them the person exposing or revealing the wrongdoing can be an employee or ex-employee of that organization, not a journalist or even common member of the society. Yet, as reflected in some legislations the existing trends shifts towards taking into consideration any person a whistleblower by his/her actions - and he/she must not be registered or well-known with any organization(Whistleblowers Australia). This seems to be confusing (Brown, 2008).
- b. Information which is of public record: As conflicting other dissenters in an organization whistleblowers anticipate that the information they unveil in public interest should publically and openly be used by the public. They anticipate the receiver to further reveal the information in public interest.
- c. Information about real or grave wrongdoing: The information must also be about a wrongdoing intimidating the wellbeing of the public and not an inconsequential one. Regard being had to the number of those affected, the gravity of the penalty and even the amount of money or loss concerned.

III. Literature Review

A whistleblower is a person working within an organization who reports that organization's misconduct (Dugger, 2019). There are two types of whistleblowing. The first is internal whistleblowing. This means that the whistleblower reports misconduct to another person within the organization. The second type is external whistleblowing. This means that the whistleblower reports misconduct to a person outside the organization, such as law enforcement or the media (Ibid). According to the Cambridge Advanced Learner's Dictionary (2010), whistle-blowing as "[causing] something bad that someone is doing to stop mainly by bringing it to the attention of other people".

A whistle-blower on the other hand has been defined by the Oxford Advanced Learner's Dictionary (2005) as "a person who informs people in authority or the public that the company they work for is doing [something] wrong or illegal. Lawfully speaking although, there may not be a generally acceptable definition of the term as of the doubts surrounding it. It has been in current times defined as "the reporting of a wrongdoing that needs to be corrected or ended in order to defend public interest"(Asian Institute of Management 2006). Lewis (2001) stated that what is very important is not the definition of the term but the definition of the condition and conditions under which the employees who disclose wrong-doing are at liberty to protection from reprisal. Though, a working definition for the purpose of this article may be significant. Dehn,(2003), stated whistle-blowing as: "...a colloquial term usually applied to the raising of concerns by one member of an organization about the conduct or competence of another member of the same organization or about the activities of the organization itself"

Gilan (2003, quoting Latimer, quoting Cripps 1986) defined whistle-blowing as "passing on information from a conviction that it should be passed on despite (not because of) the embarrassment it could cause to those implicated". Lately it has been defined as "a traditions that supports the challenge of unsuitable behavior at all levels" (Getting the Balance Right, 2005, Cm 2407). It may also be synonymous with the culture of raising concern by a member of staff about a wrongdoing or misdemeanor taking place in his place of work (Shipman's Inquiry (b) 2005). Whistle-blowers are persons (usually workers) who at their own risk, having been "motivated by a sense of own, and/or public duty, may unveil what they see as specific examples of wrongdoing, which may be within the private and/or public sector" (ibid).

3.1 Impact of whistle-blowing:

A potential whistle-blower who sees a wrong doing being carried out in an organization has four risky options. Firstly, he may decide to keep silent for fear of dismissal or that he will be called names, or that his family may be targeted. However, his silence may cause grave disaster to the public at large. Secondly, he may decide to blow the whistle internally so that those in charge of the organization are put on the alert to take the appropriate measure to avert or avoid the risk. This is particularly if the employee belongs to organization encouraging the culture of raising concern about wrong doing. Thirdly, he may decide to let everybody know by blowing the whistle outside; for instance by alerting the media. This may be the most dangerous cause as the

employee may likely lose his job at the end of the drama for ethical or legal reasons. As Calland and Dehn (2004) pointed out, until recently most legal systems do not protect such disclosures even if made in good faith. Fourthly, the employee may anonymously blow the whistle internally or outside; for instance by leaking the information to those in more senior positions or to the media. However, this makes the wrongdoing difficult to investigate as there could be no one to clarify on the matters raised.

