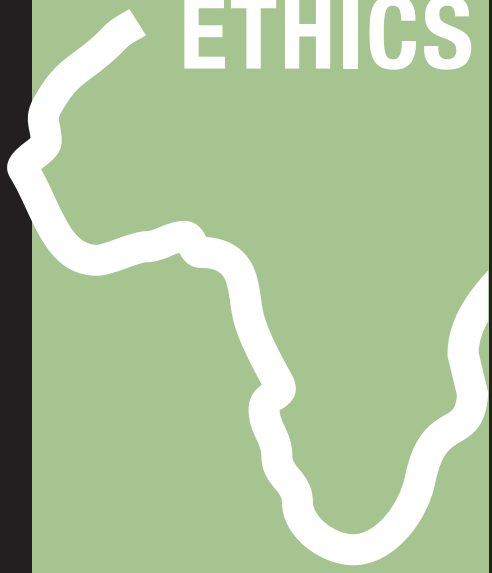
African Journal of BUSINESS ETHICS



Official Journal of

BEN-Africa
The Business Ethics Network of Africa

Volume 17. No 1. 2023

African Journal of Business Ethics

(Official Journal of BEN-Africa)

ISSN 1817-7417

© African Journal of Business Ethics | Published by African Sun Media | Hosted by SUNJournals |

In cooperation with Globethics.net

Table of Contents

Strong business–state alliances at the expense of labour rights in Ethiopia's apparel-exporting industrial parks

Authors:

*Dr Mohammed Seid Ali[1]

Mr Solomon Molla Ademe[2]

Affiliation:

[1] Department of Political Science and International Studies, Bahirdar University, Ethiopia

[2] Department of Political Science and International Relations, Woldia University, Ethiopia

E-mail:

*mohammedseid1997@gmail.com

mollasol1991@gmail.com

DOI:

10.15249/17-1-276

Keywords:

apparel industry; associational rights; Ethiopia; poverty wages; state-led industrialisation

*corresponding author

Abstract

In the past decade, Ethiopia has demonstrated a strong ideological convention to the East-Asian model of 'developmental state', which stands for state-led industrialisation as its underlying industrial policy premise. Nevertheless, the labour rights externalities of this industrial policymaking have been overlooked in the existing academic and practical policy debates. Hence, using qualitative empirical data, the article attempts to address the research gap by analysing why and how Ethiopia's state-led industrialisation and the corporate behaviours of apparel-exporting firms, as well as their respective global brand buyers, have contributed to the existing poverty wages and repressive practices against the associational rights of local industrial workers at those selected apparel-exporting industrial parks of the country. The maxim of industrialisation with a human face has increasingly become a promising alternative to the neoclassical intellectual view of labour relations following its fundamentals towards achieving a more sustainable industrial development in a given state. In light of this human right imperative, the finding revealed Ethiopia's state-led industrialisation has firmly embraced strong business–state alliances, thereby curbing the power of local industrial workers. The Ethiopian government employs diverse *de facto* or *de jure* labour control mechanisms across those selected apparel-exporting industrial parks of the country. This is manifested through poverty wages and repressive measures to deny the associational rights of workers. Further, the flawed Corporate Social Responsibility (CSR) of employing firms and their respective global brands have contributed to the ongoing labour abuses across those selected apparel-exporting firms. Hence, Ethiopia's industrial policy is expected to navigate

a reasonable balance between facilitating industrial catch-up and ensuring labour standards for more viable and sustainable labour relations.

1. Introduction

The successful track record of rapid industrialisation since 2005 is crucial to the history of late-industrialising Ethiopia. With the low-income economy of Eastern African states, Ethiopia has been remarkable in successfully initiating industrial catch-up to ensure structural socio-economic transformation from a predominantly agrarian economy to a globally-integrated industrial economy (Fantu, 2014). In this regard, the country's ideological commitment towards state-led industrial policy-making and its investment-friendly industrial policy instruments have been remarkable (Oqubay, 2019). Also, the country has invested heavily in industrial infrastructures and human resource developments and offered tax incentives to attract foreign direct investment (FDI) in the apparel industry as a priority sector. Consequently, the country has recently become among the preferred destinations for multinational apparel manufacturers and brands (Barrett & Baumann-Pauly, 2019:1). In 2017, it was ranked as first recipient of those labour-intensive foreign apparel firms in East Africa and the second in Africa (United Nations Conference on Trade and Development, 2018).

Yet, the country's labour rights context has been largely overlooked in the history of its industrial policy-making. In this regard, leading researchers such as Oya and Schafer (2019), Hardy and Hague (2019), and Mitta (2019) highlighted the challenges of the labour sector in late-industrialising Ethiopia. Nevertheless, none of them sufficiently explained the major challenges of Ethiopia's collective labour relations from the vantage points of the country's development ideology and its labour rights institutions, employers, and brands. Besides, none of them did address the exceptional contexts and limitations of Ethiopia's state-led industrialisation and their implications on the voices of local industrial workers in the country's industrial parks (IPs).

Towards filling this underlying research gap, this article, therefore, aims to examine the suppressive labour practices against the associational labour rights (freedom of association, the right to collective bargaining, and the right to conduct labour strikes) of workers in Ethiopia's state-led industrialisation since 2005. It also analyses various labour-control mechanisms employed by both the Ethiopian government and multinational apparel manufacturers in the country's IPs to silence the voices of local industrial workers. To this effect, as will be explained in the methodology section, exploratory and explanatory research designs have been integrated under the general qualitative methodological framework.

2. Conceptual notes and demystifying existing debates

The term 'collective labour relations' refers to the relationship between employers (employers' associations) and employees (trade unions) on matters of collective interest.

Through unionisation, workers can pressure the owners of capital, who otherwise have more bargaining power (Dunning, 1998:162; Mehari, 2015:44). Recognising that many workers have weak bargaining power and are vulnerable, international human and labour rights legislations prioritise workers' collective rights over the rights of employers. Freedom of association, the right to collective bargaining and industrial actions are the core components of collective labour relations.

To begin with, freedom of association is defined in two different ways. First, freedom of association is described as an intrinsic moral value and an inherent human entitlement of workers beyond the bounds of the instrumentality of policy explanations. As such, workers, like other human beings, are born with the freedom of acquiring information, choice, and the right to organise themselves (Universal Declaration on Human Rights, 1948:art 20(1); International Covenant on Civil and Political Rights, 1966:art 22; International Covenant on Economic, Social and Cultural Rights, 1966; Mehari, 2015:42). Second, freedom of association can also be defined as a means to improve the bargaining powers of industrial workers (International Labour Organization [ILO], 1996, 1998). This study applies both definitions to contextualise the right of workers to organise themselves around collective concerns as they relate to their working conditions and the right to decent and fair wages from their employers.

Similarly, collective bargaining can be defined as a process of a bilateral compromise between employer and employee representatives (Schregle, 1992:435; Gernigon, Odero & Guido, 1998:35). It may also refer to a tripartite discussion among employer and employee representatives, together with the national government, to reach mutually agreed terms and conditions of employment. In short, collective bargaining is when employers and employees are left on their own to deliberate on the basic terms of their employment relations through a 'give and take' mode of operation (ILO, 2008:para 12; Mehari, 2015). Given the importance of 'give and take', collective bargaining transcends the boundaries of merely regulating the terms and conditions of employment. Instead, it, comprises communication, mutual trust, management, and leadership in the sector.

Finally, labour disputes between workers and employers or between a trade union and an employer's association are common across industrial traditions and ideologies. These disputes usually arise from applying the principles, collective settlements, work guidelines, employment deals, and disagreements that emerge during collective bargaining. Labour disputes may escalate to various forms of strikes by the employees. From a labour rights perspective, labour strikes are an essential part of freedom of association, without which workers and unions lack the strength to defend their legitimate interests against powerful capital (Gernigon, Odero & Guido, 1998). Hence, employees' collective actions are intended to induce their employers to accept their legitimate industrial demands (Proclamation No.1156/2019:art 137(5)). To pressure their employers, workers can engage in various kinds of actions such as slowdowns and temporary work stoppages.

Despite the growing commitment of international human and labour rights instruments towards promoting workers' voices worldwide, various scholars and practitioners from different perspectives still maintain conflicting explanations on the matter.

In this regard, there are two contending perspectives as the neoclassical and human rights schools of thought. Advocates of neoclassical labour economics usually define industrial employees as being rational, self-interested, and utility-maximising agents. Similarly, they characterise employers (owners of capital) as profit-maximising actors. The neoclassical perspective regards the labour market as perfectly competitive and the key driver of labour relations (Chidi & Okpala, 2012:263-265). Consequently, proponents of this approach conceptualise industrial labour relations as a mutually advantageous transaction between self-interested agents (individual employers and employees) in a freely operating market economy.

Based on the above neoclassical premises, one can plausibly infer that labour relation is a purely economic and contractual issue that shall entirely be left to the private dealings of employers and employees. Hence, any action to legally institutionalise the relations between employers and employees is tantamount to disturbing the free and direct economic relations between an employee and employer (Wachter, 2004; Budd & Bhave, 2008:3-4). In addition, the neoclassical perspective views collective labour rights policies as acts of putting unnecessary pressure on employers and investments (Rose, 2008). As a result, it may be considered a threat to the influx of FDI, which, in turn, aggravates unemployment and other macroeconomic pressures on national economies.

In the context of economic globalisation, the questions of how multinational companies could incorporate, control, and exploit labour into their production process have been very challenging. Significant pieces of global value chain (GVC)[1] literature based on the neoclassical maxim treats labour as a passive agent at the dictate of capital's search for a cheap and less-organised workforce (Coe & Jordhus-Lier, 2011:221). The neoclassical view advocates strongly against any form of labour activism for collective bargaining since they regard such action as a threat to the multinational companies' profit margin (Cumbers, Nativel & Routledge, 2008:370). Hence, advocates of the neoclassical maxim strongly contest all forms of collective bargaining, particularly labour strikes, as unlawful acts to disrupt the fluid production process in the global value chain.

Since the 1970s, there has been a deliberate reconfiguration by global firms of their production locations from rich economies to the low-cost developing countries of Asia and sub-Saharan Africa (Chang, 2009; Staritz & Whitfield, 2019). The motives of global manufacturers to shift their production location may not be explained only from a low-wage perspective. Instead, they want to exploit the flexible labour practices of emerging destination countries willing to downsize local industrial workers' collective voices (Oya & Schaefer, 2019) to attract FDI to maximise their export earnings and alleviate the foreign exchange shortage (Oqubay, 2019). This implies that there is a policy convergence between the governments of destination countries and multinational companies. Hence,

1 The Global Value Chain (GVC) is increasingly becoming a dominant term which refers to the global production and transaction network in the current context of economic globalisation. From the perspective of multinational apparel industries, the global apparel value chains imply that global brands (buyers) significantly influence, if not control, the decisions of manufacturers in terms of quality, speed of delivery, and price, even though they often do not participate directly in the production process (Gereffi & Frederick, 2010).

as Hardy and Hague (2019:10) rightly explained, the violations of associational rights must therefore be analyzed from the policy rationales of both global manufacturers and national governments.

Nevertheless, the neoclassical explanations for deregulated, less-organised, and less-unionised industrial labour relations cannot sufficiently address questions of peaceful, inclusive, and sustainable industrial development. First, this reductionist intellectual view treats human labour as a mere object of economic transaction. This view stands against the intrinsic moral value of employees as human beings who are free, rational, and dignified actors (Coma, 2000; Kaufman, 2005). Second, the neoclassical argument for freedom of contract between capital and labour as if they have equal economic bargaining power would not bring about mutually acceptable sustainable industrial relations (Rawls, 1993; Nussbaum, 1997; Sen, 2005; Compa, 2008). Global corporations have immense bargaining power vis-à-vis workers if the latter remains unorganised (Mehari, 2015:21). Therefore, stable and predictable rules governing employer-employee relations are critical for sustainable industrial development.

As a result, many scholars advocating the human rights imperative have called for an alternative understanding of labour agencies, particularly in the current age of economic globalisation, which is characterised by the GVC (Coe & Jordhus-Lier, 2011). Proponents of the human rights scholarship have argued that the right of workers to collective bargaining is an integral part of the human rights of workers. For them, workers' freedom of association and their rights to collective bargaining are beyond the rationality of free market logic (Nussbaum, 1997; Sen, 2000). The central claim of the human rights argument is that workers should be treated as active agents in global production networks. As such, they can intervene at different geographical scales and points of the network to defend their interests. Considering the unequal bargaining power between labour and capital, industrial action is the only means they have at their disposal to force the owners of capital to bargain with labour (Dunning, 1998:162). It is also argued that ensuring the workers' bargaining power is indispensable to mutual trust and inclusive, peaceful, productive, and sustainable industrial labour relations (ILO, 2008; Action, Collaboration and Transformation, 2020:6).

First, the human rights explanations of collective labour rights reflect the premises of the social upgrading argument. The social upgrading argument defines workers' associational rights as a counterbalance to the policy imperative of economic upgrading (Gereffi & Frederick, 2010). It further claims that employers' commitment to collective bargaining would give workers an incentive to cooperate with organisational changes in the knowledge that the industrial profits will be fairly distributed between the employer and employees (Gereffi & Luo, 2014). Consequently, social upgrading can enhance communication, reduce staff turnover, and improve productivity.

Second, the human rights arguments for collective labour rights sufficiently reflect various historical accounts explaining the enduring legacies of suppressive labour control regimes across the ideological divide (Hardy & Hague, 2019:1; Oya & Schaefer, 2019). Hence, workers have no alternative except to resort to industrial actions to advance their

interests for living wages and better working conditions at the workplace. To this effect, it is argued that the human rights perspective rightfully informs national governments, employing firms, and global brands to coordinate their efforts towards the promotion and protection of workers' rights and to guarantee fair wages and better working conditions as foundations for inclusive and durable industrial relations.

Third, the human rights approach to collective labour relations transcends the mere legalisation of such labour relations. As such, it also implies the general social commitment and moral responsibility of stakeholders, particularly employing firms and their respective global brand buyers, to ensure socially accepted principles of labour justice and other widely recognised labour and human rights standards. This essentially complements CSR principles for employers, which prescribe that employing firms and their respective global brand buyers, beyond their conventional drive to race to the bottom, are morally bound to ensure ethically sustainable labour relations.

Fourth, the human argument for collective labour rights better explains the implications of associational rights in low-income late-industrialising countries of sub-Saharan Africa. These countries have recently initiated various strategic plans to facilitate socio-economic structural transformation through industrialisation (Oqubay, 2018, 2019). As a result, the share of the apparel-manufacturing sector in industrial employment has been significantly increasing (Staritz & Whitfield, 2019). Nevertheless, labour rights violations, industrial actions, and labour disputes over low wages and long working hours have increasingly threatened the sector's performance, particularly across those apparel-exporting firms (Oya & Schaefer, 2019). Thus, the suppressive labour practice has been a pressing human rights challenge across many export-processing zones and industrial parks of late-industrialising countries of the Asian and sub-Saharan African regions (Organization for Economic Co-operation and Development, 2011).

In light of the preceding explanations of the human rights perspective, structural characteristics of the GVC (race to the bottom), flawed CSR of appeal manufacturers (employers) as well as their respective global brand buyers, IPs' policies of national governments, and states' ideologies have been the major causes for the violations of the collective voices of industrial workers, particularly in the apparel industry.

First, as part of the structural externality of economic globalisation, the global apparel value chain has increasingly become hyper-competitive as the sector faces a very narrow profit margin. As such, the sector is characterised by tight pricing systems and highly demanding requirements in terms of just-in-time inventory and flexibility to meet volatile orders (Farole & Akinci, 2011; Anner, 2015). Most importantly, the just-in-time production systems within the global apparel value chain necessitate the fluid functioning of the production networks. Consequently, it requires effective labour control regimes to protect the production networks from any forms of work stoppage and disruptions through various forms of industrial actions (Wright, 1994; Ngai, 2004; Masina, 2018; Saxena, 2019). Hence, multinational apparel exporting firms usually enforce distinct labour control regimes restricting workers' associational rights.

Second, countries that follow state-led industrialisation usually try to attract foreign investors, particularly in the apparel sector, by promising less protective labour practices (Staritz & Whitfield 2019). To this effect, low wages and a highly disciplined and controlled workforce are usually presented as investment incentives to global brands (Gereffi & Frederick,2010). To maintain the influx of FDI, national governments usually employ *de jure* or *de facto* labour control mechanisms to suppress the bargaining power of labour against the powerful capital (Anner, 2015). Such a strong business–state alliance against workers' voices has been widely practised, particularly across those emerging investment destinations of Asia and sub-Sahara Africa (Hardy & Hague, 2019; Saxena, 2019).

Third, industrial parks are policy instruments, particularly of those late-industrialising countries, to accommodate FDI in those labour-intensive and export-oriented apparel industries (Ngai, 2004; Chang, 2009; Masina, 2018; Nathan, Tewari & Sarkar, 2018; Saxena, 2019). Accordingly, IPs are indispensable places in the labour sector to accommodate a sizeable number of industrial jobs (Oqubay, 2019). Nevertheless, the question of how these IPs might contribute to the sustainability of the sector by ensuring the bargaining power of local industrial workers remains. To put it differently, restricting the freedom of association and collective bargaining has been a major concern surrounding the establishment of IPs across emerging and low-income economies (Farole & Akinci, 2011). For example, IPs in China, Vietnam, Thailand, Bangladesh, Mauritius, and Madagascar have been proven as the leading sites where *de jure* and *de facto* labour controls have been enforced (Ngai, 2004; Chang, 2009; Oya & Schaefer, 2019).

In this study, the human rights approach to collective labour relations was adopted to compressively analyze workers' associational rights in selected apparel exporting-firms in Ethiopia's IPs from the government's policies. The human rights argument enabled the researcher to appropriate the CSR premises to analyze the compliance record of employing firms and global brand buyers concerning the collective voices of industrial workers.

3. Methodology

3.1 The rationale for the selection of research sites

The study sites were: EIZ in Dukum, Bole Lemi I IP in Addis Ababa, and Hawassa IP in Hawassa. These three-targeted IPs were the first generation of industrial sites in Ethiopia. They generated thousands of employment opportunities by hosting several multinational apparel firms. Only multinational apparel-exporting firms were selected because they are priority sectors of Ethiopia's state-led industrialisation. Industrial parks are the leading workplaces where serious violations of associational rights are committed, particularly across late-industrialising countries of the Global South, such as Bangladesh, Vietnam, Mexico, Madagascar, Namibia, Kenya and Ethiopia (Staritz & Whitfield, 2019).

A total of three major foreign apparel-exporting firms from the three IPs were selected based on their number of employees, time of operation, and country of origin. Therefore, American, Chinese and Indian manufacturers were selected. The table below summarises the basic descriptions of the three selected major apparel sourcing firms (as designated or coded as A1, A2, and A3).

Table 1: Information about the names and locations of selected firms, as well as their respective brands

No	Names (codes) of selected firms	Names of industrial sites where the selected firms are located	Names and nationalities of brands sourcing products from the selected firms	No of jobs created by the selected firms	Market destination
1	A1	Bole Lemi 1 Industrial Park	X (USA) and Y (European (Sweden))	6 000	EU & US markets
2	A2	Eastern Industrial Zone	X (USA) and Y (European (Sweden))	500	US markets
3	A3	Hawassa Industrial Park	X (USA)	3 000	EU & US markets

Source: Author's computation, June 2021

More than 90% of the workers across the firms were women without a high school exit level qualification. Additionally, these workers were predominantly from the different rural areas of the country with diverse cultural (religious and linguistic) backgrounds and little know-how about industrial culture.

3.2 Research design

This study provides an in-depth and contextual understanding of the implication of Ethiopia's state-led industrialisation on the collective labour rights of local industrial workers, particularly at the country's IPs. As such, an exploratory research design was employed as it enables both the researcher and the informants to get to know each other and build confidence to freely exchange their views about the existing collective labour rights challenges. Thus, the design enabled the researcher to obtain a plausible understanding of the labour rights context through various qualitative methods such as focus group discussions (FGDs), semi-structured interviews, and other relevant tools.

3.3 Data sources and sampling technique

The researchers conducted 46 semi-structured interviews. They conducted interviews with former and active employees of the firms under enquiry, members of workers' councils, firm managers, experts, brands' sustainability managers, regional representatives of ILO in Addis Ababa as well as officials of the Ministry of Labour and Social Affairs (MoLSA), Bureau of Labour and Social Affairs (BoLSA), Investment Commission (IC), Industrial Park Development Corporation (IPDC), and Confederation of Ethiopian Trade Union (CETU). With the consent of the participants, all interviews were tape-recorded. Each interview lasted between thirty minutes to an hour. Moreover, twelve FGDs were

conducted with eight to twelve participants for each discussion. Six out of the total twelve FGDs were also conducted with workers from the three firms (two from each of the three firms). The discussants were selected purposefully by considering variables, particularly gender and years of service. The other six FGDs were conducted as follows: three FGDs with BoLSA representatives at Bole Lemi I, Eastern, and Hawassa IPs, one FGD with CETU experts, and one FGD with ILO experts and finally, an additional FGD with brands' sustainability managers. Finally, relevant international, regional, national, and industry-level legislation, policies, and reports were used as additional secondary data sources.

A purposive sampling approach was used. This strategy provided the flexibility to meet workers (of all years of service and gender) with a range of experiential knowledge and to explore their views and interests. It also allowed the identification of knowledgeable and appropriate informants and discussants from across the above individuals and offices. Table 2 provides the main data collection instruments and data sources.

Table 2: General information about interviewees, discussants and other data sources

No	Types of data collection instruments and sources		Identity of interviewees and discussants	Places where interviews and FGDs were conducted
1	Interviews	Semi-structured interviews	Semi-structured interviews with active and former employees of the three selected apparel industries	Bole Lemi I, Hawassa, and Eastern Industrial Zones
		Key informant interviews	Key informant interviews with members of the workers' council	Bole Lemi I, Hawassa, and Eastern Industrial Zones
			Key informant interviews with representatives of employing firms	Bole Lemi I, Hawassa, and Eastern Industrial Zones
			Key informant interviews with experts and officials of global brands, ILO, CETU, MoLSA, BoLSA, and IC	Addis Ababa
2	Focus group discussions (FGDs)		FGD with workers and managers of employing firms	Bole Lemi I, Hawassa, and Eastern Industrial Zones
			Representatives of global brand buyers, as well as CETU	Addis Ababa
3	International and national labour rights and other relevant policy documents and reports		ILO Conventions and Domestic labour legislations	

Source: Author's computation, June 2022

3.4 Data collection and analysis

The fieldwork across the three IPs took place in 2020. Though there is no absolute clear-cut distinction in terms of different phases of fieldwork, the steps of getting to know the context outside and inside the three IPs and the lifestyle of workers represent the preliminary field visits. Hence, the researchers started to create different formal and informal networks with workers, representatives of CETU, MoLSA, BolSA and IC, which

helped them sufficiently acquire the relevant data from the informants and discussants. This approach helped to create a space for discussions with these stakeholders individually and in groups.

Informed by the preliminary field visits, lists of guiding questions were developed. The interview guide was designed with open-ended questions to allow the researchers to pose research questions based on the conversation. In addition, the guiding questions of the semi-structured interviews were continuously amended according to the emerging themes from the preceding interviews. This allowed the researchers to refine their understanding of the ideologies and beliefs expressed and to be guided by participants' sense of what is significant about these.

Most of the interviews were undertaken over a tight time scale from the beginning of February to mid-March 2020 to mitigate the impact of Covid-19 on the data collection tasks, particularly across the three IPs. The recorded interviews were then transcribed, translated, and organised for further analysis. FGDs were conducted after the semi-structured interviews. Each FGD aimed to seek further information and triangulate semi-structured interviews. Both the interviews and FGDs were crucial for the researcher to gain a deeper understanding about the implications of Ethiopia's existing ideological as well as industrial and labour or human rights policy environments on the collective voices of the country's labour force.

Concerning data analysis, partial data analysis started even while the data collection process was underway. During fieldwork, the researchers summarised their annotated diary daily as part of their first-hand analysis. Field data were systematically analysed to draw out key themes and issues. They also transcribed the data, categorising and coding to understand the entire data's general form. Audio records were also transcribed, themed, and coded to enrich other qualitative data collected through interviews and FGDs. The complete set of reorganised and coded field notes and summarised reports were re-read, and the necessary sections were highlighted according to the emerging themes. The interpreted and summarised field notes were typed and analysed in the form of a report to make it manageable for the final write-up.

4. Results and discussion

According to the data obtained from FGDs, interviews, reports, and relevant policy documents, Ethiopia's state-led industrialisation has created a strong business–state alliance against the collective voices of the country's industrial workers, particularly across those labour-intensive apparel-exporting industrial parks. As such, the country's industrial policymaking suppresses the associational rights of local industrial workers in the sector. In line with this, this study presents findings of the country's major labour control mechanisms enforced by the Ethiopian government and apparel-exporting firms (employers) at those selected IPs of the country.

4.1 Curbing labour rights institutions

As the finding revealed, Ethiopia's state-led industrialisation has implemented various mechanisms towards disciplining and suppressing the collective voices of its local labour force at the study sites. Weakening the powers and roles of the country's labour rights institutions have been among those repressive measures. In this regard, the Confederation of Ethiopian Trade Unions (CETU) has been the primary target institution.

