The International Community, Corruption and Challenges of Whistleblowing in Nigeria

By

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Abstract

The main thrust of this discourse is to examine the nature of corruption in Nigeria and reasons why public disclosure of corruption has being a challenge especially from the perspective of whistle blowing. Corruption is a persistent challenge that troubles the world, and in finding solution Trans-border bodies such as the United Nations, World Bank, Organization for Economic Cooperation and Development, World Trade Organization, European Union, the European Bank of Reconstruction and Transparency International are actively promoting official probity and anti-corruption strategies across all countries At present in Nigeria, the legislation has just been passed to directly deals with the issue of whistleblowing. In the event that a person wants to blow whistle, protection for the identification of whistleblowers cannot be easily accessible. The research adopted secondary sources of data collection and were contextually analysed. Critical state theory was adopted. Features of international best practices include: scope and clarity of legislation, Mechanisms for disclosure, protection of identity, Protection against retaliation, and Remedies available for wronged whistleblowers. Findings of the research are: whistleblower policy cannot solve the problem alone; Corruption in Nigeria is Hemorrhagic; many corruption cases are lost because of lack of political will; Many Nigerians are

still finding it difficult to blow whistle. The following recommendations were arrived at: Provision of incentives, Corruption cases must be properly investigated, Impose a price for people convicted of corrupt practices that is immensely high, and Investigations must be concluded before disclosing the information.

Key Words: International Community, Corruption, Challenges, Whistle-blowing and Nigerian.

Introduction

Corruption is a persistent problem that plagues the world. It knows no borders. It is a problem facing post-communist countries as they transition to democracies and market economics (Liebert, Condrey and Goncharov, 2013), but it is also one that confronts states within North America, Western Europe, and those in Asia, South America, Africa and Nigeria in particular.(Rose- Ackerman, 1999). Yet corruption is not simply a trait of the human psyche. Instead many institutional forces, such as bad governance, lack of transparency, flawed decision-making systems, and inefficiencies and scarcities are all offered as possible reasons why corruption persists (Rose- Ackerman, 1999).

In the case of Nigeria, Corruption has become an appellation, to the extent that wherever the Name Nigeria is mentioned the first thing that come to mind is "corruption". And if Nigeria does not kill corruption, corruption will kill Nigeria because it's like a cancer cell in the body of man that if not quickly remove through a surgical operation, it will sooner or later remove the person concern from the surface of the earth. Therefore, there is an urgent need for surgical operation to remove this tumor that has become endemic in the Nigeria society. Although cancer is not contagious but the disease of corruption is highly contagious and a very effective vaccine must be develop to arrest the debilitating effect of this very serious problem.

As a matter of fact, this corruption is not peculiar to Nigeria, but some other countries of the world have been able to do something decisive to address the problem including 'whistle blowing approach' which form the bases for the main focus of this discourse. Whistle blowing is one method of exposing corruption in public and private sector. Indeed, it has been seen as among the most effective means to uncover and remedy corruption, fraud and other types of wrongdoing in the public and private sectors**.** To blow the whistle is not an easy task, it needs courage, moral evaluation and one has to put the interest of the public ahead than his or her interest. In addressing this therefore, the following questions were answered: what is corruption? Is there any historical antecedent about corruption in Nigeria? What is whistle blowing? Who is a whistle blower? Why do people chose to blow or not blow whistle? What is international best practices? What are the features of best practices? Why is public disclosure of corrupt practice a challenge in Nigeria? Is there any whistle blowing policy available in Nigeria? And what are the lessons for Nigeria?

Conceptual Issues

In literatures, opinion differs, in order to avoid ambiguity and for the sake of clear perspective, the following concepts were clarified: corruption, public disclosure, whistle blowing and whistle blower.

Corruption

World Bank (1997), viewed corruption as the abuse of public power for private gain is corruption. The chief vigilance commissioner, opined that corruption is like AIDS, while the disease is caused by uncontrolled sexual behavior, corruption is caused by uncontrolled financial behavior (Vittal, 2000). This implies that, an individual in position of influence uses it at the cost of others and by sidelining the institutionalized framework to further one's own financial upliftment. This may take many forms such as bribery, extortion, influence-peddling, nepotism, fraud, embezzlement, etc.

Balogun argued that corruption "depending on its form and gravity, corruption is capable of rewarding indolence and penalizing hard work, undermining morale and *espirt de corps* , compromising a nations external security, threatening internal order and stability and generally slowing down the pace of economic growth and sustainable development'' (Balogun, 2003).

He pressed further that corruption touches more than just the people involved in the corrupt transaction, when traffic controllers illegally sell drivers' licenses, everyone is exposed to the risk of reckless driving and when applicants buy a place on a police force, police officers are beholden to these benefactors and law enforcement goes to the ''highest bidder'' (Balogun, 2003). The implication of this can be so disastrous in the sense that the man that buys a space in the police force has to first and foremost look for the money invested and by so doing become friend of armed robbers, sell ammunitions to them, collect bribe and perpetuates all manner of evil.

To Luo (2005) corruption is an "illegitimate exchange of resources involving the use or abuse of public or collective responsibility for private ends". Transparency International (1997) defines it as the "abuse of entrusted power for private gain". World Bank (1997), declares corruption to be "abuse of public office for private gain".

