



# An Appraisal of Whistle Blowing Policy as A Strategy for Fighting Corruption in Nigeria, Under President Mohamadu Buhari's Administration

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## Abstract

*Corruption has been a major challenge to development in Nigeria. Successive governments in Nigeria have instituted diverse policies, measures and structures to fight corrupt practices in public and private sectors. The Federal Government, under the leadership of President Mohamadu Buhari in December, 2006 introduced whistle blowing policy as a strategy for fighting corrupt practices. The introduction of the policy has generated debates, among scholars and policy analysts, on the efficacy of the policy. The objective of this paper is to appraise the implementation of the policy with a view to finding out its weakness and contributions to the fight against corrupt practices in the public sectors. The methodology of this work is qualitative and descriptive in approach. Relevant data were generated through documentary sources. The data were subjected to contextual-descriptive analysis. The findings show that whistle blowing policy has yielded some positive results in the fight against corruption in the public sector, in terms of recovery of looted funds and inciting fears of being exposed in the minds of potential treasury looters. Nevertheless, there are some shortcomings with the policy that need to be addressed by government. Thus, the paper, among other things, suggests that the whistle blowing policy be sustained and strengthened to guarantee adequate protection for whistle blowers and encourage grassroots participation in the fight against corruption*

**Key words:** whistle blower, whistle blowing, policy, whistle blower protection, corruption

## INTRODUCTION

Corruption is one of the greatest challenges to development in Nigeria. The history of corruption in Nigeria dates back to colonial era. It is a social virus that has eaten deep into the fabric of our society. Corruption does not only walk in public and private organizations; but also enriches the pockets of political and business elite and leaves ordinary people without essential services. According to 2016 Corruption Perceptions Index Report by Transparency International, Nigeria is the 136 least corrupt nations out of 175. Nigeria scored 28 points out of 100 on the 2016 Corruption Perception Index. Corruption index in Nigeria averaged 20.17 points from 1996 until 2016, reaching an all time high of 28 points in 2016 and a record low of 6.90 points in 1996 (Transparency International, 2016). Similarly, the 2017 Transparency International Corruption Perception Index rates



Nigeria 27 points out of 100 (Transparency International, 2018).

Successive governments in Nigeria have adopted different strategies to fight corruption in Nigeria. Consequent upon the return of Nigeria to civilian rule in 1999, after prolonged military rules, the Independent Corrupt Practices and other Related Offence Commission (ICPC) was inaugurated in 2000 by the administration of President Olusegun Obasanjo to enforce anti-corruption laws, enthrone corruption free practice and to sensitize and mobilize the populace against corruption (ICPC Act, 2000). Besides, the Economic and Financial Crimes Commission (EFCC) was established under the EFCC Establishment Act 2002 and was charged with the responsibility for the enforcement of all economic and financial crimes law, among other things. Notwithstanding the institution of these structures (ICPC and EFCC), cases of corrupt practices in public and private sector seem unabated.

According to the Federal Ministry of Finance is a programme designed to encourage anyone with information about a violation of financial regulations, mismanagement of public funds and assets, financial malpractices, fraud and theft to report it to the government (Federal Ministry of Finance, 2016). Besides, the government has

acted to address the leakages in government spending that make corruption possible through zero-based budgeting and the Treasury Single Account (TSA). The government has equally signed into law Executive Order number 6 of 2018 that targets the seizure of property suspected to be acquired via the proceeds of crime. Interestingly, whistle blowing as a measure against corrupt practices has attracted moral and legislative backing via several enabling acts instituted by organizations such as the United Nations Organization (UNO), the African Union (AU), Organization for Economic Cooperation and Development (OECD), Transparency International, Whistleblowers Australia, Open Society Justice Initiative, Open Democracy Advice Centre, Government Accountability Project, Blueprint For Free Speech, Commonwealth Human Rights Initiatives etc (Transparency International, 2013; Ugwu, 2017). Moreover, countries such as Canada, Australia, Jamaica, India, Ireland, Netherlands, Switzerland, United Kingdom, New Zealand, USA, South Africa, South Korea, Ghana etc have comprehensive laws on whistle blowing policy. This paper appraised the weakness and contributions of whistle blowing policy to fight against corruption in Nigeria with a view to making suggestions on how to strengthen the policy.



## **METHODOLOGY**

The research methodology for this work is qualitative and descriptive in approach. Through documentaries, relevant data on whistle blowing policy and fight against corruption were generated and subjected to contextual-descriptive analysis. To ensure reliability of the data employed, the researchers relied on documentaries from anti-corruption agencies such as EFCC and ICPC, Ministry of Finance, Bureau of Statistics, conference papers, journals, periodicals and books written by renowned scholars and experts in whistle blowing policy and corrupt practices. The theoretical framework adopted for the study is system theory which views a system as being made up of interconnected and dependent parts that work towards the attainment of organizational objectives. The interacting component parts in the implementation of the whistle blowing policy are the whistleblowers, the Federal Ministry of Finance and anti corruption agencies such as EFCC, ICPC etc. The aforementioned subsystems relate with one another in a bid to actualize the objectives of the whistle blowing policy.

## **THEORETICAL FRAMEWORK**

The theoretical framework employed in analyzing the work is system theory which is multidisciplinary in nature. A system is an

assemblage of things interconnected so as to form a whole. It is made up of component parts that depend and interact with one another in order to function effectively for realization of the set goal of the system. Systems interact with and are influenced by their environment (social, political, cultural, economic technological etc). An important element in system theory is input-output analysis. Input can take the form of input demand and input support. Input demand is a claim made upon the system which is converted to output while input support is the support given to the system by the citizens. There is a feedback mechanism through which the citizens get response from the government or organizations (Ezeani, 2005).

