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Wa'ed Alshoubaki

Michael Harris

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Striving for Protection: Whistleblowers in Jordan

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Wa'ed Alshoubaki¹  and Michael Harris²

Abstract

Whistleblowers take it upon themselves to protect public goods and resources by blowing the whistle on corruption. Yet, they are at risk of facing retaliation from their employers, as well as of experiencing firing, unfair appraisal, and isolation at work. In this article, we investigate the extent of whistleblower protection in Jordan. We discuss whistleblowers' significant role in reporting wrongdoings and fighting corruption, as well as the price that whistleblowers pay to protect the public interest. In this study, we used the protection analysis approach by identifying the potential risks to which whistleblowers are exposed. Specifically, we used official documents analysis. The results are based on the analysis of Jordanian laws and policies, regional and international conventions, the investigation of whistleblower cases in the media, transparency international reports, and the Jordan Transparency Center. The review of spoken whistleblower cases revealed that legal policies stipulate protection; still, whistleblowers in Jordan face retaliation. We recommend considering judicial review to close the loopholes and to include protection principles into the rules of organizations' procedures to provide better guarantees for protecting whistleblowers in Jordan.

Keywords

whistleblowers, Jordan, protection analysis, public administration and public policy, political science, social sciences, anti-corruption, document review

Striving for Protection: Whistleblowers in Jordan

Whistleblowers disclose information concerning corrupt acts and wrongdoings in their current or former organizations. Whistleblowing entails the reporting of illegal, irregular, dangerous, and unethical employer practices (International Labour Organization, 2005). Present or former employees blow the whistle due to having reasonable evidence of wrongdoings that affect the public interest (Lennane, 2012). The term “whistleblowing” was first used in 1963 in reference to the exposure of Otto Otepka, who provided classified documents about the risk of the United States administration at that time to the chief counsel of the Senate Subcommittee on Internal Security (Hersh, 2002). To better understand the whistleblowing concept, Jubb (1999) identified the main elements of the whistleblowing process: the intentional disclosure of information; a person with previous or present access to the related information; information about the wrongdoing and breach of law; a target, which is the organization that committed the wrongdoing; an entity that receives the report and has the authority and power to correct the misconduct; and the outcome, which is disclosure admittance. The whistleblowing process involves “discovery, evaluation, and deciding whether or not to blow the whistle, as well as some

type of reaction to the whistleblowing and an evaluation of the reaction” (Bjørkelo et al., 2011, p. 208).

Whistleblowers take it upon themselves to protect public goods and resources by blowing the whistle on corruption. However, they are at risk of facing retaliation from their employers, as well as of experiencing firing, unfair appraisal, and isolation at work. Therefore, their protection is essential for ensuring the revelation of wrongdoing and for fighting corruption. Countries have enacted several laws to fight corruption and to protect whistleblowers in an effort to encourage the reporting of corrupt practices. At the national level, policy makers have developed special laws and policies to protect whistleblowers or to incorporate the protection of whistleblowers and witnesses into anticorruption laws and policies. At the international level, whistleblowing is recognized as an effective instrument for curtailing corruption (Chordiya et al., 2020). For instance, the United Nations Convention against Corruption, the OECD Convention on

¹The University of Jordan, Amman, Jordan

²Tennessee State University, Nashville, USA

Corresponding Author:

Wa'ed Alshoubaki, The University of Jordan, Queen Rania Street, Amman 11942, Jordan.

Email: w.alshoubaki@ju.edu.jo



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Combating Bribery, African Union Convention on Preventing and Combating Corruption, and other international means promote accountability, integrity, and transparency.

In this context, Jordan, as a Middle Eastern state, witnessed several anticorruption reforms after the Arab Spring in 2011 and institutionalized fighting corruption through laws, policies, and specialized organizations and commissions (Schoeberlein, 2019). Statistically speaking, in the Corruption Perceptions Index, Jordan ranked 49 in 2020. The index ranges from 0 to 100, where 100 is the worst. Jordan, classified as an authoritarian state, is ranked 118 with an overall score of 3.62 in the democracy index (Economist Intelligence Unit, 2021; Transparency International, 2021). According to Freedom House Report (2021), Jordan is not a free state with a score of 34/100. Political rights and civil liberties are recorded at 11/40 and 23/60, respectively. This brings the discussion to whistleblowers' role in fighting corruption in Jordan, as well as the government's role in protecting them and empowering them to blow the whistle in the face of wrongdoings and legal breaches.

