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# COMBATING ENDEMIC CORRUPTION THROUGH WHISTLEBLOWING IN NIGERIA. THE NEED FOR A LEGAL FRAMEWORK

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## Abstract

The paper emphasizes the importance of enacting legislations on whistleblowing to combat endemic corruption in Nigeria since the present strategy of battling corruption is through whistleblowing policy, which have no legal authority. It states the various definitions of corruption propounded by scholars, as well as its occurrences and harmful impacts on the Nigerian state. It notes that the lack of a legal framework and political will on the part of the government has resulted in a slowdown in Nigeria's anti-corruption efforts through whistleblowing policy. In order to prevent corruption, it draws inferences from applicable whistleblower legislations in the United States. It asserts that great progress has been made in this jurisdiction. The paper concludes that Nigeria needs a legal framework for whistleblowing that is similar to that in the United States.

**Keywords:** Combating endemic corruption, Whistleblowing, Legal framework, Nigeria, United States.

## 1. INTRODUCTION

Corruption is a worldwide issue with differing degrees of prevalence in different countries [1]. Nigeria ranks<sup>1</sup> 149th out of 180 nations examined in Transparency International's Corruption Perception Index (CPI) 2020 report, with a score of 25 out of 100. Nigeria is presently the second most<sup>2</sup> corrupt country in West Africa, with Guinea-Bissau being the only country in the sub-region that is more corrupt. With a score of 26 out of 100, Nigeria was rated 146th out of 180 countries in the 2019 report. The United Nations Office on Drugs and Crime, (UNODC) says that corruption is a multi-faceted social, political and economic problem that impacts every country in its fight against it [2]. Corruption stifles economic growth and contributes to political instability by undermining democratic institutions. Corruption undermines the foundation through skewing elections; subverting the rule of law; eroding democratic institutions and creating bureaucratic quagmires whose main aim is to collect bribes [2]. Economic development is hampered because foreign direct investment is discouraged and small businesses within the country frequently find it difficult to overcome the start-up costs [2]. The United Nations (UN) has designated December 9 as the UN's international anti-corruption day, recognizing the importance of fighting corruption on a global basis. Every year, all member states including Nigeria commemorate the day. As a result, Nigeria confronts a long-term serious political and economic

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<sup>1</sup>Nigeria, now 2nd most Corrupt Country in West Africa – Transparency International <https://nairametrics.com/2021/01/28/nigeria-now-2nd-most-corrupt-country-in-west-africa-transparency-international/> accessed July 30 2022.

<sup>2</sup>Above note 1.

dilemma, as this canker worm has eaten deep into the country's fabric[3]. Corruption can take many forms,<sup>3</sup> including petty corruption, political/bureaucratic corruption and systemic corruption.

The concept of blowing the whistle on behalf of one's government, on the other hand, dates back to the 7th century England, namely to King Wihtrud of Kent's pronouncement in 695, according to Ogbu [4]. The decree stated that if a citizen works on the sabbath, he forfeits his gains and the one who informs on him receives half of the fine and profit from the labour. This was the first time a law was passed that allowed private citizens to be compensated for reporting a violation of their country's laws [4]. It can also be traced<sup>4</sup> back to officers in London's first police force being issued whistles to blow when they witnessed a crime being committed, in order to notify and request the help of law enforcement authorities and the general public. Whistleblowing is sometimes credited<sup>5</sup> to Ralph Nader, a well-known American scholar and political activist who invented the term in the early 1970s to avoid using words with negative connotations like informants and snitches. However, there is no universally accepted legal definition of whistleblowing. It is defined as informing an organization, a competent body, or the general public about concerns about employment malpractices, dishonest or unlawful activities, or other hazards to the public interest [4].

Furthermore, in simple and literal words, the link between whistleblowing and corruption is more comparable to a dirt-cleaning operation, with whistleblowing being used to purify the Nigerian administrative system [5]. Whistleblowing is one way to reduce corruption. Corruption is viewed as a platform for whistleblowers to investigate and use in order to clean up the system as a whole[5]. However, because the whistleblower policy is not backed by an enabling law, there has been a hiatus in the fight against endemic corruption in Nigeria. As a result, whistleblowers have no legal protection. As a result, an enabling law on whistle blowing is required in Nigeria in order to resurrect, overcome, and sustain the anti-corruption fight due to its negative consequences on society.