By analogy, the implementation of whistle blowing policy in Nigeria involves interaction and dependent among the component parts which consist of the citizens (whistle blowers), Ministry of Finance and government's anti corruption agencies such as EFCC and ICPC. The whistle blowers make input in the form of given information on alleged corrupt practices; the government through its agents processes the information and give out output in form of reward to successful whistle blower or sanction to deliberate false informers . In fact, the interaction among the component parts is aimed at realizing the objective of the policy



which include: increase exposure of financial or financial related crimes; support the fight against financial crimes and corruptions; improve level of public confidence in public entities; enhance transparency and accountability in the management of public funds; improve Nigeria's open Government Ranking and Ease of Doing Business indicators; recovery of public funds that can be deployed to finance Nigeria's infrastructure deficit (Federal Ministry of Finance, 2016)..

The relationship among the sub units in implementation of whistle blowing policy are influence by the dynamics of Nigeria's social, political, cultural, historical, education, economic, technological and legal milieu. The pattern of such interaction and dependent has remained dynamic in reflection of the changes in the environment. It is expected that the interactions among the sub units be harmonious and built on mutual trust. In fact, for the objectives of the whistle blowing policy to be achieved, each of the sub units is expected to properly play its role and obligation. A situation where one of the component parts has problem or does not function properly, the other parts would not function in full capacity and the whole will suffer. For illustration, if the government fails to protect whistle blowers from retaliation and victimization, potential whistle blowers will be

discouraged to blow the whistle and as such the objectives of the policy may not be attained. Moreover, if the government fails or refuses to fulfill its financial obligation to a successful blower, it may create dysfunction in the system.

### **CONCEPTUAL CLARIFICATION**

The phrase, whistle blowing is said to have been coined by a USA activist Ralph Nader. The word is to connect the use of whistle to alert the public or crowd about bad situation such as commission of crime or the breaking of rules during a game. The concepts of whistle blowing and whistleblower have been subjected to diverse interpretations. However, there is a common position that whistle blowing is connected to revealing or reporting information about unlawful act of a person or group of persons to appropriate authority for disciplinary actions. Private sector whistle blowing may take the form of an employee of private organizations reporting to someone in higher position or a third party (police) an act of wrong doing such as violation of law or company policy, sexual harassment etc. Public sector whistle blowing is concerned with exposure of the illicit activities of government employee (Wim, 2006; Janet, 1985). It is aimed at secret exposure of the unlawful acts of public officials or those that are directly or indirectly linked to government activities. The action is meant to prevent corruption and encourage



people to expose misconduct, illegal or dishonest activity for the good of society (Lee, 2011).

According to the Ministry of Finance, Federal Republic of Nigeria (2016), whistle blowing is a programme designed to inspire anyone with vital information about violation of financial regulations, mismanagement of public funds and assets, financial malpractices, grand and theft to report it to appropriate institutions of government that fight against corruption. Thus, the ministry describes a whistle blower 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 or is about to occur with specific concerns which are in the public interest(<http://whistle.finance.gov.ng>). In other words, a whistle blower, therefore, is a person who exposes any kind of information or activity that is considered to be unlawful, unethical or wrong within an organization that is either public or private (Wim, 2006). Transparency International (2013) viewed whistle blowing as the disclosure or reporting of wrong doing including but not limited to corruption, criminal offence, breaches of legal obligation, miscarriage of justice, specific dangers to public health, safety or the environment, abuse of authority, un authorized used of public funds or property,

gross waste or mismanagement, conflict of interest and act to cover up any of these. Internally, a whistle blower can bring his report to the notice of a higher officer in the same organization but externally a whistle blower divulge the information to the third party outside the accused enterprise that handle sensitive client information (Firko and Jackson, 2015). A whistleblower under Nigeria policy can supply information bordering on the following: violation of Government Financial Regulations such as failure to comply with the Financial Regulations Act; Public Procurement Act and other extant law; mismanagement or misappropriation of public funds and assets; information on concealed public funds; information on stolen public funds; financial malpractices or fraud; theft ; collecting/soliciting bribes; diversion of revenue ; under reporting of revenue use ; conversion of funds for personal use ; fraudulent and unapproved payments; splitting of contract ; procurement fraud (Kickback and over-involving etc); violation of public procurement procedure. (Federal Ministry of Finance, 2016)

### **THEORIES OF WHISTLE BLOWING: ETHICAL THEORY VS UNIVERSAL DIGNITY THEORY**

The Universal Dignity Theory of whistle blowing advanced by Hoffman and McNulty (2010) was a reaction to De George (1986)



supposition in a seminal work on business ethic in organization (Ugwu, 2017). Hoffman and McNulty questioned the morality of whistle blowing from stakeholders' point of view. Notwithstanding that the Ethical Theory advanced by De George cited in Hoffman and McNulty (2010) uphold the view that business organization has the basic and moral obligation to avoid or prevent harm to society; De George contends that there are situations when external whistle blowing by employees may be morally prohibited, morally permitted and morally required. In his perception, external whistle blowing is an act of dissent or disobedience to organizational culture and must be justified by sound moral consideration to be permissible or mandatory. Therefore, it is morally prohibited to blow the whistle when there is no evidence of any intended harm to society or where the whistle blower provides fictitious information out of malice or vengeance (Ugwu, 2017).

