

# Whistleblower Protection And Effects Of Corruption On Human Rights

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## ABSTRACT

We live in a very complicated world. Every day, choices are made that have the potential to have an impact on our well-being, security, finances, and other fundamental human rights. For the worst of reasons, some of these judgments are made. Corruption, incompetence, and laziness are all to blame for their creation. Corruption and accidents occur when workers are scared to speak up for fear of losing their employment. An increased emphasis on encouraging government and private sector employees to report on unlawful, harmful, or unethical acts has led to a greater appreciation for whistleblowing as a tool for fighting corruption and defusing potentially dangerous situations. Protecting those who come forward with evidence of wrongdoing, fraud, or corruption is a must. In circumstances where reporting wrongdoing is neither promoted or safeguarded, corruption is far more likely. Bribery is a problem in both governmental and commercial sectors, and this applies to both. Passive bribery, waste, fraud, and other corruption may be reported more effectively if whistleblowers are protected from retaliation. Whistleblowers in the private sector may help expose corporations that are engaged in bribery and other unethical practices. Anti-corruption legislation may be enforced more effectively if whistleblowing is encouraged and facilitated, particularly by providing adequate legal protection and clear information on reporting processes. Whistleblowers benefit from open workplace cultures when they know how to expose wrongdoing and can do so with confidence that they will be protected. Bribery in commercial transactions may be prevented and detected with its assistance. The articles focus on the protection of whistleblowers and the impact of corruption on the rights of citizens.

**Keywords:** Human Rights, Corruption, Whistleblower Protection, Health, Safety, Government and Private Organizations, Etc.

## I. INTRODUCTION

Many people have come to admire the courage of whistleblowers who expose corruption and fraud in the workplace, avoiding possible tragedies in the process. From the theft of millions of dollars in public funds in Kenya to the cover-up of SARS and other severe illnesses that endanger millions in China, to exposing unsafe physicians and environmental risks in the United States, the revelations vary widely. Public and commercial sector firms may benefit from enhancing their internal organisational culture by using whistleblowing to uncover and avoid errors and accidents, as well as increase productivity and efficiency.

However, many of those who bring these concerns to light incur serious consequences for their efforts. Their acts result in their being fired or outcast from their communities. Some people face criminal charges for

breaking the terms of their job contracts or breaking the law in general. It's possible that they'll be injured or perhaps killed in certain situations. Whistleblowers throughout the globe are increasingly being encouraged and protected from reprisal by governments around the world. These regulations are now included in many international accords and treaties on anti-corruption, such as the recently ratified UN Convention Against Corruption. In order to make it easier for employees to make disclosures, several companies have implemented internal guidelines. Whistleblowers are currently well-protected in over 30 nations. Labor regulations and rules regarding employment in the public sector are only two examples of legislation that provides additional safeguards.<sup>1</sup> Whistleblower protection laws are only in place in a small number of nations. In order to change the culture of organisations by making it acceptable to come forward and disclosing information on negative activities such as corrupt practises and mismanagement, these initiatives have two major themes: a proactive approach that aims to change the culture of organisations by providing protections and incentives for people to come forward and disclosing negative information about the organisation. It's hard to tell whether or not these laws are really effective. Exclusively a few are broad enough to cover all sorts of misconduct, and several are only applicable to the public sector. Whistleblower reprisal is common in most nations, and employees' fears about it motivate them to remain quiet. There is, however, some good news to report. The perception of whistleblowers is improving, and a good movement in culture may be taking place that will aid in the battle against corruption and the advertence of mistakes, abuses, and accidents.

## II. WHISTLE-BLOWING

Johnson (2003)<sup>2</sup> identifies four elements of whistleblowing as a form of protest. To begin, making information available to the public is a personal choice. A third way that information is made public is when it is given to a third party outside of the organisation for the purpose of public record keeping. It's also important to note that the material is related to some serious misbehaviour inside the company. At the end of the day, the individual making the disclosure is an actual member of the organisation in question, rather than a journalist or someone from the broader public. There are two types of whistle-blowers: those who report wrongdoing and those who don't. While Johnson's description is excellent, it leaves out the portion of the practise connected to exposing and rectifying corruption, which is an important part of whistleblowing. The following is the article's definition of 'whistleblowing': Disclosing facts in order to expose and remedy misconduct inside a company is known as whistleblowing.

