

Yasmine Motarjemi
[REDACTED]

Email: [REDACTED]

10 December 2014

Dr Vytenis Andriukaitis
EU Commissioner of Health and Food Safety
Rue de la Loi 200/Wetstraat 200
1049 Bruxelles/Brussel
Belgique

Dear Dr Andriukaitis,

In view of your interest in consumer health and food safety, I would like to draw your attention to my professional experience as the former Corporate Food Safety Manager (2000-2010) at the Nestlé Company in Vevey, Switzerland. A succinct account of my experience is presented in the attached open letter to Mr. Peter Brabeck-Letmathe, the President and former CEO of Group Nestlé. Some highlights of my story are also given in the attached articles published in Le Monde, la Cité and Corporate Crime Reporter

I would like to draw particular attention to the fact that despite public reports, there has been no inquiry into my allegations regarding the mismanagement of food safety and, specifically, the incidents in France (2001-2003), China (2008) and the United States (2009).

In my capacity as the Company's Corporate Food Safety Manager, I should have been included in the investigation of food-safety incidents implicating Nestlé. The lack of in-depth investigations by regulatory authorities up to the level of management is a major weakness in the global food safety management system and a failure to hold the management of companies accountable for their wrongdoings. Similarly, Nestlé Management's refusal to follow-up on my internal reports and investigate the problems I reported constitute a major failure in food safety management, and possibly the root cause of incidents mentioned above.

Nestlé has also been accused of misconduct in other contexts, for instance fraud in Cameroon (the Codilait Affair refers), and negligence leading to the murder of numerous employees in Colombia and Philippines.

The justice system in Switzerland, where the multinational is based and my case is being reviewed, is such that individuals with modest resources cannot afford to bring their grievances to courts and obtain justice. In my case, Nestlé is effectively blocking the process, which is an example of the

unlimited influence multinationals can exercise over their personnel and their ability to violate corporate policies and engage in criminal behavior with impunity. Resisting or reporting grievances result in significant risk of severe retaliatory measures and injustice against employees.

As explained in the attached article "*Whistleblowing: Food safety and Fraud*", national regulatory systems are unable to monitor the international activities of multinational corporations. Due to inherent conflicts of interest national justice systems lack the necessary independence to fulfill their role in international affairs in an unbiased manner. As a result, there is a vacuum in the control and supervision of the policies and practices of multinationals operating internationally even as the impact of management decisions at the highest level reaches far beyond strictly national borders.

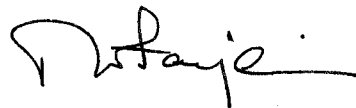
In the absence of judicial support for employees who are victims of retaliatory measures for reporting wrongdoings, fear of possible repercussions renders whistleblowing highly problematic. This undermines risk management and potentially jeopardizes product safety. In my view, violation of internal policies is tantamount to fraud and should be sanctioned in the same way as transgression of national regulatory requirements. Also, company management should be held directly responsible for such violations. My experience provides convincing proof that Nestlé Management has frequently violated its own policies given how it has handled my internal whistleblowing case.

I would be grateful to have the opportunity to meet, at a time and place convenient to you, to brief you on the events described above and discuss possible interventions to:

- a) compel Nestlé Management to respond to the allegations made against them, be it regarding food safety management and/or other cases where all required documentation and proof have already been gathered;
- b) draw the appropriate conclusions from lessons learned, based on the above-mentioned events, for improving risk management and product safety; and
- c) enhance international whistleblowing procedures regarding threats to public health or unethical practices (specific recommendations are found in "the way forward" section of the attached article).

I thank you in advance for your prompt attention to this matter and remain at your disposal for any additional information you may require.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Yasmine Motarjemi', with a stylized, flowing script.

Yasmine Motarjemi

Attention:

Mr Peter Brabeck-Letmathe
Chairman of the Board of Directors
Nestlé, S.A
55 Avenue Nestlé
CH-1800 Vevey

Nyon, 4th Septembre 2010

Dear Mr Chairman,

I was your Corporate Food Safety Manager from 2000 to 2010. I write to you today for two reasons: first, to share with you my concerns regarding a culture and management practices in Nestlé, which undermine food safety; and, second, to inform you of my personal experiences while attempting to improve the situation.

I long nourished the hope that you would be interested in meeting the person responsible for dealing with everyday problems of the Company in an area as important as the safety of Nestlé products. However, to my regret we have never had the opportunity to meet and discuss the food safety situation in the Company. As both corporate-level management of food safety and my professional status deteriorated to the point of being unacceptable, I was compelled to report my concerns to Management with the expectation that a fair evaluation of the situation would be undertaken. In the event, my efforts were in vain.

Mr Chairman, I always found listening to your speeches a source of motivation and inspiration. Moreover, Nestlé Policies and Management Principles portray a model Company, with the most laudable corporate values. A glance at the Company building, offices and facilities is enough to make any outsider believe that this is an ideal working environment.

However, after only a short time, I was profoundly disappointed at how people are managed, the discrepancies between your public statements and the private deeds of managers; between the Company's policies and management principles and actual practices; and between the proclaimed values and the prevailing *fear culture* (including mobbing and intimidation) that managers nourished. I was particularly saddened by the growing realisation that Management was not only aware of this situation but that it was also fully accepted by the very people who should have been, in fact, the in-house guardians of policy compliance.

I failed to see the flawless execution of policy that you promoted in your speeches. Didn't you state that the management of food quality and safety depends on the quality of management? What can be said about food safety management when the members of Management themselves do not respect Company policies and principles?

If I dared challenge the Company's food safety and human resource practices I can assure you that it was not out of disrespect. On the contrary, it was because of my loyalty to the Company, my colleagues and the consumers we served. It was also because for me the safety of our products and respect for our colleagues were non-negotiable values. Involving staff in building a better company unavoidably includes exposing shortcomings. But surely it is better to receive timely feedback from within than to be publicly embarrassed later by failures.

You have often expressed your commitment to food safety. Please allow me to share with you my own vision in this regard. Over and above the technical and scientific aspects, the foundation of good food safety management is an equitable system of people management that is based on professionalism, fairness, objectivity, open-mindedness, respect for staff and, most importantly, for their dignity. I regret to say that I failed to see this approach implemented at the Nestlé Head Office. My own situation is a case in point.

On several occasions I reported – first to members of Management and then, in November 2009, to Mr Paul Bulcke – serious shortcomings in food safety management, the professional difficulties I faced, and the shameful treatment that I experienced in Nestlé. I hoped that I would be given the opportunity to provide a full and accurate account of events during the period 2005-2010. In response, my contract was terminated with no opportunity to provide details of my experience.

Nevertheless, I am prepared to meet with you, at your convenience, to share my observations on practices in Nestlé and their eventual repercussions on Nestlé's reputation and consumers. I would also hope to use this opportunity to identify an equitable solution for my personal difficult situation, another consequence of the past events in Nestlé.

Yasmine Motarjemi

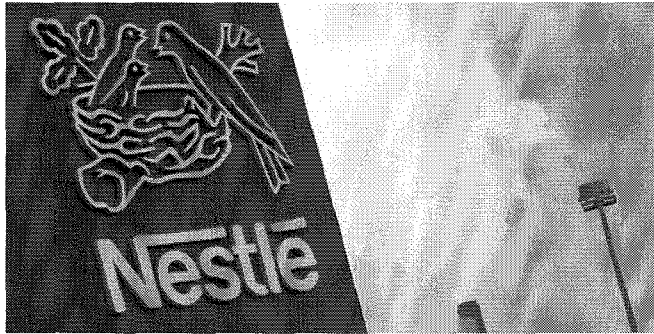
Former Corporate Food Safety Manager (2000-2010)

Assistant Vice President

Une ancienne de Nestlé dénonce la gestion défaillante du groupe en matière de sécurité alimentaire

LE MONDE | 16.05.2012 à 12h47 • Mis à jour le 16.05.2012 à 17h54 |

Par Agathe Duparc - Genève Correspondance



Nestlé a décidé de retirer "immédiatement" de la vente en Espagne et en Italie des raviolis et des tortellinis. } REUTERS/STRINGER

Pendant dix ans, elle a été chargée de la sécurité alimentaire au niveau mondial chez Nestlé. Avec un rang de sous-directrice au siège de Vevey, en Suisse, elle apportait ses conseils sur la plupart des incidents ou crises, et sillonnait le monde, intervenant dans les colloques, visitant parfois des usines.

Mais, aujourd'hui, Yasmine Motarjemi, 58 ans, a déclaré la guerre à son ancien employeur. En décembre 2011, elle a déposé une plainte pour harcèlement, dans le canton de Vaud, et réclame 2,1 millions de francs suisses (1,7 million d'euros) à la multinationale.

Dans cette requête de 115 pages, elle témoigne, documents à l'appui, de la manière dont elle a été ostracisée, avant d'être licenciée en 2010, alors qu'elle dénonçait "des dysfonctionnements ou des manquements fondamentaux". "Sur le papier tout était impeccable. Mais gérer la sécurité alimentaire chez Nestlé, c'était comme ramer à contre-courant", confie M^{me} Motarjemi au Monde.

IMPÉRATIFS DE BUSINESS

Cette ancienne experte de l'Organisation mondiale de la santé (OMS), spécialiste des toxi-infections alimentaires, avait été engagée en 2000 au département quality management de Vevey. "J'étais curieuse de voir comment les directives émises par l'OMS ou par les autorités réglementaires étaient appliquées", explique-t-elle. Peu à peu, elle découvre "qu'à côté des impératifs de business, le facteur sécurité alimentaire a peu de poids".