It is to be noted that, two things are indisputably true about whistleblowing: the first is that it "is a risky business" (Vickers, 1997) and the second is that it is a helpful practice. It is a risky business because of the dangers, the detriment and threats awaiting an employee who courageously decides to say 'enough is enough' to the wrongdoing of either his co-workers or his employers. Whistleblowers could commonly "face discipline or dismissal" (Vickers) because they are being seen as "particular threat to, and thorn in the side of, an employing organization" (Bowers and Lewis, 1996). They may also earn "more negative labels such as informants, snitches, rats, squabbles, sneaks, or stoolies" (Gilan, 2003) which could have impact on them or

their families. A potential whistleblower with a genuine case may prepare to be silent rather than reporting the matter to the authorities for fear of being seen as troublemaker or 'maverick' or for "fear of recriminations and feeling of impotence in the belief that, even if the report is made, nothing will be done about it" (Shipman's Inquiry (b) para. 11.10). He may also have a fear that having blown the whistle he might end up in being prosecuted or got an action for defamation. There may also be a fear that the report he made about the misdeed may be "interpreted as an attack on an individual or body" (Shipman's Inquiry, 2005)

(b). There can also be a fear that members of the group which the person belongs will gather against the whistleblower – to ostracize him or members of his family. All these are indisputably true about whistleblowing and they usually happen. This is because the consequences of whistle-blowing could cause embarrassments and financial loss to many persons and organizations; although of course it could prevent a great disaster or harm befalling on the general public or large number of innocent people.

For these and other dangers, a potential whistleblower will be moved to engage in balancing and weighing between the effect and impact of what he is going to reveal and the dangers to his life and livelihood and to his family, refutation and profession.

A study of whistleblowers in the US in the year 2000 (Irish Times) found out that 100% of those who blew whistle were fired and most of them were unable to find new jobs. 17% lost their homes; 54% were harassed by peers at workplaces; 15% were subsequently divorced; 80% suffered physical deterioration; 90% reported emotional stress, depression and anxiety and sadly, 10% of them attempted suicide. Although whistleblowing may be a dangerous course of justice taken by a courageous, bold and public-spirited individual/s, it is indeed an effective tool in support of good governance and accountability. Through whistleblowing accidents and disasters could be prevented, lives of innocent people could be saved and huge financial loss could also be barred. It could also deter other potential wrongdoers. All these benefits and more others are the results of making one employee a 'sacrificial lamb'. However, it should be noted that although whistleblowers are "extremely valuable resources" and "corporate heroes...saving the business from potential financial ruin" (Durant, 2004) as well as saving the public from an impending disaster and mischief, "the revelations of whistleblowers may not always be accurate, nor motivated by unselfish concerns" (Gilan, 2003). Gilan pointed out that it is not all the times that whistleblowing helps. Sometimes whistleblowing "may hamper, rather than help the efforts of law enforcement against harmful behavior" (Ibid).

This means that each case of whistle-blowing should be thoughtfully handled with care, and caution. Whistle-blowing has always been a controversial issue raising controversial questions. For instance, Gilan (2003) raised these controversial questions: "why on earth [in the first place] would one blow the whistle?"; "is a whistleblower a heroine or a villain?" and "what motivates people who blow the whistle given the recriminations that they are likely to face?". For these questions among so many others, each case of whistle blowing should be elaborately and objectively investigated to ensure justice is made to all the parties involved.

3.2 The Twist of Whistle blowing:

Internationally, there has been growing support for whistle blowing, particularly in the areas of good governance, public accountability and fight against corruption. In the recent past, as a result of so many high profile corporate fraud, whistleblowing legislation has become a necessary choice for so many countries. Evidence of this can be found in a number of treaties/agreement entered between countries to fight corruption. For instance, the United Nations Convention against Corruption (UNCAC), European Council's Criminal Law Convention on Corruption (Article 22) and Inter-American Convention against Corruption (Article III).

Under Article 33 of the UNCAC signatory countries are encouraged to take domestic measures to incorporate in their legislations and other provisions protecting whistleblower witnesses and their families from any unwarranted treatment. The countries are also urged to set in place measures that facilitate reporting of corruption to appropriate agencies (Asian Institute of Management). Countries have also been called upon to provide effective mechanism for protecting witnesses who disclose wrongdoing and their families and relatives from actual or potential harassment, retaliation or intimidation. (Article 32). The Convention advocates for some enhanced support for whistleblowers and witnesses, for instance relocating them to a safer environment. In Europe, Article 22 of the European Council's Criminal Law Convention on Corruption called upon the signatory countries to provide for effective protection for whistleblowers and those who disclose/report criminal activities. The provision emphasizes the need for the countries to provide effective protection for witnesses with valuable information about corruption related offences and those who are cooperating with all the authorities prosecuting/investigating the allegation. It provides: "Each Party shall adopt such measures as may be necessary to provide *effective* and *appropriate* protection for:

- a) Those who report the criminal offences established in accordance with Articles 2 to 14 or otherwise cooperate with the investigating or prosecuting authorities;
- b) Witnesses who give testimony concerning these offences.

