Supporting Anonymous Whistle Blowing Systems

Why Whistle Blowing Is Important and Why it Should Be Anonymous

Corruption usually takes place in the shadows and this is especially true for higher level corruption. Unfortunately, this makes detection quite difficult, but without detection, sanctioning corruption is impossible. Getting information from insiders is therefore vital for detecting corruption. Information may come from a person working together with the individual engaged in corruption, a person coming across the corrupt deal accidentally, a person who is part of the corrupt deal, or one who is refusing to take part. An effective whistle blowing system also has preventive functions. First, it raises the probability of getting caught and therefore deters others from engaging in corrupt deals. Second, detected cases reveal weak spots in the system, and therefore may provide guidance for designing structural reforms that eliminate these vulnerabilities. Reporting corruption, however, often carries unpleasant consequences for whistle blowers. One way to protect these individuals is to allow for anonymous reporting.

All of these considerations have prompted the international community to commit to effective whistle blowing mechanisms and protection for whistle blowers under the United Nations Convention against Corruption (UNCAC, Articles 8.4 and 33). Today, many of our partner countries agree to these standards. For all its potential, the support for whistle blowing systems is also highlighted by the German Federal Ministry for Economic Cooperation and Development (BMZ) in its current anticorruption strategy paper.

Success Factors

First, an analysis is needed of existing national laws on whistle blowing and whistle blower protection. The government can conduct a simple legal assessment in order to assess whether national laws may need to be improved or established. A sound legal framework would define whistle blowing, its scope, and the procedures that have to be followed. A clear, transparent and unambiguous legal framework reduces the legal uncertainties that whistle blowers may face and provides an incentive for potential whistle blowers to speak out.

It is clear, however, that even the most well-designed legislative framework fails if actual implementation lags behind. According to Global Integrity, a US-based non-governmental organization, there is a large gap between whistle blowing legislation (de jure) and its implementation (de facto) in many countries. When implementing a whistle blowing system, it is important to consider three aspects: (1) how to promote use of the system, (2) how to ensure the quality of the submitted reports, and (3) how to ensure that the information is properly used and leads to convictions. When considering success factors, some of the most important lessons learnt from such systems supported by GIZ include the following:

- **Target Group:** A clear definition of the target group is important in order to focus communication. While use of the system must be promoted, use of the system for unintended purposes must be avoided.

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3 Data can be downloaded at: [www.globalintegrity.org/report](http://www.globalintegrity.org/report)
A Practical Experience: Whistleblowing in Kenya

Corruption is endemic throughout all levels and all sectors of the Kenyan society. That is why the Kenyan Ethics and Anti-Corruption Commission (EACC) asked GIZ to support the introduction of a web based whistleblowing system. The whistleblowing system started operating in 2005. It guarantees users of the whistleblowing system to report cases of corruption in a secure and anonymous manner and sets the foundation for an efficient and effective workflow in dealing with these reports.

While GIZ covered the costs of the preparation phase and the two evaluations, the system license hire and usage fee of EUR 2,200 per month was split 80% - 20% between EACC and GIZ. Since the end of the introduction phase in 2009, the EACC compensates the continuous costs of usage entirely.

From today’s perspective, lessons learnt are manifold. The efforts of persuading the EACC that data confidentiality is provided proved to be a success factor. However, institutional changes from a mainly manual working culture to full automation as well as operability with other internal systems in use are required. The institution’s sentiment of ownership of the process as well as the technical ability and an appropriate institutional working culture for using a fully automated system is important. Further, the key success factor for the system lies in the commitment of the Commission to full transparency and accountability of its internal processes to the public. Last but not least, strong internal case management is necessary to monitor progress.

- **Communication and Access:** It is important to make the system widely accessible. This requires a clear strategy on how to approach other administrative units within the government in order to convince them to promote the system in their respective agencies. Finally, securing civil society and private sector involvement in explaining and promoting the system is a good way to expand its reach. Whistle blowers from within companies are an important target group; civil society can be a strong ally in promoting the system by adding external credibility. Last but not least, potential whistle blowers have to be convinced that their anonymity can and will be respected.

- **Responsiveness:** It is important that the whistle blower actually sees a quick response after filing a report. Otherwise fears may arise of not being taken seriously and the whistle blower may cut off contact. Therefore a personalised answer to the whistle blower shall be submitted within 48 hours after receiving a report. The answer may just consist of a note of acknowledgement and appreciation as well as a promise to respond within the next two or three weeks in order to have time to pre-check the information provided.

- **Credibility:** Experience shows that confidence in the institution where the system is located is crucial to promoting its use. The institution can be an explicit anticorruption authority (as in Kenya, Indonesia and Morocco), an ombudsperson office, or a line ministry. Regardless of where the system is hosted, however, potential whistle blowers will consider the following: (1) the security of the system, i.e. is the information protected and can anonymity really be guaranteed in a technical sense; (2) the past record of the institution in prosecuting cases; (3) external views expressed by civil society reports, the media or international organisations. The sustainability of the system is critically dependent on these factors.

