

# Laws on Protection of Whistle Blowers

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## Abstract

Whistleblowing, an act often shrouded in complexity and controversy, emerges as a vital mechanism in upholding ethical standards and accountability within our societal framework. It embodies the courageous act of revealing malpractices, illegalities, or unethical behavior within an organization by insiders who are driven by a sense of duty or personal values and choose to unveil hidden truths that could otherwise remain concealed. Today, the significance of whistleblowing reverberates across various sectors, from corporate environments to government entities and non-profit organizations. It acts as a moral compass, steering us toward transparency, accountability, and the preservation of ethical standards. This paper delves into the multifaceted history and global landscape of whistleblower protection laws and their evolution. The rise of legal protections and frameworks for whistleblowers marks a positive shift. Nations across the globe have recognized the need to shield these individuals from retaliation, offering safeguards and avenues for reporting that prioritize their safety and well-being.

## Introduction

The term "whistle-blower" is linked to various theories, such as sports referees and British police whistles, but its essence of individuals raising alarms against wrongdoing transcends governmental or law enforcement contexts.

The origin of whistleblowing can be traced back to the medieval period when there was no national police force. People could report crimes to the king's representatives, invoking the concept of "qui tam," meaning "he who sues on behalf of our lord the king and on his own behalf."<sup>3</sup> This practice was transported to British colonies in North America, and early American federal government recognized the importance of reporting wrongdoing to Congress.

The first documented whistleblower case in the United States occurred in 1777 when Richard Marven and Samuel Shaw reported their commanding officer, Esek Hopkins, for torturing British prisoners. As a consequence, they were removed from their positions and imprisoned for defamation. However, they sought help from Congress, leading to the passage of the nation's first whistleblower protection law in 1778. This law provided funding for their legal defense, resulting in a successful outcome.<sup>4</sup>

The "qui tam" concept saw a decline during the 19th century but resurfaced during the Civil War, aiming to combat war profiteering and expose corrupt defense contractors. This era shaped American

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<sup>3</sup> <https://time.com/5684536/whistleblower-history/>

<sup>4</sup> <https://www.visslan.com/en-blog/the-history-of-whistleblowing-until-today>

whistleblower law, giving birth to the False Claims Act<sup>5</sup>. This act rewarded whistleblowers with a share of the money recovered by the government, with the belief that they could uncover large fraudulent schemes and protect government finances. After World War II, due to an influx of unnecessary lawsuits filed for rewards, the U.S. Congress opted to abolish these incentives, leading to a lull in whistleblower cases.

In the 1980s, the False Claims Act was amended and reinstated with its original incentive provisions, along with enhanced safeguards for whistleblowers, resulting in the False Claims Act of 1986.

Shifting the focus to India, the paper highlights the country's journey toward whistleblower protection. It started with a recommendation from the Law Commission of India in 2001 to protect whistleblowers and combat corruption. In 2004, the Public Interest Disclosure and Protection of Informers Resolution (PIDPIR) was adopted, granting the Central Vigilance Commission the authority to respond to complaints from whistleblowers. India's commitment to international conventions, like the UN Convention against Corruption, furthered the need for whistleblower protection. In 2011, India proposed the Whistleblowers Protection Bill, which was enacted into law in 2014.

Finally, the paper takes a comparative approach, examining various countries to understand the results of those that rigorously uphold whistleblower protection rights and laws, as well as those with more lenient regulations. It explores the procedures, risks, attitudes, and challenges encountered when implementing whistleblower protection laws successfully. This comprehensive analysis offers valuable insights into the global landscape of whistleblower protection and its historical and contemporary significance.

## Definitions

Whistleblowing, while lacking a standardized definition, is generally understood as the act of disclosing information about illegal, immoral, or illegitimate practices within an organization to individuals or entities capable of taking action to address the misconduct. This concept has been defined and discussed by various scholars and organizations, offering insights into the key elements and various scenarios surrounding whistleblowing.

**1. Near and Miceli's Definition (1985)<sup>6</sup>:** This widely recognized academic definition emphasizes several key elements of whistleblowing:

- The whistleblower is typically an insider of the organization, either a current or former member.
- The relationship of the whistleblower to the organization is work-related.
- Information is disclosed to an authority, which can be a person or an organization, with the capability to intervene and address the misconduct.

