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HUMAN RIGHTS AND CORPORATE WHISTLEBLOWING: TOWARDS A ROBUST LEGAL FRAMEWORK IN INDIA

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ABSTRACT

The domain of business and human rights is humungous as the economies across the world are shifting towards a liberal economy where private sector is playing a decisive role in shaping socio economic realities. The corporates are the principal job providers in a market driven system because they carry an inherent responsibility in ensuring job security. Human rights are the inherent, inalienable rights which are provided to us by the nature itself and the corporates are bound to preserve it. Whistleblowing in the corporate sphere comes under the domain of business and human rights. Corporate transparency and accountability eliminate corruption and primarily ensures justice in the business sphere. Robust whistleblowing measures are quintessential because in a privatised economy stringent obligatory law for the corporates in the context of preservation of human rights upheld the principle of social and economic justice. Against this backdrop this research article explores the genesis of corporate whistleblowing in detail and also tries to form the bedrock jurisprudence of whistle-blower protection globally. This research article also comparatively analyses the whistleblowing mechanisms adopted internationally in various jurisdictions. The article also critically analyses the legal and institutional framework in the context of corporate whistleblowing in India within the existing regime and also tries to understand the linkage central non corporate laws in the context of whistleblowing. The article proposes reforms to ensure that corporate responsibility and human rights protection are meaningfully realized in practice.

KEY WORDS - Human Rights, Corporate Whistleblowing, Corporate Responsibility, Whistleblowing Jurisprudence

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1. INTRODUCTION

Transparency and accountability in the corporate sphere are fundamental in nature. Illicit practices in any sector are always considered as a major stumbling block in the overall efficiency. It is quintessential to have a robust regulatory mechanism to ensure security for the employees. The term 'whistleblower' originates from 19th century when a whistleblower was simply a person who used to blew a whistle. The sport referees were also referred as whistleblowers. Making a disclosure in the public interest is considered as blowing a whistle in the corporate world. India from the inception of the constitution has always adopted socialistic principles. The motive was to ensure socio-economic justice. The emergence of liberalisation, privatisation and globalisation in the 1990s have impacted in the growth and development but along with the positives there are some serious concerns which are yet to be addressed.[1] External economic shocks, inequality and inflation are the major disadvantages of the policies adopted.[2] The growth in privatisation has impacted the employment ratio positively but it also raises serious question to a nascent legal system about the efficiency of the present mechanisms in the context of ensuring job security at workplace.[3]

The Satyendra Dube infamous murder scandal has impacted the entire nation and it eventually transpired into the formulation of the *'Whistleblower Protection Act'.*[4] There are various central laws which actually act as a tool in ensuring lucid whistleblowing in the public sector. The article will explore the existing institutional and regulatory mechanisms relating to corporate whistleblowing in India and will try to propose solutions that will be having a resolving effect.

A country preaching capitalism from its inception will evidently posses a sound regulatory mechanism if compared to a socialist nation. The article will analyse the regulatory mechanism of various jurisdiction across the world including the major capitalistic economies to understand the bedrock jurisprudence of corporate whistleblowing.

[1] Mukesh Kumar, *Impact of Economic Reforms on India*, 1 INT'L J. INNOVATIVE & FUTURE RESEARCH 7 (2014).
[2] Vaghela Dharini Ishvarsinh, *New Economic Policies: Liberalization, Privatization, Globalization*, 2 J. SOC. SCI. 5 (2014).
[3] Dr. Babita Thakur, Vinod Kumar Sharma & Som Raj, *Had Economic Reforms had an Impact on India's Industrial Sector?*, 4 IOSR J. HUMAN. & SOC. SCI. 2, 01–07 (2012).
[4] Kate Reeves, *The Story of India's "First Whistleblower:" Stalled Progress in the Wake of Satyendra Dubey's 2003 Murder*, WHISTLEBLOWER NETWORK NEWS (Sep. 28, 2025, 6:00pm) https://whistleblowersblog.org/global-whistleblowers/the-story-of-indias-first-whistleblower-stalled-progress-in-the-wake-of-satyendra-dubeys-2003-murder/.

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1.1 HISTORY AND EVOLUTION OF CORPORATE WHISTLEBLOWING

In the initial days whistleblowing was not considered as a structured legal concept but rather it was actually portrayed as an act of personal courage having serious repercussions. Reataliation and marginalization are the foreseeable problems which a whistleblower was supposed to face.

