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“WHISTLE BLOWING; THE WHISTLE BLOWER; THE WHISTLE BLOWING ACT” A SIMPLE EXPOSE /AN EASY TO READ DISCOURSE ON THE CONCEPT OF WHISTLE BLOWING

Ohiyemisi BAMGBOSE

ABSTRACT

INTRODUCTION

T

The term whistle blower has been connected to U.S. Civic Activist Ralph Nader who was said to have put “a positive spin on the term in the early 1970s to avoid the negative connotations found in other words such as “informer” and “snitch”[1].”[2] In the 19th century, whistle-blowing was attached to law enforcement agents who use whistle as a means

KEYWORDS

Bio-social characteristics, coping ability, job demand Cerebral Palsy: Social Support Digital Diplomacy Diplomacy. Emotional/Informational, Financial/Moral, façade (Stigmatized) support Family planning, demographic, women, unmet need, pregnancy, contraceptive Foreign Policy Gender, age, job experience, educational attainment, length of marriage, work-family conflict, nurses Healthy ageing, older people, income and social status, social connectedness, physical activity Information sharing, media sources, multimedia dynamics, mass communication Newsprints Reports, Suicide, Psychological Autopsy Personal characteristics, locus of control, global self-esteem, medical students, Nigeria Political thuggery, Voters' Turnout, Fourth republic, General elections, Southwestern Rape, Physical. Social and Psychological Effects. Reciprocal determinism, violent conflict, Niger Delta Sexual Behaviour, Unwanted Pregnancy, Decision-making, Induced Abortion, University

of alerting the public or other policemen of illegality.[3] The term has also been related to sport referees in sports events who used and still use the whistle to indicate illegality or foulness.[4] Other terms synonymously used include snitching, informing or ratting out.

[1] Nader, Petkas and Blackwell, Whistleblowing (1972)

[2] New Scientist 9 Dec. 1971, p. 69: “The Code (of Good Conduct of the British Computer Society) contains secrecy clauses that effectively prohibit Nader style whistle-blowing”.

[3] Gary Martin “The Meaning and Origin of the expression: Whistle-blower”. *The Phrase Finder*. Retrieved October 21, 2017

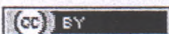
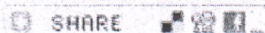
[4] Accessed at Etymonline.com and Wordsorigin.org on October 21, 2017

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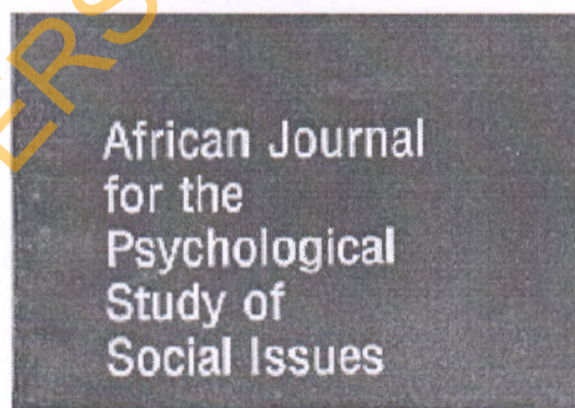
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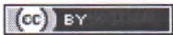
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**“WHISTLE BLOWING; THE WHISTLE BLOWER; THE WHISTLE BLOWING ACT”
A SIMPLE EXPOSE /AN EASY TO READ DISCOURSE ON THE CONCEPT OF WHISTLE
BLOWING**

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INTRODUCTION

The term whistle blower has been connected to U.S. Civic Activist Ralph Nader who was said to have put “a positive spin on the term in the early 1970s to avoid the negative connotations found in other words such as “informer” and “snitch”^{1,2} In the 19th century, whistle-blowing was attached to law enforcement agents who use whistle as a means of alerting the public or other policemen of illegality.³ The term has also been related to sport referees in sports events who used and still use the whistle to indicate illegality or foulness.⁴ Other terms synonymously used include snitching, informing or ratting out.

Whistle Blowing

When the term whistle blowing is used, what readily comes to mind? For some it brings an image of a tell-tale individual, popularly called “*tatafo*” in the Nigerian context, some a betrayer, better still, a few may have the image of an upright person trying to do the right thing or so they say. Whistle blowing is the act of bringing to light hidden corrupt practice regarding government officials or government property in the interest of the public. It involves exposing activity or offering information on activity which is deemed to be illegal, unethical and inappropriate.. Merriam Webster E-dictionary defines it as “an act of revealing something covert about another.”⁵

Peterson and Farrell define whistle blowing as a special form of dissent in which a member or former member of an organization goes outside the organization or outside normal organizational channels to reveal wrongdoing, illegality or actions that threaten the public.⁶ It is said that the term is reserved for revelations of significant misbehavior.⁷ According to Jubb, “whistleblowing is characterised as a dissenting act of public accusation against an organisation which necessitates being disloyal to that organization.”⁸ According to Transparency International, whistleblowing is the disclosure of information related to corrupt, illegal, fraudulent or hazardous activities being committed in or by public or private sector organizations – which are of concern to or threaten the public interest – to individuals or entities believed to be able to effect action. Furthermore International Labor Organization (ILO) defines whistleblowing as the

¹ Nader, Petkas and Blackwell, Whistleblowing (1972)

² New Scientist 9 Dec. 1971, p. 69: “The Code (of Good Conduct of the British Computer Society) contains secrecy clauses that effectively prohibit Nader style whistle-blowing”.

