



BARRIERS TO SUCCESSFUL IMPLEMENTATION OF WHISTLE BLOWERS' PROTECTION FRAMEWORKS

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Article history:		Abstract:
Received	22 th September 2020	Whistle blowing is indispensable towards efficient and effective use of resources in a bid to achieve sustainable economic growth. It guard against all sorts of unethical behaviors in organizations which include corruption, embezzlement, bribery and fraud among other factors. Nonetheless, although whistle blowing is very crucial in companies, it is associated with a number of barriers that hinders the oversight mechanism of whistle blowers. Thus it against these obstacles that this study was found worth to unveil the obstacles that hinders the whistle blowers to effectively perform their oversight function. The study is anchored on the whistle blower's protection frameworks which clearly outlines the barriers of whistle blowing and provides a guide line to deal with such barriers. The research was therefore designed using a mixed methodology approach, to carry out a descriptive survey across a sample of 384 workers in both the private and public sectors who were picked using stratified and purposive sampling techniques. Questionnaires were used to gather information some of which being distributed online to counter the travel challenges during the time of study. The study found out that in Zimbabwe most common barriers to successful implementation of whistle blowers protection framework include fear of retaliation, lack of support from management, confidentiality, duty loyalty and lack of freedom of speech. It was thus, concluded that Zimbabwe needed to look into the matter and come up with relevant policies to maintain freedom and safety of whistleblowers across the country.
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1. INTRODUCTION

In the contemporary situation, cut throat competition and protracted goals or economic targets have consequently given birth to more and more scams, swindles, illicit practices, and fraud or corruption in both public and private sectors. The practice of whistleblowing is brought into being when firms or administration involve themselves in illegitimate or unprincipled practices or misconduct in the workplace to increase a competitive edge over the rival companies or co-workers (Kaur, 2012). There is thus, a rising need to protect whistle-blowers through sound legislation as they are significant in combating corruption and illicit dealings. The concept of whistle-blowing is a relatively topical idea in the terminology of civic and business matters, even though the phenomenon existed long before in various cultural settings. Lately, whistle-blowing has developed into a common aspect of administration, from government agencies to corporate establishments all over the world (Kaur, 2012). Whistle blowing has been viewed in other societies as a Western idea, being perceived as a relinquishment of cultural traits and of the standards of societal behavior and faithfulness. However, many societies have adopted the concept and merged the concept with their anti-corruption policies.

Corruption grazes transversely in all facades of the social order and happens in the political, commercial, societal, religious, and cultural domains. The anti-corruption capacity of the whistleblowing concept cannot be

overstated. What is however in doubt is the existence of effective whistleblowers protection policies. Questions arise on whether the whistleblowers are sufficiently protected from retribution and revenge under the present dogmas in the world. Whistleblowers are uncovered against different echelons of jeopardy and could be vulnerable to different threats, being fired, litigated, detained, or even murdered (International Principles for Whistleblower Protection IPWP, 2017). In countries like Thailand, studies reviewed that the current laws do not give enough protection to whistleblowers who end up facing many challenges. Provided that whistleblowers are typically personnel of the organisations where the informed misbehavior took place, they may face explicit menaces that are not presently enclosed in the witness defense laws, such as downgrading or dismissal (International Transparency, 2013). Whistleblowers may be viewed as snitches, eventually, they maybe retaliated against and lose their job position because they may not be able to return to their offices for individual and professional motives (International Transparency, 2013). They can also discover themselves jobless for a lengthy period as a consequence of being detested from their specialized community and social networks. Possibly, they can be excluded from impending employment inside their field of work. In this regard, the archetypal actions provided under the witnesses' protection laws, such as transfer, police protection and altered identity, may not always be applicable in the situation of whistleblowers.

Kaur (2012) indicated that, in the previous epoch, several nations, including Australia, New Zealand, Canada, South Africa, and the United Kingdom, passed whistleblower edicts that guard public workers who divulge numerous forms of misbehavior, corruption or ineptitude. These enactments are conspicuous not only because of their number, but also because they have been implemented in lawful and cultural frameworks apparently incoherent with them. For instance, one of the more extensive whistleblower provisions might be visible in Great Britain, a nation with lawful and cultural ethnicities supporting confidentiality and secrecy.