De George (1986) cited in Hoffman and McNulty(2010),further postulates that whistle blowing becomes permissible if the following criteria are fulfilled;(i) the firm, through its product or policy will do serious and considerable harm to the public whether in the person of the user of the product, an innocent bystander, or the general public, (ii) once an employee identifies a serious threat to the user of

a product or the general public, he or she should report to his immediate supervisor and make his or her moral concern known. Unless he or she does so the act of whistle blowing is not clearly justified, (iii) if one's immediate supervisor does nothing effective about the concern or complaint, the employee should exhaust the internal procedures and possibilities within the firm. This usually will involve taking the matter up the managerial ladder and if necessary and possible to the board of directors. In furtherance, De George posits that whistle blowing becomes morally required when in addition to the previous criteria, the following two conditions are fulfilled:(i) the whistle blower must have or have accessible documented evidence that would convince a reasonable impartial observer that one's view of the situation is correct and that the company's product or practice poses a serious and likely danger to the public or to the user of the products, (ii) the employee must have good reason to believe that by going public the necessary changes will be brought about. The chance of being successful must be worth the risk one takes and the danger to which one is exposed (De George, 1986)

moral authority to deprive others their inherited dignity(Ugwu, 2017). Thus, the underlining foundation of the theory is that whistle blowing



is both permissible and a duty to the extent that doing so constitutes the most effective means of supporting the dignity of all relevant stakeholders. According to Hoffman and McNulty (2010), the conditions for ethical whistle blowing exist when there are;(i) compelling evidence of non trivial illegal or unethical actions done by an organization or its employees that are deemed to violate the dignity of one or more of its stakeholders, (ii) a lack of knowledge within the organization of the wrongdoing or failure by the organization to take corrective measure. In furtherance, if the above conditions are fulfilled, whistle blowing would be ethically called for, unless the following exempting conditions from whistle blowing prevailed.(iii) one would be conditionally exempted from the duty to blow the whistle if one had credible grounds for believing that by doing so one would be putting oneself or others at risk of serious retaliation.

are worth the risk that the blowers are exposed to; the Universal Dignity Theory suggests that safety and protection of the whistle blower must be placed above responsibility to go public. Thus, if a whistle blower is reasonably convinced that the act may expose the individual or others to serious risk, the action must be avoided. The problem with this view is that every act of

whistle blowing must expose either the blower or alleged corrupt official to risks and if it must be avoided because of such risk, it means that no person will blow the whistle. A whistleblower may be motivated to put an end to unethical practice after witnessing injustices in their business or organization. A study in 2009 shows that whistle blowers are often motivated to take action when they notice a sharp decline in ethical practices as opposed to a gradual worsening (Gino, and Bazerman, 2009).In addition to ethics, social and organizational pressure are motivating force to whistle blowing

### **OPERATIONAL MECHANISM OF WHISTLE BLOWING POLICY IN NIGERIA.**

The whistle blowing policy of the Federal Ministry of Finance outlined the contents of the policy and its operational procedures. It stipulates what constitute Federal Ministry of Finance Whistle; who is a whistleblower; how to supply information; information processing procedure; reward and objectives (Federal Ministry of Finance, 2016).

#### **Reporting Procedure**

The Federal Ministry of Finance (2006) whistle blowing policy is designed to encourage any person with relevant information about corrupt practices to report it through the Federal Ministry of Finance whistle (FMF – Whistle). The



ministry's whistle is a secured online portal through which information relating to corrupt practices can be disclosed. The online portal is designed in a manner that allow the person divulging the information to perform a status check on the issue that have been reported on the whistle blowing online portal. Nevertheless, any whistleblower who does not want to unveil his or her information online has the liberty to write to the Federal Ministry of Finance, Presidential Initiative on Continuous Audit Unit and may prefer anonymity. According to the Federal Ministry of Finance, confidentiality will be maintained to the fullest level possible within the domain of the law. A whistleblower that prefers secrecy will have no record of his or her personality but if the whistleblower chooses to reveal his identity, the identity will only be disclosed in condition required by law (Federal Ministry of Finance, 2016; Niyi, 2016). In fact, any person who whistles blows in public spirit and in good faith is assured of protection regardless of whether or not the issue raised is upheld against any party. In the event of victimization, the policy states that any stakeholder (internal or external) who has made genuine disclosure and who feels that as a result, he or she suffered adverse treatment in retaliation is expected to file a formal complaint to an independent panel of inquiry that shall be set up

to handle such complaint. Where it is established that a whistleblower suffered unfavorable treatment for blowing the whistle, punitive action shall be taken against the perpetrator in line with public service rules and restitution shall be made to the whistle blower for any loss suffered (Federal Ministry of Fiancé, 2016).