³ Gary Martin “The Meaning and Origin of the expression: Whistle-blower”. *The Phrase Finder*. Retrieved October 21, 2017

⁴ Accessed at Etymonline.com and Wordsorigin.org on October 21, 2017

⁵ Merriam Webster Dictionary, copyright 2010. Accessed on 10th October, 2017

⁶ Peterson and Farrell (

⁷ Peterson and Farrell (

⁸ Jubb, P.B. Whistleblowing: A Restrictive Definition and Interpretation *Journal of Business Ethics* (1999) 21: 77. <https://doi.org/10.1023/A:1005922701763>



reporting by employees or former employees of illegal, irregular, dangerous or unethical practices by employers."⁹

Many individuals and organizations have lent their perception on the concept of whistle blowing, coming to their conclusive definition of what the term means. It has been described "in the simplest of terms...as the means of providing information about any illegality usually for the purpose of protecting public interest".¹⁰ Commenting on whistle blowing, Nadler and Schulman state that whistle blowing calls upon the virtues, especially courage, as standing up for principles can be a punishing experience.¹¹ Suffice it to say whistle blowing is simply an act of exposing or revealing covert acts, illegality, suspicious acts, dangerous vital information and the list goes on.

According to Transparency International¹², a whistleblower is any public or private sector employee or worker who discloses "relevant information" and is at a risk of retribution. This includes individuals who are outside of the traditional employee-employer relationship, such as consultants, contractors, trainees/interns, volunteers, student workers, temporary workers and former employees. In modern day terms, Grazer & Grazer posits that a whistle blower is an employee who does not act solely out of self-interest but concentrate on the exposure of policies that have the potential to hurt the public.¹³ A whistle blower is therefore anyone who exposes such activity in the interest of public good

The Debate on Whistle Blowing

Whistleblowing is a currently debatable concept globally. There are two variant schools of thought: On one hand it is said that whistleblowing is a deliberate attempt by the citizenry to checkmate the affairs of the government and protect public interest¹⁴, while on the other hand another school of thought says whistle blowers breach the confidentiality code of their work ethics by rattling their employers out.¹⁵ The question is which school of thought has a more accurate view of the fast growing phenomenon of whistle blowing? Though many have been affected by the act of whistle blowing, it is important to note that, this act has saved countless lives in Nigeria and across the world of possibly dangerous times. For example, al-Qaeda insiders have at one time or the other saved countries from nuclear attacks.¹⁶ There are numerous benefits this seemingly betraying act of whistle blowing brings not only to individuals but to countries in the world. The benefits and dangers of whistle blowing will be discussed later in this paper.

A key player of the act of whistle blowing is the whistle blower.

The Whistle Blower

⁹ International Principles for Whistleblower Legislation, Transparency International, 5 November 2013

¹⁰ Naijalegaltalk: "An Appraisal of the Whistle Blowing Policy in Nigeria" 9th May, 2017. Accessed at www.naijalegaltalk.com on 10th October, 2017

¹¹ Nadler Judy and Schulman Miriam (2015) Whistle Blowing in the Public Sector. Available at <https://www.scu.edu/ethics/focus-areas/government-ethics/resources/what-is-government-ethics/whistle-blowing-in-the-public-sector/>

¹² Concept paper on whistle blowing by Transparency International, March 2015

¹³ Glazer, M.P., & Glazer P.M. (1989). The whistle blowers: Exposing corruption in government and industry. New York: Basic Books

and industry. New York: Basic Books

¹⁴ Delmas, Candice "The Ethics of Government Whistleblowing" Social Theory & Practice. Jan 2015, Vol. 41 Issue 1, p77-105. 29p

¹⁵ Firtko, Angela; Jackson Debra. " Do the Ends justify the Means? Nursing and the Dilemma of Whistleblowing" Australian Journal of Advanced Nursing. Sep/Nov2005, Vol. 23 Issue 1, p.51-56. 6p.

¹⁶



Who is a whistle blower? A hilarious anonymous writer defined a whistle blower as “the relatives, staff or friends of the blowee, who did not feel any blow when the blowee was blowing cash around”¹⁷ A whistleblower is a person who exposes any kind of information or activity that is deemed illegal, unethical, or not correct with an organization that is either private or public.¹⁸

Niyi Akinnaso is of the view that

“You are a whistle blower if you are a worker and you report certain types of wrongdoing. This will usually be something you’ve seen at work, though not always. The wrongdoing you disclose must be in the public interest. This means it must affect others, e.g. the general public. As a whistle-blower, you are protected by the law- you shouldn’t be treated unfairly or lose your job because you ‘blow the whistle’. You can raise your concern at any time about an incident that happened in the past, is happening now, or you believe will happen in the near future”¹⁹

The Federal Ministry of Finance, Nigeria has also defined a whistle blower as

“A person who voluntarily discloses to the Federal Republic of Nigeria, through the Federal Ministry of Finance, a possible misconduct or violations that have occurred; is ongoing or is about to occur with specific concerns which are in public interest”²⁰

Suffice it to say that the role of a whistle blower is in no way a small one, yet, while there are benefits, the whistle blower faces many attacks or imminent risks in this role.