Whistle Blowing

Whistleblowing is an important element of accounting and an internal control that serves as one of the mechanisms to discourage illegal, immoral and illegitimate practices in any organization.The most widely used academic definition of whistleblowing originated in an article by Miceli and Near (1995). They defined "whistleblowing" as "the disclosure by organization members of the illegal, immoral or illegitimate practices under the control of their employers to persons or organizations that may be able to effect action." (Miceli& Near, (1985).This definition focuses only on the act of disclosure, rather than on whistleblowing as a process that

needs to be examined before, during and after disclosure. Many academics have now embraced broader conceptions of whistleblowing. David Banisar, for example, "treats whistleblowing as a means to promote accountability by allowing for the disclosure by any person of information about misconduct while at the same time protecting the person against sanctions of all forms." (David, (2011). In their study on public sector whistleblowing in Norway, Maritand Sissel (2010) identify several problems with Miceli and Near's (1985) narrow definition of whistleblowing, and they advocate for a bifurcated definition which recognizes whistleblowing as a process:

> Thus, when whistleblowing is examined as a process it necessitates laws or policies that provide a clear description (1) of what types of perceived wrongdoing should be disclosed, (2) to whom such disclosures should be made initially and subsequently (if the initial disclosure does not prompt an investigation), (3) how and by whom the alleged wrongdoing should be investigated, (4) the mechanisms and procedures that are in place to encourage persons to disclose wrongdoing while protecting the whistleblower from any disciplinary action or adverse consequence for reporting the wrongdoing, and (5) the steps to be taken if adverse consequences are, or appear to be, imposed on the whistleblower (Marit and Sissel, 2010).

Whistle Blower - Is an individual that exposes any wrong doing in either public or private place by way of reporting or making it known to the constituted authority that has the capacity to press charges and

investigates further. When a government employee, private employee or independent contractor releases news of illegal, unsafe or unethical conduct about his employer, that employee "blows the whistle" on that employer for his behavior.

Efforts of Different Regimes in Combating Corruption in Nigeria

Successive Nigerian government has responded to corruption programmatically. They have created anti - corruption agencies to investigate wrongdoing, ombudsman offices to hear citizen's complaints, internal anticorruption units within public agencies, and independent public accounting offices. Through education and publicity, the promise of reward, the threat of investigation and punishment, or the use of monitoring, governments instituted different policies in an attempt to combat corruption. (Roberta, 2003) government also used code and ethnics commission to try to teach employees and the public new ethical standards. As a matter of fact, there are some who argued that educating the public and changing the character of people is the only real road to reducing corruption and creating public regarding values (Lynch and Lynch 2003, and Balogun, 2003). Caiden *et .al*. (2001) also maintained that in ''today's globalised, democratized, informatized word, incorruptible governments can be constructed only using incorruptible citizens as their bricks and mortar''. In the same vein, Balogun believes that "character formation'' not leaders and monitoring agencies, "is the causative factor in public integrity (Balogun, 2003).

A. In Nigeria, since 1975, every successive Regime tried his bit to combat corruption. Beginning from the late General Murtala Mohammed's regime, in down- sizing in the civil service:
    i. 52 officials in the federal public service were retired,
    ii. 50 were sacked,
    iii. Close to 2000 Nigerians lost their jobs across the country and ant- corruption decree was promulgated.
    iv.

B. President Shehu Shagari launched ethical revolution :
    i. The code of conduct Bureau.
    ii. Appointed credible of chairman and other members.
C. Major General Muhammadu Buhari launched War Against Indiscipline (WAI) on the 20TH March 1984 in Lagos:
    i. over 50 public servants including some state executive governors were jailed; he declared a war against indiscipline which was a holistic approach to fighting out corruption;
    ii. Introduced firing squad for armed robbers;
    iii. Death sentence for drug traffickers;
    iv. Queuing culture in public places and
    v. Anti- money laundering decrees.
D. General Babangida introduced:
    i. National Orientation and Mass Mobilization,
    ii. The National Drug Law Enforcement Agency (NDLEA) Act in 1989, and
    iii. Formation of the National Agency for Food, Drug Administration and control (NAFDAC) in 1991.
E. Late General Sani Abacha launched
    i. War Against indiscipline and corruption
F. President Olusegun Obasanjo also came with the formation of institutions like:
    i. The Independent Corrupt Practices and other Offences Commission (ICPC) and
    ii. Economic and Financial Crimes Commission (EFCC), and
    iii. Budget Monitoring and Evaluation Unit (Due Process).

INTERNATIONAL PERSPECTIVES ON WHISTLEBLOWING

This section will briefly review what regional and global treaties against corruption mandate in regard to whistleblowing laws for member states.

United Nations Convention against Corruption (UNCAC)

Each State Party shall consider incorporating into its domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention. However, this Article is optional, not mandatory. A state need only "consider" adopting "appropriate measures" to protect whistleblowers, and the provision only provides protection from "any unjustified treatment" to those who acted "in *good faith* and on *reasonable grounds*."Thus, a State Party is free to deliberate, and then simply decide not to adopt any reporting protections (Björn and David, 2014).

Even with its obvious weaknesses, the protections offered under this section represent an expansion of previously recognized protections, and the UN in supporting documents has encouraged ratifying states to enact robust whistleblowing regimes under Article 33: (UNCAC, 31 October 2003 at Article 33)(Banisar, (2011).