In lieu of the above, this paper is divided into six sections, the first is the introduction. Part two discusses the various definitions of corruption propounded by scholars, as well as its incidences and consequences in Nigerian society. Part three addresses the Nigerian government's whistleblowing policy, as well as accounts of people who have blown the whistle and have been rewarded; some have been fired by their employers, while others have been reinstated by the courts after being fired. Part four, in particular, attempts a comparative analysis by focusing on whistleblower legislations in the United States. It claims that the employment of anti-corruption whistleblower laws has resulted in significant advances in the United States. Part five discusses the need for legislations on whistleblowing in Nigeria. Part six concludes that a legal framework on whistle blowing is required in Nigeria, based on the benefits made by the United States.

## 2. MEANING AND INCIDENCES OF CORRUPTION

According to Dike, corruption exists in both democratic and dictatorial administration, as well as feudal, capitalist, and communist economies [6]. Corruption affects Christians, Muslims, Hindus, and Buddhists in equal measure [6]. According to Lipset and Lenz, corruption is not a new problem, but it has existed since the beginning of time [7]. In the Nigerian case of *Biobaku v. Police*,<sup>6</sup> Bairamian, J. defined corruption as "the receiving or providing of some benefit as a reward or inducement to sway or deflect the receiver from the honest and impartial discharge of his job." Bribery, fraud, and other related offences are defined as corruption under section 2 of the ICPC Act.<sup>7</sup> Akindele defines corruption as any type of reciprocal behaviour or transaction in which both the power/office holder and the other can inflate the inducement of each other through some form of reward to grant illegal preferential treatment or favour against the principle and interests

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<sup>3</sup>Causes and Effects of Corruption International Centre for Economic Growth ICEG Information Brief 6, Nairobi, 1999.

<sup>4</sup>Council of Europe: Protection of Whistleblowers: A Brief Guide for Implementing a National Framework, Strasbourg, documents and Publications Department (SPDP) 2016 16.

<sup>5</sup>Above note 4.

<sup>6</sup>(1951) 20 N.L.R. 30.

<sup>7</sup>Corrupt Practices and other Related Offences Act, (2000) No.5, section 2.

of specific organizations or individuals [8]. Overall, corruption includes activities such as utilizing one's position for personal gain, pleasure, influence peddling, insincerity in advice with the goal of gaining an advantage, working less than a full day for a full day's salary, tardiness, and slovenliness [8]. According to Otite, corruption occurs when at least two parties work together to change the structure of societal progress or the behaviour of officials in order to create dishonest, unfaithful, or contaminated conditions [9]. Bribery, extortion, fraud, nepotism, outright theft, match-fixing, examination fraud, kickbacks, illegal contract awarding, and other similar behaviours, according to Kunhiyop, make someone morally corrupt or cause someone to become morally corrupt [10]. Nigeria's problem, according to Osheviri, is corruption [11]. The average Nigerian is a corrupt individual who needs to remove this toga. It's a tragedy that nothing works, given the vast resources that God has put upon us. There are no good roads, running water, or power in the area. Nigeria is a country that is riddled with corruption. It is so palpable and it can be felt and touched. The entire economic system of the country stinks and oozes with corruption [11]. Corruption is rampant and it poses a threat from within the country [1]. It's a canker worm that has eaten<sup>8</sup> its way deep into the country's fabric, stunting growth across the board. It has been the fundamental cause of the country's inability<sup>9</sup> to develop rapidly.