The Federal Ministry of Finance Nigeria reported that as of March, 2017, the agency has received about 2,351 whistleblowing tips ranging from cases of embezzlement of government funds to looting of assets, among other things.²¹ In the report, Mr. Festus Akanbi, the Special Adviser to the Minister of Finance, Mrs. Kemi Adeosun, said the tips were received via calls, emails, and text messages.²² About 95 feedbacks have been reported through the Federal Ministry of Finance’ websites, an average of 412 text messages were received, 194 emails and the rest were calls.²³ He went further to highlight the tips received: Contract Inflation, conversion of government funds to personal use, ghost workers, payment of unapproved funds, improper reduction of financial penalties, diversion of funds, non-remittance of deductions, failure to implement projects for which funds have been embezzled from Donor agencies and violations of fund keeping in commercial banks and so on.²⁴

Classification of Whistle Blowing

Whistle blowing has been classified into the following types²⁵:

1. Internal
2. External
3. Third Party
4. Private Sector
5. Public Sector

Internal Whistle Blowing

¹⁷ Accessed at www.dailytrust.com.ng on 10th October, 2017

¹⁸ Company, Houghton Mifflin Harcourt Publishing. “The American Heritage Dictionary entry: Whistleblower” accessed at www.ahdictionary.com on 22 October, 2017

¹⁹ Niyi Akinnaso “Nigeria’s Whistle-blower policy”-an excerpt from the British Government Whistle-blower Policy, December 27, 2016. Accessed at Punch e-news on 10th October, 2017

²⁰ Ibid note 3

²¹ Wale Odunsi, “Whistle-Blowing: Nigeria receives 2,351 tips” Nigerian Daily Post, published on March 25, 2017. Accessed on www.dailypost.ng on November 2, 2017.

²² Ibid note 18

²³ Ibid

²⁴ Ibid

²⁵ Whistle Blowing accessed on 22nd October, 2017 at www.wikipedia.com



It involves those who report misconducts within an organization through anonymous report measures, for example, using the company's complaint/suggestion box²⁶ or the company's hotline.²⁷ This means, the whistle blower is reporting an illegal act or corrupt practice within an organization to the appropriate authority within that same organization. For internal whistle blowers, some of the channels used to report some sort of fraud or corruption include tips, oral reports and telephone or email hotlines. According to the Association of Certified Fraud Examiners (ACFE)²⁸, "Tips are consistently and by far the most common detection method. Over 40% of all cases were detected by a tip — more than twice the rate of any other detection method. Employees accounted for nearly half of all tips that led to the discovery of fraud". It is highly unlikely that a subordinate would make an oral report where it concerns superiors and may cost him his job. Ferguson²⁹ warns that oral reports may not be the most effective way to get employees to offer sensitive report and this applies not only to employees within an organization but also applies to anybody at all who wishes to make a report.

External Whistle Blowing

It involves reporting internal misconduct to or exposing illegal and corrupt activity within an organization to a person, body or entity outside that organization. These may include lawyers, media, law enforcement agencies and watchdog agencies/ civil society in general.³⁰ For external whistle blowing, Ferguson³¹ suggests that using an external system means relinquishing some control, but that is not necessarily a bad thing. It would definitely be more comfortable. The report may be made to a regulatory body or a supervisory agency. This would include governmental agencies such as the Economic and Financial Crimes Commission (EFCC) or the Independent Corrupt Practices Commission (ICPC) in Nigeria. The risks associated with external whistle blowing would only arise where the third party or 'external body' is so closely inter-related with the concerned organization that it loses the objectiveness of a truly external body

Third Party Whistle Blowing

It entails the use of external agents to report any misconduct of the top personnel for an organization. This is usually done by contracting external agents to monitor top organization personnel as relating to the organization's matters. This was developed to curb the stigma on individual whistleblowing and prevent subsequent discrimination.³² It has been reported that an increasing number of organizations and companies make use of this method and in doing this they make use of web solutions, called "asymmetrical encryption"- this can be described as diplomatically encoding intellectual property or company software in a way as to protect the company from malware or compromise.³³ Private whistle blowing is commonplace today, where

²⁶ Mary Rowe, "Options and Choices for conflict resolution in the workplace" in *Negotiation: Strategies for Mutual Gain*, by Lavinia Hall (ed.), Sage Publications, Inc., (1993), pp. 105-119

²⁷ Mary Rowe MIT, Linda Wilcox HMS, Howard Gadlin NIH, Dealing with-or-reporting-"unacceptable behavior(with additional thoughts about the "Bystander Effect") (2009) *Journal of the International Ombudsman Association* 2(1), online at ombudsassociation.org

²⁸ Association of Certified Fraud Examiners ("ACFE") 2014 Report to the Nations

²⁹ Suzanne Ferguson (2016) Whistleblowing – Internal vs. External Reporting Systems Published on March 22, 2016. Cana Globe Compliance Solution Inc. Available at <https://www.linkedin.com/pulse/internal-vs-external-reporting-systems-suzanne-ferguson> accessed 20th September, 2017

³⁰ Ibid note 13

³¹ Suzanne Ferguson (2016) Whistleblowing – Internal vs. External Reporting Systems Published on March 22, 2016. Cana Globe Compliance Solution Inc. Available at <https://www.linkedin.com/pulse/internal-vs-external-reporting-systems-suzanne-ferguson> accessed 20th September, 2017

³² Ibid note 13

³³ Ibid



top officials are reported for claims such as money laundering or fraud, charges on the stock market, etc. one very common one is exploitation of workers.³⁴ In the United States of America, agencies such as United States Department of Labour, and laws such as United States Federal Sentencing Guidelines for organizations which protects whistleblowers in the private sector.³⁵ In 2010, Dodd-Frank Wall Street Reform and Consumer Protection Act was created as an incentive to whistle blowers who gave relevant information that can be used to legally recover over one million dollars; then they could receive ten to thirty percent of the recovered sum.³⁶

Public sector whistleblowing

It is by far the most heard of, having been on the rise in the last fifty years.³⁷ It is no news that when this occurs, the blowers are put in risk of many things. Due to this, different governments in the world set up structures to help protect them. This will be elaborately discussed later in this paper.³⁸ Public sector whistleblowing is the exposure of illegal misconduct on the part of public civil servants by other employees of the same or a third party. An upsurge of the federal whistle blowing in high profile cases has led to the creation of many protective laws to discourage dishonesty and exposure of such unscrupulous misdoings.³⁹ It is important to know that in the public sector, it is illegal to “take, threaten to take any personal action against the employee who exposes misconduct because the employee exposed what he reasonably deemed to be an act or omission of gross misconduct, gross waste of government funds, abuse of authority, violation of law, gross mismanagement, etc.”⁴⁰

