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# FROM WHISPERS TO ROARS: WHISTLEBLOWERS' IMPACT ON CORPORATE WRONGDOINGS

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## ABSTRACT

The exposure of corporate crimes, such as fraud, corruption, and other unethical behaviors, is greatly aided by the efforts of those who blow the whistle. They are people who come forward to report an unlawful or unethical activity that has been observed or are aware of any such activity inside the organization. These individuals come forward to report misconduct or blow the whistle on the wrongdoings at the workplace that may have substantial repercussions, not just for the individual who does it but also for the firm involved.

This paper investigates the functions of whistleblowers in the business world as well as the influence that criminal liability has on their activities. It deeply analyzes the factors that motivate the people to blow the whistle, as well as the difficulties they encounter in doing so. Additionally, it mentions the legal safeguards that are provided to whistleblowers, the possible penalties that they may face, such as reprisal from the firm in which they work.

Companies that commit crimes such as financial fraud or corruption may face severe repercussions, both in terms of their finances and their reputations. Whistleblowers who come out with information on such crimes may be protected under some legislations, but at the same time they may also face criminal punishment for themselves.

The paper concludes by addressing the significance of whistleblowers in the process of fostering accountability and transparency inside corporations. It also brings to light the need for a greater legal safeguard for whistleblowers and the significance of corporate responsibility in the prevention of crimes committed by corporations.

**Keywords:** Corporate crimes, Whistleblowers, Private sector, Legislation, Criminal liability.

## I. INTRODUCTION

The overarching idea of how a company ought to be controlled or directed for it to realize its goals and ambitions is what we mean when we talk about corporate governance. It lays down certain guidelines that, in the long term, are beneficial to all the organization's stakeholders and contribute to the overall growth of the company's value. In this context, the term "stakeholder" refers to a diverse group of individuals, including the board of directors, management, and shareholders, as well as customers, employees, and society<sup>1</sup>.

The integrity of businesses, financial institutions, and markets is dependent on strong corporate governance standards, and these standards also influence the growth of the economy's<sup>2</sup> development and stability. When it comes to running a successful business, it is essential for a company to pay attention to both the economic and social sides of their operations. It is essential that all parties involved, including shareholders, consumers, and producers, be treated fairly. Businesses have the primary duty of good governance, which requires them to avoid causing any damage to the community in any form. Those who blast the whistle Protection policy would be an excellent weapon for corporate governance since it would keep firms responsible to the general people, which would unquestionably allow society to flourish. Additionally, it would prevent corporations from engaging in unethical business practices.

The method for reporting unethical or illegal activity, also referred as the "Whistleblowing Mechanism" is very necessary for the effective management and operation of businesses. Based on the findings of the Narayana Murthy Committee Report on Corporate Governance, the government of India tried to institute a required Whistle Blower Policy in Indian Business Governance for Listed Companies, however, in the face of significant resistance from businesses, this plan was modified into a voluntary suggestion instead. The disaster involving Satyam, which brought to light a variety of problems associated with corporate governance, provided a response to the question of whether the business sector in India required the policy to be included as a

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<sup>1</sup>Mary Thomson, 'What Is Corporate Governance?' (2009) *The Economic Times*  
<http://articles.economictimes.indiatimes.com/keyword/corporate-governance> accessed 11 April 2015.

<sup>2</sup>'Corporate Governance in India: Developments and Policies' (2013)  
[http://www.nseindia.com/content/us/ismr2013\\_C.pdf](http://www.nseindia.com/content/us/ismr2013_C.pdf) accessed 23 April 2015.

mandated urgency in the CG reports<sup>3</sup>.

The Whistleblowers Protection Act of 2011 was finally enacted into law in 2014, and it offers legal protection to those who come forward with information about illegal or unethical activities affiliated with the government. Even though this Act was desperately required, it has several inconsistencies, one of which was the elimination of protections for employees who blow the whistle in companies.

The practice of blowing the whistle has been connected to efforts to improve corporate governance in the economy. It prevents companies from making choices that could directly enrich their executives at the cost of other stakeholders in the company's operations. Conventionally speaking, blowing the whistle refers to drawing attention to or making others aware of the fact that an unlawful or criminal conduct is going place inside a company or other business organization. It has been playing an important part in the company's efforts to raise awareness of employee behavior as well as internal processes and procedures.