Despite the laudable provisions of section 15(5) of the 1999 Constitution, as amended under the Fundamental Objectives and Directive Principles of State Policy, which states that the State should abolish corrupt practices and abuse of power, corruption remains endemic and a monster that has yet to be effectively dealt with. It thrives and breeds in almost every aspect of Nigerian society, including the governmental and business sectors, the family, religious groups, schools, and a few of other places. The government's lack of political will to confront this pervasive malady, which has become the standard in Nigerian culture is shocking and sad. In Nigeria, there are several instances of corruption. A previous Head of State and Commander-in-Chief was alleged<sup>10</sup> to have stolen almost 3 billion dollars, which was located in his foreign accounts, in addition to his physical assets. An ex-Inspector General of Police was found guilty of embezzling 17 billion naira. With only few examples, it is easy to fathom how much public money has been stolen by government personnel. Some former governors of various States are being prosecuted<sup>11</sup> for allegedly stealing billions of naira in State funds. Indeed, it has been claimed<sup>12</sup> that up to 40% of the government budget was lost at various levels due to corrupt actions by government personnel. Teachers may sell question papers in advance to anyone who can pay them. The occurrence of ghost instructors, as well as teacher absenteeism are signs of corruption.

According to Waziri, corruption has a wide range of consequences, including underdevelopment, a lack of essential infrastructure such as potable water, good road networks, and misappropriation of national resources which results in widespread poverty[12]. She goes on to say that corruption is responsible for mediocrity in leadership, professionalism, insufficient leadership outputs, high unemployment, and the ever-widening gap between the rich and the poor [12]. The current generation of Nigerian citizens appear to have inherited many types and methods of corruption from previous generations[13]. A lack of the will to fight corruption accounts for the uncritical assimilation of such local slangs as 'man knows man' 'my man', 'chop make I chop' (complicity in crime), 'grease my hand' (giving or taking bribe), 'if you can't beat them, join them' (the whole is corrupt, one should join the trend) and so on[13].

### 3. WHISTLE BLOWING POLICY IN NIGERIA

Whistleblower protection is essential in the battle against corruption especially in the public sector, as well as in enhancing accountability and transparency in organizations and society. As public scrutiny will force

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<sup>8</sup>EFCC Reports: Effect of Corruption on Nigeria's Economy .Nigeria EFCC Information Communication Technology Department. Abuja, 2005.

<sup>9</sup>Nigeria and Corruption Independent Corrupt Practices and Other Related Offences Commission, I.C.P.C (2006).

<sup>10</sup> Above note 9.

<sup>11</sup>Above note 9.

<sup>12</sup> Above note 9.

reforms in some organizations, whistleblower protection is critical in encouraging the reporting of fraud, misbehavior and other forms of wrongdoing [14].

When a referee blows the whistle to warn the players in a game that a foul has been committed, the word whistleblowing comes to mind [14]. Blowing a whistle on the other hand is similar to warning people or groups about something harmful or a potential threat [15]. Households in Nigeria, for example, are urged to purchase a whistle device to alert their neighbours to potential threats as well as when they are in trouble or require aid [16]. Whistleblowing, according to Jubb, is a purposeful act of transparency that results in public documentation and is disclosed by someone with privileged access to knowledge about an entity's illegality or other misdeeds [17]. Whistleblowing, according to Onodugo, is the disclosure to persons or organizations with the authority to act by members of organizations (former or current) offenders of unlawful, immoral, or illegitimate actions under the supervision of their employers [18].