In addition to Johnson's four traits, there are two more probable features of the whistle-blower. First and foremost, the individual is driven by a desire to bring light to wrongdoing. For two reasons, the focus on the core purpose is critical. First and foremost, it eliminates the idea that leaking confidential information is done largely for revenge or to shame another person. As a second point, it eliminates those who may blow the whistle for financial advantage. Whistleblowing, however, should not be seen as a zero-sum game. One reason for this is that some whistle-blowers do so because they believe they will be compensated or rewarded for doing so. Many whistle-blowers face ostracism and the loss of career chances after going public, but such benefits, such as those increasingly granted in legislation in nations like the United States, either compensate for this or else create the circumstances in which whistle-blowing becomes viable.

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<sup>1</sup> Act of 17 June 2005 No. 62 relating to working environment, working hours and employment protection, etc. (Working Environment Act) as subsequently amended, last by Act of 21 December No. 121 §2-4.

<sup>2</sup> . Johnson, R. (2003). Whistle-blowing: when it works – and why. Boulder, CO: Lynne Rienner

For two reasons, the whistle-blower is acting as a last resort. Organizations are hoped to be able to police themselves. When things go according to plan, companies have internal checks in place to catch and remedy unlawful or improper behaviour, and employees have ways to bring their concerns to management's attention. In situations when reporting or correcting improper behaviour is difficult or impossible due to internal organisational processes, whistleblowing is a viable option.

Whistleblowing is supported by a variety of reasons. As previously said, some companies are just reluctant, incapable, or unwilling to deal with misconduct. Whistleblowing may be the sole way to uncover and address injustice, regardless of whether it is due to concerns of reprisal, an unwillingness to follow the law, or other reasons.

Another argument is that exposing wrongdoing in an organisation is a way to improve it. It's possible for organisations of any kind, public or private, to become ill-equipped and do horrible things. In order to drive change, whistleblowing aims to reveal wrongdoing. It's up for discussion whether or not whistleblowing has resulted in improvements. Specific actions may be addressed in certain circumstances by disclosure, but it is difficult to measure whether general whistleblowing transforms institutions. While whistleblowing may be the most essential aspect of whistleblowing, it also aims to uncover and remedy significant wrongdoing. Bribery, unlawful spying, the misappropriation of company funds, and illegal conspiracies should all be made public so that they may be rectified. In the end, whistleblowing is justified as a means of ensuring that those who commit crimes are held responsible. Whistleblowing is no longer considered as an anomaly or a bad thing, but as an essential part of monitoring unethical and unlawful behaviour for all of the reasons listed above.

Many governments and international organisations<sup>3</sup> are enacting laws to promote or legitimise whistleblowing as a means of bringing corruption to light due to the growing acceptance of this tactic. Generally speaking, these laws accomplish a number of purposes. In the first place, they might establish procedures or systems that encourage the anonymous reporting of wrongdoing, such as hotlines. Second, corporations may be required by law to encourage employees to report wrongdoing. Whistleblowing may also be encouraged by financial incentives provided by the legislation. Whistle-blowers may be shielded from retribution or reprisals by the laws. As a whole, the argument for using whistle-blowers to expose and prevent corruption may be made.

### **III. CORRUPTION AS A VIOLATION OF HUMAN RIGHTS**

As a crime that has far-reaching implications, corruption goes unreported and unnoticed far too often. People are reluctant to come forward for a variety of reasons, one of which is the belief that the authorities would ignore their complaint and do nothing about it. The fear of retribution and a lack of knowledge about accessible reporting channels are two further factors contributing to this hesitation.<sup>4</sup>

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<sup>3</sup> OECD, France: Phase 2 Follow-Up Report on The Implementation of the Phase 2 Recommendations on the Application of the Convention and the 1997 Recommendation on Combating Bribery of Foreign Public Officials in International Business Transactions, March 2006.