In the Americas, section 8 of Article III of the Inter-American Convention against Corruption emphasizes the importance of whistleblower protection as one of anti-corruption instruments/tools.

Member States are categorically enjoined to establish and strengthen mechanisms protecting persons who disclose corrupt practices. Nevertheless, Drew (n.d) pointed out that because most of these provisions are not legally binding, in a monitoring survey carried out by

OAS "only 18% of signatories to the Convention had put in place a national law that protected public servants and private citizens who in good faith report acts of corruption". A number of international organizations have also adopted or established whistleblowing policies in order to prevent wrongdoing and corruption among their staff. They are enjoined to report incidences of mismanagement, fraud, and corruption, waste of resources and abuse of authority occurring within them. Consequently, protection is therefore given to any staff who reported these activities against selective, arbitrary or exaggerated administrative and disciplinary action by senior officials and other staff.

A number of countries in Europe, the Americas, Asia and even Africa to certain extent have since enacted whistleblower protection legislations. Unfortunately however, most of these legislations come from developed countries in Europe, America and to certain extent Asia with low rate of corrupt practices and mismanagement. In Africa however, it is only in South Africa that comprehensive whistleblower protection legislation can be found. Most of the countries in Africa struggling with abject poverty and chronic corruption are yet see the beauty and benefits in enacting whistleblower protection legislation.

3.3 Why do we need whistleblower protection legislation?

As a common rule every employer is by common law entitled to full allegiance, trust and discretion from its employees. However, in cases of serious malpractice, corruption, fraud, cheating or when peoples' lives are involved, public interest supplant duty of loyalty between the employer and the employee. This over-riding public interest states that the public have right to be informed of such wrongdoing and those who revealed the wrongdoing must be protected.

IV. Methodology

A survey was carried out among Nigerian citizens to get their perception on whistleblowers and whistleblowing in private sector organizations. Other aims included finding out how people would react if they came across wrongful or unethical behaviour in their working place, who would they most likely inform of such conduct, is the fear of retaliation a factor, if corporations' internal regulation would be enough to protect whistleblowers efficiently and what are the attitudes towards the reward system and national hotlines for whistleblowers who want to stay anonymous. The survey was composed of a variety of "yes/no" questions and questions with the answers range of "definitely yes/probably yes/do not know/probably no/definitely no". The

questionnaire was distributed to one of my whatapp group and my *Facebook* "friends group". The results were analysed after a month of uploading the questionnaire and the results are presented below. In the course of the above mentioned questionnaire, 100 people were questioned. 61% of the surveyed were 21-25 years old, with 9.1% being younger than 21 years old and 29.9% being older than 25 years old. As the majority of people who completed the questionnaire are 21-25 years old, there is a higher possibility to find out what is the attitude towards whistleblowing of the younger generation in Nigeria, since they do not connect blowing the whistle with "KGB snitches" and also because the topic of whistleblowing has become more actual (featured in the news or newspapers) so people might be more aware of the benefits of whistleblowing. 64 % of the people were working at the time of filling in the questionnaire, therefore there is a possibility that people had already come into contact with illegal or unethical conduct at a working place or with someone who blew the whistle and can therefore give more accurate answers than just speaking theoretically.

V. Result And Discussion

5.1 Perception of whistleblowers

While the attitude within the corporation towards a whistleblower is considered, the outcome is far from one sided. 34% of the people who completed the questionnaire would "definitely not" or "probably not" have a positive attitude towards the colleague who blew the whistle and they would not acknowledge the steps taken by the informant. However, the majority (59%) would acknowledge the whistleblower and would have a positive attitude towards his or her choice to blow the whistle. This shows that there is still work to be done to educate people on the benefits of whistleblowing and change the attitudes from treating whistleblowers as traitors and snitches. Whistleblowers should be treated as attentive and courageous colleagues who chose not to stay silent when they came across illegal or unethical activities, contributing to a healthy corporate culture with limited illegal activities. 81% of the people who completed the survey would choose to "definitely not" or "probably not" staying ignorant towards the colleague who blew the whistle. 54% would "definitely not" or "probably not" have a negative attitude towards the colleague who blew the whistle.