Eaton and Akers described whistleblowing in a fairly simple way in terms of a larger perspective and public participation. They define it as the deliberate act of disclosing and exposing wrongdoings within a company to internal and external stakeholders [19]. Whistleblowing, according to Nader, is an act committed by a person who believing that the public interest should take precedence over the interests of the organization for which he works, blows the whistle on corruption or illegality within the institution [20]. Whistleblowing, according to Schultz and Harutyunyan, is not a spiteful act carried out solely to disgrace someone [14]. Individuals who may blow the whistle for the sole purpose of gaining financial gain are not eligible. Banisar pushes for a broader definition of whistleblowing that considers it as a process rather than a single act of disclosure [21]. Whistleblowing, he says, is a way of encouraging accountability by allowing anyone to submit information about wrongdoing but also shielding them from all types of punishment [21]. Whistleblowing, according to Hannigan, is a moral obligation of all committed members of an organization, community, or state to reveal transgressions or acts of corruption that have the potential to obstruct progress or the pursuit of the common good [22]. According to Nwagboso, an activity is considered whistleblowing if the information disclosed is considered to be in the public interest [23]. This includes information about criminal activity, a breach of any statute, the improper use of public and other funds, a miscarriage of justice and any other misbehaviour or malpractice [23]. Whistleblowing can be internal or external, according to Park *et al.* Internal whistleblowing is typically characterized as the practice of revealing wrongdoing outside of the usual chain of command, such as through confidential hotlines [24]. Employees are more willing to report or seek advice on possible or actual misbehaviour if they are not fearful of repercussions, according to Miceli and Near [25]. External whistleblowing, on the other hand, entails disclosing a corporate blunder to a person or entity outside the company who may be able to rectify the problem. Anti-corruption or regulatory government agencies, the media, and other external parties to the organization are frequently the recipients of the information. Most external whistleblowers would have blown the whistle first inside the company before venturing outside [25]. This is due to the fact that external whistleblowing is usually riskier because it is more costly to the company. Outside disclosure of malfeasance could result in public humiliation, extensive government investigations, harsh penalties and protracted legal proceedings against the company. Nonetheless, external whistleblowing according to Berry, is usually more successful than internal whistleblowing since it leads to more effective investigations and more appropriate corrective steps by the authorities [26]. To put it another way, most internal whistleblowing is frowned upon and ignored. On its part, Transparency International defines whistleblowing as a four-stage process: first, a triggering event occurs involving questionable, unethical, or illegal activities, prompting a worker to consider blowing the whistle; second, the employee makes a decision by assessing the activity and determining whether it involves wrongdoing, gathering additional information and discussing the situation; and third, the employee makes a decision by assessing the activity and fourth, the employee determines whether it involves wrongdoing.

There have been several arguments offered in support of the need for whistleblowing. For starters, some companies may be unable or unwilling to handle wrongdoing. Whistleblowing may be the only way to rectify and right wrongdoing, whether it be due to a refusal to follow the law, fear of punishment, or other factors [27]. Whistleblowing could also be used to change or rectify organizations. Some organizations, non-governmental organizations (NGOs), the public, and private sectors might develop pathologies to carry out immoral acts that may violate the law, depending on the settings and circumstances around them [27]. As a result, according to Akinnason, whistleblowing might be used to expose such anomalies in the hope of enforcing change through public exposure [28]. According to Ozekhome, whistleblowing may be used to identify unlawful conduct that should be made public and that should be stopped and amended [29]. Illegal surveillance, bribes, illegal conspiracies, and misuse of organizational resources should all be revealed and corrected. Finally, in the sense that criminals are held accountable for their conduct, whistle blowing may be justified as a means of achieving justice [29].

In the case of *Fajemirokun v Commercial Bank Nig Ltd and anor*,<sup>13</sup> the Nigerian Supreme Court declared among other things, that every person has a duty to report the occurrence of criminal offences. The Federal Ministry of Finance formally implemented the whistleblower policy on December 22, 2016. The Nigerian Federal Ministry of Finance defines<sup>14</sup> a whistleblower as a person who voluntarily informs the Nigerian Federal Government, through the Federal Ministry of Finance, of a potential misconduct or violation that has occurred, is currently occurring, or is about to occur with specific concerns that are in the public interest. Stolen or hidden public funds; financial malpractice or fraud; corruption; soliciting/collecting bribes; and violations of government financial regulations are all examples of information that can be brought to the Ministry.<sup>15</sup> In other words, anyone who reports a corruption incidence involving his or her organization in Nigeria to the proper anti-corruption body through a specialized channel of information will be rewarded with 2.5 percent to 5% of the seized funds, if any. The policy has shown to be effective. The Federal government has recorded nearly 2000 incidences of whistleblowing, according to the Presidential Advisory Committee Against Corruption (PACAC).