Historically, CETU was the most powerful representative of Ethiopian workers at the national level, which replaced the All-Ethiopia Trade Unions in 1993. Concerning its organisational structure, CETU has been at the top of the institutional hierarchy to deliberate on national labour policy issues with the Ministry of Labor and Social Affairs (MoLSA) and the Ethiopian Employer's Federation. Nevertheless, the workers currently employed across the country's apparel-exporting IPs have been beyond the reach of the CETU, and their freedom of association has been categorically denied by coordinated measures of the government and employing firms.[2] Unfortunately, such a repressive labour practice has continued even after the post-2018 reforms and the enactment of more protective labour legislation in 2019.

In principle, institutions such as CETU are required to effectively and independently channel workers' voices into improvements in wages and other working conditions by influencing government policies and actions. Yet, there is doubt that CETU has had a tangible influence on Ethiopia's overarching developmental plans to improve workers' working conditions. Instead, it has simply reiterated the experiences of more co-opted national trade unions in Asia, most notably Bangladesh. Accordingly, despite its recent claims that it is the strong and independent representative of the country's labour force, CETU has practically failed to challenge the government's repressive labour practice promoting poverty wages and highly controlled labour practices against the collective voices of industrial workers (Yirgalem, 2019). Consequently, those global apparel manufacturers across the country's IPs still pay the lowest basic salary in the world, which ranges from $22 to $34 per month. Subsequently, local workers struggle to get by, let alone save any money or send cash home to their families in the countryside. All these demonstrations sufficiently infer that CETU's actual performance did not object to the wider objectives of the country's state-led industrialisation, facilitating industrial catch-up at the expense of minimal protection for its local force.

One of the government's strategies has been to formally restrict CETU's access to workers at their workplaces for awareness creation and training that might help improve their class consciousness. The government and employing firms claimed associational rights should not be CETU's and other outside initiatives'. In this connection, as experts from both ILO[3] and CETU[4] clearly explained, the problem is worse across the country's IPs where all workers are still currently without any form of collective identity or labour

2 Key informant interview with a representative of the Industrial Federation of Textile Leather & Garment Workers Trade Union (IFTLGWTU) (CETU), Addis Ababa, 26 February 2020.

3 Key Informant interviews with an expert in ILO Regional Office Addis Ababa, 25 February 2020.

4 Key informant interviews with Kassahun Folo, the President of CETU, Addis Ababa, 24 February 2020.

unions. In coordination with employing firms, the Ethiopian government frequently created negative impressions in the minds of workers who delegitimised CETU, sectoral federations, and firm-level labour unions, thereby creating mutual distrust among workers and these representative institutions. Additional institutional limitations of CETU and its affiliated labour rights institutions have been attributed to the fact that they were understaffed, underfinanced, and have had limited experience and skills to strongly confront the repressive labour practices of both the government and employers.[5]

The other labour protection institutions, which have been systematically weakened by Ethiopia's state-led industrialisation, have been the Ministry of Labour and Social Affairs (MoLSA) and its regional affiliates, and the Bureaus of Labor and Social Affairs (BoLSA). MoLSA and BoLSA are government institutions with the power to monitor the enforcement of national as well as international labour rights, at least at the policy level. Nevertheless, these institutions have not enforced existing minimum labour rights standards. Instead, they have been appropriated as loyal to Ethiopia's government industrial policy priority, facilitating industrial catch-up by promoting FDI even at the cost of minimum labour standards.

To fulfil the above industrial policy imperatives, the government has limited the roles, capacity, and autonomy of MoLSA and BoLSA from effectively enforcing the country's labour and human rights of workers, including their associational rights. Furthermore, particularly across the country's IPs, their labour inspection activities have usually been disrupted by those pro-investment agencies such as the Industrial Park Development Corporation (IPDC), Investment Commission (IC), and Ministry of Trade and Industry (MoTI) claiming that such monitoring activities could ultimately discourage the influx of FDI.

Furthermore, compared to similar law-enforcing institutions, MoLSA has been the least-financed and least-organised ministerial office where its ministerial position has been marginal until the coming to power of Prime Minister Abiy in 2018. Instead, the Ethiopian government has empowered those pro-investment government agencies such as IC and IPDC to handle labour relations.[6] For instance, the Industrial Peace Directorate Office, a branch of the IC, has been empowered to handle labour matters, including labour strikes.[7] It is also only after 2018 that MoLSA and BoLSA opened offices across the country's IPs following the various forms of 'wildcat' strikes at Bole Lemi I, Hawassa, and Eastern Industrial zones. Finally, the government's repressive tactics have also extended to restrict other human rights organisations, including the media, by preventing them from visiting industrial workplaces to report independently about the actual work conditions. As a result, independent human rights reports about the labour conditions at the country's IPs have been scant, particularly before the country's current reforms for political liberation in 2018.

5 Key Informant interviews with an expert in ILO Regional Office Addis Ababa, 25 February 2020.

6 Key informant interviews with BoLSA representatives at the EIZ, Hawassa, and Bole Lemi I IPs, 29 February, 2 and 4 March 2020.

7 Key informant interview with the Vice President, Confederation of Ethiopian Trade Union (CETU), Addis Ababa, 20 February 2020.

4.2 Exceptionally suppressive labour practice at the apparel industry at Ethiopia's IPs

The predominant experiences of apparel manufacturing IPs have plausibly demonstrated their policy priority for economic upgrading (industrial upgrading, linkages, skills transfer, job creation, and export earnings) over social upgrading, including associational rights of workers (Gereffi & Frederick, 2010). This has been demonstrated across those emerging and late-comer economies of South East Asia and some Sub-Saharan African countries. Likewise, Ethiopia's IPs policies have been a direct emulation of the South East Asian model. Consequently, there have been more than twelve IPs, which are operating and currently creating industrial jobs for about 90 000 workers. Yet, as expressly testified by an informant,[8] the Ethiopian government's IPs policy concerning the labour sector prioritises facilitating job creation and industrial upgrading over decent work and working conditions. In this connection, as it has been exhaustively discussed by the discussants,[9] in addition to cheap labour, the government employs *de facto* or *de jure* labor control mechanisms across the country to suppress the collective labor rights (freedom of association, right to collective bargaining, and the right to industrial action) of workers.

Part of its repressive measures, the government has securitised and militarised the country's IPs, thereby putting psychological and physical pressure on those workers who claimed their freedom of association.[10] Furthermore, informants, who were victims of the police arrests and former employees at Bole Lemi I, Hawassa, and Eastern Industrial sites, revealed that the government employed its criminal justice system against workers who had allegedly engaged in the country's political protests and 'wildcat' strikes in 2017.[11] To silence their voices, workers were arrested and encountered physical violence by the police and security forces across the country's IPs. These violations of rights had been the common mechanisms of the Ethiopian government to silence the collective voices of workers. This, in turn, has prevented workers from freely deliberating and investigating better working conditions, including associational rights. Besides, the government had been actively blocking workers at the industrial parks from exercising their associational rights. Consequently, they were not able to share their voices among themselves as well as with other external stakeholders and human rights organisations about their working conditions.[12]

Following the preceding national measures of Ethiopia's state-led industrialisations towards the labour sector at the country's IPs, workers at these sites have been exceptionally deprived of their basic labour and human rights at work. Most importantly,

8 Ibid.

9 FGDs with employees at Hawassa and Bole Lemi I IPs, 26 and 29 February 2020.

10 Interviews with former employees at Bole Lemi I, Hawassa, and Eastern Industrial sites, 25, 26 and 29 February 2020.

11 Ibid.

12 Key informant interview with the President of IFTLGTU, Addis Ababa, 24 February 2020.

as unanimously demonstrated by the informants[13] and the discussants,[14] workers' associational rights have been completely suppressed so that it was impossible to find a single labour union formally registered. In this regard, such a categorical denial of associational rights of workers at the country's IPs has been different to the experiences of workers outside the IPs. For example, most large textile and apparel firms operating outside the IPs such as Kombolcha Textile, Almeda, and AIKAADIS have already ensured the freedom of association of their employees.[15] Workers of major apparel exporters outside the parks have exercised their rights to collective bargaining and have developed mutually-agreed collective agreements governing their employment relations.[16] The underlying cause for an exceptionally repressive labour practice at the country's IPs is related to the government's ideological and industrial policy commitment to attract multinational apparel manufacturers and brands to these sites by following weak labour practices.[17]

The repressive measures against the collective voices of local industrial workers at the country's IPs have also been enforced by the multinational apparel industries as employers. As they openly claimed during the interviews,[18] these multinational employing firms strongly contested all the external efforts either by CETU or other labour rights initiatives towards the unionisation of workers at IPs claiming that such external drives are unlawful acts of external intrusions into their internal human resource management.[19] In this connection, as sufficiently explained by the discussants,[20] the government shared employing firms' stand against any external initiatives towards the unionisation of workers at the IPs. In reality, however, this has been part of the systematic repression used by employing firms against the workers' legitimate quest for strong and independent unions that could firmly stand for the improvements of their working conditions. Instead, as Oya and Schaefer (2019:19) described, multinational apparel industries in Ethiopia's IPs have emulated the tactics of similar manufacturers operating in Bangladesh and Mauritius by forming co-opted and affiliated or artificial 'workers councils'.

Interviewees, however, argued that in reality, these management controlled 'workers councils' functioning as trade unions in some of the apparel industries in Ethiopia's IPs are in fact unlawful.[21] They are in violation of Ethiopia's international commitments, the country's constitution, and the labour proclamation since the manner of their

13 Key informant interview with the President of IFTLGTU, Addis Ababa, 24 February 2020.

14 FGDs with employees at Hawassa and Bole Lemi I IPs, 26 and 29 February 2020.

15 Key informant interview with the President of IFTLGTU, Addis Ababa, 24 February 2020.

16 Key informant interviews with an expert in ILO Regional Office, Addis Ababa, 25 February 2020.

17 Ibid.

18 Key informant interviews with officials of the Investment Commission (IC), Addis Ababa, 26 February 2020.

19 Key informant interviews with managers of apparel firms at the EIZ, Hawassa, and Bole Lemi I Ips, 24 and 26 February 2020.

20 FGD with ILO regional experts, Addis Ababa, 4 February 2020.

21 Key informant interview with the President of IFTLGTU, Addis Ababa, 24 February 2020.

formation has not been on the basis of free, active, and independent participation of workers.[22] Similarly, workers did not accept the council members as their independent representatives, questioning their legality and their poor track-records in representing workers' protections.[23] Accordingly, although the firms' managers claimed[24] that 'workers councils' can better promote employees' interests than formally institutionalised trade unions, informants from workers testified otherwise.[25] In this regard, members of the councils as informants from the employing firms projected the poor treatment of workers at the sites (poverty wages and other non-wage conditions of work) to poor industrial culture, low efficiency of workers, and the limitation of government.[26] From these accounts, it is plausible to infer that the 'workers councils' represented the firms' interests rather than being the voices of workers.

Global apparel manufacturers operating across Ethiopia's IPs employed various repressive measures against the freedom of information, expression, and associations of their workers. In this regard, workers' exchanges of ideas with one another and with other third-party stakeholders about employment relations have been treated by employing firms as serious disciplinary offences for breaching firms' secrets.[27] As a result, workers were required to refrain from exposing their working conditions, including their lack of associational rights, to labour inspectors from human rights organisations, brands' labour auditors, and the media.[28] Only firm co-opted members of the 'workers councils' have been allowed to communicate with external labour rights organisations and compliance auditors. Firms often intimidated workers with wage deductions or termination of their employment if they were found discussing problems and the solutions for their working conditions.[29]

From a human rights perspective, however, such a broader restriction against workers by employers in the country's IPs is a gross violation of the human rights of workers as human beings to freely express their ideas, views, and aspirations. Furthermore, from a labour rights perspective, this infringes the associational rights of workers, as protected by Ethiopian laws,[30] the international human and labour rights standards,[31] and buyer codes. Finally, from the perspective of CSR of buyers, firms' actions to prevent workers from providing information to buyers essential to the meaningful enforcement of labour

22 Ibid.

23 FGDs with employees at Hawassa and Bole Lemi I IPs, 26 and 29 February 2020.

24 Ibid.

25 Key informant interviews with managers of apparel firms at the EIZ, Hawassa, and Bole Lemi I IPs, 24 and 26 February 2020.

26 Key informant interviews with members of workers councils of apparel firms at Hawassa and Bole Lemi I IPs, 24 and 25 Feburary 2020.

27 FGDs with employees of apparel firms at the EIZ, Hawassa, and Bole Lemi I IPs, 25, 26 and 29 February 2020.

28 Ibid.

29 Ibid.

30 For details, see the Ethiopian Labor Proclamation No.1156/2019a.

31 For details, see, ILO Convention 87, arts 3, 5 and 6.

standards violates brands' codes of conduct.[32] Thus, such a broader restriction to freedom of expression and associational rights of workers seriously hampers the operation of buyers' monitoring programmes that necessitate workers' involvement.[33] Nevertheless, as suffiently testified by our respondents, such claims of global brands towards labour compliance is predominantly a white lash.[34]

Moreover, as testified by the informants,[35] multinational apparel firms across the country's IPs deliberately overloaded workers through overtime work and secluded them in tight work schedules. This, in turn, has put time constraints on workers to discuss their working conditions actively and collectively. Besides, firms' managers and supervisors did not allow workers to initiate their associational rights at the workplace and inside the IPs. Similarly, they rejected CETU's initiative to organise workers at IPs claiming that the right to unionisation shall not be from outside pressures.[36] Also, they imposed punitive and unlawful disciplinary measures against those employees who have been involved in the unionisation process.[37] Finally, as noted by the president of CETU, all the above direct and systematic restrictions to the associational rights and bargaining powers of local workers by the underlying employing firms have been performed tacitly with the realisation of the Ethiopian government.[38]

Similarly, global apparel brands sourcing from Ethiopia's IPs have been part of the violation of the associational rights of local industrial workers. Though they accepted the fundamentals of workers' associational rights, they used to share employing firms' arguments. Hence, they also claimed that the drive for freedom of association and the right to collective bargaining of workers should not come from outside forces. For them, questions of freedom of association ought to come from within the workers and not from MoLSA, CETU, or other outside forces. In this regard, a key informant, who is the Vice President of Corporate Responsibility at one of the brands under discussion,[39] claimed:

> As a global brand, we are fully committed to freedom of association. Our supplier firms shall open their door to facilitate mutual understanding and communication through freedom of association, collective bargaining, and social dialogue to ensure inclusive and sustainable GVCs that qualify for compliance with universal labour standards. Nevertheless, freedom of association shall be initiated by the workers themselves. Yes, the choice to and not to organize shall entirely be left to the workers themselves. Before

32 Key informant interview with the Vice President of Corporate Responsibility of one of the brands under investigation, Addis Ababa, 24 February 2020.

33 Ibid.

34 Key informant interviews with ILO Regional Office Representative, Addis Ababa, 25 February 2020.

35 Interviews with former employees at Bole Lemi I, Hawassa, and Eastern Industrial sites, 25, 26 and 29 February 2020.

36 Key informant interviews with managers of apparel firms at the EIZ, Hawassa, and Bole Lemi I IPs, 24 and 26 February 2020.

37 Interviews with former employees at Bole Lemi I, Hawassa, and Eastern Industrial sites, 25, 26 and 29 February 2020.

38 Key informant interview with the deputy president of CETU, Addis Ababa, 20 February 2020.

39 Key informant interview with the Vice President of Corporate Responsibility of one of the brands under investigation, Addis Ababa, 24 February 2020.

> organizing workers across Ethiopia's IPs, awareness creation and training shall also be provided to employers, managers, supervisors, and employees. In this respect, CETU's rush out towards unionization was premature; rather, it shall be enforced through a gradual deliberative process among various stakeholders.

In a similar vein, as plausibly explained by the discussants, brands' poor labour auditing practices have been part of the violation.[40] They usually employ, among others, third-party labour auditing mechanisms, which enforce short annual visits to the factories to monitor the enforcement of the associational rights of workers.[41] Moreover, the absence of meaningful consultation mechanisms with workers, a lack of transparency of the audit results, and failures to correct violations have been among the major limitations of labour auditing practices of global brands sourcing from Ethiopia's IPs.[42]

The above explanations support the argument of Anner (2015) that global brands and their suppliers' firms did not want to see the enforcement of the associational rights of workers for two major reasons. First, strong and independent unions inevitably consolidate the collective pressures (collective bargaining and various forms of industrial action, including strikes) of workers. This will, in turn, necessitate employers to lose the existing labour cost comparative advantages since the organised and collective voices and actions of workers would force them to improve the existing poverty wages.[43] Second, allowing workers' associational rights legitimises and promotes various forms of industrial actions that may disrupt the flow of firms' and buyers' production networks. Hence, as explained by Oya and Schaefer (2019), global apparel manufacturers and brands operating across Ethiopia's IPs have usually opposed the strong bargaining powers of their workers. For them, the highly competitive trends of the global apparel production network do necessitate uninterrupted and just-in-time production systems, which are free from various forms of industrial actions.

There has been a common track record across the fast fashion apparel industries to move their production locations to other destination countries where labour standards are not policy priorities, as sufficiently explained by CETU. In this regard, most apparel companies operating across Ethiopia's IPs came from Bangladesh, China, and India after the recent rises in production costs, particularly associated with increased wages and growing pressures for labour standards there (Staritz, Plank & Morris, 2016). For example, one of the representatives of a global brand manufacturer under investigation, while explaining its motivating factors to prefer Ethiopia over Kenya, reiterated that it identified the country's low labour cost and other suppressive labour practices as key investment incentives.[44]

---

40 FGD with ILO regional experts, Addis Ababa, 4 February 2020.

41 Key informant interviews with ILO Regional Office Representative, Addis Ababa, 25 February 2020.

42 Ibid.

43 FGD with ILO regional experts, Addis Ababa, 4 February 2020.

44 Key informant interview with the Vice President of Corporate Responsibility of one of the brands under investigation, Addis Ababa, 24 February 2020.

All in all, the preceding restrictions to freedom of association have made workers across Ethiopia's IPs voiceless with no formally registered labour unions. Nevertheless, this has not prevented them from informally organising themselves and conducting various forms of 'wildcat' strikes towards improving their working conditions. For instance, various 'wildcat' strikes have been common across the country's IPs. According to workers as informants, the quest for a more viable expropriation policy towards those farmlands appropriated for the expansion of IPs through ensuring fair compensation has been one of the leading drives for those industrial actions. Moreover, from a labour rights perspective, workers' major demands ranged from better wages to respect for freedom of association.

In April 2018, a new administration assumed political power under the political leadership of Prime Minister Abiy Ahmed. The new administration has started to ease those repressive policies, freed political prisoners, and removed restrictions on workers' freedom of expression and associational rights. For example, the administration has also developed a more protective labour proclamation (Proclamation No. 1156/19, 2019). To promote the collective labour rights of workers, it maintains that the minimum membership level to form a first-level trade union shall be ten (Proclamation No. 1156/19, 2019:art 114(2)). Nevertheless, as sufficiently illustrated by the discussants, after three years of regime change, few practical improvements have been made concerning the freedom of association and the right to collective bargaining of industrial workers, particularly across the country's IPs.[45] For example, the freedom of association and the right to collective bargaining have not been enforced across the country's IPs. Similarly, though Ethiopia formulated new labour legislation outlining the minimum wage in 2019, there has not been any tangible change to this effect even after three years of its formulation. Thus, beyond a few policy reforms and political liberalisations of the current administration, the fundamental ideological assumption of a developmental state and suppressive labour practices continue across the country's IPs.

5. Conclusion

Similar to the historical experience of Southeast Asian countries, Ethiopia's state-led industrialisation has been based on the overarching ideological premise that the existence of a highly organised labour institution could disrupt the smooth industrial production process and thereby affect the influx of FDI (Oya & Schaefer, 2019). Accordingly, Ethiopia has followed various forms of repressive mechanisms to weaken the national trade union, which is the Confederation of Ethiopian Trade Unions (CETU). It has formally prohibited CETU from initiating workers to organise themselves at their respective workplaces. It has weakened CETU's leadership using various administrative and financial manipulations. As a result, the power of CETU as an independent representative national labour rights institution has been significantly limited. Besides, CETU has been co-opted towards supporting the predominant policies by downsizing workers' legitimate demands for

45 FGD with ILO regional experts, Addis Ababa, 4 June 2022.

better labour protections. In a similar vein, Ethiopia's state-led industrialisation has deliberately weakened the Ministry of Labor and Social Affairs (MoLSA), which is in charge of enforcing labour standards. As a result, MoLSA and affiliated labour rights institutions have been quite silent or reluctant to take protective measures to ensure that investors comply with Ethiopia's labour laws and regulations behind the factory gates (and behind the IP gates).

Likewise, multinational apparel manufacturers operating across the country's IPs have employed various mechanisms to suppress workers' voices. For example, they usually put time pressure on their workers to prevent them from discussing their associational rights. Moreover, they have employed punitive disciplinary measures against workers who initiated unionisations and labour strikes. Additionally, they initiated the establishment of affiliated trade unions to avoid any external drive for the realisation of independent and strong labour unions organised by the free and active participation of workers. Furthermore, weak labour auditing practices of global apparel brand buyers sourcing from Ethiopia's IPs have contributed to the violation. All these repressive mechanisms of employers against the voices of their workers have also been backed by the tacit consent of the Ethiopian government.

Based on the findings, the study concludes that Ethiopia's industrial policy has significantly failed to bring about sustainable industrial development in the apparel sector operating in the country's industrial parks. Unless Ethiopia's categorically ideological commitment to the East Asian state-led industrialisation of the 1970s, 1980s, and 1990s ends, the suppressive labour practices against the voices of local apparel industrial workers will continue to be pressing labour and human rights agendas in the sector. Hence, Ethiopia's activist industrial policy needs to find a way to navigate a reasonable balance between facilitating industrial catch-up and ensuring labour standards for inclusive, peaceful, and sustainable labour relations.

References

Action, Collaboration and Transformation. (2020). Purchasing practices: Accountability and monitoring. Berlin: Greifswaider Strasse. https://actonlivingwages.com [Accessed 11 November 2020].

Anner, M. (2015). Worker resistance in global supply chains. *International Journal of Labour Research*, 7(1/2):17.

Barrett, P.M. & Baumann-Pauly, D. (2019). Made in Ethiopia: Challenges in the garment industry's new frontier. New York: NYU Stern, Center for Business and Human Rights.

Budd, J.W. & Bhave, D. (2008). Values, ideologies, and frames of reference in industrial relations. *The Sage Handbook of Industrial Relations*, 92-112. London: Sage. https://doi.org/10.4135/9781849200431.n5

Chang, D.O. (2009). Informalizing labour in Asia's global factory. *Journal of Contemporary Asia*, 39(2):161-179. https://doi.org/10.1080/00472330902723766

Chidi, C.O. & Okpala, O.P. (2012). Theoretical approaches to employment and industrial relations: A comparison of subsisting orthodoxies. *Theoretical and Methodological Approaches to Social Sciences and Knowledge Management*, 2(1):264-277.

Coe, N.M. & Jordhus-Lier, D.C. (2011). Constrained agency? Re-evaluating the geographies of labour. *Progress in Human Geography*, 35(2):211-233. https://doi.org/10.1177/0309132510366746

Compa, L.A. (2008). Corporate social responsibility and workers' rights. *Comparative Labor Law and Policy Journal*, 30(1):1-10.

Cumbers, A., Nativel, C. & Routledge, P. (2008). Labour agency and union positionalities in global production networks. *Journal of Economic Geography*, 8(3):369-387. https://doi.org/10.1093/jeg/lbn008

Dunning, H. (1998). The origins of Convention No. 87 on freedom of association and the right to organize. *International Labour Review*, 137:149.

Fantu, C. (2014). Structural transformation in Ethiopia: The urban dimension: building 'economically productive, socially inclusive, environmentally sustainable and well-governed cities. Nairobi: UN-Habitat.

Farole, T. & Akinci, G. (2011). Special economic zones: Progress, emerging challenges, and future directions. Washington, DC: The World Bank. https://doi.org/10.1596/978-0-8213-8763-4

Gereffi, G. & Frederick, S. (2010). *The global apparel value chain, trade, and the crisis: Challenges and opportunities for developing countries.* Washington, DC: The World Bank. https://openknowledge.worldbank.org/entities/publication/5ff4813c-2109-5792-b8c0-3d7b5d8231f3 [Accessed 2 September 2023].

Gereffi, G. & Luo, X. (2014). *Risks and opportunities of participation in global value chains.* Washington, DC: World Bank. https://doi.org/10.1596/1813-9450-6847

Gernigon, B., Odero, A. & Guido, H. (1998). ILO principles concerning the right to strike. *International Labour Review*, 137:441.

Hardy, V. & Hauge, J. (2019). Labor challenges in Ethiopia's textile and leather industries: No voice, no loyalty, no exit? *African Affairs*, 118(473):712-736. https://doi.org/10.1093/afraf/adz001

International Covenant on Civil and Political Rights. (1966, 16 December). United Nations Human Rights. https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights [Accessed 2 September 2023].

International Covenant on Economic, Social and Cultural Rights. (1966, 16 December). *United Nations, Treaty Series*, 993(3):2009-2057.

ILO (International Labour Organization). (1996). *Freedom of Association, Digest of Decisions and Principles of the Freedom of Association Committee of the Governing Body of the ILO.* 4th Revised edition. Geneva.

ILO (International Labour Organization). (1998). Declaration on Fundamental Principles and Rights at Work and Its Follow Up. International Labour Conference, 86th Session, Geneva, June 1998. http://www.ilo.org/public/english/standards/decl/declaration/index.htm [Accessed 2 September 2023].

