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## **Avinash Kumar**



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*

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# **WHISTLEBLOWERS: UNVEILING TRUTH, UPHOLDING INTEGRITY**

AUTHORED BY: SIDDHARTH BHATI

([Sidbhati09@gmail.com](mailto:Sidbhati09@gmail.com), 8588940036)

BA LLB(H) 2020-2025

Amity University Noida, Uttar Pradesh

## **ABSTRACT**

Whistle blowers are courageous people who come forward with evidence of wrongdoing, corruption, and misbehavior in various institutions. This study examines the vital part they play in promoting openness, responsibility, and moral conduct in society. They observe unethical behavior, ethics violations, and occasionally even criminal activity in workplaces, government agencies, or other organizational settings. They choose to speak up despite the significant personal risks involved because they have a strong moral compass, a passion to justice, or a determination to protecting the public good. Whistleblowers deal with a lot of difficulties.

Keywords: whistle blower, transparency, fraud, ethical, integrity

## **INTRODUCTION**

A crucial tool for exposing injustice, corruption, and unethical behavior within organizations and governmental entities is whistleblowing. The concept of whistleblowing has become more popular in India in recent years as a means of advancing accountability, transparency, and good governance. Whistleblowers are crucial in exposing instances of fraud, corruption, environmental violations, threats to public safety, and other types of malfeasance that can go unreported.

Whistle blowers in India are those who, at their own risk, reveal information about illegal or immoral acts taking place at their place of employment or in public organizations. These people are motivated by a sense of accountability and a dedication to the ideals of fairness and honesty. Their primary goal is to safeguard the interests of the general public and society.

The Government of India has implemented a variety of legislative measures, such as the Whistleblower Protection Act, 2014 [Whistleblower Protection Act, 2014, No. 17, Acts of Parliament, 2014 (India)], to encourage whistle blowers and give them legal protection. The Whistleblower Protection Act strives to protect informants from victimization and reprisal while maintaining the privacy of their identities. Additionally, it offers procedures for investigating complaints and punishing those who damage or threaten whistleblowers.

In India, whistleblowers are important players in the battle against corruption and the promotion of moral leadership. Their willingness to come forward with proof of wrongdoing supports the rule of law, the integrity of public and private institutions, and the foundation of a fair and responsible society.

## **TYPES OF WHISTLE BLOWER**

### **Internal Whistle Blower**

Employees that choose to disclose misbehavior, fraud, unethical behavior, or any other type of wrongdoing they see or think is taking place at work are known as internal whistle blowers. These brave staff members or insiders are essential to upholding the moral standards of their company and advancing ethical behavior.

Internal whistleblowers frequently have a strong commitment to the values of openness, responsibility, and moral behavior. Their motives can range from a sense of obligation to uphold the reputation of their company to genuine concern for the safety of coworkers, clients, or the general public. They can make advantage of the internal reporting options that their company has, like confidential hotlines, compliance offices, or specific reporting channels.

Internal whistle blowers assist their organizations in addressing concerns before they develop into more serious issues, legal liabilities, or reputational damage by coming forward with information regarding malfeasance. Additionally, they help to foster an environment where employees are urged to uphold business principles and the law.

## **External Whistle Blower**

External whistle blowers are people who reveal misbehavior, fraud, or unethical behavior within a company to outside parties like government agencies, law enforcement, regulatory bodies, or the media even though they are not directly involved with that institution. These people frequently play a crucial part in disclosing misconduct that could otherwise go unnoticed, promoting accountability and openness.

External whistleblowers contribute to the initiation of investigations, legal lawsuits, or public scrutiny that can result in corrective measures, sanctions against wrongdoers, and advancements in organizational procedures by bringing their concerns outside the company.

## **Alumni Whistle Blower**

A former employee who reports incidents of misbehavior, fraud, or unethical behavior that they have learned about after leaving the organization is referred to as an alumni whistle blower. These people use their inside information to expose wrongdoing because they are committed to honesty and ethical ideals. Alumni whistleblowers may draw attention to problems at their former employer to encourage responsibility, openness, and constructive change. Even after they have cut ties with the organization, their actions continue to support its reform and the larger objective of assuring ethical behavior.