### **Whistle Blowing Information Processing, Reward Procedure and Objectives**

When a whistleblower provides information, the information is right away made accessible to the administrator of the Federal Ministry of Finance—whistle blowing online portal or the attention staff, who after a preliminary analysis will establish whether to commence an investigation into the matter reported. In order to protect people from false claim, a first level review of the report is carried out to ascertain the credibility or sufficiency of the information received and where the report is found to be false, it will be referred to the law enforcement agents for investigation and possible prosecution. Upon the receipt of information by the ministry, acknowledgement response is sent to the reporter. If the outcome of the preliminary analysis of the report is positive, the matter will be reported to appropriate agencies of government for detail investigation and necessary action. The time frame is dictated by





the nature and complexity of the matter under investigation (Federal Ministry of Finance, 2016)

assets shall be entitled to anywhere between 2.5% - 5% of the amount recovered. Any whistle blower whose information leads to the discovery of up to ₦1 billion will receive 5% of the amount. Any recovered amount that exceed ₦5 billion attracts 2.5%. (Gabriel, 2017; Niyi, 2016). However, in order to qualify for the reward, the whistleblower shall provide the government with information it does not already have or could not otherwise obtain from any other publicity available source to government. The actual recovery must also be on account of the information provided by the whistle blower.

The purpose or expected outcomes of the whistle blowing programme according to Federal Ministry of Finance are to: increase exposure of financial or financial related crimes; support the fight against financial crimes and corruptions; improve level of public confidence in public entities; enhance transparency and accountability in the management of public funds; improve Nigeria's open Government Ranking and Ease of Doing Business indicators; recovery of public funds that can be deployed to finance Nigeria's infrastructure deficit.

## INTERNATIONAL PRINCIPLES FOR WHISTLE BLOWER LEGISLATION AND BEST PRACTICES

The Federal Ministry of Finance Global anti corruption agency such as Transparency International with the support of the Prevention of and Fight against Crime Programme of the European Union has designed model of best practices for laws to protect whistleblowers and support whistle blowing in the public interest. Transparency international is the global civil society organization leading fight against corruption. Through more than 90 chapters worldwide and an international secretariat in Berlin, Transparency International raises awareness of the damaging effects of corruption and work with partners in government, business and civil society to develop and implement effective measures to tackle it (Transparency International, 2013). Underneath is a review of the principles advanced by Transparency International and other global anti corruption agencies

### Protection principles

Whistleblower plays momentous responsibility in revealing corrupt practices and other wrong doings in every facet of societal lives, private or public. By disclosing information about misdeeds, whistle blowers frequently take on high personal hazard. They may be fired, sued, blacklisted, arrested, threatened or in extreme



cases, assaulted or killed (Transparency International, 2009; 2013). Protecting whistle blowers from such retribution will improve and ease the proficient exposing of corruption, while also promoting transparency and accountability in government and corporate offices. The right of citizens to report wrong doing is a natural extension of the right of expression and is connected to the principle of transparency and integrity. The absence of effective whistle blower protection can pose a dilemma for prospective whistleblowers. OECD (2012) observed that corruption is significantly heightened in environments where the reporting of wrong doing is not supported or protected. Whistleblower protection is therefore essential to encourage the reporting of misdemeanors, scam and corruption. Providing effective protection for whistleblowers support open organizational culture where employees are not only aware of how to report but also have confidence in the reporting procedure (OECD, 2012).

According to Transparency International (2009 and 2013) whistleblower protection law should cover the following principles: (a) **Protection from retribution:** Persons shall be protected from every forms of reprisal, disadvantage or unfairness at the workplace linked to or stemming from whistle blowing act. This includes all kinds of harm, including

removal from office, trial and other work related sanctions; disciplinary transfers; harassment; reduced responsibilities; withholding of promotions or training; loss of status and benefit and threat of such action.(b)**Preservation of confidentiality:** The personality of the whistle blower may not be made public without the unambiguous approval of the involved person. (c)**Burden of proof on the employer:** In order to avoid sanctions or penalties, an employer must clearly and convincingly demonstrate that any measures taken against an employee were not connected with or motivated by a whistle blowers disclosure. (d)**Knowingly false disclosure not protected:** An individual who makes a disclosure shown to be knowingly false is subject to possible employment /professional sanctions and civil liabilities. Those wrongly accused shall be compensated through all appropriate measure (Transparency International, 2009; 2013; OECD, 2012). (e) **Waiver of liability:** Any disclosure made within the scope of whistle blower legislation shall be immune from disciplinary proceedings and liability under criminal, civil and administrative law, including those linked to libel, slander, copyright and data protection. The burden shall fall on the subject of the disclosure to prove any intention on the part of the whistle blower to violate the law. (f)**Right to refuse to participate in wrong doing:**



Employees and workers have the right to decline participation in corrupt, illegal or fraudulent act. They are legally protected from any form of retribution or discrimination if they exercise this right (Transparency International, 2009; 2013). (g) Preservation of rights: Any private rule or agreement is unacceptable if it obstructs whistle blowers protections and rights. For instance; whistle blowers rights shall supersede employee “Loyalty” oaths and confidentiality/non disclosure agreement. (h) Anonymity: Full protection shall be granted to whistle blowers who have disclosed information anonymously and who subsequently have been identified without their explicit approval. (i) Personal Protection: Whistle blowers whose lives or safety are in danger and their family members are entitled to receive personal protection measures (Transparency International, 2009; 2013; OECD; 2012).