ILO (International Labour Organization). (2008). Strategies to promote transition to formality in Africa. Unpublished paper prepared for the AU/ILO workshop on the informal economy in Africa, Dakar, October.

Kaufman, B.E. (2005). The social welfare objectives and ethical principles of industrial relations. In: J. Budd & J.G. Scoville (eds.), *Ethics in human resources and industrial relations*, pp. 23-59. Champaign, IL: Labor and Employment Relations Association

Masina, P.P. (2018). An uneven development trap in Southeast Asia and its implications for labor. Searching for work: Small-scale mobility and unskilled labor in Southeast Asia. https://www.academia.edu/45435011 [Accessed 12 October 2021].

Mehari, R. (2015). Privatization in Ethiopia: The challenge it poses to unionisation and collective bargaining. Doctoral dissertation, University of Warwick. http://wrap.warwick.ac.uk/70936/ [Accessed 20 December 2020].

Mitta, G.M. (2019). Labor rights, working conditions, and workers' power in the emerging textile and apparel industries in Ethiopia: The case of Hawassa Industrial Park. Thesis, University of Kassel, Germany. https://doi.org/10.17170/kobra-20191107756

Nathan, D., Tewari, M. & Sarkar, S. (eds.). (2018). *Development with global value chains: Upgrading and innovation in Asia.* Cambridge: Cambridge University Press.

Ngai, P. (2004). Women workers and precarious employment in Shenzhen special economic zone, China. *Gender & Development*, 12(2):29-36. https://doi.org/10.1080/13552070412331332170

Nussbaum, M.C. (1997). Capabilities and human rights. *Fordham Law Review*, 66:273.

Oqubay, A. (2018). The structure and performance of the Ethiopian manufacturing sector. African Development Bank Group. https://doi.org/10.1093/oxfordhb/9780198814986.013.48

Oqubay, A. (2019). Industrial policy and late industrialization in Ethiopia. In: F. Cheru, C. Cramer & A. Oqubay (eds.), *The Oxford handbook of the Ethiopian economy* (pp. 605-629), Oxford: Oxford University Press. https://doi.org/10.1093/oxfordhb/9780198814986.013.31

Organization for Economic Co-operation and Development. (2011). Global value chains: Preliminary evidence and policy issues. http://www.oecd.org/dataoecd/18/43/47945400.pdf [Accessed 28 October 2020].

Oya, C. & Schaefer, F. (2019). Industrial hubs and the industrial workforce in Africa and Asia: A historical perspective. In: F. Cheru, C. Cramer & A. Oqubay (eds.), *The Oxford Handbook of the Ethiopian Economy* (pp. 381-400). Oxford: Oxford University Press. https://doi.org/10.1093/oxfordhb/9780198850434.013.20

Proclamation No.1156/19, *Federal Negarit Gazeta, 10th year*, No. 12. https://abyssinialaw.com/online-resources/researches/new-labour-proclamation-proclamation-no-1156-2019

Rawls, J. (1993). Political liberalism. New York, NY: Columbia University Press. https://cup.columbia.edu/book/political-liberalism/9780231130899

Rose, E.D. (2008). *Employment relations.* 3rd Edition. London: Pearson Education.

Saxena, S.B. (ed.). (2019). *Labor, global supply chains, and the garment industry in South Asia: Bangladesh After Rana Plaza.* New York, NY: Routledge. https://doi.org/10.4324/9780429430039

Schregle, J. (1992). Collective bargaining and workers' participation: The position of the ILO. *Comparative Labor Law and Policy Journal*, 14:431.

Sen, A. (2000). Work and rights'. *International Labor Review*, 139(2):119-128. https://doi.org/10.1111/j.1564-913X.2000.tb00406.x

Sen, A. (2005). Human rights and capabilities. *Journal of Human Development*, 6(2):151-166. https://doi.org/10.1080/14649880500120491

Staritz, C., Plank, L. & Morris, M. (2016). *Global value chains, industrial policy, and sustainable development: Ethiopia's apparel export sector*. Geneva: International Centre for Trade and Development

Startz, C. & Whitfield, L. (2019). Light manufacturing in Ethiopia: The apparel export industry. In: F. Cheru, C. Cramer & A. Oqubay (eds.), *The Oxford Handbook of the Ethiopian Economy* (pp. 704-720). Oxford: Oxford University Press. https://doi.org/10.1093/oxfordhb/9780198814986.013.35

United Nations Conference on Trade and Development. (2018). United Nations Conference on Trade and Development. World Investment Report. New York, NY: UNCTAD.

Universal Declaration on Human Rights. (1948). https://www.un.org/en/about-us/universal-declaration-of-human-rights [Accessed 22 January 2021].

Wachter, M.L. (2004). Theories of the employment relationship: Choosing between norms and contracts. Scholarship at Penn Law. https://www.researchgate.net/publication/30504425_Theories_of_the_Employment_Relationship_Choosing_between_Norms_and_Contracts

Wright, V (ed). (1994). *Privatization in Western Europe: Pressures, problems and paradoxes.* London: Pinter Publishers.

Yirgalem, G. (2019). The law and the practice of minimum wage at industrial parks of Ethiopia. LL.M. Thesis, Addis Ababa University.

The use of non-financial performance metrics in determining directors' remuneration: The case of listed companies in South Africa

Authors:

*Prof. Reon Matemane[1]
[0000-0003-0225-3928]

Prof. Tankiso Moloi[2]
[0000-0002-5362-7099]

Prof. Michael Adelowotan[3]
[0000-0002-7834-6576]

Dr Pallab Kumar Biswas[4]
[0000-0003-3551-6368]

Affiliation:

[1] Department of Financial Management, University of Pretoria, South Africa

[2] Johannesburg Business School, South Africa

[3] Department of Accountancy, University of Johannesburg, South Africa

[4] Department of Accountancy and Finance, University of Otago, Dunedin, New Zealand

E-mail:

*reon.matemane@up.ac.za
smoloi@uj.ac.za
madelowotan@uj.ac.za
pallab.biswas@otago.ac.nz

DOI:
10.15249/17-1-301

Keywords:
ESG; executive compensation; financial metrics; Johannesburg Stock Exchange; non-financial metrics; South Africa

**corresponding author*

Abstract

Despite the increasing importance of environmental, social and governance (ESG) factors, it is not fully understood whether companies consider these factors when designing compensation plans for their directors. This study investigated the extent to which directors' remuneration integrates ESG factors. The study sample is made up of JSE-listed companies for the period 2015 to 2021. The estimated generalised least squares regression technique was used to analyse the data. The results show the shift towards the integration of ESG factors in directors' compensation plans. It should be established which ESG factors are pertinent in the South African context.

1. Introduction

Directors' remuneration is a corporate governance mechanism that could be used to ensure that directors are incentivised to achieve the organisational goal of shareholder wealth maximisation (Al Farooque et al., 2019; Sánchez et al., 2020). This argument is premised on the simplistic principal-agent theory that was first pioneered by Jensen and Meckling (1976). According to this theory, directors serve as agents for shareholders who have become distanced from the day-to-day operations of the company as the principals. The interests of executives should therefore be aligned with those of shareholders. The extent of alignment has primarily been measured through accounting-based (ABM) and market-based performance (MBM) measures. ABM relates to the company's bottom line or profit, whereas MBM deals with the classic notion of shareholder wealth maximisation (Hussain, Rigoni & Cavezzali, 2018). The most widely accepted notion

of shareholder wealth maximisation is that managers should strive to maximise total shareholder return (TSR) for a certain level of risk. Shareholder primacy is at the heart of this principal-agent theory (Mejia, 2019; Palladino, 2021).

Directors, through their compensation packages, have therefore been mostly focused on the maximisation of profits and share prices because that is what they have been rewarded to do (Amewu & Alagidede, 2021). Proliferation of corporate scandals such as Glencore and Bain & Company are testament to the inherent shortcomings of the laser focus on profits and share price maximisation through stock options in an attempt to maximise shareholders' wealth (Bhagat & Bolton, 2014; Fahlenbrach & Stulz, 2011, Faulkender Kadyrzhanova, Prabhala & Senbet, 2010; Sharma & Singh, 2018). At the heart of the shortcomings of this approach is the fact that only the shareholders and executives receive the lion's share of any value created in the organisation to the exclusion of other stakeholders (Bouaziz, Salhi & Jarboui, 2020). The United States is not an exception to these scandals. South Africa has its own fair share in terms of Tongaat-Hullet Limited, Steinhoff International Holdings N.V, Bosasa Group, and many other corporates (Day, 2020; Rossouw & Styan, 2019).

As the profits, share prices, and dividends increase, the executive compensation also tends to increase (Matemane, Moloi & Adelowotan, 2022). This is because the bulk of the executive compensation is bonuses and share-based payments (Salehi et al., 2018). It is this pattern of increase in executive compensation, sometimes without the commensurate improvement in companies' financial and ESG performance, that has resulted in several debates on the topic (Sheikh, Shah & Akbar, 2018; Zoghlami, 2021). The corporate scandals discussed above are also linked to executives' desire to extract rents and maximise their remuneration (Jiang, Kling & Bo, 2021).

According to Van Zyl and Mans-Kemp (2020), directors' remuneration is among the corporate governance areas that needs special attention due to its contribution to corporate scandals in South Africa. At the heart of the debate is the fact that challenges faced by society such as climate change, pandemics, rapid technological challenges, diversity, equity, and inclusivity should be considered by companies and those in charge of governance (Kana, 2020). Companies should therefore be conscious, sensitive, and responsive to all the issues affecting society because such issues remain a threat to their sustainability and ability to continue operating (Settembre-Blundo, González-Sánchez, Medina-Salgado & García-Muiña, 2021).

A growing body of literature has shown that companies that focus solely on profits and neglect social issues are not sustainable in the long-run (George & Schillebeeckx, 2022; Settembre-Blundo, González-Sánchez, Medina-Salgado & García-Muiña, 2021). This brings into question the applicability and relevance of the shareholder primacy model and the basic agent-principal theory (Signori et al, 2021). This is not only because the other stakeholders such as customers, employees, and communities have been asking tough questions pertaining to companies' responses to social and environmental issues, but also because the shareholders themselves have also been asking such questions in

addition to embarking on activism and responsible investing endeavours (Harrison et al., 2020; Signori et al., 2021).

According to Bussin (2015), literature on executive compensation is abundant but has a number of flaws. First, it mainly assumes the basic agent-principal theory, the applicability of which is now questionable because all the relevant stakeholders, namely employees, customers, regulators, and society at large, are becoming increasingly important in corporate governance (Esser & Delport, 2017; Ezeani & Williams, 2017). Second, the literature is dominant in the Global North and developed countries (Amewu & Alagidede, 2021). Third, the literature mostly investigates the relationship between executive compensation and a company's financial performance, leading to inconclusive results (Bussin, 2015). Fourth and most important, ESG performance has never been brought into equation when interrogating the pay-performance relationship (Alves & Lourenço, 2022; Harjanti & Farhan, 2022). Literature on directors' remuneration therefore predominantly focuses on financial performance measures, despite the current trends and pressure on companies to track and measure ESG performance.

The novelty of this study lies in its shift from a simple principal-agent theory to incorporating a multiplicity of theories, namely, legitimacy theory and stakeholder theory. Incorporating ESG performance is another unique contribution that this study adds since the literature predominately focused on financial performance measures. By understanding the role that ESG performance plays in the design of directors' remuneration packages, policymakers could assess the extent to which directors as the stewards of ordinary shareholders' funds are held accountable in contributing to the attainment of the SDGs.

ESG rating from Financial Times Stock Exchange (FTSE) Russell was used as an independent variable alongside the financial performance measures to investigate the extent to which the directors' remuneration integrates non-financial performance measures. Therefore, secondary data from IRESS, FTSE Russell and companies' integrated reports was collected and analysed using the estimated generalised least squares (EGLS) regression model. The rest of the article discusses the literature and the theoretical foundations of the study. This is followed by the research design and methodology. Results and discussion are then presented. Lastly, a conclusion and recommendations for future studies are discussed.

2. Theoretical framework

According to Rönnegard and Smith (2018), decision-making in the corporate sector has largely been driven by the shareholder primacy model and notion of shareholder value maximisation. This is indeed evident in executive compensation literature which narrowly focuses on the earliest principal-agent theory that only puts the shareholders and executives at centre stage (Davis et al., 2019; Lozano-Reina & Sánchez-Marín, 2020). This theory was pioneered by Jensen and Meckling (1976) in the Western economies whose contextual setting is markedly different from those of the developing and emerging

economies such as South Africa. Contrary to many Western economies, the contextual setting in South Africa is characterised by high unemployment, poverty, and inequality (Odeku, 2021; Wakefield, Yu & Swanepoel, 2022).

In addition to the corporate scandals mentioned with regard to governance, South Africa also stands to suffer the most from any possible consequences of climate change in comparison to its counterparts in the developed economies (Dai, Mamkhezri, Arshed, Javaid, Salem & Khan, 2022). Agency theory suggests that the executive compensation should incentivise management to act in the best interest of the shareholders (Jensen & Meckling, 1976). A few South African studies on executive compensation such as Deysel and Kruger (2015), Marimuthu and Kwenda (2019), and Padia, Naik and Callaghan (2020) are also based on principal-agent theory.

However, agency theory alone only provides a superficial understanding of a complex pay-performance relationship. In the current era, shareholders are no longer the only key stakeholder but customers, employees, and society at large have become important participants in the corporate sector (Post et al., 2002; Signori et al., 2021). Furthermore, the South African context where poverty, unemployment, and inequality are rampant (Kerr & Wittenberg, 2021; Viviers, 2015) begs public good actions not only from the government but from the private sector as well.

Climate change, rapid technological changes, and Covid-19 have only laid bare the redundancy and irrelevance of principal-agent theory when used to understand the directors' remuneration landscape (Vogel & O'Brien, 2022). Companies do not only need a legal license to operate but also a social license as society is becoming more and more vocal and influential on companies operating in their backyards (Van der Meer & Jonkman, 2021).

This study therefore advocates for multiple theorical lenses that the executive compensation phenomenon can be understood through. These theories include the legitimacy theory and stakeholder theory, in addition to the principal-agent theory. In a quest to legitimise their existence, gain a social license to operate, and treact to pressure from society, companies should disclose financial and non-financial information (An et al., 2011; De Villiers & Marques, 2016; Deegan, 2002). Therefore, legitimacy theory does not only focus on shareholders, but is also concerned with the interest of society at large. Deegan (2002) argued that the legitimacy theory involves a social agreement between the entity and society. Companies should not only be seen meeting the expectations of the societies within which they operate, but they should also actively take actions that align their business with such expectations (Mio et al., 2020).

Stakeholder theory indicates that a co-operative and collaborative relationship between the company and all its stakeholders is required to create and sustain value for the benefit of all participants over time (Freeman, 2010; Freudenreich et al., 2020; Lüdeke-Freund & Dembek, 2017). It is this collaboration with other stakeholders and their expectations that companies should respond to pertinent issues affecting them that has culminated in demands for companies not to narrowly pursue profits at the expense of sustainability,

humanity, and nature (Henisz et al., 2014; Sisodia et al., 2007). Dragomir, Dumitru and Feleaga (2022) lament the proliferation of non-financial reporting frameworks. Such proliferation of different reporting frameworks on non-financial information and the emergence of an ESG philosophy are arguably all predicated on legitimacy and stakeholder theories (Breijer & Orij, 2022; Schröder, 2022).

Because companies should be accountable to the multiple stakeholders and not only the shareholders, this study suggests that the executives of companies operating in South Africa should be incentivised to be responsive to ESG issues facing the country. To ensure the legitimacy of their companies, they should contribute to the eradication of unemployment, inequality, and poverty. On the other hand, the government's role is to create an enabling environment for the corporate sector to contribute accordingly (Haywood, Funke, Audouin, Musvoto & Nahman, 2019). According to Statistics South Africa (2021), unemployment in the first quarter of 2021 reached 34.4%. South Africa is the 12th largest carbon emitter in the entire world with per capita emission of 8.18 tonnes vis-à-vis a global average of 4.8 tonnes (Nteta & Mushonga, 2021). As a signatory of the 2015 Paris Agreement, companies operating in the country should contribute to the mitigation of climate change (Jegede & Makulana, 2019; Maggott, 2021).

As elsewhere in the world, directors of South African companies should be held accountable through compensation plans to contribute in resolving ESG issues. Their performance should not only be measured through the financial metrics but also on how their companies are faring on the management and reporting of ESG risks and considerations.

The use of multiple theories, namely agency, stakeholder and legitimacy, to frame and explain the phenomenon under investigation is consistent with the thesis of the study, namely integrating ESG when designing the directors' compensation plans. The social pillar in ESG represents the stakeholders beyond the shareholders. By considering the society they operate in, companies can legitimise themselves by consistently delivering what is expected of them, for example, minimising the negative impact of their activities on the environment and maximising positive impact. Companies can further be legitimised or obtain legal licences by producing accountable and transparent reports on their actions.

3. Environmental, social and governance (ESG) factors in directors' remuneration

Chakravarthy (1986) argues that measuring performance should go beyond financial measures that are narrowly focusing on shareholder value maximisation. Instead, performance measurement should incorporate elements that assess the success of maximising value for other stakeholders as well. In this regard, ESG has become one of the key performance metrics in recent years following the sustainable development goals (SDGs) and 2015 Paris Agreement (Folqué et al., 2021). This development is in addition to the conventional financial performance measures which are well embedded in organisational

performance measurement processes (Hübel & Scholz, 2020). The corporate sector therefore needs to demonstrate the extent of its contribution to the attainment of SDGs to which South Africa is also a signatory in terms of the 2015 Paris Agreement (Jegede & Makulana, 2019; Maggott, 2021).

ESG reporting has therefore been used as a proxy for non-financial performance measurement and how companies create value for stakeholders beyond those who provide financial capital (Bapuji et al., 2018; Widyawati, 2020). Trends indicate a paradigm shift in institutional investors whereby they are increasingly focusing on investee companies' performance with regard to climate risk, decarbonisation of their operations, and ESG in general (Bradford et al., 2017; Ibikunle & Steffen, 2017; Krueger et al., 2020).

Folqué et al. (2021) argues that companies are increasingly required to maximise and preserve value not only for the shareholders but for all the other stakeholders, including the employees, customers, suppliers, and society in general. It is in this context that there has been a proliferation of ESG rating agencies in recent years which use different methodologies to evaluate companies' performance based on largely voluntarily disclosed information in the annual reports (Gibson et al., 2021). Limited research has been conducted on the ESG and directors' compensation nexus. To this end, the extent to which the directors are held accountable to continuously improve ESG performance is not fully grasped. Lack of knowledge for directors' accountability towards ESG performance emanates from the fact that the directors' remuneration is driven by the conventional financial measures, such as earnings per share (EPS) and share price growth. In other words, for the executives to get more rewards, they are incentivised mostly to maximise profits and share price which mostly benefits them and the shareholders (Bouaziz, Salhi & Jarboui, 2020).

The Covid-19 pandemic has further shone a light on this shortcoming of how the directors are incentivised solely based on financial measures (Ding et al., 2021). Globally, many directors have awarded themselves new shares in the companies when the share prices were lower (Mazur, Dang & Vega, 2021). This was happening while most general workers lost their jobs and others were requested to take pay cuts (Butterick & Charlwood, 2021). Share prices have since been rising as different economies, thanks to government stimulus packages and consumers starting to spend from their savings that got accumulated during the lockdowns as well as increases in commodity prices (Mazur et al., 2021). When this happens, the directors are able to cash in enormous amounts from the share awards that were initiated during the lockdowns (Ding, Levine, Lin & Xie, 2021; Mazur et al., 2021; Sell, 2020). This is not sustainable and can only aggravate the high inequality that is already a problem in the South African context.

4. Evidence of the shortcomings in directors' remuneration literature

In spite of a general lack of understanding of the extent to which directors' remuneration is driven by ESG performance, the growing body of literature on directors' remuneration

focuses on investigating the relationship between directors' remuneration and companies' financial performance. Non-financial performance has largely not been considered in academic debates (Harjanti & Farhan, 2022). Furthermore, the results of the studies on the link between directors' remuneration and financial performance are inconclusive (Amewu & Alagidede, 2021). Some of the studies found that a positive relationship exists (Alves et al., 2016; Cordeiro et al., 2013; Scholtz & Smit, 2012), whereas others found that a negative relationship exists (Haynes et al., 2017; Khan & Vieito, 2013; Olaniyi et al., 2017;). Some found a weak relationship (Bebchuk et al., 2011; Jensen & Murphy, 2010) while some found no relationship at all (Al-Najjar, 2017; Cooper et al., 2016; Raithatha & Komera, 2016).

The concentration of the studies on developed economies is another shortcoming. South African studies on directors' remuneration such as Kirsten and du Toit (2018), Padia and Callaghan (2020) and Padia, Naik and Callaghan (2020) also neglected the non-financial performance measures and do not have conclusive findings. While studies such as Haque and Ntim (2020) and Chouaibi, Rossi and Zouari (2021) attempted to incorporate ESG, they were all conducted in developed countries in Europe, namely Austria, Belgium, Denmark, Finland, France, Germany, Italy, The Netherlands, Norway, Spain, Sweden, Switzerland, and the UK. Furthermore, instead of investigating the compensation for all the executives, most of these studies investigated the chief executive officer (CEO)'s compensation citing the prominent role that the CEO plays in resource allocation and shareholders value creation (Bussin, 2015, 2018; Ngwenya, 2016; Theku, 2015).

The current studies therefore contribute to the directors' remuneration literature by incorporating the non-financial measures in the form of ESG rating. This is in addition to the existing financial performance measures such as return on equity (ROE), economic value added (EVA), market value added (MVA), Tobin's Q, and earnings per share (EPS).

5. Distinction between executive directors (EDs) and non-executive directors (NEDs)

In addition to the shortcomings highlighted above, directors' remuneration studies in the South African context such as De Wet (2012), Kirsten and Du Toit (2018), Lemma, Mlilo and Gwatidzo (2020), Padia and Callaghan (2020), and Padia, Naik and Callaghan (2020) have not attempted to specifically differentiate the executive directors (EDs) from the non-executive directors (NEDs) when empirically analysing the pay-performance relationship. While the rest of the authors did not even bring up the issue of splitting EDs and NEDs, Padia and Callaghan (2020) and Padia, Naik and Callaghan (2020) contend that a number of companies do not distinguish between dependent and independent non-executive directors, while Lemma et al. (2020) argue that the data available does not distinguish the remuneration paid to EDs and NEDs.

Distinguishing EDs and NEDs is pivotal because EDs are involved in the day-to-day operational management of the company while NEDs monitor and oversee EDs (Liew,

Ko, Song & Murthy, 2022). It therefore follows that the role of NEDs is part-time in nature with a less intense workload than EDs (Boivie, Bednar & Barker, 2015; García-Ramos & Díaz Díaz, 2020). NEDs do not only reconcile differences when there are disputes between EDs and other stakeholders, but they have the power to recruit and dismiss EDs (Bencomo, 2021; Janes & Harvey, 2022). Therefore, the authority that the NED have surpasses that of the ED (Budsaratragoon, Lhaopadchan & Thomsen, 2020). As a result, what drives the remuneration of these two groups is different. Hence, this study specifically split the remuneration between EDs and NEDs.

According to Bugeja, Fohn and Matolcsy (2016), NEDs' remuneration is mostly determined based on the function they perform, whether they are chairperson or a member of any committee delegated by the board, size of the company as well as the level of sophistication embedded in the company and sector (Belcredi & Bozzi, 2019; Bugeja et al., 2016). Conversely, Eds' remuneration considers the directors' characteristics such as level of education, tenure, experience, and their individual performance (Janes & Harvey, 2022). Consequently, NEDs are more concerned about their reputation than the financial rewards while EDs are concerned about financial rewards, hence the latter have been criticised for rent seeking (Bebchuk & Fried, 2003; Bugeja et al., 2016). NEDs are mostly paid fees for attending meetings while EDs' pay constitute salary plus performance-based incentives such as bonuses and share awards or share options (Bugeja et al., 2016; Liew et al., 2022).

In South Africa, share-based payments and awarding share options to NEDs are prohibited by King IV, which is mandatory for the Johannesburg Stock Exchange (JSE) listed companies (Institute of Directors South Africa, 2016). The rationale for this is that the majority of NEDs should be independent (Majoni, 2019). However, some companies still award shares and share options to NEDs (Andreas, Rapp & Wolff, 2012; Bugeja, Fohn & Matolcsy, 2016; Fedaseyeu, Linck & Wagner, 2018; Majoni, 2019; Seamer & Melia, 2015). This is arguably the reason why most companies have independent, grey, and non-independent NEDs (Belcredi & Bozzi, 2019). While this study clearly differentiates between NEDs' and EDs' remuneration, it does not further split NEDs' remuneration between these three categories.

6. Research methodology

6.1 Data and sample

The study covers the period 2015 to 2021 and is based on a sample selected from the top 100 companies listed on the JSE as indicated by market capitalisation. The year 2015 was selected as a starting point since that is when FTSE Russell started to conduct ESG rating for the JSE-listed companies. The year 2021 was selected as a cut-off date to ensure that the latest information is captured and analysed at the time of data collection. A combination of convenience and purposive sampling techniques was therefore used

in this study. From the top 100 JSE-listed companies, only companies that have been rated by FTSE Russell were included in the sample (69 in total). Therefore, for the period spanning 2015 until 2021, 483 (69 companies x 7) observations were made which gave effect to unbalanced panel data.

