



EGYPT WHISTLEBLOWING OVERVIEW

This overview on whistleblowing in Egypt gives first insight into the situation of whistleblowing in the country and aims at being a start of a discussion on improved protection of whistleblowers.

Despite citizen action to demand more justice and good governance over the past two years, corruption in Egypt is still a widespread problem¹. In 2014, it was estimated that 800 billion Egyptian Pounds of the state's budget had been lost to corruption since the revolution². According to transparency international's corruption perceptions index, Egypt was ranked 94 out of 175 countries in 2014. Despite such a situation, the country is yet to introduce laws to ensure comprehensive whistleblowing frameworks across the public, private and civil society sectors, or to ensure the protection of whistle-blowers. The United Nations implementation review group for the convention against corruption (UNCAC) identified the protection gap for whistle-blowers in Egypt as a key issue to be addressed³.

¹ Hamed, E. (January 15, 2015). "Egypt's revolutions have not stopped corruption." *Al Monitor* Retrieved from: www.al-monitor.com/pulse/originals/2015/01/revolution.html#

² Ibid.

³ Implementation Review Group, Egypt, St. Petersburg, 26/5/15, p.2

THE RISKS WHISTLEBLOWERS FACE

A potential whistle-blower in Egypt faces many challenges, in addition to the absence of a protective legal framework. In reporting a case of corruption to public courts, the whistle-blower is confronted with a highly bureaucratic, tedious and lengthy litigation process, which discourages reporting.⁴ In the case of reporting to the media, or media personnel highlighting corruption, potential whistle-blowers and journalists remain subject to being prosecuted as a result of their reporting⁵.

One such example is the arrest of Hossam Bahgat, prominent journalist detained in November 2015 on no other grounds other than his profession.⁶ The media is under close scrutiny and heightened pressure from authorities⁷. This challenge is further evidenced by the number of journalists arrested in 2015, which places Egypt as the country with the second highest number (preceded only by China) of journalists arrested.⁸

Access to information is limited, and consequently are the chances for individuals, journalists, and companies investigate and uncover cases of corruption, with the risks run in denouncing corruption are compounded by the absence of a Freedom of Information Act⁹.

⁴ Ghanem, M. (2015). "The Negative Consequences of the Phenomenon of the Slow Pace of Litigation in Administrative Judiciary in Egypt." *The Macrotheme Review*. 4(1), Retrieved from: http://macrotheme.com/yahoo_site_admin/assets/docs/14MR41EI.802746.pdf

⁵ Mansour, S. (September 2015). "Beyond the pardons, press freedom still under threat in Egypt." *Committee to Protect Journalists*. Retrieved from: <https://cpj.org/blog/2015/09/beyond-the-pardons-press-freedom-still-under-threa.php>

⁶ Human Rights Watch, 'Egypt: Free Journalist Facing Military Prosecution', 9/9/15 Found online at: www.hrw.org/news/2015/11/09/egypt-free-journalist-facing-military-prosecution, accessed on 21/12/15

⁷ Mada Masr. (November 1, 2015) "Sisi criticizes media for coverage of floods in Alexandria during televised speech." Retrieved from: www.madamasr.com/news/sisi-criticizes-media-coverage-floods-alexandria-during-televised-speech

⁸ Beiser, Elana, (December 2015), 'China, Egypt imprison record numbers of journalists', found online at: <https://cpj.org/reports/2015/12/china-egypt-imprison-record-numbers-of-journalists-jail.php>, accessed on 21/12/15

⁹ <http://pomed.org/wp-content/uploads/2015/08/%D9%86%D8%AD%D9%88-%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%AD%D8%B1%D9%8A%D8%A9-%D8%AA%D8%AF%D8%A7%D9%88%D9%84-%D8%A7%D9%84%D9%85%D8%B9%D9%84%D9%88%D9%85%D8%A7%D8%AA-%D9%81%D9%8A-%D9%85%D8%B5%D8%B1.pdf>

CURRENT LEGAL CONTEXT

Egypt became a signatory of the UNCAC in 2003, and ratified it in 2005.¹⁰ Egypt is also a State Party of the African Union Convention on Corruption.¹¹ While no dedicated law exists to regulate whistle-blowing across the public and private sector, a draft Witnesses and Whistleblowers Protection law was proposed in 2013.¹² The proposed law was criticised as it failed “to reflect a true and sincere political will to fight corruption by encouraging and protecting witnesses.”¹³ Currently the National Coordination Committee against Corruption has announced that it will draft a bill to address the protection gap for whistle-blowers.¹⁴ However, expert’s confidence in Egypt’s institutions to deliver meaningful legal protection laws for whistle-blowers is low.¹⁵