According to subsection 177(9) of the Companies Act of 2013, it is essential for each publicly traded firm to put in place some kind of monitoring system for its directors and staff. In addition, in order to be following the revised article 49 of the listing agreement, the company is required to put in place a process to protect employees who report wrongdoing and provide adequate safeguards against being victimized themselves.

## **II. REVIEW OF LITERATURE**

Whistleblowers in India suffer severe dangers, including retribution, harassment, and even physical damage<sup>4</sup>, for coming out with knowledge about corporate misconduct, according to many studies. This is one of the most important findings from the research that has been done on the topic. A significant number of employees who blow the whistle on unethical business practices say they face pressure not just from their companies but also from government authorities and law

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<sup>3</sup> Gaurav Kumar et al., 'The largest corporate fraud in India: Satyam Computer Services Limited' (2012) 4 International Journal of Critical Accounting 449.

<sup>4</sup> Deva S, 'Whistleblowing and the Right to Information in India: The Case for Protecting the Right to Identity' (2010) Journal of Human Rights Practice 53-81.

enforcement organizations to remain silent.

Despite the dangers involved, whistleblowers have been very helpful in bringing to light instances of corruption and other unethical activity inside the business sector in India<sup>5</sup>. As a result of the acts of whistleblowers, several high-profile instances have been brought to light in recent years<sup>6</sup>. One example of this is the Satyam controversy.

There has also been a large amount of attention in the literature about the legal and regulatory framework that is in place in India to safeguard those who come forward with information about wrongdoing<sup>7</sup>. Several academics have pointed out that even though India has laws in place to protect whistleblowers, such as the Whistleblowers Protection Act, these laws have been criticized for being ineffectual and inadequately implemented<sup>8</sup>. One of these laws is the Whistleblowers Protection Act, 2011<sup>9</sup>.

Scholars have stressed the significance of establishing a culture of ethical conduct inside companies in India, in addition to the legislative safeguards that are already in place<sup>10</sup>. This involves educating workers about their rights and obligations as whistleblowers, as well as supporting openness, accountability, and good governance practices<sup>11</sup>.

Overall, the research that has been conducted on the topic of whistleblowers and the impact of criminal liability in the corporate sector in India has shown that there is a pressing need for stronger legal protections for whistleblowers, as well as a broader cultural shift toward increased transparency and accountability in the corporate sector. India may enhance corporate responsibility

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<sup>5</sup> M. L. Bhasin, 'Whistleblowing in India: Legal and policy framework' (2010) *Indian Journal of Public Administration* 645-658.

<sup>6</sup> Rai, V., & Bhatia, N. 'A comparative study of whistleblowing in India and USA: An analysis of legal framework and case laws' (2019) *Indian Journal of Public Administration*, 821-832.

<sup>7</sup> Sharma, V. 'Whistleblowers and the Protection of Their Identity: An Analysis of Indian Laws' (2014) *Journal of Intellectual Property Rights* 221.

<sup>8</sup> Rai, V., & Bhatia, N. (2019) 'A Comparative Study of Whistleblowing in India and USA: An Analysis of Legal Framework and Case Laws', *Indian Journal of Public Administration*, pp. 821-832.

<sup>9</sup> The Whistle Blowers Protection Act 2011 <https://egazette.nic.in/WriteReadData/2014/159420.pdf>.

<sup>10</sup> Kumar, S., & Rangarajan, S. 'Whistleblowing practices in India: Issues and challenges' (2019) *Indian Journal of Public Administration* 787-798.

<sup>11</sup> Pandey S, Pant S, 'Corporate Whistleblowing in India: Legal Provisions and Institutional Framework' (2021) *Journal of Corporate Governance* 300-312.

and avoid damage to customers, workers, and the general public by developing an atmosphere that is supportive of those who blow the whistle on unethical business practices.

### **III. RESEARCH METHODOLOGY**

The author has used the doctrinal and analytical study on the “Role of whistleblowers and the effect of criminal liability in the business sector in India”, which mostly includes the examination of existing legal literature and various instances that have taken place in India. A detailed examination of applicable legislation, case law, and scholarly literature in relation to whistleblowing and corporate criminal culpability in India was a necessary part of the research that needed to be done. This required looking into the legal laws and concepts that pertain to reporting wrongdoing at work and the criminal culpability of corporations in India, as well as the interpretations of these rules and principles provided by the courts and the legal academics. It required analysing the loopholes and inconsistencies in the legal framework pertaining to corporate criminal culpability and whistleblowing in India. On the basis of the results of the research, there is an analysis of the efficacy of the legal procedures for resolving these concerns, as well as suggestions for enhancing the legal framework for whistleblowing and corporate criminal culpability in India.