On the downside, 34% of the surveyed believe they would "definitely" or "probably" have a negative attitude towards the whistleblower, believing the whistleblower has breached the loyalty towards other colleagues and while turning outside the corporation, also towards the corporation as a whole. This is one of the main fears of whistleblowers – negative attitude from fellow colleagues or managers at a working place. This fear cannot be banished by regulating the relationships between colleagues by law and can only be lessened by educating employees in general. Employees and managers need to realize the benefits of (especially internal) whistleblowing to the corporation as a whole. Whistleblowers should be treated as doing a favour to the whole corporation and helping it to remedy the mistakes or wrongdoing before the authorities will, resulting in a possible reputational damage. As a result, negative attitude towards whistleblowing and whistleblowers should be kept minimal.

5.2 Fear of retaliation

While considering the fear among employees of negative consequences following the whistleblowing, 57% believe that “definitely” or “probably” negative consequences to them personally would follow. Only 15% of the surveyed think that negative consequences would “definitely” or “probably” not follow. This number is worrying and describes well the biggest fear that accompanies whistleblowing – the fear of retaliation, dismissal or other negative consequences. In order for the process of effective whistleblowing to be able to emerge, a simple regulation will not be sufficient to banish the fears of the future whistleblowers. Unwarranted dismissals can be (and are) regulated by law, but the attitude and perception of whistleblowing can only be changed by precedents, education and larger coverage by media of the benefits of whistleblowing.

5.3 Internal compliance mechanism or external regulation

80% of the surveyed agreed that they would “definitely” or “probably” feel more confident and secure informing about an illegal or unethical behaviour, if the corporation they work in had an internal code to cover whistleblowing, either separately or within the general code of conduct of the corporation. The internal regulation would describe the events that need to be informed, who should be informed and which would protect the employee from discrimination, negative attitude and dismissals. The internal document can be used to educate employees about the benefits of whistleblowing and to bring awareness of the procedure and possibly lessen negative attitudes. As a consequence, an internal code that describes whistleblowing is highly valued among the people who completed the survey and would give them confidence and security to report the wrongdoing.

Similar results appeared when asked if employees would feel more confident and secure reporting the wrongdoings if there was a detailed regulation issued at the state level. 40% believe the state regulation would “probably” give them confidence that retaliation won’t follow and 38,3% believe they would “definitely” gain security from a state regulation. As a comparison, 48,3% believe that an internal code in the corporation would “definitely” give them the needed security. Therefore even though the differences are not major, there is still a slight preference when it comes to the internal code in a corporation. 67% of the surveyed believe one of the above mentioned regulations would be enough to protect whistleblowers from retaliation. 81,5% people that completed the questionnaire are positive that Nigeria needs a regulation (either state level or internal codes in corporations) that would detail the procedure of whistleblowing and protect the employee from retaliation. As a result, Nigeria should issue rules and descriptions (in the form of a unified regulation covering whistleblowing) for every corporation to carry out an adoption of an internal code of conduct.

The internal regulation would cover whistle blowing within the corporation and also state the whistleblower an opportunity to turn to external authorities. However, 77 % of people have the opinion that provisions regulating whistle blowing process and protection should be added to the general code of conduct and therefore a separate document on whistle blowing inside a corporation is not necessary. As long as clarity is taken into account, a single code is preferable, as long as the new added provisions are clearly introduced and explained to the employees.

5.4 Offering rewards

When asked if an award would give employees an extra incentive to report the wrongdoing they have witnessed inside the corporation, the opinions are almost equally divided into two. 39% of the surveyed believe that an award won’t provide an extra incentive to report the wrongdoing, while 43% believe an award will motivate employees to report wrongdoings. The award could be a pre-determined sum of money or a certain percentage of the fine the corporation has to pay as a criminal sanction. However, 73% of the people that completed the survey agreed that offering an award as an incentive to motivate company insiders to come forward with knowledge of illegal or unethical behaviours, would rise the number of unwarranted and malicious report both internally and externally. The most worrying factor with malicious or unwarranted external disclosures by an employee is the possible reputational damage the corporation might encounter if the issue will be discussed by the wider public or the media. This kind of possible opportunistic behaviour does not have such consequences when the disclosure is made inside the corporation. One of the main consequences of opportunistic disclosures would be a possibly a higher workload for the authorities if they have to investigate unwarranted claims and possibly miss or discard the warranted claims.