The African Union Convention on Preventing and Combating Corruption (AUCPC 2003) in its preface identifies the unfavorable consequences that corruption has on the solidity of African counties and its publics, for example, reduction in GDP levels, scaring away investors among others. The African Union Convention on Preventing and Combating Corruption ascertained the significance of whistleblowing as an anti- corruption instrument and instructs states to approve statutory measures to chastise those who make untruthful and spiteful hearsays against guiltless individuals in corruption and linked wrongdoings.

The common problem in various nations is that there is no effective legislation to protect the whistleblowers against varied socio-economic problems arising from the process of disclosing information (Banisar, 2011). For example, the South African Protected Disclosures Act (PDA) of 2000 indicated in its setting that employees in both private and public sectors have the responsibility of disclosing any form of wrongdoing but the responsibility is not constituted in the Act itself (Uys, 2008). This leaves the whistleblower at high risk with both company policies and the national law itself since there is no clear indication on how the responsibility of whistleblowing should be carried out. Masaka (2007) noted that, the Zimbabwean administration so much entangled and knotted in the economy that it possesses parastatals and it also has substantial entitlements in privately owned organizations. These parastatals are also whirling from innate corruption and corporate misconducts. In light of this, Masaka (2007) noted that, the government may not be entirely compassionate to and sympathetic of the efforts put by whistle blowers to release occupational malpractices to the public because it fears that overtly recognizing and subsidizing whistle blowing can instigate those working by the government to also start revealing unprincipled and corrupt corporate practices when they notice them in public owned corporate establishments. Thus, the establishment of whistle blowing remains endangered because the administration of organizations is mostly unreceptive to it and further, the government's energy to deal with the business sector of corrupt practices is muffled by a scuffle due to conflict of interests. Thus, enactment of policies to protect whistleblowers is based on varied interests.

In light with the above, the Zimbabwean economy has been stained by unscrupulous and malicious activities which have resulted in the country being robbed of billions of dollars through various leakages in both the private and the public sectors. In a bid to combat corrupt activities, whistleblowing has been adopted across different sectors of the economy. However, the current surge in cases of corporate misconducts in Zimbabwe has utterly rebooted a rigorous discussion on the ethical validation of whistleblowing (Masaka, 2007). The informer is, still, confronted with opposing and inconsistent moral standards and laws that make his choice to blow the whistle an ethically painful endeavour. The whistle blower is still suffering under a trail of ineffective policies to cover them and protect them against other cooperate and ethical aspects for instance, they may be charged of disclosing the company's confidential information yet it is a report against malicious acts. The study is thus motivated by the need to enact sound legislation to protect whistle blowers towards ending corruption. Thus, the study is an analysis of the whistle blowers' protection policies in private and public entities in Zimbabwe.

The concept on whistleblowing in relation to the above views can be understood from Grand (2015)'s views that, whistleblowing is a deliberate non-obligatory act of disclosure, which gets onto public record and is made by a person who has or had privileged access to data or information of an organization, about nontrivial illegality or other wrongdoing whether actual, suspected or anticipated which implicates and is under the control of that organization, to an external entity having potential to rectify the wrongdoing. Hersh (2002) also defined whistleblowing as including the thoughtful disclosure of information about non-trivial actions which are alleged to be treacherous, illegitimate, unethical, inequitable or else encompass offense, commonly by existing or ex organizational members.

2. CONCEPTUAL FRAMEWORK

This section of the study reviews literature on the major variables in the study and juxtapose them to the act of whistleblowing which is the independent variable under scrutiny. Figure 2.1 shows the conceptual framework used to review literature. The literature is mainly reviewed on basis of how it affects the act of whistle blowing, that is review of literature on the policies/frameworks existing, effectiveness of the frameworks, barriers to the implementation of the frameworks and determinants to successful implementation. The major goal of the study is to analyse the whistle blowers' protection frameworks in Zimbabwe, and conclude whether whistle blowers are legislatively covered or not.