In comparison, Article 32 of UNCAC provides for mandatory protection of witnesses, experts, and victims: it dictates that states "shall take appropriate measures… to provide effective protection from potential retaliation or intimidation for witnesses and experts who give testimony concerning offences established in accordance with this Convention and, as appropriate, for their relatives and other persons close to them" *(UNCAC* at Article 32). Unfortunately, this mandatory protection does not protect whistleblowers from retaliation or intimidation unless they are "witnesses or victims" to the wrongdoing and they give "testimony" in the prosecution of wrongdoers. Most potential whistleblowers do not fall into this narrow group. Moreover, the ultimate objectives of whistleblowing laws are not simply to assist in the prosecution of an alleged wrongdoer, but also to play a preventative role. As Transparency International has observed, "the ideal situation is where a whistleblower

raises concerns in time so that action can be taken to prevent any offence." (Transparency International, 2013).

Articles 32 and 33… address the protection of witnesses, thereby complementing efforts regarding the prevention of public and private corruption, obstruction of justice, confiscation and recovery of criminal proceeds, as well as cooperation at the national and international levels. Even though the aim is far from easy to achieve, the underlying rationale is obvious, unless people feel free to testify and communicate their expertise, experience or knowledge to the authorities, all objectives of the Convention could be undermined. (Arnone and Leonardo, 2014). Without the protection offered in these provisions, countries attempting to operationalize UNCAC would be unnecessarily hobbled by difficulties in uncovering, investigating and resolving corruption issues.

The Organisation for Economic Co-operation and Development (OECD), Convention

The OECD Convention itself does not specifically include provisions on whistleblowing. But various subsequent OECD instruments encourage the adoption of whistleblower protections. For example, in 1998 the OECD issued a Recommendation on Improving Ethical Conduct in the Public Service. That Recommendation states that transparency and accountability in the decision-making process should be encouraged through "measures such as disclosure systems and recognition of the role of an active and independent media" (Public Governance Committee,1998).The 2003 Recommendation on Guidelines for Managing Conflict of Interest in the Public Service stipulates that states ought to "provide clear rules and procedures for whistle-blowing, and take steps to ensure that those who report violations in compliance with stated rules are protected against reprisal, and that the complaint mechanisms themselves are not abused." (OECD, (2003) The 2009 Recommendation of the OECD Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions similarly recommends that member states should

put in place "easily accessible channels… for the reporting of suspected acts of bribery of foreign public officials in international business transactions to law enforcement authorities, in accordance with their legal principles." (Working Group on Bribery in International Business Transactions, 2009) Recommendations such as these show a recognition of the important role that whistleblowers can play in reducing corruption in the public service and in business.

Inter-American Convention against Corruption

Arnone and Borlini (2014) noted that References to whistleblower protection can be found in a number of other regional conventions and agreements. For example, the first inter-governmental agreement to tackle whistleblower protection was the Inter-American Convention against Corruption. This Convention came into force on March 6, 1997, under the purview of the **Organization of American States (OAS)**, a group of 35 member states in the Americas. The Convention suggests that signatories consider introducing or strengthening whistleblower protections within their own legal and institutional systems as a means of preventing corruption: Article III, section 8, provides that "state parties agree to *consider* the applicability of measures… and systems for protecting public servants and private citizens who, in good faith, report acts of corruption, including protection of their identities, in accordance with their Constitutions and the basic principles of their domestic legal systems" (*Inter-American Convention against Corruption*, 29 March 1996). The agreement emphasizes the role that each signatory's domestic legal context would play in the creation and maintenance of an effective whistleblower protection scheme.

On the other hand, at least one regional Convention "requires" state members to have whistleblowing laws. The Council of Europe, a human rights organization with 47 member states (of which 28 belong to the European Union), produced the Council of Europe Civil Law Convention on Corruption, which came into force on November 1, 2003. The Council

of Europe in Brief" (2014). Article 9 states: "Each Party shall providein its internal law for appropriate protection against any unjustified sanction for employees who have reasonable grounds to suspect corruption and who report in good faith their suspicion to responsible persons or authorities" (Council of Europe Civil Law Convention on Corruption, 4 November 1999).

Anti-Corruption Action Plan for Asia and the Pacific

Another regional agreement is the **Anti-Corruption Action Plan for Asia and the Pacific,** which was created out of the joint efforts of the Asian Development Bank and the OECD. It was endorsed on November 30, 2001. (3rd regional Anti-Corruption Conference for Asia and the Pacific). Pillar 3 of the Action Plan specifically identifies the protection of whistleblowers as a critical element in encouraging public participation in combating corruption. (The Anti-Corruption Action Plan for Asia and the Pacific, 30 November 2001). However, the provisions of the Action Plan are not mandatory: under Implementation, the Action Plan states that "in order to implement these three pillars of action, participating governments of the region concur with the attached Implementation Plan and will endeavour to comply with its terms.