Examples of Whistleblowing

The Nigerian Experience

In October 2006, the board of Cadbury Nigeria Plc announced to the general public, including its stockholders and regulatory bodies, of “the discovery of Overstatements in her accounts.” Mr. Bunmi Oni, the Managing Director, and Mr. Ayo Akadiri, the Finance Director, were relieved of their duties following the scandal, and the Nigerian Stock Exchange Board also banned the two from running any public quoted company for life.⁴¹

Premium times likewise reported that the Nigerian government recovered 151 million dollars and 8 billion naira looted funds through whistleblowers.⁴²

The Nigerian government has recovered about N73 billion in looted funds since it announced its whistle blowing policy in 2016. Major recoveries include the following⁴³ –

(1) The Economic and Financial Crimes Commission, EFCC, unraveled a staggering \$43.4 million (about N14 billion) warehoused inside the infamous “Apartment 7B” at Osborne Towers, Ikoyi, Lagos allegedly belonging to a former Managing-Director, Operations at the Nigeria National Petroleum Corporation, NNPC, Mrs. Esther Nnamdi-Ogbue.

³⁴ Timmerman, Kelsey, *Where am I Wearing?* California: Wiley (2012)

³⁵ Ibid note 13.

³⁶ Ibid

³⁷ Ibid

³⁸ “Measures taken by Nigeria against Whistleblowing”

³⁹ Lee, Katie (2011). “Whistleblower Retaliation in the Public Sector.” *Public Personnel Management*

⁴⁰ Ibid note 13

⁴¹ Sunday Felix Taiwo “Effects of Whistleblowing Practices on Organizational Performance in the Nigerian Public Sector: Empirical Facts from selected Local Government in Lagos and Ogun State.

⁴² Accessed on www.premiumtimesng.com/news on November 2, 2017.

⁴³ Accessed on www.vanguardngr.com on November 2, 2017.



- (2) Prior to this, the EFCC also uncovered bundles of naira notes totaling about N450 Million inside 'Ghana-must-go' bags at shop LS64 Legico Plaza, Nigerian Air force Camp, Victoria Island, Lagos State.
- (3) A whopping \$9.8 million (about N3 billion) was also recovered from the former Group Managing Director of the Nigerian National Petroleum Corporation, NNPC, Mr. Andrew Laah Yakubu, on February 3, 2017;
- (4) N250 million was hauled from the popular Balogun Market, also in Lagos.
- (5) N49 million cash that was reclaimed by the EFCC at the Kaduna Airport.
- (6) Controversy has reportedly arisen over the ownership of 38million US Dollars, 27,000 Euros and 23 million naira discovered by the operatives of EFCC in a private residence in Ikoyi.⁴⁴ The Minister of Information and Culture, Alhaji Lai Mohammed, has reported that the Federal Government has recovered over 151million dollars and 8billion naira looted funds courtesy of whistle blowers.⁴⁵ To this, the Minister reported thus:

"When we told Nigerians that there was a primitive and mindless looting of the national treasury under the last administration, some people called us liars. Well, the whistleblower policy is a few months old and Nigerians have started feeling its impact, seeing how a few people squirreled away public funds. It is doubtful if any economy in the world will not feel the impact of such mind-boggling looting of the treasury as was experienced in Nigeria. Yet, whatever has been recovered so far is just a tip of the iceberg."⁴⁶

The Nigerian government through its whistle blowing platform has received over 2250 communications from the Nigerian public.⁴⁷ This includes tip-offs, compliments, advice and enquiries. It received 154 'actionable intelligence' in less than three months (December 22, 2016 to April 2017)⁴⁸.

The International Level

In the international arena, there have been several cases of whistle blowing both in the public and private sector. There are examples of "early warning scientists" who were harassed for bringing to the notice of the public some disconcerting information and some face discouragement from entering controversial scientific fields for fear of harassment.⁴⁹

In her Senior Honors Thesis Submitted to The Department of Communication, Boston College, Izabela Marciszewski⁵⁰ cited the case of Cynthia Cooper, a whistle blower who uncovered the accounting scandal of the WorldCom in the early 2000. The case of Harry Markopolos, another whistleblower was also reported as been responsible "for documenting almost a decade of evidence on Bernie Madoff's ponzi scheme" in the year 2008

⁴⁴ Chioma Gabriel, "Whistle blowing as panacea for corruption", Vanguard News. Accessed on www.vanguardngr.com.ng on November 2, 2017.

⁴⁵ Ibid

⁴⁶ Ibid

⁴⁷ Okereke Don (2017) Nigeria's Whistleblowing Policy: Urgent Case For Whistle Blowers Protection Law Financial Watch, May 7, 2017. Available at

⁴⁸ <https://www.google.com.ng/amp/www.premiumtimesng.com/news/headlines/227094-breaking-whistle-blowers-282-nigerians-provide-154-actionable-intelligence-three-months.html/amp>

⁴⁹ European Environment Agency "Late Lessons from Early Warnings: Science, precaution, innovation: Full Report" (Jan 23, 2013), p. 614

⁵⁰ Izabela Marciszewski (2013) The Phenomenon of Whistleblowing: A Series of Conceptual and Legal Considerations. Senior Honors Thesis Submitted to The Department of Communication, Boston College. Retrieved in <https://dlib.bc.edu/islandora/object/bc-ir:102206/datastream/PDF/view> on 2 November 2017



It has been noted globally, that whistleblowers are often motivated to take actions when they notice a sharp decline in ethical practices as opposed to a gradual worsening.⁵¹ In a study conducted in 2012, it has been asserted that whistle blowers tend to blow the whistle not necessarily because of the wrong in itself, but as a consequence of many people knowing about the wrong and fear of the implications of keeping silent.⁵² Further, some individuals are motivated to report wrong doing if they feel secure in the organization's support.⁵³

Effects of Whistle blowing

Whistle blowing has several effects on all the players. There are different effects of whistle blowing, on the Blower, the blowee and the society. These three will be discussed in the following paragraphs.