<sup>4</sup> Fisher, Louis, National Security Whistleblowers RL33215, Congressional Research Service (US), December 30, 2005.

In a human rights-based study of corruption, the damage done to people will be highlighted. Corruption is frequently seen as a violation of human rights from this standpoint. There are a variety of reasons why individuals make this assertion. To put it another way, they say that when corruption is rampant, people are unable to safeguard their lives or their livelihoods. A bribe is worth more to a judge or policeman than the rule of law. People aren't getting healthy in hospitals because doctors treat patients who pay backhanders better or because clinics lack supplies because of shady state procurement practices<sup>5</sup>. Families in need go hungry because of the corruption and distortion that social security programmes undergo to benefit an entrenched patronage network. "As a consequence of the education budget being plundered, schools are unable to pay instructors or acquire textbooks, and this is harming pupils." It is impossible for farmers and market vendors to make a livelihood since the cops take a part of their sales and the products that they grow. Discrimination, deprivation of income, and denial of people's political, civil, social, cultural and economic rights are only a few of the ways that corruption affects people's lives.

It has been determined by UN treaty bodies and UN special processes that nations that are rife with corruption cannot uphold their human rights responsibilities.<sup>6</sup> Some international documents have even considered corruption to be a 'crime against humanity', a category of crimes that includes genocide and torture.<sup>7</sup> These assertions, on the other hand, are often couched in generalities. The degree to which acts of corruption directly violate human rights, or lead to human rights abuses, is seldom defined or described in the context of corruption. There is a large body of literature that looks at how to help nations in transition or in developing stages of economic development combat corruption by examining its origins, methods, and strategies. Corruption and human rights abuses have seldom been linked in a way that can be explained precisely.

As long-term effects on human rights are possible with every corrupt practice, the conclusion that a particular act of corruption violates human rights cannot be made automatically. As a result, it is necessary to distinguish between corrupt practices that directly violate a human right, corrupt practices that lead to a violation of a human right (but do not themselves violate a right), and corrupt practices that cannot be practically linked to a specific violation of rights.

All levels of government (executive, legislative, and judiciary) are subject to human rights commitments (national, regional and local). When a public official or someone working in an official capacity commit, incites, encourages, or condones an act (or omission), it is considered to be the state's responsibility. Human rights violations occur when a state's actions or inactions do not meet the standards set out by international or local human rights law. So that a corrupt conduct may be ruled out as a violation of a human right, it must first be determined the breadth and substance of the human right's requirement in issue and whether it is derived from national or international treaty, custom, or basic principles of law. As a result of their ratification

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<sup>5</sup> BBC. (2014c, September 25). NHS whistleblower accuses health trust bosses of bullying. BBC World News.

<sup>6</sup> See, for example, statements by the Committee on Economic, Social and Cultural Rights that 'states face serious problems of corruption, which have negative effects on the full exercise of rights covered by the Covenant [ICESCR]' E/C.12/1/ADD.91 (CESCR, 2003, para. 12); and by the Committee on the Rights of the Child that it 'remains concerned at the negative impact corruption may have on the allocation of already limited resources to effectively improve the promotion and protection of children's rights, including their right to education and health' CRC/C/COG/CO/1 para 14. See also the statement by the UN Special Rapporteur on independence of judges and lawyers in E/CN.4/2006/52/Add.4. para 96.

<sup>7</sup> See, for example, the Seoul Findings, 11th International Anti-Corruption Conference, Seoul, May 2003; and the Nairobi Declaration, adopted at the Regional Conference on the Human Rights Dimensions of Corruption convened by the Kenya National Commission of Human Rights (KNCHR), March 2006.

of international human rights treaties, nations have voluntarily adopted duties, which are the topic of this research. With regard to anti-corruption efforts, it is notable that the UNCAC<sup>8</sup> defines ‘public official’ as ‘any person who performs a public function or renders a public service’ in accordance with ‘the relevant area of law of that State Party’ (UNCAC, Article 2).

