Variables influencing the outcomes of the whistle blowing process in South Africa

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ABSTRACT

Whistle blower protection in South Africa becomes a point of contention every time a disclosure is made and the whistle blower is murdered or victimised. The purpose of this article is to describe the variables that will influence the decision to blow the whistle in the South African environment in order to counter act possible re-active outcomes. It provides an overview of the current scenario of whistle blower protection in South Africa. The article argues that in order to make a protected disclosure, public managers and the whistle blower must understand the whistle blowing process as prescribed by the *South African Protected Disclosures Act,* 2000 and that organisations must establish a whistle blowing process that meets the needs, not only of the organisation, but also of the individual whistle blower.

INTRODUCTION

When the decision has been taken to blow the whistle on perceived wrongdoing, it can be done via either an internal or an external process. For the purposes of this article a whistle blower is an employee making an unauthorised disclosure of information about criminal or irregular conduct along avenues that are not specified. Whistle blowing plays an essential role in the fight against corruption.

"Just because they pass a right to rat law, it doesn't make ratting any less obnoxious" (Peterson and Farrell 1986:7). Whistle blowers have unjustly

acquired a poor reputation as 'busy-bodies', disloyal employees and 'rabble-rousers'. One of the major causes of this negative perception in South Africa is the fact that whistle blowers are seen as *impimpis* (apartheid-era informants who betrayed their comrades). This historical framework has unfortunately allowed whistle blowing as an activity to become stigmatised and to be detested rather than encouraged (Camerer 2001:1; Auriacombe 2005:86). Unfortunately the truth is often that, when conscientious workers or law-abiding organisations blow the whistle on perceived corruption, it seems the best they can hope for is exclusion and condemnation (Camerer 2001:1; Auriacombe 2005:86)

The dilemma and misfortune of the whistle blower often receive attention in the popular press. Most recently there has been the case of senior official Jimmy Mohlala who blew the whistle on perceived corrupt practices in a 2010 Soccer World cup construction project. He was shot dead. Some other whistle blowers, who provided information on corrupt housing practices, were also threatened and murdered. These cases were well publicised. King Winner Maluleka, an inmate of C-Max in 2004 who blew the whistle on the former prison warder and fellow inmates on an attempted escape, has been victimised in jail. Tales like these create an impression that it is unsafe to blow the whistle. This is the root of the problem. Since this perception on whistle blowing is detrimental to anti-corruption efforts, it is important for public sector managers to understand that different organisations will have different responses to the act of blowing the whistle and that there are steps that can be taken to encourage whistle blowers to disclose perceived corruption.

Mbatha (2005:214) states that the organisational response to an act of whistle blowing is influenced firstly by the credibility of the whistle blower, because if people are trusted, such an action may be taken seriously; and secondly by the motivation of the whistle blower. If there are any suspicions about the reasons why someone chooses to blow the whistle, chances are that the complaint will not be heard. Moreover, the perceived validity of the evidence (if done in good faith) rather than the perceptions or the motivations of the whistle blower should be the most important reason for taking a disclosure of wrongdoing seriously. In addition other important influencing factors are the whistle blower's position in the organisation and the membership of minority groups within an organisation, as females or members of underrepresented ethnic groups may find it harder to be heard.

The article examines the above individual determinants underlying the whistle-blowing process. It conceptualises the whistle blower and also describes the process as well as the consequences of whistle blowing and whilst this article does not elaborate on the mandatory steps as prescribed by the *Protected Disclosures Act* (Act 26 of 2000) for blowing the whistle, but instead describes the process when disclosures are made. The article illuminates specific ethical points in the whistle-blowing process including ethical concerns such as the question of loyalty and ethical tension points.

CONTEXTUALISING WHISTLE BLOWING/WHISTLE BLOWER

A review of the literature provides for a number of definitions for whistle blowing and whistle blower. Whistle blowing is "the disclosure by an employee of confidential information relating to some danger, fraud or other illegal or unethical conduct connected with the workplace, be that of the employer or of his fellow employees". (Louw 2002:121). In general, whistle blowing involves calling attention to perceived wrongful acts, usually in order to stay away from harm although there may be other reasons that people may wish to speak out (Camerer 1999:1). Whistle blowing is the act of disclosing perceived organisational wrongdoing by reporting it to authorities who are in positions to remedy the specific situation. MacDonald Dryberg (2009:157) concludes that whistle blowers can be "... thought of as individuals who break away from organizational ranks, often at great personal and professional risk, to expose unethical or illegal behavior to external authorities and the general public".

The concept whistle blowing implies the presence of specific actors, identifiable actions and a process consisting of a number of steps, occurring in a particular order (Near and Miceli 1996:513; Mbatha 2005:164). The actors are:

- the whistle blower;
- the wrongdoer(s), whether this is an organisation or an individual;
- the person who receives proof of the alleged wrongdoing; and
- the organisation that is called upon to act to correct the situation that gave rise to the whistle blowing.

Brewer in Near and Miceli (1996:510) states that the motivation to blow the whistle is not easy to identify because it is steeped in historical as well as symbolic expression. Therefore, many of people's motivations are considered elusive. The same goes for blowing the whistle. Different people have their own particular motives for blowing the whistle, but what they tend to have in common is a recognition that it would be morally wrong not to blow the whistle.