5.5 Whistle blowing hotline

When asked about the effects of a state wide hotline that would receive tips and grant anonymity for the callers, 50% of the people believe it would “probably” or “definitely” serve as an effective means to gather information about illegal or unethical behaviours inside corporations and at the same time protect employees by granting them anonymity. On the other hand, 29% believe an anonymous hotline would not be an effective means to gather information about wrongful activities inside corporations and 22 % of the surveyed simply

replied they “do not know”. Therefore while comparing the positive opinions about the effectiveness to the negative and neutral opinions about the issue, the results are basically divided. To decide if the hotline would work, the above mentioned statistics about the hotline in Nigeria should be taken into account. The hotline has not received wide coverage in the public and the number of tips received by the hotline has been decreasing every year. One of the possibilities to rise to number of tips received by the hotline would be to advertise the hotline nationally and bring awareness about its existence.

6.0 The way forward

A new or a re-evaluated regulation cannot be adopted without any additional procedures accompanying the changes, for example, starting from the most obvious, which would be informing the public about the respective changes or a new regulation through media or newsletters.

It is clear that in order for the employees in both public and private sector to be motivated to provide information about wrongful behaviours in a corporation in Nigeria, the existing regulations need to be re-evaluated and widened to cover the private sector employees as well.

6.1 Whistleblower hotline

The anonymous whistleblower hotline is one way to gather information about wrongful behaviour inside a corporation. In order to boost the number of tips received by the anonymous hotline, the hotline’s existence has to be brought to the public’s attention. As the statistics showed, the number of calls made to the hotline was the highest during the year when the hotline was advertised publicly.⁷⁶ Therefore, the hotline should either be advertised publicly more often than just once or brought to the attention of corporations individually, for example by informative brochures or e-mails which should be distributed to the employees or brought to their attention at a general meeting or posted on a board available for all the employees to be acquainted with. To boost the effectiveness and caller confidence, the hotline should, following the UK example, provide an additional service of not only accepting and following up received tips, but also advising whistleblowers on how to proceed if they have come across wrongful behaviours, where to report and if the information is worthwhile bringing to the attention of either the internal or external authorities. This way whistleblowers who are not confident could gain courage to indeed report the witnessed behaviours and not choose to stay silent because of uncertainty of how exactly to proceed with the information they came across. The hotline’s number should be featured on the homepage of the Labour Dispute Committee.

6.2 Internal regulation

Another, probably more efficient way of gathering information about wrongful activities inside a corporation is the internal reporting to a respective body or an official within the same corporation. The higher efficiency of receiving reports internally is expressed by the ability of the corporation to take action and start an internal investigation to remedy the wrongdoing. This way the corporation can avoid possible reputational damages and the external authorities save time and finances by not having to conduct a thorough investigation. The company insiders are more acquainted to the internal processes of the corporation and would therefore be more fit time and resources wise to detect and remedy wrongdoings. In order to motivate whistleblowers to disclose the information internally, an internal compliance method has to be adopted. This could be in a form of a specific code of conduct when it comes to witnessing illegal or unethical behaviour and how to proceed. It should in addition cover the protection from retaliation issue. The whistleblower protection could also simply form a section of the general code of conduct, to not confuse employees with several different documents. Legislators in Nigeria should therefore come up with a framework of whistleblower protection, what steps need to be taken in order to report the wrongdoing and who to report to and make it compulsory for all corporations in Nigeria. To save time and resources, corporations could adopt a template code of conduct that covers all the areas of whistleblowing. The Labour Inspectorate, which is a government agency in Nigeria that is in charge of, among other things, monitoring compliance with the legislation, should be in charge of monitoring the adoption of internal codes of conduct to regulate whistleblowing and that these internal regulations cover all the necessary aspects of efficient protection against retaliation. The Labour Inspectorate should in addition host workshops or in other ways educate the public and especially managers of a corporation, about the benefits of internal whistleblowing and the importance of adding paragraphs concerning whistleblowing to their internal code of conduct or adopting a separate internal regulation that covers whistleblowing. A slightly bigger amount of resources should be directed to the Labour Inspectorate by the government to carry out its additional tasks of monitoring compliance and bringing awareness to the public, either by news articles or workshops and seminars, especially in the initial years following the adoption of obligatory internal compliance mechanisms. After adopting a new internal regulation, the corporation should take care of the introduction of it to the employees. That could be done through a general meeting or by asking the employees to get acquainted with the new regulation individually and afterwards answering questions if any employees should have something that was

left unclear. To support the adoption of internal regulation, a unified external regulation needs to be adopted on the state level to set out clear guidelines and rules to whistleblowing procedures. It is necessary to limit the possibility of internal regulations having different and possibly contradicting rules to whistleblowing.