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M^{me} Motarjemi soulève aussi la question du dosage des vitamines et des minéraux dans les produits infantiles. "Quand je demandais la validation de critères importants pour la sécurité des aliments, telles que les vitamines, on refusait de refaire les calculs en me disant que les limites étaient déterminées depuis longtemps", déclare-t-elle. Elle obtient qu'un groupe de travail soit mis en place, mais rien n'en sortira. En 2005, Nestlé se retrouve sur la sellette en Chine, contraint de retirer du marché des laits en poudre contenant trop d'iode.

Si Yasmine Motarjemi parvient la plupart du temps à se faire entendre, son opiniâtreté et sa rigueur scientifique agacent certains. Dès 2006, elle se heurte à un nouveau chef, Roland Stalder, nommé à la tête du département quality management : "Il méprisait les autorités de santé publique dont j'étais issue", raconte-t-elle.

"LANGAGE DE TECHNICIENS"

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"Cette intervention laissait entendre que les fournisseurs devaient livrer des produits conformes. Or, la grande majorité de nos incidents provenaient de matières premières contaminées", fait remarquer M^{me} Motarjemi.

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"La sécurité alimentaire est bien trop importante pour que l'on tolère des défaillances. Et c'est notamment pour cela que nous avons dû nous séparer de Madame Motarjemi", ajoute le géant de l'alimentation.

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
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Former Nestle Food Safety Chief Fights Back

By Editor Filed in News October 22nd, 2014 @ 10:35 am

Yasmine Motarjemi was an assistant vice president in charge of food safety at Nestle, the world's largest food company. She worked in that position from 2000 to 2010 at Nestle's global headquarters in Vevey, Switzerland.

In 2006, things started to take a bad turn.

Her superiors weren't taking her warnings of food safety issues seriously.

She complained to the head of operations.

She complained to the head of human resources.

She complained to the head of compliance.

She complained to the head of corporate governance.

She complained to the CEO.

All to no avail. They all refused to hear her.

In 2010, she was dismissed from the company.

Now, she is suing Nestle for harassment.

She is being represented by Bernard Katz, a lawyer based in Pully, Switzerland.

Nestle is being represented by Remy Wyler, a lawyer based in Lausanne, Switzerland.

(Nestle did not return e-mail requests to comment on this story.)

Since leaving Nestle, she has become a public health activist.

She is the editor of The Encyclopedia on Food Safety, which was published in January 2014.

What kind of problems did Motarjemi discover at Nestle?

"Lack of resources," Motarjemi told Corporate Crime Reporter in an interview last week. "The refusal of the company to recognize this. People were not able to do their work. Some of them were incompetent for the job or they did not have adequate training. There was conflict of interest in the auditing process. There was a culture of fear so that people would not speak up about the problems. They were afraid of saying the truth."

She gives the example of the baby biscuits crisis.

"One example, which I reported to the court also and is easy to understand — it was the case of the baby biscuits in France. This case also led to retaliatory measures against me. And it was one of perhaps many reasons why the process of harassment started."

"In 2002, I received two reports of babies suffering from choking. When I investigated the cases, I discovered that this problem was ongoing for at least two years. Nestle recognized this in the response to the court. And babies were choking with their products and they were leaving them on the market."

What was wrong with the biscuit?

"There was something with the quality of the flour so that these biscuits were blocking the throats and parents were reporting that they had to put their fingers in the child to get the biscuits out. It was the quality of the flour," Motarjemi says. "And when they changed the quality of the flour, the problem was fixed."

“The worst thing was that they were labeling this product for babies from eight months old. Competitors were saying that baby biscuits were okay only for babies from one year and a half and older. The problem could have been fixed within 24 hours by changing the age.”

How many complaints did you see on choking?

“First, they told me these were just two sporadic cases, don’t worry. I said I wanted to see all of the cases. That was in 2003. I said — give me the total number of cases during the last year. And then I got to see 40 cases. And then I asked to see the cases in the other markets. And they told me that the other markets had a maximum of five cases. I said — that was unacceptable.”

“I wrote a complaint to the upper management and I denounced this. And then they intervened and finally they fixed the problem.”

From the time you raised the issue to the time they fixed the problem, how long was that?

“It was one month. But I wrote very severe and threatening notes. Some food safety problems don’t manifest in acute problems. They might be longer term problems. Here’s another example.”

“I came in and I saw there was not a process for validation of nutrient contents of infant formula. Validation process means — checking to make sure the calculation of the amount of vitamins, minerals or other nutrients added to the formula are correct. I had already received internal reports that we were adding too much vitamin A and D in our products.”

Why were they doing it?

“They were just negligent,” she says.

It was a mistake?

“They were just negligent,” she says. “They didn’t have a procedure. They didn’t take it seriously. They didn’t understand the seriousness of the issue. It was a negligent attitude.”

“I kept saying this is wrong and you have to improve validation. And they refused to listen to me. I had to write a strong note and take this note personally to the head of the business to make sure he doesn’t deny that he received the note. And still they didn’t do anything.”

Why didn’t you just send an e-mail?

“E-mail has a lower status than a note,” she says. “A note has a much higher status.”

But they couldn’t deny they received an e-mail.

“I followed up orally. And then after six months, when I saw that nothing was happening, I sent an e-mail and I asked — why is nothing happening? Again nothing happened. And nothing happened.”

“Until there is an incident, Nestle doesn’t move,” she says.

“Until a company called Humana had a major incident in Israel and 16 babies suffered from lack of vitamin B1 and three babies died. When this incident happened, suddenly they woke up and they realized that they had been negligent in the area of vitamin and nutrient content. It was something I had been warning about before the Humana incident. And then they came and told me that if the management asked you if this can happen to Nestle, you have to answer — no.”

“And then in spite of all of this, in 2005, their products in China had an excess of iodine. And then Nestle didn’t even care to reply to the authorities. After five days, when the authorities didn’t receive a reply from Nestle, they got so mad that they demanded a massive recall of Nestle products. And Nestle was caught up in a major scandal in China. And they lost market share.”

“It was this attitude of negligence that was frustrating me.”

Nestle did not return calls seeking comment.

But Motarjemi says that Nestle says “they will not discuss the details because the legal procedure is ongoing.”

"They deny harassment," she says. "They say the food safety management is perfect. It is true that on paper the food safety management is perfect. But the issue is the implementation — and what you do when a person is reporting that there are problems."

"Nestle says that they care so much about food safety they fired me. They were saying that I was the cause of the incident. The certificate, which shows why my contract was terminated, indicates that this was because I had a vision different from my boss and I refused a transfer they were proposing to me."

"When I reported all of this to the higher level within the company during these four years, I never received a reply. I don't know how they saw me. I never received an answer of any kind while I was there, except that they wanted to push me into a side job."

What was the nature of the harassment?

"Isolation," she says. "Humiliation. Preventing me from doing my job by discrediting me. Transferring my tasks to subordinates, some of them who were not competent for the work. Sometimes they asked me to do impossible jobs. The humiliation was perhaps the worst."

"Just to give you one example. And there were many, everyday almost. But there were two prominent examples. We would have global conferences where they invited the heads of food safety from all over the world. At one of these conferences, they asked someone else to make the presentation for me — to make my presentation. They gave me a seat at the back of the room. And I'm the head of food safety and I should have been sitting in the front row. I had no opportunity to speak and to present my own work."

"Then the CEO asked to come to our department have a meeting to understand why we had not been able to prevent the melamine incident in China. My boss did not invite me to that meeting. And finally, because I found out about the meeting, I was invited. I was the person in charge of food safety for the company and melamine was a food safety issue. But at the meeting, they presented me among the secretaries. He put my name under the secretaries."

Your boss said you are a secretary?

"He didn't say I was a secretary. But he put my name under the list of secretaries. And he doesn't give me the floor to speak, while everybody else got the floor to speak."

Motarjemi says there have only been three press reports about her case — Swiss TV, Le Monde, and a Swiss German business article. And a web documentary.

Why is there so little coverage of your case?

"I'm hoping you can explain that to me," she says. "I don't understand that. I don't understand the silence of the society. I wrote to politicians. I wrote to parliamentarians. I have written letters to everyone. I just do not understand the silence."

"I wrote also to the New York Times. They asked for my file. But then, they stopped answering me."

What about her colleagues in the food safety field?

"I had a big international network of colleagues. And all I got was silence."

Why silence?

"I do not know," she says.

They don't want to lose their jobs, right?

"I don't have the facts. I don't want to say anything where I don't have the facts. I do suspect that they are afraid. They are afraid of losing their jobs."

What about food safety people independent of the big corporations and the industry — people at the international bodies like the World Health Organization?

"Silence. Silence."

[For the complete q/a transcript of the Interview with Yasmine Motarjemi, see page 28 Corporate Crime Reporter 40 (12), October 20, 2014, print edition only.]

**INTERVIEW WITH YASMINE MOTARJEMI,
NYON, SWITZERLAND**

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We interviewed Motarjemi on October 13, 2014.

CCR: What is your current work?

MOTARJEMI: I am a public health activist and editor of the Encyclopedia on Food Safety. It was published earlier this year.

CCR: Tell us a bit about your education and work history.

MOTARJEMI: I did a masters in food science and technology at the University of Montpellier in France. After that I received a doctoral degree from the University of Lund in Sweden. I was there for ten years as a research assistant. That was from 1980 to 1990.

In 1990, I joined the World Health Organization in Geneva as a senior scientist. I was responsible for the surveillance and prevention of foodborne illnesses. I worked on the hazard analysis and critical control points or HACCP -- which is famous in the food safety community.

I also assisted in the secretariat of the Codex Alimentarius Commission, which is an intergovernmental body, developing standards for the international food trade. Those are a few of my activities in the WHO. In 2000, I joined Nestlé. I was the corporate food safety manager. I was an assistant vice president.

CCR: You were the director of food safety?

