

Whistleblowing and whistle-blower protection in South Africa: *Safeguarding Against Corporate Greed*

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Abstract

The South African business and public sector organizations are religiously embracing the notion and practice of hotlines as a mechanism for reporting wrongdoing within their organizations. This practice; despite a flurry of legislations promoting and protecting whistleblowing and whistle-blowers respectively, tends to impact on promoting the culture of transparency, accountability and good governance. The Hotline Approach advocates for anonymous reporting of (suspected or observed) illegal and unethical activities, a norm that runs counter to the realization of a culture of whistleblowing, which has unintended consequences of entrenching the mistrust for whistle-blowers and whistleblowing. This assertion is made in view of the limited scope provided for in the Protected Disclosure Act, 2000 (No. 26 of 2000); Promotion of Access to Information Act, 2000 and; The Companies Act, 2008 (No. 71 of 2008).

Whistleblowing and Whistle-blower protections legislation have gained considerable amount of attention in recent past, with the recognition that, whistleblowing with all its associated features has become one of the important key features of the accountability infrastructure in modern organizations, which has the potential for being advocacy for organizational integrity and a key feature in risk management process and, can form one of the key features of special safeguarding mechanisms against corporate greed. Despite the recent report by DLA Piper's Employment Group that ranked South Africa's whistle-blowing system at par with the laws in the US, UK and China, this paper contends that there is still a long way in ensuring that whistleblowing becomes an integral part of the organizational culture, both public and private. The paper will allude to different interpretation of the notion of whistleblowing and its resultant consequences, a critical analysis of the respective legislations promulgated to promote whistleblowing and protect whistle-blowers as it pertains to South Africa. The analysis will be restricted to the three pieces of legislation indicated above, in addition to other published reports. This will be concluded by outlining aspects that may be considered by decision/policy-makers in making whistleblowing an acceptable and well-lived practice to enhance good business practices in a globalized economy.