### **IV. THE ACT OF WHISTLEBLOWING - MEANING & IMPORTANCE**

The act of releasing information to the public or to the authorities about behaviors that are unethical, unlawful, or hazardous that are taking place inside an organization is what is known as "blowing the whistle." In recent years, organizations have been called out for unethical conduct and corrupt practices, which has led to a rise in the importance of the practice of whistleblowing in the business world. In the following paragraphs, we will give an overview of the practice of whistleblowing in the business sector, including its significance, the many varieties of it, the advantages it offers, and the obstacles it presents.

The practice of blowing the whistle on misconduct in the business world is an essential investigative tool. It gives workers and other insiders the opportunity to report unlawful, unethical, or hazardous actions that are damaging to the company as well as to the general public. In order to keep organizations responsible for their activities and reduce the risk of fraud, corruption, and

other types of wrongdoing in the workplace, whistleblowing may be an effective tool. It also has the potential to increase openness and confidence in the corporate sector, both of which are essential for constructing and preserving a healthy environment for business.

## **V. HISTORY OF WHISTLEBLOWING IN THE CORPORATE SECTOR**

Beginning in the early part of the 20th century, the practice of whistleblowing in the business world has a lengthy and convoluted history. Ralph Nader, who, in the 1960s, uncovered safety problems in vehicles manufactured by General Motors. Nader is one of the first recognized whistleblowers in the corporate sector. His efforts contributed to the enactment of the National Traffic and Motor Vehicle Safety Act of 1966, which established guidelines for the protection of motorists and their passengers in motor vehicles.

Daniel Ellsberg, who was responsible for the leak of the Pentagon Papers to the media, was one of numerous whistleblowers who revealed fraud and corruption in the United States defense sector in the 1970s. Ernest Fitzgerald, who was responsible for exposing cost overruns in a military aircraft program, was another.

The Whistleblower Protection Act of 1989 was the first federal legislation to protect those who blow the whistle on wrongdoing in the United States. This law shielded from retribution any government workers who disclosed improper behavior. Around the same time, a few states also enacted their very own legislation to protect whistleblowers.

In reaction to the accounting problems that occurred at Enron and WorldCom in 2002, the Sarbanes-Oxley Act was enacted into law<sup>12</sup>. Provisions in the statute offered protection to workers of publicly traded corporations who blew the whistle on their employers' infractions of laws governing securities<sup>13</sup>.

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<sup>12</sup> *Lawson v FMR LLC* [2014] UKSC 2, [2014] AC 1158.

<sup>13</sup> Yaron Nili, "The Expanding Scope of Whistleblower Protections" (2014) Harvard Law School Forum on Corporate Governance and Financial Regulation < <http://corpgov.law.harvard.edu/2014/05/21/the-expanding-scope-of-whistleblower-protections/> > accessed 17 April 2015.

The Dodd-Frank Wall Street Reform and Consumer Protection Act was implemented in 2010, and as a result, whistleblower protections were extended to include workers of financial institutions who revealed breaches of securities laws. This was done in order to safeguard those individuals who come forward with information about illegal activity.

The idea of blowing the whistle in India may be traced all the way back to ancient times, when Kautilya's Arthashastra, an ancient Indian treatise on statecraft, emphasized the significance of whistleblowers in terms of reducing the amount of corruption that occurs inside the administrative system. Nevertheless, throughout the course of the last several decades, a contemporary framework for reporting wrongdoing in India has been developed.

## **VI. TYPES OF CORPORATE MISCONDUCT AND WRONGDOING**

The whistleblower system in India allows for the reporting of a very wide variety of corporate transgressions and illegal activities. These transgressions and illegal activities include, but are not limited to the following:

- ☐ Fraud in the financial sector refers to the practice of altering financial statements or keeping confidential information about finances in order to deceive investors or other stakeholders.
- ☐ Bribery and corruption are defined as the practice of giving or accepting bribes with the intent to improperly influence business decisions or gain an edge over others.
- ☐ Trading on the inside refers to the practice of using non-public information to acquire or sell assets for one's own financial advantage.
- ☐ The practice of discriminating against workers or subjecting them to harassment based on their gender, color, or other protected characteristics is both discrimination and harassment.
- ☐ Violations of product safety include the sale of dangerous items as well as the failure to disclose any possible dangers that may be related with the product.
- ☐ Theft of intellectual property refers to the act of stealing or infringing upon the patents, trademarks, copyrights, or trade secrets of other businesses.

