Breaking the Silence: Efficacy of Whistle Blowing in Public Procurement

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Abstract
Uncovering malpractice in public procurement through whistle blowing often depends on the willingness of those who are aware of or suspecting misconduct to disseminate it. In this conceptual framework, whistle blowing is viewed from three major constructs: self-efficacy, legal protection factors, and effects of whistleblowing. Public procurement is conceptualised as a multi-dimensional construct encompassing public procurement principles in the avenues of transparency, accountability and ethics. This paper proposes a comprehensive conceptual model to understand determinants for efficacy of whistle blowing to disclose existence of malpractices in public procurement.

Key words: Public procurement, whistle blowing, self-efficacy, legal protection
1. Introduction

Undoubtedly, public procurement malpractice has become one of the cancer worms that have eaten deep into the fabrics of the society. It cuts across all levels of public procurement system. Many reasons have been adduced as being responsible for this ugly phenomenon. Despite the fact that public procurement decisions involve a number of government staff organised in the premise of principle of segregation of duties aimed to guarantee collective responsibility and accountability (Basel Committee on Banking Supervision, 2010; OECD, 2005b). Evidence from escalating public procurement scandals reveals that parties to procurement contracts are aware of malpractice problem but fail to disclose information relating to its prevalence instantly (OECD, 2005a; CIMA, 2008).

Uncovering malpractice in public procurement through whistle blowing often depends on the willingness of those who are aware of or suspecting misconduct to disseminate it. Uncovering such misconduct is generally recognized to be of significant value to society and to the integrity of public procurement (OECD, 2007; Gilman, 2005). However, willingness of individuals to declare misconduct is likely to depend on how the system deals with and protects them when they come forth with their allegations. Potential whistle blowers must consider whether allegation will be taken seriously and the information treated confidentially and whether dissemination will provoke retaliation not only from those accused but also from the community at larger.

Judgments of personal efficacy affects propensity of whistle blowing by influencing their choices patterns and emotional reactions, persistence and per-severance when obstacles arise premised on mastery experiences, vicarious experiences, social persuasions, and physiological states. According to Bandura (1989), people’s self-efficacy beliefs determine their level of motivation, as reflected in how much effort they will exert in an endeavor and how long they will persevere in the face of obstacles. Factors favourable to creating an organisational climate conducive to widespread silence include, complex bureaucratic organisational structures in which higher ranked officers less likely to interact with lower-level staff; the belief amongst higher ranked officers that negative feedback from employees is a threat to the organization’s health which, in turn, engenders a belief in subordinates that voicing one’s opinions and concerns is dangerous (Morrison and Milliken, 2000; Henriksen and Dayton, 2006).

Traditional model of public administration rests in important ways on the articulation by Max Weber on the nature of bureaucracy by emphasizing on rule of law, accountability, efficiency, integrity, transparency and segregation of duties (Gajduschek, 2003; Pfiffner, 2004). Public procurement is ruled by primary provisions (laws) and secondary provisions (directives and regulations) within the systems and framework of international obligations,
such as the UNCITRAL Model Law, World Trade Organisation’s Agreement on Government Procurement or the Procurement Directives made under regional agreements such as the European Union or the North America Free Trade Agreement (Agaba and Shipman, 2007). As well, that is why public procurement system is nested in structure of systems and rules basing on structures of collective decisions and constitutional rules promoting concerns of numerous actors and stakeholders in a complex decision-making environment.

State of individual’s silence and whistle blowing practice on information disclosure in public sector are rested on aspects of truthfulness and confidentiality. Confidentiality protects the privacy of information received in professional relationships (Donner, et al., 2008). Breaches of confidentiality lead to the perception of psychologists as less trustworthy (Merluzzi and Brischetto, 1983), though, vice versa is also true. So as, a breach of confidentiality through whistle blowing on incidence of malpractices, to public is a logical extension of an employee’s duty of loyalty. However, studies, theories and models used to explain information disclosure conflict each other. Theoretical conflicts on information disclosure is vividly postulated by Deontology theory and Complicity theory basing on the level of analysis and metrics used in determining relationship between silence and whistle blowing in public procurement.

