

Civil servants' responses on whistleblowing towards better governance

Las respuestas de los funcionarios públicos sobre la presentación de denuncias hacia una mejor gobernabilidad

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ABSTRACT

This study investigates the civil servants's view on the issues of whistleblowing in Malaysia. This study outlines the background of the study by explaining the situation related to fraudulent activities in Malaysia. This leads to the suggestion that whistleblowing is in need as an internal control system to reduce the fraud cases. This study discusses the meaning and definition of whistleblowing and the advantages of the implementation of whistleblowing. Focus group discussion was conducted by dividing the respondents into two teams. Each group comprised of a balanced combination of participants. An investigation officer headed each group. The findings and discussion will not only be discussing the issues on the whistleblowing based on the focus group discussion but it will also examine whether the findings is consistent within the context of other researches.

Keywords: Whistleblowing, Governance, Public Sector.

RESUMEN

Este estudio investiga la opinión de los funcionarios públicos sobre los problemas de denuncia de irregularidades en Malasia. Este estudio describe los antecedentes del estudio explicando la situación relacionada con actividades fraudulentas en Malasia. Esto lleva a la sugerencia de que se necesitan denuncias como un sistema de control interno para reducir los casos de fraude. Este estudio analiza el significado y la definición de la denuncia de irregularidades y las ventajas de la implementación de la denuncia de irregularidades. La discusión de los grupos focales se llevó a cabo dividiendo a los encuestados en dos equipos. Cada grupo constaba de una combinación equilibrada de participantes. Un oficial de investigación encabezó cada grupo. Los hallazgos y la discusión no solo discutirán los temas sobre la denuncia de irregularidades en base a la discusión del grupo focal, sino que también examinarán si los hallazgos son consistentes dentro del contexto de otras investigaciones.

Palabras clave: Denuncias, Gobernanza, Sector Público.

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1. INTRODUCTION

There is a risk of the occurrence of misappropriation of assets in local government authorities in Malaysia and it should not be ignored.¹ Malaysian local authorities are facing increasing numbers of fraud cases including corruption, bribery and misappropriation of assets. Problems actually exist in the public sector entities and not only in the private sector entities.² Recent alleged problems include kickbacks, payoffs, bribery, embezzlement and collusive bidding. The misappropriation of assets could significantly affect the finance of the local authorities. Future misappropriation could be stopped if strict internal control is to be implemented within the public sector entities.

Whistleblowing is one of the mechanism for internal control system.³ Whistleblowing should be adopted by both public sector and private sector entities to achieve good corporate governance practices. University's graduates should be prepared to face challenges in the accounting profession and this could be done by instilling strong ethical sense and critical thinking skill.⁴ This is essential to prepare them to be able to make appropriate judgement on questionable situation and time that requires whistleblowing.

Whistleblowing as an internal control system is seen as a solution to reduce or may eradicate the misappropriation of assets. Both public sector and private sector entities are encouraged to develop whistleblowing policies because it is an indicator of strong internal control system.⁵ Whistleblowing protects society from any corporate behaviour that could result from companies' irresponsible action.⁶ There is a low possibility that employees will blow the whistle if they do not have any knowledge on whistleblowing. Some of them might have a certain level of knowledge and understanding on what whistleblowing is, however, they might be reluctant to whistleblow because they might be afraid that they are not well-protected.

Whistleblowing is connected to the National Key Result Area (NKRA).⁷ The economy of the country must be stable in order to obtain the status of a developed country. The country needs to have the trust from foreign investors to achieve economic stability. Therefore, it is crucial to have a respectable reputation in the eyes of those investors. NKRA Against Corruption is tasked to look into the matter and to ensure clean and transparent business in the public sector and private sector entities. Hence, eventually the whistleblowing is in need to achieve NKRA Against Corruption.

However, people are still afraid and refuse to whistleblow.³ The reasons of this resistance to whistleblow should be investigated because the resistance could prevent the success of NKRA Against Corruption. This research suggests to fight the corruption by reinforcing whistleblowing. Therefore, the objective of this paper is to investigate the issues surrounding the whistleblowing in Malaysian public sector entities.

2. LITERATURE REVIEW

Whistleblowing is defined as the disclosure by former or current organisation members of illegal, immoral or illegitimate practices under the control of their employers, to persons or organisations that may be able to affect action.⁸ Besides that, whistleblower is defined as any person who makes a disclosure of improper conduct to the enforcement agency under Section 6.⁹ On the other hand, improper conduct is defined as any conduct which if proved, constitutes a disciplinary offence or a criminal offence.