6.3 External regulation

If motivating employees to blow the whistle externally is chosen as the desired method of gathering information about illegal or unethical behaviours within corporations, the whistleblower protection regulation has to be even stronger. The risk of retaliation when the employee discloses information to an outside authority within the corporation is much higher, due to the risk of reputational damage and ethical dilemmas of breaching the loyalty to the corporation and colleagues versus staying ignorant when witnessing illegal conduct being carried out. In order to facilitate external whistleblowing, a respective authority or body has to be set up that would deal with receiving the reports, analysing them, discarding the unwarranted disclosures and following up through investigation on the serious and warranted report that the whistleblowers have provided them with. However, there is the Labour Inspectorate in Nigeria which is responsible for monitoring the compliance with legislation and has the duty of commencing criminal proceedings and carrying out urgent investigative actions.⁷⁸ That fits well with the essential point of a regulatory authority which is responsible to receive and analyse and act upon disclosures from whistleblowers. The respective authority needs to both monitor the disclosures and if necessary, be able to take action and investigate the disclosures. As a result, there is no direct need for a separate authority that would deal with disclosures from whistleblowers. Adding another task to the Labour Inspectorate's list of obligations will increase the workload, therefore there might be a need for an extra position to be created and extra staff member(s) to be employed to deal with whistleblowing related issues. However, as the few statistics composed on the willingness of Nigerians to report unethical or illegal behaviours witnessed inside a corporation, the internal disclosure approach was highly favoured over disclosing information about wrongful behaviours to external authorities. As a consequence, there are reasons to believe that the workload of either a separate authority (agency) or the Labour Inspectorate will not be considerably higher due to the new task, because of the reluctance of Nigerians to bring their claim outside the corporation to an external authority. This is probably an adequate reason to consider not creating a separate authority to receive disclosures of wrongful conduct from whistleblowers and instead add a set of tasks to the Labour Inspectorate. As with the internal whistleblowing, the benefits and procedures of external whistleblowing need to be introduced to employees and to the society. The potential whistleblowers need to be acquainted with the procedures that need to be followed, know who and how to turn to, how to make sure to stay protected from retaliation and why not stay ignorant and choose to report the witnessed wrongful activities. This could be achieved by workshops or seminars hosted by the Labour Inspectorate or the Ministry of Social affairs (under which the Labour Inspectorate belongs to). Society can also be educated by newsletters, news appearances and articles in national newspapers covering the procedures and protection of whistleblowers. Within the internal codes of conduct should also be stated the opportunity to turn to external authorities to disclose the information and the corporation should in any way discourage voicing the claims outside the corporation.

6.4 Reward program

The reward program for private sector employees is the newest addition to whistleblower regulations, set up to incentivize even more whistleblowers to come forward. In order to adopt an effective bounty program, the legislators have to come up with a clear set of criteria that covers the size of the reward, how it is calculated and what kind of disclosures deserve to be rewarded. The most reasonable step would be to follow the example of the US – to reward disclosures that lead to a successful prosecution in court. The reward should be a certain per cent of the fine that the corporation has to pay, if the fine exceeds a certain threshold. This way the whistleblowers have clear expectations and the number of unwarranted disclosures is kept minimal due to the set of criteria that have to be fulfilled in order to be eligible for a reward. However, the reward program proves its necessity in the US due to a high number of huge and influential companies that have an influence on the whole world. On the contrary, Nigeria is a small country with an even smaller number of corporations, not to talk about the influential ones. Therefore, the regulating and re-evaluating of existing regulations should start from deciding to widen the regulation to private sector employees and to facilitate both internal and external whistleblowing by the private sector employees. The reward program is not the only incentive for whistleblowers to report the information they have come across, therefore not adopting such a regulation will not decrease the number of potential disclosures. Many of the potential whistleblowers will disclose information out of ethical reasons and therefore will report even if there was no reward on the horizon. In order to facilitate efficient whistleblowing, the attitudes of the public towards whistleblowing and whistleblowers need to be changed. This can be achieved by news articles or clips that are directed to the wider audience to educate people about the benefits of whistleblowing and maintaining a healthy corporate culture. Workshops could be carried out on the same purpose.