2. Theoretical Assumptions of Prior Research

This section contrasts the concept of information disclosure which underlies ethical-based research with alterative views of the decision-making and behaviour of public servants and public audiences by discussing insights from academic disciplines concerned with malpractices in public procurement, particularly cognitive and social psychology, behavioural economics and critical perspectives. A number of disparate empirical studies and theoretical arguments suggests significant differences exist in terms of information disclosure patterns between public procurement sectarian segments that have either greater or lesser levels of capability to blow the whistle on occurrence of malpractices

2.1 What is Whistle blowing?

Whistle blowing is understood to mean the act of disclosing information on malpractices that need to be corrected or terminated in order to protect public interest (Holtzhausen, 2007). In general, whistle blowing can be viewed as an act of exposing, reporting, revealing, malpractices and misconduct. Whistle blowing is also seen as a source of evidence on the detection of malpractices (Dyrmishi, et al., 2013). In addition, it is viewed as individual’s performance of his or her duty to curb official abuses of entrusted power for private gain.

In this study whistleblowing will be defined basing on modified definition of Jubb (1999) as a deliberate non-obligatory act of disclosure, which gets onto public record and is made by a person who has or had privileged access to data or information of an organisation, about
non-trivial illegality or other wrongdoing whether actual, suspected or anticipated which implicates and is under the control of that procuring entity, to an external entity having potential to rectify the wrongdoing.

2.1.1 Who is a Whistle blower?

A whistle blower is an employee who makes an unauthorised disclosure of information about criminal or malpractices, along channels that are not specified. The term is quintessentially English derived from the practice of police officers blowing their whistles to alert colleagues and the public when they saw a crime committed and needed assistance.

Whistle blowers are generally cast in the literature as brave and courageous individuals, who act to maintain standards against the might of an organisation (Jackson and Raftos 1997), and who do so sometimes at great personal cost (Iliffe 2002). Glazer and Glazer (1989) define the whistle blower as one who (1) acts to prevent harm to others, not him or herself, (2) while possessing evidence that would convince a reasonable person.

In general, whistle blowers desired to correct or terminate a wrongdoing that observed in organisational systems. As part of society’s alarm and self-repair system, whistle blowers are valuable for procuring entities and the society because they call attention to problems before they become more damaging. They are lone voices of reason, morality, and truth who speak out to protect the public from harm.

2.1.2 Public Procurement

Public procurement is the process whereby public sector organisations acquire goods, services and works from third parties which it needs to carry out its functions (OGC, 2008). It includes requirements that support tasks of government ranging from routine items (e.g. stationery, temporary office staff, furniture or printed forms) to complex spend areas (e.g. construction, Public Private Partnership projects, disposal of assets, consultancy and non-consultancy services). According to Rosmawati and Norbahiyah, (2013), public procurement is a big spender of public funds. Therefore, governments must apply highest professional standards when it spends its money on behalf of taxpayers, in order to ensure it gets value for money and to provide appropriate and necessary goods, works and services in a required quality to meet user needs (Lloyd and McCue, 2004).

2.2 Determinants of Whistle-blowing in Public Procurement

Tendencies to ‘blow the whistle’ in public PE is a measure whether a public servant or entity considers whistle blowing as the right thing to do (U.S. Merit Systems Protection Board, 2011; Kelly and Jones, 2013). This study focuses on the overall effect of self-efficacy beliefs and legal framework attributes of willingness to blow the whistle; therefore, this research will not distinguish between internal or external whistle blowing, nor does it differentiate whether the individualism and collectivism is horizontal or vertical. Proposed
research is based on the fact that public procurement is a cross-cutting issue and beneficiaries are entire public.

2.3 Effects of Self-efficacy on Whistle-blowing in Public Procurement

Self-efficacy refers to the cognitive perception of competency and effectiveness in carrying out occupational duties and goals (Bandura, 2009). In gauging efficacy, individuals assess their skills and their capabilities to translate those skills into actions. A strong sense of confidence, may serve stronger effort, and greater perseverance and resiliency in the face of adversity of whistle blowing. In terms of feeling, a low sense of self-efficacy is associated with stress, depression, anxiety, and helplessness (Kumar and Lal, 2006). Self-efficacy influences the effort one puts forth to change risk behaviour and the persistence to continue striving despite barriers and setbacks that may undermine motivation. Self-efficacy is important because individuals with high self-efficacy for a task tend to try harder at the task and experience more positive emotions relating to the task (Bandura, 1997). As exposed by Bandura *ibid.*, there are four sources from which self-efficacy beliefs can be developed: mastery experiences, vicarious experiences, social persuasions, and physiological states.