Based on this insight, in this article, we investigate Jordan's laws and policies for protecting whistleblowing by answering the following questions: To what extent do Jordan's laws and public policies, particularly anticorruption laws and policies, protect whistleblowers? Also, do whistleblowers in Jordan witness retaliation even in the presence of the legal framework for anti-corruption and whistleblower protection policies? Mainly, it investigated the degree of whistleblower protection in Jordan. It identified whistleblowers as a vulnerable category, which required identifying their vulnerability to revise the legal means and instruments so as to provide better whistleblower undertakings, as whistleblowers play a pivotal role in fighting corruption and in maintaining public goods and resources. In this study, we applied the protection analysis approach through the document analysis technique. The significance of this study is twofold. First, it relooks at the protection of whistleblowers with an emphasis on whistleblowers in Jordan as a category that has not been previously researched in the protection realm. Second, it addresses the protection of whistleblowers as a trending issue especially wherein legal instruments do not provide inclusive protection to all whistleblowers in Jordan.

This article is organized as follows: In the next section, we discuss previous studies concerning the drivers of whistleblowing and the repercussions of this process for whistleblowers. Then, we present our data sources and analysis method. In the fourth section, we describe the results and analysis. Finally, we offer our conclusion and remarks.

Literature Review

Whistleblowing is internationally acknowledged as a significant tool for curtailing corruption. However, a review of previous whistleblower studies and cases showed that

whistleblowers struggle with the consequences of reporting corruption and blowing the whistle due to their employers' illegal and immoral practices given the general notion that silence is golden, even though silence may not necessarily protect them.

Bjørkelo et al. (2011) studied whistleblower experiences among Norwegian employees and asserted that few employees report their employers' wrongdoings. However, they are still capable of making a change and of correcting the reported misbehavior and transgressions. The researchers noted that whistleblowers are required to provide information about the reported misbehavior and transgressions during the whistleblowing process. Norwegian employees believe that the whistleblowing process is not free of risk, and they confirmed that whistleblowers are less satisfied in their work and are exposed to intimidation. Whistleblowers have suffered from retaliation, plain notice, selective downsizing, and subjective job evaluation (Lubalin & Matheson, 1999; Mesmer-Magnus & Viswesvaran, 2005). Practically, whistleblowers undergo exclusions because they are involved in claims of corruption and immoral practices, described as "impossible speech" (Kenny, 2017, p. 1025). Relatedly, whistleblowers face ostracism by their workmates, resignation or dismissal from their job, a lack of support, and victimization by colleagues (Gobert & Punch, 2000; Lennane, 2012).

Qusqas and Kleiner (2001) argued that the vast majority of whistleblowers face difficulty with finding jobs in the public sector because their employers put them on a blacklist, which prevents them from obtaining other opportunities in similar organizations. In addition, most whistleblowers are older, are considered to be disloyal from the employer's point of view, and spend their time and energy on lawsuits arising from their whistleblowing. Moreover, Eisenstadt and Pacella (2018) emphasized that whistleblowers are brutally disadvantaged and experience difficulty with applying for jobs. They pointed out that whistleblowers are exposed to retaliation from their workplaces during the whistleblowing process, as well as job market retaliation when they search for job opportunities after whistleblowing. This occurs because employers label them as suspicious, unfaithful, and not ideal employees.

In his investigation of the fate of whistleblowers in non-profit organizations in the United States, Rothschild (2013) pointed to the significance of whistleblowing in democracy consolidation; however, whistleblowers are threatened by compulsory retirement, firing, and receiving prejudiced performance evaluations. In the same vein, Benkler (2014) confirmed that national security whistleblowers are exposed to legal prosecution or to losing their jobs. Benkler (2014) specified that retaliation against national security whistleblowers suppresses exposure and public accountability. Therefore, steps should be taken to accompany the criminal defense with a private cause of action for the cruel process, as well as to modify the qualified protection of prosecutors and investigators.

In spite of the high price that whistleblowers pay due to reporting their managers' and employers' wrongdoings, the significance of bringing to light illegal and unethical practices encourages whistleblowers to report misconduct and to ensure that their organizations stay on track with their vision and strategies. According to Kumar and Santoro (2017), the act of whistleblowing breaches loyalty, and it negatively affects mutual accountability as well as the other colleagues who disapprove of whistleblowing. However, whistleblowing is critical for strengthening the structure of democracy, protecting national security, and accomplishing public interests.