Williams (1985: 15-18) identifies three situations that might influence whistle blowing in the public sector. Firstly, as government is entrusted with certain responsibilities, such as national security, confidentiality would be of the utmost importance and a breach of confidentiality through whistle blowing could have damaging effects on everyone. Secondly, a public official may resort to whistle blowing if the conduct of another official is gravely offensive to the standing and fundamental interests of the public. Thirdly, the changing character of political heads could lead to conflict of interests occurring between the public sector and the government.

Whistle blowing occurs, therefore, whenever individuals take it upon themselves to point out what they believe to be unethical or irregular behaviour. Such action is

often met with a great deal of resistance from others in the organisation. Superiors often view such actions as being an insult to their authority or as a challenge to the organisational imperative, which they find useful to protect. Colleagues and subordinates are often unwilling to express their support either for fear of losing their own jobs or because of fear for the future of the organisation (Feldman 1999:149). If public officials had accepted the correct ethical values and behaviour, then whistle blowing can be an effective measure that can be used by the government in its campaign against corruption.

According to Vickers (1997:4) whistle blowers are perceived as being either watchdogs or protestors. They discover and disclose wrongdoing to prevent financial and safety disasters from occurring and raise general concerns regarding the activities of their employers. These two views describe the types of whistle blowers that exist in the literature, where four types are identified. The 'heroes' are loyal employees, who report concerns in order to ensure that organisational faults are rectified. The 'idealists' speak out because there is a mismatch between their expectations and organisational realities. The 'defensive whistle blower' is the calculating employee who, in anticipation of disciplinary proceedings for poor performance, reports a concern with a view to establishing that the true reason for disciplinary action was victimisation for speaking out. Finally, the 'vengeful whistle blower' is a former employee who reveals an employer's wrongdoing as a form of retribution for perceived maltreatment (Vickers 1997:4).

Most employees are loyal to their organisation. However, sometimes their loyalty to the organisation is overruled by their conviction that they should act first and foremost in the public interest. This is where the interest of the organisation and those of the public could cross paths. The trouble is that some people are victimised for disclosing wrongdoing. This is what makes whistle blowing a moral act, because the individual goes on a personal mission to protect the public against the wrongdoing he or she decides to report. Morality, trust and ethics all play a role, therefore, in whistle blowing. Often individuals disclosing wrongdoing experience ethical dilemmas (Holtzhausen 2007).

INDIVIDUAL CHARACTERISTICS THAT UNDERLIE THE WHISTLE BLOWING PROCESS

De Graaf (2010:769) states that various factors influence the decision to blow the whistle either internally or externally. The decision to blow the whistle internally or externally is partially based on a relationship with aspects relating to the levels in the reporting process which includes the personal characteristics (self-esteem, personality traits, gender, religion) of the whistle blower as well

as the situational aspects including the status of the recipient, type of alleged wrongdoing, and ethics policies within the organisation.

Barker and Dawood (2004:123–124) identify a number of factors that can influence the whistle blowing process. Firstly, situational conditions that can be separated into organisational characteristics (e.g. the size of the group, organisational culture and climate, incentives for whistle blowing, bureaucracy, and departmental policies) and the characteristics of the wrongdoing (e.g. the type of wrongdoing and it's seriousness, and the quality of the evidence). Secondly status and power relations and the amount of power held by individuals or units within the organisation (in South Africa there is often situations where the public official enjoys power in the organisation but not within the ruling party and would be hesitant to make a disclosure as it could influence his/her position within the party). Thirdly individual characteristics including personality variables (e.g. intolerance of ambiguity and low self-esteem), job situation (e.g. pay, supervisory status, job satisfaction), demographics (e.g. education, gender, age) as well as moral development/behaviour (e.g. social and religious responsibility, moral judgement) and lastly other factors such as social and/or financial support, membership of professional groups, conformity issues, loyalty and trust.

According to Kaptein (2011:515) research has shown that the motives for both internal and external whistleblowers are not entirely unselfish or for the good of the public. Dozier and Miceli (1985) in Kaptein (2011:515) state that these motives are prosocial in that whistleblowers weigh the costs and benefits of reporting wrongdoing to themselves and others. Dozier and Miceli were among the first scholars to indicate the relevance of contextual variables that may encourage or discourage the disclosing of perceived wrongdoing. Near and Miceli (1985:12) suggest that an understanding of the theory of moral reasoning is fundamental to grasp the individual's ethical tendency to blow the whistle, especially in relation to the organisation or to management. To test this suggestion, Arnold and Ponemon in Ponemon (2001:119) researched perceptions of whistle blowing and the reasoning characteristics of 106 internal auditors using a between-subjects experimental design. Findings revealed that those internal auditors who have moderately low levels of moral reasoning were unlikely to predict whistle blowing as a means for disclosing wrongdoing. This result was especially prominent when possible retaliation meant a potentially high degree of penalty for the whistle blower. The findings also indicated that the position of the prospective whistle blower influences internal auditors or management to act in an ethical manner.

Near and Miceli (1986:137) further believe that certain positions within an organisation predetermine whistle blowing behaviour Spencer in (Ponemon 2001:119) found that internal auditors may be instructed to blow the whistle as part of their jobs. Therefore, their behaviour is role-prescribed, and they should

consequently have more power in the organisation. Even though such reporting is role-prescribed, whether the instruction determines actual behaviour is doubtful. In a later study, Near and Miceli in Ponemon (2001:119) suggest that the internal auditor's role in reporting wrongdoing may lead to ethical tension because such actions can have a harmful effect on the reputation of the organisation. Hence, it is not only the prescribed roles that will determine the likelihood of a disclosure being made, but also the individual characteristics that will influence the decision. Potential whistle blowers might feel that is would be better to disclose the perceived wrongdoing in an anonymous manner.