MOTARJEMI: I was the corporate food safety manager. I was the head food safety manager at the global level. But I was working under the director of quality management. Food safety was under quality management.

CCR: Where were you based?

MOTARJEMI: I was based in Vevey, Switzerland. That is where Nestlé's international headquarters office is located.

I was at the corporate headquarters for the largest food company in the world.

CCR: And you were in charge of food safety there.

MOTARJEMI: Supposedly.

CCR: What happened in 2010?

MOTARJEMI: My contract with Nestlé was terminated.

CCR: Why?

MOTARJEMI: After ten years of internal whistleblower and protesting, finally, since I was not able to make them listen, I asked a lawyer to write a letter to ask for a meeting with the CEO of the company.

That was December 2009. And right after this letter, I was terminated. That was January 2010. They didn't give any reply to the lawyer.

CCR: Are you involved in litigation against the company?

MOTARJEMI: Yes. There is a legal procedure.

CCR: What is the status of the litigation?

MOTARJEMI: The legal procedure is taking place in Lausanne, Switzerland. It is a civil procedure. It was filed in March 2011. I could not file a lawsuit on food safety, because I am not a consumer who was hurt.

But I was hurt by the psychological harassment, which was ongoing for four years. I am suing the company for harassment. But I have also explained to the court the context, which is a food safety management context.

CCR: What is the name of your lawyer?

MOTARJEMI: Bernard Katz. He is based in Pully, Switzerland.

I filed the lawsuit in March 2011. They tried to see if the parties could find a deal. That failed. So, we entered the second phase in December 2011. Nestlé provided its response in June 2012. They also countersued me. They filed a lawsuit against me for talking to the media.

CCR: Was there a gag order from the court telling you -- you can't speak to the media?

MOTARJEMI: No. The court has not said anything on this matter. But in Switzerland, there is a law that the staff of a company, even if they leave a company, they are not supposed to report the information from the company to the public.

But I was not reporting manufacturing or financial strategy to the public. I was just explaining to the media why I was terminated, why I was under psychological harassment.

I was just telling my story. The problem was that my story coincided with some internal information of the company.

CCR: The court has not ruled on Nestlé's countercharge yet?

MOTARJEMI: No. They are all part of the same case. That was June 2012 when Nestlé counterattacked me. They accused me of talking to the media about the case. I insisted that I did not reveal any secret, except what was related to the harassment against me.

In October 2013, Nestlé requested that the court postpone the process. In November 2013, Nestlé requested that the court suspend the whole process.

In January 2014, the court decided that the first hearing will take place on June 25, 2014.

This hearing takes place. That was the first hearing.

This was mainly to set up the procedure -- to decide on the allegations that are acceptable and the list of witnesses. But at the same time, the court advises us to reconsider a possible deal, an agreement.

We did not get an agreement because Nestlé refused to recognize psychological harassment that had I had been subjected to for four years.

About two weeks ago, we provided our list of witnesses to the court.

CCR: Who is Nestlé's lawyer?

MOTARJEMI: Remy Wyler.

CCR: What kind of press reporting has there been to your case?

MOTARJEMI: There was one short report on Swiss TV in May 2012. Nestlé was putting pressure that this should be stopped. Nestlé tried to discredit me in that report.

There was an article in Le Monde, the number one newspaper in France. There was some information provided there to discredit me.

There was a Swiss business journal that also ran an article.

But in all of these cases, these reports declined to give a full report. Some told us that they were hindered by Nestlé.

So, there have only been three reports -- Swiss TV, Le Monde, the Swiss German business article. But then there was a web documentary.

CCR: Why is there so little coverage of your case?

MOTARJEMI: I'm hoping you can explain that to me. I don't understand that. I don't understand the silence of the society. I wrote to politicians. I wrote to parliamentarians. I have

written letters to everyone. I just do not understand the silence.

I wrote also to the New York Times. They asked for my file. But then, they stopped answering me.

CCR: You were in charge of food safety at Nestlé. What problems did you run up against?

MOTARJEMI: Lack of resources. The refusal of the company to recognize this. People were not able to do their work. Some of them were incompetent for the job or they did not have adequate training. There was conflict of interest in the auditing process. There was a culture of fear so that people would not speak up about the problems. They were afraid of saying the truth.

CCR: What were some of examples of threats to consumer health?

MOTARJEMI: There are many. One example, which I reported to the court also and is easy to understand -- it was the case of the baby biscuits in France. This case also led to retaliatory measures against me.

And it was one of perhaps many reasons why the process of harassment started.

In 2002, I received two reports of babies suffering from choking. When I investigated the cases, I discovered that this problem was ongoing for at least two years.

Nestlé recognized this in the response to the court. And babies were choking with their products and they were leaving them on the market.

CCR: What was wrong with the biscuit?

MOTARJEMI: There was something with the quality of the flour so that these biscuits were blocking the throats and parents were reporting that they had to put their fingers in the child to get the biscuits out. It was the quality of the flour. And when they changed the quality of the flour, the problem was fixed.

The worst thing was that they were labeling this product for babies from eight months old.

Competitors were saying that baby biscuits were okay only for babies from one year and a half and older. The problem could have been fixed within 24 hours by changing the age.

CCR: By changing the label from eight months to 18 months?

MOTARJEMI: Yes. They could have fixed the problem by changing the label.

CCR: Did they change the label and the flour?

MOTARJEMI: They did, but only after I intervened.

CCR: How many complaints did you see on choking?

MOTARJEMI: First, they told me these were just two sporadic cases, don't worry. I said I wanted to see all of the cases. That was in 2003. I said -- give me the total number of cases during the last year. And then I got to see 40 cases. And then I asked to see the cases in the other markets. And they told me that the other markets had a maximum of five cases. I said -- that was unacceptable.

I wrote a complaint to the upper management and I denounced this. And then they intervened and finally they fixed the problem.

CCR: From the time you raised the issue to the time they fixed the problem, how long was that?

MOTARJEMI: It was one month. But I wrote very severe and threatening notes.

Some food safety problems don't manifest in acute problems. There might be longer term problems. Here's other example.

I came in and I saw there was not a process for validation of nutrient contents of infant formula. Validation process means -- checking to make sure the calculation of the amount of vitamins, minerals or other nutrients added to the formula are correct.

I had already received internal reports that we were adding too much vitamin A and D in our products.

CCR: Why were they doing it?

MOTARJEMI: They were just negligent.

CCR: It was a mistake?

MOTARJEMI: They were just negligent. They didn't have a procedure. They didn't take it seriously. They didn't understand the seriousness of the issue. It was a negligent attitude.

I kept saying this is wrong and you have to improve validation. And they refused to listen to me.

I had to write a strong note and take this note personally to the head of the business to make sure he doesn't deny that he received the note. And still they didn't do anything.

CCR: Why didn't you just send an e-mail?

MOTARJEMI: E-mail has a lower status than a note. A note has a much higher status.

CCR: But they couldn't deny they received an e-mail.

MOTARJEMI: I followed up orally. And then after six months, when I saw that nothing was happening, I sent an e-mail and I asked -- why is nothing happening? Again nothing happened. And nothing happened.

Until there is an incident, Nestlé doesn't move.

Until a company called Humana had a major incident in Israel and 16 babies suffered from lack of vitamin B1 and three babies died.

When this incident happened, suddenly they woke up and they realized that they had been negligent in the area of vitamin and nutrient content.

It was something I had been warning about before the Humana incident. And then they came and told me that if the management asked you if this can happen to Nestlé, you have to answer -- no.

And then in spite of all of this, in 2005, their products in China had an excess of Iodine. And then Nestlé didn't even care to reply to the authorities. After five days, when the authorities didn't receive a reply from Nestlé, they got so mad that they demanded a massive recall of Nestlé products. And Nestlé was caught up in a major scandal in China. And they lost market share.

It was this attitude of negligence that was frustrating me.

CCR: Had you warned of that before it blew up?

MOTARJEMI: I didn't know about the iodine issue at all in China. But I was warning on a general basis on the need for validating their procedures on nutrient content and not delivering products that were not in accordance with the local laws. I didn't know what they were doing in China. They were reporting to the regulatory departments there.

CCR: I will call Nestlé to get their side of the story. But what are they saying to the press about your case?

MOTARJEMI: They said they will not discuss the details because the legal procedure is ongoing. They deny harassment. They say the food safety management is perfect.

It is true that on paper the food safety management is perfect. But the issue is the implementation -- and what you do when a person is reporting that there are problems.

Nestlé says that they care so much about food safety they fired me.

They were saying that I was the cause of the incident. The certificate, which shows why my contract was terminated, indicates that this was because I had a vision different from my boss and I refused a transfer they were proposing to me.

CCR: Was this a grudge match between you and your boss?

MOTARJEMI: I don't think so, because there were food safety issues.

CCR: Do they raise questions about this just being a personal matter between you and him? What have they said about that?

MOTARJEMI: When I reported all of this to the higher level within the company during these four years, I never received a reply. I don't know how they saw me. I never received an answer of any kind while I was there, except that they wanted to push me into a side job.

CCR: When you say there was harassment, what was the nature of the harassment?

MOTARJEMI: isolation. Humiliation. Preventing me from doing my job by discrediting me. Transferring my task to subordinates, some of them who were not competent for the work. Sometimes they asked me to do impossible jobs. The humiliation was perhaps the worst.

Just to give you one example. And there were many, everyday almost. But there were two prominent examples. We would have global conferences where they invited the heads of food safety from all over the world.

At one of these conferences, they asked someone else to make the presentation for me -- to make my presentation. They gave me a seat at the back of the room. And I'm the head of food safety and I should have been on the front row. I had no opportunity to speak and to present my own work.