Furthermore, Delmas (2015) identified three justifications for whistleblowing. When the government hides serious public misconduct and crime or harms public interests, unlawful acquisition should be undertaken after exhausting legal attempts to collect such information. Whistleblowers must ensure no harm by carefully choosing the leak recipient and the method of disseminating information. Mansbach & Bachner (2009) asserted that whistleblowing is aimed at correcting harmful practices and at contesting the cultural injustice implicit in the silent acceptance of such abuses. Moreover, according to Mansbach & Bachner (2009), whistleblowing "is an act that insists on the integrity, or recognition, of the truth-tellers self" (p. 372). Relatedly, according to the report delivered to Nations on Occupational Fraud and Abuse (2020), tips revealed 43% of occupational frauds.

The OECD (2012) pointed out that the lack of whistleblowing actions raises the risk of corruption; hence, whistleblowers should be nurtured and protected to encourage the exposure of illegal and unethical practices and fraud in the public and private sectors. In essence, the protection of whistleblowers enables the reporting of fraud, bribery, the misuse of public funds, and other corruption. The development of a legal framework for protecting whistleblowers would facilitate the detection of rule violations and corrupt practices. International efforts to combat corruption must recognize the significance of whistleblowers in reporting corruption, provide them with protection, and equip them with reporting procedures to facilitate the monitoring of compliance and the addressing of corruption cases.

In conclusion, whistleblowers are the only ones who pay the cost of reporting wrongdoings, but the entire society reaps the benefits of the whistleblowing, including fighting corruption and preserving public resources. Practically speaking, whistleblowers endure retaliation to ensure the general public's welfare. Therefore, the state is responsible for providing legal protection for whistleblowers and for building a conducive environment for their conduct and for deterring misbehavior.

Methods

In this study, we utilized the protection analysis approach to identify the risk patterns that whistleblowers experience in

Jordan by examining laws, public policies, and national and international agreements for protecting whistleblowers and fighting corruption. Broadly, the protection analysis enables researchers and practitioners to identify protection risks (Michele et al., 2021). This approach addresses vulnerable conditions or circumstances surrounding individuals or groups, as well as the threat to these individuals and groups, whether it is violence, coercion, or deliberative deprivation (Michele et al., 2021). Indeed, this approach builds upon international human rights and humanitarian laws. We employed this approach considering whistleblowers' vulnerabilities in a developing country classified as an authoritarian regime with 3.24 out of 10 civil liberties (Economist Intelligence Unit, 2021).

The aim of our investigation was to identify whether Jordan's laws and policies offer legal protection to whistleblowers, and if so, the extent to which these laws and policies are applied. In doing so, we utilized official documents analysis as a systematic technique for studying states' documents and for generating findings based on content analysis in a way that answers the scientific inquiry (Bryman, 2016). Bryman (2016) considered the official state documents to contain a considerable amount of data of interest to social researchers. Moreover, "it produces a great deal of textual material of potential interest such as Act of Parliaments and official reports" (Bryman, 2016, p. 552). Dalglish et al. (2020) argued that analytical social sciences has a historical praxis of document analysis. They asserted that document review is a valuable technique for examining policy content across time, geographic regions, and issues.

We pursued the following document analysis procedures:

Step one. This step, document identification, entails the identifying of Jordanian laws, public policies, and international agreements for fighting corruption, as well as whistleblowers' roles and their protection instruments. This phase involves searching documents to decide the relevant documents for the study inquiry. We assessed the quality of documents based on J. Scott's (1990) criteria for scrutinizing them. Such documents are authentic and meaningful in terms of being clear, comprehensible, and credible. However, to overcome the potential flaw of representativeness, we included whistleblower cases by turning to the media, Transparency International reports, and the Jordan Transparency Center.

Step two. This step involves understanding the content of the collected documents to answer the research questions by identifying whistleblowers' protection procedures in public law, public policy, international convention, and humanitarian reports.

Step three. This step, analyzing and refining data, involves organizing the analysis in a plausible design that enables the researcher to saturate and develop the findings. We analyzed Law No. 13 of 2016, the Integrity and Anticorruption Law; Regulation No. 62 of 2014,

Informants, Witnesses, Informants and Experts in Corruption Cases and Their Relatives and Closely Related Persons Protection Regulation; the Arab Anticorruption Convention (League of Arab States, 2010); and Civil Service Bylaw No. (9) of 2020. To examine the application of these laws, we looked into some whistleblower cases in Jordan. We argue that a lack of political openness to talking about similar issues, as Al-Azzam (2012) described, and the conservative culture make it difficult to find all potential whistleblowers. From another perspective, this could be due to law enforcement's effectiveness in protecting whistleblowers by ensuring anonymity and confidentiality. We examined whistleblower cases in the media, Transparency International reports, and the Jordan Transparency Center. Step four. This step involves writing up the analysis and findings, which provide sufficient answers to the research inquires.