Anonymity as a determinant of whistle blowing

According to Near and Miceli (1994:780) whistle blowers who do not have power in the organisation might decide to remain anonymous in order to safeguard their positions in the organisation. When whistle blower hotlines are established, it is assumed that the disclosure made by the whistle blower is confidential and the identity of the whistle blower protected. Whistle blowers may file a report without signing it, or provide incriminating evidence with no indication of the source. Whistle blowers may hide their identities in order to avoid retaliation, but then risk losing their effectiveness, for at least three reasons (Elliston 1982:173–176). Firstly, members of an organisation may dismiss the concerns of whistle blowers who are not willing to face the target of their accusations, and, presumably, give the accused an opportunity to confront them, thus weakening the minority influence of anonymous whistle blowers. Secondly, if anonymous whistle blowers do not provide sufficient evidence of wrongdoing, complaint recipients are unable to seek additional information from them, reducing their expert power (as they had witnessed the alleged wrongdoing). Thirdly, if whistle blowers are viewed as credible complainants because of their personal characteristics, an anonymous whistle blower obviously has reduced credibility.

A person may wish to remain anonymous to prevent retaliation but this is sometimes easier said than done. Laws protecting whistle blowers, for example the *South African Protected Disclosures Act* (Act 26 of 2000), do not always prevent retaliation against the whistle blower especially since the intention might be to prevent organisational detriment. In addition, if the whistle blower remains anonymous to the complaint recipient, the complaint recipient may be rendered less able to determine whether the wrongdoing has occurred and whether it is deserving of action (Elliston 1982:172).

A second way of remaining anonymous is for whistle blowers to identify themselves to the complaint recipient while requesting that their identity should not be revealed to others (such as to the South African Public Service Commission or the Hawks). Such partial anonymity may increase the credibility of the

whistle blower and facilitate the complaint recipient's enquiry. However, partial anonymity surrenders power to the complaint recipient and could jeopardise the whistle blower. If, at any time, the complaint recipient wishes to influence the whistle blower, he or she may threaten to betray his or her confidence.

Elliston (1982:171) argues that anonymity should be seen as neutral, as the middle ground between privacy and secrecy. The whistle blowing process creates the paradigm of unsatisfactory disclosures where the person involved cannot defend him/herself, which could disrupt the solidarity of the group. However, the seriousness of the wrongdoing might be harmful to the group anyway. This dichotomy could force the individual to make a moral judgement on whether or not to blow the whistle.

According to Barker and Dawood (2004:130) two questions arise on whether or not anonymity should be a guarantee or not: Does the public have the right to know the identity of the whistle blower or should his or her identity remain confidential?

Elliston (1982:172–173) states that anonymous whistle blowers may have mixed success in achieving the goal of preventing harm to the public interest. Anonymous complaints often are intended to protect the identity of the whistle blower by reducing the likelihood of retaliation. However, anonymous whistle blower complaints can be difficult to investigate due to a lack of information and the inaccessibility of the whistle blower for additional details. Also, if anonymous complaints are sufficiently detailed, they may make it possible to identify the whistle blower, thereby defeating the purpose of anonymity. Such a whistle blower will no longer be anonymous, and worse, may suffer retaliation even though there is no record that it was he or she who disclosed the information. Elliston (1982:172–173) further argues that blowing the whistle publicly might be ideal, but that it cannot be demanded and one cannot condemn persons that choose to stay anonymous.

Credibility as a determinant of whistle blowing

Whistle blowers that are credible have a greater chance of persuading the organisation to terminate the wrongdoing. Credible information is a resource in short supply in most organisations. If a whistle blower can convince others that wrongdoing has occurred he or she should have greater power to change the behaviour of members in the organisation. According to Kotter and Schlesinger (1979:106–114), members of organisations resist change when they do not trust those who want the change – thus, the credibility of the whistle blower is of great importance.

Credibility can rely on the perceived motives of the whistle blower. As noted before, some people consider whistle blowers to be loyal employees (Kolarska

and Aldrich 1980:41–58), whereas others view them as snitches, sneaks, rats, squealers or traitors (Bok 1980:334; Camerer 1996:2), for instance either with altruistic or egotistic motives (Brief and Motowidlo 1986:715). The real motives of whistle blowers will vary from one situation to another and cannot be entirely known by others, but their motives are often perceived to be the deciding factor in judging their credibility. The perceived validity of a complaint should reasonably rest on the evidence that wrongdoing has occurred and not on the individual's reason for calling attention to it. That is, it is possible that even the worst of liars did in fact witness real wrongdoing being committed (Near and Miceli 1995:689).

Status as a determinant of whistle blowing

There is a relationship between status and power in whistle blowing situations. Society perceives those that hold senior positions within organisations more powerful and credible. Imagine the whistle blower as a person who has a prominent status in the organisation – a person whose services are highly valued and difficult to come by and who, because of his or her technical or executive value or professional status is considered more important to the organisation (Perry 1992:52). Such a person may also, because of his or her status, be considered more competent or credible than someone of lesser status (Greenberger, Miceli and Cohen 1987:530). Whistle blowers with status may also be used to being rewarded and being able to influence the opinions of others, especially if he or she is in a position of authority or expertise.