The African Union - African Union Convention on Preventing and Combating Corruption (AUCPCC)

The African Union is not left out, it is made up of the majority of African states and was launched in 2002.The Preamble to the 2003 African Union Convention on Preventing and Combating Corruption (AUCPCC) recognizes the serious detrimental effects that corruption has on the stability of African States, as well as people in Africa. *(AUCPCC, 2003).* It recognizes the potential of whistleblowing as a corruption prevention mechanism, and seems to have a scope wide enough to encompass

ordinary citizens within its protection. The language of these provisions is mandatory: "State Parties *undertake* to:"(5) Adopt legislative and other measures to protect informants and witnesses in corruption and related offences, including protection of their identities. (6) Adopt measures that ensure citizens report instances of corruption without fear of consequent reprisals *(AUCPC, 2003).* (7) Adopt national legislative measures in order to punish those who make false and malicious reports against innocent persons in corruption and related offences. *(AUCPC,* Article 5, *2003).*

It should be noted that clause 5 on protection of informants and witnesses requires "legislative" measures, while clause 6 on protection of citizens who report corruption from fear of reprisals does not require "legislative" measures and is satisfied if a state implements some form of non-legislative protective measures. In addition, as Arnone and Borlini argue, clause 7 may act as a deterrent to truthful whistleblowers, since it is wide enough to punish honest whistleblowers who "reasonably" suspect corrupt behaviour. (Marco & Leonardo, 2014) Finally, the effectiveness of the Convention is weakened by the fact that there is no credible enforcement or evaluation mechanism: each state simply self-reports on its Convention compliance *(AUCPC,* Article 7, *2004).*

Southern African Development Community Protocol against Corruption

The South African Development Community (SADC) has also join the rest of the world in this fight, is composed of 15 member states in the southern region of Africa. The 2011 Southern African Development Community Protocol against Corruption, Article 4, encourages the creation and maintenance of "systems for protecting individuals who, in good faith, report acts of corruption."(SADC Protocol against Corruption,2001). This provision, like that of the African Union Convention, contains mandatory language.Furthermore, both of these documents contain strongly worded provisions denouncing individuals who make false reports. (SADC

Protocol against Corruption 2001).This is problematic because it may have a chilling effect on information disclosures: Such provision, the aim of which is to prevent a misuse of the Convention itself, might paradoxically well result in a general impasse of the investigation. The potential chilling effect of denouncing those who make false reports, coupled with the lack of oversight and monitoring of ratification and enforcement, makes it unlikely that these agreements will have any significant influence in causing member states to create effective whistleblower protection regimes.

INTERNATIONAL BEST PRACTICES ON WHISTLEBLOWER LEGISLATION

Various organizations and academics have developed suggestions for "best practices" and standards for whistleblower protection legislation. These best practices are suggestions as to how to most effectively draft whistleblower legislation, and they provide ideas for countries attempting to develop or improve whistleblower legislation. (Transparency International, 2013). It is worthy of note that:

i. **Effective Whistleblower Protection Can Only Exist in a Democratic Society**- Paul and Brown (2008) note that effective whistleblower protection can only exist in a democratic society that values accountability and transparency; in other words, "a precondition for whistleblower laws is the rule of law, including an independent legal system and independent judiciary." (Paul & Brown, 2008). This precondition will be met in varying degrees from country to country. In a similar vein, the efficacy of whistleblower protection will be dependent not only on what is found within the four corners of the applicable legislation, but more importantly how the appropriate bodies put legislative protections into practice.

ii. **It is counter-productive to simply transplant successful legislative regimes from one cultural setting to another or from developed countries to developing countries** - It is also important to recognize that it is seldom, if ever, effective to simply transplant successful legislative regimes from one cultural setting to another (Heungsik, *et al*., 2008)or from developed countries to developing countries. (Sajid, *et al*., 2011).Whistleblowing schemes in developed democracies may not be appropriate or effective in the "specific context of developing countries who do not always have an institutional framework in place that supports the rule of law and where a culture of transparency and accountability remains questionable." (Marie, 2009). Thus, in discussing best practices, it is crucial to take into account the cultural and institutional environments of the countries that are considering the adoption of whistleblower protection legislation. If such contextual factors are not taken into account, the efficacy of whistleblower legislation will be seriously undermined. Brown (2008), warns that best practices models should be examined with a careful eye on the legal, administrative, and political context of each country.

Notwithstanding international interest, there is no single 'ideal' or 'model' law that can be readily developed or applied for most, let alone all countries. This is due to the diverse and intricate ways in which such mechanisms must rely on, and integrate with, a range of other regimes in any given jurisdiction (Brown, 2013).

WHISTLE BLOWING POLICY IN NIGERIA

The whistleblower policy, which was eventually launched by Nigeria's Ministry of Finance, and passed into law by the National Assembly, was meant to incentivize Nigerians to provide actionable tips to track and recover stolen government funds. It encourages citizens to report cases

involving embezzlement of government funds, looting of assets and inflation of government contracts using text messages, phone calls, emails and online forms from the ministry's website. As part of the policy, which is a component of Buhari's signature anti-corruption crusade, Nigerian Minister of Finance Kemi Adeosun said tipsters will be protected and their identities kept anonymous. New amendments to the Proceeds of Crime and Whistleblower Protection bills—both already strengthened in 2015—that will make good on that promise have passed a second reading in parliament (Festus Iyorah Wednesday, April 26, 2017).