#### IV. WHISTLEBLOWING AND CORRUPTION

But how has whistleblowing become a widely-accepted tool to fight corruption? According to theory, whistleblowers constitute a key instrument in deterring corruption and bribery as they are useful informers when a deviation from the norm occurs, thus making their encouragement and protection against retaliation fundamental to the international fight against corruption (Public Services International Research Unit, 2003)<sup>9</sup>. Policy and empirical research would seem to support the argument, underlining the value of whistleblower protection legislation as a potential source of information for governments and organizations (White, 2000<sup>10</sup>; Transparency International, Feinstein International Center, Humanitarian Policy Group of the Overseas Development Institute, 2008)<sup>11</sup>. Not only literature, but also numerous international organizations recognized the importance of whistleblowing in the fight against corruption. The Council of Europe recognized whistleblower protection legislation as a key aspect of freedom of expression and freedom of conscience needed for both strengthening democratic accountability and transparency, and for detecting hidden wrongdoing and organizational mismanagement (Council of Europe, 2014)<sup>12</sup>. According to the OECD<sup>13</sup>, whistleblowing also facilitates the reporting of fraud, bribery and corruption, while supporting compliance to anti-corruption laws (OECD, 2011)<sup>14</sup>.

Whistleblowing has not only gained statutory recognition in many legislations, but it has also become a rather prominent topic of interest for worldwide best practices in the protection of people who blow the whistle. Some similar concepts appear to inspire all the whistleblower legislation drafters' guidelines, even if there are many of them.

#### Table 1: International Best Practices for Whistleblower Laws<sup>15</sup>.

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<sup>8</sup> [https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026\\_E.pdf](https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf)

<sup>9</sup> Public Services International Research Unit. (2003). Whistleblowing and Corruption: An Initial and Comparative Review. University of Greenwich, School of Computing and Mathematics, London.

<sup>10</sup> White, S. (2000). Procurement and Organized Crime - An EU-wide study. London: Institute for Advanced Legal Studies.

<sup>11</sup> Transparency International; Feinstein International Center; Humanitarian Policy Group of the Overseas Development Institute. (2008). Preventing Corruption in Humanitarian Assistance: Final Research Report. Berlin: Transparency International.

<sup>12</sup> Council of Europe. (2014). Protection of Whistleblowers: Recommendation CM/Rec (2014)7 and Explanatory Memorandum. Strasbourg: Council of Europe.

<sup>13</sup> OECD, Korea: Phase 2 Report on the Application of the Convention on Combating Bribery of Foreign Public Officials In International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions, 5 November 2004.

<sup>14</sup> OECD. (2011). G20 Anti-Corruption Action Plan, Protection of Whistleblowers: Study on Whistleblower Protection Frameworks, Compendium of Best Practices and Guiding Principles for Legislation. OECD.

<sup>15</sup> <https://www.againstcorruption.eu/wp-content/uploads/2018/12/Working-paper-52-1.pdf>

<b>Recurrent Principles</b>	<b>Common Principles</b>	<b>Other Principles</b>
✓ Variety of disclosure channels in place	✓ Broad definition of reportable wrongdoing or disclosure	✓ Private attorney general option
✓ Right to refuse violating the law	✓ Broad definition of whistleblower, covering all individuals who personally carry out disclosures, and those assisting them	✓ Realistic timeframe to act on rights (minimum 6 months)
✓ Financial rewards for whistleblowers	✓ Comprehensive remedies for whistleblowers	✓ Creation of a technological channel
✓ Special disclosure channel for intelligence agencies and national security matters	✓ Sanctions for retaliation and interference	✓ Right not to be extradited based on a disclosure made
✓ Periodic legislative review	✓ Provisions and protections for anonymous reporting	✓ Broad coverage of organizations (public, private, NGO, and military sectors)
✓ Transparent use of legislation and publication of data	✓ Interim relief, transfer option, coverage for attorney fees, and personal accountability for reprisals	
✓ Burden of proof on employers	✓ Entitlement to a fair hearing	
✓ Presence of a specific law dedicated to whistleblower protection	✓ Personal protection against harassment and retaliation	
✓ Dedicated oversight authority		
✓ Whistleblower participation		
✓ Existence of supporting tools and services for paper rights		
✓ Protection from gag orders		
✓ Waiver of liability from disciplinary		
✓ Absence of protection for knowingly false disclosures		