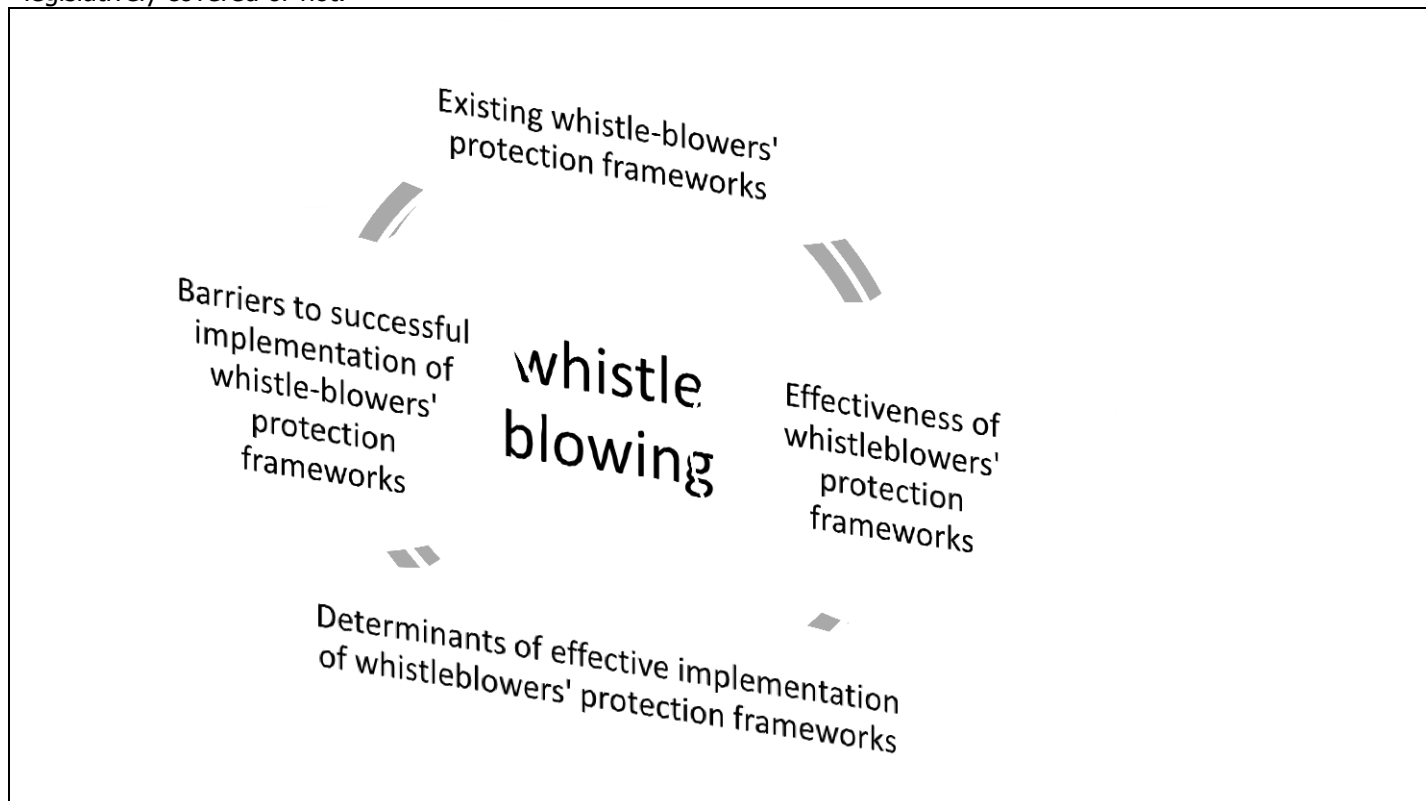


Figure 2.1. Conceptual framework (adapted from Dewi et al., 2015)

2.1. REVIEW OF EXISTING WHISTLEBLOWERS' PROTECTION FRAMEWORKS

The review of literature in this study provides a pragmatic analysis of existing literature on whistle blowers' protection frameworks which are widely accepted across varied geographical spaces. The act of whistle blowing is a universal issue which has been discussed on several global meetings. In this section, the review is provided from a few chosen global perspectives narrowing down to the contemporary scenario.