Self-efficacy beliefs are shaped by enactive mastery experiences through interpretation of one’s performances on particular tasks (Henderson, *et al.*, 2009). While, Vicarious experience can be enhanced through live modeling (observing others perform an activity), or symbolic modeling (Muretta and Wollan, 2008). In business perspective, individuals also develop self-efficacy beliefs as a result of the verbal messages and social persuasions they receive from others (Maddux, 2009). Physiological arousal associated with an action, such as anxiety, stress, fatigue, or other emotions, can also have an effect on individuals’ self-efficacy beliefs and can lower self-efficacy expectations (Zimmerman, 2000).

2.4 Effects of Whistleblowing in Public Procurement

Public Procurement is currently a worldwide discipline. The World Bank (2009) indicates that many countries are yet to develop procedural frameworks that ensure: public procurement procedures are transparent and promote fair and equal treatment; public resources linked to public procurement are used in accordance with intended purposes; procurement officials’ behaviour and professionalism are in line with the public purposes of their organisation and systems are in place to challenge public procurement decisions, ensure transparency, ethics accountability and so as to promote public scrutiny.

Malpractices and other irregularities in public procurement thrive on secrecy. Transparency, accountability and ethics have been recognised as key conditions for promoting efficiency and preventing malpractices in public procurement (Abebe, 2012). However, they must be balanced with other influential imperatives, reconcile the tension
between the public’s demand for both increased transparency in government and improved protection of individual privacy - or providing guarantees for whistle blowing.

There is also a need to reconcile the tension between the public’s demand for increased transparency, accountability and ethics in government and improved protection of individual privacy. Again, there is related clash between demand for openness and government’s need and desire for secrecy. While good governance is condemning the culture of secrecy in government, Procurement and Supplies Professionals and Technicians Code of Ethics and Conduct 2009 has warned to comply with confidentiality and protection of information.

In order to ensure overall efficiency, the challenge for decision makers is to define an appropriate degree of transparency, accountability and ethics to reduce risks to whistleblowing in public procurement while pursuing other aims of public procurement. However, the role and effects of whistle blowing differ from country to country and from institution to institution.

3. Conceptual Propositions

The contradictions and gaps in existing theories, laws, policies, procedures and governance structures as shown in statement of problem, theoretical and empirical literature reviews are likely to prohibit public procurement servants in public institutions to demonstrate their efficacy on whistleblowing so as to ensure transparency, accountability and ethics in public procurement.

Importance of public procurement can also be seen in terms of the size of expenditure relative to national budget and GDP or magnitude of government purchases. Indeed, in all countries in the world, estimates of the financial activities of government procurement managers are believed to be in the order of 10% -30 % of GNP (Callender and Mathews, 2000). And in 2011, Gross World Product was $70.28 trillion, out of this; global total fraud loss is more than $3.5 trillion while loss recovery is less than 16% (Global Fraud Study, 2012). However, local business community had complained that inefficiencies caused by malpractices in public procurement contribute to an unsuitable business environment (African Development Bank, 2014).

Notably, whistle blowing is derived from factual of a 2004 study by the Association of Certified Fraud Examiners (ACFE) of U.S. organisations which reported that organizations without proper mechanisms for reporting fraud and unethical behaviour suffered fraud-related losses that were almost twice as high as those with such mechanisms. According to Global Fraud Study (2012) about 43.3% of frauds are initially detected through whistleblowing (tips), compared to 14.6% by management review, 14.4% by internal audit, 7.0% by accident, 4.8% by account reconciliation, 4.1% by document examination, 3.3% by external audit,
3.0% notified by police, 1.9% by surveillance/monitoring, 1.5% by confession, 1.1% by IT controls, and 1.1% by others methods.

Mawanga (2014) purported that many employees in public institutions witness illegal or unlawful acts and are aware that when they blow the whistle their acts could possibly be disregarded; appropriately addressed or led to retaliation. This state of affairs had been exacerbated by the fact that the procurement system was manned by junior officers, who were powerless to correct and expose any anomalies, and could easily be manipulated by their seniors and powerful politicians (African Development Bank, 2014). Moreover, many simply act as rubber stamps for decisions taken outside the board (Charles and Oludele, 2003). Therefore, based on the above discussion, it is proposed therefore that:

Proposition 1: Efficacy of whistle blowing will have effect on malpractices in public procurement.