VI. Conclusion

A whistleblower is a corporation insider who provides valuable information about illegal or unethical conduct within the corporation either to internal or external authorities. As a result, the corporation can kick-start an internal investigation or external authorities can investigate the corporation and its alleged illegal or unethical activities. Due to the benefits of time and cost efficiency related to insiders providing information about wrongful conduct inside the corporation, the approach towards whistleblowing has changed considerably. Legislators, authorities and corporations have acknowledged the benefits of whistleblowing and as a result, recognize the need to motivate whistleblowers to disclose information without any doubts and concerns. In order to incentivize employees to blow the whistle and not fear retaliation, the potential whistleblowers need to be protected and in some cases even rewarded for their disclosures.

The world's whistleblowers regulation history starts in the United States of America, where the first regulation to govern the process of whistleblowing was adopted during the Civil War. The second, most significant whistleblower protection statute, the Whistleblower Protection Act (1987) targeted federal workers. For years, the private sector employees were not protected from retaliation when blowing the whistle. As the private corporations grew, so did the need to widen this cost and time efficient approach to cover the private sector as well. It is a logical step, since the resources and time needed to efficiently monitor every big corporation, who could potentially cause a lot of harm to the wider public with its illegal activities, would prove too much for external authorities. Sarbanes-Oxley Act (2002) was the act that finally widened the protection to cover private sector employees who worked in publicly traded companies. Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 provided the possibility for private sector whistleblowers of receiving financial rewards for successful disclosures. On the other hand, United Kingdom's whistleblower protection regulation, the Public Interest Disclosure Act (1988) is considered one of the most advanced whistleblower regulations in the world. It promotes internal whistleblowing and governs the public, private and voluntary sector employees. In Europe, only a few Member States have advanced regulations to protect whistleblowers, some have partial regulations and some lack a regulation all together. As a result, most of the regulations need to be re-evaluated to provide efficient protection and motivation to whistleblowers.

In Nigeria, which was chosen as a case study, public sector whistleblowers are protected by the Anti-Corruption Act and few other provisions scattered around separate acts. This leads to the conclusion that private sector whistleblowers are not protected from retaliation. Regulation is not the only aspect that needs re-evaluating, as statistics clearly show negative attitude towards whistleblowing and whistleblowers. 74% of the surveyed people would not react when witnessing corruption and 13% of civil servants and 1% of citizens and business owners who personally experienced corruption, actually reported the cases. Many of the illegal or unethical behaviours can be summed up as corruption and as a result the statistic is worrying. However, the attitudes are changing in Nigeria, which can be read from the survey carried out for the purpose of this thesis, which concluded that only 28% would stay passive when witnessing illegal or unethical activities in their working place. Therefore the statement that the attitudes towards whistleblowing seem to be changing is true and to motivate whistleblowers even more, the existing regulations need to be critically re-evaluated. One way to provide incentives and protection to whistleblowers through anonymity is to establish national whistleblower hotlines that would receive tips and follow up on them, if necessary.

The whistleblower would be protected by staying anonymous and as a result he will not have to worry about retaliation. An effective way to manage the hotline would be to adopt the United Kingdom's approach and add an advice and counselling function to the hotline – the hotline would not only receive tips, but act as an advice line for whistleblowers who are unsure how to proceed with the information they have received, where to turn to and how to make sure they will not be retaliated against. 50% of the surveyed people to compose this thesis believe a national hotline would “probably” or “definitely” serve as an effective means to gather information about wrongdoings, therefore there is grounds to believe that after receiving wider coverage in the media, the hotline would serve its purpose effectively.

Another, possibly the most effective way to incentivize and protect whistleblowers to disclose information is to establish internal compliance mechanisms in the form of codes of conduct within corporations. This method is highly beneficial to the whistleblower and the corporation. The corporation does not risk reputational damage and the whistleblower does not have to take the step to turn to external authorities which could lead to retaliation. This way, the corporation can take immediate steps to remedy the wrongdoings without external intervention. An internal regulation would provide a transparent regulation for whistleblowers in the private sector. Again, Nigeria should adopt the UK's approach where the whistleblowing is considered an essential safety valve, of developing internal regulations to protect whistleblowers. In the UK, internal regulation is seen as the core element of a healthy organisation. 52% of the people who completed the survey to compose this thesis would choose to disclose information about wrongful behaviours within the corporation internally, which indicates that the internal whistleblowing regulations in corporations would be highly effective in serving their purpose. 80% agreed they would feel more confident and secure to disclose information

internally if the corporation had an internal compliance mechanism in place to protect whistleblowers. Alongside internal regulations an external unified regulation has to be adopted to provide general rules and regulations for the process of whistleblowing that need to be followed while setting up internal regulations. External whistleblowing can be incentivized by the adoption of a general act that cover whistleblowing on the state level and establishing a separate government agency that receives the claims and follows up on them. However, external whistleblowing requires a higher level of confidence and security in the process and protection of whistleblowers. As a consequence, external whistleblowing would not be a suitable option for Nigeria to start with, because of the existing partial regulation and the negative attitude towards whistleblowing in the society.