6.2 Variables

The following variables were collected for the purposes of the investigation in this study.

6.2.1 Dependent variable

- *Executive compensation (EC)*: This was obtained from the companies' archival integrated reports as published on their respective websites and it represents the total amounts payable to ED. It is made up of salary, benefits, short-term incentives, and long-term incentives.
- *Non-executive compensation (NEC)*: This was obtained from the companies' archival integrated reports as published on their respective websites, and it constitutes fees paid to NED.

6.2.2 Independent variables (financial performance measures)

All the financial performance measures used in the study where obtained from the IRESS database and are further divided into accounting-based and market-based measures in line with studies such as Amewu and Alagidede (2021) and De Wet (2012):

6.2.3 Accounting-based measures

- *Earnings per share (EPS)*: This variable represents the number of Rands (could be any other currency) earned during the period on behalf of each ordinary share issued (Almeida, 2019):
- *Return on Equity (ROE)*: ROE measures the return earned for the investment made by the ordinary shareholders in a company (Agrawal et al., 2019). It is profit attributable to ordinary shareholders divided by ordinary shareholders equity at the end of the year.

6.2.4 Market-based measures

- *Tobin's Q*: This measures what the market expects with regard to a company's performance for a specific period (2015-2021). Tobin's Q of 1 means the company's market value is equal to the cost. Tobin's Q of less than 1 means the company's share is undervalued while Tobin's Q of more than 1 means the company's share is overvalued (Al-ahdal et al., 2020; Rolle et al., 2020).
- *Economic value added (EVA)*: EVA is also known as a residual income. It represents the profit generated by the company after the cost of capital charge (Choong, 2021).
- *Market value added (MVA)*: This measures the difference between the economic/book value capital and the market value of the company (Agrawal et al., 2019).

6.2.5 Independent variables (non-financial performance measure)

- The only non-financial measure in this study is the company's ESG rating as obtained from FTSE Russell. FTSE Russell has been rating companies for over two decades in both the developed and developing economies based on ESG philosophy. However, the ratings for the JSE listed companies only started in 2015.

6.2.6 Alternative independent variables (non-financial performance measure) used for robustness check

- In addition to the ESG rating from FTSE Russell discussed above, another ESG rating was collected from Bloomberg Asset 4 to test whether the results still hold under an alternative ESG measure for the same period. This was used in model 2 of the study.

6.2.7 Control variables

- *Industry or sector (DM)*: Companies are classified into seven sectors. Dummy variable was created for the industry to control for sector differences. This is consistent with the literature that has indicated that the nature of the industry affects executive compensation (Hempel & Fay, 1994).

Some of the companies had missing data for one or more variables. In line with Flynn and Bordieri (2020), the imputation technique was used to deal with the missing data. Consistent with Tshipa, Brummer, Wolmarans and Du Toit (2018), box-plots were used to identify the outliers. For outliers that were identified in the dataset, the winsorization technique was used (Rossi & Harjoto, 2020; Uyar, Kuzey & Kilic, 2021).

7. Results and discussion

7.1 Descriptive statistics

Descriptive statistics were conducted first followed by diagnostic tests for multicollinearity, autocorrelation, and heteroskedasticity. The diagnostic tests were a precursor to the regression analysis that was conducted to determine the relationship between directors' remuneration and company performance (both financial and non-financial).

From the descriptive statistics presented in Table 1 below, it is worth noting that an average of R48 million and R10 million was earned by EDs and NEDs respectively over the period under review, while the average economic value added was negative R2.5 million. EVA represents profits minus capital charge over the period. Therefore, this implies that the profits generated by the companies over the period under review were not enough to cover the capital charge. This mismatch between pay and performance affirms the argument of this study and the fact that the directors' remuneration is not always commensurate with the underlying company performance while it is also more geared to growth in short-term profits.

Table 1: Descriptive statistics

Variable	Obs	Mean	Std. Dev.	Min	Max
NEC	478	R10m	R12.9m	R0	R174.2m
EC	478	R48m	R48.9m	R23.9m	R435m
ROE	475	18.76%	50.06%	-89.42%	72.67%
EPS	466	R11.38	R21.52	-R20.51	R300.42
Tobin's Q	458	1.47	1.14	0.06	8.71
EVA	468	-R2.5m	R21.7m	-R297.8m	R122.8m
MVA	456	2.2	1.92	0.34	13.07
ESG	441	3.3	0.89	0.00	5.00

Source: Own compilation from SPSS

7.2 Multicollinearity

To test for the presence of multicollinearity in the data, variance inflation factors (VIF) was computed for the predictor variables. The results are presented in Table 2 below.

Table 2: Variance inflation factors (VIF)

Variables	VIF
ROE	2.346
EPS	1.445
EVA	1.559
MVA	3.023
ESG	1.285
Tobin's Q	2.748

Source: Own compilation from SPSS

According to Al-ahdal et al. (2020), VIFs must be less than 10 to confirm the absence of multicollinearity in the dataset. Using this benchmark, it is clear that none of the predictor variables in this study indicated any sign of multicollinearity.

7.3 Autocorrelation and heteroskedasticity

Autocorrelation defines the extent to which the observations in the panel data are similar due to passage of time among them (Burlig et al., 2020; Naciti, 2019). The Durbin Watson test was used to determine whether autocorrelation was present in the data. A Durbin Watson test statistic between 1.5 and 2.5 range refutes the existence of autocorrelation, thereby indicating that there is no serious autocorrelation (Field, 2018; Levendis, 2018).

Panel least squares regression analysis was initially conducted as a starting point. To account for industry differences, seven dummy variables were constructed. In total, the sample is made up of seven industries and the study used six dummy variables since the seventh industry was used a reference variable. The resulting models for EDs' and

NEDs' remuneration have Durbin Watson values of 1.76 and 1.48 respectively. Because they both fall within an acceptable range of 1.5 to 2.5, there is no autocorrelation in the equations.

7.4 Estimated generalised least squares regression model

EGLS regression model was carried out to investigate the extent to which the executive compensation and the non-executive compensation are skewed and reliant on financial performance to the exclusion of ESG performance.

The following are the specifications of the two models:

$$NEC = \alpha_0 + \beta_1 \text{ROE} + \beta_2 \text{EVA} + \beta_3 \text{MVA} + \beta_4 \text{Tobin's Q} + \beta_5 \text{EPS} + \beta_6 \text{ESG-rating (FTSE Russell)} + \beta_7 \text{industry} + \varepsilon \quad \text{(Equation 1)}$$

$$EC = \alpha_0 + \beta_1 \text{ROE} + \beta_2 \text{EVA} + \beta_3 \text{MVA} + \beta_4 \text{Tobin's Q} + \beta_5 \text{EPS} + \beta_6 \text{ESG-rating (FTSE Russell)} + \beta_7 \text{industry} + \varepsilon \quad \text{(Equation 2)}$$

A robustness test was further carried out to establish whether the results would still hold if an alternative measure of ESG is used in the model. The following represent the equations to account for such a robustness test:

$$NEC = \alpha_0 + \beta_1 \text{ROE} + \beta_2 \text{EVA} + \beta_3 \text{MVA} + \beta_4 \text{Tobin's Q} + \beta_5 \text{EPS} + \beta_6 \text{ESG-rating (Bloomberg)} + \beta_7 \text{industry} + \varepsilon \quad \text{(Equation 3)}$$

$$EC = \alpha_0 + \beta_1 \text{ROE} + \beta_2 \text{EVA} + \beta_3 \text{MVA} + \beta_4 \text{Tobin's Q} + \beta_5 \text{EPS} + \beta_6 \text{ESG-rating (Bloomberg)} + \beta_7 \text{industry} + \varepsilon \quad \text{(Equation 4)}$$

Where NEC is NEDs' remuneration in equation 1 and EC is EDs' remuneration in equation 2, α_0 is intercept, β_1ROE refers to return on equity, β_2EVA indicates economic value added, β_3MVA represents market value added, β_4Tobin's Q is Tobin's Q ratio, β_5EPS is EPS, β_6ESG-rating represents the ESG ratings (from FTSE Russell in the base model and from Bloomberg in an alternative model used for robustness test), $\beta_7$industry is an industry dummy variable and ε represents error term. The results from the EGLS models are presented in Tables 3 and 4 below.

Based on Tables 3 and 4, the following is evident regarding the extent to which variations in NEDs' remuneration and EDs' remuneration are explained by the predictor variables.

All the independent variables that proxied financial performance, namely EPS, MVA, EVA, ROE, and Tobin's Q, are not statistically significant in explaining the variability of both NEDs' and EDs' remuneration. On the other hand, the ESG rating which proxied non-financial performance measures is statistically significant in explaining the variability in both NEDs' and EDs' remuneration on the base model. The ESG rating is more significant in explaining the variability of non-executive compensation on the base model. In both the NEDs' and EDs' remuneration, basic materials, healthcare, and consumer goods industries are also significant. For NEDs' remuneration, industrials and healthcare sectors are also significant as industry proxies.

Table 3: Panel estimated generalised least squares (period SUR) – non-executive compensation

		Variable	Base model			Alternative model (for robustness test)		
			Coefficient	t-value	p-value	Coefficient	t-value	p-value
Outcome variable	**Non-Executive Compensation (NEC)**	NEC (C)	10449.98	3.634858	0.0003	13448.06	3.854689	0.0001
Predictor variables	**Financial Performance Measures (FPM)**	EPS	0.092489	-0.226083	0.8213	0.177372	0.404398	0.6861
		MVA	-288.7946	-0.441150	0.6593	-762.5724	-1.325849	0.1857
		EVA	-8.59E-05	-1.388488	0.1658	4.24E-05	0.920038	0.3581
		ROE	8.331044	0.414733	0.6786	-17.86322	-1.066116	0.2870
		Tobin'sQ	-167.7156	-0.267706	0.7891	433.3908	0.906037	0.3655
	Non-Financial Performance Measures (NFPM)	ESG Rating	938.1499	2.184712	0.0295	33.62421	2.790724	0.0055
	Industry (dummy variables)	Basic materials	-7072.218	-2.591365	0.0099	-8150.221	-2.248828	0.0251
		Financials	-1871.496	-0.641103	0.5218	-2344.336	-0.649244	0.5166
		Industrials	-5002.769	-1.917958	0.0558	-6254.630	-1.774732	0.0767
		Healthcare	-6225.119	-2.522640	0.0120	-10300.76	-2.949782	0.0034
		Consumer Services	-3203.216	-1.359674	0.1747	-5869.893	-1.688638	0.0921
		Consumer Goods	-6415.928	-2.339056	0.0198	-7689.784	-2.318524	0.0209
R^2	0.063492					0.083977		
Adjusted R^2	0.035255					0.056358		
Durban Watson	1.460776					1.755945		
F-Statistic	2.248574					3.040561		

Source: Own compilation from EViews11

Table 4: Panel estimated generalised least squares (period SUR) – executive compensation

		Variable	Base model			Alternative model (for robustness test)		
			Coefficient	t-value	p-value	Coefficient	t-value	p-value
Outcome variable	Executive Compensation (EC)	EC (C)	51764.63	2.938937	0.0035	64118.80	4.177009	0.0000
Predictor variables	Financial Performance Measures (FPM)	EPS	2.894018	1.134089	0.2574	3.230499	1.223328	0.2219
		MVA	1636.398	0.707472	0.4797	1581.055	0.644745	0.5195
		EVA	-0.000442	-1.390357	0.1652	0.000229	0.753891	0.4514
		ROE	-23.16666	-0.209606	0.8341	-153.5989	-1.264682	0.2067
		Tobin's Q	1602.573	0.574851	0.5657	1907.627	0.686641	0.4927
	Non-Financial Performance Measures (NFPM)	ESG Rating	4156.865	1.903695	0.0577	79.01716	1.545095	0.1231
	Industry (dummy variables)	Basic materials	-43380.11	-2.662537	0.0081	-40991.62	-2.593730	0.0098
		Financials	-26011.37	-1.550887	0.1217	-25016.70	-1.528435	0.1272
		Industrials	-15833.23	-0.794723	0.4272	-20045.47	-1.091570	0.2757
		Healthcare	-48100.43	-2.882127	0.0042	-54651.53	-3.449764	0.0006
		Consumer Services	-25794.26	-1.449980	0.1479	-22507.64	-1.345623	0.1792
		Consumer Goods	-37149.58	-1.787510	0.0746	-38001.92	-1.900165	0.0581
R^2	0.041761					0.048443		
Adjusted R^2	0.012870					0.019753		
Durban Watson	1.784896					1.879469		
F-Statistic	1.445447					1.688492		

Source: Own compilation from EViews11

Based on the model for robustness test in which the ESG rating from Bloomberg was used, the results largely hold. This is apart from the executive compensation. In this regard, the ESG rating is not statistically significant in explaining the variability in executive compensation. The use of different rating agencies is common in the literature as confirmed by Billio, Costola, Hristova, Latino and Pelizzon (2021) who argued that the attributes, standards, and definitions of the three pillars of ESG are different among the rating agencies, including those used in this study, namely, FTSE Russell and Bloomberg. Nevertheless, the fact that the Bloomberg ESG rating is not statistically different in explaining the variability in executive compensation is an important finding since it affirms the fact that the executive compensation, most of which is bonuses and variable in nature, is not driven by non-financial performance. Rather, it is largely determined with reference to short-term financial performance measures which are subject to manipulation and accounting fraud as per the spectacle that played out in companies such as Steinhoff, Tongaat Hullet, Bain & Company, and many others (Davies, 2022; Rossouw & Styan, 2019; Van Vuuren, 2020).

The findings are consistent with those of Al-Najjar (2017); Cooper et al. (2016); Kirsten and Du Toit (2018), and Raithatha and Komera (2016) who all did not find any relationship between directors' remuneration and financial performance measures. The difference between the findings of this study and the other studies is that the current study also included an ESG rating, a proxy for non-financial performance as part of the independent variables. This shortcoming in the literature has also been lamented by Obermann and Velte (2018) who emphasised the importance of non-financial performance measures in designing compensation plans. Previous studies do not differentiate between the remuneration of EDs and NEDs (De Wet, 2012; Kirsten & Du Toit, 2018; Padia & Callaghan, 2020).

8. Conclusion and recommendations

The results of this study indicate that, when designing compensation plans of the executive and non-executive directors, companies are shifting away from focusing on financial performance measures to non-financial performance measures. The emphasis is no longer on financial performance measures. Padia and Callaghan (2020) argued that companies should integrate measures such as Tobin's Q and return on assets in directors' remuneration designs. The findings of this study therefore support the argument since the same measures were not found to be significant in explaining the variability in both executive and non-executive directors' remuneration. Furthermore, academics should investigate the specific non-financial or ESG indicators that can be used alongside the financial performance measures.

This study is not without its shortcomings. Chief among them is its delimitations. In particular, the study has not sought to investigate the remuneration policies of the sampled companies. To establish if there are any incentives provided to the executives with regards to ESG matters, future studies could specifically include content analysis of

companies' integrated reporting to interrogate the remuneration policies for the specific disclosure on ESG metrics for executive compensation. This can also help to provide more context of how the remuneration policies are geared towards fairness and equity while ensuring that the directors are responsibly remunerated amidst poverty, inequality, and unemployment challenges facing South Africa as a developing economy.

Incorporating the non-financial performance measures when designing compensation plans for both EDs and NEDs as suggested by the findings of this study is commendable. It is in line with the stakeholder theory which suggests that the interests of other stakeholders such as employees, customers, suppliers, and society in general should be considered in corporate decision-making (De Villiers & Marques, 2016; Freudenreich et al., 2020). Mio, Fasan, Marcon and Panfilo (2020) contend that companies are viewed in a positive light by society when they are cognisant of the pertinent issues affecting society and the environment in corporate decision-making. This is also consistent with the legitimacy theory that encourages companies to seek social license from society by being transparent and cognisant of societal factors in decision-making. In addition to the content analysis of remuneration policies discussed above, future studies could also investigate the specific non-financial performance or ESG indicators that are bespoke to the South African contextual setting and can be used in compensation design. Such an investigation would help the policymakers to have a baseline metric for compensation design.

Implications of this study is twofold. First, regulators should ensure that NEDs remain independent. The fact that ESG rating is significant in explaining variability in NEDs' compensation suggests that there could be a variable component and such a component is linked to ESG performance. Including variable components in NEDs' remuneration as suggested in this study is not consistent with the letter and the spirit of King IV code, which prohibits awards of share options and similar incentives to this group of directors. Therefore, policymakers should monitor this practice and ensure that NEDs are only paid fixed remuneration to ensure independence. Second, EDs' remuneration should not only be determined with reference to the non-financial performance measures as suggested in this study, but they should also couple that with financial performance measures that are aligned to shareholders' value maximisation ideals. This would ensure that the companies continue generating profits while not sacrificing their long-term sustainability.

Acknowledgement

The PhD study from which this article emanates was funded by the National Research Foundation (NRF). The authors want to acknowledge their support.

References

Agrawal, A., Mohanty, P. & Totala, N.K. (2019). Does EVA beat ROA and ROE in explaining the stock returns in Indian scenario? An evidence using mixed effects panel data regression model. *Management and Labour Studies*, 44(2):103-134. https://doi.org/10.1177/0258042X19832397

Al-ahdal, W.M., Alsamhi, M.H., Tabash, M.I. & Farhan, N.H. (2020). The impact of corporate governance on financial performance of Indian and GCC listed firms: An empirical investigation. *Research in International Business and Finance*, 51(1):101083-101095. https://doi.org/10.1016/j.ribaf.2019.101083

Al Farooque, O., Buachoom, W. & Hoang N. (2019). Interactive effects of executive compensation, firm performance and corporate governance: Evidence from an Asian market. *Asia Pacific Journal of Management*, 36(4):1111-1164. https://doi.org/10.1007/s10490-018-09640-2

Al-Najjar, B. (2017). Corporate governance and CEO pay: Evidence from UK Travel and Leisure listed firms. *Tourism Management*, 60(1):9-14. https://doi.org/10.1016/j.tourman.2016.11.005

Almeida, H. (2019). Is it time to get rid of earnings-per-share (EPS)?. *Review of Corporate Finance Studies*, 8(1):174-206. https://doi.org/10.1093/rcfs/cfy010

Alves, P., Couto, E.B. & Francisco, P.M. (2016). Executive pay and performance in Portuguese listed companies. *Research in International Business and Finance*, 37:184-195. https://doi.org/10.1016/j.ribaf.2015.11.006

Alves, I. & Lourenço, S.M. (2022). The use of non-financial performance measures for managerial compensation: evidence from SMEs. *Journal of Management Control*, 33(2):151-187. https://doi.org/10.1007/s00187-022-00337-8

Amewu, G. & Alagidede, P.I. (2021). Mergers, executive compensation and firm performance: The case of Africa. *Managerial and Decision Economics*, 42(2):407-436. https://doi.org/10.1002/mde.3244

An, Y., Davey, H. & Eggleton, I.R. (2011). Towards a comprehensive theoretical framework for voluntary IC disclosure. *Journal of Intellectual Capital*, 12(4):571-585. https://doi.org/10.1108/14691931111181733

Andreas, J.M., Rapp, M.S. & Wolff, M. (2012). Determinants of director compensation in two-tier systems: Evidence from German panel data. *Review of Managerial Science*, 6(1):33-79. https://doi.org/10.1007/s11846-010-0048-z

Bapuji, H., Husted, B.W., Lu, J. & Mir, R. (2018). Value creation, appropriation, and distribution: How firms contribute to societal economic inequality. *Business & Society*, 57(6):983-1009. https://doi.org/10.1177/0007650318758390

Bebchuk, L.A. & Fried, J.M. (2003). Executive compensation as an agency problem. *Journal of Economic Perspectives*, 17(3):71-92. https://doi.org/10.1257/089533003769204362

Bebchuk, L.A., Cremers, K.M. & Peyer, U.C. (2011). The CEO pay slice. *Journal of Financial Economics*, 102(1):199-221. https://doi.org/10.1016/j.jfineco.2011.05.006

Belcredi, M. & Bozzi, S. (2019). Remuneration of independent directors: Determinants and policy implications. *Corporate Ownership Control*, 17(1):278-291. https://doi.org/10.22495/cocv17i1siart10

Bencomo, R.Q. (2021). The role of independent non-executive directors in resolving corporate governance disputes: A framework of conciliation for effectively addressing controversies within shareholders, stakeholders and the board of directors? *Trento Student Law Review*, 3(1):17-58. https://doi.org/10.15168/tslr.v3i1.741

Bhagat, S. & Bolton, B. (2014). Financial crisis and bank executive incentive compensation. *Journal of Corporate Finance*, 25(1):313-341. https://doi.org/10.1016/j.jcorpfin.2014.01.002

Billio, M., Costola, M., Hristova, I., Latino, C. & Pelizzon, L. (2021). Inside the ESG ratings: (Dis)agreement and performance. *Corporate Social Responsibility and Environmental Management*, 28(5):1426-1445. https://doi.org/10.1002/csr.2177

Boivie, S., Bednar, M.K. & Barker, S.B. (2015). Social comparison and reciprocity in director compensation. *Journal of Management*, 41(6):1578-1603. https://doi.org/10.1177/0149206312460680

Bouaziz, D., Salhi, B. & Jarboui, A. (2020). CEO characteristics and earnings management: Empirical evidence from France. *Journal of Financial Reporting and Accounting*, 18(1):77-110. https://doi.org/10.1108/JFRA-01-2019-0008

Bradford, M., Earp, J.B. & Williams, P.F. (2017). Understanding sustainability for socially responsible investing and reporting. *Journal of Capital Markets Studies*, 1(1):10-35. https://doi.org/10.1108/JCMS-10-2017-005

Breijer, R. & Orij, R.P. (2022). The comparability of non-financial information: An exploration of the impact of the non-financial reporting directive (NFRD, 2014/95/EU). *Accounting in Europe*, 1-29. https://doi.org/10.1080/17449480.2022.2065645

Budsaratragoon, P., Lhaopadchan, S. & Thomsen, S. (2020). Community and compensation: Director remuneration in Thailand. *Research in International Business and Finance*, 52(1):1-19. https://doi.org/10.1016/j.ribaf.2019.101124

Bugeja, M., Fohn, S. & Matolcsy, Z. (2016). Determinants of the levels and changes in non-executive director compensation. *Accounting and Finance*, 56(3):627-667. https://doi.org/10.1111/acfi.12093

Burlig, F., Preonas, L. & Woerman, M. (2020). Panel data and experimental design. *Journal of Development Economics*,144(1):102458-102472. https://doi.org/10.1016/j.jdeveco.2020.102458

Bussin, M. (2015). CEO pay-performance sensitivity in the South African context. *South African Journal of Economic and Management Sciences*, 18(2):232-244. https://doi.org/10.4102/sajems.v18i2.838

Bussin, M. (2018). Chief executive officer compensation sensitivity in the South African mining industry. *Acta Commercii*, 18(1):1-13. https://doi.org/10.4102/ac.v18i1.573

Butterick, M. & Charlwood, A. (2021). HRM and the COVID-19 pandemic: How can we stop making a bad situation worse? *Human Resource Management Journal*, 31(4):847-856. https://doi.org/10.1111/1748-8583.12344

Chakravarthy, B.S. (1986). Measuring strategic performance. *Strategic Management Journal*, 7(5):437-458. https://doi.org/10.1002/smj.4250070505

Choong, Y.V. (2021). Economic Value Added (EVA) and Market Value Added (MVA) towards value creation. *Turkish Journal of Computer and Mathematics Education (TURCOMAT)*, 12(10):6046-6050.

Chouaibi, Y., Rossi, M. & Zouari, G. (2021). The effect of corporate social responsibility and the executive compensation on implicit cost of equity: Evidence from French ESG data. *Sustainability*, 13(20):1-17. https://doi.org/10.3390/su132011510

Cooper, M., Gulen, H. & Rau, P.R. (2016). Performance for pay? The relation between CEO incentive compensation and future stock price performance. Working Paper, University of Utah. https://papers.ssrn.com/sol3/papers.cfm?abstract_ id=1572085 [Accessed on 24 October 2021].

Cordeiro, J.J., He, L., Conyon, M. & Shaw, T.S. (2013). Informativeness of performance measures and Chinese executive compensation. *Asia Pacific Journal of Management*, 30(4):1031-1058. https://doi.org/10.1007/s10490-013-9353-9

Dai, H., Mamkhezri, J., Arshed, N., Javaid, A., Salem, S. & Khan, Y.A. (2022). Role of energy mix in determining climate change vulnerability in G7 countries. *Sustainability*, 14(4):1-15. https://doi.org/10.3390/su14042161

Davies, T. (2022). Unicorn sightings: The corporate moral apology in South Africa. In: M. Judge & D. Smythe (eds.), *Unsettling apologies: Critical writings on apology from South Africa* (pp. 221-245). Bristol: Bristol University Press. https://doi.org/10.2307/j.ctv2xqnf6r.17

Davis, J., Batchelor, J.H. & Kreiser, P. (2019). The influence of organizational task environment and firm size on top-executive compensation contracts. *Journal of Small Business & Entrepreneurship*, 31(1):21-42.

Day, C. (2020). Goodwill impairment testing disclosures: South African compliance in 2018. *South African Journal of Accounting Research*, 34(1):45-62. https://doi.org/10.1080/10291954.2019.1668120

De Villiers, C. & Marques, A. (2016). Corporate social responsibility, country-level predispositions, and the consequences of choosing a level of disclosure. *Accounting and Business Research*, 46(2):167-195. https://doi.org/10.1080/00014788.2015.1039476

De Wet, J.H. (2012). Executive compensation and the EVA and MVA performance of South African listed companies. *Southern African Business Review*, 16(3):57-80.