Egypt has an array of administrative control and anti-corruption agencies to which citizens may report instances of negligence or misconduct. Public servants may report violations to various organizations, including the Accountability State Authority (ASA; also commonly referred to as Central Audit Organization (CAO)), the Illicit Enrichment Apparatus, and the Administrative Position Authority (APA), among others.¹⁶ Citizens may also report instances of negligence and corruption to organizations like the CAO¹⁷ or ACA¹⁸; the citizen’s National ID and Name must accompany such reports. The ACA also operates a hotline (16100) for citizens to report corruption, fraud and abuse of authority; complaints can be recorded and followed online on the website of the Administrative Control Authority.¹⁹

The situation of the private sector is different. Companies are not mandated to have whistle-blower protection policies and procedures.²⁰ Rather, select companies, primarily those that are large or integrated in global markets include whistle-blower protection clauses in internal policies such as the code of conduct. Examples include Mobinil²¹ and the Commercial International Bank.²² Select companies such as KPMG Hazem Hassan²³ operate whistle-blowing hotlines for employees to report any violations.

Recently, several citizen led initiatives have emerged to monitor and aggregate instances data about instances of negligence or corruption. These include

¹⁰ www.unodc.org/unodc/en/treaties/CAC/signatories.html

¹¹ www.au.int/en/member_states/countryprofiles

¹² Kamal El Din, M. (5 March ,2013). [Publishing the Witnesses and Whistle blower Protection Draft Law]. *Masress*. Retrieved from: <http://www.masress.com/fjp/48719>

¹³ Taha, Rana Muhammad, Witness protection law criticized, Daily News Egypt, 1/6/13, found online at: www.dailynewsegypt.com/2013/06/01/witness-protection-law-criticised/, accessed on 21/12/15

¹⁴ Accountability State Authority ‘The Goal of the strategy, found online at: www.aca.gov.eg/arabic/AntiCorruption/Documents/Strategy.pdf, 2015, accessed on 21/12/15, p.10

¹⁵ Hodge, Jeremy, Manek, Nizar, ‘Sisi and His 40 Thieves’, *Foreign Affairs*, 26/6/15, found online at: www.foreignaffairs.com/articles/egypt/2015-06-26/sisi-and-his-40-thieves, accessed on: 21/12/15

¹⁶ <https://blueprintforreespeech.net/document/egypt-overview>

¹⁷ Accountability State Authority. (n.d.). “Submit a Complaint”. Retrieved from: <https://asa.gov.eg/csq.aspx?pgtype=1>

¹⁸ “Administrative Control Authority”. (n.d.) “Send Complaint.” www.aca.gov.eg/english/Complaints/Pages/SendComplaint.aspx

¹⁹ See the website of the Administrative Control Authority: www.aca.gov.eg/english/Pages/default.aspx (accessed 21 March 2015).

²⁰ <https://blueprintforreespeech.net/document/egypt-overview>

²¹ Mobinil. (2012). “Code of Conduct.” Retrieved from: www.mobinil.com/en/about/careers/documents/codeofconducten-2012.pdf

²² CIB Egypt. (2014). “Code of Conduct.” Retrieved from: www.cibeg.com/English/Documents/Code%20of%20Conduct%20eng%20oct%202014.pdf

²³ KPMG. (2014). “Transparency Report.” Retrieved from: www.kpmg.com/EG/en/about/Documents/Transparency%20Report%202014.pdf

DOES LEGISLATION ALLOW WHISTLEBLOWERS TO REPORT ANONYMOUSLY/IN CONFIDENCE?

There is no specific legislation to regulate whistle blowing practices. Citizens may, however, report issues such as illicit gain, negligence, or legal violations to existing oversight organizations. One of these is the Administrative Control Authority (ACA); while ACA accept such complaints electronically, whistle blowers are required to accompany their complaint with their name and national ID number (www.aca.gov.eg/english/Complaints/Pages/SendComplaint.aspx).

Whistleblowers are often required to submit such identifying information (Blue Print for Free Speech, 2014).

DOES THE LAW PROVIDE SAFEGUARDS AGAINST RETALIATION, INCLUDING HARRASSMENT OR DISMAL) IN THE WORKPLACE?