Furthermore, the UN Convention Against Corruption<sup>16</sup> provides for whistleblower protection in article 33 (protection of reporting persons), which states that each State Party shall consider incorporating appropriate measures into its domestic legal system to provide protection against any unjustified treatment for any person who reports any facts in good faith and on reasonable grounds. Article 33 must be incorporated into national legal systems to safeguard whistleblowers and make their contributions valuable. The Inter-American Convention Against Corruption (IACC), which is the first inter-governmental agreement to address whistleblower protection, emphasizes the importance of whistleblower protection as an anti-corruption strategy in article 3(8). Members of the UN are urged to adopt and improve systems to protect people who report corruption. Each party shall provide appropriate protection in its internal law against any unjustified sanction for employees who have reasonable grounds to suspect corruption and who report their suspicions in good faith to responsible individuals or authorities, according<sup>17</sup> to the Council of Europe Civil and Criminal Law Conventions on Corruption. Article 33 must be incorporated into national legal systems to safeguard whistleblowers and make their contributions valuable. The Inter-American Convention Against Corruption (IACC), which is the first inter-governmental agreement to address whistleblower's protection, emphasizes the importance of whistleblower protection as an anti-corruption strategy in article 3(8). Members of the UN are urged to adopt and improve systems to protect people who report corruption. Each party shall provide appropriate protection in its internal law against any unjustified sanction for employees who have reasonable grounds to suspect corruption and who report their suspicions in good faith to responsible individuals or authorities, according to the Council of Europe Civil and Criminal Law Convention on Corruption.

There are measures in national legislation and regulations that safeguard whistleblowers. Section 27 of the Freedom of Information Act (FOIA) of 2011 shields public officials from criminal and civil liability for disclosures made in good faith. Financial crime, misuse of authority, law violations, and threats to one's health and safety may all be covered by the information provided. The public official, on the other hand, faces the possibility of suspension or demotion, as well as physical harm, as a result of making a disclosure. It's worth

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<sup>13</sup> (2009) 5 NWLR (Pt 1135) 588.

<sup>14</sup>Whistle Blowing Policy, Guidance & FAQ - Federal Government of Nigeria (FMF) <https://www.proshare.co/>

articles/whistle-blowing-policy-guidance-faq-federal-government-of-nigeria-fmf?menu=Business&classification=

Read&category=Frauds+%26+Scandals accessed May 17 2022.

<sup>15</sup> Above note 14.

<sup>16</sup>On 31 October 2003, the General Assembly adopted the United Nations Convention against Corruption and requested that the Secretary-General designate the United Nations Office on Drugs and Crime (UNODC) as secretariat for the Convention's Conference of States Parties (resolution 58/4). The convention is the only legally binding international anti-corruption multilateral treaty. Negotiated by member States of the United Nations, it has been adopted by the UN General Assembly in October 2003 and entered into force in December 2005.

<sup>17</sup> Articles 9 for Civil Law Convention and 22 for Criminal Law Convention.

noting that private-sector employees are not covered by the Freedom of Information Act. In section 33 of the Terrorism (Prevention) Amendment Act 2013, a person's identity and life are protected if they offer information to law enforcement agencies in the course of investigating and prosecuting offences under the Act. It stipulates that appropriate precautions be taken to protect that person's identity and life, as well as that the information supplied be treated as confidential. Whistleblowers who disclose information that are not tied to specific terrorism issues are unlikely to be protected under the Act.

According to section 64 of the Independent Corrupt Practices and Other Related Offences Act, (ICPC)<sup>18</sup> Act 2000, information and the name of a person from whom information is obtained by an officer of the Commission, as well as all other circumstances relevant to the information, must be kept secret between them. No employer shall subject an employee to any damage as a result of an act or willful refusal to act because the employee has made a disclosure in line with the provisions of the ISA, virtue of section 306(5) of the Investment Security Act (ISA) 2007. Despite these provisions, Nigeria lacks a legal framework for whistleblowing comparable to that found in other jurisdictions such as the United States.

