Supporting the Fight against Corruption in Nigeria through the Whistle Blower Policy: Challenges and Prospects

Dr. Pius Effiong Akpan
Department of Economics, University of Uyo, Uyo AkwaIbom State

ABSTRACT: This paper examined the impact of the whistle blower policy since its inception in Nigeria. It analysed the concept of corruption and corruption perception index ranking of Nigeria by Transparency International. The paper identified the challenges of whistle blower policy in Nigeria to include the negative effect of the policy on the whistle blower, such as; victimization, witch hunting, retaliation, denial of related benefits, recrimination, suspension from work, outright dismissal from service by the employer and lack of sufficient laws to protect the whistle blower. The paper looked at the whistle blower policy as a step in the right direction towards fighting corruption in Nigeria. To this end, the paper recommended, among others, that the whistle blower protection bill should be signed into law and be adequately enforced, while other enabling laws aimed at fighting corruption should be strengthened. This will make the cost of corruption greater than the benefit as culprits would be made to face the wrath of the law no matter who is involved.

KEYWORDS: Corruption, whistleblower policy and corruption perception index.

1.1 INTRODUCTION

Corruption has been identified in many fora as a major cause of economic backwardness in developing countries, as it promotes poverty, insecurity, under-development, political instability, among others. In Nigeria, while many are yet to come to terms with the reality of corruption, economic indicators and fundamentals have revealed the existence of such through rising inflation, unemployment, fall in the value of domestic currency, high interest rate, rising crime rate, scarcity of major consumer products, poor infrastructural facilities, etc. Many Nigerians whose mentalities and ethical orientation have been so corrupted, who crave to maintain the status quo, see every effort at fighting corruption as witch hunting or some fight against ethnicity, religion and political interest (Ekong and Onye, 2016). The endemic nature of corruption in Nigeria was reported by Transparency International through the Corruption Perception Index (CPI). The CPI ranks countries and territories based on how corrupt their public sector is perceived to be. A country or territory’s score indicates the perceived level of public sector corruption on a scale of 0 (highly corrupt) to 100 (very clean). Accordingly, the 2021 CPI report showed that Nigeria was ranked 154th out of 180 countries listed, with South Sudan, the most corrupt country in the world ranked 180th (Transparency International, 2021).

Furthermore, in 2016, a serving British Prime Minister described Nigeria as being ‘Fantastically Corrupt’ despite the seeming efforts of the Federal Government in fighting this common enemy of our economy. As a matter of fact, corruption has cut across all facets of the society and existed in the political, economic, social, religious and cultural spheres (Udombana, 2003). Over the years, successive governments in Nigeria, have introduced various measures aimed at curbing corruption in the public sector. According to Omojola (2019), the Public Officer Investigation of Asset Decree No.5 and Forfeiture of Assets Decree No. 53 of 1976 and 1999 respectively were introduced by the Federal Government to checkmate corrupt practices among public servant. Also, the War Against Indiscipline which was introduced by the Buhari/Idiagbon in 1984 junta was part of the measure to instill discipline, transparency and accountability among Nigerians. Other measures by the government to reduce corruption in Nigeria, were the Failed Bank Tribunal and War Against Indiscipline and Corruption (WAIC) that was set up by the regime of Late General Abacha to fight corruption in the country. In the same vein, the Code of Conduct Bureau and the Code of Conduct Tribunal were equally set up in 1979 to checkmate corrupt practices. Due to the inability of government to achieve the desired result in fighting corruption, the Independent Corrupt Practices and Other Related Offences Commission (ICPC) and the Economic Financial Crimes Commission (EFCC) were set up in 2000 and 2003 respectively to complement government efforts in tackling corruption.

In spite of the various agencies established by government over these years, the country is still bedeviled by this monster called corruption, as our country Nigeria, is still being listed among the most corrupt countries in the world. Therefore, the introduction
Supporting the Fight against Corruption in Nigeria through the Whistle Blower Policy: Challenges and Prospects

of the Whistle Blower Policy in 2016 by the Federal Government to further curb the incidence of corruption in Nigeria, was considered a welcome development, as the anti-corruption potential of this policy cannot be over-emphasized. It is against this backdrop that this paper is undertaken to analyze the Whistle Blower Policy of Nigeria, point out its challenges and prospects as well as the need to support the policy as a veritable tool to fighting corruption in Nigeria.