### **Disclosure Procedure Principles**

The 2013 Transparency International whistle blower publication which was funded with support from European Commission identified some disclosure procedure principles which include (a) Reporting within the workplace: Whistle blower regulations and procedures should be highly visible and comprehensible; maintain privacy (unless explicitly waived by the whistle blower); ensure scrupulous, timely and

independent investigations of whistle blowers disclosures; and have clear enforceable and appropriate mechanism to follow up on whistles blowers’ retaliation complaints. (b) Reporting to regulators and authorities: If reporting at the work place does not seem practical or feasible, persons may make revelation to regulatory or oversight agencies or individuals outside of their organization. These channels may include regulatory authorities, law enforcement or investigative agencies, elected officials or specialized agencies established to receive such disclosures (Transparency International, 2009; 2013; OECD, 2012). (c) Reporting to external parties: In case of urgent or critical public or personal risk or persistently unaddressed wrongdoing that could influence the public interest, individuals shall be protected for disclosures made to external parties such as the media, civil society organization, legal associations; trade unions or business/professional organization. (d) Disclosure and advice tools: A wide variety of available disclosure channels and tools should be made available to employee and workers of government agencies and publicly traded companies, including advice lines, hotlines, online portals, compliance offices and external or internal ombudspersons. Mechanisms shall be provided for safe, secure, confidential or anonymous disclosures. (e) National



security/official secrets: Where a disclosure relates to matters of national security, official or military secrets, or classified information, special procedures and safeguards for reporting that taken into account the sensitive nature of the subject matter may be adopted in order to encourage successful internal follow-up and resolution, and to prevent needless external exposure. These procedures should allow internal disclosures, disclosures to an independent oversight body that is institutionally and operationally autonomous from the security sector or disclosures to authorities with the apt security clearance. External disclosure (i.e. to the media, civil society organization) would be justified in provable cases of urgent or serious threats to public health, safety or the environment; if an internal disclosure could lead to personal harm or the destruction of evidence and if the disclosure was not intended or likely to significantly harm national security or individuals (Transparency International, 2009; 2013).

### **Relief and Participation Principles**

International principles for whistleblower relief and participation principle based on Transparency International (2013) publication states as follows: (a) Full range of remedies: A complete range of remedies have to cover all direct, indirect and future consequences of any

reprisals, with the aim to make the whistleblower whole. This includes interim and injunctive relief; attorney and mediation fees; transfer to a new department or supervisor; compensation for lost past, present and future earnings and status; and damages for pain and suffering. A fund to provide assistance for legal procedures and support whistleblowers in severe monetary need ought to be considered.(b)Fair Hearing: Whistleblowers who deem their rights have been violated are entitled to a just hearing before an unbiased forum with full right of appeal. Decisions shall be well-timed, whistleblowers may call and cross examine witnesses, and rules of procedure must be balanced and objectives. (c)Whistleblowers participation: As informed and interested stakeholders, whistleblowers shall have a significant opportunity to provide input to consequent investigations or inquires. Whistleblowers shall have the opportunity (but are not required) to clarify their complaint and provide additional information or evidence. They also have the right to be informed of the result of any investigation or finding and to appraise and comment on any results.(d)Reward system: If appropriate within the national context, whistleblowers may receive a portion of any fund recovered or fines levied as a result of their disclosure, other rewards or acknowledgement may include public



recognition or award (if agreeable to the whistleblower), employment; promotion or an official apology for retribution (Transparency International, 2013).

### **Legislative Structure, Operative and Review Principles**

(i)Dedicated legislation: The whistleblower complaint authority should collect and regularly issue (at least annually) data and information regarding the functioning of whistleblower laws and frameworks (in compliance with relevant privacy and data protection law). This information must include the number of cases received; the outcomes of cases (i.e. dismissed, accepted, investigated, validated); reward and recoveries (maintaining confidentiality if the whistleblower desires); the prevalence of wrong doing in the public and private sectors; awareness of and trust in whistleblower mechanism; and time taken to process cases. (ii) Involvement of Multiple actors: The design and periodic review of whistle blowing laws, regulations and procedures must involved key stakeholders including employee organizations, business/employer associations; civil society organization and academia. (iii)Whistleblower training: Comprehensive training shall be provided to public sector agencies and publicly traded corporations and their management and staff. Whistleblower laws and procedures shall

be posted noticeably in public and private sector workplaces where their provisions apply.(iv) dedicated legislation: In order to guarantee clarity and seamless application of whistleblower agenda, stand-alone legal action is preferable to a bit by bit or a sectoral approach (Transparency International, 2013; OECD, 2012)).

### **Enforcement Principles**

The enforcement principles as advanced by Transparency International and other global anti corruption institutions include: (i) Whistleblower complaint authority: An autonomous agency shall receive and investigate complaints of reprisal and inappropriate investigation of whistleblower disclosures. The agency may issue obligatory recommendations and advance appropriate information to regulatory, investigative or prosecutorial authorities for follow-up. The agency shall also provide advice and support, monitor and review whistleblower frameworks, raise public consciousness to promote the use of whistleblower provisions, and augment cultural recognition of whistle blowing. The agency shall be provided with sufficient resources and facility to carry out these factions.(ii) Penalties for retaliation and interference: Any act of retaliation for, or meddling with, a whistleblower's disclosure shall be considered wrongdoing, and perpetrators of reprisal shall be subject to employment



/professional sanctions and civil penalties.(iii)Follow-up and reform: Valid whistleblower disclosures shall be referred to the right regulatory agencies for follow-up, remedial actions and/or policy return (Transparency International, 2013).