A whistleblower usually is at the risk of individual harm, public stigma or perception as a betrayer resulting in a dent in public image. The whistle blower's life usually stands at risk of even legal impediments. In the USA, the law classifies as guilty of treason, anyone who "knowingly and willfully 'whistleblows' (emphasis mine) to an unauthorized person or publishes anything prejudicial to the interest and safety of the United States"⁵⁴. Thus, the whistle blower apart from personal risks of harm and stigma, faces possible indictments from the law should his act be found to undermine the government or laws of the country. The family also suffers from possible stigma and attacks from aggravated persons either from the society or from the blowee's team. Other effects of whistleblowing on the whistleblower are: termination, suspension, demotion, wage garnishment and harsh mistreatment.⁵⁵ A 2009 study conducted revealed that about 38% of whistleblowers experienced professional retaliation in some form including wrongful termination.⁵⁶ A whistle blower's family gets psychologically strained during the process of investigation and sometimes even loses their source of income and sustenance.⁵⁷ According to a study conducted in Pennsylvania, out of the three hundred whistle blowers studied, sixty nine percent of them had experienced loss of jobs and discrimination. Due to this effect, it is difficult to accurately evaluate the response or the effects of whistle blowing in the positive especially in the private sector.⁵⁸

The general public reacts in different ways to this phenomenon. Some see them as "selfless martyrs for public interest and organizational accountability; while some see them as traitors or defectors."⁵⁹ They are accused of being self-seekers in pursuit of self -glory or motivated by greed and the rewards attached to it.⁶⁰ Thomas Alured Faunce opines that "whistleblowers should be entitled to a rebuttable presumption that they are attempting to apply ethical principles in the face of obstacles and that whistle blowing would be more respected in governance

⁵¹ Whistle blowing: Common Reactions, accessed on 22 October, 2017 at www.wikipedia.com

⁵² O.C. Ferrell, John Fraedrich, Linda Ferrell, "Business Ethics: Ethical Decision Making and Case" 10th Edition, 2014, p. 193 ISBN 978-1285423715- via Cengage Learning

⁵³ ROWE, Mary & Bendersky, Corinne, "Workplace Justice, Zero Tolerance and Zero Barriers: Getting People to Come Forward in Conflict Management Systems" in Negotiations and Change, From the Workplace to Society, Thomas Kochan and Richard Locke (eds), Cornell University Press, 2002.

⁵⁴ 18 U.S. Code, 798- "Disclosure of Classified Information" *LII/Legal Information Institute*, Delmas, Candice. "The Ethics of Government Whistleblowing (Jan 1, 2015)

⁵⁵ Whistle blowing: Common Reactions, accessed on 22 October, 2017 at www.wikipedia.com

⁵⁶ Ibid

⁵⁷ "William McRaven: A Warrior's Career sacrificed for politics" 24 April, 2016

⁵⁸ O.C. Ferrell, John Fraedrich, Linda Ferrell, "Business Ethics: Ethical Decision Making and Case" 10th Edition, 2014, p. 193 ISBN 978-1285423715- via Cengage Learning

⁵⁹ Whistle Blowers; Common Reactions- accessed at Wikipedia on 22 October, 2017

⁶⁰ Ibid



systems if it had a firmer academic basis in virtue ethics".⁶¹ Some even get scared of the whole concept and generally shy away from anything that has to do with it, for fear of coming by harms' way.⁶² Drucker warns that whistle blowing causes distrust, and a lack of interdependency and ethics within an organization.⁶³

The whistle blower's economic chances, social interaction and even family development is obstructed and may never remain the same.⁶⁴

On the long run, it has been said that whistle blowing may have psychological effects on the blower especially if he keeps receiving hostility from his environs.⁶⁵ Some develop drug and drinking addictions, depression, paranoia, anxiety, and a host of other post blowing trauma.⁶⁶ About 10% have been reported to have suicidal impressions.⁶⁷ Adrian Schoolcraft, an NYPD veteran who alleged falsified crime statistics in his department was forcibly committed into a mental institution on claims of psychological disability.⁶⁸ This mistreatment deters others watching from coming out to expose illegality. It is submitted that apart from protective laws, the government should be diplomatic in sieving out false allegations and go an extra mile to investigate alleged misconducts and seek after the welfare of blowers to prevent long term discouraging effects such as this.

Also there is a latent effect of fear instilled in others who know the blower, either as colleagues or otherwise. This is sometimes leads to the aggravated party circumventing the career of the blower- referred to as "gas lighting"⁶⁹ just to get rid of him.⁷⁰ Whistle blowing has a lot of ethical implications. Some employees whistle blow out of pure ethical considerations and a desire to curb misconduct. However, some do so as an act of retaliation to the "high-end" officials for reasons best known to them. To this end, Rosemary O'Leary in her book called *Guerilla Government* explained that "rather than acting openly, guerillas often choose to remain in the closet, moving clandestinely behind the scenes, salmon swimming upstream against the current of power. Over the years, I have learnt that motivations driving guerillas are diverse...taken as a whole, their acts are as awe inspiring as saving lives out a love for humanity and as trifling as slowing the issuance of a report out of spite or anger".⁷¹ An example proving this fact, is a report by "Pentagon's Inspector General," that out of the 1000 whistle blower complaints received in a year, about 97 percent are not substantiated.⁷²

⁶¹ Faunce, T.A. "Developing and Teaching the Virtue Ethics Foundations of Healthcare Whistle Blowing" *Monash Bioethics Review*, (2004); 23(4): 41-55; Faunce, T.A. and Jefferys, S. "Whistleblowing and Scientific Misconduct: Renewing Legal and Virtue Ethics Foundations" *Journal of Medicine and Law* (2007), 26(3): 567-84

⁶² ROWE, Mary & Bendersky, Corinne, "Workplace Justice, Zero Tolerance and Zero Barriers: Getting People to Come Forward in Conflict Management Systems" in *Negotiations and Change, From the Workplace to Society*, Thomas Kochan and Richard Locke (eds), Cornell University Press, 2002.

