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# Protection for whistleblowers: based on the Whistleblower Protection Act 2010 (Act711)

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Whistleblowing is considered as one of the best ways to discover corruption and other organizational misconducts. In western countries like U.S, around 46% of fraud cases were discovered due to whistleblowers (Wan Jan,2017). Whistleblowing is defined as “the disclosure by organization members of an employer’s illegal, immoral, or illegitimate practices that are under control of their employers to persons or organizations who may be able to effect action” (Near & Miceli, 1985, p. 4). Therefore, whistleblowers are persons who are aware of such practices and internally report the practices to upper management or externally disclose the practices to regulators or media (Moy, 2018).

Despite the effectiveness in revealing misconducts in organizations, it is also important to note the negative consequences faced by whistleblowers. They may be subject to retaliation such as intimidation, harassment, dismissal or violence by their fellow colleagues or superiors. As a result, providing protection to whistleblowers is an essential policy that need to be implemented. In Malaysia, the Whistleblower Protection Act 2010 governs the legal aspects in giving protection to whistleblowers.

Nevertheless, the Malaysian whistleblowing law (Whistleblower Protection Act 2010) has been extremely criticised due to several weaknesses, particularly in relation to the three main areas i.e. protection for whistleblowers, independence of the Act and whistleblowing mechanism ( Leong, 2017; Wan Jan, 2017). Of these areas, protections for whistleblower is the most debatable topic among academicians and professionals.

Under the Act 2010, whistleblowers who expose corrupt practices in public and private sectors are promised confidentiality and immunity from criminal and civil charges. Meaning that, their identity and reports provided will be confidentially kept and they are safeguarded from any civil, criminal or disciplinary action due to their decision to whistleblow. However, Leong (2017) and Wan Jan (2017) argue that protections for whistleblowers is only conferred to whistleblowers who disclose the wrongdoings to the enforcement agency. Thus, those who whistleblow to a non-enforcement agency will not be protected. Hence, Wan Jan (2017) suggests that whistleblowers should also be protected if they whistleblow to third parties such as lawyers, employers or civil society. He argued that, considering the immense level of stress faced by the whistleblowers, they may be more comfortable to report things to their lawyers compared to a public authority. In addition, current protection appears to be in contrary

to whistleblower protection practices in other countries. In other countries, whistleblowers are free to report the misconduct in the public domain as long as the reporting is done based on good faith.

Most importantly, the protections for whistleblowers based on our Whistleblower Protection Act 2010 (Act 711) is not enough to encourage whistleblowing actions (Loi, 2019). In fact, the OECD 2009 Anti-Bribery Recommendation urges that countries must ensure appropriate measures are in place to protect whistleblowers especially from discriminatory or disciplinary actions and thus, will create public trust in the government (Loi, 2019).

### References

- Leong, C. (2017). A critical look into the Whistleblower Protection Act 2010, Retrieved from <http://ideas.org.my/wp-content/uploads/2017/03/PI36-Whistleblower-Protection.pdf>
- Loi, K. M. (2019). Whistle-blowers need protection, *New Straits Times*. Retrieved from <https://www.nst.com.my/opinion/letters/2019>
- Moy, G. G. (2018). The role of whistleblowers in protecting the safety and integrity of the food supply. *Nature Partner Journals*, 8.
- Near, J. P., & Miceli, M. P. (1985). Organizational dissidence: The case of whistleblowing. *Journal of Business Ethics*, 4, 1-16.
- Wan Jan, W. S. (2017). IDEAS: Whistleblower law too weak to protect public, *Free Malaysia Today (FMT)*.