These include a broad definition of whistleblower, covering all those individuals that carry out disclosures relevant to the public service mission and that are actively taking part in activities related to the organization’s mission (Devine & Walden, 2013)<sup>16</sup> and all those individuals that assist them in blowing the whistle (Blueprint for Free Speech, 2016)<sup>17</sup>; a broad definition of reportable wrongdoing or disclosure, including the context and subject of disclosure with no loopholes; sanctions for retaliation and interference (Blueprint for Free Speech,

<sup>16</sup> Devine, T., & Walden, S. (2013). International Best Practices for Whistleblower Policies. Government Accountability Project. Washington, DC: Government Accountability Project (GAP).

<sup>17</sup> Blueprint for Free Speech. (2016). Blueprint Principles for Whistleblower Protection. Melbourne: Blueprint for Free Speech.

2018)<sup>18</sup>; comprehensive remedies for whistleblowers, covering all direct, indirect, and future consequences of any retaliation (Transparency International, 2013)<sup>19</sup>, interim relief, transfer option, coverage for attorney fees, and personal accountability for reprisals; provision and protections for anonymous reporting and confidentiality, including technological infrastructures that secure the anonymity of online whistleblowers, personal protection against harassment and retaliation, and the entitlement to a fair hearing.

## V. WHISTLE BLOWERS' PROTECTION IN INDIA

Mr. N. Vittal originally introduced a law to protect whistleblowers in 1993. (The then Chief Vigilance Commissioner). Whistleblower protection is crucial to eliminating corruption, according to the Law Commission's assessment on the 'Public Interest Disclosure Bill' that was delivered to then-Minister of Law, Justice and Public Affairs Mr. Arun Jaitley in December 2001. Public Interest Disclosure (Protection of Informers) Bill, 2002 was drafted in January 2003 and circulated. As a result of the public and media indignation after Satyendra Dubey's 2003 death for exposing NHAH wrongdoing, a whistleblower's law was called for. To ensure that complaints from whistleblowers are dealt with until a legislation is passed, the Supreme Court ordered in 2004 that apparatus be put in place to deal with them. Government of India issued a resolution in May 2004 to allow the Central Vigilance Commission to hear charges of corruption against Central Governments.' In October of 2005, the Right to Information Act was published in the Federal Register. Public Services Bill 2006 (Draft) said that within six months of its enactment, the government must put in place procedures for whistleblower protection. A particular legislation to protect whistleblowers was urged by the Second Administrative Reforms Commission in 2007.

Since 2005, India has also been a signatory (but not ratified) to the UN Convention against Wrongdoing<sup>20</sup>, which requires nations to make it easier for public personnel to disclose corruption and to protect witnesses and experts from reprisal. Deputy Minister of State for Personnel, Public Grievances and Pensions of the Government of India Indian Prime Minister Prithviraj Chavan enacted a whistle-blower bill known as the Public Interest Disclosure and Protection for Persons Making the Disclosure Bill, 2010. As many as 12 RTI activists have been killed since 2010 in India for their efforts to 'promote openness and accountability in the workings of every public entity.' Shehla Masood, a well-known female RTI activist in Bhopal, Madhya Pradesh, was shot and killed on August 16th, 2011. On December 27, 2011, the bill was approved in the Lok Sabha, along with recommended modifications. Premnath Jha, who was shot dead in the Virar neighbourhood of Mumbai on February 26, 2012, is the most recent. "To get information on building projects in the Vasai-Virar area, he paid the ultimate price." He has been accused of exposing a number of corruptions and has been threatened on a regular basis. On March 8th, 2012, Narendra Kumar, an IPS officer in Madhya Pradesh, was run over by a tractor laden with illegally mined stones in Banmore district (Madhya Pradesh). A robust legislation protecting government whistleblowers was one of Anna Hazare's demands after the event, which led to her holding a 'dharna' on Jantar-Mantar on March 25, 2012. The Delhi High Court has turned over the investigation into the killing of Delhi-based RTI activist Ravinder Balwani on April 23, 2012, to the criminal

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<sup>18</sup> Blueprint for Free Speech. (2018). Safe of Sorry: Whistleblower Protection Laws in Europe Deliver Mixed Results. Blueprint for Free Speech.