- Engaging in anti-competitive action such as price fixing, monopolizing, or conspiring with rivals in order to gain market power is in violation of antitrust laws.
- The practice of using unethical or unlawful means to gather secret information about one's rivals is known as corporate espionage.
- Breach of cybersecurity refers to the unauthorized access to sensitive information or the theft of such information via computer systems or networks.

It is important to remember that the Whistleblower Protection Act<sup>14</sup> in India gives protection to whistleblowers who expose any information on any "misconduct, malpractice, or wrongdoing" in any public or private sector company. This protection extends to both public and private sector employees. As a result, any such instance of wrongdoing or misbehaviour on the part of a corporation may be reported via the procedure for whistleblowers in India.

## **VII. WHITSLE BLOWER MECHANISM IN INDIA**

The standards of corporate governance that were contained in the standard listing agreement were modified as a result of a SEBI Circular that was issued on August 26, 2003. The concept was revised to make it obligatory<sup>15</sup> for businesses to establish a policy for reporting unethical behavior. This method encourages workers to come forward and report any kind of unethical behavior that may be taking on inside the firm so that it may be brought to the notice of the management. In August of 2003, SEBI made these requirements for firms an official part of the Listing Agreement by amending Clause 49 with the new language. The content of Clause 49 is now included in Regulation 18 of the SEBI (LODR) Regulations<sup>16</sup>. The Listing Agreement makes it mandatory for all companies that trade publicly to provide a policy for employees who want to report wrongdoing.

Employees have a channel to report to the Board<sup>17</sup> any fraudulent activity, misuse of funds, or unethical behavior that may have occurred. The content of Clause 49<sup>18</sup> is now included in

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<sup>14</sup> The Whistle Blowers Protection Act 2011.

<sup>15</sup> The Companies Act 2013, s. 177(9).

<sup>16</sup> SEBI (LODR) Regulations, SI/2015, reg 18.

<sup>17</sup> The Companies Act 2013 s. 177 (10).

<sup>18</sup> Clause 49 of listing agreement.



Regulation 18 of the SEBI (LODR) Regulations. The Listing Agreement makes it mandatory for all companies that trade publicly to provide a policy for employees who want to report wrongdoing. Employees have a channel to report to the Board any fraudulent activity, misuse of funds, or unethical behavior that may have occurred thanks to this provision.

The Whistle Blowers Protection Act, often known as the "Whistle Blowers Act," was passed in 2014 and offers a system to investigate corruption and abuse of power by public workers. Additionally, it protects those who blow the whistle on misbehavior inside government bodies, programs, and offices. The legislation was enacted with the intention of establishing a system to:

1. Receive concerns regarding allegations of corruption or the wilful abuse of authority or discretion against any public person;
2. Inquire into, or compel an investigation into, such disclosure; and
3. Provide necessary protections against the victimization of the individual who is making such a complaint.

A person has the right to disclose any information they deem necessary for the protection of the public interest in accordance with the Whistleblowers Act. An change was proposed to the Act that was discussed earlier by means of the Whistle-blowers Protection (Amendment) Bill, 2015<sup>19</sup>.

The purpose of the Amendment Bill is to protect the country's independence and integrity, as well as the safety of the state, against revelations that may put these things at risk. In spite of this, the Amendment Bill was shot down in the Rajya Sabha. The Serious Fraud Investigation Office (SFIO) has the authority under Section 211 of the Act to place anybody under arrest who is suspected of committing fraud inside the company. If the auditors have reason to think that a fraud has been committed or is currently being committed against the firm, they are obligated to submit this information to the central government.

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<sup>19</sup> The Whistle Blowers Protection (Amendment) Bill 2015  
[https://loksabhadocs.nic.in/Refinput/New\\_Reference\\_Notes/English/The\\_whistle\\_blowers\\_Bill.pdf](https://loksabhadocs.nic.in/Refinput/New_Reference_Notes/English/The_whistle_blowers_Bill.pdf).