Psychological determinants that underlie the whistle blower's decision-making

Empirical studies of Near and Miceli (1985:12) and Arnold and Ponemon (1991:119) have related the decision to blow the whistle to the moral reasoning paradigm and most of these studies focus on pre-decisional behaviour rather than on the decision-making process as a whole. Various psychological processes underlie all ethical behaviour and action and are depicted in the following table:

Psychology literature shows that the above six factors form a realistic mechanism for integrating the complex process of ethical behaviour and action (Rest 1986:77). These factors can also help the whistle blower analyse the whistle blowing process in the organisational setting. Initially, a prospective whistle blower would have to be sensitive to the possibility of wrongdoing. When it comes to fraud or theft, he or she would have to have healthy scepticism. According to Rest (1986:77), sensitivity to ethical issues is necessary if one is to be able to process and resolve ethical conflict. Someone without ethical

Table 1: Psychological processes underlying ethical behaviour and action

Sensitivity describes how the individual reads the situation around a certain set of ethical actions and choices.
Reasoning describes the processes from which the person chooses, from among the different possible actions, a single "best" ethical action
Perseverance describes how the individual follows through on a particular ethical choice, and which factors make it easier or more difficult for him or her to follow through in terms of his or her ethical decision.
Value assignment describes how the person assigns "moral" values (among other non-moral values, such as leisure time, career success, economic gain, or power) to the ethical path he or she chose.
Loyalty can be understood as the expectancy of the trustor that he/she will receive fair and kind treatment at the hands of the trustee (Binikos 2006:34).
Trust can be defined as the firm belief in the truth, strength or reliability of a person or thing; a confident expectation; responsibility (position of great trust) (Thompson 1992:981).

Source: Rest (1986:77)

sensitivity, therefore, would find it difficult to distinguish between ethical and unethical acts and would probably not even notice that there was a problem.

A second factor is perseverance, and this is perhaps the most important of the six factors when it comes to whistle blowing, because a person who has noticed a problem but does not have the strength of character to follow through on his or her ethical conviction, would not make the ethical decision to blow the whistle. It is often difficult for individuals to take that final step even if they believe that the moral choice would be to disclose the wrongdoing (Brabeck in Near and Miceli 1985:59).

The component of trust is also important. According to Davis (1989:8) a whistle blower no longer trusts his or her organisation as much as before. This might be because of the perceived wrongdoing or because of the manner in which whistle blowers are treated after a disclosure have been made. Once the whistle blower has blown the whistle, the organisation might not trust him or her anymore either, since the whistle blower has been disappointed in an ethical sense and therefore no longer recognises the organisation's authority.

The organisation's response might break the relationship of trust between the organisation and the whistle blower and confuses loyalties on both sides because the whistle blower has already been in a position where he or she had to choose between loyalty to the organisation and accepting the wrongdoing or moral probity and not accepting the wrongdoing (Uys and Senekal 2005:9). For the whistle blower, making these choices constitutes a betrayal of loyalty to and trust in the organisation (Uys 2005:13), and the subconscious need to

atone for this betrayal, which makes him or her even more determined to set right the wrongdoing that was reported. If there was any resistance to accepting the reporting, the whistle blower is bound to feel that the organisation is systemically corrupt (Uys 2000:9). Thus, if the response by the organisation internally is negative, external whistle blowing is often not a choice but a requirement that follows internal whistle blowing. It should be kept in mind that it is imperative that all internal channels in the organisation (such as to the supervisor, management, designated person or hotlines) must be exhausted before external channels (such as the Public Service Commission or the media) be utilised to disclose wrongdoing.

In some cases the whistle blower is pressured to discard the disclosure, conform, allow the wrongdoing to be ignored and continue with their day-to-day activities. The level of pressure varies, depending on how the wrongdoing was reported. In addition, once the whistle blower has been labelled as a whistle blower, he or she will also probably find it difficult to keep performing effectively in the organisation (Miliken, Morrison and Hewlin 2003:1454).

Given the consequences of the outcome that the potential whistle blower might face, it is likely then that potential whistle blowers will consider their options before blowing the whistle on organisational wrongdoing (Miceli and Near 1992:123) and many may choose not to blow the whistle, which means that they will rather explore other alternatives of dealing with organisational wrongdoing, for if there are viable options, then perhaps whistle blowing may be avoided altogether.

Another factor, namely reasoning, comes into play when the individual thinks about ethical strategies for solving the problem according to his or her level of moral reasoning. Individuals at lower moral reasoning levels tend to worry about retaliation or victimisation, while individuals at higher moral reasoning levels worry more about the negative consequences of failing to report the incident to the proper authorities, whether there is retaliation or victimisation or not (Miceli and Near 1992:123). For example, an individual with relatively high moral reasoning skills might decide to blow the whistle after discovering fraud in the organisation even though such disclosure would put the organisation at a disadvantage and cause (for example) the dismissals of colleagues. Another person with identical moral reasoning skills may decide to keep silent because to him or her it is more important to keep the organisation afloat than to reveal the fraud. Nevertheless, an individual will make a moral assessment in terms of which ethical values are the most appropriate to solve the ethical conflict.