<sup>19</sup> Transparency International. (2013). International Principles for Whistleblower Legislation: Best Practices for Laws to Protect Whistleblowers and Support Whistleblowing in the Public Interest. Berlin: Transparency International.

<sup>20</sup> See Project on Government Oversight, Homeland and National Security Whistleblower Protections: The Unfinished Agenda, April 28, 2005.

branch. As a member of Team Anna and the Parivartan NGO founded by Arvind Kejriwal, he has been involved in the movement since 2005.

The law seems to be a token effort to safeguard those who come forward with information about wrongdoing. For this reason, it was only made available to the public after its presentation in the Lok-Sabha so that the government could make a weak excuse of maintaining Parliamentary Privilege so as to avoid the duty of disclosing any ideas received and accepted. "This will allow the government to keep the public out of the final stages of lawmaking while yet giving the appearance that the public is involved." The proposed legislation falls well short of worldwide best practices, as is evident from the text. In the 179th Report of the Law Commission, the 2nd Commission on Administrative Reforms, and the Parliamentary Standing Committee, there were important suggestions that were excluded and public opinions that were received were ignored. The Lok-Sabha has approved the bill, and it has now been sent to the Rajya Sabha for approval. On March 29, 2012, the opposition scuppered the measure by claiming that it was too complicated, full of legal language, and needed additional study. In the meanwhile, whistle-blowers will continue to be suffocated and silenced in one way or another until actual efforts are made. If the bill is not made effective by making improvements that really serve the bill's objective, it will be an ineffective piece of legislation that will just add to the already burgeoning pile of current acts, bills, and laws. Since the feature of a progressive nation is not the quantity of money stored illegally in Swiss accounts, it is anticipated that our government quit adhering to its chronically erroneous conceptions of governance and act in accordance with the circumstances.

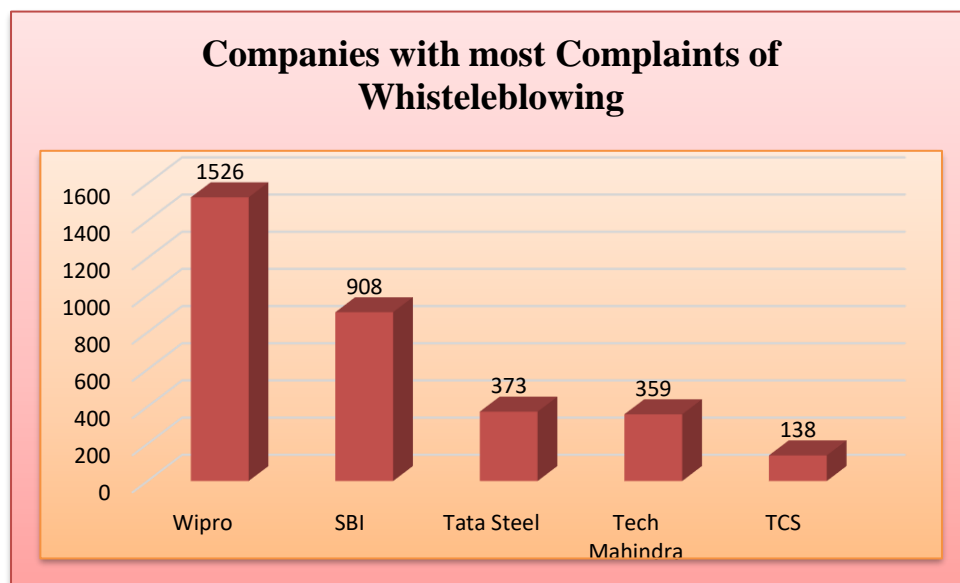
### **5.1 Whistle Blowers Protection Act, 2014**

According to the Whistleblowers Protection Act, 2014, Indian whistleblowers are safe from retaliation. The legislation protects their identification while also establishing stringent guidelines to keep them safe from harm. Whistleblowers, for example, cannot be punished until the investigation into their claims is complete<sup>21</sup>. In the Businesses Act, which governs listed companies, these clauses have been incorporated as part of the SEC's governance standards. Whistleblower policies must be in place for all publicly traded and government-owned companies. For personal revenge or to influence the financial market, whistleblowing may be employed. In order to avoid this, the audit committee that analyses the charges will check to see whether they have any basis in fact. The complainant might face up to two years in prison if an allegation is determined to be false.