Without prevarication, Sule believes that there are two facts that are undeniably true about whistleblowing [30]. The first is that it is a potentially dangerous enterprise, while the second is that it is a beneficial activity [30]. The government announced in February 2017 that the whistleblower policy has resulted in 151 million dollars and 8 billion naira in looted funds [31]. The Economic and Financial Crimes Commission (EFCC) launched an investigation after whistleblowers revealed<sup>19</sup> €547,730 euros, £21,090 pounds, and #5,648,500 naira at Lagos' Balogun Market [32]. In December 2017, the Nigerian government through the Ministry of Finance rewarded the Ikoyi whistleblower 421 million naira [32]. The Federal government have also compensated 14 whistleblowers a total of #439,276,000,00 naira for supplying information on tax evaders [33]. Whistleblowing could thus be a source of money for the whistleblower. After Lamido Sanusi, the former Governor of the Central Bank of Nigeria, blew the whistle on an alleged monumental scandal involving the disappearance of \$20 million from the public treasury, Nigerians agreed that the former CBN Governor must face unimaginable consequences because he had stepped on toes by causing scandal. President Jonathan thereafter dismissed him.

In October 2006, following an audit conducted by the parent firm, a significant example of whistleblowing in Nigeria involving Cadbury's Nigeria led to the revelation of deliberate financial overstatements that had gone unnoticed for several years. Mr. Oni, the managing director and Mr. Akadiri, the Finance Director were dismissed of their roles as a result of the incident. The Nigerian Stock Exchange Board forbade the two from ever operating a publicly traded firm again [34]. Furthermore, former House of Representatives Appropriations Committee Chairman Jubril was suspended after making alarming allegations<sup>20</sup> about budget padding in the lower national legislative chambers. In *OluIbirogbu v. The Council of the Federal Polytechnic Yaba and 2 Ors*,<sup>21</sup> the claimant, an Accountant at the Federal Polytechnic, Yaba, was suspended and eventually fired from his job after alleging that the school's former Rector was involved in financial misappropriation and kickbacks involving hundreds of millions of naira. He filed this lawsuit in an attempt to overturn his dismissal. The Nigerian National Industrial Court reinstated him and ordered that all wages and benefits owed to him be paid from the date of his suspension and subsequent firing until the date of his reinstatement. The claimant was also given 20 million naira in damages for his unjust dismissal by the Court. The claimant in *Aaron Kaase v. The Chairman, Police Service Commission & 2 Ors*<sup>22</sup> petitioned the EFCC and the ICPC in May 2015, alleging financial embezzlement of 275 million naira against the chairman of the Police Service Commission. Kaase was charged with criminal breach of trust, cheating, threatening life and unlawful possession of document shortly after his petition was filed and he was later suspended. Mr. Kaase's suspension was reversed by the Court, who declared it null and unlawful and ordered the defendants to pay

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<sup>18</sup>A 64, 2000 No.5.

<sup>19</sup>. It was also reported that 38 million dollars, 27 Thousand Pounds and 23 million naira was found in a private residence in Ikoyi, Lagos based on information by a whistleblower. Whistleblowing efforts culminated in the retrieval by the EFCC from Former Group Managing Director of Nigerian National Petroleum Corporation (NNPC), the sum of 9.8 million dollars.

<sup>20</sup>The Limits of Whistle-Blowing *Nigerian Tribune*, June 7, 2017.

<sup>21</sup>Suit No. NICN/LA/473/2015.

<sup>22</sup>Suit No. NICN/ABJ/231/2015.

all emoluments and entitlements accruable to him during his suspension until the date he was summoned back. Mr. Ntia Thompson, another whistleblower was fired on February 23, 2017 for reporting a 229 million dollar and 800 thousand naira scam at the Ministry of Foreign Affairs in 2016. After various civic groups demanded that he should be reinstated, he was. Finally, Mrs. Laurence do Rego (a former executive director, finance and risk of Ecobank Transnational Incorporated), whose job was terminated by the bank on January 8, 2014, for blowing the whistle on misconduct in the organization, is also a case of whistleblowing in Nigeria. The Nigerian Securities and Exchange Commission gave the bank a seven-day deadline to reinstate the employee, but it was not followed [35]. Nothing more was heard about the matter as a result of the inadequate protection provided to whistleblowers and the lack of a solid regulatory framework [35]. Whistleblowers have been rewarded, fired and later reinstated by the Courts as a result of their whistleblowing acts, as seen above. For 2018 till date, there has been a hiatus in the actions of whistleblowers in crime reporting.