3. BARRIERS TO SUCCESSFUL IMPLEMENTATION OF WHISTLE BLOWERS' PROTECTION FRAMEWORKS

Existing literature indicate that there are various psycho-social factors that can inhibit the whistle blower from successfully carrying his or her own mandate. These inhibiting factors have a trail of setbacks on the successful implementation of whistleblowing policies. The barriers need to be eliminated to ensure that the whistle blowers have confidence in the policies that protect them. Some of the barriers have been presented in this section of the study.

3.1 FEAR OF RETALIATION

Retaliation was seen by most of the researchers as one of the chief challenges faced by whistle blowers. This can vary from minor harassment at the workplace to more severe consequences and may result in silence. Sharron (2016) says whistle blowers could face a lot of hostility and antagonism because people could be afraid of what they might do next. This clearly shows that whistle blowers are distrusted by their colleagues. They might fear that their corrupt tendencies will be exposed. Fear of retaliation reduces confidence in the whistle blower to fearlessly conduct his duties despite existence of policies that protect him.

3.2 DUTY OF LOYALTY AND CONFIDENTIALITY

The idea of loyalty and confidentiality can be used largely by employers to silence employees at work places (Banisar 2015). Banisar (2015) further opinions out that a traditional barrier in many countries is based on a duty of loyalty and devotion to the employer and as such this can prevent an employee from expressing an honest and helpful opinion. This view is also backed by Lewis (2016) who points out that in relation to confidential information obtained in the course of employment, the common law again provides protection against disclosure through both express and implied terms. (Gini & Marcoux, 2017) argued that the question of loyalty between employee and the

company does not exist because company is a mere metal fiction, since it is a group. One would have duties to the individual members of the company, but one could never be justified in overriding those obligations for the sake of the group taken collectively. The assertion here is that a company has no moral status except in terms of the individual members who comprise it and this means that the argument of loyalty cannot be used as a barrier to whistleblowing. This study however, will attempt to see whether the idea of loyalty and confidentiality can act as a barrier to successful implementation of legal frameworks to protect whistle-blowers in the private and public sectors in Zimbabwe.

3.3 LACK OF MANAGEMENT SUPPORT

The biggest threat to whistleblowing is unsupportive management. Kaplan (2014) pointed out that the statutory protection for whistle-blowers is only part of the equation. Cultural change and top down support must accompany whistle-blower protection laws in order for them to achieve their objectives. Interestingly some managers see whistleblowing as an inconvenience in company operations. Gini, (2016) posits that managers could regard whistle-blowers as destructive and not permissible. In other instances, managers disapprove of the whistleblowing act.

3.4 CO-WORKERS' DISAPPROVAL OF WHISTLE-BLOWING

The available literature shows that another reason why employees may decide to refrain from whistleblowing is because of the possible disapproval of co-workers. (Marianne, 2013). Many employees avoid whistleblowing in order to maintain loyalty and the trust with the community and with fellow employees. In most public entities like banks, the closure of some of the banks lead to the loss of customers deposits including their hard-earned savings, loss of jobs, loss of confidence in the banking sector locally and internationally. Common causes of bank failure are excessive insider loans, corruption, poor governance, lack of an appropriate regulatory framework and risk taking by management. If an employee knows of foul play but feels he cannot prove it, he will often keep quiet. He does not want to falsely accuse anyone or rightly accuse someone but have a manager disagree with him based on his lack of evidence, because this would hurt his credibility. An indicator of whether or not an employee will feel comfortable whistleblowing has to do with how much evidence the employee has against the perpetrator (Marianne, 2013).