Once he or she has decided on an ethical strategy, the whistle blower must decide when and how to act on it. Of course there are other issues to consider as well, besides moral values. These are issues such as organisational, social and economic variables, the need to do the right thing, possible retaliation such

as losing his or her job, peer pressure, economic incentives, and a host of other things also needs to be taken into consideration.

THE WHISTLE BLOWING FRAMEWORK IN SOUTH AFRICA

The Protected Disclosures Act, 2000 (the PDA) recognises the value of and need for whistle blowing in South Africa. It aims to:

"Create a culture which will facilitate the disclosure of information by employees relating to criminal and other irregular conduct in the workplace in a responsible manner by providing comprehensive statutory guidelines for the disclosure of such information and protection against any reprisals as a result of such disclosure."

According to Martin (2010:8) the framework for whistle blower protection in South Africa is primarily located in the *Constitution of the Republic of South Africa*, the *Protected Disclosures Act* 26 of 2000, the *Labour Relations Act* 66 of 1995, the *Companies Act* 71 of 2008 and the body of jurisprudence that has been developed by the Labour, High and Supreme Courts of South Africa. The evolution of the laws in South Africa has resulted in four frameworks regulating whistle blowing.

- The first governs disclosures by the general public not protected by the PDA or the Companies Act.
- The second is the framework created by the PDA which governs whistle blowing by employees in the public and private sectors.
- The third is the framework created by the Companies Act which governs whistle blowing within all companies registered in terms of the Companies Act, including profit and not-for-profit companies.
- The fourth is the framework of rights and obligations imposed on "public" and "state-owned" profit companies registered in terms of the Companies Act.

It is evident that there are a number of gaps and shortcomings influencing whistle blowing within South Africa. According to Martin (2010:9-11) the PDA only allows for a formal employment relationship and exclude citizen whistle blowers. This poses a significant problem as it is often citizens that are exposed to corrupt and unethical practices from public servants. In terms of the PDA, disclosures can only be made about the organisation (thus not covering a person, or an organisation associated with the employer). Public officials are only protected against occupational detriment and the range of recipients to which disclosures can be made are too narrow as it is very specific. Although the PDA provides steps on how to make a disclosure, it does not provide guidelines on how whistle blowing can be encouraged within the organisation nor that

the identity of the person must be protected. In addition, the remedies and protection offered by the PDA does not create confidence that those that make a disclosure will be protected. In South Africa there is not a single dedicated body that provides advice to the public and that monitors and reviews laws and practices. The Public Service Commission and the Office of the Public Protector are involved, but again in a fragmented manner.

On 31 August 2011, the Minister of Justice and Constitutional Development announced practical guidelines for employees on the PDA. These procedures are aimed at providing employees, who wish to disclose certain information, with a short summary of the Act, but do not deal comprehensively with all the provisions of the Act. In the introduction it is stated that by remaining silent about corruption, offences or other malpractices that takes place in the workplace, an employee contributes to, and becomes part of, a culture of fostering such improprieties which will undermine his or her own career as well as be detrimental to the legitimate interests of the South African society in general. All employers and employees have a responsibility to disclose criminal and other irregular conduct in the workplace. Employers have a responsibility to take all necessary steps to ensure that employees who disclose such information are protected from any reprisals as a result of such disclosure. These guidelines provide an explanation of various procedures found mostly in acts that can be utilized by employees that would like to report an impropriety as well as the contact details of the relevant bodies involved in the disclosure process. These guidelines are long overdue and still have to be communicated widely.

The Open Democracy Advice Centre (ODAC) released a survey of public opinion in regard to whistle blowing for 2011. The survey found that in 2010 69.6% of those partaking in the survey believed that whistle blowers had to be protected. In 2011 87.5% believed that whistle blowers should be protected. Further, almost 20% stated that they have blown the whistle. Of those polled, 29.9% is of the opinion that the PDA does not protect whistle blowers. Gabriella Razzano (2011:online), a researcher at the Open Democracy Advice Centre states that "Although we are encouraged in this change of attitude in South Africans, the truth is that current laws aren't enough to protect whistle-blowers locally. Citizens themselves note that these protections are not enough and this is an obvious conclusion when read alongside the startling figure that states that, between public and private sector corruption, South Africans lose in excess of R100 billion annually. This figure is more than the South African government was able to contribute to social grants in total for 2011". ((http://www.opendemocracy. org.za/news/the-state-of-whistleblowing-in-south-africa/).

Linked to the above statement made by Razanno regarding the protection offered by the laws, is the passing of the controversial "Protection of State Information Bill" that was passed by the South African Parliament on 22

November 2011. The intention of this article is not to elaborate in detail on this bill, but it should be mentioned that the intention of this bill is to safeguard information considered as secret by the South African government. What is especially of concern to whistle blower protection is that whistle blowers can be prosecuted if they disclose information deemed as confidential by the South African government. Public hearings were held and the last hearing concluded on 1 March 2012. It is of essence that the developments regarding the so-called Secrecy Bill be monitored to determine the true effect that it will have on whistle blower protection.

CONSEQUENCES OF WHISTLE BLOWING

Miethe (1999:147–148) states that "Unfortunately, most legal protection for whistleblowers is illusory, few whistleblowers are protected from retaliatory actions because of numerous loopholes and special conditions of these laws and the major disadvantage that individual plaintiffs have against corporate defendants". Reporting in the popular media on the fate of whistle blowers supports this viewpoint. Public managers will need to consider the possible consequences of whistle blowing on the organisation and the individual as whistle blower.