## **Open Whistle Blower**

A person who publicly and openly reports wrongdoing, corruption, or unethical behavior without hiding their name is known as an open whistle blower. When they come forward with their revelations, they do not do so under cover of anonymity or confidentiality. Open whistle blowers frequently act out of a strong feeling of moral obligation and do so without concern for retaliation or negative consequences. Their readiness to make information about wrongdoing public aids in generating awareness, launching investigations, and advancing accountability and transparency. Open whistle blowers attempt to bring to light problems that demand the public's attention and action, even though they could encounter potential risks and difficulties.

A person who decides to remain anonymous when disclosing important information concerning misbehavior, fraud, or unethical behavior is known as an anonymous whistle blower. Whistleblowers

must remain anonymous for their safety because they frequently fear retaliation or other negative consequences. This protection enables them to share private information, promoting accountability, openness, and moral behavior within businesses and institutions. anonymous Whistle Blower

## **What makes whistleblowers so crucial**

Whistleblowers are crucial for a number of reasons.

They serve as an early warning system since they are aware of any unethical, illegal, or fraudulent acts taking place within the company. Their bravery in coming out and reporting such misconduct enables companies to identify and solve problems at an early stage, avoiding problems from worsening. Whistleblowers contribute to the upkeep of the organization's honor and reputation by serving as a watchdog.

By revealing misconduct, whistleblowers serve to safeguard the interests of a variety of stakeholders, including those of employees, clients, shareholders, and the general public. By speaking up, they protect the company and its stakeholders from being hurt by unethical behavior, financial fraud, safety violations, or other wrongdoing.

They contribute to the development of an accountability culture by demonstrating to the entire organization that moral conduct, openness, and responsibility are fundamental principles. Supporting individuals who speak up encourages other employees to act honorably and raise issues without worrying about repercussions. Long-term success depends on fostering a culture of trust, accountability, and open communication.

Whistleblowers frequently give important information about infractions of laws, regulations, or corporate policies, which helps to boost compliance efforts. Organizations can quickly take corrective action after learning about areas of non-compliance and other issues thanks to these disclosures. Establishing a whistleblower program enables firms to show their dedication to maintaining legal and regulatory requirements as well as their support for whistleblowers. Whistleblowing done proactively reduces the organization's reputational, financial, and legal risks.

## EFFECTS

### Positive Result

Whistleblowing exposes instances of wrongdoing, fraud, corruption, and unethical behavior that might otherwise go unnoticed. For these problems to be addressed and fixed, this exposure is crucial.

- **Accountability:** Making a whistleblower holds people and organizations responsible for their behavior. Criminals are more likely to suffer the repercussions of their actions through court proceedings, internal inquiries, or public scrutiny.
- **Transparency:** Whistleblowing encourages openness throughout institutions and organizations. It promotes open discussion on moral principles, compliance, and the significance of abiding by rules and laws.
- **Prevention of Harm:** Whistleblowing can stop harm from being done to the general public, customers, workers, or the environment. For instance, it can halt the sale of dangerous goods, contamination of the environment, or financial fraud before they seriously harm consumers.
- **Ethical Culture:** Encouraging whistleblowing fosters a culture of ethics and integrity within organizations. Employees are more likely to act in accordance with the law and ethical guidelines when they know that wrongdoing will not be tolerated.
- **Legal Protections:** Whistleblowing laws and protections ensure that individuals who come forward are shielded from retaliation or harm. These legal safeguards encourage more people to report misconduct.
- **Improved Governance:** In government and public institutions, whistleblowing can lead to improved governance, reduced corruption, and enhanced public trust in the system.
- **Efficiency and Effectiveness:** In private organizations, whistleblowing can lead to increased operational efficiency and effectiveness. It can help identify inefficiencies or wasteful practices.

- **Prevent Future Misconduct:** Whistleblowing cases often result in reforms and policy changes that prevent future instances of misconduct. Lessons learned from whistleblowing can lead to stronger regulations and compliance mechanisms.
- **Inspiration for Others:** Whistle blowers can inspire others to come forward with their concerns, creating a snowball effect that encourages more ethical behaviour and disclosures.