## VIII. WHISTLEBLOWER PROTECTION LAWS AND REGULATIONS IN INDIA

The laws and regulations in India that protect whistleblowers have the goal of shielding those who blow the whistle on wrongdoing and corruption in the public and private sectors. The following is a list of some of the most important laws and legislation in India that pertain to the protection of whistleblowers:

- **The Protecting Whistleblowers from Retaliation Act of 2014:** This statute creates a process for hearing accusations of corruption and wrongdoing and offers extensive protection for those who come forward with information about illegal activity. In addition, it provides for the imposition of fines for the harassment of whistleblowers.
- **The Right to Information Act<sup>20</sup> :** It was passed in 2005 and stipulates that people of India have the right to access information that is kept by the government or any other public entity, with a few exceptions. Whistleblowers who expose information in accordance with the statute are afforded protection under the act as well.
- **The Companies Act, 2013: Section 177** of the Companies Act, 2013 demands the installation of a vigil system for the directors and workers of a firm to report real concerns. This provision is included in the Companies Act, 2013. In addition to this, it protects those who blow the whistle from being victimized or subjected to any other kind of discriminatory action.
- **The Prevention of Corruption Act, 1988<sup>21</sup>:** This statute makes it a crime to be corrupt and offers protection to anybody who blow the whistle on corrupt activities by reporting them to the proper authorities. **Section 7** of the Prevention of Corruption Act of 1988 grants protection to public officials who submit information on the conduct of any offense under the Act. This provision was made possible by the fact that the act was passed in 1988. In addition, the Act shields those who report wrongdoing from being harassed or victimized.

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<sup>20</sup> The Right to Information Act 2005.

<sup>21</sup> The Prevention of Corruption Act 1988.

- **Lokpal and Lokayuktas Act, 2013<sup>22</sup>**: This legislation would create an independent ombudsman whose job it will be to examine allegations of public officials engaging in corrupt behavior. The statute also provides protection to "whistleblowers," or those who come forward with knowledge about illegal activity or corruption.
- **Public Interest Disclosure and Protection to Persons Making the Disclosure Rules, 2014**: They are comprised of the following: These guidelines offer a structure for processing accusations of corruption and misbehaviour by public workers and conducting investigations into such charges. In addition to this, it details the protocols that must be followed in order to protect the identity of the person who blows the whistle.
- **Regulations issued by the Securities and Exchange Board of India in 2015 on "Listing Obligations and Disclosure Requirements"**: In order to comply with these requirements, listed firms are required to provide a method for workers to report concerns about unethical behavior, real or suspected fraud, or violations of the company's code of conduct. The Securities and Exchange Board of India (SEBI) has published regulations that require listed firms to develop a procedure for the reporting of unethical behavior, fraud, or breach of the company's code of conduct. SEBI has released these regulations. The rules also include provisions to safeguard anyone who report wrongdoing.
- **The Indian Penal Code, 1860**: The Indian Penal Code, enacted in 1860, has provisions that provide protection to those who report wrongdoing. A person who testifies in court, for instance, is granted immunity under *Section 191*, which protects them from legal prosecution. In a similar way, *Section 197* affords public employees who are sincere in their actions the protection they need.

In India, the protection of those who blow the whistle is ensured by a legal framework provided by these laws and regulations. However, there is a pressing need for increased knowledge as well as the efficient application of these laws in order to guarantee that those who blow the whistle will not be persecuted and will be able to provide information without fear of being punished.

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<sup>22</sup> The Lokpal and Lokayuktas Act 2013.

## IX. CRIMINAL LIABILITY IN THE CORPORATE SECTOR

The whistleblower mechanism in the corporate sector is not, in general, subject to criminal responsibility, because it is intended to encourage people to disclose any unethical or unlawful activity without fear of reprisal. This is since the mechanism was meant to encourage individuals to report such behavior<sup>23</sup>. Nevertheless, a whistleblower may be held criminally liable in some circumstances, including the following examples:

- ❑ **Disclosure of secret or proprietary information:** A whistleblower who reveals confidential or proprietary information of the firm without the appropriate authority may be subject to criminal prosecution for breach of confidence.
- ❑ **Making false claims:** If a whistleblower makes false accusations against the firm or its executives with the intention of causing damage or financial loss, the whistleblower may face charges of defamation or fraud.
- ❑ **Infractions of laws prohibiting bribery or corruption:** A whistleblower may be subject to criminal prosecution for infractions of laws against bribery or corruption if, in return for exposing information, the whistleblower receives bribes or participates in corrupt activities. In such a case, the whistleblower may have committed a crime.
- ❑ **Hacking or unauthorized access to computer systems:** If a whistleblower obtains unlawful access to computer systems or networks in order to gather information, they may be subject to accusations of computer fraud or hacking. This is because gaining unauthorized access to these systems is illegal.
- ❑ **Violation of laws pertaining to trade secrets or intellectual property:** If a whistleblower divulges trade secrets or proprietary information of the firm that is protected by intellectual property laws, they may face criminal penalties for breaking these laws.

In order to protect themselves from potential criminal prosecution, those who blow the whistle

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<sup>23</sup> Rai, V., & Bhatia, N. , 'A comparative study of whistleblowing in India and USA: An analysis of legal framework and case laws' [2019] Indian Journal of Public Administration.

should have a solid understanding of the rights and responsibilities afforded to them by the law. Whistleblowers in India are afforded protection under the country's Whistleblower Protection Act if they reveal information in good faith and with a reasonable belief that the information is factual and relevant to the situation that is being reported.

## **X. CHALLENGES AND OBSTACLES FACED BY WHISTLEBLOWERS IN THE CORPORATE SECTOR**

When they come out to denounce misconduct, employees in the business sector often encounter substantial problems and impediments. When working in the business sector, whistleblowers often confront a variety of hurdles and barriers, including the following:

- **Fear of retaliation:** People who blow the whistle may be afraid that their employers will punish them for their actions in some way, such as by firing them, demoting them, harassing them, or blacklisting them. These actions may have a considerable negative effect on both their personal and professional life.
- **Lack of protection:** Despite the existence of laws intended to protect whistleblowers, these laws are not always adequately executed, leaving those who blow the whistle open to the possibility of reprisal.
- **Isolation:** People who blow the whistle may believe that they are the only ones doing so and that their co-workers and management do not support them, which may lead to feelings of worry, stress, and melancholy.
- **Legal and financial constraints:** When they come out, whistleblowers may suffer legal and financial responsibilities, including the need to hire a lawyer, the payment of legal expenses, and the possibility of losing their employment.
- **Harm to reputation:** People who blow the whistle on wrongdoing may suffer harm to their reputation and be seen poorly by their peers and co-workers, which may make it harder for them to obtain work in the future. The possibility that whistleblowers will not be able to conceal their identities makes it more difficult for them to come forward and

increases the likelihood that they will be subjected to retribution.

- **Inadequate response:** Even if the whistleblower's report results in an inquiry, there is still a possibility that insufficient action will be taken against the offender, resulting in a lack of responsibility.

Individuals may be dissuaded from coming forward to report misconduct as a result of these problems and impediments, which may contribute to a lack of transparency and accountability in the business sector. When workers come forward to report unethical behavior, it is critical for businesses to have rules and processes in place to protect them from retaliation and ensure they feel secure doing so.

## **XI. IMPLICATIONS FOR CORPORATE GOVERNANCE AND ACCOUNTABILITY**

The procedure for reporting wrongdoing by a company has important repercussions for both corporate governance and accountability. The system is intended to encourage workers to report any unethical activity or wrongdoing that may have occurred inside the firm. This has the potential to assist in fostering an environment in the workplace that is more transparent, more honest, and more ethical.

The whistleblower mechanism has a number of important ramifications, one of the most important being that it puts a higher focus on corporate governance. The mechanism mandates that organizations put in place a comprehensive system<sup>24</sup> that is capable of receiving and investigating allegations of unethical behavior. This might require establishing a dedicated hotline, developing rules and processes for reporting, and putting together a team that is responsible for investigating and reacting to concerns.

In addition, the method for reporting wrongdoing may be helpful in fostering a culture of responsibility inside a business. The process may assist to discover areas in which the business may need to modify<sup>25</sup> its rules or procedures by encouraging workers to report any misconduct

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<sup>24</sup> Sharma, V., 'Whistleblowers and the protection of their identity: An analysis of Indian laws' [2014] Journal of Intellectual Property Rights.

<sup>25</sup> Deva, S., 'Whistleblowing and the right to information in India: The case for protecting the right to identity' [2010] Journal of Human Rights Practice.

that they may have seen. This has the potential to assist in the prevention of future instances of wrongdoing and to enhance the organization's image.