Then the CEO asked to come to our department have a meeting to understand why we had not been able to prevent the melamine incident in China. And I will explain more about that incident soon. My boss did not invite me to that meeting. And finally, because I found out about the meeting, I was invited. I was the person in charge of food safety for the company and melamine was a food safety issue. But at the meeting, they presented me among the secretaries. He put my name under the secretaries.

CCR: Your boss said you are a secretary?

MOTARJEMI: He didn't say I was secretary. But he put my name under the list of secretaries. And he doesn't give me the floor to speak, while everybody else got the floor to speak.

CCR: Tell me about the melamine incident.

MOTARJEMI: You may remember that in 2007 in the United States, there was a major incident with pet food. Some thousands of dogs and cats died because pet food was adulterated with a substance called melamine.

Melamine is a chemical substance which is used in the plastic industry for producing various consumer products. The plastics

industry had some melamine of poor quality. They could not use it in the plastics industry. In China, the poor quality melamine was used in gluten, which was exported to the United States for pet food.

This was to increase the nitrogen content so as to get a higher price. It was a major crisis in the United States.

Nestlé also markets pet food. And this wheat gluten was distributed throughout the United States to the pet food companies. Hundreds of brands of pet foods in the United States, including Nestlé, ended up with this poor quality melamine in it.

That was in 2007. A year after, Nestlé products were again involved in a melamine incident in China. But this time it was infant formula where some 300,000 babies were intoxicated with melamine and six babies died as result.

This was one of the biggest intoxications in history. The babies who died from melamine did not die with Nestlé products.

They died with San Lu products. San Lu products were heavily contaminated with melamine. But Nestlé products were also contaminated, but at low levels. They had to withdraw their products. There was a massive recall. Nestlé's name was heavily in the media.

This crisis led the CEO to come to us and ask the question -- if Nestlé was already involved in 2007 in a pet food accident in the United States and knew about this risk, what did our department do to prevent a future accident? I

CCR: You were in charge of food safety at the largest food company in the world. What response have you gotten from your colleagues in the food safety community about has happened here?

MOTARJEMI: I had a big international network of colleagues. And all I got was silence.

CCR: Why silence?

MOTARJEMI: I do not know.

CCR: They don't want to lose their jobs, right?

MOTARJEMI: I don't have the facts. I don't want to say anything where I don't have the facts. I do suspect that they are afraid. They are afraid of losing their jobs.

CCR: What about food safety people independent of the big corporations and the industry -- people at the international bodies like the World Health Organization?

MOTARJEMI: Silence. Silence.

CCR: Why is that? Are they also afraid?

MOTARJEMI: I don't know. And I don't understand. I keep asking reporters -- please go and interview the authorities. And see how Nestlé is responding to the court. Because how they are responding to the court is even a bigger scandal.

CCR: What do you mean by that?

MOTARJEMI: In the case of the iodine recall in China, they say this has nothing to do with safety. And I say -- how can this be?

CCR: What was the injury from iodine?

MOTARJEMI: We don't know because there was no investigation. The products were above regulatory norms. It was a regulatory violation.

CCR: What kind of harm can come from too much iodine?

MOTARJEMI: It can impact on the thyroid function.

But let me say something here as we conclude.

From the end of December 2006 to September 2010, I kept reporting to the head of operations, to the head of human resources, to the head of compliance, to the head of corporate governance, to the CEO, to the president. They all refused to hear me.

My lawyer says they could have fired me. In Switzerland, it's very easy to fire someone. They could have fired you, he said, but they shouldn't have harassed you.

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Scanned and passed through OCR program, from
Corporate Crime Reporter 40(12), October 20, 2014,
print edition.

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Dans les coulisses d'une plainte pour harcèlement contre Nestlé

L'ancienne cadre qui avait dénoncé la gestion défaillante du géant suisse en matière de sécurité alimentaire livre le récit de son histoire à *La Cité*. Licenciée, elle a engagé un long bras de fer judiciaire avec la multinationale. Retour sur une affaire troublante.



Il y a un an, elle franchissait un pas gigantesque. Yasmine Motarjemi, ancienne directrice chargée de la sécurité alimentaire chez Nestlé, déposait, en décembre 2011, une plainte pour harcèlement contre son ex-employeur. Un tribunal vaudois a été saisi, après l'échec d'une séance de conciliation. L'affaire soulève aussi nombre de questions sur la gestion de la multinationale suisse en matière de sécurité alimentaire. Une gestion que Yasmine Motarjemi qualifie de défaillante.

Un an après avoir décidé d'engager un bras de fer judiciaire avec le géant basé à Vevey, l'ex-directrice livre le récit de sa mésaventure à *La Cité* et nous fait entrer dans les coulisses d'une histoire à laquelle nombre de cadres et responsables ou de simples employés pourraient s'identifier. Un récit détaillé dans les 115 pages de la plainte déposée par Yasmine Motarjemi, *Food Safety Manager* de la grande multinationale de 2000 à 2010.

UN POSTE SPECIALEMENT CREE POUR ELLE

Les rapports de Yasmine Motarjemi avec Nestlé remontent aux années 1990. Elle est à cette époque experte scientifique à l'Organisation mondiale de la santé (OMS), chargée de la prévention des toxoinfections alimentaires. C'est en 1993, lors d'une conférence sur la sécurité alimentaire où elle fait une présentation consacrée aux diarrhées des nourissons qu'elle est remarquée par le responsable du département *Quality Management* qui recouvre la sécurité alimentaire chez Nestlé.

Dans les années 1998-1999, celui-ci lui propose à plusieurs reprises de rejoindre son entreprise. Yasmine Motarjemi finit par accepter et entre officiellement en fonction chez Nestlé, le 1er juillet 2000, en qualité de *Food Safety Manager*, un poste créé spécialement pour elle.

«En fait, j'étais sous-directrice, une position ambiguë, selon le style de management chez Nestlé», précise-t-elle. Une circulaire interne annonce, par ces mots, sa nomination: «En provenance de l'Organisation mondiale de la santé à Genève, elle a acquis une réputation mondiale en tant que spécialiste scientifique dans le domaine de la sécurité alimentaire et de l'hygiène.»

Pendant les premiers mois, alors qu'elle essuie les plâtres d'une fonction pour laquelle il n'existe pas de cahier des charges, Yasmine Motarjemi épluche les dossiers, visite des centres de recherches, fait connaissance avec l'empire Nestlé.

Elle se rend ainsi à Paris et rencontre le directeur Qualité de Nestlé France, qui lui demande tout de go pourquoi elle est venue chez Nestlé et lui fait comprendre de manière explicite que l'on n'a pas besoin de

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gens comme elle, venant de l'OMS. Ce à quoi elle répond: «Je vais vous prouver que vous avez besoin de moi.» Yasmine Motarjemi ne sait pas encore qu'elle aura bientôt l'occasion de retrouver ce haut cadre sur son chemin. Pour son malheur.

Forte du soutien de ses deux supérieurs hiérarchiques successifs, elle s'attaque avec ardeur à l'immense travail consistant à mettre un peu d'ordre dans les procédures de sécurité alimentaire. Elle n'a pas de fonction opérationnelle, il ne lui revient pas de surveiller telle ou telle usine, tel ou tel produit, telle ou telle chaîne de production.

Elle travaille en amont au niveau de la direction. Ce qu'elle doit faire, c'est renforcer et développer les directives sur les risques émergents, s'assurer que les procédures de l'entreprise en matière de sécurité alimentaire sont conformes aux normes internationales, qu'elles sont claires, efficaces, validées, comprises de ceux qui doivent les appliquer afin de prévenir tout danger. Elle doit aussi être consultée dans la gestion des éventuelles crises.

Pour exécuter ces multiples tâches, elle est d'abord seule mais constitue petit à petit autour d'elle une équipe avec laquelle elle s'active sans relâche pour la plus grande satisfaction de sa hiérarchie. En témoignent les évaluations annuelles, de 2000 à 2005, de son travail, toutes plus élogieuses les unes que les autres.

Plus elle avance dans la compréhension du fonctionnement des mécanismes censés garantir la sécurité alimentaire chez Nestlé, plus sa mission lui semble énorme. «Toutes les usines que j'avais visitées avaient des problèmes pour identifier les risques liés aux matières premières», raconte-t-elle.

Elle écrit lettre sur lettre, courriel sur courriel, dans lesquels elle souligne les dangers, pointe du doigt les lacunes en ressources humaines qualifiées, demande que lui soient fournis les moyens de faire ce pourquoi elle a été engagée. Elle insiste aussi pour que son cahier des charges soit précisé, que l'étendue de sa responsabilité soit clairement définie. En vain. Elle propose également la création d'un manuel de formation en sécurité alimentaire pour s'assurer que les employés reçoivent une formation correspondant à leur responsabilité. Refusé.

Elle parvient cependant à lancer quelques grands projets tel que la révision du Système de gestion de la sécurité alimentaire (*Food Safety Management System*, FSMS) de Nestlé et la mise sur pied d'une banque de données répertoriant les risques liés aux matières premières que la multinationale utilise dans sa gamme de produits.

LES BISCUITS DE LA DISCORDE

Yasmine Motarjemi s'attaque de façon systématique aux problèmes et lacunes qu'elle constate, parmi celles-ci le dosage des vitamines et des différents ingrédients entrant dans la fabrication des aliments pour bébés. «On m'a rapporté que les aliments pour enfants étaient souvent mal dosés pour certaines vitamines. J'ai fait une note mais on ne m'a pas écoutée.»

Le problème était pourtant bien réel: en 2005 Nestlé fut contraint de rappeler du lait en poudre produit par une *joint venture* de Nestlé en Chine, au motif que sa teneur en iode était supérieure aux normes nationales.

Trois ans plus tôt, en décembre 2002, le siège de Nestlé à Vevey reçoit de Nestlé France l'information selon laquelle deux consommatrices se sont plaintes du fait que leurs bébés ont failli «s'étrangler» en consommant des biscuits de la marque *P'tits Biscuits*.