Shaibu agrees with the above and claims that the Independent Corrupt Practices and Other Related Offences Commission (ICPC), one of Nigeria's key anti-corruption agencies, has a backlog of petitions filed by civil servants who claim to have been victimized and denied their due entitlements for reporting corrupt practices in their workplaces [36]. Whistleblowers according to Vickers are frequently disciplined or fired [37]. The reason for this is that they are frequently misunderstood [37]. According to Bowers and Lewis, whistleblowers are viewed as a specific threat to as well as a thorn in the side of an employing firm [38]. They also attract more bad labels to themselves, such as informants, snitches, rats, squabbles, sneaks, or stoolies, which could harm them or their family [39]. The reason for this, in particular with regard to Nigeria, is that there is no enabling law on whistleblowing that provides whistleblowers with protection. What is available is a whistleblowing policy; but despite the great success it has had since its inception in 2016, the Nigerian government has shown little political commitment to confront corruption through whistleblowing. Furthermore, legal impediments based on principles of employer accountability and the preservation of secret information hinder whistleblowers from speaking out, as Official Secrets Act bans the dissemination of information gained while employed by the government and the fear of being labeled an outcast by others [40]. Egwemi and Tukur identified factors like government's coldness to the people's plight; lack of honesty in the government's anti-corruption programmes; lack of trust in anti-corruption agencies like the EFCC and ICPC; inefficiency in the court process; and the stress associated with being a witness in previous studies on corruption in Nigeria [41]. The importance of whistleblowing in the quest for a corruption-free nation is underscored by the fact that institutional mechanisms designed to combat corruption may be rendered ineffective without whistleblowing, particularly from insiders who identify and draw attention to corrupt practices that other mechanisms may miss [42]. The solution is to adopt whistleblowing laws that protect whistleblowers (whether in the public or private sector) from retaliation for their legitimate whistleblowing efforts.

#### 4. WHISTLE BLOWING LAWS IN THE UNITED STATES

The False Claims Act, enacted by Congress in 1863 was the first piece of whistleblower legislation in the United States [43]. The False Claims Act in the United States allows individuals to sue on behalf of the government in order to recover spent public cash. Whistleblowers might receive up to 30% of the sum discovered as compensation [43]. Since it was enacted into law, the False Claims Act has been the most successful anti-fraud law in the United States. The government recovered nearly 2.2 billion dollars in FCA settlements and judgments in Fiscal Year 2020 alone. Whistleblowers are responsible for more than 1.6 billion dollars of that total [43]. Furthermore, the Dodd-Frank Act gave<sup>23</sup> the Securities and Exchange Commission (SEC) the authority to pay people who provide the SEC with pertinent information that lead to a successful SEC enforcement action. The amount discovered might be worth anywhere<sup>24</sup> from 10% to 30% of the reward.

The Whistleblower Protection Act of 1989 was passed in the United States. The Act safeguards workers and other individuals' freedom of speech, as well as whistleblower protection [44]. Employers are also prohibited from terminating employees in retaliation for sharing information about or seeking restitution for a legal

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<sup>23</sup>What Potential Whistleblowers Need to Know About the Dodd-Frank Act <https://constantinecannon.com/2020/07/21/what-whistleblowers-should-know-about-dodd-frank-act/> (accessed March 19 2022).

<sup>24</sup>Above note 23

infraction, gross mismanagement, gross waste of funds, abuse of authority, or a specific threat to public safety and health [44].

Furthermore, in 2009, four former Eli Lilly Pharmaceutical Company workers filed separate lawsuits against the company for selling the antipsychotic medicine Zyprexa for uses not approved by the US Food and Drug Administration [45]. These employees separately disclosed the company's discrepancies and unethical behavior. Eli Lilly admitted their role in the shady deal and agreed to pay a settlement to the lawsuits. This was due to the fact that the United States had a rather robust structure in place to protect whistleblowers [45]. In a similar vein, Myron A. Mehlman, a former Director of Toxicity and Manager of Mobil Oil's environmental health and scientific laboratories stated that his toxicology test results for some of the business's products were misinterpreted by company managers and other organizations [46]. As a result, he was fired in 1989, and his lawsuit against the corporation for systematically concealing environmental and human health issues was successful [46].