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<sup>21</sup> Dichter et al, The Sarbanes-Oxley Act: New Whistleblower Protections for Employees, Morgan Lewis & Bockius, October 17, 2002; Jarmo Kääriäinen, Metso Corporation (Finland), Establishing a Whistleblower program, 2005. <http://www.iiiaweb.it/area/allegati/KAARIAINEN.pdf>; Code of Ethics for Telekom Austria Aktiengesellschaft and its Subsidiaries, November, 2003 [http://www.telekom.at/Content.Node/ir/governance/code\\_of\\_ethics\\_en.pdf](http://www.telekom.at/Content.Node/ir/governance/code_of_ethics_en.pdf)





### The Number of whistleblowing complaints have risen in Corporate India with Wipro and SBI seeing the most in 2018

Insider trading is a major problem in India. "The market regulator recently implemented a tipping system in an effort to increase success rates." There will be a reward for information and effective action against insider traders of up to a million rupees from Sebi. In addition, a 'cooperate and confidentially' method has been implemented. There will be no repercussions for assisting in the investigation if a person is found guilty of securities law violations, but their name will be kept secret.

While both houses of Parliament passed the 'Whisper Blowers Protection Act, 2014,' the legislation has yet to be announced. Members of an organization may denounce unlawful, unethical, or illegitimate actions using a legal framework established by the Act. However, only government employees and public sector organizations are covered by the Act. A whistleblower's need to reveal his or her name is mandated by the law, but this may be a source of friction for some whistleblowers, who want to remain anonymous in order to protect themselves from retaliation or other negative consequences at work if they expose suspected wrongdoing.

Whistleblowing, whistle-blower protection, and whistle-blower enforcement in India are mostly aimed at publicly traded enterprises. The Companies Act, 2013<sup>22</sup> provides for a 'vigil mechanism' for directors and employees of listed companies and other companies prescribed therein<sup>23</sup>, to seek recourse for the reporting of malfeasance and prevent victimization. In addition to overseeing a company's monetary operations, an audit committee also acts as a watchdog for matters of corporate ethics. Every publicly traded firm and any other class or classes of companies that may be prescribed are required to create it.

An amendment bill was introduced in 2015 that said that whistleblowers and those who are propositioned must not be authorized to release sensitive records under the Official Secrets Act, 1923, even if the objective

<sup>22</sup> Section 177 of the Companies Act, 2013

<sup>23</sup> Companies accepting deposits from the public, companies that have borrowed money from banks and public financial institutions in excess of fifty crore rupees (Section 177(9), Companies Act, 2013).

is to expose acts of corruption, abuse of authority, or criminal activity. The 2014 law is undercut by this amendment.

An incentive-based whistle-blower policy is required by the Securities and Exchange Board of India (SEBI) for listed firms. This financial reward was recently increased by SEBI to 10 crores<sup>4</sup> in an effort to motivate whistleblowers and enhance its commitment against insider trading. It has become more important to examine the situation of whistleblowing policies in private, unlisted organizations, in light of the rising number of whistleblower cases in publicly traded corporations. Whistleblowing remains mostly policy-driven in the private sector. A new order, the Companies (Auditor's Report) Order, 2020, enhances financial transparency in a company's operations and day-to-day activities via improved collaboration between auditors and a focus on whistle-blower complaints and their disposal. The private sector's application of the same is highly uneven.