Extraits du rapport: «La maman écrit: 'Elle est devenue violacée, toussait sans réussir à reprendre son souffle. La consommatrice lui a retiré le morceau de biscuit en lui mettant les doigts dans la gorge.' Mme M. ajoute: 'Vos *P'tits biscuits* sont censés ne pas s'émietter mais dès qu'elle a sucé un peu le sien, il s'est brisé en plusieurs morceaux et a provoqué ce qui est arrivé.'»

En demandant que lui soit transmis l'historique des plaintes, Yasmine Motarjemi apprend que, pour la seule année 2002, ce ne sont pas moins de 38 plaintes visant le même produit qui atterrissent chez Nestlé France, sans qu'aucune mesure efficace n'ait été prise. Suite à l'intervention de Yasmine Motarjemi, ce problème sera résolu par la modification de la farine utilisée et, plus tard, en repoussant l'âge de consommation à quinze mois au lieu de huit.

EQUIPE DEMANTELEE

Cette histoire de biscuits allait réserver une surprise à Yasmine Motarjemi. Elle découvre un jour sur son bureau, déposé par une main anonyme, un document daté de juillet 1998, signé par le vice-président du Centre de recherche Nestlé de Lausanne et envoyé à la Division boissons-dessert et diététiques de Nestlé France.

Il y était écrit qu'après discussion avec le chef de réanimation pédiatrique de l'hôpital des enfants malades à Paris, il s'avérait qu'on observait en France, chaque année, environ 35 décès d'enfants âgés entre 1 et 4 ans pour cause d'obstruction des voies respiratoires, mais qu'aucun de ces décès n'avait jamais été imputable à un morceau de biscuit.

Et le vice-président du Centre de recherche Nestlé de Lausanne concluait: «Si nous voulons donc innover, il faudra probablement oublier l'aspect sécurité, ce qui n'est d'ailleurs peut-être pas plus mal, car

parler d'asphyxie, à des mères, n'est jamais très porteur. Par contre, comme nous l'avons évoqué au téléphone, agissons sur la forme, la texture, la couleur, le goût...»

Malgré ou grâce à ses nombreuses remarques critiques à l'encontre des processus de sécurité de l'entreprise, sa compétence et son dévouement au service de Nestlé continuent d'être reconnus de tous. En témoigne une note que lui envoie son supérieur hiérarchique à l'occasion du cinquième anniversaire de son arrivée dans l'entreprise et dans laquelle il lui exprime sa reconnaissance pour la manière consciencieuse avec laquelle elle s'acquitte de son travail et le soutien qu'elle lui apporte.

«*Your contributions to food safety management are of extreme importance to the company* (Vos contributions à la gestion de la sécurité alimentaire sont d'une très grande importance pour la compagnie)», ajoute-t-il, avant de conclure: «Je vous souhaite de nombreuses années riches en satisfactions professionnelles chez Nestlé.»



Quelques mois plus tard, un nouveau chef du département *Quality Management*, supérieur hiérarchique de Yasmine Motarjemi, entre en fonction. C'est l'ex directeur Qualité de Nestlé France, dont l'hostilité à l'égard des méthodes de sa nouvelle subordonnée est connue de tous, comme l'atteste une lettre, envoyée à Yasmine Motarjemi par celui qui avait été la chercher à l'OMS: «J'ai été consulté (avant sa nomination: ndlr) et j'ai approuvé malgré que je sais que pour toi ce ne sera pas facile...»

Et de fait, ce ne fut pas facile. En quelques mois, le département dont elle dépend est réorganisé au point que ni elle, ni ses interlocuteurs dans l'entreprise ne savent plus très bien quel est son rôle, ni si sa fonction de *Food Safety Manager* existe toujours.

L'équipe qu'elle avait réussi à constituer en cinq ans est démantelée, plusieurs projets importants qu'elle avait initiés lui sont retirés; certains dossiers qui lui sont confiés sont également attribués à d'autres collaborateurs; elle n'est plus invitée à des réunions consacrées à des questions de sécurité alimentaire; elle n'est plus jamais sollicitée pour s'exprimer dans des conférences internes à l'entreprise; elle n'est même plus, ou tardivement, informée des divers crises de sécurité alimentaire qui surgissent dans tel ou tel pays; quand elle propose ses services, ils lui sont refusés.

Lorsqu'elle est invitée à participer à une table ronde organisée par l'Autorité européenne de sécurité des aliments (*European Food Safety Authority*, EFSA), sa hiérarchie répond: «*Definitely not a good idea* (Absolument pas une bonne idée).» La liste est longue des petites et grandes vexations qui lui sont ainsi infligées pendant près de quatre ans. Répondant toujours contractuellement à la fonction de *Food Safety Manager*, elle disparaît des organigrammes ou ne s'y trouve qu'en bout de liste, après le personnel administratif.

DEUX VISIONS DE LA SECURITE

Quand elle demande de l'aide du côté des ressources humaines, elle rencontre des oreilles attentives mais rien ne se passe. Autour d'elle, les soutiens se font discrets, c'est ce qu'elle appelle «la culture de la peur». Ses lettres aux différents échelons de la hiérarchie restent la plupart du temps sans réponse. Car, au delà des éventuelles animosités personnelles, ce sont deux approches de la sécurité alimentaire qui opposent Yasmine Motarjemi à son supérieur et, plus généralement, à son employeur.

L'une, héritée de l'OMS, à la fois scientifique, méticuleuse, soucieuse des normes internationales et de leur application afin de garantir une protection sans faille des consommateurs. L'autre, probablement plus sensible aux exigences de la production industrielle et du marché et, peut-être, moins tatillonne dans l'application de ces mêmes normes.

C'est ainsi que dans une vidéo diffusée en 2008 sur l'intranet de Nestlé et destinée aux responsables de la sécurité alimentaire, le supérieur hiérarchique de Yasmine Motarjemi évoque les difficultés de Nestlé à appliquer les normes HACCP, références internationales absolues en matière de sécurité alimentaire.

Il parle certes de l'importance de ces normes mais juge qu'elles «ont été mises au point par des universitaires, des gens qui ont une bonne réflexion, mais n'ont souvent pas d'expérience dans nos usines. Le langage est compliqué, c'est un langage de techniciens, c'est ce que j'appelle parfois, le couac couac de l'OMS». Et d'ajouter: «Si vous identifiez des risques, ne vous laissez pas distraire par des substances et résidus contaminants. Ils ne représentent pas un risque significatif dans nos fabriques.»

Sur intervention de Yasmine Motarjemi, cette vidéo fut d'ailleurs modifiée et expurgée de ses directives incorrectes et de ses commentaires peu diplomatiques à l'endroit de l'OMS, ce qui ne contribua cependant pas à renforcer sa position. La seule issue proposée à Yasmine Motarjemi sera de changer de

poste. Quelques propositions lui sont faites dès 2007, qu'elle décline car elle les considère comme des voies de garage.

Elle réclame un audit du fonctionnement de son département et dénonce le harcèlement dont elle est victime, en demandant une enquête impartiale afin de faire éclater la vérité. Refusé, même quand elle dépose, en février 2009, une plainte formelle auprès du responsable des *Corporate governance, compliance and corporate services* de l'entreprise. Elle fait à son tour des propositions de changement de poste, qui sont toutes rejetées.

EVALUATIONS DIVERGENTES

Il faudra attendre l'été 2009 pour que Nestlé, devant le refus persistant de Yasmine Motarjemi de changer de poste sans audit préalable de son département, confie à un bureau indépendant, Vicario Consulting, une enquête visant à établir si celle-ci a été victime de harcèlement moral de la part de son supérieur hiérarchique.

Cette enquête, dont Yasmine Motarjemi ne fut informée que l'avant-veille de son unique audition, aboutit quelques mois plus tard à la conclusion que l'«accusation de comportements abusifs, voire de harcèlement psychologique sur le lieu de travail ne peut être retenue. En effet, dans la durée, dans la répétition ou dans l'intensité, il n'y a pas eu de conduite, unilatéralement ou répétitivement abusive de la part de son supérieur.»

Conclusion qui peut paraître surprenante dès lors que pendant quatre ans, Yasmine Motarjemi a été systématiquement mise de côté par son supérieur hiérarchique qui refusait de voir en elle la *Food Safety Manager* qu'elle était pourtant contractuellement.

Conclusion qui, en revanche, ne paraît pas surprenante lorsqu'on lit dans le descriptif de la démarche de Vicario Consulting qu'outre les deux parties directement concernées, seules «des personnes désignées par la Direction des Ressources Humaines», ont été entendues, alors que Yasmine Motarjemi avait demandé que tous les membres de son équipe, avant et après l'arrivée de son chef, soient auditionnés. Yasmine Motarjemi affirme également que ses preuves et ses documents n'ont pas été examinés, et que la promesse qu'elle serait entendue une seconde fois n'a pas été respectée.

Répondant à nos sollicitations, la direction de Vicario Consulting écrit que, en raison du lien de confidentialité qui le lie à la multinationale, «seules les Ressources Humaines de Nestlé sont habilitées à répondre à toute question à ce sujet». Précisons encore que Nestlé n'a pas souhaité donner suite à nos demandes d'interview. Après plusieurs tentatives, l'entreprise s'est bornée à nous faire parvenir le communiqué standard qu'elle a déjà utilisé à d'autres occasions (lire encadré ci-dessous).

En septembre 2009, Yasmine Motarjemi actionne son assurance juridique AXA Winterthur, qui reconnaît le harcèlement et mandate un avocat genevois pour trouver une solution à l'amiable avec Nestlé. La lettre de cet avocat à la multinationale aura comme conséquence directe le licenciement de la *Food Safety Manager* de Nestlé, en janvier 2010.