### Negative Effects

- **Whistle blowers frequently experience reprisal** from their supervisors, coworkers, or employers. This may manifest as bullying, relegation, dismissal, or even blacklisting in their field. The whistleblower may suffer serious personal and professional repercussions as a result of retaliation.
- **Isolation:** Whistle blowers could encounter social isolation in both their professional and personal lives. When someone exposes wrongdoing, coworkers may turn away, and friends and family may be reluctant to be with them..
- **Emotional Distress:**Whistleblowing can result in severe mental stress, such as sadness, anxiety, and post-traumatic stress disorder. The whistle blower's mental health may suffer as a result of the process of reporting misconduct and dealing with the repercussions.
- **Legal Battles:** Whistle blowers may become embroiled in lengthy and costly legal battles with their employers or the organizations they have reported. This can drain their financial resources and consume their time and energy.
- **Career Disruption:** Whistleblowing can disrupt a person's career, particularly if they are unable to find new employment due to industry blacklisting or the stigma associated with being a whistle blower.
- **Loss of Privacy:** Whistle blowers may lose their privacy as their personal lives and actions come under scrutiny during investigations or legal proceedings.

- **Loss of Trust:** Organizations may suffer reputational damage, loss of public trust, and financial setbacks as a result of whistleblowing revelations.
- **Impact on Relationships:** Whistleblowing can strain relationships with family and friends who may not fully understand or support the whistle blower's actions.
- **Public Scrutiny:** Whistle blowers who go public with their disclosures may face media attention and public scrutiny, which can further compound the stress and emotional toll of their actions.

## **WHISTLE BLOWER PROTECTION IN INDIA**

### Companies Act, 2013

Section 177(9)<sup>1</sup> of the Companies Act, 2013 mandates that all publicly listed companies are required to establish a vigilant mechanism, including a whistle-blower policy, aimed at facilitating the reporting of concerns by employees and senior executives. The intent and effectiveness of such a whistle-blower policy depend on the organization's commitment to its creation and implementation.

Key aspects of the framework for this policy are as follows:

- **Reporting Channels:** The policy should establish clear channels for reporting violations at all levels within the organization, with the Chairman of the Board overseeing these channels.
- **Inclusivity:** All employees, from entry-level staff to directors, should be permitted to report any violations, which may include discrimination, wilful negligence of quality, colluded fraud, or misappropriation of budgets.
- **Investigation:** Upon receiving a report, senior management should initiate an investigation, with false evidence treated as a serious matter.
- **Protection:** The policy must guarantee zero harassment of the whistle blower by the management and strictly prohibit retaliation in any form.

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<sup>1</sup> Companies Act, 2013, & No. 18, Acts of Parliament, 2013 (India).

- Confidentiality: Full confidentiality should be maintained at all times to safeguard the whistle blower.
- Exceptions: The policy should specify that whistle blowers will not be protected from disciplinary action if their allegations are proven to be unfounded and made with malicious intent.

The Companies Act 2013 encompasses the entire framework for inquiry, investigation, and inspection under one chapter (sections 206 to 229). These provisions increase the identification of wrong practices by external agents, potentially transforming them into external whistle blowers.

Section 208<sup>2</sup> empowers an Inspector (other than the registrar) to scrutinize records and recommend further investigation in cases of doubt, while Section 210 empowers the Central Government to order an investigation based on recommendations from the registrar, Inspector, public interest, or a special resolution passed by the company.

Section 211<sup>3</sup> led to the establishment of the Special Fraud Investigation Office (SFIO) with the authority to arrest individuals for specified fraud offenses. Auditors, who were previously not legally empowered to identify fraud, are now obligated to act as whistle blowers and report such acts directly to the Central government or relevant authorities.

#### Securities and Exchange Board of India (SEBI)

The Securities and Exchange Board of India (SEBI) issued a circular on August 26, 2003, amending the Principles of Corporate Governance outlined in the standard Listing Agreement. In the previous version of the Listing Agreement, Clause 49 addressed the establishment of a Whistle blower Policy for companies. However, it wasn't obligatory to implement such a policy, although many companies voluntarily embraced it due to its positive impact on compliance and governance standards. Nonetheless, companies were mandated to disclose whether they had adopted such a policy and provide information about the number of reported events under the policy, as well as the number of cases resolved or pending.

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<sup>2</sup> Companies Act, 2013, & No. 18, Acts of Parliament, 2013 (India).

<sup>3</sup> Companies Act, 2013, & No. 18, Acts of Parliament, 2013 (India).