### AGENCIES FOR FIGHT AGAINST CORRUPTION IN NIGERIA

Successive governments in Nigeria have established diverse agencies and enacted laws to combat corruption. The EFCC and the ICPC are prominent among the anti corruption agencies. Therefore, it is imperative that the composition and functions of the two agencies as enshrined in their establishment act be looked into

#### Independent Corrupt Practices and other Related Offences Commission (ICPC)

The Independent Corrupt Practices and other Related Offences Commission was established via the corrupt practices and other related offences Act 2000. The Act provides that the commission shall consist of the chairman, twelve members and a secretary, who shall be persons of proven integrity and shall be appointed by the president upon confirmation by the Senate. The constitution of the members shall be two from each of the six geo-political zones of the federation. The tenure of office of the chairman shall be five years while that of other members

shall be four years in the first instance. The secretary to the commission, according to the Act, shall be appointed by the President while the commission has the power to appoint, deploy, discipline and determine the condition of services of its staff. The duties of the commission as set out in section 6 (a-f) of the ICPC Act 2000 are as follows:

- i. To receive and investigate complaints from members of the public on allegation of corrupt practices and in appropriate cases, prosecute the offenders.
- ii. To examine the practices, systems and procedures of public bodies and where such systems aid corruption, to direct and supervise their review
- iii. To instruct, advise and assist any officer, agency or parastatal on ways by which fraud or corruption may be eliminated or minimized by them
- iv. To advise heads of public bodies of any changes in practice, systems or procedures compatible with the effective discharge of the duties of public bodies to reduce the likelihood or incidence of bribery, corruption and related offences.
- v. To educate the public on and against bribery, corruption and related offences.
- vi. To enlist and foster public support in combating corruption.



## Economic and Financial Crimes Commission (EFCC)

The Economic and Financial Crimes Commission was established under the EFCC establishment Act, 2002. According to the Act, the commission shall consist of the following members: a chairman who shall be the executive and accounting officer of the commission. The chairman shall be a serving or retired member of any government security or law enforcement agency not below the rank of Assistant Commissioner of Police or equivalent with not less than 15 years cognate experience. The chairman is appointed by the President subject to confirmation by the Senate; the Secretary to the Commission who shall be the head of Administration; the Governor of Central Bank or his Representative; a representative of each Federal Ministries like Foreign Affairs, Finance and Justice; the Chairman of National Drug Law Enforcement agency or his representative; the Director General of National Intelligence Agency and the Department of State Security Services or his Representative.; the Registration General of the Corporate Affairs Commission or his representatives; the Director-General Securities and Exchange Commission or his representative; the Managing-Director, Deposit Insurance Corporation or his representative; the Commissioner for Insurance or his

representative; the Post Master-General of the Nigerian Postal Services or his representative; the chairman, Nigerian Communication Commission or his representative; the Controller-General, Nigeria Customs Services or his representative; the controller-General Nigeria Immigration or his representative; the Inspector-General of Police or his representative ;Four eminent Nigerians with cognate experience in any of the following, that is finance, banking or accounting(EFCC Act,2002)

The primary functions of EFCC as set out in the enabling Act, 2002 include:

- i. Enforcement and due administration of the provision of the act
- ii. Investigation of all financial crimes such as advance fee fraud, money laundering, counterfeiting, illegal charge. transfer, futures market fraud, fraudulent encashment of negotiable instruments, fraudulent diversion of funds, computer credit card fraud, contract scam; forgery of financial instruments, issuance of dud cheques etc.
- iii. Adoption of measures to identify, trace, freeze, confiscate or seize proceeds derived from terrorist activities, economic and financial crimes related offences, or the properties, the value of which corresponds to such proceeds
- iv. Adoption of measures to eradicate and prevent the commission of economic and financial



- crimes with a new to identifying individuals, corporate bodies or group involved
- v. Facilitation and rapid exchange of scientific and technical information geared towards the eradication of economic and financial crimes
- vi. Determination of the extent of financial loss and such other losses by government, private individuals or organization.
- vii. Collaboration with government bodies within and outside Nigeria carrying out the functions wholly or in part analogous with those of the commission
- viii. Dealing with matters connected with extradition, deportation and mutual legal or other assistance between Nigeria and any other country involving economic crimes
- ix. The collection of all reports relating to suspicious financial transaction, analyze and disseminate to all relevant agencies
- x. Maintaining liaison with office of the Attorney General of the Federation, Nigeria Customs Services, Immigration and Prison Service Board, Central Bank of Nigeria, Nigeria Deposit Insurance Corporation, National Drug Law Enforcement Agency, all government security and law enforcement agencies and such other financial supervisory institutions in the eradication of economic and financial crimes.
- xi. Carrying out and sustaining rigorous public enlightenment campaign against economic and financial crimes within and outside Nigeria.
- xii. Any other such activities as are necessary to give effect to the functions conferred on the commission under the act.

### FINDINGS

Stemming from the data generated and analyzed for the purpose of this work are the following findings:

The whistle blowing policy introduced by the federal government in 2016 has led to recovery of some looted public funds by anti-corruption agencies

The whistle blowing policy has created fears in the mind of some corrupt officials and has caused them to disclaim and abandon their looted funds in commercial banks

Potential whistleblowers are still doubtful about the capacity of the government to adequately protect them from victimization and reprisal that may arise as a result of blowing the whistle

There is no compelling and extant statute that guarantee a successful whistleblower that the government must pay him compensation and as such there is feeling that in the event of government refusal to fulfill its obligation, the whistleblower may not get legal redress

- v. The method for blowing the whistle and operational mechanism of the policy is elite-





oriented and as such deprive those at the local area, particularly the illiterate ones access to information and participation in the whistle blowing policy