However, for the system for reporting wrongdoing to be useful, the organization must have a culture that encourages reporting and takes allegations seriously. Only then will the mechanism be useful. In order to do this, top management must demonstrate a dedication to the promotion of openness and accountability, as well as a willingness to take necessary action after receiving reports.

Overall, the whistleblower mechanism has the potential to be a useful instrument for fostering corporate governance and accountability; but, for the organization to successfully adopt and support it, they will need to make a deliberate effort. Implementing a reliable process for reporting unethical activity or misconduct in the workplace is likely to provide considerable advantages for businesses that are dedicated to encouraging ethical conduct and maintaining openness in the workplace.

## **XII. RECOMMENDATIONS/SUGGESTIONS FOR IMPROVING WHISTLEBLOWER PROTECTION AND CRIMINAL LIABILITY IN THE CORPORATE SECTOR**

Protection for employees who report wrongdoing and the potential for criminal prosecution are two pressing concerns in the business world. The following policy ideas may be taken into consideration in order to strengthen protection for corporate whistleblowers and to raise criminal culpability for corporate wrongdoing:

- **Strengthening the Laws related to whistleblowers** - Laws protecting whistleblowers should be strengthened, and governments should give serious consideration to doing so in order to guarantee that employees who blow the whistle are fully protected from any reprisal on the part of their employers. This may need strengthening safeguards to encompass a larger spectrum of whistleblowers, such as contractors, volunteers, and former workers, among other categories of people.
- **Encouraged to come forward with knowledge about corporate malfeasance** -

Whistleblowers should be encouraged to come forward with knowledge about corporate malfeasance by having financial incentives made available to them, which should be considered by both firms and governments. This may include monetary benefits, protection from losing one's work, and several other sorts of acknowledgment.

- **Raising the threshold of criminal responsibility** - Raise the threshold of criminal responsibility for wrongdoing by businesses. Governments should seriously consider raising the threshold of criminal responsibility for firms that participate in unlawful activity. This may entail raising fines and punishments for misconduct by corporations, as well as ensuring that persons responsible for the wrongdoing are held accountable for their actions.
- **Measures that enhance corporate responsibility and prevent unlawful actions-** Companies should be forced to take measures that enhance corporate responsibility and prevent unlawful actions. Companies should also be compelled to implement measures that prevent illegal activity. This may entail the creation of codes of conduct, the establishment of compliance procedures, and the guaranteeing that top management is accountable for ensuring that the firm complies with the law in all of its business dealings.
- **Encourage a culture of openness and accountability** - Encourage a culture of openness and accountability Governments and businesses alike should work to foster an environment in which a culture of transparency and accountability prevails in the business world. This may entail fostering openness in financial reporting, creating independent monitoring organizations, and making certain that businesses are held responsible for the acts they do.

Overall, enhancing protection for whistleblowers and raising criminal accountability for corporate malfeasance is going to require a determined effort on the part of both firms and governments. It is feasible, via the implementation of the policy proposals that have been stated above, to foster a culture of openness and accountability within the business sector, as well as to protect whistleblowers who come forward with knowledge about actions that are unlawful.

### **XIII. INTERNATIONAL PERSPECTIVE OF LAWS RELATED TO THE ROLE OF**



## **WHISTLEBLOWERS**

When it comes to unearthing instances of bribery, fraud, and other illegal acts in the business world, the role that whistleblowers play is very crucial. Through the lens of India, this comparative study will investigate the opinions of a number of other nations from across the world about the function of corporate whistleblowers and the effect of criminal responsibility in the business world.

### **□ United States of America**

The United States of America has a long tradition of protecting those who blow the whistle on wrongdoing by enacting a variety of legislation at the federal and state levels. The False Claims Act is the most prominent of these laws because it enables private citizens to sue businesses on behalf of the government when the latter engage in fraudulent activity with regard to federally funded programs. Whistleblowers who expose breaches of securities laws are provided with financial incentives and protection from retribution according to the Dodd-Frank Wall Street Reform and Consumer Protection Act, which was approved in 2010. This act was enacted in 2010 and offers these protections. The Sarbanes-Oxley Act of 2002 has provisions that provide protection to those who blow the whistle on corporate wrongdoing. In spite of this, whistleblowers in the United States continue to be exposed to considerable dangers, including the prospect of being sued by the business they inform on.