Ultimately, this study offers better insight into the protection of whistleblowers in Jordan. Protection analysis is usually employed to address threatened and vulnerable people, particularly the victims of political, natural, or manmade crises. However, as discussed in the second section, this analysis approach emphasizes that whistleblowers are at risk of retaliation and may be exposed to unspoken threats, especially in developing countries. With that being the case, it is worth considering El Baradei's (2021) discussion by recalling the need for framing the protection of whistleblowers and for ensuring that they avoid sanctions and retaliatory actions against them.

Results and Analysis

The investigation of anticorruption laws and policies in Jordan revealed that the Jordanian Government's Informants, Witnesses, Informants and Experts in Corruption Cases and Their Relatives and Closely Related Persons Protection Regulation is dedicated to protecting whistleblowers. In a comparative context, Whistleblower Protection Act and the United Kingdom's Public Interest Disclosure Act particularly pledge the protection of whistleblowers (The Public Interest Disclosure Act, 1998). Likewise, the Canadian criminal code forbids retaliation against whistleblowers and the witnesses of a crime. Moreover, the sectoral law in Jordan encompasses legal articles designed to protect whistleblowers. To illustrate, Law No. 13 of 2016, the Integrity and Anticorruption Law, addresses the significance of protecting whistleblowers, witnesses, and experts in corruption cases, as well as their families and relatives. According to Article 24, the Integrity and Anticorruption Commission is responsible for providing protection for whistleblowers through protecting them at their places of residence, not disclosing information about their identities, providing them with shelter if needed, and equipping them with modern communication technologies for testifying. Under some circumstances, the Directorate of General Securities and related

bodies intervene to provide sufficient protection for whistleblowers (Informers, Witnesses, Informants, and Experts in Corruption Cases and their relatives and closely related persons Protection Regulation, Regulation No. 62 of 2014); however, the Civil Service Law does not support whistleblowing and does not provide protection for public service employees who engage in such activities.

Additionally, Jordan is a signatory of the Arab Anticorruption Convention and has aimed to incorporate the principles of Article 14 of the convention to protect whistleblowers. Jordan ratified the United Nations Convention against Corruption as an international instrument that includes preventive measures, international cooperation, criminalization, and law enforcement, providing technical assistance and information exchange (United Nations General Assembly, 2003). This convention is aimed at preventing corruption in the public and private sectors, as well as at protecting whistleblowers, witnesses, victims, and experts who participate in the investigation of corruption cases (Articles 30, 31, and 33).

At its core, Jordan has institutionalized the protection of whistleblowers, yet some popular cases inform the degree of vulnerability and harm that whistleblowers suffer, and they indicate that they require more protection against employers' oppression. For instance, in an office of journalists, staff were exposed to an intentional physical attack after publishing a report concerning a corruption case in 2011 (Transparency International, 2015). Another form of retaliation that Jordanian whistleblowers suffered was the demotion of two witnesses of a corruption case, in which the Jordan Phosphate Mines Company transferred the company's fertilizer marketing director and marketing research director to other job positions at the company. The government did not address the case and failed to protect the witnesses against this decision (Transparency International, 2015).

Indeed, Jordanian whistleblowers' vulnerability has been proven between spoken and unspoken victims. This was recently evidenced by the case of an engineer in Jordan's Ministry of Public Works and Housing and the chairman of the Central Tenders Committee, who revealed a corruption case that prevented the loss of around \$56 million. Although the Integrity and Anticorruption Commission issued a protection decision upon the testimony of the case, the government decided not to renew the contract at the end of June 2016. This demonstrates the abuse of power and the poor legal mandates for protecting Jordanian whistleblowers against employers' potential reactions (Jordan Transparency Center, 2016). In keeping with the emphasis on whistleblowers' role in uncovering corruption, the absence of the real protection of whistleblowers will limit the fight against corruption. In particular, the Jordanian government, instead of alleviating the required evidence, drafted an amendment to Law No. 13 of 2016, the Integrity and Anticorruption Law, which will be introduced to the parliament, emphasizing the establishment of strong evidence to report corruption, and holding accountable any

attempt to assassinate a whistleblower's character (Al Saddy, 2020).

