

Whistle blowing: A Practical Tool in Combating Corruption

Chair:

Guy Dehn, Public Concern at Work, United Kingdom, gd@pcaw.co.uk

Panellists:

Tom Devine,	Government	Accountability	Project,	USA
John McCormick,	The	World	Bank,	USA
Richard Calland, Open Democracy Advisory Centre, South Africa				

Discussant:

Lala Camerer, Institute for Security Studies, South Africa

Guy Dehn sketched in his opening presentation the theoretical model of whistleblowing on which the United Kingdom and South African models are based. This Act can enhance the working relationship between employers and employees and is an important tool to fight against corruption, promote governance and promote health and safety. Whistleblowing policies can be a way of transforming the culture within organizations across the public and private sector.

Dehn used a range of case studies drawn from newspaper headlines to highlight the impact of whistleblowing in terms of lives lost and cost to corporations in cases where the whistle had been blown and companies had known what was going on but chosen not to respond to the message, and in many cases attacked the messenger. He noted that with improved communications in this era, we were more likely to see whistleblowers such as Paul van Buitenen, who blew the whistle on the European Commission and caused the resignation of all the commissioners.

Dehn noted the various obstacles to blowing the whistle and the culture of resistance which in the absence of whistleblowing laws lead people to believe that blowing the whistle won't make a difference and that keeping quiet is the only viable option. There need to be ways around line management when it comes to raising legitimate concerns and employees need to be reassured that it is alright to approach independent NGOs or charities offering free legal advice such as Public Concern at Work (for more information see www.pcaw.co.uk) or the Open Democracy Advice Centre.

Tom Devine talked about whistleblowers in America, also referred to as "bell-ringers", "lighthouse-keepers". He emphasised whistleblowers had the right of freedom of dissent and to bear witness against abuses of power in order to warn organisations or communities of avoidable disasters. In terms of fighting corruption, whistleblowers provided the life-blood for such campaigns, as they could provide key evidence. It was therefore essential that such people be protected although he noted that there was a "near certainty" that many whistleblowers' lives have been ruined.

GAP started in 1978 as a non-profit, non-partisan, public interest law firm which took up test cases involving whistleblowers within the American nuclear industry, the environment etc. GAP led the campaign regarding the establishment of the 1989 Whistleblower Protection Act. They have also produced a Whistleblowers' Survival Guide, which captures the lessons they have learned with regard to whistleblowing over the years. More information is available on www.whistleblowers.org

Devine quoted research undertaken in the USA which gave the main reason why people would not speak out or blow the whistle. Firstly, (65-72%) the majority cynically felt that it wouldn't make a difference and secondly (18-29%) cited fear of retaliation. From the painful experiences he had of people blowing the whistle, Devine emphasised that his personal perspective was not that of self-righteousness, but that individuals need to make the difficult choice as to whether or not they are prepared to blow the whistle because of the real risks involved.

Devine highlighted the intersection of valid but conflicting values at play when it came to making such choices. Issues such as being a team player, but also valuing rugged individualism; not being a busy-body and turning in one's friends, but on the other hand being despised as a fence-sitter; notions of privacy and right to know; loyalty to colleagues and not biting the hand that feeds one, contrasted with an obligation to uphold the law. These were difficult choices which needed to be considered in deciding to blow the whistle on environmental, human rights abuses, etc. It required moral courage to make these decisions and the belief that blowing the whistle can actually make a difference.

Referring to the current crisis and the war on terror, Devine noted how one still had the freedom to warn people in positions of authority who protect national security. Also, how it doesn't cost any money to

listen to people who might have information to warn of terrorist threats. He believed secrecy was dangerous to national security and contained the seeds for bureaucratic cover-ups.

John McCormick gave an organisational perspective on whistleblowing and how The World Bank practically used the information acquired from "information sources or witnesses" to fight corruption. He noted that "information from whistleblowers is crucial to our work". His unit, which has been operational for three years, investigates allegations against World Bank employees as well as contractors. He has a team of 24 multi-skilled investigators who are dealing with 450 active investigations. Over the past three years, 500 cases have been already been brought to a conclusion. 25% of cases come from hotlines, and 15% from the website. 5% request confidentiality and 25% anonymity. More information is available on www.worldbank.org/investigations

Anonymous tips are reported to the World Bank hotline and then followed up on and corroborated. The hotline is operated by an external contractor but World Bank staff can call the internal operation directly. Callers may request confidentiality and anonymous reports are accepted since there are legitimate reasons for such anonymity. The bank is aware of the need for adequate protection for whistleblowers against reprisals.

Richard Calland linked the new legislation protecting whistleblowers in South Africa with the right of access to information and the right to know (a point which has been taken up by Article 19's global campaign around these issues). Whistleblowers provide the safety valve, when the owner of information "cheats" to ensure that information does get out. Whistleblowers are a means for promoting democratic accountability and human rights and are able to pursue the fight to where power resides, be it in trans-national corporations, multi-lateral or international financial institutions. Globalisation signals the end of the nation state and challenges civil liberties. It is important that there is not a retreat from these hard won gains.

Calland noted the importance of context and that socio-economic and political factors determine the type of whistleblowing regime that will work. Often whistleblowing is a matter a life or death and he questioned whether legal protection was sufficient. In particular, reference was made to the sociology of a South African "impimpi culture" of apartheid era informers. This is something to be seriously confronted in promoting whistleblowing in South Africa.

Calland noted the application of British law to South Africa, which was underpinned by a common interest between employers and employees. This common interest was directed at health and safety in the workplace, a clean environment and defeating corruption. There was, however, often a failure to respond to the message even when the whistle had been blown. The South African Protected Disclosures Act is based on prevention rather than cure and encourages the initial disclosure to be made to the employer. In order to operate effectively, the Act assumes good faith on the part of both parties and it is a responsible employer who puts in a place a whistleblowing policy for employees to raise concerns in the least harmful way.

In conclusion, Calland drew attention to the important role of civic society and the type of work which PCAW and ODAC were doing in relation to public information, training and offering confidential and free legal advice to bona fide whistleblowers. For more information on ODAC contact www.opendemocracy.org.za

Main Themes Covered

1. The dilemmas facing people concerned about whether or how to report concerns about corruption
2. The pros and cons of open reporting, confidential procedures and anonymous hotlines
3. Organisational, national and international frameworks for promoting legitimate whistleblowing
4. Practical steps which organisations, civic society, politicians and governments can take to address this issue

Main Conclusions

1. Whistleblowing is a key tool to deter and detect corruption.
2. Legislation is essential to signal a change in the culture and reassure people there is a safe alternative to silence.
3. Responsible organisations should be encouraged to promote and see whistleblowing as an integral part of risk management.