3.5 LACK OF FREEDOM OF SPEECH

Masaka (2016) defines freedom of speech as an inalienable right of humanity which they can make use of to expose corporate misdeeds in whatever way, and in whatever forum, they desire. Freedom of speech involves free expression of one's opinion, lines of thinking, viewpoint or ideas. This is important at workplace, society and the nation at large as it is health for debate and enhances better and informed decision making. In many organisations, workers are deprived such a legal right of freedom of speech. Banisar (2016) asserts that there are also significant legal barriers to the unauthorised disclosure of information in many countries. These includes traditional notions of responsibility to employers, secret acts and other laws. These laws are often used to punish whistle-blowers and deter further ones from speaking out.

3.6 UNCHECKED UNETHICAL PRACTICES

Masaka (2016) stated that the reluctance of stakeholders in business to stem corruption and immoral practices in business is largely to blame for the failure of whistleblowing in Zimbabwe. He says that unethical practices such as fraud and corruption are like cancer due to the fact that once they have been introduced in a system they cannot be treated easily and it becomes difficulty to blow the whistle under such an environment. Lewis (2017) asserts that the induction mechanism argues that people use past actions as benchmarks when they evaluate new actions. Thus, if the behaviour of others we observed in the past was ethical and acceptable, then similar or slightly different behaviours are also ethical and acceptable. Such a view was backed by Hersh (2016) who states that the organization may be dependent on the wrongdoing so that change would reduce profits or effectiveness. The literature shows that this has been the situation in the Zimbabwe banking sector.

Apparently, Kaplan (2016) states that such barriers needs proper legislation which must protect the whistleblowers. The available literature shows that whistleblowing laws are now becoming more common in most countries globally and even regionally. Ibid (2016) argues that these are laws that cover the protection of whistleblowers from both public and private entities and have a number of elements. Some countries have adopted whistle-blowers protections in a piecemeal fashion as the Zimbabwean case which saw the development of Tip Off Anonymous, RBZ Whistle-blower's fund and Zimbabwe Anti-Corruption Commission. These systems and processes were meant to reduce the rampant corruption and risk behaviour by senior managers and bank directors in Zimbabwe (Masaka, 2016). This section has provided a review of literature on the concept of whistleblowing and barriers to whistleblowing or the reasons for failure of the concepts amid increasing corrupt practices which actually call for whistle blowing promotion or protection.

4. Research Methodology and Data Collection

The study uses a mixed methodology approach, applying both qualitative and quantitative methods. A mixed methodology includes the use of both quantitative and qualitative techniques in combination (Yin, 2003). Quantitative and qualitative techniques are highly compatible and offer the researcher the ability to choose the appropriate technique to more effectively answer particular research questions (Saunders, et al., 2009). Cresswell and Clark (2011) designates that the mixed methodology joins both the qualitative and quantitative methods to exploit the merits of each method and curtail the weaknesses of each other. A mixed method approach applies particularly the dominant-less dominant style (Rudestam and Newton, 2001). In this study the dominant approach was the qualitative method relying on general questionnaire surveys and interviews on workers from various companies. The qualitative approach was found most dominant because much of the data inquired in the study required explanations to address the objectives of the study

5. RESULTS AND DISCUSSION

Inquiries were made on the barriers to effective implementation of the whistle blower protection framework; an open question was asked. Respondents were asked to name basing on their own experiences what they viewed as barriers. Summary of findings analysed by SPSS using descriptive statistics has been exported to MS Excel and figure 5.1 presents the summaries.