The rudimentary stages of whistleblowing are recorded from medieval England. The term '*qui tam'* actually states that '*He who prosecutes for himself prosecutes for others'*.[5] The provisions incentivised whistleblowing and ethical disclosures. Monetary rewards were given for exposing fraud. USA has historically always embraced a culture of civic responsibility and have strengthened whistleblower protection. *Benjamin Franklin* became one of the first whistleblowers when he exposed confidential letters showing that royally appointed governor of Massachusetts had intentionally misled parliament to promote a military buildup in the colonies.[6] In the year 1777, during the American revolution two revolutionaries Samuel Shaw and Richard Marven disclosed the torturous treatment of the British prisoners by their commanding officers.[7]

Some of the earliest federal cases litigated in the United States involved whistleblower claims. However qui tam laws fell generally out of use around the start of the 19th Century and did not reappear until after the civil war. The False Claim Act was passed in 1863 and was designed to combat against the fraud and malpractices by the suppliers against the Union army at the time of the civil war. Initially it used to charge $2000 for false claim which was considered as double damages but with time the False Claims Act (FCA) has undergone significant amendments with fines ranging from $5,000 to $10,000. This Act was made with the belief that even paying the whistleblowers half the amount would save the government a huge part of its treasury and help them uncover larger fraudulent scams.

1.1.1 THE UNITED NATION CONVENTION AGAINST CORRUPTION

A convention that marked a significant leap by explicitly encouraging member states to protect individuals reporting illicit practices which actually positioned whistleblowers as essential

[5] Eric Dates, *Whistleblowing through history:key moments and legal protection*, VCOMPLY, (Sep. 28, 2025, 6:30pm) https://www.v-comply.com/blog/history-of-whistleblowing/.
[6] *Whistlebllowing history overview*, WHISTLEBLOWER INTERNATIONAL, (Sep. 28, 2025, 6:20pm) https://whistleblowersinternational.com/what-is-whistleblowing/history/.
[7] Supra Note 5.

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agents in this fight against corruption globally.[8] The validation of whistleblowing as essential human right rather than a purely corporate or employment matter depicts a fundamental conceptual shift that has shaped legislative responses. The periodic peer review mechanism of the convention where countries decide appropriate measures for whistleblowing protecting makes it a game changing convention. This process not fosters accountability but also identifies gap for improvement.[9]

There are various International Labour Convention which indirectly discusses about whistleblowing but UNCAC is the only convention which expressly discusses about whistleblowing

1.1.2 EVOLUTION OF WHISTLEBLOWING IN INDIA

In India Corporate Whistleblowing has evolved as a crucial tool for ensuring ethical governance and corporate accountability. The traditional corporate culture in India discourages internal dissent which makes it more important to have an adequate legal mechanism in order to combat against the incessant undue influence that eventually transpires into habitual unethical atmosphere.

The emergence of whistleblowing laws was due to the infamous murder saga of Satyendra Dube who reportedly exposed the malpractices of the National Golden Quadrilateral project. The PIDPI resolution was enforced by the law commission in order to address the issues of whistleblowing protection in the public sector. The Whistle Blowers Protection Act, 2011 was enacted which provides a mechanism to investigate alleged corruption and misuse of power by public servants and also protects anyone who exposes the alleged wrongdoings.[10] The Whistle Blowers Protection Act, 2011 has ensured that any kind of corruption in the public sector should be dealt sensitively and strictly. The lack of limited private sector applicability of the said Act is considered to be the biggest issue in the current scenario.[11]

[8] United Nations Convention against Corruption, §. 33.
[9] *Id.*
[10] Jagabandhu Sahoo, Biswajit Biswal and Pratima Sarangi, *Voices of truth: The role of whistleblowing in strengthening governance and accountability in India*, (Sep. 29, 2025, 3:20pm) https://www.journalofpoliticalscience.com/uploads/archives/7-1-5-915.pdf.
[11] *Id.*

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2. REGULATORY AND INSTITUTIONAL MECHANISM OF CORPORATE WHISTLEBLOWING IN INDIA

In India there is no dedicated legislation which specifically discusses about corporate whistleblowing in general. The Companies Act 2013, SEBI (LODR) Regulations and the listing clause agreement explicitly discusses about the mechanism that companies are bound to adopt relating to corporate whistleblowing.

2.1 COMPANIES ACT 2013

Sec 177 of the Companies Act 2013 mandates certain classes of companies to have an audit committee. The audit committee is entrusted to establish a vigil mechanism for directors and employees to report genuine concerns. The provision tries to institutionalise a robust mechanism for whistleblowing in India.

"Every listed company or such class or classes of companies, as may be prescribed, shall establish a vigil mechanism for directors and employees to report genuine concerns in such manner as may be prescribed.[12]

(10) The vigil mechanism under sub-section (9) shall provide for adequate safeguards against victimisation of persons who use such mechanism and make provision for direct access to the chairperson of the Audit Committee in appropriate or exceptional cases."[13]

There is no proper explanation of the term *'exceptional cases'* and it makes the provision ambiguous. Along with that the section mandates the audit committee to have a vigil mechanism but it fails to ensure strict adherence of certain uniformities. Thus, the proviso makes things extremely subjective and discretionary.