Against this backdrop, reconsidering whistleblower protection mechanisms demonstrates that whistleblowers should be protected against retaliation through an all-inclusive protection framework against discrimination or retaliation. The inclusion of protection mechanism encourages the fight against corruption and provides guarantees to whistleblowers who disclose information (OECD, 2012). Moreover, the protection of whistleblowers ensures the waiving of criminal liability due to information disclosure. It is evident in national and international anticorruption laws in Jordan, as well as in the United States and in some other countries, that the assurance of the anonymity of the names and identities of whistleblowers prevents the disclosure of witnesses' and whistleblowers' names, with some exceptions stipulated in the laws (U.S. Whistleblower Protection Act, 1989).

Significantly, the whistleblower protection law should lessen the burden of proof, and the employer should have to prove that procedures undertaken against the employees are unrelated to the whistleblowing that has occurred (OECD, 2012). Whistleblowing protection can be arranged through the provision of extra-contractual fortification against retaliation and exclusion because the benefits to people and society in claiming wrongdoing and its consequences for the public interests deserve such an exceptional protection tool (Moberly, 2008). The Sarbanes–Oxley Act of 2002 not only is aimed at enhancing transparency and fighting corporate corruption but also imposes sanctions and imprisonment against employers who retaliate against whistleblowers and witnesses for disclosing information about criminal and unethical practices. In the context of Jordan, this protection is paramount because it encourages whistleblowers and expands the shelter of protection beyond the protection of their lives and jobs.

Protecting whistleblowers is significant due to whistleblowers' role in fighting wrongdoing and in ensuring a nation's rights and wellbeing. In essence, whistleblowing indicates that people have the ability to speak freely. States must protect this right, as John Locke (1690) stipulated when explaining states' responsibility for protecting natural rights, one of which is liberty. Certainly, whistleblowing is a voluntary action that contributes to democratic values and encourages citizens' participation in correcting wicked conditions in their organizations or in society. In this realm, states must nurture the values of democracy in a way that improves attitudes against whistleblowing. They must view it as a way in which to express an opinion to accomplish what is in the public's best interest.

Conclusion

Whistleblowers disclose information concerning wrongdoing and corruption based on reasonable grounds. Historically,

whistleblowers have suffered from various kinds of retaliation; in essence, the traditional view is that whistleblowers are considered to be troublemakers in organizations (Lewis & Uys, 2007). Alternatively, whistleblowers are active and volunteer to protect public interests by exposing misconduct, the mismanagement and misuse of resources, and other economic crimes. Some countries have developed whistleblower programs to encourage employees to uncover information about corruption. Countries have institutionalized the protection of whistleblowers, but some systems exclude intelligence services and armies, such as the United States of America (Intelligence Community Whistleblower Protection Act 1999). International organizations, including the International Monetary Fund and the World Bank, emphasize their efforts to fight corruption in developing countries and to protect whistleblowers as pioneers in highlighting corruption.

Concerning Jordan, the investigation of whistleblower protection revealed that national laws and policies stipulate the protection of whistleblowers from retaliation, as well as maintaining the privacy of whistleblowers by hiding their names and places of residence. In addition, Jordan ratified an international agreement to fight corruption and to enhance integrity. However, the analysis of spoken cases of whistleblowers in Jordan indicates the violation of the principles of these laws, policies, and conventions. Therefore, it is necessary to ensure better protection for whistleblowers in Jordan in a way that enables them to contribute to fighting corruption, particularly because in Jordan, "corruption is a key national issue in the eyes of the public, which is threatening growth, the national economy overall, and investments to the country" (Schoeberlein, 2019, p. 6).

It is suggested that judicial review should be considered to close the potential loopholes in laws that reduce the protection of whistleblowers. Whistleblower protection should be incorporated into the rules of organizations' procedures, and training courses should be offered on official procedures for whistleblowing and on the means of protecting such reporting. Additionally, previous researchers recommended providing protection through contracts, rewarding whistleblowers, and imposing sanctions for retaliation. Ultimately, labor unions should intervene to protect their whistleblower members throughout the entire process of whistleblowing, including against potential retaliation and employers' revenge.

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ORCID iD

Wa'ed Alshoubaki  <https://orcid.org/0000-0002-2864-5930>

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