No specific regulation exists to regulate whistle blowing, and thus no safeguards against corruption or dismissal exist. No such stipulations exist under the law specific to regulating Illicit Gains (62/1975).

“Shayfeencom²⁴” a website dedicated to monitoring elections, also report instances of negligence and legal violations among corporations in the country that are in the interest of the public good. In one instance due to the reporting of citizens on social media channels, the Consumer Protection Authority stalled the production of a specific product.²⁵

INSTITUTIONAL FRAMEWORK

Within the private sector, it is uncommon for companies, and especially small ones, to adopt whistle-blowing policies.²⁶ As for the institutional framework of organizations handling whistle-blower complaints, lengthy and bureaucratic procedures are believed to also demotivate citizens and employees from submitting complaints.²⁷ Moreover, while the head of an organization like the ASA/CAO is highly aware of the importance of whistle-blowing, and the principles of good governance and accountability, such awareness may not be institutionalized across the organization’s hierarchy, or among other public sector organizations.²⁸ This decreases the efficiency of such organizations in performing their role. Moreover, an organization like ASA only has the authority to investigate and inspect instances of corruption, it does not have the authority to prosecute or take follow up actions should it identify instances of misconduct²⁹.

In the case of the general public or media personnel, fear of retaliation and negative consequences also hinder whistle-blowing. It is a well known case that of Khaled Said, who uploaded a video documenting police officers’ acts of corruption³⁰ and was subsequently arrested and beaten to death, and crackdowns such as this continue to dissuade whistle-blowers from denouncing corruption. A current draft law is being discussed, and if ratified would institute government oversight on digital media, severely curtailing one of the last ‘free’ outlets available for whistle-blowers.³¹

DOES THE LAW PROVIDE IMMUNITY FROM PROSECUTION FOR MAKING REPORTS, INCLUDING UNINTENTIONALLY FALSE REPORTS?

According to Article 22 of the law specific to regulating Illicit Gains within the country (62/1975), false Illicit Gain reporters are subject to a 100-500 EGP fine or a minimum 6-month imprisonment duration.

²⁴ www.shayfeencom.org

²⁵ Daily News Egypt. (September 20, 2015). “CPA suspends ‘Beyti Tropicana’ apple juice production.” Retrieved from: www.dailynewsegyp.com/2015/09/20/cpa-suspends-beyti-tropicana-apple-juice-production/

²⁶ Transparency International. (2014). *National Integrity System Analysis*. Retrieved from: www.transparency.org/whatwedo/publication/egypt_2014_national_integrity_system_assessment

²⁷ Business Anti-Corruption Portal. (n.d.). “Public Anti-Corruption Initiatives.” Retrieved from: www.business-anti-corruption.cn/country-profiles/middle-east-north-africa/egypt/initiatives/public-anti-corruption-initiatives.aspx

²⁸ Transparency International. (2014). *National Integrity System Analysis*. Retrieved from: www.transparency.org/whatwedo/publication/egypt_2014_national_integrity_system_assessment

²⁹ Ibid.

³⁰ Renner, R. (June 16, 2010). “Egyptian police kill whistleblower at internet café.” *Whistleblowers Protection Blog*. Retrieved from: www.whistleblowersblog.org/2010/06/articles/news/egyptian-police-kill-whistleblower-at-internet-cafe/

³¹ Hamama, M. (November 4, 2015). “New plans to regulate digital media.” *Mada Masr*. Retrieved from: <http://www.madamasr.com/sections/politics/new-plans-regulate-digital-media>

CONCLUSIONS AND RECOMMENDATIONS

In sum, the absence of regulations and protection mechanisms dilutes the efficiency and impact of any existing whistle-blowing channels. The below recommendations are pertinent to a number of stakeholders and areas of reform.

Legislation

- Introduce a whistle-blowing act that regulates whistle-blowing practices, and protects whistle-blowers.
- Introduce a Freedom of information Act.

Regulations

- Mainstream good governance and accountability across listed and non-listed companies (small, medium and large ones).

Private Sector

- Large and multinational companies adopting good governance and accountability practices should engage and encourage SME counterparts to follow these practices.

Civil Society

- Adopt the role of government and private sector watchdog; engage citizens in the fight against corruption.
- Raise awareness about available whistle-blowing mechanisms.
- Advocate for the introduction of needed legal reforms.

Media

- Advocate for the introduction of needed legal reforms.
- Increase syndicate protection of all journalists, and especially investigative ones.
- Rally resources in support of increasing the number and capacity of investigative journalists.

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