1.2 CONCEPTUAL ISSUES

1.2.1 Whistle Blowing

The act of whistle blowing has existed for many years. The initiative to blow the whistle was accorded official recognitions in the 7th century, in England and specifically by the declaration of King Wihtred of Kent in 695AD that, “if a freeman works during the Sabbath, he shall forfeit his profits, and the man who informs against him shall have half the fine and profits of the labour” (Ogbu, 2017).

In the African traditional circle, it was used in the ancient days to raise alarm against an impending danger or evil happenings in the community. In modern economies, such as the United States of America (USA), Britain, South Africa, etc., the Whistle Blower Policy has been adopted with several laws designed to ensure the protection and effectiveness of the policy (Onodugo, 2014). Transparency International (2019) defines whistle blowing as 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. The International Labour Organization defines whistle blowing as reporting by employees or former employees of illegal, irregular, dangerous and unethical practice by employers (OECD, 2010). Whistle blowing is also seen as the act of raising concerns or the red flag to symbolize an awful occurrence, misconduct or deviation from standards in an organization (Ifejika, 2018). According to Schultz and Harutyunyan (2015), whistleblowing is not a vengeful act done simply for embarrassing another, it excludes individuals who potentially blow the whistle simply or solely for economic gains. In the same vein, Banisar (2017) defines 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”.

Consequently, the FMF (2019), defines a whistleblower as a person who voluntarily discloses to the Federal Government of Nigeria through the Federal Ministry of Finance, a possible misconduct or violation that has occurred, is on going, is about to occur with specific concerns which are in the public interest.

In Nigeria, whistleblowing is a policy not law of the National Assembly. It was approved by the Federal Executive Council in December, 2016. The policy provides that if the government is able to recover stolen or concealed assets through information provided by a whistle blower, then he or she may be entitled to between 2.5 percent and 5 percent of amount recovered. To qualify for this 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 (FMF, 2019).

The policy specified fifteen (15) violations that warrant blowing the whistle such as: violation of government financial regulations, mismanagement of public funds and assets, information on stolen public funds, information on concealed public funds, financial malpractice, fraud, theft, collecting or soliciting bribes and corruption amongst others. The policy is for informant, people who are aware of the crime, therefore a conspirator or an accomplice will technically not be classified as a whistle blower.

Additionally, Salihu (2019) opines that the whistle blowing policy is made up of three major parts namely; information channels and the type of information required, the rewards, and protection of whistle blowers. The information must be authentic and revealed on reasonable grounds, good faith and public interest. Whistle blowers are encouraged to report to the appropriate authorities (EFCC and ICPC or Ministry of Finance) any information of misconduct and violations of financial regulations (Procurement Acts, Financial Regulation Acts and other extant laws).

In the United States of America, the False Claim Acts (1986) and the Dodd Frank Act (2010) made provision for 30% of the recovered fund as reward (incentives) to whistle blowers (Onodugo, 2014). These Acts also provide for the compensation of whistleblowers who suffered reprisals and retaliation from their employers.

1.2.2 Corruption

Corruption is a worldwide phenomenon seen as a dangerous black worm that ravages the plans and objectives of governments and business organizations in the world. Both the developed and developing countries experience the destructive storm of corruption however at varying intensity. Corruption simply means disobedience to set standards and procedures, norms and values, rules and regulations, principles and laws of an organization or nation. Corruption is a criminal offence against the state whether perpetrated by public officers or private individuals.

The Corrupt Practices and Other Related Offences Act(2000) defines corruption to include bribery, fraud and other related offences. World Bank (1992) describes it as the abuse of public office for private gains. It is difficult to find a universally accepted
Supporting the Fight against Corruption in Nigeria through the Whistle Blower Policy: Challenges and Prospects

definition of corruption. It is clear that corruption is one of the greatest obstacles to economic and social development. The International Monetary Fund (2005) sees corruption as the abuse of public office for private benefit. According to Waziri (2010), the effects of corruption range from under development, absence of basic infrastructure such as potable water, good road networks, misappropriation of national resources leading to massive poverty. In addition, mediocrity in leadership, cluelessness in professionalism, deficient leadership outputs, high unemployment, continuous widening gap between the rich and poor, result from corruption. According to Ejukonemu (2018), the Nigerian constitution sees corruption as gratification which includes any form of bribery, fraud and other related offences. The consequence of corruption to nation building is grave and the major albatross to the path of growth. It results to decaying infrastructure, fraudulent practices and smeared international image (Mohammed, Aluagha and Kabir, 2012). The effects of corrupt practices are glaring in Nigeria. The signs of poverty and inequality, the loss of public revenue and national threats are causes of the unhealthy state of the Nigerian economy. The country is confronted with a systemic and institutional corruption. The element of misgovernment, misallocation of resources, and kleptocracy are some of the traits of endemic corruption in Nigerian (Ejukonemu, 2018). Amadi and Ene (2014) identified corruption as a major impediment to good governance, efficient utilization of resources, prosperity and development of nations around the world.