Dr. Anil Kumar and Dr. Seema Gupta in their article *"Decoding Whistle Blowing Policies of Indian Companies*"[14] did an empirical analysis of top 100 listed companies which will help us determine the efficiency of the institutional framework adopted by various companies in maintaining corporate transparency and accountability. They used various parameters like nomenclature of the policy, tone of the policy, procedure of whistleblowing etc.

The conclusion of the paper simply states that the effective implementation or the effort of

[12] The Companies Act, 2013, §. 177(9), No.18, Acts of Parliament, 2013.
[13] The Companies Act, 2013, §. 177(10), No.18, Acts of Parliament, 2013
[14] Dr. Anil Kumar and Dr. Seema Gupta, *Decoding Whistle Blowing Policies of Indian Companies*, ICSI, (Sep. 30, 2025, 11:20 am) https://www.icsi.edu/media/webmodules/CSJ/December/18.pdf.

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institutionalising corporate whistleblowing in India is still a distant dream.

2.2 SEBI LODR REGULATIONS

The SEBI (Listing Obligation and Disclosure Requirements) Regulations, 2015, became effective on 1st December 2015. Regulation 22 of SEBI (LODR) Regulations, 2015 required listed entities to establish a whistle-blower policy for Board and employees. The regulations are being refined after Kotak Committee recommendations, promoting transparency and accountability in corporate governance. They require comprehensive disclosures on financial performance, related party transactions, and corporate social responsibility. SEBI continuously updates these regulations to keep pace with global best practices and address evolving issues, promoting transparency, accountability, and integrity in operations.

"*A company is required to obtain a certificate either from the auditors of the company or practicing company secretaries as regards compliance of requirements of Corporate Governance. This certificate is required to be annexed with the Directors' Report, which is sent annually to all the shareholders of the company. Further, the same certificate is also required to be sent to the stock exchange (s) along with the Annual Report filed by the company. The requirements of revised Clause 49 (hereinafter referred as Clause 49) for Corporate Governance are divided into mandatory and non-mandatory requirements. Clause 49 is Guidance Note and this note is intended to provide guidance to auditors in certification of the compliance of requirements of Corporate Governance as stipulated in Clause 49 of the Listing Agreement between the Stock Exchange and the auditee company"*[15]

Clause 49 of the Listing Agreement is the main provision dealing with corporate governance obligations for listed companies in India. The revised Clause 49 sets out both mandatory requirements, which every listed company must comply with, and non-mandatory requirements, which are recommended but not legally binding. Mandatory requirements usually cover aspects such as the composition of the board of directors, the presence of independent directors, the constitution of audit committees, and the establishment of procedures for risk management and disclosures. Non-mandatory requirements may include practices like setting up a whistleblower mechanism or publishing half-yearly financial performance reports.

In this context, the certificate of compliance acts as evidence that the company has fulfilled the

[15] Clause 49 vii (1) of the Listing Agreement.

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mandatory provisions of Clause 49, and if it has also adopted some non-mandatory practices, that too can be recorded. The Institute of Chartered Accountants of India (ICAI) and the Institute of Company Secretaries of India (ICSI) have developed a Guidance Note on certification of compliance with Clause 49. This note provides detailed instructions to auditors or company secretaries about how to verify compliance, the kind of checks to be made, and the scope of their responsibility while issuing the certificate.

The listing agreement makes it mandatory for the companies to obtain a certificate from the auditors or the Company Secretaries to obtain a certificate of compliance of the requirements of corporate governance. Whistleblowing in this regard is considered to be the progeny of corporate governance and the proviso is designed to ensure corporate transparency and accountability.

3. CORPORATE WHISTLEBLOWING MECHANISM ACROSS VARIOUS JURISDICTIONS

As discussed earlier the capitalistic economies are the ones having robust regulatory mechanism in order to ensure corporate transparency and accountability.

The United States of America has arguably the most comprehensive whistleblowing regulation mechanism. Sarbanes Oxley Act in 2002 exposed a wave of corporate scandals like Enron, Tyco, WorldCom. The incorporation of monetary incentive through SEC whistleblower program and strengthening of anti-retaliation provisions have made the US model particularly robust.