**2. ILO's Definition:** The International Labor Organization (ILO) provides a similar perspective, defining whistleblowing as the reporting of illegal, irregular, dangerous, or unethical practices by employers<sup>7</sup>. This definition underscores the critical role of employees or former employees in revealing wrongdoing within their organizations.

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<sup>5</sup> <https://www.legalserviceindia.com/legal/article-11999-who-blew-it-an-analysis-of-the-historical-background-and-global-perspective-of-whistleblowing.html>

<sup>6</sup> (Near and Miceli's Definition 1985)

<sup>7</sup> <http://ilo.multites.net>.

3. **Chamorro-Courtland and Cohen's Perspective (2017)<sup>8</sup>**: This perspective offers a nuanced view of whistleblowing, acknowledging that a whistleblower can take on different roles and motivations:
  - Whistleblowers may possess information about wrongdoing within an organization, which they disclose based on their personal beliefs in the unethical nature of the misconduct.
  - Whistleblowers can also be individuals directly involved in the wrongdoing, either under pressure from colleagues or management or acting willingly. Their motivations may include ethical concerns, fear of legal consequences, or personal gain, such as financial rewards or reduced penalties.
4. **United Nations Convention against Corruption<sup>9</sup>**: The UN Convention against Corruption defines whistleblowers as individuals who report facts concerning offenses established by the Convention. Importantly, it highlights the requirement that whistleblowers act in good faith and with reasonable grounds when reporting.
5. **Whistle Blowers Protection Act of 2014 (India)<sup>10</sup>**: In India, the Whistle Blowers Protection Act of 2014 extends the scope of whistleblowers to include not only public servants but also other individuals, and even non-governmental organizations. This act underscores the notion of public interest disclosures, emphasizing the broader goal of addressing misconduct that affects society as a whole.

Overall, whistleblowing encompasses a range of scenarios, motivations, and individuals who come forward to expose wrongdoing within organizations. These definitions and perspectives underscore the significance of providing avenues for individuals to report misconduct while recognizing that whistleblowers can vary in their relationships to the wrongdoing, their motivations, and the authorities to whom they report. Legal frameworks, like the Whistle Blowers Protection Act in India and international conventions, aim to provide protection and mechanisms for individuals to blow the whistle in the interest of justice and the common good.

### Importance and need

For an organization to be healthy it is necessary that it should be free from illicit activities. It is impossible for the management to control or supervise each and every person in an organization. Therefore, the concept of whistle blowing places workers who are engaged in the basic employment and having access to privileged information linked to the management, operational or finance in an unique position to alert the authorities or the public regarding illicit actions of the organization including tax-evasion, money-laundering, corruption, environmental crimes, safety violations and illicit trade and helps to prevent possible harm or damage before it escalates through efficient means<sup>11</sup>.

It plays a crucial role in reporting the misconducts and other form of illicit or unethical behavior to the authorities and allows the public to be aware of such breaches and violations that otherwise would have remained concealed. It maintains the accountability, transparency and ethical standards in various sectors, including government, corporate, and non-profit organization by providing appropriate channels for whistle blowing which is essential for a democratic state to support its core values and functioning's. It

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<sup>8</sup> (Chamorro-Courtland and Cohen's Perspective 2017)

<sup>9</sup> (UNODC, 2015)

<sup>10</sup> (THE WHISTLE BLOWERS PROTECTION ACT, 2014)

<sup>11</sup> <https://www.ganintegrity.com/blog/the-importance-of-whistleblowing-in-an-organization/>

acts as a warning system and helps to improve the efficiency of public agencies and non-profit organizations, it also helps to identify and control risks and threats in an organization. For instance, a whistleblower in a pharmaceutical company exposing unsafe practices could potentially save lives by preventing the distribution of harmful drugs, major fraudulent financial activities that led to the collapse of companies such as Enron and Barings could have been prevented with appropriate whistle-blowing practices and protections.

It promotes accountability by holding individuals and organizations accountable for their actions. When malpractices or unethical behavior are brought to light, it encourages responsible behavior and adherence to laws and regulations. It reinforces ethical standards within organizations by discouraging unethical behavior and encourage adherence to ethical guidelines. It helps to ensure compliance with laws and regulations when internal mechanism fails to address violations, whistle blowing provides channel to address these concerns externally.