Consequences for the whistle blower

As a result of the negative organisational response, the whistle blower may experience great disbelief and distress at the manner in which the organisation they seek to protect is behaving (Rothschield and Miethe 1994:262). Organisations believe that whistle blowing is a deviant act that threatens the prosperity and blemishes the reputation of the organisation (Uys 2006: 9). Ultimately, retribution affects the whistle blower's ability to continue working in the organisation (Milliken *et al.* 2003:1454). Many whistle blowers also face endless litigation (Jos, Tompkins and Hays 1989:554) to obtain compensation for damages they have suffered. Litigation is usually long, and emotionally and financially wearisome, and will affect the whistle blower's family as well (Jos *et al.* 1989:554; Binikos 2006:31). The reputation of the whistle blower may be affected, especially if the court case is reported in the media. Future job prospects may also be compromised as a result of the person's reputation as a traitor or troublemaker. In addition, financial pressures rise as a result of the person losing his or her job (Uys 2005:9).

Camerer in Barker and Dawood (2004:132) argues that the whistle blower will experience negative or positive responses to his or her action, depending

on the organisational culture – regardless of whether the disclosure was made internally or externally. The following responses might be expected:

- Managers might spend time and financial resources to cover up the problems rather than admitting that something is wrong.
- Superior officers might punish the whistle blower by questioning his or her competence and judgement, blacklisting the individual from other positions or even terminating his or her services.
- Colleagues might also feel betrayed and the whistle blower might experience degradation ceremonies that will punish and alienate the resister and protester.
- The whistle blower might be made the scapegoat ("shooting the messenger"), and may suffer for his or her efforts and may even fear retaliation.

Consequences for the organisation

Whistle blowers function within an organisational context and the disclosure of alleged wrongdoing also has consequences for the organisation. Miceli and Near (1992:9) state that challenging the authority structure through whistle blowing at times undermines legitimate control found in organisations. Miceli and Near (1994:777) further state that the reaction of members to whistle blowers in an organisation may be determined by their personal beliefs about whether the organisation is the beneficiary or victim of wrongdoing. Whistle blowing threatens the viability of the organisation, in that it reduces the organisation's use of illegal means to achieve greater profits, and any exposure of such shady dealings may be costly in terms of penalties, reputation and a loss of business. Whistle blowing affects the organisation's reputation and results in employee withdrawal (Milliken *et al.* 2003:1454), a decline in staff morale and a lack of trust (Davis 1989:8) as well as a poor business results (Miceli and Near 1992:8). It is also financially costly, as organisations would rather spend resources on covering up the alleged wrongdoing than to actively deal with the problem. Furthermore costs may be incurred when the matter is referred to labour courts and when penalties are levied against the organisation for their infringements. The fear of retaliation also serves as a deterrent to potential whistleblower (Camerer 1996:52; Binikos 2006:31).

SUGGESTIONS FOR PUBLIC SECTOR MANAGERS

Feldman (1999:2–3) and Mbatha (2005:178) state that there are three stages in the process of whistle blowing. During the first stage, causation, a person needs to observe irregular or criminal conduct (or activity) taking place in the

organisation. A decision must then be made as to whether to agree with the wrongdoing, to partake, to object or to walk away. These five choices are not mutually exclusive as an individual's decision on how to behave at any given time may be reconsidered later.

Irrespective of personal demeanour, there may be no alternative but to proceed to the second stage, disclosure. In organisations regulated by legislation, which include all organisations in democratic societies, there may be rules and regulations requiring disclosure to an external regulator or auditor. Auditors and other compliance officers are themselves under strict rules of disclosure. In situations of disclosure, the response of some institutions is to get rid of the problem, not by addressing the disclosed wrongdoing, but by addressing the whistle blower.

Stage three of the whistle blowing process is retaliation. Disclosure is often by means of confidential information including documents, but even so, the whistle blower's identity may not be obvious if the disclosure is an anonymous disclosure. Consequently, identification of the whistle blower is a matter of great importance to the wrongdoer while preserving anonymity may perhaps be of greater importance to the whistle blower (Feldman 1999:2–3; Mbatha 2005:178).

According to Miceli, Near and Dworkin (2009:383) managers can and should create an organisational culture that encourage good, ethical behaviour and good

Table 2: A summary of action steps for managers

Before concerns are articulated:
• Support the development of moral identity and moral agency.
• Create a tough anti-retaliation policy that allows for the disciplining or dismissal of employees who retaliate against whistle blowers.
• Distribute the policy through the intranet, in orientation materials, and elsewhere.
• Search for and select employees who have attributes associated with observation of wrongdoing, and whistle blowing.
• Familiarise and train employees about what the organisation considers wrongful, and what to do if wrongdoing is observed.
• Consider building incentives for valid internal whistle blowing into a reward structure.
Once concerns are articulated:
• Focus on the wrongdoing alleged in the complaint and not on the complainant.
• Investigate reports fully and fairly.
• Take swift corrective action when the complaint is well-founded.
• Provide feedback so that management gets recognition for taking action.
• Provide several communication channels so that employees can choose to report to someone with whom they are comfortable.

Source: Miceli, Near, and Dworkin (2009:379–396).

performance. Any behaviour that does not support this goal should be prevented and any disclosures on wrongdoing must be acted on. An organisational culture based on this will lead to self-correction and the reinforcement of values and standards.