## **5. THE NEED FOR A LEGAL FRAMEWORK ON WHISTLE BLOWING IN NIGERIA**

According to Oyebade, it is clear that the culture of whistleblowing has been universally acknowledged and recognized as one of the instruments for promoting good governance and combating corruption [47]. The archaic and harsh common law notions of employees' duty of loyalty and confidentiality are rapidly eroding in favour of a more responsible culture of raising public awareness of illegalities that affect people [47]. Nigeria is yet to fully capitalize on the benefits of whistleblowing by establishing whistleblowing legislations. The Federal Ministry of Finance whistleblowers programme, as admirable as it is, is still a work in progress. As Afe Babalola eloquently stated the initiative raises numerous problems, the most serious of which is the lack of a legal framework to regulate the entire process [48]. Furthermore, data suggests that in the absence of an adequate legal framework, trials of people accused of corruption may inhibit whistleblowers, according to Chevarra and Silvestre [49]. Employees in the public and financial sectors who report illegal activities such as corruption, money laundering, tax evasion, drug trafficking, environmental crimes, safety violations, and illicit trade contribute to strengthen the governance of the public and financial sectors. Employees in this category are regularly involved in a work connection that allows them access to sensitive information about the administration of public or private sector policy [49]. This puts them in a unique position to warn authorities or the broader public about a concern and avert potential injury or damage by responding immediately and honestly. Employees of the government are unique in that they have a better awareness of the institutional systems for receiving and processing charges of corruption, but they are also the most vulnerable in the absence of adequate protection measures for reporting corruption [49].

The Court held in *Wilkie v FGN & Ors*<sup>25</sup> that a Federal government policy statement or guideline does not create a contractual relationship between the government and a third party, and that its non-implementation does not entitle the third party to legal redress against the government. It is not contractual in nature, a policy is not a legal instrument. It is reasonable to conclude that the lack of comprehensive whistleblower protection laws is a significant deterrent to whistleblowers, as it causes whistleblowers to lose faith in the government due to its inability to them; it also signals a lack of political will on the part of the government to combat corruption and Nigeria's government's indifference to good governance. In the fight against pervasive corruption, Nigeria has yet to establish whistleblower regulations. The 'Whistleblower Protection Bill, 2008,' which featured twenty-two parts, was Nigeria's first attempt at enacting a comprehensive law for whistleblower protection. The bill's principal goal was to establish a method for persons to reveal information in the public interest about unlawful or other criminal activity or corrupt practices of others, as well as to protect disclosers from victimization. A second bill, titled 'Safeguarded Disclosure (Whistleblowers, Special Provisions, and Other Provisions) Bill, 2009' was introduced to complement the first. It established a procedure for employees in the public and private sectors to disclose information about illegal and other irregular workplace practices and conduct, as well as protection from occupational detriment or reprisals for those who did so. These legislations were not enacted into law, but the government's whistleblowing policy remains in effect. Another attempt to create a comprehensive law for the protection of whistleblowers in Nigeria, the 'Whistleblower Protection Bill, 2017', failed in 2017. Nigeria should take a cue from the United States, which has legislations on whistleblowing such as the False Claims Act, Dodd-Frank Act, and Whistleblower

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<sup>25</sup>(2017) LPELR 42137.

Protection Act that have resulted in massive amounts of illicit funds being recovered. Thanks to the efforts of whistleblowers who blew the whistle. Nigeria's proposed whistleblowing law should provide protection to those who engage in authorized whistleblowing actions.

## 6. CONCLUSION

Succinctly, there are no particular laws in Nigeria regarding whistleblowing. Nigeria only has a whistleblowing policy. As a result of this, Nigeria should enact whistleblower legislations to combat widespread corruption. Nigeria should do so by following the footsteps of the United States, which has laws on whistleblowing and has had great success in retrieving illegal assets through whistleblowers who blew the whistle through their whistleblowing operations.

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