According to the Federal Ministry of Finance (FMF) (http://whistle.finance.gov.ng), the whistle blowing programme is designed to encourage anyone with information about a violation of financial regulations, mismanagement of public funds and assets, financial malpractice, fraud and theft to report it. The FMF-Whistle is a secure, online portal through which information bordering on economic and financial crimes that is deemed to be in the interest of the public can be disclosed. The portal also permits the person disclosing the information to perform a status check on matters that have been reported on the whistle blowing portal. Anyone who has "authentic information about violation, misconduct, or improper activity which can impact negatively on the Nigerian people and Government" can report it through one or the other of three channels, (Phone; 09098067946, email; whistle@finance.gov.ng, web; http://whistle.finance.gov.ng, for phone calls: Monday - Friday 10.00am to 3.00pm except on public holidays) (Daily Trust, Thrusday, July 13, 2017).

A whistle blower responsible for providing government with information that directly leads to the voluntary return of stolen or concealed public funds or assets may be entitled to anywhere between 2.5% - 5.0% of amount recovered. In order to qualify for the reward, the whistle blower must provide the government with information it does not already have, and could not otherwise obtain from any other publicly available source

to the government. The actual recovery must also be on account of the information provided by the whistle blower (Daily Trust, Thrusday, July 13, 2017).

Nigeria happen to be a member of the London Summit on the Anti-Corruption as well as the Open Government Partnership. The International Consensus in the fight against corruption to demonstrate the political good will is put across by Nigerians from the Communiqué that arose from the London Summit. The political good will was aimed at exposing Corruption and mismanagement of public resources and the essence of it are meant to carry the public along and building the consensus that encompasses the fight against corruption. The Whistle Blowing is a temporary policy that allows the public to take part in fighting corruption. The law carries more weight than a policy statement which is still in the National Assembly as a bill for the necessary procedure. (Malami, 2017).

Nevertheless, this policy is also increasingly making those who have looted public funds, especially those under investigations or trial, uneasy. The Federal Government is trying to transform every Nigerian who is not culpable in the shameless looting of the nation's treasury into a whistle-blower, the shortchanged are likely to take undue advantage of this policy. It will be nothing but a case of an accomplice exposing a smatter collaborator in a grand corruption matter. The falcon would covertly get a part of the loot while the falconer would have been beaten to his 'fast game' when both should have, ideally, lost all claims to the recovered funds. So, in the circumstance of the operation of the whistle-blowing policy, corruption could be rewarded (Sufuyan Ojeifo, Punch, May 9, 2017).

Global Financial Integrity estimates that more than $157 billion has left the country illicitly in the past decade, often with the complicity or involvement of Nigeria's political leaders. Moreover, a 2013Transparency International Survey showed that Nigerians were unanimous in believing that public-sector corruption was a problem in the country, with 78

percent describing it as a "serious problem." According to the same survey, 94 percent of respondents felt that Nigeria's political parties were extremely corrupt. Last year, Nigerian Information Minister Lai Mohammed reported that 55 people, including government ministers and bankers, stole a total of 1.34 trillion naira, or $6.8 billion, from public funds between 2006 and 2013. He gave the breakdown of stolen public funds at the launch of an anti-corruption awareness campaign in Abuja, Nigeria's capital (Festus Iyorah Wednesday, April 26, 2017).

According to Mohammed, 15 former state governors were responsible for stealing 147 billion naira, while bankers stole 524 billion naira, and four ex-government ministers embezzled 7 billion naira across the seven-year period. Nigeria can scant afford to have its public funds siphoned off by corrupt officials. A 2016 poverty report by the National Bureau of Statistics showed about 112 million Nigerians, or 67.1 percent of the country's population of 167 million, are living in absolute poverty, meaning they make less than $1 a day. Nigeria's bleak ranking on Transparency International's 2016 corruption perception index—28 on a scale of 100, ranking 136th out of 176 countries in the index—reveals the corrosive effect of corruption in the country. But the new formula for tackling corruption is off to a promising start. Three months after its introduction, the Nigerian government has received 2,351 tips. Of them, 154 were actionable. Nigeria's information minister says the government recovered funds from three whistle-blower tips in February alone(Festus Iyorah Wednesday, April 26, 2017).

The staggering amount of cash recovered in a country with thousands of unemployed graduates, accident-prone roads, poor welfare package, and poor health care delivery for citizens is jaw dropping. It is sad that a great country like Nigeria has poorly educated, and enlightened youths with transformational ideas still suffering due to lack of financial support from the economy. Yet we discover huge amounts of looted funds in cash littered to the bewilderment of the world.

The Results of Whistleblowing Policy in Nigeria

The policy is gradually yielding results, for instance, the discovery of $9.8 million cash in a Kaduna slum residence in Sabon-Tasha and $38,000,000.00 (Thirty-Eight Million Dollars), N23,000,000.00 (Twenty-Three Million Naira) and £27,000.00 (Twenty-Seven Thousand Pounds) uncovered by the Economic and Financial Crimes (EFCC) from an apartment in Osborne Towers, Osborne Road, Ikoyi Lagos, Lagos State, Nigerian. At an exchange rate of N350 to $1, the cash recovered so far will be over N14,000,000,000 (fourteen trillion naira in cash), just to name a few (Daily Trust, Thrusday, July 13, 2017); cases whereby wife came over as a Whistle Blower against her husband of certain acquisition over public funds without him conceding to her demand that the fund should be returned. Also another instance of blood brothers coming over to give information. In some cases and without making any demand (Malami, 2017).