Once the whistle blower has decided to blow the whistle, various steps can be followed to report the wrongdoing. Often, as is the case in South Africa, legislation provides for specific steps to be followed if a protected disclosure is sought. Whistle blowing is an obvious operation and concerns making public certain issues by an individual acting on his or her own, believing that both his or her motives and the accusation made will stand up to public examination.

People do not automatically blow the whistle if they become aware of for example unethical behaviour in their organisation. There has to be an issue that is larger, that affects more than only the people within the organisation. Miethe (1999:44) identified four types of responses to organisational wrongdoing in a survey attempting to analyse the age, gender, educational level, occupational position, and years of employment within a company as well as psychological beliefs and general attitudes of the whistle blower. Miethe (1999: 44) distinguishes the following four types of responses:

- non-observers of misconduct;
- silent observers – those who see misconduct but remain silent;
- internal whistle blowers – those who report organisational wrongdoing within the company; and
- external whistle blowers – those who report organisational wrongdoing to authorities outside the organisation.

Public managers need to take into consideration that these responses will be determined by a number of factors that was described in an earlier section of this article. Additional to the identified responses, managers need to consider that there are consequences to the whistle blower as well as the organisation as a whole.

CONCLUSION

Whistle blowers are defined as individuals that expose perceived wrongdoing to people or bodies in an authoritative position either internally or externally. This disclosure is often based on moral reasoning and for the good of the organisation and the public. Whistle blowing should have a clearly distinctive goal, in the attempt to terminate the current wrongdoing or prevent future wrongdoing of a related type. It is clear that the concept whistle blowing implies the presence

of specific actors, identifiable actions and a process consisting of a number of steps, occurring in a particular order.

The various individual characteristics of the whistle blower such as credibility, power, anonymity and the psychological factors impact greatly on the decision to blow the whistle as well as the organisational response to the disclosure. At heart, the whistle blower that discloses information in good faith, has honest intentions and wants to protect not only the interest of the public, but also the organisation. That is why it is troublesome that the responses and treatment whistle blowers receive disheartens so many potential whistle blowers to disclose perceived wrongdoing.

In making the decision to disclose wrongdoing, potential whistle blowers need to establish and address ethical tension points by for example establishing the seriousness of the problem and the possible effects of blowing the whistle. Addressing these tension points will also enable public managers to structure the whistle blowing process more efficiently. Public managers need to take into consideration the possible effects that whistle blowing might have on the individual – such as occupational detriment. The response of the organisation must be structured in such a manner that the relationship of trust that exists between the trustor and the trustee must not be harmed. This means that the organisation must properly investigate all claims made in good faith. Whistle blowing will have an effect on the organisation and it might even damage the reputation of the organisation. A Japanese proverb state that "The reputation of a thousand years is determined by the conduct of one hour". It is imperative that public managers establish an effective process for blowing the whistle within the organisation that will not only protect the whistle blower, but that will establish an organisational culture that is characterised by ethics, values and morals.

REFERENCES

Arnold, D. and Ponemon, I. 1991. Internal auditors perceptions on whistle-blowing and the influence of moral reasoning, An experiment. *Auditing, a Journal of Practice and Theory.* (Fall edition):1–15.

Auriacombe, C.J. 2005. What happens when one blows the whistle? Recent South African cases. *Politeia: Journal for Political Science and Public Administration.* 24(1):85–99.

Barker, R. and Dawood, R. 2004. Whistleblowing in the organization, wrongdoer or do-gooder? *Communicare.* 23(2):119–138.

Binikos, E. 2006. A sociological case study of the relationship between organisational trust and whistleblowing in the workplace. Unpublished Masters Dissertation: Johannesburg: University of Johannesburg.

Bok, S. 1982. *Secrets, On the Ethics of Concealment and Revelation.* New York: Pantheon Books.

Brief, A. and Motowidlo, S. 1986. Prosocial organizational behaviours. *Academy of Management Review.* 11:710–725.

Camerer, L. 1996. Ethics and the Professions, Blowing the Whistle on Crime. *African Security Review.* 5(6):48–54.

Camerer, L. 1999. Whistle-blowing, An effective anti-corruption tool? *Nedbank ISS Crime Index.* May-June: 3(3).

Davis, M. 1989. Avoiding the Tragedy of Whistleblowing. *Business & Professional Ethics Journal.* 8(4):7–8.

De Graaf, G. 2010. A Report on Reporting, Why Peers Report Integrity and Law Violations in Public Organizations. *Public Administration Review.* September/October: 767-779.

Elliston, F.A. 1982. Anonymity and whistle blowing. *Journal of Business Ethics.* 1(3):167–177.

Feldman, E. 1999. *Protection for Whistleblowers.* Paper read at the ninth International Anti-Corruption Conference (IACC). Available at: **www.transparancy.org/iacc/9thiacc/papers/days3/ws7/d3ws7efeldman.html**. Accessed on 25 January 2005.

Greenberger, D., Miceli, M.P. and Cohen, D. 1987. Oppositionists and Group Norms, The Reciprocal Influence on Whistle-blowers and Co-workers. *Journal of Business Ethics.* 7:527–542.

Holtzhausen, N. 2007. Whistle blowing and whistle blower protection in the South African public sector. Unpublished Doctoral Thesis. Pretoria: University of South Africa.

Jos, P.H., Tompkins, M.E., and Hays, S.W. 1989. In Praise of Difficult People. *Public Administration Review.* November/December:552–561.