The public needs to be educated about the importance and benefits of whistleblowing to slowly start raising the number of disclosures. This can be done by creating confidence in employees that they will not face retaliation. As the survey conducted for this thesis showed, people are more likely to turn to internal authorities. Therefore, internal whistleblowing should be encouraged initially.

In order to facilitate effective whistleblowing, changes only in the existing regulations are not enough. The issue of whistleblowing is closely connected to cultural and ethical aspects. It is necessary to educate people about the benefits of whistleblowing and through that change the mostly negative attitude towards whistleblowing and whistleblowers. Nowadays, one of the main reasons for employees to choose not to blow the whistle is the fear of retaliation.

Therefore, positive attitudes from colleagues and managers would facilitate blowing the whistle more often and lower the fear of retaliation. As a result, a moral space to incentivize employees to bring forward ethical concerns has to be created. 57% of the people questioned for this thesis do fear retaliation, therefore the issue is actual and needs to be addressed. However, 54% believe they would not have any negative attitudes towards a colleague who blew the whistle, therefore the change is apparent in the society and needs to be brought further to give employees more confidence they will not be treated negatively among their colleagues.

However, there are other means for whistleblowers to protect themselves in Nigeria. These include appealing a dismissal on the basis of the Employment Contract Act, which sets clear boundaries for dismissals. In case of an unwarranted dismissal, the possibilities are to turn to a Labour Dispute Committee or turn to the court. To contest discriminative behaviour (unwarranted negative behaviour compared to other colleagues), the Equal Treatment Act provides a basis to turn to either the Gender Equality and Equal Treatment Commissioner, the Labour Dispute Committee or to the court. Therefore, currently, whistleblowers are not completely unprotected from retaliation, but a unified regulation (either internal or external) would go a long way in providing transparency and security. When it comes to reward programs, critics cannot seem to agree. Reward programs are intended to incentivize external whistleblowing.

Whistleblowing is the least cost method for the authorities and as a result, incentivizing whistleblowers with a monetary reward seems to serve its purpose. However, it is not known if offering rewards would indeed raise the number of reports. It is believed that employees who will report a wrongdoing do so usually out of loyalty or even revenge. The main difference that seems to be achieved with offering the reward is the raise in number of external whistleblowers. Another objective is that the rewards could potentially raise the number of unwarranted claims and the effectiveness of internal compliance programs would be weakened because more whistleblowers would turn to external authorities in order to be rewarded for the same information they would have provided internally. As a result, the reward program is more suited to the society that encourages external whistleblowing (the United States) and not to one that encourages internal whistleblowing and places emphasis on harmonious relationships between employees and employers (Europe). 43% of the surveyed people in order to compose this thesis believe that a reward would incentivize whistleblowers to disclose information, however 73% believe that a reward would raise the number of unwarranted disclosures. In order to facilitate efficient whistleblowing, the whistleblowing hotline needs to be advertised and an additional task needs to be added to it in form of providing advice. The internal compliance mechanisms template could be developed and offered to corporation by the legislators in order to grant an efficient adoption of transparent and detailed internal regulations. Employee workshops and national awareness campaigns need to be carried out to introduce the benefits of whistleblowing and the process of how and where to disclose the information. The public needs to be educated about how the whistleblowers can protect themselves against retaliation.

To sum up, a national hotline and internal compliance methods are essential for Nigeria to motivate whistleblowers to blow the whistle. As the society in Nigeria is more focused on harmonious employer-employee relationships, the external whistleblowing and reward programs are not the most suitable for Nigeria at the current time. As the survey composed for this thesis states, employees are willing to blow the whistle and do it internally or through a hotline. As a result, the public's attitude has changed and would facilitate effective whistleblowing and in order to give confidence and security to the employees, advertising the hotline and setting up rules for internal compliance mechanism would go a long way.

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