Several former and current public officers who had allegedly stolen from the treasury either hid the physical cash in safe houses or used shell companies, close aides, associates and family members to stash the ill-gotten funds in bank accounts using the names of the companies or their friends, family members and associates. These looters although they use several account names usually operate the accounts themselves, a fact that is well known by the bank account officers who help them to manage the accounts. However, since the federal government unveiled the whistleblowing policy as a means of recovering stolen public sector funds, a number of junior and middle-level bankers have been quietly ratting on the true beneficiaries of the accounts in order to cash in on the rewards derivable from the policy (Chioma Gabriel, Editor, Vanguard Newspaper April 15, 2017).

The Challenges of Whistle blowing on Corrupt Practices

The act of blowing the whistle on corrupt organizations or individual can have strong effects, both positive and negative, on those who step

forward. To date, evidences have shown that many whistle-blowers have suffered negative consequences including loss of employment, threats of revenge and isolation (Tan & Ong, 2011). Even with negative consequences, for many, blowing the whistle is something they have to do (Huang, Staley, Tsai & Chu, 2013). The act of whistleblowing is not meant to cause harm but to protect and deter frauds and wrongdoings. Therefore, only those with ethical principle who have broad knowledge of the circumstances and individuals involved in fraudulent activities have the courage and responsibility to come forward to stop those activities.
Public has been enraged, surprised, stunned, dismayed and devastated by worldwide financial fiascos in many large corporations comprising of Enron, Halliburton scandal in Nigeria WorldCom, Adelphia, Tyco Parmalat, and Royal Ahold. Malaysia is not spared either; recently one of Malaysian companies namely 1Malaysia Development Berhad (1MDB) lost millions of dollars and had been accused for financial malfeasant. Most often, financial malfeasant is hardly be detected during the auditing process. Therefore, it is hoped that insiders or whistle-blowers who have a sense of responsibility to uncover and disclose any fraud, inappropriate or wrongdoing in an organisation to the proper channels (Eaton and Akers, 2007). Apart from these other challenges may include:

a.Negative impact on Career Prospects - The attention that a whistle-blower case brings, both to the employee and the organization, can have a downside. Media interviews, legal testimony and government investigations can affect the whistle-blower's career prospects. While the outside world may view whistle-blowers as heroes for revealing corrupt behavior, industry insiders and hiring managers may see them as disloyal or indiscreet for not keeping company secrets and industry practices under wraps. The media attention may lead to the whistle-blower being blacklisted in his industry.

b. **Personal Complication -** Although whistle-blowers may understand that their revelations serve the greater good, they also often endure personal problems from their actions. Media outlets in search of a story will delve deeper into the whistle-blowers' personal lives. Legal complications from criminal investigations and civil lawsuits against the organization, might require them to hire attorneys to defend themselves. They may also receive threats of retaliation from former supervisors and co-workers. All of this added stress can cause severe health problems and fractures in their relationships.

c. Fear of unknown - Many praise whistle-blowers for heroic and noble deeds; many also condemn them as malcontent, trouble makers and misfits for exposing misfeasance and wrongdoing of their colleagues and management. Those who oppose it believe that employees should have prima facie duty of loyalty to their organisation and not to blow whistle as it will tarnish the image and reputation. Nevertheless, Duska (2012) denies the existence of such a duty because the supreme duty of member is to protect their organization from any threat that can jeopardy its ability as a going concern entity.

d.Socio-Cultural–whistleblowing is seen as an aberration or an evil and more as a necessary and critical component in policing unethical and illegal behavior.

e. poor or no legislationto protect the whistle blower- the legislation for protection does not protect whistleblowers from retaliation or intimidation unless they are "witnesses or victims" to the wrongdoing and they give "testimony" in the prosecution of wrongdoers. Most potential whistleblowers do not fall into this narrow group. Moreover, the ultimate objectives of whistleblowing laws are not simply to assist in the prosecution of an alleged wrongdoer, but also to play a preventative role. As Transparency International has observed, the ideal situation is where a

whistleblower raises concerns in time so that action can be taken to prevent any offence.

FINDINGS

1. The whistleblower policyalone cannot solve the problem, so, a more comprehensive approach must be adopted to tackle this hydra-headed menace of corruption that has left many citizens of the world under perpetual poverty.
2. Corruption in Nigeria is Hemorrhagic in the sense that it's bleeding both internally and externally and the economic is currently sick no more blood donation in that Nigeria is currently in comma and need urgent intensive care attention.
3. Many corruption cases are lost because of lack of political will, inadequate funding of the anti-graft agency that may enable them carryout more thorough investigations of whistle blown before prosecution and publicizing the information and probably because of the quality of lawyers being engaged in the cases.
4. Many Nigerians are still finding it difficult to blow whistle for fear of being exposed by the authorities involved thereby they may be attacked or even members of their family.
5. Corruption cases are not properly investigated before swinging into actionsand that has led to losing lot of cases and the whistle blower now end up in prison custody for blowing whistle.
6. Thereis inadequate proper education and publicity on what types of activities or observations are appropriate for reporting and those that are not and means of reporting has not being made public enough.

Conclusion

Because of the damaging nature of corruption across the countries of the world there has been desperate search for solution which necessitated the massive support that the introduction of whistle

blower legislation is receiving across different regions of the world. This singular approach has yielded a tremendous results in Nigeria and other countries across the world, Whistleblowing has proven to be highly instrumental tool in curtailing corruption in all the sectors of society. However, the act of whistleblowing in Nigeria is not common practice, it is just being introduced. This may be attributed to the absence of a robust statutory framework that is able to provide protection in the event that a whistleblowers identity is exposed. The absence of this framework may also raise difficulty in promoting good governance.Because of the increasing recognition that whistleblowing is one part of an overall set of tools to expose corruption, many countries and international organizations are adopting legislation that legalizes or encourages such behavior.Above all, the justification for whistleblowing is that it is one tool that can be used to expose and combat corruption.