Deegan, C. (2002). The legitimising effect of social and environmental disclosures: A theoretical foundation. *Accounting, Auditing & Accountability Journal*, 15(3):282-311. https://doi.org/10.1108/09513570210435852

Deysel, B. & Kruger, J. (2015). The relationship between South African CEO compensation and company performance in the banking industry. *Southern African Business Review*, 19(1):137-169. https://doi.org/10.25159/1998-8125/5837

Ding, W., Levine, R., Lin, C. & Xie, W. (2021). Corporate immunity to the Covid-19 pandemic. *Journal of Financial Economics*, 141(2):802-830. https://doi.org/10.1016/j.jfineco.2021.03.005

Dragomir, V.D., Dumitru, M. & Feleaga, L. (2022). The predictors of non-financial reporting quality in Romanian state-owned enterprises. *Accounting in Europe*, 19(1):110-151. https://doi.org/10.1080/17449480.2021.2018474

Esser, I.M. & Delport, P. (2017). The protection of stakeholders: The South African social and ethics committee and the United Kingdoms enlightened shareholder value approach: Part 2. *De Jure*, 50(2):221-241. https://doi.org/10.17159/2225-7160/2017/v50n2a2

Ezeani, E.C. & Williams, E. (2017). Regulating corporate directors pay and performance: A comparative review. *African Journal of International and Comparative Law*, 25(4):482-506. https://doi.org/10.3366/ajicl.2017.0208

Fedaseyeu, V., Linck, J.S. & Wagner, H.F. (2018). Do qualifications matter? New evidence on board functions and director compensation. *Journal of Corporate Finance*, 48(1):816-839. https://doi.org/10.1016/j.jcorpfin.2017.12.009

Fahlenbrach, R. & Stulz, R.M. (2011). Bank CEO incentives and the credit crisis. *Journal of Financial Economics*, 99(1):11-26. https://doi.org/10.1016/j.jfineco.2010.08.010

Faulkender, M., Kadyrzhanova, D., Prabhala, N. & Senbet, L. (2010). Executive compensation: An overview of research on corporate practices and proposed reforms. *Journal of Applied Corporate Finance*, 22(1):107-118. https://doi.org/10.1111/j.1745-6622.2010.00266.x

Field, A.P. (2018). *Discovering statistics using IBM SPSS statistics.* 5th Edition. London: Sage Publications.

Flynn, M.K. & Bordieri, M.J. (2020). On the failure to replicate past findings regarding positive affirmations and self-esteem. *Journal of Contextual Behavioral Science*, 16(1):49-61. https://doi.org/10.1016/j.jcbs.2020.03.003

Folqué, M., Escrig-Olmedo, E. & Corzo Santamaría, T. (2021). Sustainable development and financial system: Integrating ESG risks through sustainable investment strategies in a climate change context. *Sustainable Development*, 21(1):876-890. https://doi.org/10.1002/sd.2181

Freeman, R.E. (2010). Managing for stakeholders: Trade-offs or value creation. *Journal of Business Ethics*, 96(1):7-9. https://doi.org/10.1007/s10551-011-0935-5

Freudenreich, B., Lüdeke-Freund, F. & Schaltegger, S. (2020). A stakeholder theory perspective on business models: Value creation for sustainability. *Journal of Business Ethics*, 166(1):3-18. https://doi.org/10.1007/s10551-019-04112-z

García-Ramos, R. & Díaz Díaz, B. (2020). Non-executive director (NED). In: S. Idowu, R. Schmidpeter, N. Capaldi, L. Zu, M. Del Baldo & R. Abreu (eds.), *Encyclopedia of Sustainable Management* (pp. 1-5). Cham: Springer International Publishing.

George, G. & Schillebeeckx, S.J. (2022). Digital transformation, sustainability, and purpose in the multinational enterprise. *Journal of World Business*, 57(3):1-8. https://doi.org/10.1016/j.jwb.2022.101326

Gibson Brandon, R., Krueger, P. & Schmidt, P.S. (2021). ESG rating disagreement and stock returns. *Financial Analysts Journal*, 77(4):104-127. https://doi.org/10.1080/0015198X.2021.1963186

Haque, F. & Ntim, C.G. (2020). Executive compensation, sustainable compensation policy, carbon performance and market value. *British Journal of Management*, 31(3):525-546. https://doi.org/10.1111/1467-8551.12395

Harjanti, W. & Farhan, A. (2022). CEO compensation: A brief study from Indonesia. *Budapest International Research and Critics Institute (BIRCI): Humanities and Social Sciences*, 5(2):13279-13288.

Harrison, J.S., Phillips, R.A. & Freeman, R.E. (2020). On the 2019 business roundtable"statement on the purpose of a corporation". *Journal of Management*, 46(7):1223-1237. https://doi.org/10.1177/0149206319892669

Haynes, T.K., Campbell, J.T. & Hitt, M.A. (2017). When more is not enough: Executive greed and its influence on shareholder wealth. *Journal of Management*, 43(2):555-584. https://doi.org/10.1177/0149206314535444

Haywood, L.K., Funke, N., Audouin, M., Musvoto, C. & Nahman, A. (2019). The Sustainable Development Goals in South Africa: Investigating the need for multi-stakeholder partnerships. *Development Southern Africa*, 36(5):555-569. https://doi.org/10.1080/0376835X.2018.1461611

Hempel, P. & Fay, C. (1994). Outside director compensation and firm performance. *Human Resource Management*, 33(1):111-133. https://doi.org/10.1002/hrm.3930330107

Henisz, W.J., Dorobantu, S. & Nartey, L.J. (2014). Spinning gold: The financial returns to stakeholder engagement. *Strategic Management Journal*, 35(12):1727-1748. https://doi.org/10.1002/smj.2180

Hübel, B. & Scholz, H. (2020). Integrating sustainability risks in asset management: The role of ESG exposures and ESG ratings. *Journal of Asset Management*, 21(1):52-69. https://doi.org/10.1057/s41260-019-00139-z

Hussain, N., Rigoni, U. & Cavezzali, E. (2018). Does it pay to be sustainable? Looking inside the black box of the relationship between sustainability performance and financial performance. *Corporate Social Responsibility and Environmental Management*, 25(6):1198-1211. https://doi.org/10.1002/csr.1631

Ibikunle, G. & Steffen, T. (2017). European green mutual fund performance: A comparative analysis with their conventional and black peers. *Journal of Business Ethics*, 145(2):337-355. https://doi.org/10.1007/s10551-015-2850-7

Institute of Directors South Africa. (2016). King IV report on corporate governance for South Africa.

Janes, F. & Harvey, R.H. (2022). The case for diversity, equality and inclusion. *Journal of Financial Compliance*, 5(3):218-227.

Jegede, A.O. & Makulana, A.W. (2019). Climate change interventions in South Africa: The significance of *Earthlife Africa Johannesburg v Minister of Environmental Affairs* (Thabametsi case)[2017] JOL 37526 (GP). *Obiter*, 40(2):399-407. https://doi.org/10.17159/obiter.v40i2.11271

Jensen, M.C. & Meckling, W.H. (1976). Theory of the firm: Managerial behavior, agency costs and ownership structure. *Journal of Financial Economics*, 3(4):305-360. https://doi.org/10.1016/0304-405X(76)90026-X

Jensen, M.C. & Murphy, K.J. (2010). CEO incentives: It's not how much you pay, but how. *Journal of Applied Corporate Finance*, 22(1):64-76. https://doi.org/10.1111/j.1745-6622.2010.00262.x

Jiang, L., Kling, G. & Bo, H. (2021). Does executive compensation affect firms acquisition decisions? Evidence from China. *Asia Pacific Business Review*, 27(5):731-748. https://doi.org/10.1080/13602381.2020.1834736

Kana, S.P. (2020). Corporate governance practice in the context of the political situation in South Africa over the last 25 years. *Journal of Global Responsibility*, 11(2):127-137. https://doi.org/10.1108/JGR-10-2019-0100

Kerr, A. & Wittenberg, M. (2021). Union wage premia and wage inequality in South Africa. *Economic Modelling*, 97(1):255-271. https://doi.org/10.1016/j.econmod.2020.12.005

Khan, W.A. & Vieito, J.P. (2013). CEO gender and firm performance. *Journal of Economics and Business*, 67(1):55-66. https://doi.org/10.1016/j.jeconbus.2013.01.003

Kirsten, E. & Du Toit, E. (2018). The relationship between remuneration and financial performance for companies listed on the Johannesburg Stock Exchange. *South African Journal of Economic and Management Sciences*, 21(1):1-10. https://doi.org/10.4102/sajems.v21i1.2004

Krueger, P., Sautner, Z. & Starks, L.T. (2020). The importance of climate risks for institutional investors. *The Review of Financial Studies*, 33(3):1067-1111. https://doi.org/10.1093/rfs/hhz137

Lemma, T.T., Mlilo, M. & Gwatidzo, T. (2020). Board remuneration, directors ownership and corporate performance: The South African evidence. *International Review of Applied Economics*, 34(4):491-511. https://doi.org/10.1080/02692171.2020.1773654

Levendis, J.D. (2018). *Time series econometrics: Learning through replication.* Cham: Springer. https://doi.org/10.1007/978-3-319-98282-3

Liew, C.Y., Ko, Y., Song, B.L. & Murthy, S.T. (2022). Directors compensation, ownership concentration and the value of the firm: Evidence from an emerging market. *Journal of Industrial and Business Economics*, 49(1):155-188. https://doi.org/10.1007/s40812-022-00210-8

Lozano-Reina, G. & Sánchez-Marín, G. (2020). Say on pay and executive compensation: A systematic review and suggestions for developing the field. *Human Resource Management Review*, 30(2):100683-100697. https://doi.org/10.1016/j.hrmr.2019.01.004

Lüdeke-Freund, F. & Dembek, K. (2017). Sustainable business model research and practice: Emerging field or passing fancy? *Journal of Cleaner Production*, 168(1):1668-1678. https://doi.org/10.1016/j.jclepro.2017.08.093

Maggott, L. (2021). South Africa must help mitigate climate change: Carbon tax aims to do just this. *Professional Accountant*, 2021(39):38-39.

Majoni, A. (2019). Mitigating secondary agency problems: Examining the impact of share option compensation for non-executive directors on CEO pay incentives and earnings management. Doctoral thesis, University of Cape Town, South Africa.

Marimuthu, F. & Kwenda, F. (2019). The relationship between executive remuneration and financial performance in South African state-owned entities. *Academy of Accounting and Financial Studies Journal*, 23(4):1-18.

Matemane, R., Moloi, T. & Adelowotan, M. (2022). ESG performance measures for executive pay: Delphi inquiry strategy and experts' opinion. *Acta Commercii*, 22(1):1-14. https://doi.org/10.4102/ac.v22i1.1072

Mazur, M., Dang, M. & Vega, M. (2021). Covid-19 and the March 2020 stock market crash: Evidence from S&P1500. *Finance Research Letters*, 38(1):101690-101698. https://doi.org/10.1016/j.frl.2020.101690

Mejia, S. (2019). Weeding out flawed versions of shareholder primacy: A reflection on the moral obligations that carry over from principals to agents. *Business Ethics Quarterly*, 29(4):519-544. https://doi.org/10.1017/beq.2019.18

Mio, C., Fasan, M., Marcon, C. & Panfilo, S. (2020). The predictive ability of legitimacy and agency theory after the implementation of the EU directive on non-financial information. *Corporate Social Responsibility and Environmental Management*, 27(6):2465-2476. https://doi.org/10.1002/csr.1968

Naciti, V. (2019). Corporate governance and board of directors: The effect of a board composition on firm sustainability performance. *Journal of Cleaner Production*, 237(1):117727-117735. https://doi.org/10.1016/j.jclepro.2019.117727

Ngwenya, S. (2016). CEO compensation, corporate governance, and performance of listed platinum mines in South Africa. *Corporate Ownership and Control*, 13(2):408-416. https://doi.org/10.22495/cocv13i2cLp8

Nteta, A. & Mushonga, J. (2021). Drivers and barriers to green supply chain management in the South African cement industry. *Journal of Transport and Supply Chain Management*, 15:1-17. https://doi.org/10.4102/jtscm.v15i0.571

Obermann, J. & Velte, P. (2018). Determinants and consequences of executive compensation-related shareholder activism and say-on-pay votes: A literature review and research agenda. *Journal of Accounting Literature*, 40(1):116-151. https://doi.org/10.1016/j.acclit.2018.02.001

Odeku, K.O. (2021). Socio-economic implications of Covid-19 pandemic in South Africa. *Academy of Entrepreneurship Journal*, 27(1):1-6.

Olaniyi, C.O., Obembe, O.B. & Oni, E.O. (2017). Analysis of the nexus between CEO pay and performance of non-financial listed firms in Nigeria. *African Development Review*, 29(3):429-445. https://doi.org/10.1111/1467-8268.12279

Padia, N. & Callaghan, C.W. (2020). Executive director remuneration and company performance: panel evidence from South Africa for the years following King III. *Personnel Review*, 50(3):829-844. https://doi.org/10.1108/PR-08-2019-0429

Padia, N., Naik, M. & Callaghan, C.W. (2020). Variable executive remuneration and company performance: Insights from the Johannesburg Stock Exchange, South Africa. *Acta Commercii*, 20(1):1-10. https://doi.org/10.4102/ac.v20i1.790

Palladino, L. (2021). Financialization at work: Shareholder primacy and stagnant wages in the United States. *Competition & Change*, 25(3-4):382-400. https://doi.org/10.1177/1024529420934641

Post, J.E., Preston, L.E. & Sachs, S. (2002). *Redefining the corporation, stakeholder management and organizational wealth.* Stanford, CT: Stanford University Press. https://doi.org/10.1515/9781503619692

Raithatha, M. & Komera, S. (2016). Executive compensation and firm performance: Evidence from Indian firms. *IIMB Management Review*, 28(3):160-169. https://doi.org/10.1016/j.iimb.2016.07.002

Rolle, J.A., Javed, B. & Herani, G.M. (2020). Micro and macroeconomic determinants of profitability of conventional banks and stock performance using Tobins Q ratio: Evidence from the banking sector of Pakistan. *International Journal of Business and Economic Development (IJBED)*, 8(2):74-89. https://doi.org/10.24052/IJBED/V08N02/ART-05

Rönnegard, D. & Smith, N.C. (2018). Shareholder primacy vs. stakeholder theory: The law as constraint and potential enabler of stakeholder concerns. In: J.S. Harrison, J.B. Barney, R.E. Freeman & R.A. Phillips (eds.), *The Cambridge Handbook of Stakeholder Theory* (pp. 117-131). Cambridge: Cambridge University Press. https://doi.org/10.1017/9781108123495.007

Rossi, F. & Harjoto, M.A. (2020). Corporate non-financial disclosure, firm value, risk, and agency costs: evidence from Italian listed companies. *Review of Managerial Science*, 14(5):1149-1181. https://doi.org/10.1007/s11846-019-00358-z

Rossouw, J. & Styan, J. (2019). Steinhoff collapse: A failure of corporate governance. *International Review of Applied Economics*, 33(1):163-170. https://doi.org/10.1080/02692171.2019.1524043

Salehi, M., Tarighi, H. & Safdari, S. (2018). The relation between corporate governance mechanisms, executive compensation and audit fees: Evidence from Iran. *Management Research Review*, 33(4):398-418. https://doi.org/10.1108/MRR-12-2016-0277

Sánchez, J.L.F., Zamanillo, M.D.O. & Luna, M. (2020). How corporate governance mechanisms of banks have changed after the 2007–08 financial crisis. *Global Policy*, 11(1):52-61. https://doi.org/10.1111/1758-5899.12748

Scholtz, H. & Smit, A. (2012). Executive remuneration and company performance for South African companies listed on the Alternative Exchange (AltX). *Southern African Business Review*, 16(1):22-38.

Schröder, P. (2022). Mandatory non-financial reporting in the banking industry: Assessing reporting quality and determinants. *Cogent Business & Management*, 9(1):1-24. https://doi.org/10.1080/23311975.2022.2073628

Seamer, M. & Melia, A. (2015). Remunerating non-executive directors with stock options: Who is ignoring the regulator? *Accounting Research Journal*, 28(3):251-267. https://doi.org/10.1108/ARJ-12-2013-0092

Sell, S.K. (2020). What Covid-19 reveals about twenty-first century capitalism: Adversity and opportunity. *Development*, 63(2):150-156. https://doi.org/10.1057/s41301-020-00263-z

Settembre-Blundo, D., González-Sánchez, R., Medina-Salgado, S. & García-Muiña, F.E. (2021). Flexibility and resilience in corporate decision making: A new sustainability-based risk management system in uncertain times. *Global Journal of Flexible Systems Management*, 22(2):107-132. https://doi.org/10.1007/s40171-021-00277-7

Sharma, S. & Singh, M. (2018). Corporate governance and firms performance during subprime crisis: Evidence from Indian firms. *Gurukul Business Review*, 14(1):12-25.

Sheikh, M.F., Shah, S.Z.A. & Akbar, S. (2018). Firm performance, corporate governance and executive compensation in Pakistan. *Applied Economics*, 50(18):2012-2027. https://doi.org/10.1080/00036846.2017.1386277

Signori, S., San-Jose, L., Retolaza, J.L. & Rusconi, G. (2021). Stakeholder value creation: Comparing ESG and value added in European companies. *Sustainability*, 13(3):1392-1407. https://doi.org/10.3390/su13031392

Sisodia, R., Wolfe, D.B. & Sheth, J. (2007). *Firms of endearment: How world-class companies profit from passion and purpose.* Upper Saddle River, NJ: Wharton School Publishing.

Statistics South Africa (2021). *Quarterly labour force survey: Quarter 2 2021.* Pretoria: Statistics South Africa.

Theku, M. (2015). CEO compensation sensitivity to performance in the South African mining industry. Unpublished Master's thesis, University of Pretoria, South Africa.

Tshipa, J., Brummer, L.M., Wolmarans, H. & Du Toit, E. (2018). The effect of industry nuances on the relationship between corporate governance and financial performance: Evidence from South African listed companies. *South African Journal of Economic and Management Sciences*, 21(1):1-18. https://doi.org/10.4102/sajems.v21i1.1964

Uyar, A., Kuzey, C. & Kilic, M. (2021). Testing the spillover effects of sustainability reporting: Evidence from the public sector. *International Journal of Public Administration*, 44(3):231-240. https://doi.org/10.1080/01900692.2019.1677711

Van der Meer, T.G. & Jonkman, J.G. (2021). Politicization of corporations and their environment: Corporations social license to operate in a polarized and mediatized society. *Public Relations Review*, 47(1):101988-101998. https://doi.org/10.1016/j.pubrev.2020.101988

Van Vuuren, H.J. (2020). The disclosure of corporate governance: A tick-box exercise or not? *International Journal of Business and Management Studies*, 12(1):50-65.

Van Zyl, M. & Mans-Kemp, N. (2020). Reflecting on corporate governance in South Africa: Lessons learned and the way forward. *Southern African Business Review*, 24(1):1-24. https://doi.org/10.25159/1998-8125/6654

Viviers, S. (2015). Executive remuneration in South Africa: Key issues highlighted by shareholder activists. *African Journal of Business Ethics*, 9(1):1-28. https://doi.org/10.15249/9-1-112

Vogel, C. & OBrien, K. (2022). Getting to the heart of transformation. *Sustainability Science*, 17(2):653-659. https://doi.org/10.1007/s11625-021-01016-8

Wakefield, H.I., Yu, D. & Swanepoel, C. (2022). Revisiting transitory and chronic unemployment in South Africa. *Development Southern Africa*, 39(2):87-107. https://doi.org/10.1080/0376835X.2020.1799761

Widyawati, L. (2020). A systematic literature review of socially responsible investment and environmental social governance metrics. *Business Strategy and the Environment*, 29(2):619-637. https://doi.org/10.1002/bse.2393

Zoghlami, F. (2021). Does CEO compensation matter in boosting firm performance? Evidence from listed French firms. *Managerial and Decision Economics*, 42(1):143-155. https://doi.org/10.1002/mde.3219

From feasting to fasting: An autoethnography of Njangis

Author:

Dr Chimene Nukunah[1]
[0000-0001-7051-8735]

Affiliation:

[1] Milpark Business School, South Africa

E-mail:

chimene.nukunah@milpark.ac.za

DOI:

10.15249/17-1-320

Keywords:

autoethnography; emancipation; Njangi; reflexivity; voice

Abstract

In this article, I use autoethnography to share my personal experiences with Njangis in Cameroon, Central Africa. 'Njangi' is an old business practice where members of a community contribute money to assist one another turn by turn. There is literature on the concept of Njangis, however, autoethnography has not been used to share the rich African values that underpin this concept. Using reflexivity as a postmodernist technique, I describe my experiences with Njangis as both a child and adult, while contrasting this with a conventional 'Western' banking system. The aim of this emancipatory exercise is to give voice to an African practice as it relates to business and ethics.

1. Introduction

In his editorial, 'Thoughts on how the *African Journal of Business Ethics* might evolve', the editor-in-chief of this journal highlighted three issues that plague the business ethics literature in relation to Africa (Eccles, 2021):

1. "The native is declared insensible to ethics" (Fanon, 2001:32);
2. The odd provinces, the odd provincials; and
3. What, there are no African philosophies?

After examining these three issues, he encouraged African business researchers to liberate themselves from their colonised minds and to celebrate Africa by sharing their ideas and stories. He expressed a dire need to consider "African philosophies, business in Africa and around the world, and where these collide" (Eccles, 2021:7).

As I reflected on his plea, I realised how my own colonised mindset has kept me silent, preventing me from sharing the rich stories and ideas of my African community. This oppressed state is one which Fanon (1963:29) described in the following words:

> I am willing to believe that at the beginning you did not realize what was happening; later, you doubted whether such things could be true; but now you know, and still, you hold your tongues. Eight years of silence; what degradation! And your silence is all to no avail.

Smith (2012) encouraged researchers committed to social justice to give prominence to silenced experiences and voices in an authentic way. Ignorance is no longer an excuse not to share the rich stories of our communities, so I decided to write this personal autoethnography, to share an African social practice as it relates to business and ethics.

2. My autoethnography study

I am a 40-year-old black woman from Cameroon, Central Africa. I was born and raised in a small town called Bafoussam in the Western part of the country where I was first exposed to the concept of Njangi. The postmodern era has allowed qualitative researchers like myself to share personal experiences that are unique, subjective and evocative. Researchers can legitimise their way of gaining and sharing knowledge without discarding other, traditional scientific methodologies (Wall, 2006 Specifically, autoethnography allows researchers to provide thick descriptions of their personal experience with cultural practices, beliefs and identities (Adams & Herrmann, 2020). There are three dimensions of autoethnography that qualitative researchers should address (Adams & Herrmann, 2020; Ellis & Bochner, 2000):

1. "Auto" relates to selfhood, personal experiences and subjectivities.
2. "Ethno" relates to cultural beliefs, and identities of a group or individual.
3. "Graphy" requires writing a rich description, interpretation or representation.

Autoethnography is an emancipatory qualitative research design that illuminates and integrates cultural beliefs and practices in society. There are intersections between the self (researcher) and the cultural life which provides the basis to show and tell in autoethnography.

Wall (2006) discussed the importance of reflexivity and voice in an autoethnographic study. She argued that there is a link between reflexivity and voice in describing a social phenomenon. As a result, a situation is best described by the person who is directly involved. Postmodernism, critical theory, reflexivity and voice are all intrinsically linked to the emancipatory movement that connotes a liberatory intent. Autoethnography gives silent groups or the "odd provincials" (Eccles, 2021) a voice to share their personal experiences in their social setting as a form of emancipation. It allows for deep insights into the researcher's personal experiences to evolve through continuous reflexivity. Reflexivity is facilitated by a process of narrative writing essential in autoethnography

(O'Neil, 2018). This offers a deep understanding of the researcher as an insider, the culture in which they are embedded, and how these interact with each other (Gearity and Mertz, 2012). Using voice, researchers acknowledge what they know about a phenomenon and how they have experienced it in their social setting. Autoethnography holds the promise that "what I know matters" (Wall, 2006:148).

3. Njangis of my childhood

I grew up in a polygamist family where my father, a renowned businessman in our community, was the main breadwinner in our home. As a child, I saw my father involved in many business activities. However, my highlights every month were the two standing Njangis.[1] I remember many cars parked outside our house as the members came to attend the Njangi meetings. Only members of the Njangi attended the meeting and in certain instances, they came along with prospective new members. The majority, if not all of these Njangi members, were businessmen from our community. When I got a little older, I came to understand that Njangis were groups of people from the community or a given interest group who came together to gather a large amount of money to assist each member in engaging in a social or economic activity. My father explained to me that each member contributed approximately FCFA 500 000 to the Njangi that took place on the 5th of every month and about FCFA 1 000 000 on the 10th of the month. All the members also made monetary contributions to the food and drinks at the meetings.

As a young child, this was the most exciting part about these Njangi meetings. Days before a Njangi meeting, my mother or stepmother, who took turns to cook for the Njangi, would go to the market for a massive shopping trip. Because of the amount of food to be cooked on the day, a lot of preparation was required. This meant a lot of work for us as children but the 'vibe' that this brought to the house made this a joy rather than a burden. On average, about six different traditional Cameroonian dishes were served on the day of the Njangi and these varied every other month. Some of the dishes included pepper soup, ndole, Kondré with pork meat, koki beans, yams, poulet DG, soya (meat kebabs) and roasted fish (see Figure 1).