⁶³ Drucker, Peter (1981) "What is Business Ethics?" *The Public Interest* 63: 18-36

⁶⁴ Ibid note 30

⁶⁵ Drew, D. "Francis NHS Whistleblower Report: A New Beginning?" *The Guardian*, (29 January 2015)

⁶⁶ Peters, K, et al. "The Emotional sequelae of Whistleblowing: Findings from a Qualitative Study. *Journal of Clinical Nursing*", (2011) 20: P2907-14

⁶⁷ Farnsworth C.H. "Survey of Whistleblowers finds retaliation, but few regrets" *The New York Times*; Lennane J. "Whistleblowing: a health issue." 307(6905): P667-670

⁶⁸ "Cop hauled off to psych ward after alleged fake crime stats". www.rawstory.com. Accessed on October 21, 2017

⁶⁹ Lund C.A., Gardiner A.Q. "The Gas Light Phenomenon: An Institutional Variant." (1977) *The British Journal of Psychiatry* 131 P533-4

⁷⁰ De Silva P, "Tackling Psychopathy: A Necessary Competency in Leadership Development?" *Progress in Neurology and Psychiatry* September/October (2014)

⁷¹ O' Leary, Rosemary "The Ethics of Dissent: Managing Guerilla Government" Washington D.C.: CQ

⁷² "Commander of bin Ladin raid Blasts Senate for disrespecting military leaders" *Washington Post*



Ethical implications suggests a first duty of employees to protecting the organization or image of the organization and thus, employees are expected to uphold ethics of true loyalty and utmost confidentiality with respect to official matters, except the matter is one threatening social or general public good/safety. Robert. A. Larmer describes the standard view of ethics as concerns whistle blowing. He opines that an employee possesses prima facie duties of loyalty and confidentiality to their employers and whistleblowing is only justified on basis of a higher duty to the public good.⁷³ It is important to note that “any relationship which demands loyalty, the relationship works both ways and involved mutual enrichment.”⁷⁴ One common challenge faced by employees is the “conundrum of choosing to be loyal to the company or to blow the whistle on the company’s wrongdoing.”⁷⁵ This has been a highly controversial issue globally, especially with the case of Edward Snowden who released classified intelligence to the Americans in an attempt to make them see the inner workings of the government- the controversy here is, did his act constitute ethical disobedience or disloyalty, or was he right in exposing this with respect to public good?⁷⁶

As for the whistle blowee, he immediately faces emotional strain, possible indictment and seizure of properties. The family too suffers from stigma from the society and the public image if proven guilty is damaged.

Measures taken on Whistle blowing

The International Arena

As a reaction to the several risks whistle blowers face, many private organizations internationally created legal defense funds and support groups to assist whistle blowers. Some of them are, National Whistle Blowers Center in USA,⁷⁷ Whistle blowers UK,⁷⁸ AND Public Concern at Work (PCAW) UK⁷⁹. In recognition of the increase in whistleblowing, the United States Supreme Court protects whistle blowers under the “First Amendment Rights from any job retaliation when they raise flags over alleged corruption.”⁸⁰ In India, the Whistleblowers Protection Act, which has been a subject of battle since 2003, was finally passed into law by the Lok Sabha in 2011 and same was published in the official gazette on May 9, 2014 by the Ministry of Law and Justice, Government of India.⁸¹ Netherlands in mitigating whistle blowing effects, developed a software company-“Hermes Center for Transparency and Digital Human Rights” which supports whistle blower- oriented technologies internationally.⁸² In Jamaica, the Protected Disclosures Act was passed to law in 2011 to protect whistle blowers.⁸³ The United States and United Kingdom by far still has the most legislation in place for whistle blowing.⁸⁴

The Nigerian Approach

In Nigeria, the Federal Ministry of Finance was put up as a platform to receive information in the interest of the government. The whistle blowing policy was also created in 2008 to

⁷³ Larmer, Robert A. “Whistleblowing and Employee Loyalty”. (Feb 1992) Journal of Business Ethics

⁷⁴ Duska, Ronald “ Whistleblowing and Employee Loyalty” (Feb 1992) Journal of Business Ethics.

⁷⁵ Springer “*Issues in Business Ethics*”. (2007) pp. 139-147

⁷⁶ Friedman, Mark “Edward Snowden: Hero or Traitor? Considering the Implications for Canadian National Security and Whistleblower Law”

⁷⁷ Accessed at whistleblowers.org on October 21, 2017

⁷⁸ Accessed at wbuk.org on October 21, 2017

⁷⁹ Accessed at pcaw.co.uk on October 21, 2017

⁸⁰ Ibid note 13

⁸¹ PTI “Whistle-blowers Bill Passed” Chennai, India: The Hindu (July 2012)

⁸² “Handling ethical problems in counterterrorism: An Inventory of Methods to Support Ethical Decision making” (PDF). Rand Corporation (2014)

⁸³ Parliament, Houses of “Acts List” (PDF) www.japarliament.gov.jm.