Kaptein, M. 2011. From Inaction to External Whistleblowing, The Influence of the Ethical Culture of Organizations on Employee Responses to Observed Wrongdoing. *Journal of Business Ethics.* 98:513–530.

Kolarska, L. and Aldrich, J. 1980. Exit, voice and silence, Consumer's and manager's responses to organizational decline. *Organization Studies:* 41–58.

Kotter, J.P. and Schlesinger, L.A. 1979. Choosing Strategies for Change. *Harvard Business Review.* March/April:106–114.

Louw, M. 2002. Ethics in the workplace. Moving to higher ground. In Verwey, S. and Du Plooy-Cilliers, F. *Strategic organizational communication, Paradigms and paradoxes.* Sandown: Heinemann Publishers.

MacDonald Dryberg, M. 2009. Personal and Policy Implications of Whistle-Blowing.

The Case of Corcoran State Prison. *Public Integrity.* Spring 11(2):155–170.

Martin, P. 2010. *The Sate of Whistleblowing in South Africa. Taking stock.* Cape Town:Open Democracy Advice Centre.

Mbatha, J.S. 2005. The ethical dilemmas of whistle-blowing and corruption in the South African Public Sector. Unpublished D.Admin Thesis. Empangeni: University of Zululand.

Miceli, M.P. and Near, J.P. 1992. *Blowing the whistle. The Organizational and Legal Implications for Companies and Employees.* New York: Lexington Books.

Miceli, M.P. and Near, J.P. 1994. Relationship among Value Congruence, Perceived Victimization, and Retaliation against Whistle-blowers. *Journal of Management.* 20(4):773–794.

Miceli, M.P., Near, J.P. and Dworkin, T.M. 2009. A Word to the Wise, How Managers and Policy-Makers can Encourage Employees to Report Wrongdoing. *Journal of Business Ethics.* 86:379–396.

Miethe, T.D. 1999. *Whistleblowing at Work, Tough Choices in Exposing Fraud, Waste, Abuse On The Job.* Colorado: Westview Press.

Milliken, F.J., Morrison, F.W. and Hewlin, P.F. 2003. An Exploratory Study of Employee Silence. *Journal of Management Studies.* 40(6):1452–1476.

Near, J.P. and Miceli, M.P. 1985. Organizational dissidence, The case of whistle-blowing. *Journal of Business Ethics.* 4:1-16.

Near, J.P. and Miceli, M.P. 1986. Retaliation against whistle-blowers, Predictors and effects. *Journal of Applied Psychology.* 71:137-145.

Near, J.P. and Miceli, M.P. 1995. Effective whistle-blowing. *Academy of Management Review.* 20(3):679-708.

Near, J.P. and Miceli, M.P. 1996. Whistle-blowing, Myth and reality. *Journal of Management.* 22(3):507-525.

Open Democracy Advice Centre. 2011. *The State of Whistleblowing in South Africa: An Analysis of Public Opinion, 2011.* Available at: **http://www.opendemocracy.org.za/news/the-state-of-whistleblowing-in-south-africa/**. Accessed on 12 March 2012.

Petersen, J.C. and Farrell, D. 1986. *Whistleblowing, Ethical and Legal Issues in Expressing Dissent.* Dubuque, Iowa: Kendall-Hunt.

Perry, J.L. 1992. Whistleblowing, organizational performance, and organizational control. In Frederickson, H.G. *Ethics and public administration.* New York: M.E Sharpe.

Ponemon, L.A. 1994. Whistle-Blowing as an Internal Control Mechanism, Individual and Organizational Considerations. *Auditing, A Journal of Practice & Theory.* Fall edition, 13(2):118-130.

Rest, J. 1986. *Moral Development. Advance in Research and Theory.* New York: Praeger.

Rothschild, J. and Miethe, T.D. 1994. Whistleblowing as resistance in modern work organizations, the politics of revealing organizational deception and abuse. In Jermier, J.M., Knights, D. and Nord, W.R. *Resistance and Power in Organizations.* London: Routledge.

South Africa (Republic). 2011. *Practical Guidelines for Employers in terms of Section 10(4) of the Protected Disclosures Act,* 2000 (Act 26 of 2000). Department of Justice and Constitutional Development. Available online from **www.gov.za**.

Thompson, J.D. 1992. *Organizations in action.* New York: McGraw-Hill.

Uys, T. 2000. The Politicisation of whistleblowers, a case study. *Business Ethics, A European Review.* 9(4):259–267.

Uys, T. 2005. Betrayal, loyalty and trust. The social psychology of whistleblowing. Paper read at the International Institute of Sociology, Frontiers of Sociology, Stockholm, Sweden 5-9 July 2005.

Uys, T. 2006. Professional ethics versus corporate loyalty, whistleblowing in the financial sector. In Krishna Rao, C.V. (ed.). *Whistleblowing, An introduction.* Hyderabad: Lemag Books, Magnus School of Business.

Uys, T. and Senekal, A. 2005. Morality of principle versus morality of loyalty. The case of whistleblowing. Paper read at the fifth annual conference of Ben-Africa, Botswana, 30 August – 01 September 2005.

Vickers, L. 1997. Whistleblowing in the public sector and the ECHR. *Public Law.* Winter edition: 94–602.

Williams, S. 1985. *Conflict of interest, the ethical dilemma in politics.* London: Gower Publishing.

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