Though whistle blowing proves to be particularly effective in the prevention and elimination of crimes and frauds, the whistle blowers have to bear the risk of paying a steep price in the absence of appropriate protection systems for reporting, they are most vulnerable and in great need of effective protection. Encouraging a culture that values and protects whistle blowers can enhance the overall organizational culture, empowering employees to speak up and fostering a healthier work environment. However, it's important to note that whistleblowing can be a challenging decision for individuals. Whistleblowers might face retaliation, harassment, or even legal repercussions. As a result, establishing robust whistleblower protection laws and frameworks is crucial to safeguarding those who come forward with information. Ultimately, whistleblowing serves as a fundamental check-and-balance mechanism within society, promoting integrity, accountability, and the common good.

### Standards and procedures for whistle blowing

Whistle blowing standards and procedures<sup>12</sup> are designed to provide **clear guidelines** and structured process for individuals to report concerns about wrongdoing or unethical behavior in an organization. It is fundamental to establish a well-defined whistle blowing policy which outlines what constitutes whistleblowing, procedures for reporting, and protection available for whistle blowers against retaliation.

It should provide secure and **confidential reporting channels**. These channels vary in their accessibility, confidentiality, and the methods used for reporting. Confidentiality ensures the safety of the whistleblower and the integrity of the investigation. This might include anonymous hotlines, dedicated email addresses, or secure online platforms. There are different types of channels for whistle blowing:

- 1. Internal reporting channels-** established within the organization itself, such as:
  - Direct Supervisors or Managers: Employees can report concerns to their immediate supervisors or higher-level management.
  - Human Resources Departments: often have procedures for handling complaints or ethical concerns raised by employees.
  - Ethics Hotlines or Helplines: Confidential phone lines or online platforms provided by the organization for employees to report concerns anonymously or confidentially.

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<sup>12</sup> <chrome-extension://efaidnbnmnibpcjpcglclefindmkaj/https://www.oregon.gov/boli/civil-rights/Documents/whistleblower-protections.pdf>

- Compliance Officers or Compliance Hotlines: Dedicated officers or departments specifically tasked with ensuring compliance with laws, regulations, and ethical standards.
2. **External Reporting Channels-** In some cases, employees may choose to report concerns outside the organization due to fear of retaliation or lack of trust in internal mechanisms. External channels include:
- Government Agencies: Regulatory bodies or government agencies related to specific industries where individuals can report concerns, such as the Securities and Exchange Commission (SEC)<sup>13</sup> or Occupational Safety and Health Administration (OSHA)<sup>14</sup>.
  - Whistleblower Protection Organizations: Independent organizations or NGOs that specialize in protecting and supporting whistleblowers. They might offer advice, legal assistance, or advocacy for whistleblowers.
  - Legal Counsel or Attorneys: Whistleblowers may seek legal counsel to understand their rights and options before deciding on reporting mechanisms.
3. **Media or Public Disclosure-** In certain extreme cases, individuals might choose to disclose information to the media or the public directly. This can be a last resort when internal and external channels seem insufficient or compromised.

Each channel comes with its own set of considerations regarding confidentiality, potential impact on the organization, and legal implications. The choice of channel often depends on the severity of the concern, the level of trust in internal mechanisms, and the perceived risks and protections available to the whistleblower. There should be **accessibility and awareness** among all employees about the whistleblowing policy. This involves regular communication, training, and accessible information about the procedures available for reporting concerns.

It is important to establish **non-retaliation protection** to guarantee protection against retaliation for whistle-blowers which encompasses safeguards against demotion, harassment, termination, or any form of discrimination as a result of whistleblowing. The **investigation Protocol** i.e.; the investigation process for handling reported concerns should be defined clearly. This involves assigning a responsible team or committee to impartially investigate the reported issue, maintaining transparency while respecting confidentiality and giving a timely response which demonstrates the seriousness with which the organization treats whistleblowing allegations and help build trust in the process.

They should maintain **standard documentation and records** of reported concerns, investigations and actions taken. Proper documentation ensures accountability and transparency throughout the whistleblowing process at the same time we should ensure that the whistleblowing policy and procedures comply with relevant laws and regulations. This includes privacy laws, anti-retaliation laws, and any specific industry standards or legal requirements.

The whistleblowing policies and procedures should be regularly reviewed and updated to adapt to changing circumstances, laws, or feedback from whistleblowers. Continuous improvement helps in strengthening the effectiveness of the system.