1.3 THEORETICAL LITERATURE

One of the theories that looks at the benefits of committing crime is the Rational Choice Theory. According to Edwards (2007), the rational choice theory argues that individuals choose crime if the marginal benefit of committing crime is greater than the marginal cost of it. The theory asserts that people become criminals not because their basic motivation is different, but because their benefits and cost differ. Individuals allocate time to work, crime, and leisure to maximize their utilities. The benefit from criminal behavior is the same as those behind every day legitimate activities. The marginal benefit curve for crime slopes downward, indicating that criminals maximize the net benefits from non violent crimes at each period, while the marginal cost curves slopes upward because a person who commits more crime has to devote more resources to do so (Ekong, 2019). The cost of criminal activities has been identified by Edwards (2007) to result from internal and external deterrents. While internal deterrent signifies the self restraint of the person, which is sufficient to make crime a passing temptation, external deterrent are calculated by estimating the probabilities of getting caught, convicted or sentenced. The Role and Framing theories, on the other hand, are equally employed in this paper based on their intrinsic relevance to whistle blowing policy and the antigraft war. Ifejika (2018), looks at the role theory as a dominant theory that explains the complex nature of social behaviour. The theory posits that human beings behave in different and unpredictable ways based on their diverse social identities and situations. According to Sesen (2015), scholars in Sociological Science have different views on the concept of role. Some believe that roles are basic expectations about how a person should behave in a particular situation. Others are of the opinion that, roles guide individual’s behaviour which is partly dictated by social structure and partly by social interactions. Thus, the role theory bridges individual behaviour with social structure. Therefore, role is defined according to cultural norms, values and expectations, respect and recognitions, self esteem and satisfaction which are the pillars of social structure and social interaction in the society. In other words, role is the function which an individual performs in the society. Every living person in the household, group and the society has a specific role to play. Society expects individuals to maintain and sustain the norms and values handedover to them by their forebears and that unethical behaviours are usually sanctioned by constituted authorities. It is on this note, that every Nigerian is expected to play his or her role by blowing the whistle to expose corrupt practices in the country. Whistleblowers in Nigeria are assumed to be exercising their moral obligations by reporting misconducts and financial impropriety to relevant authorities through the appropriate channels.

The need for total over hauling of the people's mindset is critical to the success of the whistleblowing programme in Nigeria. This endeared the Framing Theory to this paper as a mechanism of communicating the objectives and significance of the whistleblowing policy to the Nigerian economy. Ogbu (2017) sees the Framing theory as a framework for understanding the relevance of communication strategies in ensuring effectiveness and persuasiveness of policy initiatives. The effectiveness of the whistle blowing policy is dependent on the acceptance and responses from Nigerians. The willingness of Nigerians to participate in the programme is largely impinged on the persuasiveness of the communication strategies and the thrust of the policy. In Framing the message to be disseminated to the public, the provision of salient information will help the people locate, perceive, identify and label the flow of information and its purpose. This salient and specific information influence their thoughts, ideas and attitudes. The media is the anchor for passing institutional information to the public. Therefore, in framing the information about the whistle blowing policy of the government to the people, the media should identify the peculiarities of the people, their ethnic
Supporting the Fight against Corruption in Nigeria through the Whistle Blower Policy: Challenges and Prospects

beliefs, religious norms and values and government resolve to fighting corruption should be blended in the message. Corruption is the common enemy to all Nigerians and we must rise to fight this black hole.

1.4 LITERATURE REVIEW

The effect of corruption on the development of the Nigerian economy has been empirically evaluated. The study of Ekong and Onye (2017), on the relationship between corruption and development in Nigeria, reveals that corruption is a retarding function of development. All the indices of development such as per capita GDP, life expectancy and school enrolment reveal a negative relationship with corruption, while the relationship between unemployment, poverty and corruption was seen to be positive. This implies that corruption increases the level of poverty and unemployment in Nigeria, while at the same time, reduces per capita GDP, life expectancy and school enrolment.