Depuis, elle peine toujours à se remettre de ses quatre années infernales chez le leader mondial de la nutrition, de la santé et du bien-être et poursuit celui-ci pour harcèlement. Pour Yasmine Motarjemi, c'est «un combat pour la justice et la dignité humaine» qui se poursuit. Un combat dont elle sait qu'il sera long et difficile.

Alec Feuz

Les précédentes enquêtes sur Nestlé

Ce n'est pas la première fois que Nestlé est confronté à la question du harcèlement. Au début des années 2000, une étude de l'Institut universitaire de médecine sociale et préventive de Lausanne révélait que près de 10% du personnel travaillant au siège de Nestlé, à Vevey, se plaignait de «mobbing».

En 2004, c'est une enquête de la société de conseil en management Sysman qui révélait que 175 personnes sur les 1160 interrogées affirmaient «subir une mise à l'écart ou un harcèlement sexuel».

«Je serais très inquiet si personne ne se sentait maltraité ou mécontent. Cela voudrait dire que nous ne sommes pas une société normale», commentait alors le porte parole de la multinationale de l'alimentation, avant de faire valoir que sa compagnie avait mandaté la société ICAS pour prendre en main ce problème.

En 2007, Peter Brabeck, avait accepté de verser plusieurs centaines de milliers de francs à un ancien chef de la sécurité des installations de Nestlé licencié en 1998 et qui, lui aussi, poursuivait son ancien employeur pour harcèlement moral.

Le directeur général de l'entreprise et président du conseil d'administration, avait préféré conclure un règlement financier à l'amiable qu'affronter la justice civile vaudoise (1).

1. *Le Temps* du 29 août 2007.

«Ces accusations sont infondées»

Après bien des demandes d'interview, la porte-parole de Nestlé, Melanie Kohli, a transmis à *La Cité* le même message qu'elle avait adressé à la RTS, le 15 mai 2012 (1). Voici des extraits: «Nous rejetons les accusations de harcèlement moral et psychologique faites par Madame Motarjemi que nous considérons complètement infondées et contraires à la réalité. (...)»

La procédure judiciaire étant en cours, nous ne pouvons pas faire davantage de commentaires sur ce cas précis. Nous ne tolérons pas le harcèlement, et toute allégation de harcèlement est prise très au sérieux et fait l'objet d'une enquête approfondie. (...) En ce qui concerne la qualité de nos produits, les affirmations de Madame Motarjemi sont tout simplement fausses. La sécurité et la qualité de nos produits sont notre priorité absolue.

La sécurité alimentaire est bien trop importante pour que l'on tolère des défaillances dans ce domaine. (...) Plus de 5000 employés Nestlé travaillent dans le domaine de la sécurité alimentaire dans le monde entier et s'assurent que les 1,2 milliard de produits vendus chaque jour correspondent aux normes de qualité les plus strictes. Notre système interne de qualité est audité et vérifié par des institutions de certification indépendantes (...).»

1. <http://www.rts.ch/rts-ch/info/3998750.html/BINARY/La+réponse+de+Nestlé.pdf>

Article paru dans l'édition n° 7 /An II de *La Cité*, du 21 décembre 2012 au 11 janvier 2013.



Publié le 21 décembre 2012, par La Cité dans Journal papier, Journal web, Suisse. Aucun commentaire

Les commentaires sont fermés.

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Switzerland to silence whistle-blowers

09/10/2014 BY MOTARJEMI GLICK

Proposed law provides no protection for whistleblowers



The proposed whistleblowing law adopted by the Swiss Conseil des Etats, the upper house of parliament, will effectively silence employees who are best placed to report wrongdoing and threats to the public interest. The law, which focuses on whistleblowing procedures rather than on the public interest value in the information, offers no protection for those who

speak out. It also prohibits the disclosure of information to the press, except when the regulatory authorities do not reply within two weeks. The proposed law now will be considered by the Conseil National, the parliament's lower house.

The law's restrictions on public disclosures and lack of protection leave whistleblowers at the mercy of both their employers, who often retaliate against them, and the justice system, where the deck is stacked against them. In the case of multinational corporations, the army of lawyers and deep-pocketed financial resources at their disposal give them immense advantage over an individual who may have just lost her job, or is under threat of such.

This being the reality, it's not surprising that the modus operandi of corporations is to fire whistleblowers and offer six months' severance pay. This is also what a whistleblower can expect from the judicial system, even if he or she is successful in proving employer retaliation. For the offending corporation, it's merely the cost of doing business.

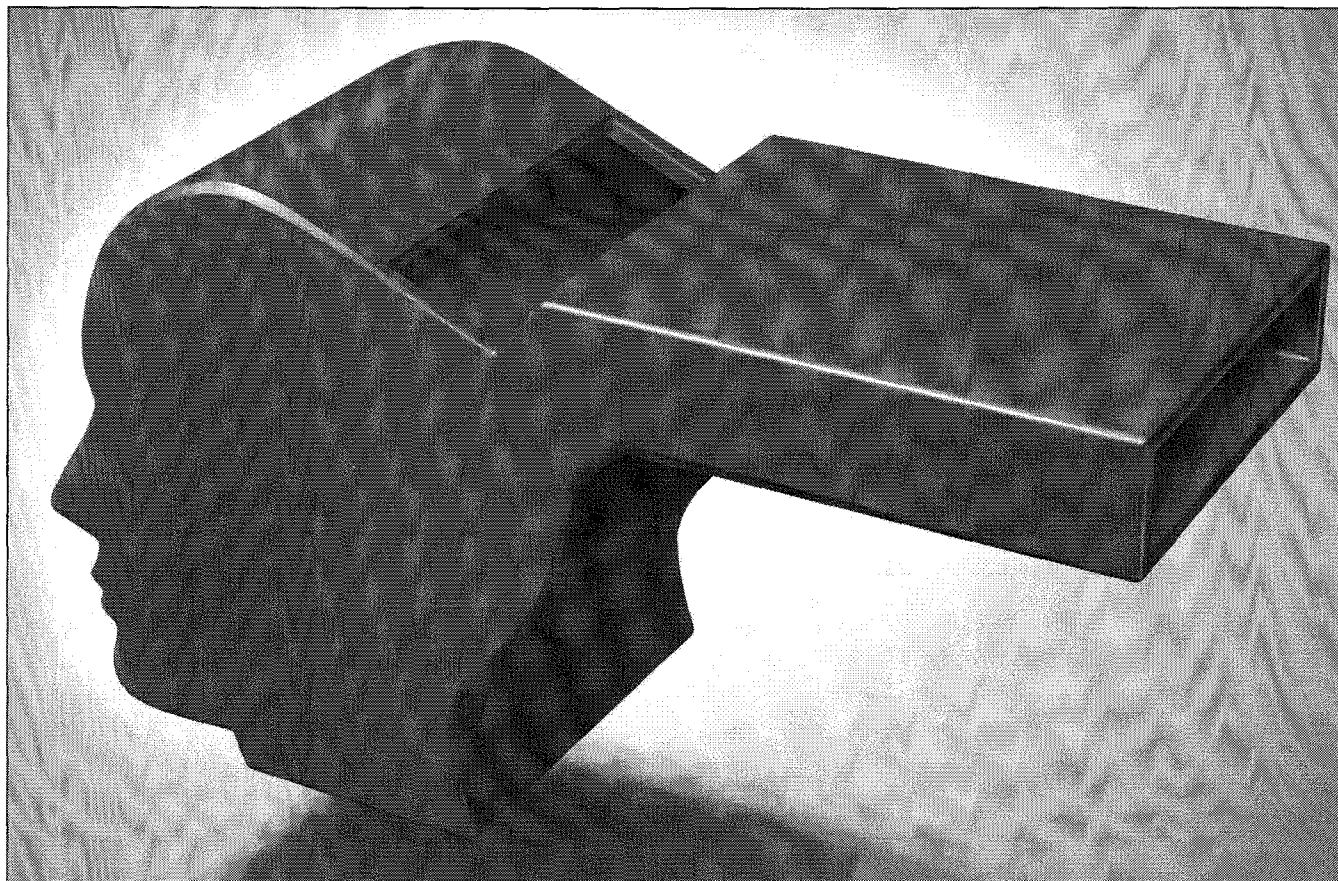
But six months' salary is of little help to a whistleblower who will likely find it difficult to obtain new employment and suffer untold financial and emotional distress. Nor is it a substitute for justice.

Perhaps the most important loser in a process that fails to ensure disclosure about criminal acts and wrongdoing is the general public. While whistleblowers take the initial hit, often sacrificing their careers and social stability, in the long term it is ordinary people who will pay the price if food is not safe, financial institutions aren't sound, or privacy disappears. And with the globalization of virtually every aspect of our lives, risk knows no border. Likewise, supporting whistleblowers shouldn't either. This is not just a Swiss issue; it is also an issue requiring international attention.

The Swiss law should be strengthened to provide judicial protection mechanisms that support whistleblowers who suffer retaliation. It should also ensure public accountability for employers and regulators, as well as apply penalties strong enough to dissuade employers from hitting back at their employees. It is only with such action that Switzerland, and indeed all countries, will signal to its citizens that corruption, fraud and threats to the public well-being will not be tolerated.

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Whistleblowing: Food Safety and Fraud

The Council of Europe defines a *whistleblower* as “any person who reports or discloses information on a threat or harm to the public interest in the context of their work-based relationship, whether public or private.” The term *reports* refers to internal reporting within an organization or enterprise, while the term *discloses* refers to reporting to an outside authority or to the public.¹

I heard the term “whistleblowing” for the first time sometime in the early 2000s when I was working as the food safety manager in a multinational food company. I remember that at a weekly department meeting, the director of the department shared an article on the subject and asked rhetorically, “I wonder if we are blowing the whistle often enough?” At that time, I did not know that one day, I would end up as a whistleblower in the company. It is this professional and personal experience that has prompted me to write

*First they
ignore you,
then they laugh
at you,
then they fight you,
then you win.*

—Mahatma Gandhi

this article. However, this is not about my case, but the bigger issue of whistleblowing and what it means for society.

