

The G20 must protect whistleblowers to expose corruption and promote democracy

Whistleblowers play an essential role in exposing corruption and other wrongdoing that threaten democracy, human rights, the environment, public health and safety, financial integrity and the rule of law. **By disclosing information about such misdeeds, whistleblowers have helped save countless lives and billions of dollars in public funds.**¹

However, **whistleblowers often put themselves at high personal risk.** They may be fired, sued, blacklisted, arrested, threatened and, in extreme cases, assaulted or killed². Protecting whistleblowers from such retaliation can embolden people to report wrongdoing and thus increase the likelihood that wrongdoing is uncovered and prosecuted. Whistleblower protection is thus a key means of enhancing openness and accountability in public and private workplaces and an essential workers' rights issue.

All global and regional treaties aimed at combating corruption have recognised the importance of whistleblower protections to address corruption, and have introduced requirements to protect whistleblowers.³ While many G20 countries have adopted whistleblowing legislation, these laws often leave significant loopholes and fall short of best practice.⁴

The year 2019 has seen improvements to whistleblower protection in several G20 countries. The new EU directive on whistleblower protection and the recent reform adopted in Australia on the protection of whistleblowers in the private sector contain advanced provisions.⁵

We call on the G20 to adopt and implement G20 High Level Principles on Whistleblowing in line with international standards and best practice, that protect whistleblowers in public and private sectors, regardless of their contractual relationship. Whistleblowers must be provided with access to reliable, gender sensitive channels⁶ to report wrongdoing and robust protection from all forms of retaliation. Such legislation should also ensure that the information they disclose can be used to advance needed reforms and prevent future wrongdoing.

The G20 High Level Principles on Whistleblowing should address the following concerns in order to set a high-quality standard of protection and justice.

- **Scope of application:** The scope of legislation should be as wide as possible to cover every possible whistleblowing situation and ensure that all whistleblowers are protected. **A wide**

¹ US Department of Justice, "Justice Department Recovers \$ 2.4 Billion in False Claims Cases in Fiscal Year 2009; More than \$ 24 Billion Since 1986", Press Release, 19 November 2009, www.justice.gov/opa/pr/2009/November/09-civ-1253.html

² BBC, "Colombia investigates death of key corruption case witness", 14 November 2018, www.bbc.com/news/world-latin-america-46208704

³ UN Convention against Corruption, Council of Europe Civil and Criminal Law Conventions on Corruption, Inter-American Convention against Corruption, African Union Convention on Preventing and Combating Corruption and Arab Convention to Fight Corruption.

⁴ Whistleblower Protection Laws in G20 Countries. Priorities for Action, 2014, http://transparency.org.au/wp-content/uploads/2014/09/FINAL_-_Whistleblower-Protection-Laws-in-G20-Countries-Priorities-for-Action.pdf

⁵ In Australia, companies must proactively implement systems to protect whistleblowers, before they experience potential detriment or retaliation.

⁶ It is important to strengthen women's voices and empower them to report wrongdoing and gender-linked corruption. In doing so, cultural context should be taken into account as for example, in some cultures, women may be more reluctant to hand in their complaint to a man.

range of categories of wrongdoing should be covered and a wide definition of whistleblower (covering all witnesses of wrongdoing, therefore beyond traditional employee-employer relationship) should be provided. Both the private and public sectors should be covered.

- **Protection from retaliation:** Whistleblowers should be protected against all forms of retaliation, disadvantage or discrimination, including against legal proceedings.
- **Confidentiality:** Mechanisms allowing safe, secure, confidential and anonymous disclosures should be established in order to guarantee the confidentiality of the whistleblower's identity. Confidentiality should apply not only to the name of the whistleblower, but also to all "identifying information".
- **Disclosure Procedures:** Whistleblowers should be able to make reports internally to their organisation or directly to the competent authorities. There should be no restrictions or extra burden on whistleblowers who wish to report directly to regulators and the authorities. Further to this, all public and private sector organisations above a certain size must be required to set up internal whistleblowing mechanisms and procedures for whistleblowers' protection.
- **Remedy:** A full range of remedies, financial and others, covering all direct, indirect, past and future consequences of unfair treatment should be provided, including interim relief. Where possible, the whistleblower should be reinstated and their rights be restored. The **burden of the proof** should be placed on the employer to establish that any detriment suffered by the whistleblower is not linked to the disclosure of wrongdoings. Providing legal and financial assistance to whistleblowers should be considered.
- **Stakeholder involvement:** The design and periodic review of whistleblowing laws, regulations and procedures must involve key stakeholders including trade union organisations, business/employer associations, civil society organisations and academia.
- **Gender sensitivity:** The Principles should provide a gender sensitive channel of reporting to provide men, women and LGTBQI+ people access to safe whistleblowing mechanisms. In the design of the reporting mechanisms, target audiences should be consulted in order to develop appropriate culturally-sensitive and context-specific responses that identify and address the various barriers to reporting.

The L20 and C20 call the G20 to adopt High Level Principles on Whistleblowing that answer to these concerns, adopt national laws and other measures to implement them, and commit to publicly report on progress every two years.