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<sup>13</sup> (Securities Exchange Act of 1934)

<sup>14</sup> (Occupational Safety and Health Act of 1970)

### **Risks factors involved**

The organization as well as the work force have an instinct fear towards whistleblowers and view them as trouble rather than looking into the concern raised by them. Whistle blowers are considered as traitors and are always judged in negative aspects. This is especially due to the deeply flawed culture and lack of awareness about the risk taken by employees to expose the harmful or illicit activities in the management and the importance of whistle blowing in the governance of an organization.

A chemical technician, exposed safety violations at a plutonium processing plant and collected evidence of health and safety risks but died in a suspicious car accident before she could testify. Her case led to increased awareness of the dangers faced by whistleblowers and highlighted the importance of protection for those exposing corporate wrongdoing (Karen Silkwood 1974). In 2001 an Enron employee, warned the company executives about accounting irregularities and fraud. Though the company collapsed, and the employee faced personal and professional challenges for whistle blowing the company could have been saved if proper action was taken on time (Sherron Watkins 2001). A former U.S. Army intelligence analyst, leaked classified military documents to WikiLeaks, exposing information about U.S. military activities in Iraq and Afghanistan and faced serious legal repercussions, including 35-year prison sentence (later commuted by President Obama) and endured psychological strain during the trial (Chelsea Manning 2013).

These cases illustrate the immense personal, legal and professional risks often encountered by whistle blowers when exposing wrongdoings. Apart from these they also face retaliation from their employers, including demotion, termination, harassment, or blacklisting. In the case of Ellen Pao vs Kleiner Perkins highlighted the risks of retaliation, where a former employee sued her employer for gender discrimination after she claimed she was fired for raising concerns about gender bias. They may have difficulties in continuing their work in the same place due to being ostracized, isolated, scrutiny, exclusion from work opportunities, unwanted job transfers or assignments, pay or benefit reduction, pressure from the management leading to unfavorable working environment which may result in voluntarily resignation<sup>15</sup>. They may face difficulties in finding future employment due to tarnished reputation, trust issues or blacklisting. Their loyalty is questioned. In extreme cases whistle blowers are forced to flee from their country to protect themselves and endure the stress, anxiety, and emotional turmoil due to the pressure and backlash faced (Edward Snowden 2013). These cases have set important legal precedents and highlights the need for whistle blowing protection act to ensure the safety of whistle blowers and encourage the culture of whistle blowing.

### **Sources of protection**

#### **➤ International laws:**

The international legal framework against corruption acknowledges the critical role of whistleblowers and mandates countries to integrate or consider integrating measures into their domestic legal systems to protect individuals who report acts of corruption in good faith and based on reasonable grounds. This recognition is evident in major international treaties addressing corruption.

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<sup>15</sup> <https://www.employmentlawfirm.com/dangers-of-whistleblowing/>

Before 2000's the United Nations (UN)<sup>16</sup> and various international organizations acknowledged the significance of combating corruption, but specific protections were not explicitly outlined in international law. The Organization for Economic Cooperation and Development (OECD)<sup>17</sup> has issued soft law instruments, including the 1998 OECD Recommendation on Improving Ethical Conduct in the Public Service. Later the 2003 OECD<sup>18</sup> Recommendation on Guidelines for Managing Conflict of Interest in the Public Service advocate for clear rules and procedures for whistleblowing, ensuring protection for whistleblowers against reprisals, and preventing abuse of complaint mechanisms. The United Nations convention against corruption (UNCAC)<sup>19</sup> was adopted in 2003 which was not solely focused on protection of whistle blowers but encouraged member states to implement measures to safeguard whistleblowers. It recognized the need for protection of whistle blowers in international level. The OECD Anti-Bribery Recommendation of 2009 extends whistleblower protection across both public and private sectors, emphasizing the need to safeguard individuals who report bribery and corruption-related offenses. Over time, regional bodies like the European Union (EU)<sup>20</sup>, Council of Europe, and Organization of American States (OAS)<sup>21</sup> began formulating conventions and directives that included provisions for protecting whistleblowers. EU Directive on whistleblower protection (2019)<sup>22</sup> sets minimum standards for whistle blower protection across member states and establishes reporting channels and safeguards against retaliation. Apart from these conventions the international human rights frameworks, such as the Universal Declaration of Human Rights and regional human rights treaties, may indirectly support whistleblower protection by safeguarding freedom of expression and the right to information.