The United Kingdom's framework is based on the Public Interest Disclosure Act (1998) and is a different model in comparison with USA as it primarily focuses on protection rather than incentives. Under PIDA, a "protected disclosure" is one made by a worker concerning certain categories of wrongdoing, such as criminal offences, miscarriages of justice, breaches of legal obligations, health and safety risks, environmental damage, or deliberate concealment of information related to such matters. The emphasis is not on rewarding whistleblowers but on ensuring that they are not penalised for acting in the public interest. This protective approach is in line with the broader philosophy of U.K. employment law, which focuses on safeguarding worker rights and promoting accountability within organisations. In the case of *Parkins v.*

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Sodexho[16] the distinction of private and public grievance was clearly made.

In Japan, fear of ostracism and loyalty to a group are the major stumbling blockages. Japan is an interesting case of legislative evolution influenced by cultural context. Japan traditionally is a hierarchal and conformity driven society. Thus, the ultimate barrier in a country like Japan is culture.[17]

The adoption of Sapin II Law in 2016 in France has transformed the entire whistleblowing mechanism in Europe. Establishment of structured reported procedures, prohibiting retaliation and confidentiality protection makes France a country with astounding whistleblowing measures.[18]

The blend USA and France will potentially form the bedrock jurisprudence of whistleblowing in India. India like Japan also faces the stereotype of cultural hierarchy where there is a tendency of resistance again illicit practices performed by various so-called influential people. It is indeed the need off the hour of have an act which in essence will be deterrent in nature as the mainstream employees in India are all working in the private sector. The assurance of Job security is possible only if there are adequate measures present. This becomes more important as the constitution also demands socio economic justice.

4. CONCLUSION

India is achieving the constitutional objectives of social and economic justice in the age of a liberal economy. The growing need of having a proper mechanism that acknowledges and validates human rights in the corporate sector becomes necessary as the private sector is the principal job provider. Whistleblowing in the private sector comes under the domain of business and human rights. The history of whistleblowing in general traces back into the medieval England where qui tam proviso was the norm. USA always had a robust and sound mechanism for the corporate sector. The False Claims Act, Sarbanes Oxley Act and the Dodd and frank Act together form the whistleblowing jurisprudence of the USA. France, with the

[16] Parkins v. Sodexho Ltd, [2002] ICR 1405 (CA).
[17] Masaki Iwasaki, *Whistleblowers as Defenders of Human Rights: The Whistleblower Protection Act in Japan*, Cambridge University Press, (Visited Mar. 17. 2025)https://www.cambridge.org/core/journals/business-and-human-rights-journal/article/whistleblowers-as-defenders-of-human-rights-the-whistleblower-protection-act-in-japan/FB7D9B9D38A13E0.
[18] Kelly Maxwell, *From Sapin II to Sapin III: France's anti-corruption fight*, ONETRUST, (Sep. 30, 2025, 1:20 pm) https://www.onetrust.com/blog/from-sapin-ii-to-sapin-iii-frances-anti-corruption-fight/.

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adoption of the Sapin II law, has gone further by institutionalising structured reporting channels, ensuring confidentiality, and prohibiting retaliation, thereby raising the standards of corporate compliance across Europe. Japan, while legislatively evolving, highlights the importance of culture, where loyalty, hierarchy, and conformity still remain formidable barriers. These comparative experiences reveal that there is no "one-size-fits-all" model; rather, whistleblowing laws must be tailored to the political economy, culture, and social structure of each jurisdiction. India is at the nascent stage of the whistleblowing regulation mechanism. India post the Satyendra Dube murder scandal have formulated the Whistle Blowers Protection Act but it has only public sector applicability. The Whistle Blowers Protection Act, 2011 has ensured that any kind of corruption in the public sector should be dealt sensitively and strictly. There is a need of institutionalisation and it can only be achieved through a legislation specifically dedicated for whistleblowing. Such a framework should integrate protection against retaliation, clear reporting channels, confidentiality safeguards, and even incentive structures, drawing from international best practices while adapting to India's socio-cultural realities. Only through such reforms can whistleblowing be elevated from a symbolic act of resistance to a functional tool of transparency, ensuring that human rights and corporate responsibility are not abstract ideals but lived realities in a liberalising economy.

Beyond the law, there is also a need to foster a cultural shift in organisations—moving from a culture of silence and conformity to one of openness, accountability, and ethical responsibility.

In this sense, corporate whistleblowing represents more than an internal regulatory tool; it is a bridge between economic growth and human rights, between corporate power and individual dignity. The effectiveness of whistleblowing regimes directly determines the extent to which corporations can be held accountable for their social responsibilities. For India, therefore, the task is twofold: to legislate comprehensively and to cultivate a culture where ethical disclosures are valued rather than penalised. Only by achieving this balance can whistleblowing become a functional instrument of justice, ensuring that corporate governance in India is not merely profit-driven but aligned with the constitutional ethos of fairness, equity, and human dignity.