

WHISTLEBLOWING: THE NEED FOR A FRAMEWORK IN KENYA

Presentation by:

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OUTLINE



UNDERSTANDING WHISTLEBLOWING

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5. CONCLUSION

1 SEPTEMBER 2014



Kenya: Blowing the Whistle

Tagged: Corruption • East Africa • Governance • Kenya

By Jessica Hatcher

John Githongo--Kenya's most famous whistleblower--does not mince his words: "We're paying the price of corruption in blood."

Mr Githongo, once the east African country's anti-corruption czar and now the head of a grassroots governance group, is referring to Kenya's recent security disasters: the deadly raids in June and July on villages along the Indian Ocean coast and the attack in September 2013 on the Westgate shopping mall in Nairobi, the capital. Although this violence is blamed on Somali militants, the Shabab, the country's inability to protect itself is directly related to corruption. Mr Githongo says.

The True Story of David Munyakei: Goldenberg Whistleblower

by Billy Kahora

*** * * * 3.53 · F- Rating details · 15 Ratings · 4 Reviews

In April 1992, David Sadera Munyakei, a newly employed clerk at the Central Bank of Kenya started noticing irregularities in the export compensation claims he was processing. On July 31st 2006, Kenya's biggest whistleblower passed away in rural obscurity, 14 years after exposing the Goldenberg scandal, Kenya's biggest economic scandal to date, estimated at over USD 1 billi ...more

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25 FEBRUARY 2006

Kenya: Githongo Tapes: How to Get It On Record

Tagged: Corruption • East Africa • Kenya

By Lucas Barasa

Nairobi — With so many disguised surveillance gadgets on sale, documenting voices of ministers or other people has been made as easy as pie, thanks to advances in digital technologyA new word is gaining currency in everyday Kenyan speech. The word is "Githongoring". And according to Mr Maina Kiai, the director of the Kenya National Commission on Human Rights (KNCHR), "it denotes the tape recording of unassailable information."

The word was coined in the wake of the shocking revelations captured on tape by former Ethics and Governance permanent secretary John Githongo, who is now self-exiled in Britain.

Whistleblowing- introduction



Key questions?

- □Why do some observers of organizational misconduct choose to report it and others ignore it altogether?
- □What incentivizes whistleblowers to risk their careers and reputations in the name of reporting wrongdoing?

(Think of David Munyakei revealing the Goldenberg scandal & John Githongo the Anglo-Leasing scandal in the 1990s and 2000s respectively)

Whistleblowing-introduction



Whistleblowing

- ☐ Act of making a disclosure of a malpractice in the public interest
- Organization members who disclose illegal, immoral or illegitimate practices under the control of their employer to persons/organizations who may be able to effect action
- ☐ Whistle-blowers call attention to organizational problems; as a result, solutions may follow

Altruism vs Conscience Cleansing?



Conscience Cleansing

- ☐ Whistleblowers disclose because they fear living with a corrupted selfmore than they dread the other outcomes.
- Agent will not comply unquestioningly with an instruction issued by the principal but will, rather, subject that instruction to **a moral screen**

Altruism

Whistleblowers are motivated purely by altruismô that is, if they act strictly to benefit othersô then they generally will act without regard to repercussions

Characteristics of Effective whistle blowing



- ☐ Whistle blower's credibility
- ☐ Power within the organizational structure
- ☐ Anonymity of the whistle blower
- ✓ Organization members may dismiss the concerns of whistleblowers who aren't willing to ofaceo the target of their accusations
- ✓ If whistleblowers are viewed as credible complainants because of their characteristics, remaining anonymous reduces their credibility,

Main Sources of whistle-blower Protection



Dedicated legislation on whistleblower protection e.g Japanøs Whistleblower Protection Act (WPA), South Africa® Protected Disclosures Act (PDA) A country & Criminal Code for example, the Canadian Criminal Code prohibits retaliation against an employee who provides information about a crime Sectoral laws- anti-corruption laws, competition laws, accounting laws, environmental protection laws, employment laws, and company and securities laws Laws regulating public servants - Canadaøs Public Servants Disclosure Protection Act (PSDPA) Public service codes of ethics and conduct - the Australian Public Service Code of Conduct Institutional policies on whistleblowing for instance, Kenya Revenue Authority, Kenya Power Company Ltd among others

Country	Legislation	Mechanisms			
Canada	Public Servants Disclosure Protection Act	 Requires employers in the public sector to establish a code of conduct that provides civil protections for whistle-blowers Each chief executive Officer of an entity must establish internal procedures to manage disclosures. 			
		 internal procedures to manage disclosures Provinces in Canada have enacted Whistleblower Protection laws- Alberta, Manitoba, Ontario 			
South Africa	The Protected Disclosures Act	 Protection of employees who blow the whistle from õoccupational detrimentö by employers when making certain õprotected disclosures 			
United States and South Korea	Dodd-Frank Act- US Act on Protection of Public Interest Whistleblowers- 2011- Korea	 US- Securities and Exchange Commission (SEC) to pay rewards to individuals -Rewards may range from 10% to 30% of the funds recovered Korea ó A CRC may provide whistleblowers with rewards of up to USD 2 million if their report has contributed directly to recovering or increasing revenues or reducing expenditures for public agencies 			

Possible Repercussions of Whistleblowing



Once an institutional member has blown the whistle, management may make two types of actions:

- whether to disregard the claim or take appropriate action, and
- ☐ whether to reward or retaliate against the whistleblower

Possible Consequences

- ☐ Recognition
- ☐ Reward- Monetary/non-monetary
- ☐ õOccupational detrimentö- Dismissal/Demotion/Transfer
- ☐ Harassment
- ☐ Some leave jobs voluntarily
- ☐ Loss of lives in other cases