## DISCUSSION

Whistleblowers play an essential role in exposing corruption, fraud, mismanagement and other wrong doings in organizations. By blowing the whistle, whistleblowers help to save billions of dollars and prevent scandals in private and public institution. The whistle blowing policy in Nigeria was introduced in 2016 by the Federal Ministry of Finance. The Federal Government through the policy had made some recovery of public treasure looted by some corrupt individuals. According to the Minister of Information and Culture, Alhaji Lai Mohammed, looted funds recovered through the policy include: 9.8 million US dollars recovered from former Group Managing Director of Nigeria National Petroleum Corporation, Mr Adrew Yakubu; ₦42 billion recovered from fake account name in a commercial bank; ₦15 billion from an apartment in Ikoyi Lagos (made up of \$ 38 million, £27,000 and ₦23 million); ₦448.850 million from Lagos plaza; ₦250 million hauled from Balogun market in Lagos and ₦49 million recovered at Kaduna Airport (Gabriel, 2017). According to the Minister of Information, the whistle blowing policy which within four months of its initiatives

had led to recovery of about ₦73 billion has exposed how few individuals have looted public treasure earmarked for provision of social infrastructure. The policy according to Federal Government has made everybody a crime detector and active partner in the fight against corrupt practice in public and private places.

Besides, through whistle blowing, the Department of Security Service in October 2016 recovered huge amount of alleged proceeds of crime from suspected corrupt judges after searching their residence. The recovered amount was about 360 million naira. In March, 2018, the sum of \$9 million was allegedly recovered in different safes in the residence of Brigadier Paul Boroh, former Special Adviser to President Mohamadu Buhari on Niger Delta and Coordinator of Amnesty Programme for ex-militants in Niger Delta. Before the alleged search of Boroh's residence by EFCC and Office of National Security Adviser and the recovery of the alleged loot from Amnesty Programme funds, the President had sacked the Boroh and ordered his investigations subsequent to petition of fraud against him by whistleblowers (Benedict, 2018). Moreover, the EFCC chairman Ibrahim Magu during defence of 2018 budget of the agency and review of the performance of the 2017 allocation before Committee on Financial Crime stated that the agency in 2017 had



recovered a total of 473 billion naira looted by corrupt officials (Wale, 2018). According to him, final forfeiture include 32 billion naira and 5 million recovered from Diezani Alison-Madueke, former Minister of Petroleum, 4 billion naira from subsidy fraud, 449 million naira recovered at Lesgico plaza Victoria Island Lagos and 329 billion from petroleum marketers.

Kayode Ogundasi, a public policy analyst has described the new whistle blower policy as the most creative policy implemented by President Mohamadu Buhari. Administrastion. According to him, beyond the compensation for those who disclosed corruptly enriched people, the policy has also motivated citizen's involvement in the anti-corruption programme .Whistle blowing policy, no doubt, has created fear in the minds of some public treasury looters and has compelled some of them to deny ownership of some discovered hidden funds both in commercial banks and private apartment. For instance, in 2017, Justice Muslim Hassan of Federal High Court in Lagos ordered the permanent forfeiture to Federal Government the unclaimed sum of \$153,310,000 which was alleged to have been diverted from the coffer of Nigeria National Petroleum Corporation by former Minister of Petroleum Resources Mrs Diezani Alison-madueke. The Economic and Financial Crime Commission had traced the

money to three commercial banks in Nigeria and consequently approached the court for its temporary forfeiture to government. The judge granted the interim forfeiture order and gave 14 days for any one interested in the money to appear before the court to show cause why the money should not be permanently forfeited to the Federal Government, but when the matter came up after the expiration of 14 days no body came to claim the money (Oladimeji, 2017).In fact, some of them abandon the looted treasure to avoid being prosecuted.

In March 2017, the Federal Government of Nigeria announced that the government was investigating 2351 cases through whistle blowing policy. The Finance Minister Kemi Adeosun stated that the government paid ₦325 million as reward to successful whistle blowing. The payment to 20 whistleblowers that provided information that led to successful recovery according to the Minister of Finance underscored the commitment of President Muhamadu Buhari's government to meet its obligations to information provided under the whistle blowing policy which was an essential tool in the fight against corruption (Alli, 2017). At a seminar organized by the Bureau of Public Service Reform in Abuja, the Federal Capital Territory in August, 2017 the Finance Minister, Adeosun commended the contributions of the policy and



described the whistle blowing policy as successful initiative of Mohamadu Buhari's Administration. The minister stated that as at July 2017, over 5,000 reports have been made through various reporting channels and 365 actionable tips were received out of the 5000 reported cases. The reports which came from public servants have to do with issues of contract inflation, ghost workers, illegal recruitment, misappropriation of funds, violation of treasuring single account (TSA) regulation, illegal sales of and embezzlement of funds meant for personnel emolument. Thirty-nine percent (144) of the actionable tips relates to misappropriation and diversion of funds or revenue, 13 percent (49) deals with contract inflation and violation of procurement Act, 9 percent (34) relates to non remittance of pension and National Health Insurance Scheme deduction, 16 percent (60) relates to ghost workers, illegal recruitment and embezzlement of fund meant for personal emolument (Adeosun, 2017). In March, 2018, the Minister of Finance Mrs. Kemi Adeosun while addressing the state house correspondent after Federal Executive meeting presided by president Muhamadu Buhari, disclosed that the Federal Government had recovered about ₦9.12billion through the whistle blowing policy. The break down of the recovery were as follows: ₦7.8 billion, \$368 million and €27,800. The

minister added that in a bid to enhance the performance of whistle blowing teams, the teams had training toured United Kingdom where they spent time with the revenue and custom offices in United Kingdom to under go training on how to utilize whistleblower tips to block avenue for leakage (Adetayo, 2018).