While these international instruments and conventions provide a framework for whistleblower protection, their implementation and effectiveness can vary among member states or countries that have ratified these agreements. National governments often need to enact or modify their domestic laws to align with these international standards and provide comprehensive protections for whistleblowers.

### ➤ Domestic laws

At national level, most countries have pieces of legislation directly or indirectly addressing whistle-blower protection, while few have dedicated laws. Legislative frameworks for whistle blower protection include labor laws, criminal laws, civil servants laws, anti-corruption laws and many based on international instruments. Among the G20<sup>23</sup> countries Australia, Canada, Japan, South Africa, The United Kingdom, and the United States these countries have dedicated legislations to protect public sector whistleblowers. The U.K and South Africa have adopted a single disclosure regime for both private and public sector whistle-blowing protection having the most developed legal system among them<sup>24</sup>. The countries also differ on who can qualify as public or private sector whistleblower. Historically more laws existed to

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<sup>16</sup> (United Nations 1945)

<sup>17</sup> (Organization for Economic Cooperation and Development 1998)

<sup>18</sup> (Organization for Economic Cooperation and Development 2003)

<sup>19</sup> (United Nations convention against corruption 2003)

<sup>20</sup> (European Union 1993)

<sup>21</sup> (Organization of American States 1948)

<sup>22</sup> (European Union Directive on whistleblower protection 2019)

<sup>23</sup> (G20 1999)

<sup>24</sup> Chrome-

extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.oecd.org/corruption/48972967.pdf

protect public sector employees, but laws that protect both public and private employees have become increasingly common.

Overview of some countries domestic laws that protect whistleblowers:

- **Australia:** Public interest disclosure act (PID Act)<sup>25</sup> protects public sector whistleblowers who disclose information about wrongdoing in the government. It provides safeguards against reprisals for making disclosures in the public interest.
- **Canada:** Public servants disclosure protection act (PSDPA)<sup>26</sup> offers protections to federal public sector employees who disclose wrongdoing in the workplace. It establishes a process for reporting and investigating disclosures of wrongdoing.
- **Japan:** Protection of Whistleblowers in Public Interest (Whistleblower Protection Act)<sup>27</sup>, protect individuals who report illegal or unethical conduct within their organizations. It encourages employees to report misconduct in the public interest and provides safeguards against retaliation.
- **India:** Whistleblowers Protection Act<sup>28</sup>, aims to protect whistleblowers from victimization and provides a mechanism for inquiring into alleged disclosures.
- **South Africa:** Protected disclosure act<sup>29</sup>, offers protection to employees who disclose information about unlawful or irregular conduct by their employers. It provides remedies for employees facing occupational detriment due to their disclosures.
- **United Kingdom:** Public interest disclosure act (PIDA)<sup>30</sup>, protects employees in the UK who report certain types of wrongdoing, including criminal offenses, health and safety violations, environmental damage, and more, from suffering detrimental treatment or dismissal as a result of their disclosures.
- **United States:** Whistleblower protection act (WPA) provides protection to federal employees who report violations of laws, rules, or regulations, gross mismanagement, abuse of authority, or substantial dangers to public health or safety. And False claim act (FCA) allows private individuals (qui tam relators) to file lawsuits on behalf of the government in cases of fraud against federal programs, offering financial incentives and protections to whistleblowers.

These domestic laws typically outline the types of wrongdoing that can be reported, the process for making a disclosure, protections against retaliation or reprisals, and avenues for seeking redress if a whistleblower faces adverse actions due to their disclosures.

### Motivation for whistle blowing

When individuals come forward to expose the wrong doings of an organization it is known as whistle blowing, the person who reports or blows the whistle is the whistle blower. The whistle blower might be an employee, former employee, contractor, director or any person in the organization. It can be seen that such persons are related to or dependent on the organization for their work or livelihood, it is a significant decision that often involves various considerations and motivations for individuals to disclose sensitive information about an organization as it might put their job, employment, relation with the organization,

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<sup>25</sup> (Public interest disclosure act 2013)

<sup>26</sup> (Public servants disclosure protection act 2005)

<sup>27</sup> (Protection of Whistleblowers in Public Interest 2006)

<sup>28</sup> (Whistleblowers Protection Act 2014)

<sup>29</sup> (Protected disclosure act 2014)