In recent years, with the revelations of Bradley Manning and lately those of Edward Snowden, whistleblowing has become controversial because it is alleged that national security or interests have been compromised. However, the phenomenon is not new, and there have always been individuals who have gone against widely held beliefs to reveal information of critical importance to society. Although in the early days they were not seen as whistleblowers, they were, like Cassandra, not always appreciated or heard. For certain individuals, the term *whistleblower* has a negative connotation (e.g., a snitch or tattletale); yet, most whistleblowers have high ethical and moral characters and many have suffered great mental, physical and economic hardships to render this service to society.

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In the area of public health, one notable early whistleblower was Ignaz Semmelweis (1818–1865), a physician working in Vienna. I learned of his story when I started working at the World Health Organization (WHO) as a food safety scientist in the early 1990s. Semmelweis had recognized that the high maternal mortality rate in Viennese hospitals due to puerperal fever was caused by the lack of handwashing by doctors who had previously performed autopsies. He even discovered an effective intervention of washing hands in carbolic acid (phenol). However, his insight was ignored, perhaps because his peers were resistant to change or simply disliked criticism. This

ment toward whistleblowers. For instance, everyone probably feels some degree of uneasiness at the thought of being exposed for a transgression of the law or moral values, however minor. Such feelings are possibly a projection of our own inner fears.

Also, some people perceive a whistleblower as someone who disturbs their peace of mind with a truth, that is, a reality that makes them uncomfortable. Colleagues of a whistleblower may be torn between fear of compromising their own situation and feelings of cowardice and guilt for not supporting the whistleblower.

“...a whistleblower as ‘any person who reports or discloses information on a threat or harm to the public interest in the context of their work-based relationship...’”

story was told to me by the then-director of the department of food safety at the WHO, Dr. Fritz Käferstein, who compared it to the situation of food safety that had yet not received the recognition that it has today. Back then, even WHO member states and donor agencies were not very supportive of the nascent food safety program. Infant diarrhea and, generally, diarrheal infections, such as cholera, were attributed to contaminated water, but not food.^{2,3} So each time we were confronted with the lack of appreciation for food safety by our fellow public health colleagues, Fritz Käferstein would cite Semmelweis’s story.

Although, at that time, we did not see our efforts of alerting and campaigning for food safety as “whistleblowing,” in hindsight, we were also on some kind of whistleblowing journey. Despite our continuous attempts to draw attention to the scientific evidence, food safety remained an afterthought at best. Unfortunately, it required a succession of food safety crises (bovine spongiform encephalopathy, dioxins, deadly foodborne disease outbreaks, such as *Escherichia coli* O157 infections) and resulting trade disruptions to bring about a radical change in the public perception and a realization by governments of the importance of food safety to health and to food supply.

Misperceptions

There are different reasons for whistleblowers to be negatively perceived.

1. Some individuals have obtained their information through illegal means, like a hacker who steals data
2. The information they reveal may undermine national security or interests
3. Some whistleblowers are motivated by revenge against an employer or by personal gain
4. Whistleblowing may be reminiscent of political denunciations and collaboration with repressive states

There may also be psychological reasons for feeling resent-

ment toward whistleblowers. For instance, everyone probably feels some degree of uneasiness at the thought of being exposed for a transgression of the law or moral values, however minor. Such feelings are possibly a projection of our own inner fears.

Whatever the reason, the reality is different. In fact, not only do whistleblowers render a great service to society, but also they often do it at the price of a huge personal sacrifice. Once, an officer working in a governmental organization who learned about my story as a whistleblower told me, “Lady, you are paying a high price for letting us learn the truth.” Therefore, the courage and sacrifice of whistleblowers should be valued and praised rather than denigrated and despised. Most importantly, it is the message rather than the messenger that should be the focus of the employer, and if that is not the case, at least of the responsible regulatory authorities.

Whistleblowing is and should be seen as a civic action. A true whistleblower is motivated by moral purposes and professional integrity and whistleblowing should not be denigrated because of the ill-perceived actions of a few. Considering today’s globalized food supply, illegal behavior, reckless risk taking or willful negligence can take on huge health and trade dimensions, as experienced with the melamine adulteration of milk powder and the horse meat scandal. Whistleblowing provides an important approach in meeting the daunting challenges of food safety in modern society.⁵ Against a rising tide of fraud and corruption, whistleblowing is perhaps one of the most important lines of defense.

Regulations

In recognition of the above, many countries are introducing laws and regulations to encourage and protect whistleblowers from unfair treatment by their employers. Some countries, such as the U.S., even provide whistleblowers with financial incentives in cases of significant economic fraud.

Regrettably, these do not apply to other values of society, for example, health, environment, human and animal well-being.

The Council of Europe has prepared a recommendation on the subject.¹ With regard to protection of whistleblowers, it stipulates that "whistleblowers should be protected against retaliation of any form, whether directly or indirectly, by their employer and by persons working for or acting on behalf of the employer." Such retaliation might include dismissal, suspension, demotion, loss of promotion opportunities, punitive transfers and reductions in or deductions of wages, harassment or other punitive or discriminatory treatment.⁵

anticorruption, or they do not have in place an infrastructure to handle such complaints.

The Impasse of Whistleblowers

In some countries, regulations require that employees should report their observations first internally to their own management and, in case there is no follow-up or satisfactory response, to report their concerns to regulatory authorities. However, a common problem for whistleblowers is that employers often ignore the reports and do not follow up the issue. Instead, they subject the whistleblower to retaliatory

"Despite our continuous attempts to draw attention to the scientific evidence, food safety remained an afterthought at best."

In the United Kingdom, the Public Interest Disclosure Act (1998) protects workers from detrimental treatment or victimization from their employer if, in the public interest, they expose wrongdoing.⁶ In implementing the act, the UK Food Standards Agency has extended the protections to workers in the food industry, whether or not the information is confidential and whether or not the wrongdoing occurs in the UK. Qualifying disclosures include a criminal offense, the breach of a legal obligation, a miscarriage of justice, a danger to the health and safety of any individual, damage to the environment and deliberate concealment of information related to any of the aforementioned five matters.

In the United States, a series of laws has been enacted to protect employees who blow the whistle on food safety violations. For instance, under the U.S. Food and Drug Administration, the Food Safety Modernization Act (2011) has provisions against retaliation toward whistleblowers by food businesses.^{7,8}

France has also developed a number of regulations to protect whistleblowers in relation to corruption, as well as for public health and safety. Among these are Articles 2013–316 of the Code of Labour (2013) relating to the independence in scientific expertise in public health and environment, as well as Article L 4133-1 for protection of whistleblowers in businesses.⁹

Switzerland is also in the process of regulating whistleblowing. However, the proposed law under discussion in parliament is limited to clarifying the procedures without considering protection of the whistleblower from retaliatory measures by the employer. Unfortunately, as currently drafted, such a law will serve to protect the reputation of businesses with little regard for the problems of whistleblowers. Under such conditions, as explained below, it is unlikely that any employee would dare to expose wrongdoings, no matter how grievous.

There are also a number of other countries (e.g., Luxembourg, Slovenia and Hungary) that have legislation for protection of whistleblowers, but some are more limited in scope to

measures, such as psychological harassment, transfer or dismissal. At times, even regulatory authorities fail to investigate. This was my personal experience.

Another difficulty is that the whistleblower may be obligated to report to the very person(s) responsible for the failure. Such a situation inevitably leads to retaliatory measures to silence the whistleblower; this is particularly a problem if a senior manager is involved. Also, under present workplace conditions, a whistleblower typically has to assess the importance of a wrongdoing alone without any outside support. This also means that the whistleblower assumes the consequences of reporting the events. Where colleagues also are aware of the situation yet remain silent, the whistleblower may be too intimidated to report, out of fear that he/she may be misjudging the risk or the importance of the wrongdoing, or there may be another hidden or misunderstood explanation for his/her observations.¹⁰

To encourage employees to come forward with their observations, laws for protection of whistleblowers should consider the risks and consequences for employees and include effective sanctions against employers who retaliate. Also, governments should provide legal assistance for the employees to help them take their case to the courts of justice, where necessary. Furthermore, people who suspect a wrongdoing but cannot provide direct evidence for their concern, or whose information cannot be validated, should not be penalized in any way for raising the issue, particularly if this takes place in the workplace.

Application to Food Safety and Risk Management

Since ancient times, food fraud (sometimes referred to as economically motivated adulteration) has been a concern. Although motivated by financial gain, this sometimes impacts the safety of products. Recent examples of adulteration are chili with the carcinogen Sudan red, sunflower oil with mineral oil and milk with melamine.¹¹ Importantly, with the increased international trade in food and the globalization of

WHISTLEBLOWING

the food market, these events have taken a much broader dimension; when they occur, the consequences can be far-reaching and devastating. For instance, in 2008 melamine was used to mask the adulteration of milk in China and infant formula made from the contaminated milk resulted in kidney damage in over 300,000 infants, with 54,000 of these infants hospitalized and 13 deaths. In 2012, Jiang Weisuo, the man who first alerted authorities to what would become the melamine-tainted milk scandal, was murdered in the city of Xi'an.¹²

Detecting unpredictable fraudulent practices is almost impossible through conventional approaches, such as product testing; this further highlights the importance of whistleblowing. However, there are other reasons that underscore the need for whistleblowing. One is the corruption of the systems meant to ensure the safety of food products. For example, extra bonuses or promotions are given in exchange for silence and not reporting food safety problems to management. Another reason has to do with structural deficiencies; for instance, when auditors (internal or external) are in the position of a conflict of interest and subsequently downplay deficiencies or turn a blind eye to gaps or weaknesses of a system they are meant to review. Scientific biases and conflicts of interest are also concerns with experts involved with the risk assessment of biological and chemical hazards in food or technologies used to produce foods.