I loved the food and still do, but my favourite back then was the poulet DG which is made with semi-ripe plantains, lots of mixed vegetables and chicken. I can still smell the chicken marinated in mountains of Cameroonian spices, steamed and fried before it was mixed with fried plantain, carrots, green beans and green peppers. These meals were usually accompanied by a traditional drink called palm wine. Palm wine is a fresh and sweet drink that comes from the sap of various species of palm trees. This drink was a staple in these meetings even though it was substituted with other alcoholic and non-alcoholic beverages.

1 Recently, Besin-Mengla (2020:13) provided a definition of Njangis. However, sometimes the most recent literature is not the best and their definition is, in my view, not as explicit as DeLancey's (1977:319): "Several persons join together to raise money by contributing an agreed-upon, constant sum to a common fund at regular intervals, and on each occasion a different member receives everything that has been collected."

But these feasts were not limited to the day of the Njangis! As children, we waited in anticipation for the next day to continue feasting on the leftovers with our friends at school. We would pray that the guests would not finish the dishes we loved most. I remember the joy on our faces as children, impatiently waiting for the bell to ring for 'long break' so we could continue to feast. Those were good days. We were free, happy, and not worried about allergies or any other food restrictions as is the case today. As a child, apart from the delicious food, all I understood at the time was that these meetings had to do with money. When there was an urgent need at home, my father would tell us "I will buy money at the next Njangi". At that time, I did not understand what he meant, but there was great comfort in this. I knew that everything was under control.

Figure 1: Traditional Cameroonian dishes served at the Njangi meetings

4. My Njangi today

From these childhood memories of feasting and comfort, the culture and discipline of participating in a Njangi to save money every month had been ingrained in me. It was therefore inevitable that as soon as I was old enough, I began to participate in Njangis. However, life has its own flows and in 2006, I left Cameroon (and my Njangis) to live in South Africa for almost 14 years. When I returned to Cameroon with my family in 2020 and began the process of trying to settle down with young children, I felt the need to reconnect with my siblings ... and Njangis. This was for both social and financial reasons. Western banking institutions fell short in both domains. The interest rates banking institutions offered were low, and of course, the social element is completely absent. And perhaps it was just that Njangis were a part of my DNA? So it was that I joined my current Njangi.

This is mostly made up of young business people and professionals who are actively working toward establishing solid businesses or building a stable family. Most, if not all the members, joined the group based on their relationship with the founding members. Unlike the Njangis of my childhood, the members of this group live in different parts of the country and as such they do not all get to meet physically on the day of the Njangi. Additionally, some members cannot attend meetings due to work commitments.

But my Njangi is still held on the 10th of every month and members are required to unfailingly make their payment on or before the date of the Njangi. Members are required to pay their contributions into a bank account that was opened with a small micro-finance institution. This institution's mission is to reach as many people as possible who are excluded from traditional banking, thus contributing significantly to financial inclusion and the fight against poverty. My Njangi is fortunate to have a member who is a professional accountant that willingly offered his services to manage the books of the Njangi at no extra fee. The cycle of the Njangi ends when all the members have received the amount that they contributed throughout the year plus the accumulated interest.

From an economic perspective, there are two ways to get money from the Njangi. Firstly, once contributions come in at the start of every month, the members of the Njangi can buy the money. The money will go to the highest bidder and the amount that the money has been bought for will be deducted before the balance is handed out to the highest bidder. This is somewhat different from the approach described by DeLancey (1977), where a set amount is contributed by all members and given to a pre-determined member. Here, some expression is given to the common intuition of need. It is assumed that, in most cases, the highest bidder is likely to be the one with the greatest need. If there is more than one member in need of the money, they can decide to share the amount that has been contributed.

Secondly, the money that is left in the coffers accumulates and is available for members to borrow depending on their needs. The money can be borrowed at an interest rate of 5% and paid back within a month or two. These borrowings are therefore similar to short-term loans or even an overdraft. This is quite attractive because, as mentioned previously, the majority of the members in my Njangi are young business people who usually are in need of disposable cashflow. In terms of interest, Luther condemned the concept of requiring interest as early as the 1500s, equating it to usury (Luther, 1955). However, the difference between Njangis and conventional banking is that the accumulated interest is shared among all the members of the Njangi at the end of the cycle, including those who are paying the interest. Additionally, because of the inherent trust relationship associated with membership, the Njangi provides a safe place where members can borrow money without any red tape and supporting documents as required by a conventional bank.

My parents taught me never to fail a Njangi. It was imperative to be faithful in honouring the monthly payment. This is a common experience. I joined this Njangi more than two years ago and there has never been an outstanding payment from any member. Of course, this does not mean that disruptions in the form of non-payment do not occur. Loss of work or a decline in business activities can lead to members defaulting on contributions.

In these cases, the person is approached by the Njangi to reach an agreement while they try to find stability in their finances. This engagement is based on good faith and open communication so that the Njangi itself remains sustainable. There are no credit bureau ratings where a member can be blacklisted, however, sustaining a good reputation in the community is vital. In fact, an informal practice of community policing takes place whereby members who refuse to co-operate with an Njangi to find ways of repaying their commitments are ostracised by the community. The desire to maintain a good reputation in the community is something most people strive to sustain.

Moreover, members generally have a particular obligation to the person who introduced them to the Njangi because, in a sense, this person stands surety for them. For example, I was able to join my current Njangi because my brother was a signatory and trusted member of this Njangi. While this might sound very exclusive, this is to ensure that all maintain the commitment to the Njangi. Generally, Njangis are born by members of the same or similar interest group, which is why there are different types of Njangis in my country. The act of referring one another means cases where members do not adhere to their commitment for one reason or the other are very rare.

On a social dimension, my Njangi has a constitution with clear objectives that is shared with all its members. The main objectives of the Njangi include the socio-economic development of its members, assisting members during happy and unhappy events, creating a space for honest, diligent and audacious entrepreneurs accompanied with social assistance, and nurturing a spirit of group entrepreneurship for social and economic development. As members of the Njangi, we are all obliged to assist financially if there is a death in the Njangi, including if a member or their parent, spouse or child passes. Every member contributes an agreed amount, that is stated in the constitution, to assist the bereaved family. Members are also obligated to be present at the funeral.

As already mentioned, members contribute financially for food and drinks during the Njangi meetings – the feasts of my childhood. Initially, the money reserved for the feasting was minimal in my Njangi because a few of the members could not attend the meetings physically. They reside in another town, about six hour's drive from Douala where the Njangi is held. Nevertheless, a decision was made to increase the monetary contribution towards the food at every meeting. Moreover, all the Njangi members endeavour to attend the meeting at the end of the Njangi cycle. That being said, this feasting is less compared to what I experienced as a child because of fewer members and contributions.

5. My insights

As Eccles (2021) rightly pointed out, there is indeed a dehumanising prejudice when "[t]he native is declared insensible to ethics", as stated by Fanon (1963). My experience so far with the Njangi completely negates this assertion. Primarily, as I reflect on my experience, the importance of communality is central to addressing our local African needs. The concept of communitarianism, as a corrective measure to individualism and

subsequently capitalism, underlines the practice of Njangi (Golby, 1997). The first time I attended my Njangi, I spoke with the initiator, an established businessman residing in the economic capital of Douala. He said that when he visited his hometown and saw his fellow mates and neighbours struggling to establish their businesses, he felt the need to start this Njangi as a community of businesspeople and young professionals supporting each other socially and financially to attain their goals. From an economic perspective, most of the members in my Njangi will not easily qualify to get a loan from a conventional banking institution, which requires collateral security or financial credibility to grant a loan. As a result, the possibility of starting or even sustaining a business will almost be impossible. Not only will being a member of a Njangi address this economic need, but this practice is underpinned by many virtues like hard work, trust and good faith. I can still clearly recall some hairdressers scrambling for customers when I visited the market on a Saturday evening because, as they said, "I need to collect my Njangi money for tomorrow's meeting". The concept of hard work is one that Keating and Janmaat (2020) described as a "pervasive and powerful cultural norm" because of its tendency to be exploitative. However, in my community, being hard working is celebrated because it is the opposite of being lazy — a desire and willingness to work in order to meet one's needs.

Njangis are based on the fundamental values of trust and trustworthiness. The members trust each other to contribute monthly so that the needs of the members are met. There are no physical contracts involved during sign-up, only verbal contracting between members where they agree and commit towards the monthly payment. On the day of the Njangi, members pray and extend good wishes to the person who receives the money. Tuan (2012) argued that any dimension of trust will promote ethical behaviours.

Then there is the social aspect of Njangi that contrasts vastly with my experience with conventional banking institutions, which are characterised by a complete absence of any form of social or communal element. The brick-and-mortar conventional banking institutions remind me of old marble, air freshener and polish, silence, and men and women looking prim and proper with little or no emotion on their faces unless it is a tinge of fear. These are cold environments, with people whispering all the time. Everyone seems to be a suspect and every transaction is done in an 'up-tight' 'proper' manner. Certainly, there is no feasting. There are no children running around screaming with the sheer joy of life. There are no (or at least there are fewer) bright colours of clothes made from traditional fabrics. And there is certainly a lot less smiling.

According to Hildreth (1837), the origins of this silent, unsmiling, colourless and in many ways lifeless conventional banking can be traced to the emergence of Western modernity, first in Italy during the Renaissance, and then in 18th- and 19th-century England during the emergence of capitalism. Western societies are, according to Halman (1996), oriented to nurture behaviours that are individualistic. Individualism, a consequence of individualistic behaviour, is a Western ideology that has been associated with the decay of that which is social, some might even argue moral. Grosfoguel (2007) described Western

modernity as an egocentric narrative that is dependent on development. Modernity, like coloniality, is disguised as democracy, civilisation and development.

For me, these aspect of trust and trustworthiness, good faith and hard work which is sustained by the Njangi practice and the community, combined with their colourful social dimensions, are values that contribute towards a humanistic society. And these values can find expression in the context of financial services. Or perhaps more accurately, financial services can be conceived of as operating under a values regime characterised by these aspects. Ethics should not only be thought of in a punitive sense where the offender is punished but should be conceived from a place of care and love. I would like to end this section with a quote from a decolonial scholar that I interviewed during my PhD. She alluded to the practice of *stokvels* in South Africa which share many similarities with Njangis:

> I'm so fascinated about stokvels, people build their own banking systems. A little bit of a profit. In the US, people will say: do they have regulations? And I said it works on the principle of trust and neighbours and community. They were amazed by that concept.

Indeed, it does sound amazing because people and societies have become shrewdly capitalist, so much so that values such as these can no longer be imagined in business.

6. Conclusion

In this short communication, I use autoethnography to share my personal experience with Njangis to assert that the native is *not* insensible to ethics. As a black African woman, sharing this experience has been a form of liberation. Until now, writing on these African practices using autoethnography has not been common in academic circles. By using reflexivity, I describe the feasts I enjoyed as a child when my parents held Njangis. This is contrasted with the coldness experienced in conventional banking institutions. Beyond the social aspect of Njangis, the value of trust and trustworthiness, good faith and hard work that underpin all Njangis, despite their evolution, remain aspects we can learn from in bringing back ethics to business.

References

Adams, T.E. & Herrmann, A.F. (2020). Expanding our autoethnographic future. *Journal of Autoethnography*, 1(1):1-8. https://doi.org/10.1525/joae.2020.1.1.1

Besin-Mengla, M.M. (2020). Njangi: Pillar of development in the anglophone regions of Cameroon. *Journal of Humanities and Social Sciences Studies*, 2(5):31-40. https://doi.org/10.32996/jhsss.2020.2.5.5

DeLancey, M.W. (1977). Credit for the common man in Cameroon. *The Journal of Modern African Studies*, 15(2):316-322. https://doi.org/10.1017/S0022278X00053970

Eccles, N. (2021). Thoughts on how the *African Journal of Business Ethics* might evolve. *African Journal of Business Ethics*, 15(1):1-9.

Ellis, C. & Bochner, A.P. (2000). Autoethnography, personal narrative, reflexivity. In: N.K. Denzin & Y.S. Lincoln (eds.), *Handbook of qualitative research.* 2nd Edition (pp. 733-768). Thousand Oaks, CA: Sage.

Fanon, F. (1963). *The wretched of the Earth.* New York, NY: Grove Press.

Fanon, F. (2001). *The wretched of the Earth*. London: Penguin. https://doi.org/10.1007/978-1-137-05194-3_4

Gearity, B.T. & Mertz, N. (2012). From "bitch" to "mentor": A doctoral student's story of self-change and mentoring. *The Qualitative Report*, 17(30):1.

Golby, M. (1997). Communitarianism and education. *Curriculum Society*, 5(2):125-138. https://doi.org/10.1080/14681369700200010

Grosfoguel, R. (2007). The epistemic decolonial turn: Beyond political-economy paradigms. *Cultural Studies*, 21(2-3):211-223. https://doi.org/10.1080/09502380601162514

Halman, L. (1996). Individualism in individualized society? Results from the European values surveys. *International Journal of Comparative Sociology*, 37(3-4):195-215. https://doi.org/10.1177/002071529603700301

Hildreth, R. (1837). *The history of banks: To which is added, a demonstration of the advantages and necessity of free competition in the business of banking*. Hillard, Gray & Co.

Keating, A. & Janmaat, J.G. (2020). Immigrants, inclusion, and the role of hard work: Exploring anti-immigrant attitudes among young people in Britain. *The Sociological Review*, 68(6):1212-1228. https://doi.org/10.1177/0038026120915160

Luther, M. (1955). Trade and usury. *Luther's Work*, 45.

O'Neil, S.M. (2018). On becoming a better supervisor: A deconstruction of autoethnography as method for professional development. *South African Journal of Higher Education*, 32(6):483-501. https://doi.org/10.20853/32-6-2970

Smith, L.T. (2012). *Decolonizing methodologies: Research and indigenous peoples.* 2nd Edition. London: Zed Books.

Tuan, L.T. (2012). The linkages among leadership, trust, and business ethics. *Social Responsibility Journal*, 8(1):133-148. https://doi.org/10.1108/17471111211196629

Wall, S. (2006). An autoethnography on learning about autoethnography. *International Journal of Qualitative Methods*, 5(2):146-160. https://doi.org/10.1177/160940690600500205

The predicament of the unprotected: Why lack-lustre legislation fails South African whistleblowers

Author:

Dr Ugljesa Radulovic[1] [0000-0002-0245-9857]

Affiliation:

[1] Department of Sociology, University of Johannesburg, South Africa

E-mail:

ugljesar@gmail.com

DOI:

10.15249/17-1-333

Keywords:

corruption; legislation; protection; South Africa; state capture; whistleblowing

Abstract

Inadequate legal provisions in South African state law have left whistleblowers vulnerable. Despite the existence of the Protected Disclosures Act (and its amendment) aimed at safeguarding whistleblowers, the law has numerous loopholes. The participants in this qualitative study expressed the view that the law is indeed ineffective. While calls are being made to amend state law for adequate whistleblower protection, such efforts would be futile unless provisions are adapted from reliable instruments for implementation in the South African context. This article recommends incorporating provisions from the Serbian Law on Protection of Whistleblowers as a means of offering adequate protection to South African whistleblowers.

1. Introduction

Acknowledging the source that inspired this article is of utmost importance to me. The title of this article is a tribute to Mosilo Mothepu, who acted as a whistleblower and subsequently authored the book, *Uncaptured: The true account of the Nenegate/ Trillian whistleblower*. In her book, Mosilo Mothepu chronicles her experience at Trillian, a company involved in state capture in South Africa. She also describes her decision to blow the whistle and the aftermath of her disclosure. The uncaptured are, unfortunately, the unprotected. This notion of feeling (and indeed being) unprotected resonates with most, if not all, South African whistleblowers. But where does it stem from? To adequately answer this question, this article examines what whistleblowing entails, what legislative protections currently exist for South African whistleblowers, and the protection they perceived to have had (or not had) throughout their disclosure experience. Based on this analysis and the whistleblowers'

experiences, a set of recommendations are offered for the refurbishment of legislative whistleblower protection in South Africa.

2. Conceptualising whistleblowing

The terms 'whistleblower' and 'whistleblowing' have become commonplace in the broader dialogue of South Africans, particularly considering recent events surrounding state capture. State capture is when private actors exert control over elements integral to the functioning of the state (Desai, 2018:501; Fazekas & Tóth, 2016:320). This influence of private interests is illicit and non-transparent, and it negatively impacts the public good (Fazekas & Tóth, 2016:320; World Bank, 2000:3). Whistleblowers were fundamental in exposing state capture under the Zuma regime and in other epochs of corruption in South Africa. Their roles in exposing wrongdoing were varied, but their impacts were great.

Cynthia Stimpel blew the whistle on improprieties within the national flag carrier, South African Airways (Stimpel, 2021). Mosilo Mothepu, together with Bianca Goodson, exposed how privately-held and Gupta-linked Trillian siphoned money out of state-owned enterprises (SOEs) like Eskom by maintaining mutually beneficial relationships with state officials (Mothepu, 2021; Wiener, 2020). Through disclosures that would become widely known as the Gupta Leaks, the anonymous whistleblowers 'Stan' and 'John' were critical in educating the broader South African public about the Gupta family and how they captured the state (AmaBhungane, 2018). Simphiwe Mayisela exposed corruption within the Public Investment Corporation (PIC), an SOE responsible for the investment of South African government pensions (Wiener, 2020). One cannot forget the name of Babita Deokaran who was assassinated in cold blood after dropping her child off at school, because she was in the midst of a disclosure that exposed the misuse of Covid-19 Personal Protective Equipment funds (Cruywagen, 2021). One could argue that Andre de Ruyter has become South Africa's foremost high-profile whistleblower after exposing mass sabotage and corruption within the country's power utility, Eskom.

But why is it that these individuals have been awarded the label of'whistleblower'? What makes them whistleblowers? To answer these questions, one cannot merely provide a definition of whistleblowing. One also has to examine the elements that are necessary for whistleblowing to occur.

A long-standing and widely accepted definition of whistleblowing continues to serve as the benchmark: the act of whistleblowing is when former or current members of an organisation disclose information regarding "illegal, immoral or illegitimate practices under the control of their employers, to persons or organisations that may be able to effect action" (Near & Miceli, 1985:4). But six elements need to be present to consider an act as whistleblowing. I discuss each of them in the rest of this section.

2.1 The act of wrongdoing

Firstly, a member of an organisation needs to observe that wrongdoing has taken place within that organisation. The wrongdoing is what the disclosure by the whistleblower

is about, and it entails any sort of practice that is illicit, immoral or dishonest in nature (Miceli & Near, 1992:15). Per this definition, it is evident a broad spectrum of iniquitous behaviours can constitute wrongdoing.

Legislation intended to provide protection to whistleblowers often defines wrongdoing narrowly by limiting the scope of what constitutes wrongdoing with strict boundaries. A prominent example is the Canadian Public Servants Disclosure Protection Act (Feinstein & Devine, 2021:10; Lukiwski, 2017:11), which consequently ranks as one of the worst whistleblower protection laws in the world (Bron, 2022). The opposite of such laws should be practised by using a broad definition for wrongdoing. A broader definition would entail a large scope of acts that qualify as wrongdoing, ranging from isolated incidents of fraud to the well-organised and repeated practices associated with state capture. With a broader definition, more whistleblowers would qualify for legislated protection because a broader set of unethical behaviours would qualify as wrongdoing (Skivenes and Trygstad, 2014:112).

2.2 The organisation responsible for the wrongdoing

Secondly, there needs to be a setting where the perceived wrongdoing occurred. The disclosed wrongdoing, therefore, needs to implicate the target organisation (which provides the context for the disclosure), as the wrongdoing manifested under the command of that organisation (Jubb, 1999:83; Vandekerckhove, 2006:23). In fact, it does not necessarily only have to be an act that had occurred, but it can also entail wrongful behaviour that is in the process of occurring or is expected to occur (Jubb, 1999:83, 86; Protected Disclosures Amendment Act 5, 2017:2). This is particularly important to consider since the whistleblower might pre-emptively make a disclosure in an attempt to prevent wrongdoing from occurring. This was the case with Stimpel's disclosure, where she managed to stop the transfer of SAA funds to a suspect service provider. Here, South African legislation provided Stimpel with protection under whistleblower law despite the impropriety not having been finalised.

It also does not matter whether the misconduct took place inside or outside of the target organisation. What matters is that the organisation is considered responsible for the actions, or the disclosure targets the professional or private lives of a member of that organisation (Vandekerckhove, 2006:23, 25). Wrongdoing could, therefore, be transpiring within the confines of the organisation or the organisation as a whole could be responsible for committing wrongdoing in an environment external to it.

2.3 The whistleblower agent

Thirdly, an individual needs to assume the role of a whistleblower. Thus, an individual becomes a whistleblower agent, who is a former or current member of an organisation that gained access to organisational information or data because of their relationship with the organisation (Jubb, 1999:83). Their relationship with the organisation is one where they are considered an insider (Jubb, 1999: 83). The insider role means that the

whistleblower can be in a labour relationship with the organisation (Blonder, 2010:25), or that they simply identify with the organisation via their subjective understanding of group membership (Anvari, Wenzel, Woodyatt & Haslam, 2019:44). The insider, then, discloses information as they have suspicions regarding the occurrence of wrongdoing within the organisation (Uys, 2022:5).

An individual might emerge as a whistleblower when they perceive that an organisation's values are not congruent with their own ethics and values (Jubb, 1999:78). The wrongdoing committed within the organisation might elicit this non-congruence and lead the person to report the wrongdoing. However, it is also possible that the whistleblower was previously engaged in or knowledgeable about the organisational wrongdoing but later opted to blow the whistle (Chamorro-Courtland & Cohen, 2017:191).

2.4 The motive

The fourth element is the motivation that stands behind the disclosure. The motive is a somewhat contested element when considering the concept of whistleblowing. This is because whistleblowing is protracted, and the reasons for engaging in the act of whistleblowing change over time (Park, Vandekerckhove, Lee & Jeong, 2020:566-567, 575-576). Several authors do, however, acknowledge the motive as an element that can aid in understanding the whistleblowing experience (Lampert, 1985:111-116; Lewicka-Strzalecka, 2011:176, Roberts, 2014:207-229; Uys, 2022:39-42; Vandekerckhove, 2006:23). What is important is that an action should not be determined to qualify as whistleblowing, or not qualify as whistleblowing, based on the nature of the motive. Rather, it should be accepted that motives of any nature can drive disclosures. Roberts (2014:207) even presents an argument that motives serve as the impetus for making the choice to engage in whistleblowing.

A whistleblower can be driven by two different types of motives or a combination of the two (Uys, 2022:40-41). Firstly, a whistleblower can emerge out of selfless and altruistic reasons – being driven by moral guides to report wrongdoing behaviour (Miethe, 1999). This type of whistleblower is referred to as the altruist. Altruistic motives are grounded in the public interest without considering personal benefits (Vandekerckhove, 2006:23). These motivations can stem from the whistleblower disagreeing with organisational policies, particularly from an ethical perspective (Roberts, 2014:211-212). One's knowledge about ethical breaches in the organisation related to laws and codes of conduct such as fraud, theft, misuse of allowances and falsification of records tend to contribute to altruistic whistleblowing motivations (Roberts, 2014:211-212). In these instances, ethical breaches transgress the individual's own values. Roberts (2014:215) identified this as personal morality. Therefore, the higher the degree of morality an individual has, the more likely they are to report wrongdoing (Henningsen, Valde & Denbow, 2013:162).

In contrast, whistleblowing could be driven by self-interested or egoistic motives (Miethe, 1999). Here, the driving force is the personal benefits that one could accrue from making a disclosure, regardless of whether it serves the public interest or not (Vandekerckhove, 2006:23). Egoistic motives could include making a disclosure as a result of being subjected

to bullying or sexual harassment. Self-protection is another egoistic motive for blowing the whistle, generally stemming from a previously existing conflict situation involving excruciating and complex accounts of reciprocal action, along with the organisation acting against the interests of the whistleblower (Roberts, 2014:216-218). One aspect of Roberts' study (2014:217-218) examined a sample of public sector whistleblowers driven by self-protection. All of these whistleblowers were, at some stage, "the subject of complaint from other parts of the organization" where they had reported (Roberts, 2014:218). This meant that since others in the organisation laid complaints against them prior to their disclosures, a pre-existing conflict was present (Roberts, 2014:218). These whistleblowers used disclosure from a point of self-interest – as a response to the complaints previously laid against them. In certain instances, these whistleblowers, motivated by egoistic reasons, "made critical observations about the ethical standards in the organization" and thus rationalised using "the reporting process as a self-protection mechanism" (Roberts, 2014:218).

With whistleblowing being a protracted experience, which could contribute to changes in motivations (Park et al., 2020:575-576), whistleblowers face difficulty discerning what sort of motive drives them, with it likely being a mix of motivations (Miethe, 1999:14). This, of course, means that both types of motives could be present. This is referred to as 'mixed motives'. It is precisely because a motive can be mixed or misrepresented that the motive component is often not included as an element of whistleblowing (Vandekerckhove, 2006:23). Miceli and Near (2010:77) also established that it is a myth that altruistic motives exclusively inspire whistleblowers. Their research showed that the intention of more than half of all whistleblowers in their study was to benefit both themselves and others with their disclosures (Miceli & Near, 2010:77).