Whistleblower Protection Act, 2014

The Whistleblower Protection Act of 2014<sup>4</sup> incorporates a range of provisions designed to protect whistle blowers and enhance transparency and accountability. The main elements of the Act can be summarized as follows:

- **Complaint Receiving Mechanism:** The Act establishes a mechanism for receiving complaints concerning corruption or the misuse of power by public servants.
- **Protection from Retaliation:** Adequate safeguards are provided in the Act to shield whistle blowers from victimization or reprisals resulting from their disclosures.
- **Competent Authorities:** The Act outlines various competent authorities to whom disclosures in the public interest can be made. Each authority is assigned specific responsibilities based on the nature of the complaint. For instance, the Prime Minister serves as the competent authority for complaints against Union Ministers.
- **Identity Disclosure and Timeframe:** Complainants are required to disclose their identity, and anonymous complaints are not permitted. Complaints must be filed within a maximum timeframe of seven years.
- **Exemptions and Appeals:** Certain personnel, such as those affiliated with the Special Protection Group, are exempted from the Act's provisions. Furthermore, individuals dissatisfied with a Competent Authority's decision can appeal to the respective High Court within sixty days.
- **Penalties for Identity Disclosure:** Revealing the identity of a complainant can result in imprisonment for up to three years and a fine of up to Rs 50,000. Knowingly providing false or misleading information may lead to imprisonment for up to two years and a fine of up to Rs 30,000.

- Annual Report: The Competent Authority is mandated to compile an annual report detailing its activities and submit it to the Central or State Government, which subsequently presents it before the respective Parliament or State Legislature.
- Overriding Effect: The Whistleblower Protection Act takes precedence over the Official Secrets Act of 1923, allowing for disclosures that do not compromise the nation's sovereignty.

## EXAMPLES

### Example 1

Satyendra Dubey, one of India's earliest whistle blowers, served as an Indian Engineering Services (IES) officer and was appointed as a project director for the National Highway Authority of India. His responsibilities included overseeing the construction of a segment of NH 2 (The Grand Trunk Road) within the Aurangabad-Barachatti section. This highway project was a significant part of former Prime Minister Atal Bihari Vajpayee's ambitious infrastructure initiative known as the 'Golden Quadrilateral Project', situated in the Koderma district of Jharkhand. Dubey exposed financial irregularities within the project's operations, leading to the suspension of three engineers employed by the contractor. Unfortunately, on November 27, 2003, while returning from a wedding in Varanasi, tragedy struck as Dubey was fatally shot after reaching Gaya. His body was discovered by the roadside in A.P colony by his driver. In recognition of his courageous actions, Satyendra Dubey was posthumously honoured with the 'Whistle blower of the Year' award by the London-based organization Index on Censorship.

### Example 2

Shanmugam Manjunath, a computer science engineer and a grade 'A' government officer at the Indian Oil Corporation (IOC), exposed corruption at two petrol pumps in Lakhimpur Kheri, Uttar Pradesh. While in his capacity, he took action by sealing the two petrol pumps, which were found to be selling adulterated fuel. Furthermore, he conducted surprise raids when these pumps resumed operations after a month. Unfortunately, on November 19, 2005, Manjunath met a tragic end when he was shot six times in the town of Gola Gokarannath in Lakhimpur Kheri. His body was discovered in the backseat of his own car, which was being driven by two employees of the petrol pump.

### Example 3

Lalit Mehta, an engineer actively engaged in the 'The Right to Food' campaign in Palamu district, Jharkhand, exposed corruption within the Mahatma Gandhi National Rural Employment Guarantee scheme. He conducted a social audit of the scheme with the assistance of economists but was tragically murdered before he could fully uncover the extent of the scam. On May 15, 2008, Mehta was attacked while riding his bike in Chhatarpur district, Madhya Pradesh.

## CONCLUSION

Every business should provide a way for problem-reporting whistleblowers to do so anonymously. Employers and other stakeholders can be encouraged to voice their concerns by using independent channels like the corporate whistle blower program. Many businesses are concerned that allowing anonymous complaints would result in an increase in baseless, harmful, and nefarious allegations that might be difficult to handle. Companies may create a list of actions that constitute unfair and unethical practices to address this issue, and the whistleblower mechanism should only be used to report problems relating to these actions.

The policy should clearly state what details must be included in a complaint in order to launch an investigation. The whistle blower policy's emphasis should be on the message itself, not the identity of whistle blower

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