In terms of the whistle blowing policy in Nigeria, Ejukonemu (2018) and Ogbu (2017) investigations on the impacts of the whistle blowing policy in Nigeria agreed that a total number of 2,257 cases of fraud and illicit transactions have been reported to appropriate authorities. It was discovered that a large number of the actionable reports was delivered by bankers and middle level account officers based on available information concerning their clients and the perceived benefits (Ogbu, 2017).

Wasiu (2018) reports that, the whistle blowing initiative had resulted in the discovery of $9.8 million cash stashed in Kaduna slum residence in Sabon Tasha and over $30million cash in an apartment in Ikoyi, Lagos state totalling $39.8 million. It was also reported that the whistle blowing policy had yielded $151 million and N8billion of lootied funds NAN, 2017). A whooping sum of $136,626.51 million was recovered from an account in a commercial bank bearing a fake name. Another recovery was made in the tune of N8billion and $15 million from an undisclosed sources. The sum of $9.2 million was recovered from the Former Group Managing Director of the Nigerian National Petroleum Corporation, (NNPC). According to the report, the total looted monies recovered amounted to $160 million (NAN, 2017, Wasiu, 2018 and Ejukonemu, 2017). This was confirmed by President Muhammadu Buhari on Friday 12th June, 2020, while delivering his speech to commemorate democracy day, that his government had recovered 800billion dollars through the whistleblowing policy (Edih, 2020).

1.5 STYLIZED FACTS

1.5.1 CORRUPTION RANKING OF NIGERIA

The corruption ranking of Nigeria as published by Transparency International is shown in Figure 1.5. This corruption ranking is contained in the corruption perception index of Transparency International. In Figure 1.5, the vertical axis represents the corruption perception index ranking, while the horizontal axis shows the years from 2012 to 2021 (ie from 1-10).

The trend shows that there was an increase in corruption ranking of Nigeria in 2012 and 2013, meaning that corruption has been on the increase in Nigeria over the period under review.
Supporting the Fight against Corruption in Nigeria through the Whistle Blower Policy: Challenges and Prospects

This ranking however reduced in 2014 and remained the same up to 2016 and rose again in 2017 with a slight fall in 2018 before it goes higher again up to 2021. The trend shows a steady increase in the corruption ranking from 2018 which was 144th to 154th in 2021. This ranking therefore shows that there is more to be done in Nigeria’s quest to eradicate corruption, hence the need to support the whistle blower policy.

1.5 CHALLENGES OF WHISTLE BLOWING POLICY IN NIGERIA

The challenges of this policy centre around its negative effect on the whistle blower which can manifest as victimization, witch hunting, retaliation, denial of related benefits, retribution, suspension from work and worst still, outright dismissal from service by the employer. Wasiu (2018) also enumerated five challenges confronting the whistle blowing policy in Nigeria, such as, lack of appropriate laws, prolonged prosecution of accused persons, lack of continuity in government policies and the unstable political terrain in the country.

Ifejika (2018), argues that the unwarranted abuses and maltreatments of whistle blowers is caused by lack of protection law, indigence to good governance and lack of political will to combat corruption. The implications are that, whistle blowers are discouraged and the citizens will lose confidence in the government and if care in not taken, corruption and corrupt people will defeat the genuine efforts of government. Onodugo 2014) asserts that the personal risks and cost of blowing the whistle include, lack of peer support, transfer to undesirable posts or jobs and firing. Others are, loss of income and time in litigation, loss of reputation to the firm, and the psychological dilemma suffered by the whistle blower.

The practical instances of these challenges have been reported. According to Ifejika (2018), since the introduction of this policy in Nigeria, whistle blowers have been made to suffer victimizations, reprisals, denials, suspensions and dismissals. The Ministry of Foreign Affairs unlawfully suspended Assistant Director from work for exposing a financial fraud to the tune of N70.6 million in the Directorate of Technical Cooperation in Africa. The affected staff was reinstated after several civic groups had called for his reinstatement (Ifejika, 2018; Ogwu, 2017).