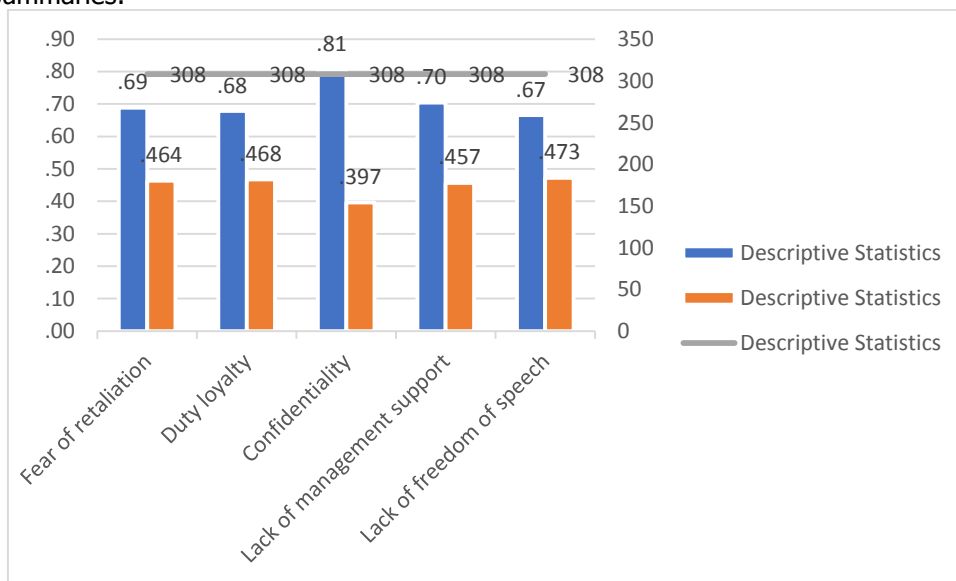


Figure 5.1. Barriers to successful implementation of whistleblowers' protection frameworks in Zimbabwe

The results in figure 5.1. were created from the means of the barriers mentioned by respondents in the survey. Fear of retaliation; duty loyalty; confidentiality; lack of management support and lack of freedom of speech scored descriptive statistics means of 0.69; 0.68; 0.81; 0.70 and 0.67 respectively. Table 5.1. interprets the figures in figure 5.1.

Table 5.1. Barriers to successful implementation of whistle blowers' protection frameworks

1=yes; 0=No

Descriptive Statistics								
Descriptive Statistics	N	Range	Minimum	Maximum	Sum	Mean	Std. Deviation	Variance
Fear of retaliation	308	1	0	1	212	.69	.464	.215
Confidentiality	308	1	0	1	248	.81	.397	.157
Duty loyalty	308	1	0	1	209	.68	.468	.219
Lack of management support	308	1	0	1	217	.70	.457	.209
Lack of freedom of speech	308	1	0	1	205	.67	.473	.223
Valid N (listwise)	308							

As shown in figure 5.1. and table 5.1 fear of retaliation scored a sum of 212 mentions; confidentiality issues 248; duty loyalty 209; lack of management support 217 and lack of freedom of speech/expression 205. This shows that the listed barriers were unanimously seconded by the respondents, therefore, the study resonated with literature that these were barriers to successful implementation of frameworks in Zimbabwe.

Apart from the above, some barriers were mentioned from interviews, for instance lack of funding, poor follow up by law enforcers and lack of political will. In an interview, an interview indicated;

"...implementation of whistleblowers protection frameworks in the country is barred by a surfeit of challenges ranging from political, economic, social and institutional factors. The government should increase its budget on the protection of whistleblowers so that corruption can be successfully inhibited." (Interviewee)

This shows a concern on the successfulness of frameworks in Zimbabwe to safeguard whistleblowers. The study found out that political spheres, economics, social influences, and institutional arrangements, both affect the implementation of whistleblowers' frameworks.

The results in this study resonated with various pieces of literature reviewed, for example, Masaka (2016) who outlines freedom of speech as an immutable right of humanity which whistle-blowers can make use of to expose corporate misdeeds in whatever way, and in whatever forum, they desire.

6. CONCLUSION

The main goal of this study was to analyse whistleblowers' protection frameworks in Zimbabwe and four objectives were set to explore the problem that was under scrutiny. The study thus, focused on identifying the barriers to effective implementation of the whistleblower' protection framework. Eventually, the study found out that in Zimbabwe, there are a number of factors that hinders whistle blowers to effectively perform their duties. These factors include, fear of retaliation, lack of support from management, confidentiality, duty loyalty and lack of freedom of speech. Therefore, there is need for all concerned stakeholders to come together and come up with holistic measures to eradicate such barriers so as to ensure sustainable economic growth in Zimbabwe.

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