### **□ European Union**

In recent years, the European Union has made efforts to safeguard those who blow the whistle on wrongdoing. In 2019, the European Union (EU) enacted the Whistleblower Protection Directive, which compels member states to offer legal protection to whistleblowers who disclose breaches of EU law in a variety of sectors, including public procurement, financial services, and product safety. In addition, the directive mandates that member states provide legal protection to individuals who expose violations of EU law in areas such as antitrust and competition law. In addition, the directive urges member states to provide secure reporting channels and to offer support and assistance to those who blow the whistle on wrongdoing. Nevertheless, the directive does not extend to all subfields of the legislation, and the implementation of it in certain member states has been delayed.

### □ **United Kingdom**

The rules protecting whistleblowers in the United Kingdom have historically been inconsistent; however, in 2021, the country approved the Whistleblowing (Protection) Bill. The new legislation enhances the protection afforded to those who report wrongdoing by broadening the definition of "whistleblower" to include more people, raising the maximum amount of compensation that may be awarded, and extending the period of time within which claims can be filed. In addition, the legislation has safeguards to protect those who report wrongdoing from being harassed or victimized.

### □ **Australia**

Since 2004, Australia has had legislation in place to safeguard those who blow the whistle on wrongdoing, however these rules have been criticized for being inadequate and ineffectual. In 2019, the government of Australia introduced the Treasury Laws Amendment (Enhancing Whistleblower Protections) Act, which increases the level of protection afforded to those who blow the whistle on unethical business practices by corporations. Provisions for anonymous reporting, protection from retaliation, and sanctions for organizations that retaliate against whistleblowers are also included in the legislation.

## **XIV. CONCLUSION**

The exposure of unethical business practices and the promotion of accountable business practices have both been significantly aided by the efforts of whistleblowers. Because to their activities, substantial improvements have been made in the ways in which businesses operate, which has served to protect customers, workers, and the broader public from being harmed. In spite of this, those who come out with knowledge about misconduct in the workplace face considerable dangers, including the possibility of reprisal and legal action.

The possibility of being held legally responsible for a crime is among the most severe dangers that whistleblowers confront. Whistleblowers may be susceptible to criminal prosecution or civil fines for releasing sensitive information or breaking laws that protect trade secrets or confidential corporate information. The threat of criminal prosecution is a considerable obstacle for

whistleblowers. It is possible for prospective whistleblowers to be deterred from coming forward due to their fear of being prosecuted, which may allow corporate misconduct to remain undetected. Even if a whistleblower does come forward, the possibility of criminal responsibility may make it difficult for them to fully assist in investigations or offer all of the information that is essential to hold businesses responsible for their activities.

In response to these worries, a number of nations have passed laws that provide whistleblowers protection from reprisal and offer financial incentives to those who disclose instances of fraud or other criminal activity. For instance, in the United States, the False Claims Act offers safeguards to those who blow the whistle on fraud perpetrated against the government and reports it. In addition, the Securities and Exchange Commission (SEC) provides cash incentives to "whistleblowers" who provide information on breaches of applicable securities laws.

Despite these safeguards, those who blow the whistle are nevertheless subject to considerable dangers. A significant number of businesses have enacted rules and adopted procedures that deter workers from reporting misconduct or retaliate against employees who do come forward with allegations. In addition, several whistleblowers have indicated that they have had trouble obtaining work following their revelation. This is because prospective employers may see them as being disloyal or untrustworthy.

The establishment of a robust culture of ethics and compliance inside firms is a necessary step in the process of promoting corporate accountability and transparency. This involves the implementation of strong whistleblower policies and procedures, which give a clear method for workers to disclose misconduct without fear of punishment from the company. To guarantee that workers who blow the whistle on unethical behaviour are safeguarded and that their disclosures are taken seriously, these rules should be conveyed to every employee and backed by top management.

Finally, it is critical to increase public awareness of the significance of those who blow the whistle as well as the dangers that they face. Education campaigns and public dialogue that emphasize the role that whistleblowers play in safeguarding the public and encouraging corporate responsibility are two ways that this might be done. Additionally, it is essential to foster a culture of ethics and

compliance inside organizations, and it is essential to enhance public awareness of the value of whistleblowers. If we do this, we can make it more likely that businesses will operate in a way that is beneficial to their stakeholders as well as the general public.