Recommendations

Provision of incentives –financial as well as non-financial reporting incentives, such as cash rewards or extra vacation days, for whistleblower reports that lead to identifying suspected unethical or unlawful activity.Whistle blowers as well as lawyers need to be provided with incentives to encourage them and for the lawyers to make the best cases possible. The EFCC should open up its case load to bids from a wider cache of lawyers, and if necessary hire lawyers from other agencies (FBI, Scotland Yard, etc.) outside Nigeria with a history of successful prosecution of corruption cases, to help guide the process of developing air tight cases.

Corruption cases must be properly investigatedbefore swinging into actions -Anti- graft agencies must carry out their investigation thoroughly before swinging into actions to avoid embarrassment and wrong accusation. Just like the case of Sani Chindo who accused Dasuki Sambo

of storing currencies in his apartment in Kaduna and the ICPC went and invaded his residence without due investigation, at the end of the day it was found to be false. And later, The ICPC, in two counts before Justice Aliyu Mohammed, accused Sani-Chindo of providing false information that led to the reported raid and the Justice ordered that the accused person be remanded in prison custody till November 2nd 2017 to enable the accused person to secure a counsel when the case will come up for hearing. This case is already in the public domain, would it not discourage any other potential whistleblowers? And it is a possibility that there are internal collaborators within the agency that usually leak information to some accused person of corrupt practices

Nigerian government should take a clue from the world best practice on whistleblowing legislations – Since corruption is the bane of Nigeria, it is expedient that she emulate the rest of the World by putting proper legislations in place to encourage and protect, build trust and confidence in the whistleblower and prosecutions of any one found culpable.

Investigations must be concluded before disclosing the information - While the recovery of these funds is a step in the right direction, the anti-graft agencies need to exercise caution in disclosing information of recovered looted funds to the public before investigations are concluded. The Nigerian masses are quick at pronouncing guilt even before trial is conducted, and concocting, implicating and fabricating stories that may hinder the smooth sail of investigation, thereby distracting many from the true position of things. For instance, $38,000,000.00 (Thirty-Eight Million Dollars), N23,000,000.00 (Twenty-Three Million Naira) and £27,000.00 (Twenty-Seven Thousand Pounds) uncovered by the Economic and Financial Crimes (EFCC) from an apartment in Osborne Towers, Osborne Road, Ikoyi Lagos, Lagos State, while going to the place they went along with press men which led to casting different assertions before the final conclusion.

Deterrence must be made (i.e. impose an immensely high price for people convicted of corrupt practices)– Introduction of penalties that impose a price for people convicted of corrupt practices that is immensely high. Convicted officials must be stripped not just of the funds they embezzle, but of their charters and / or professional licenses. They should be barred for life from participation in politics and from being appointed to any positions of trust in the public or private sector. They should also be barred from participating in the formation, organization or management of any political entities. They should be stripped of any national honors that they currently hold, and must never be considered for any. The forfeiture requirements for successful conviction must be total. These forfeiture requirements and punitive measures must also apply to plea deals, for agreements reached outside the courts.

Anonymity and confidentiality. Someone should be able to make whistleblower tips anonymously or, at least, confidentially, as research indicates that whistleblower are more comfortable reporting suspected wrongdoing when such options are available. In March 2014, NAVEX Global, put it that 60% of internal fraud tips were reported anonymously in the US. Anonymous and confidential reporting mechanisms help foster a climate whereby whistleblowers are more likely to report or seek guidance regarding potential or actual wrongdoing without fear of retaliation.

Encourage internal reporting and ensure No retaliation - Establishment must emphasize when reporting procedures that they will not and are prohibited by law from retaliating against employees who make whistleblower reports. The fear of retribution is generally strong among potential whistleblowers and such fear may adversely affect the effectiveness of the internal reporting process. Trust in an organization's whistleblower processes is essential to motivate employees to report suspected unethical or unlawful conduct internally.

Proper funding of the anti–Grafting Agencies–the government of Nigeria must make effort to ensure that the agencies saddles with the responsibilities of investigating, and prosecuting have enough budgetary allocation to enable them carry out their constitution responsibility without any undue interference from any quarters.

Educate, publicize and make dedicated line available. Anti-graft agencies should ensure that their publicity and ethics program includes regularly educating the public on the need for blowing whistle and publicizing the -who-what-when-where-why-how of reporting suspected unethical or unlawful activity via the organization's whistleblower dedicated line. A portion of the publicity department's budget should be dedicated to educating on what types of activities or observations are appropriate for reporting and those that are not and promoting the dedicated line. Certain publicity experts note that keeping a positivededicated line message (for example, using words such as accountability, transparency, responsibility and citizenship as opposed to fraud, corruption, embezzlement, bribery and crime) may help alleviate psychological barriers that prevent or discourage tipsters from using the hotline (Janet and Beth, 2011), Further, anti-graft agents should make dedicated line available 24 hours a day and 365 days a year.