- **Independence and Integrity:** The institution receiving the information must be protected against political capture and external interference. The information received through the reports is highly sensitive and valuable which bears the risk that the agency’s staff sell it to the media, interest groups, or those that have been accused by a given report. This requires measures to increase the institutional as well as personal integrity of those working at the agency. It also requires that the institution has a strategy with clear criteria for following up on cases. A good reputation and attention from the media and citizens - as the Indonesian experience shows - can make it more difficult for politicians to exert influence or weaken the institution without provoking a public outcry.
Avoid Impunity: As previously mentioned, if reports are not followed up on or do not translate into visible results, the whistle blowing system will lose credibility. Impunity creates cynicism, thus undermining the legitimacy of government. In order to not create unrealistic expectations, it is important to highlight and clearly communicate that the investigation of corruption cases is complex and that tangible results may take time. Follow-up on reports should be at the centre of attention from the very beginning. It is important to define who will be responsible for prosecuting and sanctioning cases, and at what level sanctions will apply (administrative, civil or penal). If the institution receiving the reports has no direct prosecutorial powers, as in Kenya or Morocco, it is important to keep track of the reports that have been passed on to the responsible prosecution entity. In general, it is crucial to clarify the division of work and ensure coordination among entities.

Environment: The probability of the whistle blowing system’s success can be further enhanced by embedding it in broader anticorruption reforms within the government. It is more likely, for instance, that citizens will submit reports if the government authentically promotes a culture of discussion and transparency within the administration. A clear code of ethics, conflict of interest guidelines, and ethics training can be helpful for sensitising public officials that speaking out against corruption is not a form of betrayal but rather a sign of loyalty towards the government.

A Practical Experience: Whistleblowing in Indonesia

The high level of corruption in Indonesia creates a major obstacle to sustainable development in the country. Since the late 90s however, the Indonesian Government has demonstrated a strong will to fight corruption. The establishment of the Corruption Eradication Commission (KPK) in 2003 marked one of the most important events for this course of action.

To acquire knowledge on cases of corruption, the KPK relies on first-hand information. For this reason, the KPK joined forces with GIZ to establish an anonymous whistleblowing system. This system clarifies what constitutes corruption and what type of evidence is required. Further, it includes an interactive feature that enables simultaneous communication between the KPK and the whistleblower, while guaranteeing the whistleblower’s protection by ensuring his anonymity.

Three years into the implementation process, the KPK is constantly improving its whistleblowing system. Reaching people who are part of a network involved in high level corruption marks one of the major challenges for the whistleblowing system. The overcoming of this obstacle will define the whistleblowing system as an even bigger contribution to the successes of the KPK, which so far include the successful prosecution of several high ranking officials, among them 65 Members of Parliament, 7 Ministers, 8 Governors, and 5 judges.
Challenges

The first stumbling block might be the lack of political will to introduce a whistle blowing system in the first place. Precisely due to its potential, a whistle blowing system is likely to be perceived as a threat by those who it could expose. In addition, since whistle blowing targets high-level corruption, those affected are likely to be influential. They will therefore either try to impede implementation, or try to make the system useless. In such cases, a government may only seemingly show commitment to fight corruption, while at the same time undermine the system’s effectiveness. If this is the case, the role of development cooperation is quite limited. The lesson to learn from such potential window-dressing is that it is very important to think beyond the mere introduction of the whistle blowing system and be aware of the factors that are important to make it work effectively. In addition, the introduction of such a system will serve to draw public attention to the issue of corruption which will likely garner public support to address corruption issues more broadly. For example, the private sector in Morocco supported the introduction of the system precisely to highlight bottlenecks within the judiciary for prosecuting corruption.

Required Resources

The cost of implementing an internet-based, anonymous whistle blowing system depends on the specific demands. According to GIZ experiences in Kenya, Indonesia, and Morocco, the one-time costs for setting up a whistle blowing system amount to around EUR 30,000, comprising primarily the costs for customizing the system, training of the respective personnel, an optional case management system, and travel. In addition, annual licence and user fees amount to about EUR 30,000. When external funding is provided it is important to ensure that in the medium to long run, the national institution is able to cover the annual maintenance fee in order to ensure the sustainability of the system.

The amounts mentioned above do not cover the costs incurred within the national institution where the system is located. The hosting institution will likely require two or three full-time positions to pre-filter the information according to plausibility and type of content. Due to the importance of communication, it makes sense to appoint one or two experts in this area. Last but not least, depending on the mandate of the institution and the incoming number of reports, the institution may need to employ a team of 10 to 15 trained investigators who can follow-up on the information provided.