⁸⁴ Ibid note 13



accommodate relevant information to be used to recover looted funds and other things from defaulting officers of government, *“Information on impropriety in the dealing or use of public funds or property, theft or corruption is acceptable by the Federal Ministry of Finance.”*⁸⁵

The Federal Ministry of Finance also has created an online page, the Federal Ministry of Finance, Nigeria FAQ (frequently asked questions) page which serves as a guide to anyone seeking basic information on different aspects of the whistleblowing policy in Nigeria.⁸⁶

According to the Federal Ministry of Finance, “a whistle blower is expected to submit his information with evidence, if he has any, and with as much precision and specifics as to dates, time, events and persons involved in order to aid proper investigation.” The whistle blowing programme is aimed at encouraging anyone with information about a violation of financial regulations, mismanagement of public funds and assets, financial malpractice, fraud and theft to report it.⁸⁷

Worthy of note is the fact that the Nigerian government has provided an incentive to encourage whistle blowing for the public good. It provides that

*“a whistle blower is entitled to a reward of about 2.5%-5% of the amount recovered if he provided the government with information that directly led to the voluntary return of stolen or concealed public funds or assets; provided the information is one that the government does not already have and which it could not have obtained from any other publicly available source- the whistleblower would only get rewarded if the money is recovered on account of the information supplied by him.”*⁸⁸

The Whistle Blowing Protection Bill 2008 defines a whistle blower as “A person who makes -a disclosure of impropriety...”⁸⁹

The Nigerian Whistle Blowing Protection Act

The Whistle Blower Protection Bill was proposed in 2008 by Senator David Umaru, member representing the Niger East in the Eighth Senate as a protective panacea for whistle blowers and sponsored by Senator Ganiyu Olanrewaju Solomon. However, whistle blowing in Nigeria became really popular in 2016 when the President Buhari announced the launch of a whistle blowing portal by the Federal Ministry of Finance with an aim to aid “anyone with information about a violation of financial regulations, mismanagement of public funds and assets, financial malpractice, fraud and theft to report it.”⁹⁰

The bill was for Act which would provide for the manner in which individuals may in the public interest disclose information that relates to unlawful or other illegal conduct or corrupt practices of others, to provide for the protection against victimization of persons who make these disclosures and to provide for related matters. The Whistle Blower Protection Bill was passed by the 7th National Assembly in 2015, and a sequel sponsored by Senator Biodun Olujimi meant to protect persons who expose financial improprieties and corruption in public and private organizations also passed second reading in the Senate since October 2016.

The urgency and importance of having a whistle blowers’ protection law cannot be overestimated. The whistle blower is at risk of losing his job and all attending benefits and even his life. Two whistle blowers on the Nigerian scene who come to mind when one recalls the danger of whistle blowing are Mr. Aaron Akase and House of Representatives member, Mr. Abdulmumin Jibrin. Mr Akase revealed serious allegations of possible fraud in the Police

⁸⁵ Ibid

⁸⁶ Accessed on whistle@finance.gov.ng on November 2, 2017.

⁸⁷ “An Appraisal of the Whistleblowing Policy in Nigeria”, published on 9th May, 2017. Accessed at naijalegaltalkng.com on November 2, 2017.

⁸⁸ Ibid note 1

⁸⁹ Section 1 (3) Whistle Blowing Protection Bill 2008 C 4783

⁹⁰ <http://whistle.finance.gov.ng> federal ministry of finance



Service Commission (PSC) but was humiliated, placed under indefinite suspension from work without salaries and faces threats to his life. Mr Jibrin also face similar sanctions for blowing the whistle and leveling allegations of “budget-padding” on the leadership of the House of Representatives.

On the other hand, there is the example of Mr Ntia Thompson that shows that all is well that ends well. Mr Thompson was an assistant director in the servicom unit of the Directorate of Technical Cooperation in Africa (DTCA). After exposing a fraud case involving the director general of DTCA, Mohammed Kachallah at the Ministry of Foreign Affairs, he was first suspended in 2016 and officially disengaged from service on February 23, 2017. In June 2017, he was reinstated after an open letter was sent to Premium Times by the Socio-Economic Rights and Accountability Project, SERAP giving the minister of foreign affairs a seven day ultimatum to recall Mr Thompson.

On July 19, 2017, the Punch Newspaper records that this Bill was passed into Law under the auspices of Senator Bukola Saraki, the Nigerian Senate President.⁹¹ The bill which is one of the several anti-corruption bills in Nigeria seeks to

*“...provide for the manner in which individuals may in the public interest disclose information that relates to unlawful or other illegal conduct or corrupt practices of others; to provide for the protection against victimization of persons who make these disclosures...”*⁹²

On a closer appraisal of the bill recently passed to law, the following can be deduced.

Appraisal of Provisions of the Whistle Blowing Protection Act

The Nigerian Whistle Blowing Protection Act contains Three Parts and 22 sections.⁹³

Part 1 of the Act sets out a general provision for information posing imminent risk or danger to public interest or amounting to improper conduct and facilitates its subsequent disclosure, persons that can disclose and be disclosed to, with set procedures for making such disclosures in part two⁹⁴. Part one, Section 1(3) also discusses the various agencies and personnel that complaints may be made to with respect to whistleblowing.

In addition to Part two's provision for the procedure for disclosure of impropriety and related actions, the bill provides for persons who may provide such discreet information and prescribes inter alia that such must be done *bona fide*.⁹⁵ The bill also categorizes those to whom such information may be disclosed under Section 3, Whistle Blowing Protection Bill, 2008; an employer of the whistle blower, the Attorney-General, Auditor-General, Staff of Independent Corrupt Practices Commission, etc.