Some structural and organizational deficiencies may be difficult to characterize as a public health threat and henceforth to denounce, the reason being that their consequences for the safety of products may not be immediate, but rather more long-term in nature, and the prospect of an adverse event happening may not be definite. Examples of such situations are appointments made on the basis of nepotism rather than professional skill or experience, staff working under unrealistic time frames or under duress, neglect in training personnel for their job and/or insufficiently supervising them, downplaying deficiencies, carelessness or inconsistency in communication or in general having unresponsive or slow management systems. Such deficiencies are referred to as "latent failures" (Figure 1).¹²⁻¹⁴ A company's culture based on fear, and which discourages reporting and/or fails to follow up internal reports, constitutes perhaps one of the worst kinds of latent failures. It deprives an organization of opportunities to anticipate adverse events and to take early actions to nip the risks of accidents

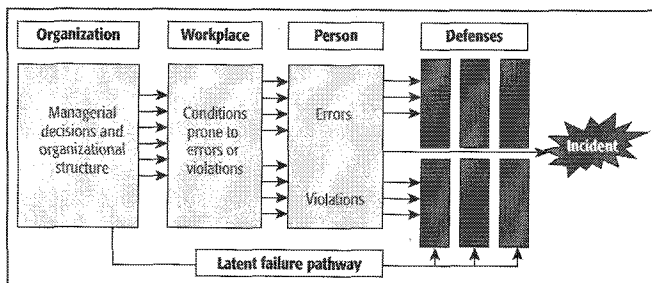


Figure 1: How Latent Failures in a Management System Can Lead to Accidents¹²

in the bud. Such situations have been the root cause of many serious accidents in the food industry and others, for example, Snow brand, Toyota and British Petroleum.^{14,15} In Switzerland, Nestlé openly acknowledged this management problem. In its book, *Transformational Challenge: Nestlé 1995-2005*,¹⁶ the following quote appears:

The unwillingness to report negative events fully and swiftly up the chain of command may be a vestige of the past culture at Nestlé, a culture in which admitting mistakes was not exactly good for your career, and in which internal criticism was "not the done thing." The culture of learning from mistakes is not yet as widespread as it is in the aviation industry, where even the smallest incident is analysed and evaluated to prevent repetitions.

To increase profits and create value for shareholders, some companies may cut back on expenditure and investments in food safety, as the added value of such investments is not always visible to consumers and does not constitute a selling point. Such decisions lead to increased risk of organizational failures. A case in point is the policy of a well-known food company to link the bonuses of its managers to a lack of incidents and product recalls, thereby discouraging its managers from reporting incidents or recalling contaminated products. Financial crises may of course exacerbate the situation.

Whistleblowing: The Backbone of Risk Management

With the extensive industrialization and commercialization of the food supply, the resources of government authorities will never be sufficient to control the safety of the many food operations and products on the market. Also, end-product testing of products, as a sole measure, can in no way be an effective approach for ensuring food safety for detecting and preventing unknown substances that malevolent people may add to products. Therefore, the trust that we can have in food safety depends very much on the following:

- Competence and ethics of professionals working in the food industry
- Liberty and authority given to the staff to report deficiencies or unethical practices internally, or to authorities, without being subject to retaliation and punitive measures
- Commitment by management to address and follow up on reported food safety issues, including structural problems
- Vigilance of food safety authorities in following up and investigating the root cause of deficiencies and incidents up to the highest level of company management

The Way Forward

The above demonstrates the importance of considering the human factor in food safety and risk management. Although a great proportion of employees are reliable and deserve trust and respect, this cannot be generalized. The scale that the horse meat fraud took before it was actually detected

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illustrates the point. Therefore, a national system of food safety management needs to be supported by regulations that achieve the following:

- Make the senior directors of a company, such as the CEO, directly accountable for investigating internal reports and taking appropriate measures
- Severely sanction managers of companies who try to block or do not follow up on internal reports and/or take retaliatory measures (psychological harassment) against those who report failures, deficiencies or malpractices
- Protect whistleblowers from civil and legal suits for disclosing public interest information

“...the courage and sacrifice of whistleblowers should be valued and praised rather than denigrated and despised.”

Additionally, there is a need to provide advice for those whistleblowers who are unsure whether or how to raise a public interest concern. Those who are subjected to retaliatory measures would also need legal assistance and other types of support.

Where a case relates to issues of international interest, the whistleblower should be enabled to take his/her case to international judicial authorities directly without having to go through a national system. A whistleblower who is a victim of retaliatory measures will rarely have the means (time, energy, funds) to go stepwise through the extensive procedures of a national system, particularly if the national judicial system is slow and impeded by powerful multinational businesses/employers with almost infinite resources and power to influence the national system.

Also, as experienced in the case of Edward Snowden, a national legal system, which is itself under scrutiny as a result of a disclosure, is unlikely to fully operate in an unbiased manner, as most governments naturally give priority to their own national interests. Therefore, in such cases, which are likely to increase in light of the increasingly globalized systems of trade, finances and communications, the fundamental question of conflict of interest will have to be taken into account. The smaller the country, the more vulnerable it will be to the influence and the power of multinational companies.

Conclusion

In conclusion, we need to move from merely authorizing whistleblowing to facilitating it so that employees not only dare to come forward with their information, but consider it their moral obligation to do so. In companies where psychological harassment and a culture of fear are exercised, and in countries where there is no protection for whistleblowers, there is little incentive for potential whistleblowers to disclose their concerns, either internally or externally.

Psychological harassment and other retaliatory measures are barriers to whistleblowing. When exercised on an em-

ployee, they will have a chilling effect on anyone else who might become aware of a wrongdoing or of a serious food safety issue, and the company will miss the opportunity to control operational risks or improve its system before a serious incident occurs. Failure to remedy this situation comes at the cost of undermining public health, the environment, human rights and social welfare. It will also foster ideal conditions for corruption to thrive. In addition to endangering public health, the cost to the food industry is also significant as the loss of consumer confidence in the food supply will have a detrimental effect on the food industry as a whole. Unless serious efforts are made to address the problems of communication

and accountability with respect to food safety and other such fundamental public interest issues, the health, social and economic crises that have been observed in the past will continue to occur with all too frequent regularity.

As concluding remarks, I would like to add that throughout my professional career, I have contributed to various scientific and technical aspects of food safety and its management at the international level. I have produced numerous publications and recently two major reference works.^{17, 18} Yet today, I consider that my biggest contribution to food safety has been my actions as a whistleblower and reporting my concerns regarding the management of food safety, both internally in the company for which I worked, as well as publicly.

When I started my work in WHO as a scientist, one of the key points that I learned was the importance of the human factor in food safety management. At that time, my focus was on consumers and consumer practice. However, through my experience in industry, I realized the crucial and pivotal role of employees, from the CEO down to the worker on the line.

I learned that too often company policies are merely statements of good intentions without always a serious plan for implementing them. I learned that the management may even violate its own policies, a behavior which sets a very negative model for the entire company and fosters a culture of complacency. It gives the message that integrity does not matter, and puts in motion opportunities for future failures. I learned that in spite of written policies, in some companies or organizations, whistleblowing is still unwelcome, particularly when the interests of the management itself are engaged. As a consequence, critical information pertinent to health and safety may not be revealed. Large food businesses are typically run by businessmen who have a secondary interest in consumer health and nutrition, and professionals trained in food safety are not always those who win the day in key decisions.

Based on my personal experience, those with humanity and concern for their colleagues or fellow citizens are ejected from the system, or at best, remain at the bottom of the

pyramid of hierarchy. Those who are the most callous and lacking compassion are moved upward in the chain of command. However, the hardest lesson was to realize that those who should be the guardian of public health and who should verify the information put forward by whistleblowers, that is, the regulatory authorities, turn a blind eye and ignore the concerns of the whistleblower. Even worse, in some countries, they enact legislation to oblige employees to be silent, which to a person with moral values is most painful and inhumane; moreover, a whistleblower is at risk of becoming an outlaw.

Predictably, the media is more interested to report on wrongdoers, such as Jérôme Kerviel¹⁹ and Bernard Madoff,²⁰ rather than a whistleblower who sacrifices his/her personal interests, livelihood and even his/her life for the well-being of society, as if violence, greed and malfeasance were more gripping than honesty and integrity.

Another disappointing experience has been the apathy of civil societies and their lack of support for whistleblowers. This vacuum of counterforce in the society leaves the well-being of people at the mercy of unscrupulous individuals. It is a lesson that societies have long known, but for some reason, keep forgetting. To wit, "The price of apathy towards public affairs is to be ruled by evil men."—Plato ■

I am grateful to all the colleagues who have reviewed this article and provided valuable comments. Specific thanks to Gerald Moy (retired WHO food safety scientist) and Anna Myers (coordinator of Whistleblowing International Network) for their extensive input in the preparation of this article.

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19. Jérôme Kerviel is a French trader who was convicted in the 2008 Société Générale trading loss for breach of trust, forgery and unauthorized use of the bank's computers, resulting in losses valued at €4.9 billion.
20. Bernard Lawrence Madoff is an American convicted of fraud and a former stockbroker, investment adviser and financier. He is the former nonexecutive chairman of the NASDAQ stock market, and the admitted operator of a Ponzi scheme that is considered to be the largest financial fraud in U.S. history.