In April 13, 2018, the Federal Government during an evaluation workshop on whistle blowers and assets tracing team organized by the Presidential Advisory Committee Against Corruption held in Abuja disclosed that the whistle blower policy has yielded about ₦123 billion (Jibueze and Chiejina, 2018). The break down of the recovered money were ₦7.8 billion, \$378 million (about ₦115.3), 27,800 pounds (about ₦12 million). The government stated that it had received 8373 enquiries and 1231 tips since the policy was introduced in 2016. The Federal Minister of Finance, represented by the Head Presidential Initiative on Continuous Audit and Whistle blower Unit of Ministry of Finance, Dr. Mohammed Dikwa further stated that 791 investigations had been commenced while 534 had been concluded. According to the Minister, the Federal government was planning to review the whistle blower policy to make it more effective despite the positive result so far.



the administration of Buhari. Moreover, despite the passage of whistle bower protective Bill by the legislature, some people still express fear that they may not be properly protected and may be subjected to unfair treatment for blowing the whistle as was the case of Ntia Thompson . Thompson, a member of staff of Ministry of Foreign Affair was alleged to have been relieved of his duty by the Acting Director general of his agency for blowing the whistle on alleged diversion of \$ 229,000 and 800,000 naira in the Directorate of Technical Corporation in Africa (Soni, 2017). The whistleblower, who reported the case of alleged fraud against the Acting Director General to EFCC in April, 2016 was confronted by management of Directorate of Technical Cooperation in Africa with allegations of violation of oath of secrecy, absence from work without approval, refusal to carryout lawful instructions and making false claims against government official. Consequently, he was suspended and subsequently retired without following the civil service rule. Although the Federal Government after investigation ordered his immediate reinstatement by the ministry via a letter written to the Permanent Secretary of Ministry of Foreign Affair, some people still remain skeptical about the capacity of government to adequately protect a

whistleblower from retaliation. Although the whistle blowing policy is not yet in place, the government should take the following policy (Soni, 2017).

Besides, there is feeling that the government may fail to perform its obligation to a successful whistle bower since there is no extant and compelling law to that effect. In actuality, the concern is that there is no act to compel the Federal Government to pay whistleblowers the stipulated reward due to them in the unfortunate event that the government fails or refuses to pay the stipulated reward. Legally speaking, it has been argued that a policy statement or guideline by the Federal Government does not constitute a contractual relation between the Federal Government and the third party and thus its non execution does not entitle the third party to legal redress against the government. In November 2017, Abdulmunmini Musa who allegedly was involved in disclosure information that led to the recovery of the sum of \$43.4 million, 23.3 million naira and 27, 000 Euro from flat 7 Osborne Tower Ikoyi Lagos State filled a suit against Federal Government demanding the payment of whistle blowing fee. The plaintiff through his suit marked FHC/Abj/CS/1158/2017 sought an order directing the EFCC and Federal Ministry of Finance to include him as a beneficiary to the 2.5 to 5 percent of whistle blowing fees or monetary

percentage of the entitlement to be paid to other three whistleblowers: Maina, Sunday and Sheriff involved in the disclosure (Ade, 2017)

## RECOMMENDATIONS

- a. The Federal Government should ensure that the identity of whistleblowers remain secret. The whistle blower protective act should be strictly adhered to so as to ensure that whistleblowers are not in any way subjected to unfair treatment for blowing whistle
- b. The Federal Government should ensure that it fulfils its obligation of paying compensation to successful whistle blower. There should be legislation that should entitle a successful whistle blower to seek legal redress against government in the event of government refusal to pay the reward.
- c. Bottom-top approach should be adopted in sensitization of the public on the need to blow the whistle. The approach employed so far appears elitist and as such most people in the local area particularly the illiterate ones are ignorant of the policy and the procedure for blowing the whistle.
- d. The state and local government should replicate whistle blowing policy at their various levels to

complement the effort of the Federal Government in the fight against corruption.

- e. The whistle blower policy should be reviewed to ensure its conformity with international principles for whistle blower legislation and best practices

## CONCLUSION

Whistle blowing policy is an anti-corruption strategy instituted in Nigeria by the administration of President Muhamadu Buhari in December, 2016, through the Federal Ministry of Finance. It is a programme designed to inspire anyone with vital information about violation of financial regulations, mismanagement of public funds and assess, financial malpractice, fraud and theft to report it through a secured online portal. A whistleblower whose disclosure leads to recovery of looted fund is entitled to 2.5% -5% rewards. The policy since its introduction has led to recovery of some public funds looted by corrupt individuals and thus has contributed positively to the fight against corruption in Nigeria. It has also discouraged some potential treasury looters and made some disclaim their alleged loots deposited in banks for fear of being prosecuted. Thus, the government should ensure the sustenance of the policy through legal backing. Whistleblowers should be adequately



protected to ensure that they are not in any way victimized for blowing the whistle. Moreover, government should be committed to fulfillment of its obligation to any whistleblower that his disclosure resulted in loot recovery. Besides, bottom-top information dissemination approach should be adopted by government to keep those at the grass root abreast of the policy and its operational procedure. The state and local government should replicate the policy at their various levels. Finally, the policy should be reviewed to ensure its conformity with international principles for whistle blower legislation and best practices

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