2.5 The act of making a disclosure

The fifth element is the act of making a disclosure. This entails how the whistleblower engages in exposing wrongdoing. According to Rothschild and Miethe (1994:254), potential whistleblowers have three options when becoming aware of wrongdoing:

1. Ignore the misconduct and take no action at all,
2. Discuss the wrongdoing with friends or family, or
3. Report it to a person in a position of authority who has the capacity to address the misconduct.

If an individual has opted to take the latter route, they have engaged in the act of making a disclosure.

The whistleblower could make the disclosure openly by using their real name or providing other identifying information (Park, Blenkinsopp, Oktem & Omurgonulsen, 2008:930). This would mean that the identifying information of the whistleblower becomes readily available in the public domain. A whistleblower can also opt for a confidential disclosure. With a confidential disclosure, "the recipient knows the identity of the person but agrees

not to disclose it if and when the information is used" (Calland & Dehn, 2004:8). Thus, the identifying information of the whistleblower should not be readily available to those other than the recipient.

The whistleblower can take further measures to protect their identity and engage in anonymous disclosure. The identity of the whistleblower remains hidden in this case (Park et al., 2008:930). In an anonymous disclosure, there is "little or no possibility of identifying or contacting the whistleblower or verifying the information" (Calland & Dehn, 2004:8). It has been argued that more idealistic employees are less inclined to utilise anonymous channels, as they detract from the credibility of the accusations (Nayir, Rehg & Asa, 2018:160). Interestingly, findings have indicated that public sector employees refrain from identified whistleblowing as it can result in legal sanctioning (Nayir et al., 2018:160). Legal sanctioning can entail retaliatory measures such as criminal charges for a breach of contract or confidentiality.

2.6 The disclosure recipient

Lastly, the wrongdoing needs to be reported to someone. A disclosure recipient is an individual to whom the wrongdoing is reported and who is perceived to have the capacity to remedy the wrongdoing (Jubb, 1999:83). Vandekerckhove (2006:25) makes it explicit that a disclosure can be made to "internal authorities, external authorities or the media". These are, essentially, the three tiers of recipients for whistleblowing.

In tier one, the internal disclosure recipient can be a superior or other party located within the confines of the organisation who is perceived to possess the relevant authority to address the wrongdoing (Jubb, 1999:90; Park et al., 2008:930). Therefore, the disclosure does not exit the confines of the organisation where the wrongdoing occurred. This is where formal whistleblowing occurs. Formal disclosure "is an institutional form of reporting wrongdoing, following the standard lines of communication or a formal organizational protocol" for reporting (Park et al., 2008:930). An organisation could employ a formal system that encourages positive responses to internal whistleblowing by making provisions for a code of conduct, an ethical standards committee, an ethics officer and an adequate internal disclosure policy (Zhang, Chiu & Wei, 2009:37). However, an internal disclosure "can either follow or by-pass formalized or conventional lines of communication" (Vandekerckhove, 2006:25), meaning that it does not need to be strictly formalised. If an organisation responds positively to internal reporting, the likelihood of external disclosures decreases (Feldman & Lobel, 2008:178).

If the organisation does not address the misbehaviour, is inadequately concerned about the seriousness of the misconduct, or if the disclosure resulted in organisational retaliation, the internal disclosure has proved unsuccessful without positive outcomes for any party (Vandekerckhove, 2010:16; Zhang, Pany & Reckers, 2013:179). The second tier is then utilised by whistleblowers. Here, an external disclosure is used to scrutinise the organisation (Vandekerckhove, 2010:18). In this scenario, the disclosure is made to parties not within the institution's organisational structure, such as a law enforcement agency or a regulatory or administrative body (Moberly, 2014:275; Park et al., 2008:930).

External whistleblowing can be more effective than internal whistleblowing, since bringing the misconduct to the attention of those outside of the organisation puts more pressure on the organisation to act (Dworkin & Baucus, 1998:1286). If the suspicion of misconduct becomes known outside the organisation it could have repercussions for the organisation (Barnett, Cochran & Taylor, 1993:128; Sims & Keenan; 1998:411). This adverse aftermath could entail undesirable outcomes such as the loss of investments due to negative investor sentiment regarding the organisation.

The third tier "is a watchdog over the second tier", in the event of the second tier not having an effect (Vandekerckhove, 2010:18). Tier three entails a public disclosure, which is generally made to the media. There are mainly two reasons why whistleblowers report publicly, namely dissatisfaction with the response to their reports, and severe retaliation.

The three-tier model ensures that organisations are held responsible for satisfactorily addressing whistleblowers' concerns, with a form of accountability across these three levels that serve as increments for safeguarding organisations and society when a level fails (Vandekerckhove, 2010:18). The second tier must be situated external to the organisation where the initial reporting (first tier) took place, while still retaining authority and oversight over the organisation. Additionally, whistleblowers should have equal access to the second and third tiers as they do with the first tier. (Vandekerckhove, 2010:18). Importantly, if the whistleblowing scheme does not make accommodations for public whistleblowing, whistleblowers would not be afforded protection when making their disclosures to broader society. Therefore, no normative balance would be achieved as internal and external recipients would not be held accountable in the event of inaction (Vandekerckhove, 2010:18).

From the discussion in this section, it is thus evident that for one to engage in the act of whistleblowing or to be considered a whistleblower, the following elements need to be present: a wrongdoing having occurred within an organisation; an organisation responsible for the wrongdoing; a whistleblower that reports the wrongdoing; a motive; the act of disclosure; and a disclosure recipient. When all of the aforementioned measures are in place, it can be concluded that whistleblowing has taken place.

3. Method

As this study was concerned with analysing the (in)adequacy of legislative measures drafted to protect whistleblowers, it was essential to gauge the experiences of whistleblowers and the difficulties associated with their disclosures because of a lack of protection. The optimal approach for such an examination required a bottom-up perspective, one where the experiences of those involved in uncovering wrongdoing come to the fore. This approach requires descriptive data that details the whistleblowers' experiences. Thus, a qualitative approach encompassing two research methods was fundamental in retrieving such data.

The first method used documents as sources of data, while the other entailed the use of semi-structured interviews conducted with whistleblowers and members of organisations

that supported them throughout their disclosure experiences. As part of the document analysis method, focus was directed towards digital and print news articles, books discussing the exposure of state capture in South Africa produced by whistleblowers, civil society organisations or authors analysing the occurrences, official documents and academic research.

Semi-structured interviews were the dominant information source for the study. The interviews were conducted with South African whistleblowers and documented their experiences with regard to the protection offered by South African whistleblowing legislation (or the lack thereof). Members of non-governmental organisations (NGOs) and media outlets that supported whistleblowers in the absence of protection provided further insight. A total of 14 participants were interviewed, namely: six whistleblowers, two members of NGOs, four journalists, an owner and editor-in-chief of a prominent independent media outlet and a representative of a law firm that offered support to whistleblowers. Non-probability sampling, particularly purposive sampling, served as the initial sampling form as it is an ideal strategy for gathering information-rich data (Schreier, 2018:88). The initial sample consisted of seven participants. Snowball sampling was, thereafter, used to secure access to seven additional participants. Furthermore, data originating from seminars where whistleblowers were the keynote speakers was also used.

4. Why whistleblowers are in need of protection

Whistleblowers suffer detriments as a consequence of retaliation by those who have perpetrated the wrongdoing. Moreover, the very threat of retaliation often ensures that observers of wrongdoing keep quiet, and it is this menace of retaliation that forms part of the whistleblower's reality. Frequently, the mere threats of retaliation are surpassed, resulting in the actual manifestation of acts of retaliation.

Retaliation against whistleblowers is varied. Åkerström (1991:43-44) demonstrated that whistleblowers experience informal punishment by ostracisation, anonymous threats and other similar actions regardless of how they have been labelled. According to Åkerström (1991:43-44), there are three different labels that are assigned to whistleblowers, namely: hero, lonely crusader and martyr. A hero is regarded as the representative of a cause when making a disclosure (Åkerström, 1991:44). A lonely crusader does not receive much support. Hence, the lonely crusader does not qualify as a hero, but they are also not subjected to formal punishment because of their disclosure (Åkerström, 1991:44). A martyr experiences formal punishment but is typically aided after being retaliated against for their disclosure (Åkerström, 1991:44). All three types of whistleblowers are formally or informally labelled as traitors. Since labelling constitutes a form of retaliation, this informs us that even the positive whistleblower label of being a 'hero' does not spare the whistleblower from retaliation.

The fear of retaliation could have a chilling effect on potential whistleblowers (Rehg, Miceli, Near & Van Scotter, 2008:235). Mosilo Mothepu, who blew the whistle on Trillian

Financial Advisory and its involvement of using Eskom (South Africa's power utility) and Transnet (a SOE responsible for South Africa's railway, port and pipeline infrastructure) as the primary vehicles for state capture, said in an interview conducted with her for this study that she experienced economic detriments and a constant fear of physical retaliation. She argued that both forms of retaliation are not adequately addressed by whistleblowing legislation. According to her, a change in legislation would result in the protection of whistleblowers from victimisation.

It is possible to mitigate retaliation if responsible target organisations "promote a policy that protects the whistleblower from retaliation" (Radulovic, 2017:20) and thereby encourage the reporting of wrongdoing. Protection against retaliation could encourage whistleblowers to come forward. It could function as a social control mechanism by containing corrupt state officials (Chadah, 2011:757). Protection structures would deter wrongdoers from carrying out retribution – this would provide prospective whistleblowers with the peace of mind that their disclosures would earn them some degree of coverage against retaliation.

There are three types of retaliation that wrongdoers engage in, namely: work-related retaliation, social retaliation and physical retaliation (Uys, 2022:116-119). Work-related retaliation can vary "from subtle indications of displeasure to drastic victimization" (Uys, 2022:116). It aims to discredit and destroy the whistleblower by using workplace-related tactics such as blacklisting, dismissal, transfers to another section, personal harassment, character assassination and the implementation of disciplinary proceedings (Cortina & Magley, 2003:248). Workplace bullying can also occur, entailing "repeated and persistent patterns of negative workplace behaviour" (Keashly & Neuman, 2008: 2). Cynthia Stimpel, the whistleblower that exposed an unlawful R256 million contract at South African Airways (SAA), said in an interview conducted with her for this study that companies in South Africa often concoct a strategy to sideline the whistleblower and eventually push them out of the organisation. She held the sentiment that this occurs even if a whistleblower does manage to win their case, with their disclosure determined to qualify as a protected disclosure. The wrongdoers, essentially, work around legislation since it fails to mandate monetary penalties for the inadequate implementation of a whistleblower policy.

The second type of retaliation is social retaliation, and it usually accompanies work-related retaliation (Uys, 2022:118). It aims to isolate whistleblowers through closing ranks and identifying the whistleblower with terms such as 'troublemaker' or 'not one of us', thereby marginalising the whistleblower in the workplace and broader society (Alford, 2001:131; Cortina & Magley, 2003:248). In contrast to work-related retaliation, social retaliation is usually an informal and undocumented process (Miceli, Near & Dworkin, 2008:14-15).

Physical retaliation is the third and most severe form of retaliation. Uys (2022:119-120) details a number of physical retaliation cases in South Africa revolving around corruption in state institutions. Examining these cases, it became possible to define physical retalia-

tion as an intentional and premeditated act of physical assault (typically with a weapon), or threat to commit physical injury.

As a by-product of the various forms of retaliation, whistleblowers suffer different detriments. With work-related retaliation, whistleblowers end up being dismissed or suspended from work, or undergo a process where their eventual dismissal would be legally justified (Bashir, Khattak, Hanif & Chohan, 2010:8-9; Uys 2022:116). Whistleblowers often end up carrying that work-related stigma and struggle to find employment post-disclosure. As work-related retaliation comprises of normative violence, rejection and "acute mental strain" mark the effects of such forms of retaliation (Kenny, Fotaki & Scriver, 2019:812).

With social retaliation, the whistleblower is stigmatised as having negative social characteristics (Bjørkelo, Ryberg, Matthiesen & Einarsen, 2008:71). The whistleblower experiences negative labelling because of exposing wrongdoing (Miceli et al., 2008:128-129). The whistleblower also experiences social ostracisation (Davis, 1989:5; Rothschild, 2008:890), with the whistleblower feeling disillusioned and humiliated (Uys, 2022:118-119).

Physical retaliation presents the risk of physically sustained injuries or death for the whistleblower, which elicits a disclosure-consequential dread in them. Assassination attempts are a typical form of physical retaliation. The result is the whistleblower living in fear for their life due to making a disclosure (Uys, 2022:119). Thus, whistleblowers should be able to depend on adequate legislated protection to offer them coverage against retaliation. The first line of implementation of an adequate whistleblowing policy should be within the organisation where the wrongdoing occurred.

5. Organisational protection

The organisational protection of whistleblowers is a crucial element that can lessen the detrimental severity of the whistleblower's experience of retaliation (or even the occurrence of retaliation). Organisational protection can occur in two forms, namely: anti-retaliation and institutional protection (Brown, Meyer, Wheeler & Zuckerman, 2014:459). Anti-retaliation is concerned with "creating and enforcing criminal, civil and employment sanctions against reprisals or other detrimental action", making it the most common form of protection (Brown et al., 2014:459). It is, however, a reactive approach as the whistleblower has already suffered detriment due to reprisals and is, as a consequence, suing for relief from the effects of retaliation (Brown et al., 2014:459). The approach is triggered once whistleblowers have experienced hardships and are worse off than what they were pre-disclosure.

Conversely, an institutional approach is when organisations "respond more effectively to disclosures from the outset" and are concerned with pre-empting retaliation, thus being proactive in their approach (Brown et al., 2014:459). A proactive approach minimises the degree of damage suffered by the whistleblower since management addresses the

wrongdoing internally (Brown et al., 2014:459). Therefore, a proactive approach decreases the possibility of the whistleblower prosecuting the organisation or suing for relief, since the likelihood of retaliation would have been significantly reduced.

Management, therefore, needs to occupy a crucial role in protecting whistleblowers, considering that if whistleblowing procedures are endorsed, and professionally and competently managed – there is a higher likelihood for effective internal whistleblowing to occur (Mazerolle & Brown, 2008:165-166).

However, whistleblowers often question the credibility of the line they are required to report to internally. Joanne, a whistleblower who exposed improprieties at an SOE but preferred to remain anonymous for this study, felt that whistleblower lines are not credible and asked the question: "where [do] these whistleblower reports go to?". If a chief executive officer (CEO) is implicated in corruption, surely they would have access to these reports. One would assume that the CEO would take no action and also exercise retaliation against the whistleblower. She emphasised that if the allegations are about the CEO, "it can't go to him". Cynthia Stimpel also held the notion that organisations generally do not make it possible to report wrongdoing if the CEO is corrupt or if the disclosure pertains to wrongdoing by the board (as it was in her case). Organisations could, as an alternative, implement anonymous hotlines but the likelihood still exists that whistleblowers would not trust the security of the line or believe in its effectiveness. Joanne argued for the alternative of external reporting, with the alleged wrongdoing being reported to "a completely independent person". This would mean that the act of whistleblowing is reported to an institution or individual completely independent of the organisation.

In the interview conducted with Mothepu, she recalled that when she was deciding whether to report the wrongdoing she witnessed, she consulted the law drafted to provide legislative protection to whistleblowers – Protected Disclosures Amendment Act (PDAA) – as a guideline for identifying the appropriate avenue through which to make a disclosure. The PDAA specifies that internal, external and public channels can be used when making a disclosure (Protected Disclosures Act 26, 2000; Protected Disclosures Amendment Act 5, 2017). She decided to make an external disclosure (as the internal reporting route would provide no remedy) to the South African Public Protector, having also met with the Hawks (South Africa's Police Services' Directorate for Priority Crime Investigation, which is concerned with serious crime such as organised crime, economic crime and corruption) and the Asset Forfeiture Unit (a unit of the National Prosecuting Authority that seizes assets and proceeds which have resulted from criminal activities). Despite fulfilling her constitutional obligation by reporting to the Public Protector, as specified in the PDAA, it led to her being made an enemy of the state. She was also investigated unduly by the Hawks (instead of the wrongdoing party, namely Trillian).

Simphiwe Mayisela (who blew the whistle on irregularities within the Public Investment Corporation [PIC]) was fired, and lost the subsequent appeal, because he failed to inform his CEO that he (the CEO) was under criminal investigation. Simphiwe knew

about the investigation, as the police enlisted him to collect evidence implicating the CEO in corruption. Simphiwe was fired on the basis that he "had failed to show good faith towards his employer by withholding information that its CEO was under police investigation" (Böhmke, 2021:121). His perception was that the PDAA did not protect him as he worked with the police, despite the fact that the PDAA allows for a "general disclosure" (Protected Disclosures Act, 2000:10; Protected Disclosures Amendment Act, 2017), which can include the police, media and non-governmental organisations (Thakur, 2018b:1).

In this case, the disclosure needs to be made in good faith, although the PIC obviously argued that it was not made in good faith as he did not notify his CEO (the very person under investigation). This supports Mosilo Mothepu's argument, which is also mirrored by Joanne's sentiment, that one cannot report on a person committing wrongdoing to the very person that is responsible for it. It is in the absence of adequate management of internal whistleblowing procedures that these whistleblowers' sentiments of external reporting as a reliable alternative tier to effect action rings true.

Considering the absence of adequate organisational protection offered to whistleblowers, legal reform could be used as a tool for the implementation of whistleblower policies and imposed statutory duties (Zorkin, 2007:18). This could be achieved through required amendments that would balance opposing interests and thus create a state with a sustainable civil society and economy.

6. The state and whistleblower protection

Ideally, whistleblower protection needs to transcend the organisational level and be addressed from a macro perspective. In essence, provisions within state laws should provide whistleblower protection against a variety of retaliatory forms.

South Africa's legislative provisions, however, appear to be lacking, where protection law does exist but its coverage is meagre. The year-2000 iteration of the Protected Disclosures Act designated to protect whistleblowers had a poor track record (Lewis & Uys, 2007:85). While the long-overdue amendment of the Act – the PDAA – became effective on 2 August 2017, it still faces extensive criticism for being inadequate (Davis, 2020). Chris, a forensic auditor (and interviewee of this study) with an extensive resume on exposing financial crimes that had attention drawn to them by whistleblowers, held the professional opinion that the PDAA presents a significant problem with its inadequate provisions for whistleblower protection. All of the whistleblowers interviewed by renowned South African journalist, Mandy Wiener, indicated that the PDAA was failing them as their experiences of retaliation showed that it was not providing sufficient protection (Wiener, 2020:419-420). Wiener's personal belief is the same: the PDAA has many fault lines and it does not adequately protect South African whistleblowers.

A significant problem is that the South African whistleblower can only claim a protected disclosure once the employer charges them with a legal breach (Thakur, 2018b:4).

Although the PDAA extends protection to an individual who has made an internal, external, or public disclosure (Thakur, 2018b:1), there are no provisions within the PDAA to protect the identity of the whistleblower in the event of a public disclosure. This deters the whistleblower from considering initiating measures to legally pursue the employer. South African whistleblowers, therefore, resort to being on the defensive and fighting off legal battles raised by their employer (who initiates a legal process as a means of retaliation).

The PDAA makes provision for joint liability, which means that where "an employer, under the express or implied authority or with the knowledge of a client, subjects an employee or a worker to an occupational detriment, both the employer and the client are jointly and severally liable" (Protected Disclosures Amendment Act, 2017:6). This addition to the Act means that an employer will be held liable (together with the individual exercising retaliation against the whistleblower) should an employee suffer occupational detriment after making a protected disclosure. The PDAA (2017:10) also obligates employers to "authorise appropriate internal procedures for receiving and dealing with information about improprieties" and to "bring the internal procedures to the attention of every employee and worker".

Despite the expansion of protections offered by the PDAA, it still fails to meet international standards in several key respects (Thakur, 2018a:3). The PDAA's glaring failure is that it does not meet Transparency International's[1] (2018) best practice guidelines for whistleblower legislation. The Transparency International Guidelines recommend a comprehensive, broad definition of whistleblowing, whereas the PDAA is too specific about what sort of action constitutes a wrongdoing. Therefore, the scope of acts that will qualify an individual to be provided protection under its jurisdiction is limited (Thakur, 2018a:3). This can result in non-disclosure as the potential whistleblower might not find the subject of their disclosure in the definition and, therefore, opt not to act (Thakur, 2018a:3).

Those that do not qualify for protection include people mistaken as whistleblowers (individuals having suffered reprisals despite not having made the disclosure – a case of mistaken identity) and those connected to whistleblowers (such as family or close friends) (Thakur, 2018a:4). Those that do qualify for legislative protection under the PDAA do not have coverage for workplace bullying, blacklisting or economic detriments that arose out of retaliation (Thakur, 2018b:3). Mosilo Mothepu provided a first-hand account of this in her interview, arguing that "legislation does not protect whistleblowers", with legislation simply saying that "you cannot be victimised for whistleblowing" which she

1 *A Best Practice Guide for Whistleblowing Legislation* presents a set of recommendations for policymakers and whistleblower advocates on how to implement the *International Principles for Whistleblower Legislation* into national laws (Transparency International, 2018:2). The *International Principles for Whistleblower Legislation* is an earlier, and significantly shorter, document that provides principles that can guide policymakers in the formulation and improvement of new and existing whistleblower legislation that would ensure adequate whistleblower protection (Transparency International, 2013:3).

felt is "completely rubbish". For her, the "PDA[2] is not worth the paper it's written on". She went on to further criticise the PDAA:

> I see you steal from the kitty; you see me see you stealing. I report you, and then you are investigated. Surely you are going to victimise me. You are not going to protect me.

Problematically, South African legislation does not make provision for financial compensation, which is especially difficult for the whistleblowers who have lost substantial capital (Davis, 2020). The PDAA (2017:6) states that provision should be made "for certain remedies in connection with any occupational detriment suffered on account of having made a protected disclosure". In the event of an unfair dismissal stemming from the whistleblower's disclosure, the whistleblower can utilise the remedy of following the procedures set out in the Act "to recover damages in a competent court" (Protected Disclosures Amendment Act, 2017:10). This means that if the matter has not been resolved through conciliation, the whistleblower can use the Labour Court as a remedy (Protected Disclosures Amendment Act, 2017:10). The Act notes that if "the Labour Court is satisfied that an employee or worker has been subjected to or will be subjected to an occupational detriment on account of a protected disclosure, it may make an appropriate order that is just and equitable in the circumstances", and this could include compensation (Protected Disclosures Amendment Act, 2017:10). However, there are no explicit obligations for whistleblower compensation. The exclusion of this provision implies that the whistleblower would still have to undergo a legal process to obtain such a ruling.

Altu Sadie (who blew the whistle on wrongdoing occurring at Ecobank) argues that a mechanism needs to be employed which would guarantee compensation, in a fiscal form, to assist whistleblowers post-disclosure.

> So, in my case, I'm claiming thirteen years. So, losing my job in theory, you've actually done me a favour because I can retire. You're never going to get the thirteen years if you're going to get into a settlement. Maybe I'll get five years or whatever. But that should get me where I'm in a place where I can hopefully buy a house and a car and put enough money away so that I can make a decent retirement.

The current problem regarding compensation in South Africa is that even a positive Labour Court outcome would likely result in insufficient compensation for the whistleblower, as the financial losses resulting from job loss and an inability to find new forms of employment would be immense. Moreover, the intangible costs, such as time lost with family due to the ordeal of disclosure, would be impossible to compensate. Furthermore, the whistleblower would be required to bear the legal expenses relating to court proceedings without any assurance of a favourable outcome.

Aside from compensation, there are also rewards that can be accounted for within legislation. If compensation is the reparation that a whistleblower receives because of detriments suffered from retaliation, rewards are financial incentives that encourage

2 Mothepu refers to it as the PDA, though the PDAA would have been in effect by the time that the interview was conducted with her.

disclosure (Uys, 2022:71, 168). The US False Claims Act, for example, has awarded far more financial rewards to US whistleblowers than the combined efforts of all compensation paid to every other non-US whistleblower in the world (Kohn, 2020:28). Mosilo Mothepu's argument is that such an incentive or rewards system should be used in South Africa. The US False Claims Act could serve as a model for this. According to her, this would entail a legislative provision where if the whistleblower's allegation is proven true, with the state winning the court case, they receive 10% of the recuperated funds. A rewards-based system might, however, offer more problems than solutions through the 'solicitation' of reporting wrongdoing. Therefore, compensatory mechanisms would present a sounder solution to the problem of economic detriments arising out of retaliation.

South African whistleblowers also face severe physical risks, yet only criminal law and the Protection from Harassment Act (2011) provide some cover, but remains insufficient. It is particularly because of this that noteworthy legislative measures need to be taken to provide fast and accessible police protection to whistleblowers (Thakur, 2018b:4).

It should be evident that whistleblower protection in South Africa is lacklustre at best. One whistleblower presented a remarkable conclusion for this – that the law was written for a different space in South Africa's history. Mosilo Mothepu stated in her interview that South African whistleblowers were not protected by the PDAA as legislators and policymakers could not possibly predict the occurrence of state capture in the country.

> So, when the PDA, the Protected Disclosures Act, was written it was not written for state capture. It was written for petty theft. Like when the constitution gave presidential powers, they thought "Mandela", they had Mandela in mind. Then there was Zuma. So, we need now to completely overhaul the justice system and the protection and the reward so that we regain our country.

She argued that "the laws, just like the constitution give the president power, because they thought Mandela was that moral compass for the president". She adds that the laws should have changed when Jacob Zuma became president, because these Mandela-era laws did not make provision for a government that would abuse the laws. As a consequence of this, the scale of state capture became "so grand, and so entrenched in the institutions" that the systems and policies were rendered useless.