Tanzanian citizen’s right to obtain and impart information is derived from the Constitution of United Republic of Tanzania. Article 18 of the Constitution of United Republic of Tanzania states that “every person has the right to freedom of opinion and expression, and to seek, receive and impart or disseminate information and ideas through any media regardless of national frontiers, and also has the right of freedom from interference with his communications”. Conversely, the Public Service Act (Act No. 8 of 2002, Cap. 298) prohibits disclosure of information by public servants and members of the Public Service Commission to unauthorised person. Section 18 (3) compels that provisions of the National Security Act should apply in relation to that offence. Both the person disclosing information and the person receiving information are criminally liable for an offence under Section 18 (1) and (2) of the Public Service Act. This is a cornerstone for efficacy of whistle blowing in public procurement to break the silence on existence of malpractices in public sector. Preceding argument suggests the following propositions:

Proposition 2: Self-efficacy beliefs will have effect on efficiency of whistle blowing in public procurement.

As such there is likely to be a greater difference in specific level of self-efficacy to be adopted when reflecting on mastery experiences, vicarious experiences, social persuasions, and physiological states in whistle blowing (MacNab and Worthley, 2007; Luthans and Youssef, 2007). Despite of an extensive review of the literature, no formal operationalisation of all dimensions of self-efficacy and whistle blowing was found adequately detailed for purpose of the study. Thus, the following secondary propositions emerge:

Proposition 2a: Performance accomplishments associated with self-efficacy beliefs will have effect on influence on efficiency of whistle blowing in public procurement.
Proposition 2b: Higher degree of threats from authoritative associated with self-efficacy beliefs will have effect on influence on efficiency of whistle blowing in public procurement.

Proposition 2c: Higher degree of verbal persuasion associated with self-efficacy beliefs will have effect on influence on efficiency of whistle blowing in public procurement.

Proposition 2d: Higher degree of emotional and physiological states associated with self-efficacy beliefs will have effect on influence on efficiency of whistle blowing in public procurement.

Whistle-blowing acts as early and timely detection, warning and intervention against illegality or immorality, violations of ethical standards of conduct that threaten public property or funds thereby minimising chances of malpractices and eventually loss (Martin, 2008; Fletcher et al., 1998). Therefore, motivations of most whistle blowers are honourable and praiseworthy. But in a different perception, a traditional view of whistle blowers is that they are troublemakers who deserve to be punished for disloyalty (Lewis, 2006). In this manner, whistle blowers can cause privacy to be invaded, confidentiality violated, and trust undermined. Moreover, cautiously, one must bear in mind that whistle blowers are only human beings, not saints, and they sometimes have their own self-serving agenda (Glazer and Glazer 1989). Therefore, the following proposition surfaced from above literatures:

Proposition 3: Legal protection factors will have influence on efficiency of whistle blowing in public procurement.

In addition, studies exploring issues related to legal protection in whistle blowing often underline specific function of information disclosure. In legal protection, propensity of whistle blowers, to blow the whistle depends on existence of ethical dilemma, administrative secrecy, information leaks and retaliation (Mbatha, 2005; Vandekerckhove, 2006; Holtzhausen, 2007). From above discussion, the following secondary propositions are developed:

Proposition 3a: Higher degree of ethical dilemma associated with legal protection will have effect on influence on efficiency of whistle blowing in public procurement;

Proposition 3b: Higher degree of administrative secrecy associated with legal protection will have effect on influence on efficiency of whistle blowing in public procurement;

Proposition 3c: Higher degree of information leaks associated with legal protection will have effect on influence on efficiency of whistle blowing in public procurement;

Proposition 3d: Higher degree of retaliation associated with legal protection will have effect on influence on efficiency of whistle blowing in public procurement;

To maintain confidentiality in the face of social or legal demands and strategies on demands for information disclosure need to be analysed because of conflicting perspectives of two theories. In this assertion, public procurement decisions involve a number of government
staff organised in the premise of principle of segregation of duties and thereby have a great chance of sensing or evidencing information on illegal, illegitimate or immoral conduct (IFAC, 2001; Australian National Audit Office, 2007). Complicity theory justifies application of whistle blowing on information disclosure (Davis, 1996). A leaker or whistleblower, in any circumstances, assumes a very precarious moral attitude by taking a position of judgment of a serious wrong-doing, a moral misconduct. While, in a different perspective, Deontology theory under the concept of confidentiality upholds maintaining of secret and information disclosure is a serious misconduct. Based on the above discussion, it is therefore conceptualised that:

**Proposition 4: Whistleblowing will have significant effects on the occurrence of malpractices in public procurement**

The above discussion so far assumes that public servants engage in a conscious, deliberative, rational decision making process when acquiring public requirements in the domain of separation of duties (Roberts, 2004; Feldman and Khademian, 2007). It is important to note at this stage that studies’ pertaining to public servants’ attitudes towards confidentiality of information as well as information disclosure scenarios invites three categories of public procurement principles - transparency, accountability and ethics (UNOPS, 2012; Menzel, 2012). From above arguments, the following secondary propositions emerge:

**Proposition 4a: Transparency will have influence on efficiency of whistle blowing in public procurement;**

**Proposition 4b: Accountability will have influence on efficiency of whistle blowing in public procurement;**

**Proposition 4c: Ethics will have influence on efficiency of whistle blowing in public procurement.**

4. Discussion

This conceptual paper should be seen as a preliminary attempt at addressing an issue that has significant implications for public procurement theory and practice. Empirical testing of the conceptual model and propositions that have been put forward should follow. However, based on this preliminary conceptualisation of the process of whistle blowing, a number of implications seem relevant.

This article provides a conceptual foundation for further theoretical and empirical research in emerging area of whistleblowing. Three specific prepositions and a general preposition of whistleblowing serve as a basis for the further exploration of whistleblowing.

Each of specific prepositions generates a specific set of research questions to facilitate specification and/or refinement of the conceptual domain and/or general definition of
whistleblowing. Research questions derived from first specific preposition focus on exploring the fundamental nature of self-efficacy beliefs across contexts. Research questions generated from second specific preposition focus on developing a deeper understanding role of whistleblowing in legal protection factors influencing whistle blowing in public procurement. Further, the research questions derived from third specific preposition focus on nature of conceptual relationships to identify effects of whistleblowing in public procurement.

5. Conclusion

This paper proposed a comprehensive conceptual model to understand determinants for efficacy of whistle blowing in public procurement. Whistle blowing is viewed from three major constructs: self-efficacy, legal protection factors, and effects of whistleblowing. Public procurement is conceptualised as a multi-dimensional construct encompassing public procurement principles in the avenues of transparency, accountability and ethics. In order to understanding and explain how all these variables are interrelated, insights of complicity theory, cognitive dissonance theory and public choice theory will be applied. A series of propositions that summarize conceptualised relationships will be presented. This model will broaden debate concerning the continuing tendency of law makers to use rather simplistic and substantially flawed measures of information disclosure.

Initial contribution of this paper is to come up with a model that conciliate whistleblowing and public procurement and theorise about effects on malpractices. Most studies literature in whistle blowing public sector investigates only part of these two forms in diverse, but not interrelated. This paper attempted to organise previous studies into a coherent framework that include forms of whistle blowing in public procurement. Additional contribution is to propose a model that takes into account major anteceadents of whistle blowing and its effects on malpractices in public procurement. By doing this, some of already established variables existent in whistle blowing theory to public procurement literature are interconnected. Finally, this paper discusses and theorises about factors influencing self-efficacy and legal protection, a critical issue for studies in public procurement and supply chain management, since they carry off more theory building approach.

This paper presents some limitations and opportunities for future research. Preliminarily, as a conceptual work, this paper has to be subject to empirical scrutiny in order to verify whether propositions presented here hold in practice. Basically, future research could collect empirical data from different public procuring entities to test validity of this model. Moreover, because proposed research model is a first step to understand the determinants for efficacy of whistle blowing in public procurement, it is not exhaustive and some variables and relationships is not included in it. Consequently, future studies could contribute to literature by proposing new variables as well as new relationships not previously discussed. Finally,
proposed research model is limited to public sector and presented propositions may not hold in the case of private sector. It is suggested that other scholars to use this proposed framework as a initial step toward the construction of a theoretical model to better understand how whistle blowing and supply chain performance can also have an impact on malpractices to supply chain partners. That is, proposed model can be used as a basis for development of other models that employ some of insights and ideas to identify malpractices of supply chain partners.

References


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