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Bernard Muchere, the auditor who uncovered Health ministry scandal

By Standard Team | Published Mon, October 31st 2016 at 00:00, Updated October 31st 2016 at 08:41 GMT +3

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Health ministry scandal whistle blower transferred

By Rawlings Otieno | Published Fri, December 9th 2016 at 00:00, Updated December 8th 2016 at 22:32 GMT •3

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Health PS Muraguri wanted auditor transferred over reports

By citizen For Citizen Digital Published on 2 November 2016

Even as NYS revelations unravelled, more intrigues on the scandal at the ministry of health are emerging. It turns out that health PS Dr. Nicholas Muraguri unsuccessfully tried to have the auditor who first unearthed the alleged scam transferred. The PS accused the internal auditor, Bernard Muchere, of poisoning the ministry's relationship with donors through his audits. Muchere was at the EACC today where he was questioned over his report.

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Technology and whistle-blower Protection- new frontier?



- □ New technologies, the evolution of internet and innovations in the new media and social media
- ☐ Remember Wikileaks/Julian Assange?
- □ Other anonymous reporting sites- OpenLeaks.org, BrusselsLeaks.com, AJTransparency.com, GlobaLeaks.com
- □ Recent case- The Panama Papers leak of data into shadowy dealings involving politicians, FIFA officials, fraudsters, drug smugglers, to celebrities among

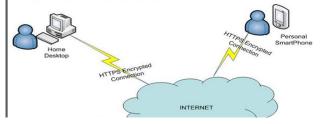
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Brussels Leaks



About

Brussels - the European Capital and the place where decisions are made which impact the globe.

Many of these decisions happen behind closed doors and we have been working to make it more transparent for many years, lournalists, activists and communications professionals have now come together to form Brussels Leaks, a place to centralise intelligence gathered on the inner-workings of the EU.

We are asking for more support: if you work for a corporation, consultancy, institution or NGO and want to release some information in a completely secure - and anonymous, if prefered - way, contact us now. We are trustworthy, reliable professionals with excellent Brussels contacts. We work to make sure the information gathered is 100% reliable and correct, and only then do we act on it.

We have the network and experience to make sure the right thing is done.

Find out more or contact us now if you have information or can help.

Want to know more about why Brussels is so important? We're busy so we have taken the below from wikipedia:



The more political influence the European Union gains on a global level, and the more policy areas it covers, the more interesting it becomes for lobbyists. With its enlargement in 2004 this development has taken a further step, bringing in not only a lot more players and stakeholders but also a wide range of different political cultures and traditions.

Currently around 15,000 Brussels-based lobbyists (consultants, lawyers, associations, corporations, NGOs etc.) seek to influence the EU's legislative process. Some 2,600 special interest groups have a permanent office in Brussels. Their distribution is roughly as follows: European trade federations

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Julian Assange: the whistleblower

Julian Assange, founder of WikiLeaks, may just represent the future of news reporting, but he's not a journalist

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Panic of Panama Papers-style revelations follows Bermuda law firm hack

Cue incredibly wealthy people calling their PRs

By John Leyden 25 Oct 2017 at 12:00



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A major offshore law firm admitted it had been hacked on Tuesday, prompting fears of a Panama Papers-style exposé into the tax affairs of the super rich.

UK's Cameron releases tax records to calm Panama Papers storm

Estelle Shirbon, Paul Sandle

5 MIN READ



 LONDON (Reuters) - British Prime Minister David Cameron took the unusual step on Sunday of publishing his tax records to try to end days of questions about his personal wealth raised by the mention of his late father's offshore fund in the Panama Papers.





A Boeing Co. 787 Dreamliner undergoes fatigue testing on the structural airframe at its Everett, Washington, site.

Boeing Co.'s stock was grounded Thursday after bad news about a potential Securities and Exchange Commission investigation of its accounting. But this isn't the first time the aircraft manufacturer and government contractor has faced a regulatory investigation and whistleblower allegations of manipulation in the way it accounts for costs and projected sales of its aircraft and parts.

Bloomberg reported on Thursday that the SEC is looking at Boeing BA, +0.89% as a result of whistleblower accusations that it manipulated the program accounting for production of the 787 Dreamliner and 747 jumbo jets. Program accounting, which

Features of Effective whistleblower Protection



□Clear	definition	&	scope	of	whistleblower		
protect	ion						
□ Mecha	nism for pro	otecti	ion				
Report	ting Procedu	res					
□Enforcement mechanisms							
□Aware	ness raising	and	evaluation	n me	chanisms		
□Rewai	rd scheme?						
□Deteri	rent for snit	ches	/witch-hr	int?	????		

7 Richest Snitches: Time to Rat Out Your Boss?

By ALAN FARNHAM · Sept. 17, 2012



WATCH Whistleblower Pilot Goes Public









Have any other blowers cashed in big?

Yes, says Stephen M. Kohn, author of "The Whistleblower's Handbook," a how-to guide. The book describes the government's major whistleblower programs and lists the many kinds of fraud that qualify for rewards—everything from "altering expert certificates to avoid paying a fee" to the "sale of adulterated drugs."

Kohn, who runs the National Whistleblowers Center, says another big reward was the \$96 million paid in July to Cheryl Eckard, a former employee of drug maker Glaxo Smith Kline, who fingered faults in manufacturing at one of Glaxo's plants. For other big rewards, see the list below

Accountants as whistleblowers



Areas where professional accountants can whistle-blow:

- ☐ Fraud
- ☐ Outright theft
- ☐ Bribery
- ☐ Tax offences & malpractices
- ☐ Market abuse or
- ☐ Breaches of the Anti-Money Laundering Regulations among other such vices.

Thank You!