The unfortunate reality is that South African whistleblowers are not afforded sufficient protection by state law, in any phase of their disclosure. This protection is particularly necessary because of the frequency of retaliation against whistleblowers in South Africa. With the PDAA having been long criticised as inadequate (Davis, 2020; Lewis & Uys, 2007:85; Thakur, 2018a:3), the interviews with the participants only confirmed this standpoint.

7. Recommendations

With the whistleblowers in this study generally feeling that the PDAA did not provide them sufficient protection from reprisals, this article seeks to put forward a number of recommendations that would provide at least some reprieve from retaliation for future

South African whistleblowers. It must be noted that the Department of Justice and Correctional Services is currently "embarking upon a process to review the legislative framework for whistleblower protection" (Felix, 2022). However, one must question whether these revisions will come soon enough and whether adequate provisions from tried-and-tested instruments will be implemented to improve the effectiveness of whistleblower protection laws.

The European Union (EU) has promoted an instrument, the Whistleblower Directive (WD), which presents the minimum protection standards for whistleblowers in the EU (Martić, 2021:76). The WD sets an excellent precedent by mandating fair and equal treatment of whistleblowers in the legal framework, while also advancing the application of EU law (Martić, 2021:76-77). Very importantly, the WD places the onus of proof of retaliation on the organisation and not on the whistleblower (Abazi, 2020:649), resulting in the reversed burden of proof. These provisions, along with the Transparency International Guidelines, should serve as a point of departure when amending South African whistleblower protection laws.

A comprehensive remedy could emerge from following the example of the Serbian Law on the Protection of Whistleblowers (LPW). The LPW appears to have exceeded expectations, and authorities in Serbia now consider whistleblower protection an important matter (BETA Belgrado, 2017). The LPW has arguably set an international "gold standard" and serves as an effective legislative model, with the legislation of several EU member states and Canada having incorporated its provisions (BETA Belgrado, 2017). Feinstein and Devine's (2021:10) comprehensive report comparing global legislative protection instruments for whistleblowers has determined that the Serbian LPW ranks as one of the national laws with the best records. It complies with fifteen out of the twenty best practices, as set forth by Transparency International's *Best Practice Guide for Whistleblowing Legislation* (Feinstein & Devine, 2021:10). The reasons for this are abundant. Foremost, the LPW offers protection not only to whistleblowers but also to those connected to whistleblowers[3] and those mistakenly perceived to be whistleblowers[4] (Thakur, 2018a:4), which is, coincidently, one of the oversights of the PDAA.

What makes the LPW particularly effective is that it uses a broad definition for whistleblowing. Additionally, the LPW caters for internal, external and public disclosure protection, with the whistleblower being protected in the case of a public disclosure even if they had not previously disclosed to internal or external authorities. This could prove crucial for South African whistleblowers as the whistleblowers interviewed for this study were no longer confident in internal whistleblowing channels. They, in recollection of their disclosure experiences, argued that it is non-sensical to follow an internal reporting

3 This entails Article 6 of the LPW, *Protection of Associated Persons*, and it provides the same degree of protection to a person experiencing retaliation due to their association with the whistleblower as what the whistleblower would qualify for (Law on the Protection of Whistleblowers, 2014:2).

4 This entails Article 7 of the LPW, *Entitlement to Protection due to Wrongful Identification as Whistleblower*, and provides the same degree of protection that a whistleblower would enjoy to a person who was wrongly perceived by the wrongdoer as the whistleblower (Law on the Protection of Whistleblowers, 2014:2).

procedure when the disclosure will, ultimately, reach the top of the organisation, appearing before the very people who are responsible for the wrongdoing.

A dominant issue faced by the whistleblowers in this study is that they were subjected to victimisation and a loss of income due to an inadequate implementation, and understanding, of the channels of reporting. This issue is further compounded by the fact that the PDAA makes no guarantee that whistleblowers will receive compensation since the outcome of that resides with the Labour Court. To remedy this, compensatory provisions, like those available in Australia and the US, need to be considered for South African whistleblowers. In Australia, the Federal Court can issue orders for compensation (Armstrong & Francis, 2015:593). The orders can entail the offender or employer compensating the whistleblower for loss, damage or injury; ordering the restraint of a reprisal; offering an apology to the whistleblower; reinstating the whistleblower or providing an alternative position for the whistleblower at the same level (Armstrong & Francis, 2015:593). In the US, Illinois, Florida, Oregon, South Carolina and Wisconsin have provisions in their laws for whistleblower compensation (Cordis & Lambert, 2017:291). The LPW also makes provision for whistleblower compensation and judicial relief (Law on the Protection of Whistleblowers, 2014:10), which indicates why it, too, should be examined when revising compensatory provisions within South African law.

The whistleblowers in this study had been subjected to varying forms of retaliation, largely because the PDAA does not prescribe a fine against the organisation if it fails to adequately implement an internal whistleblowing policy. This, according to Thakur (2018c:1), likely results in few employers having whistleblowing policies in place despite a mandated obligation by the PDAA. South African legislation could again refer to the LPW to remedy this. The LPW prohibits all retaliatory action against whistleblowers and imposes a fine against the employer if they fail to protect the whistleblower against retaliation. The LPW also mandates that all employers need to have an internal whistleblower procedure visibly displayed for all employees to see, and in the absence of such a measure, a fine is imposed against the employer (Law on the Protection of Whistleblowers, 2014:1-10). With such a provision in place, one could then expect an internal whistleblowing procedure to be displayed next to the Basic Conditions of Employment Act and Labour Relations Act in any given work environment.

As the above-stipulated recommendations would take time to implement into legislation, an immediate mechanism is necessary to fill this gap in the interim. However, this mechanism would still serve its support purpose once the PDAA (or any other piece of legislation) has been revised. Such a mechanism would need to pursue the advancement of public interests through comprehensive representation that focuses on broad groups of individuals (Lewis, 2006:694). To achieve this, the focus would need to be on democratic values, mutual public interests with ethical standards and a sustainable system that builds a legacy for future generations with adequate accountability systems (Lewis, 2006:694).

The accountability system, in this instance, would entail a central state institution for whistleblower support. Since Chapter Nine Institutions serve the purpose of safeguarding

democracy in South Africa whilst being independent, such a state institution would present an ideal accountability system. Therefore, the pursuit of the public interest can be accomplished through the creation of a Whistleblowing Complaints Authority (WCA) as a Chapter Nine Institution for the comprehensive protection and support of whistleblowers, and to ensure the accountability of public officials. Through the incorporation of a WCA, various civil society organisations could (with the aid of the WCA) find a podium to pool their resources together and offer comprehensive support to future whistleblowers. With a WCA in place, whistleblowers would have a more easily accessible and centralised avenue to access whistleblower support agencies. A WCA would provide whistleblowers with compensation for financial losses and intangible costs related to disclosure. It would also develop career rehabilitation programmes for whistleblowers, provide them with structured assistance in engaging with media, legal and political supporters and implement mandatory measures to investigate and address perceived wrongdoing. The financial resources to accomplish this would come from fines levied from organisations, initially identified by whistleblowers, that were proven to have committed wrongdoing.

8. Conclusion

It is in the absence of effective state-level laws that South African whistleblowers have fought an uphill battle. The difficulty of disclosure is immense, but the escalated difficulty of being unprotected by one's state makes the experience of disclosure a mammoth one. It is, of course, the responsibility of the organisation wherein the wrongdoing occurred to ensure mechanisms are implemented that would proactively, rather than reactively, protect whistleblowers. And the onus of this should reside with the management of the organisation. However, when this is not mandated on a legislative level, the management of an organisation feels no push to enforce policies that protect whistleblowers. Think of the absurdity of a situation where the Basic Conditions of Employment Act (BCEA) would not be mandated and enforced. The result would be widespread infringements on workers' basic rights, ones where employees lose their rights to annual leave and reasonable working hours. As much as an adequate BCEA is the norm in South Africa, so should an adequate PDA (or its replacement). Thus, legislative revisions need to occur urgently, lest we have to face another daughter of a Babita Deokaran.

References

Abazi, V. (2020). The European Union whistleblower directive: A 'game changer' for whistleblowing protection? *Industrial Law Journal*, 49(4):640-656. https://doi.org/10.1093/indlaw/dwaa023

Åkerström, M. (1991). *Betrayal and betrayers: The sociology of treachery*. New Brunswick, NJ: Transaction Publishers.

Alford, C.F. (2002). *Whistleblowers: Broken lives and organizational power*. New York, NY: Cornell University Press.

AmaBhungane: Centre for Investigative Journalism (2018). *Interview of #GuptaLeaks whistleblowers*, 15 August. https://www.youtube.com/watch?v=ttSL-LYppiY&t=456s [Accessed 18 February 2022].

Anvari, F., Wenzel, M., Woodyatt, L. & Haslam, A.S. (2019). The social psychology of whistleblowing: An integrated model. *Organizational Psychology Review*, 9(1):41-67. https://doi.org/10.1177/2041386619849085

Armstrong, A. & Francis, R.D. (2015). Protecting the whistleblower. In: B. Rider (ed.), *Research handbook on international financial crime* (pp. 583-601). Cheltenham and Northampton, MA: Edward Elgar Publishing. https://doi.org/10.4337/9781783475797.00063

Barnett, T., Cochran, D.S. & Taylor, S.G. (1993). The internal disclosure policies of private-sector employers: An initial look at their relationship to employee whistleblowing. *Journal of Business Ethics*, 12:127-136. https://doi.org/10.1007/BF00871932

Bashir, S., Khattak, H.R., Hanif, A. & Chohan, S.N. (2010). Whistleblowing in public sector organizations: Evidence from Pakistan. *The American Review of Public Administration*, 41(3):285-296. https://doi.org/10.1177/0275074010376818

BETA Belgrado (2017). Whistleblowers in Serbia: A model law. *Osservatorio Balcani e Caucaso Transeuropa*, 21 December. https://www.balcanicaucaso.org/eng/Areas/Serbia/Whistleblowers-in-Serbia-a-model-law-184197 [Accessed 2 February 2022].

Bjørkelo, B., Ryberg, W., Matthiesen, S.B. & Einarsen, S. (2008). When you talk and talk and nobody listens: A mixed method case study of whistleblowing and its consequences. *International Journal of Organisational Behavior*, 13(2):18-40.

Blonder, I. (2010). Public interests and private passions: A peculiar case of police whistleblowing. *Criminal Justice Ethics*, 29(3):258-277. https://doi.org/10.1080/0731129X.2010.524039

Böhmke, H. (2021). Judging whistleblowers: The moral foundations of the duty of good faith in South Africa. Master's dissertation, University of Johannesburg, South Africa.

Bron, I. (2022). A former whistleblower explains the dangers of Canada's feeble whistleblowing laws. *The Conversation*, 24 August. https://theconversation.com/a-former-whistleblower-explains-the-dangers-of-canadas-feeble-whistleblowing-laws-188493 [Accessed 28 June 2023].

Brown, A.J., Meyer, D.P., Wheeler, C. & Zuckerman, J. (2014). Whistleblower support in practice: Towards an integrated research model. In: A.J. Brown, D. Lewis, R. Moberly & W. Vandekerckhove (eds.), *International handbook on whistleblowing research* (pp. 457-496). Cheltenham: Edward Elgar Publishing. https://doi.org/10.4337/9781781006795.00028

Calland, R. & Dehn, G. (2004). Introduction: Whistleblowing around the world: The state of the art. In: R. Calland & G. Dehn (eds.), *Whistleblowing around the world: Law, culture and practice*. Cape Town: The Open Democracy Advice Centre (ODAC) and London: Public Concern at Work (PCaW).

Chadah, S. (2011). Containing corruption: Role of whistleblowers. *Indian Journal of Public Administration*, LVII(3):741-757. https://doi.org/10.1177/0019556120110333

Chamorro-Courtland, C. & Cohen, M. (2017). Whistleblower laws in the financial markets: Lessons for emerging markets. *Arizona Journal of International and Comparative Law*, 34(2):187-226.

Cordis, A.S. & Lambert, E.M. (2017). Whistleblower laws and corporate fraud: Evidence from the United States. *Accounting Forum*, 41(4):289-299. https://doi.org/10.1016/j.accfor.2017.10.003

Cortina, L.M. & Magley, V.J. (2003). Raising voice, risking retaliation: Events following interpersonal mistreatment in the workplace. *Journal of Occupational Health Psychology*, 8(4):247-265. https://doi.org/10.1037/1076-8998.8.4.247

Cruywagen, V. (2021). Slain whistleblower Babita Deokaran potentially unveiled a criminal syndicate at the Department of Health. *Daily Maverick*, 28 August. https://www.dailymaverick.co.za/article/2021-08-28-slain-whistleblower-babita-deokaran-potentially-unveiled-a-criminal-syndicate-at-the-department-of-health/ [Accessed 2 October 2021].

Davis, M. (1989). Avoiding the tragedy of whistleblowing. *Business and Professional Ethics Journal*, 8(4):3-19. https://doi.org/10.5840/bpej19898419

Davis, R. (2020). Impoverished state capture whistleblowers beg banks for relief. *Daily Maverick*, 17 October. https://www.dailymaverick.co.za/article/2020-10-17-impoverished-state-capture-whistleblowers-beg-banks-for-relief/ [Accessed 29 December 2021].

Desai, A. (2018). The Zuma moment: Between tender-based capitalists and radical economic transformation. *Journal of Contemporary African Studies*, 36(4):499-513. https://doi.org/10.1080/02589001.2018.1522424

Dworkin, T.M. & Baucus, M.S. (1998). Internal vs. external whistleblowers: A comparison of whistleblowering processes. *Journal of Business Ethics*, 17:1281-1298. https://doi.org/10.1023/A:1005916210589

Fazekas, M. & Tóth, I.J. (2016). From corruption to state capture: A new analytical framework with empirical applications from Hungary. *Political Research Quarterly*, 69(2):320-334. https://doi.org/10.1177/1065912916639137

Feinstein, S. & Devine, T. (2021). *Are whistleblowing laws working? A global study of whistleblower protection litigation*. Washington, DC: Government Accountability Project and the International Bar Association.

Feldman, Y. & Lobel, O. (2008). Decentralized enforcement in organizations: An experimental approach. *Regulation & Governance*, 2:165-192. https://doi.org/10.1111/j.1748-5991.2008.00038.x

Felix, J. (2022). Protecting whistleblowers: Proposals to revise legislation to be finalised by March – Lamola. *News24*, 23 August. https://www.news24.com/news24/southafrica/politics/parliament/protecting-whistleblowers-proposals-to-revise-legislation-to-be-finalised-by-march-lamola-20220823 [Accessed 30 August 2022].

Henningsen, M.L.M., Valde, K.S. & Denbow, J. (2013). Academic misconduct: A goals-plans-action approach to peer confrontation and whistleblowing. *Communication Education*, 62(2):148-168. https://doi.org/10.1080/03634523.2012.752509

Jubb, P.B. (1999). Whistleblowing: A restrictive definition and interpretation. *Journal of Business Ethics*, 21(1):77-94. https://doi.org/10.1023/A:1005922701763

Keashly, L. & Neuman, J.H. (eds.). (2008). *Workplace behavior (bullying) project survey*. Mankato, MN: Minnesota State University.

Kenny, K., Fotaki, M. & Scriver, S. (2019). Mental health as a weapon: Whistleblower retaliation and normative violence. *Journal of Business Ethics*, 160:801-815. https://doi.org/10.1007/s10551-018-3868-4

Kohn, S.M. (2020). *Memorandum: Implementation of the European Union Whistleblower Protection Directive*. Kohn, Kohn & Colapinto, LLP. https://kkc.com/eu-directive/ [Accessed 21 December 2021].

Lampert, N. (1985). *Whistleblowing in the Soviet Union: A study of complaints and abuses under state socialism*. London: The Macmillan Press. https://doi.org/10.1007/978-1-349-07593-5

Lewicka-Strzalecka, A. (2011). Whistleblowing at work: The Polish perspective. In: M. Arszułowicz & W.W. Gasparski (eds.), *Whistleblowing: In defense of proper action*. New Brunswick, NJ: Transaction Publishers.

Lewis, C.W. (2006). In pursuit of the public interest. *Public Administration Review*, September/October:694-701. https://doi.org/10.1111/j.1540-6210.2006.00634.x

Lewis, D. & Uys, T. (2007). Protecting whistleblowers at work: A comparison of the impact of British and South African legislation. *Managerial Law*, 49(3):76-92. https://doi.org/10.1108/03090550710816492

Lukiwski, T. (2017). *Strengthening the protection of the public interest withing the Public Servants Disclosure Protection Act*. Ottawa, Ontario: Report of the Standing Committee on Government Operations and Estimates.

Martić, M. (2021). Protection of the rule of law through whistleblowing. *Regional Law Review*, 2(4):65-80. https://doi.org/10.18485/iup_rlrc.2021.2.ch4

Mazerolle, P. & Brown, A.J. (2008). Support for whistleblowing among managers: Exploring job satisfaction and awareness of obligations. In: A.J. Brown (ed.), *Whistleblowing in the Australian public sector enhancing the theory and practice of internal witness management in public sector organisations*. Canberra: The Australian National University E Press. https://doi.org/10.22459/WAPS.09/2008.07

Miceli, M.P. & Near, J.P. (1992). *Blowing the whistle: The organizational and legal implications for companies and their employees*. New York, NY: Lexington Books.

Miceli, M.P. & Near, J.P. (2010). When do observers of organizational wrongdoing step up? Recent US research on the factors associated with whistleblowing. In: D. Lewis (ed.), *A global approach to public interest disclosure: What can we learn from existing whistleblowing legislation and research?* Cheltenham: Edward Elgar Publishing. https://doi.org/10.4337/9781849806978.00013

Miceli, M.P., Near, J.P. & Dworkin, T.M. (2008). *Whistleblowing in organisations*. New York, NY: Routledge, 74-90. https://doi.org/10.4324/9780203809495

Miethe, T.D. (1999). *Whistleblowing at Work: Tough Choices in Exposing Fraud, Waste and Abuse on the Job*. Boulder, CO: Westview Press.

Moberly, R. (2014). 'To persons or organizations that may be able to effect action': Whistleblowing recipients. In: A.J. Brown, D. Lewis, R. Moberly & W. Vandekerckhove (eds.), *International handbook on whistleblowing research* (pp. 273-297). Cheltenham: Edward Elgar Publishing. https://doi.org/10.4337/9781781006795.00020

Mothepu, M. (2021). *Uncaptured: The true account of the Nenegate/Trillian whistleblower*. Cape Town: Penguin Books.

Nayir, D.Z., Rehg, M.T. & Asa, Y. (2018). Influence of ethical position on whistleblowing behaviour: Do preferred channels in private and public sectors differ? *Journal of Business Ethics*, 149:147-167. https://doi.org/10.1007/s10551-016-3035-8

Near, J.P. & Miceli, M.P. (1985). Organizational dissidence: The case of whistleblowing. *Journal of Business Ethics*, 4:1-16. https://doi.org/10.1007/BF00382668

O'Day, R. (1974). Intimidation rituals: Reactions to reform. *The Journal of Applied Behavioral Science*, 10(3): 373-386. https://doi.org/10.1177/002188637401000310

Park, H., Blenkinsopp, J., Oktem, M.K. & Omurgonulsen, U. (2008). Cultural orientation and attitudes toward different forms of whistleblowing: A comparison of South Korea, Turkey, and the UK. *Journal of Business Ethics*, 82(4):929-939. https://doi.org/10.1007/s10551-007-9603-1

Park, H., Vandekerckhove, W., Lee, J. & Jeong, J. (2020). Laddered motivations of external whistleblowers: The truth about attributes, consequences, and values. *Journal of Business Ethics*, 165:565-578. https://doi.org/10.1007/s10551-018-4082-0

Radulovic, U. (2017). Academic dishonesty and whistleblowing in a higher education institution: A sociological analysis. Master's dissertation, University of Johannesburg, South Africa.

Rehg, M.T., Miceli, M.P., Near, J.P. & Van Scotter, J.R. (2008). Antecedents and outcomes of retaliation against whistleblowers: Gender differences and power relationships. *Organization Science*, 19(2):221-240. https://doi.org/10.1287/orsc.1070.0310

Roberts, P. (2014). Motivations for whistleblowing: Personal, private and public interests. In: A.J. Brown, D. Lewis, R. Moberly & W. Vandekerckhove (eds.), *International handbook on whistleblowing research* (pp. 207-229). Cheltenham: Edward Elgar Publishing. https://doi.org/10.4337/9781781006795.00017

Rothschild, J. (2008). Freedom of speech denied, dignity assaulted: What the whistleblowers experience in the US. *Current Sociology*, 56(6):884-903. https://doi.org/10.1177/0011392108095344

Rothschild, J. & Miethe, T. (1994). Whistleblowing as resistance in modern work organisations: The politics of revealing organisation deception and abuse. In: J. Jermier, D. Knights & W. Nord (eds.), *Resistance and power in organisations*. London: Routledge.

Schreier, M. (2018). Sampling and generalization. In: U. Flick (ed.), *The SAGE handbook of qualitative data collection* (pp. 84-98). London: Sage. https://doi.org/10.4135/9781526416070.n6

Serbia, Republic of (2014). *Act No. 128 of 2014: Law on the Protection of Whistleblowers*, 4 December. Belgrade: Official Gazette of the Republic of Serbia 128/2014.

Sims, R.L. & Keenan, J.P. (1998). Predictors of external whistleblowing: Organizational and intrapersonal variables. *Journal of Business Ethics*, 17(4):411-421. https://doi.org/10.1023/A:1005763807868

Skivenes, M. & Trygstad, S.C. (2014). Wrongdoing: Definitions, identification and categorizations. In: A.J. Brown, D. Lewis, R. Moberly & W. Vandekerckhove (eds.), *International handbook on whistleblowing research* (pp. 95-114). Cheltenham: Edward Elgar Publishing. https://doi.org/10.4337/9781781006795.00011

South Africa, Republic of (2000). *Act No. 26 of 2000: Protected Disclosures Act*, 7 August. Cape Town: Government Gazette 422(21453).

South Africa, Republic of (2011). *Act No. 17 of 2011: Protection from Harassment Act*, 5 December. Cape Town: Government Gazette 558(34818).

South Africa, Republic of (2017). *Act No. 5 of 2017: Protected Disclosures Amendment Act*, 2 August. Cape Town: Government Gazette 626(41016).

Stimpel, C. (2021). *Hijackers on board: How one courageous whistleblower fought against the capture of SAA*. Cape Town: Tafelberg.

Thakur, C. (2018a). *Whistleblower protection: Does South Africa match up? Part I*. Helen Suzman Foundation. https://hsf.org.za/publications/hsf-briefs/whistleblower-protection-does-south-africa-match-up-part-i#sdendnote15anc [Accessed 28 January 2022].

Thakur, C. (2018b). *Whistleblower protection: Does South Africa match up? Part II*. Helen Suzman Foundation. https://hsf.org.za/publications/hsf-briefs/whistleblower-protection-does-south-africa-match-up-part-ii [Accessed 28 January 2022].

Thakur, C. (2018c). *Whistleblower protection: Does South Africa match up? Part III*. Helen Suzman Foundation. https://hsf.org.za/publications/hsf-briefs/whistleblower-protection-does-south-africa-match-up-part-iii [Accessed 28 January 2022].

Transparency International (2013). *International principles for whistleblowing legislation: Best practices for laws to protect whistleblowers and support whistleblowing in the public interest*. Berlin: Transparency International.

Transparency International. (2018). *A best practice guide for whistleblowing legislation*. Berlin: Transparency International.

Uys, T. (2022). *Whistleblowing and the sociological imagination*. New York, NY: Palgrave Macmillan. https://doi.org/10.1057/978-1-137-39445-3

Vandekerckhove, W. (2006). *Whistleblowing and organizational responsibility: A global assessment*. Hampshire: Ashgate Publishing.

Vandekerckhove, W. (2010). European whistleblower protection: Tiers or tears? In: D. Lewis (ed.), *A global approach to public interest disclosure: What can we learn from existing whistleblowing legislation and research?* (pp. 15-35). Cheltenham: Edward Elgar Publishing, . https://doi.org/10.4337/9781849806978.00010

Wiener, M. (2020). *The whistleblowers*. Northlands, Johannesburg: Pan Macmillan South Africa.

World Bank, The (2000). *Anticorruption in transition: A contribution to the policy debate*. Washington, DC: The International Bank for Reconstruction and Development / The World Bank.

Zhang, J., Chiu, R. & Wei, L. (2009). Decision-making process of internal whistleblowing behavior in China: Empirical evidence and implications. *Journal of Business Ethics*, 88:25-41. https://doi.org/10.1007/s10551-008-9831-z

Zhang, J., Pany, K. & Reckers, M.J. (2013). Under which conditions are whistleblowing "best practices" best? *Auditing: A Journal of Practice & Theory*, 32(3):171-181. https://doi.org/10.2308/ajpt-50451

Zorkin, V. (2007). Twelve theses on legal reform in Russia. In: F. Neate & H. Nielsen (eds.), *The world rule of law movement and Russian legal reform*. Moscow: Moscow City Chamber of Advocates.

African Journal of BUSINESS ETHICS

Vol. 17, No. 1, 2023

African Journal of Business Ethics
ISSN 1817-7417
website: ajobe.journals.ac.za

Editor-in-Chief
e-mail: ecclens@unisa.ac.za

Managing editor
e-mail: davida@africansunmedia.co.za