Whistleblowing involves the act of reporting improper misconduct within an organization to internal or external parties. Whistleblowing is an act of an informant who exposes wrongdoing within an organization with the aim to stop the wrongdoing.⁶ A whistleblower will report the wrongdoing to proper medium and authorities that have the power and are presumed willing to take corrective actions. The wrongdoings include any kind of violation of law, rules and regulation such as fraud and corruption.

If the whistleblowing policies and procedures are implemented successfully in an organisation, it would be a good early warning system to the organisation to eliminate improper conduct before the matter becomes aggravated.³ The purposes of whistleblowing include to expose wrongdoing, to stop wrongdoing, to prevent wrongdoing and to defend one's position.¹⁰ Ultimately, whistleblowing aims to reduce corruption, to save money and to prevent problems associated with the wrongdoing.

Misconduct in an organisation is associated with deteriorating organisational performance and it concerns with the issues that affect the society as a whole. These issues include issues related to public safety and/or purported violation of public trust. Whistleblowing needs to be implemented because wrongdoing may violate the personal and/or corporate financial gain, danger to the public, danger to someone and abuse of authority.¹⁰

Therefore, whistleblowing is a policy implemented to reduce the negative consequences and issues of the misconduct. The whistleblower may provide valuable information that is very helpful in improving organizational performance.⁸ There is an emerging concept of having whistleblowing as public interest reporting.¹¹ Besides that, whistleblowing will promote good corporate governance and accountability in a corporation.⁶

Malaysia is in the journey of becoming a developed country as a high-income nation by 2020, thus the Government has introduced the 6 NKRA as a support. In order to achieve this vision, it is crucial to have stable economy with zero corruption to eventually have the foreign trust to invest in Malaysia. The foreign investment contributes significant effect on the economy of a country. Thus, obtaining this foreign trust is a must. Hence, reinforcing whistleblowing could be seen as one of the way to eliminate fraud in the public sector. Whistleblowing is a crucial method to support the NKRA Against Corruption and eventually to reduce and eradicate fraud in public sector.

Whistleblowing is not as simple as it sounds. Despite the benefits of whistleblowing in detecting and preventing improper conduct, not many are willing to whistleblow on their employers' wrongdoing.³ Their unwillingness might be due to the perception that whistleblowing may result in loss of career, loss of family and social life. Whistleblowers might feel in danger and often whistleblowing requires exceptional courage.

Becoming a whistleblower is still perceived as unacceptable.¹² It appears that whistleblowing on the employers is unacceptable and whistleblowing on a friend is almost inconceivable. Employees would not blow the whistle because they are afraid of reprisals. Many potential whistleblowers are not confident that they will get statutory protection from employment tribunals and the courts under Part IV A Employment Rights Act 1996.¹¹ Besides that, organisation may encourage the internal reporting of concerns about wrongdoing that do not have a public dimension to further its private interest.

Trainee auditors in organisations that have adequate formal structures for whistleblowing have greater confidence that by whistleblowing internally their careers would not be adversely affected. At the same time, trainee auditors showed a reluctance to whistleblow externally. The trainee auditors also expressed little confidence in the protection offered by legislation for whistleblowers.

60% of the respondents in a research indicated that they will not whistleblow regardless realising the act is unethical. Fortunately, 37.6% of the respondents indicated that they will take immediate action by informing the relevant corporate authorities regarding the unethical act.⁴ People are not willing to whistleblow because they are still worried about the lack of protection if they whistleblow. Other than that, the resistance might be due to the perception of others on the whistleblower.

In most cases, the whistleblower may find themselves isolated from the others. Whistleblowing might be very challenging especially in Asian countries where people find loyalty as a very strong trait. Whistleblower might contemplate between acting for the society as a whole or conforming to being loyal to the management and to their corporate leaders. When there is a possibility that necessary action will be taken on the wrongdoers, the percentage of the respondents who were willing to whistleblow has increased to 44%. This shows that the existence of laws, rules and regulations may help build the confidence in the people who intend to whistleblow.

Respondents in a research generally felt that whistleblowing was necessary in cases of fraud, although they were slightly less likely to do it themselves. This might be due to the high costs involved such as a retaliation and the difficulty to find future job in the same profession. Other than that, people are not willing to whistleblow because they believe that no action will be taken, fear of retaliation and loss of the means of livelihood.