According to Wasiu (2018), Ifejika (2018, and Ejukonemu, 2017), another case, was that of the Permanent Secretary of Ministry of Niger Delta, who was under serious threat for uncovering and reporting the fraud involving the sum of N803,000,000.00 by staff of same Ministry to Economic and Financial Crimes Commission (EFCC). Similarly, a staff of Police Service Commission who blew the whistle to uncover alleged fraud in the Commission, was thoroughly humiliated, suspended indefinitely without salaries with serious threats to life and family. Also, an Auditor of the Federal Mortgage Bank of Nigeria, was sacked for blowing the whistle and refusing to cover up a contract scam and false financial report of the bank.

1.6 PROSPECTS OF WHISTLE BLOWING POLICY IN NIGERIA

One of the major objectives of the whistle blowing policy in Nigeria is to fight corruption and promote good governance. It will also instill discipline and transparency in the public sector. Ogwu (2017) opines that whistle blowing is a mechanism that fosters the culture of good governance, transparency, disclosures, responsibility, accountability and intolerance to corruption. Martin (2010) reveals that International, Continental and Regional laws prescribe whistle blowing as a key instrument in the fight against corruption and unlawful conducts, to promote the culture of openness and transparency, to ensure political accountability in the use and management of public and private resources and properties and to promote socio economic developments in developing countries. It also ensures public good and reduces poverty in nations. The policy has intrinsic value to organisations by promoting good organisational governance that enhances effective internal risk management.

The FMF (2019), explains that, the whistle blowing programme is designed to encourage anyone with information about a violation of financial regulations, mismanagement of public funds and assets to report it. Based on this, the whistle blower is entitled to 2.5% - 5.0% of the amount recovered. Although, there exists a wide margin in the specified reward when compared to the 30% reward provided in the FCA (1893) and Dodd Frank Act (2010) in the USA, it would encourage people to blow the whistle and reveal those necessary information that would help in the recovery of more looted funds, strengthen accountability and expose more clandestine activities both in the public and private sector.

1.7 CONCLUSION AND RECOMMENDATION

The whistle blower policy is useful for protecting public interest and saving society from dangers and losses, as such, the benefits of the policy cannot be over emphasized. In view of this, it is pertinent that whistleblowers are adequately compensated and protected. Whistleblowers are punished by employers and those whose misconducts are being exposed, hence the need to strengthen our laws in order to make the cost of corruption greater than the benefits. Several laws have been enacted to protect and compensate whistleblowers in the USA, UK, and South Africa but there is no whistleblowing law in Nigeria. Those blowing the
Supporting the Fight against Corruption in Nigeria through the Whistle Blower Policy: Challenges and Prospects

whistle in Nigeria are doing so in good faith and at their own peril as the ICPC and EFCC Acts are not sufficient to protect whistleblowers in the country.

It is pertinent that in the fight against corruption, there is need to support and strengthen the policy of whistle blowing in Nigeria. Consequently, this paper recommends as follows:

1. That the ICPC and EFCC institutions should be well equipped with modern training and techniques for detecting frauds and related crimes. The laws that established these institutions should be amended where necessary for global relevance due to changes in financial transactions and regulations.

2. The Freedom of Information (FOI) Act (2011) is not sufficient enough to provide adequate protection for whistle blowers in the country. Therefore, to maintain international standards in the fight against corruption, the overdue Whistle Blowers Protection Bill (2011), should be passed into law by the National Assembly. With this, whistle blowers would be more protected under the law than mere policies in Nigeria.

3. Stiffer punishment should be meted out to those found guilty of corruption to serve as deterrent to others. This would make the coat of corruption to be greater than its benefit.

4. There is need to select credible leaders through the conduct of free and transparent election. It is evident that responsible, responsive and visionary leaders are produced through a free, fair and credible elections. Arguably, corrupt and pretentious leaders cannot fight corruption no matter the availability of a well-conceived law or policy.

5. The current reward for whistle blowing in Nigeria which is 2.5% - 5% should be increased to 30%. In the same vein, punishment for raising false alarm should be very severe to serve as a deterrent to others.

6. The laws and policies driving whistle blower policy in Nigeria, should include the types of perceived wrongdoing that should be disclosed; to whom such disclosures should be made initially and subsequently (if the initial disclosure does not prompt an investigation); how and by whom the alleged wrongdoing should be investigated; 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 the steps to be taken if adverse consequences are, or appear to be, imposed on the whistleblower.

REFERENCES


Supporting the Fight against Corruption in Nigeria through the Whistle Blower Policy: Challenges and Prospects