References

3rd regional Anti-Corruption Conference for Asia and the Pacific", The Anti-Corruption Action Plan for Asia and the Pacific" (30 November 2001) at Pillar 3.

Malami, Abubakaron NTA Live Programme: Good Morning Nigeria to discuss on the Whistle Blowers Policy of the Federal Government on Tuesday February 28, 2017 in Abuja.

African Union Convention on Preventing and Combating Corruption at Article 5.

African Union Convention on Preventing and Combating Corruption at Article 22(7), (2004)

African Union Convention on Preventing and Combating Corruption, 11 July 2003, 43 ILM 5 [*AUCPCC*].

Arnone, M. & Leonardo, S. B., (2014) *Corruption: Economic Analysis and International Law* (Cheltenham, UK; Northampton, US: Edward Elgar Publishing.

Banisar, D. (2011) "Whistleblowing: International Standards and Developments" in Irma E Sandoval, ed, *Corruption and Transparency: Debating the Frontiers between State, Market, and Society* (Washington, DC: World Bank, Institute for Social Research, UNAM, at 2

Björn, F. and David, L., (2014) "Leaks, legislation and freedom of speech: How can the law effectively promote public-interest whistleblowing?" 153:1 Int'l Labour Rev 71 at 76.

Brown, A.J. (2013) "Towards 'ideal' whistleblowing legislation? Some lessons from recent Australian experience" 2:3 E-Journal of Int'l & Comp Labour Studies 4 at 5

Duska, R., (2012) Whistle-Blowing and Employee Loyalty, http://philosphia, uncg.edu/sites/default/files/PH1361metivier/readings/Duska-whisleblowing. Pdf

Eaton, T.V, Akers, M., 2007. Whistleblowing and Good Governance: Policies for Universities, Government Entities and Non-Profit Organization.

Heungsik, P. *et al*., (2008) "Cultural Orientation and Attitudes Toward Different Forms of Whisleblowing: A Comparison of South Korea, Turkey, and the U.K." 82 Journal of Business Ethics.

Hwang, D.B.K, Staley, A.B., Tsai, Y. Chui, C.L., (2013) A Comparative Study of the Propensity of Whistle-Blowing Empirical Evidence from China, Taiwan and the United States. International Journal of Accounting and Financial Reporting, 3 (2).

Latimer, P. and Brown, A. J. (2008) "Whistleblower Laws: International Best Practice" 31:3 UNSWLJ 766 at 769.

Liebert, S.; Condrey, S.E.; Goncharov D. (2013) Public administration in post-communist countries CRC Press, Boca Raton: FL

Luo, Y. (2005) An Organizational Perspective on Corruption Management and Organization Review, pp. 119-124

Marie Chêne, (2009) "Good Practice in Whistleblowing Protection Legislation (WPL).

Marit, S. and Sissel C. T., (2010) "When whistle-blowing works: The Norwegian case" 63:7 Human Relations.

Miceli, J. P. and Near M. P., (1985) "Organizational Dissidence: The Case of Whistle-Blowing" 4 J Bus Ethics.

Near, J. and Miceli, M., (1995) Effective Whistle-blowing, Academic of Management Review, 20 (1).

OECD, (2011), G20 Anti-Corruption Action Plan Protection of Whistleblowers: Study on Whistleblower Protection Frameworks, Compendium of Best Practices and Guiding Principles for Legislation

Organisation for Economic Co-operation and Development (OECD), (2003) "Recommendation on Guidelines for Managing Conflict of Interest in the Public Service" (June 2003) at 12.

Public Governance Committee, (1998), *Recommendation on Improving Ethical Conduct in the Public Service*, 23 April 1998, C (98)70/FINAL.

Rose-Ackerman, S. (1999)Corruption and government: causes, consequences, and reform; Cambridge University Press, New York.

Sajid, B. *et al*., (2011) "Whistle-Blowing in Public Sector Organizations: Evidence from Pakistan" 41:3 American Rev of Public Admin.

Southern African Development Community Protocol Against Corruption, 14 August 2001, at Article 4 (*SADCPAC*).

Tan, P.M. and Ong, S.F., (2011) Comparative Analysis of Whistleblower Protection Legislation in England, USA and Malaysia. African Journal of Business Management, 5(27).

Transparency International, (2013) Whistleblower Protection and the UN Convention against Corruption.

Transparency International, (2009) "Recommended draft principles for whistleblowing legislation".

Transparency International. (2003), *Corruption Perception Index.* Berlin. (8 August 2004).

Transparency International Secretariat (2013). International principles for whistleblower legislation. *Best practices for laws to protect whistleblowers and support whistleblowing in the public interest*.

Working Group on Bribery in International Business Transactions, (2009) "Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions" (26 November 2009).

World Bank. *Helping Countries Combat Corruption: The Role of the World Bank*.

Inter-American Convention against Corruption, (29 March 1996,) OAS Treaties Register B-58 at Article III, point 8.

Chioma, Gabriel; Editor, Vanguard Newspaper April 15, 2017

Festus, Iyorah; World Politics Review, Wednesday, April 26, 2017

SufuyanOjeifo, Punch, May 9, 2017.

Daily Trust, Thrusday, July 13, 2017

United Nations Convention Against Corruption [UNCAC], 31 October 2003 at Article 32 and 33.

Council of Europe Civil Law Convention on Corruption, 4 November 1999, Eur TS 173, at Article 9.