Going further, the bill describes the procedure to be conformed to in disclosing such information. It sets out inter alia that:

“the disclosure may be made orally”⁹⁶ ...shall contain the full name, address and occupation of the whistle blower⁹⁷ ...the person alleged to have committed, who is committing or is about to commit the impropriety;⁹⁸ the time and place where the alleged impropriety is taking place, took place or is likely to take place⁹⁹ ...the full

⁹¹ Punch Evening-NewsLetter “Senate passes Whistleblower Protection Bill into Law” published July 19, 2017. Accessed at www.punheveningnewsletter/senatepasseswhistleblowerprotectionbillintolaw.com

⁹² Long Title Whistle Blower Protection Bill 2008, C4783

⁹³ Nigerian Whistle Blowing Act, 2017

⁹⁴ Section 4- Procedure for Disclosure of Impropriety and related Action- Whistle Blowing Protection Bill 2008

⁹⁵ Section 1, Ibid

⁹⁶ Section 4 (1), Ibid note 11

⁹⁷ Section 4 (2) (a) Ibid

⁹⁸ Section 4 (2) (c) Ibid

⁹⁹ Section 4 (2) (d) Ibid



*name, address and description of a person who witnessed the commission of the impropriety if there is such a person*¹⁰⁰

The Bill also provides that such information be thoroughly investigated by prescribed personnel for a stipulated period of time.¹⁰¹ Amongst the tenets of the bill, is the protection of the “whistle blowers”. Section 12¹⁰² provides acts or omissions which will amount to victimization of a whistle blower and in Section 14¹⁰³ prescribes the right action to be taken; remedies available for such affected whistle blower. Some of the remedies include “reinstatement,¹⁰⁴ reversal of a transfer,¹⁰⁵ or transfer of a whistle blower to another establishment where applicable.¹⁰⁶ In addition to that, upon reasonable cause, police protection is provided for whistle blowers if the situation warrants it.¹⁰⁷

Part three of the Bill provides for the protection of whistleblowers, sections 12 to 20 discusses the different remedies available to a whistleblower- right of action against victimization,¹⁰⁸ reporting to the appropriate agency for investigation¹⁰⁹ legal assistance,¹¹⁰ Police Protection,¹¹¹ protection against civil and criminal action,¹¹² Void employment contracts¹¹³ and finally discloses regulations guiding the law of whistleblowing as provided by the Act itself.¹¹⁴

The Act is very good and handy. It covers salient issues as regards whistleblowing, particularly the protection of whistleblowers, as in Part three of the Act, and also a well laid organizational or procedural plan, as a means of delving deep into investigations relating to whistle blowing and Incidental matters.

Conclusion

Globally, a lot of activity is going on as governments are increasingly creating methods used for whistle blower protections. There are much technological advancement set up today to help expose misconducts and aid whistle blowing. “Tor” is an anonymity network used globally by whistleblowers.¹¹⁵ We have software such as “Securedrop” and “Global Leaks” which have been adopted to enhance secure whistle blowing.¹¹⁶ “Open Board” is another security service used in whistle blowing internationally. Some companies using Open Board are:

1. Code of Conduct Hotline- Advance Pierre Foods
2. Whistle blower hotline- Collegium Pharmaceutical, Inc.
3. Contact the Board/ Reata Pharmaceuticals

¹⁰⁰ Section 4 (2) (e) Ibid

¹⁰¹ Section 6-10, Whistle Blower Protection Bill 2008 C 4783

¹⁰² Ibid note 18

¹⁰³ Ibid

¹⁰⁴ Section 14 (3) (a) Ibid

¹⁰⁵ Section 14 (3) (b) Ibid

¹⁰⁶ Section 14 (3) (c) Ibid

¹⁰⁷ Section 17 Ibid

¹⁰⁸ Section 13, Ibid

¹⁰⁹ Section 15, Ibid

¹¹⁰ Section 16, Ibid

¹¹¹ Section 17 Ibid

¹¹² Section 18, Ibid

¹¹³ Section 19, Ibid

¹¹⁴ Section 20, Ibid

¹¹⁵ Mittal, Prateek “PIR-Tor: Scalable Anonymous Communication Using Private Information Retrieval” (PDF) USENIX Security Symposium, accessed 21 October, 2017

¹¹⁶ Frediani, Carola “After NSA Scandal, Crop of Whistleblower Communication Tools for Journalists Emerge” Tech President, accessed 21 October, 2017; Greenberg, Andy “Whistleblowers Beware: Apps Like Whisper and Secret Will Rat You Out”. Wired (website), accessed 21 October 21, 2017



4. Whistleblower and Compliance Hotline- Enerflex Ltd.
5. Lombard Medical, Investors, Corporate Governance.¹¹⁷

In 2016, the rock band 'Thrice' released a song titled "whistleblower" written from the perspective of Edward Snowden, the man who released classified government information to the public.¹¹⁸

The Nigerian Whistle Blowing policy is a good turn of events towards mitigating corruption and enhancing sustainable development in Nigeria. The advent of the Whistle Blowing Act will in no small measure help rid this country of the cankerworms that have eaten far too deep into the fabrics of our society.

However, there is still a lot of work to be done.

Looking at the global activities going on, Nigeria still has a long way to go in the development of her whistleblowing policies. The technological advancements noted above should be adopted by the country in ensuring a free and fair society. Likewise, the entertainment industry and other sectors of the government can all pitch in their widow's mite to curb illegal activities of unscrupulous persons.

¹¹⁷ Ibid note 13

¹¹⁸ Montemarano, Mike "Blood on the Sand: A Conversation with Thrice" Baeble Music, accessed on 21 October, 2017