Higher level of distributive justice, interactional justice and procedural justice tend to increase the propensity to whistleblow. Distributive justice refers to the perceived fairness of outcomes. Interactional justice focusses on how the employee perceive his interactions with his superior. Procedural justice refers to the perceived fairness of the processes followed to achieve those outcomes. On the other hand, age, gender, seniority, performance evaluation and religiosity do not have a significant effect on decision to whistleblow. However, this is not in line with the previous study which finds that as the trainee auditors progress in their careers they become less reluctant to whistleblow externally.

In order to encourage Malaysian to whistleblow, the Malaysian Parliament has passed Whistleblower Protection Act (WPA) 2010. WPA 2010 intends to combat corruption and other wrongdoings by encouraging and facilitating disclosures of improper conduct in the public and private sector. The purpose of this Act is also to protect persons making those disclosures from unfavourable action, to provide for the matter disclosed to be investigated and dealt with and to provide for the remedies connected therewith.

3. RESEARCH METHODOLOGY

The data of this study is collected by conducting focus group discussion participated by officers of several government department and agencies. Thirty percent of them were from investigation agencies such as police department, custom and company commission. Meanwhile, the remaining participants are representatives of other government departments.

The participants were divided into two focus groups (Group A and B) for interview session. Each group comprised of a balanced combination of participants to provide a good platform for a fruitful discussion. An investigation officer headed each group. The discussion focused on issues related to whistleblowing in Malaysia.

4. FINDINGS AND DISCUSSION

Group A

All members of Group A agreed that whistleblowing is a good system because of its transparency in investigation and enforcement. This is consistent with the previous findings where whistleblowing may provide valuable information that is very helpful in improving organization effectiveness and whistleblowing promotes good corporate governance and accountability in a corporation.

The participants also agreed that people are still reluctant to report the wrongdoing. The reason of this behaviour is they feel it is their top priority to protect themselves. This is in line with previous findings where whistleblowers might not feel secured and they must be brave to blow the whistle.

Besides that, the participants also discovered another reason for such behaviour. The resistance to blow the whistle is due to uncertainty on the bonafide of the case. This is consistent with the principle in dealing with the issue of allegation where a person alleges another person of committing the crime of an offence must prove and bring his witness and evidence so as to support and corroborate his allegation.

From the perspective of accounting practitioners, auditor will report on irregularities but the main function of auditor is not to detect fraud. Hence, report on wrongdoings is still lacking. The risk of not detecting a material misstatement resulting from fraud is higher than from one resulting from error, as fraud may involve collusion, forgery, intentional emission, misrepresentation or the override of internal control.

Group B

All members of Group B agreed that whistleblowing is indeed a very interesting issue because there is an Act constituted and dedicated to protect the whistleblower. Despite the existence of the act, the participants stated that there are few issues that need to be addressed. The actual safety of the whistleblower is one issue and other issue is whether the whistleblower themselves feel protected or not. Besides that, another significant issue needs to be considered is the perception of the public when people whistleblow. This is in line with previous research that found there is a probability the public will isolate a whistleblower.

The participants concluded that the whistleblowing policy implemented in Malaysia is not effective. Although there are few laws that address the issue of whistleblowing, there are sections in the Act that fail to provide adequate protection to whistleblowers and in some cases, discourage whistleblowing.¹⁶ This is consistent with a recent study that indicates most of local authorities in Malaysia are not committed in the fight against fraud including misappropriation of asset because integrity is not included and emphasised in their vision, mission and policy statements and no whistleblowing policy is stated in their official website.

5. CONCLUSION

The level of awareness on whistleblowing in Malaysia is still in premature stage since the law has been enforced since 2010. This is evidence by the findings from the focus group discussion participated by officers of several government department and agencies. Among the barriers in whistleblowing are perception and judgement of public towards whistleblower, uncertainty on the bonafide of the cases, not the duty of auditor to detect fraud and most importantly there is no adequate protection for the whistleblowers.

6. LIMITATION OF THE STUDY

Findings of the study were beneficial to discover the issues on whistleblowing in public sector entities in Malaysia. However, findings of the study cannot be generalized to be made inference upon the whistleblowing in the nation. Participants of this research are civil servants from public sector entities around Klang Valley only. Future research should be conducted in order to gain better understanding on the whistleblowing. To gain such understanding, it is highly recommended to conduct focus group discussion involving representatives from all local authorities and agencies in Malaysia.

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