## **VI. THE GROWING WHISTLEBLOWING ENVIRONMENT**

Whistleblower allegations are becoming more widespread in publicly traded organizations, and they can be found at some well-known Indian firms. India's biggest drug-maker paid INR 56 lakhs in 2021 as a settlement for charges that the business diverted funds via its distributor<sup>8</sup>. For another employee who claimed to have been victimized by being reassigned to work under authorities who had filed a whistleblower report against<sup>9</sup>, an Indian bank paid a compensation sum of INR 28.4 lakhs to far, Amazon India has been the subject of a number of high-profile leaks that have prompted the company to begin an internal investigation. Increased responsibility falls on the Board of Directors, who must not only design and execute the system, but also ensure that it is properly implemented. Such rules should be communicated across the organization by means of regular training programmes, seminars, and advertisements.

As Deloitte found, just 48 percent of respondents said they were aware of their organization's whistle-blowing policy, according to a recent poll. When it comes to internal controls, the survey found that companies that made significant investments in whistleblowing mechanisms had better transparency, relevant disclosures, fraud detection, and an overall improved level of internal control than companies that treated the establishment of whistleblowing mechanisms as a mere regulatory formality and made only minimal financial commitments. As a result of the vigil committee provision, several private, unlisted firms have also implemented it, however the effectiveness of such whistleblower policy remains subjective and discretionary. Whistle-blowing policies fail because employees lack trust in them. Employees are less likely to come forward with allegations of wrongdoing if they don't feel secure in the knowledge that their complaints would be treated confidentially and anonymously.

Another infrequently discussed issue is the handling of whistleblower reports that are deemed to be without merit. However, even though the Companies (Meetings of Board and Powers) Rules, 2014 through Rule 7(5) provides a somewhat adequate safeguard, including reprimand, against frivolous complaints by directors or employees, the lack of deterring penal sanctions is a cause for concern in light of the irrecoverable damage that can be caused to public faith and perception with respect to the company. What constitutes an appropriate course of action is a fluid concept that changes depending on the situation. Similarly, the Act allows for a two-year prison sentence or a fine for a frivolous complaint, but when seen in the context of publicly published investigations and inquiries, it is incommensurable.

## **VII. CONCLUSION**

By alone, the word ‘whistleblower’ doesn't convey the full significance of the position. ‘Whistle-Blower,’ as the name suggests, refers to someone who reveals illegal activity to the general public and law enforcement authorities. Whistleblowers are those who call attention to an umpire's or judge's error of judgement during a game. When it comes to exposing the wrongdoers, whistleblowers are doing exactly the same thing; they expose those who are guilty of wrongdoing to the general public as well as the governmental authorities who should have been made aware of such illegitimate or dishonest conduct. This method of exposing wrongdoing by a particular organization is known as ‘whistleblowing.’<sup>24</sup> Whistleblowing helps the government catch corrupt and unlawful actions, which are on the rise these days.

It is clear from the rules and the gaps that the laws affirmed for whistleblowers have had significant problems in their actual execution. A lot of guts are required to act as a whistleblower and go against the grain of a company to expose wrongdoing and ensure that the laws in place are correctly enforced. Every corporation or institution, public or private, is tainted by corruption and dishonesty these days. As a result, the Whistleblower Protection Act of 2014 aims to shield whistle-blowers against persecution, however sanctioning such behavior is a major omission from the law. Whistleblower Protection Act Amendment Bill of 2015 said that whistleblowers should not be permitted to expose any sensitive papers under the Official Secrets Act, 1923 even if the objective is to denounce acts of corruption, abuse of authority, or criminal activity. Such a measure would undermine the whole purpose of the 2014 legislation; thus, it must be rejected. Employees and directors, as well as shareholders and other stakeholders, should be supported in their efforts to execute the Whistleblowers Protection Act effectively. Transparency and accuracy in corporate governance are essential if fraud and illegal activity are to be minimized. As a result, whistleblower protection laws and regulations are strict, but appropriate implementation and specific revisions connected to penalizing persons who victimize whistleblowers should be present. A company's or organization's honesty is also critical to the successful execution of the policy. Whistleblowers are an important element of our society, and their protection should be bolstered, followed by the preservation and appreciation of democracy. This section of the Whistle Blowers Protection Act has to be revised if India wants to encourage people to come forward with information on illegal activity. Whistleblowers won't come forward to reveal higher-level fraud if the law doesn't have these safeguards.

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