<sup>30</sup> (Public interest disclosure act 1998)



their own reputation, or life at risk. Therefore, there must have been some consideration that might encourage them despite the risks. Whistleblowing, though often a difficult decision, can stem from several motivations such as:

1. **Ethical obligation:** the term ‘ethics’ refers to the study of moral right or wrong, good or bad to any system of code of moral rules, principles, or values<sup>31</sup>. There has always been a dilemma between professional ethics the loyalty of employee toward his employer and moral ethics responsibility to serve for public interest when it comes to whistleblowing. It is inevitable that an employee’s loyalty is questioned as there is a violation of trust. There are several ethical obligations involved:
  - Duty towards profession- it is the duty of a person working in any industry to take public health, safety and interest into account and make sure they do not compromise it for any personal interest or gain. Loyalty towards profession should be their priority rather than loyalty towards employer.
  - Duty to be truthful and principle of reparation- when an employee witness’s illegal, unethical, or harmful behavior within an organization that causes harm to the public there are driven by a strong sense of ethics to reveal the truth. Prioritizing greater good over personal risks. They might have been part of such activity and caused harm due to their negligence, revealing the truth may be an act of reparation of their prior acts.
  - Duty to protect others- Whistleblowing often serves to protect individuals, the public, or the environment from harm. By exposing unethical or illegal behavior, whether it is related to safety hazards, environmental issues, financial fraud, or other concerns affecting a wider community. They aim to prevent further damage or danger<sup>32</sup>.
2. **Personal integrity:** some individuals find it difficult to compromise their values and integrity and have a genuine desire to protect the public. They feel a deep conflict between what's happening in the organization and their personal principles and are compelled to act in accordance with their own values and principles, prioritizing honesty, integrity, and ethical behavior which drives them to speak out. They are unwilling to participate in the conduct they believe is wrong, even though doing so can have a negative impact on their careers<sup>33</sup>.
3. **Legal obligation:** In some cases, whistleblowers are required by law to report certain actions or practices. This obligation might be under specific industry regulations, company policies, or even national laws.
4. **Retaliation:** sometimes individuals are forced to blow the whistle due to feeling pressured by their workplace or to retaliate against their workplace. They might perceive blowing the whistle as a way to protect themselves from further harm.

The above are some of the motivations i.e.; inspiration that increases the eagerness or willingness to whistle blow. While other factors that encourage and helps to pursue whistle blowing are as follows:

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<sup>31</sup> <https://www.britannica.com/topic/ethics-philosophy>

<sup>32</sup> <https://jamanetwork.com/journals/jama/fullarticle/1716097>

<sup>33</sup> <https://www.natlawreview.com/article/what-motivates-whistleblower>

- 1. Legal protection:** it involves laws or regulations that protects whistle blowers against retaliation. It ensures confidentiality and anonymity, gives access to remedies and compensation, provides legal immunity or defense and encourages reporting. Whistleblower protection laws can provide a safety net for individuals considering exposing wrongdoing. Knowing that there are legal safeguards against retaliation can embolden potential whistleblowers to come forward.
- 2. Supportive environment:** A workplace culture that values transparency, ethics, and accountability can encourage individuals to come forward with concerns without fear of retaliation. When there's an established system for reporting misconduct and support for whistleblowers, it can make the decision to report easier.
- 3. Media and public support:** mass media helps to create awareness among people. The support of Public and media for whistleblowers can play a significant role. When society values and praises the actions of those who expose wrongdoing, it can encourage others to do the same.
- 4. Financial incentives:** though in many cases whistle blowers consider public interest and report in good faith. Financial incentives such as monetary rewards or protection for whistle blowers acts as an encouragement for them to come forward. In the 19<sup>th</sup> century the false claim act rewarded whistleblowers with a share of the money recovered by the government, with the belief that they could uncover large fraudulent schemes and protect government finances. After World War II, due to an influx of unnecessary lawsuits filed for rewards, they abolished these incentives, leading to a lull in whistleblower cases. This shows that financial incentives have great impact in encouraging whistle blowers.

### Challenges

Implementing a Whistleblower Protection Act can face several challenges, hindering its effectiveness and impact. Some common challenges include:

- 1. Lack of Awareness:** many individuals within organizations are not fully aware of the protections afforded to whistle blowers by the law. This lack of awareness leads to underutilization of the law and deters potential whistleblowers from coming forward.
- 2. Retaliation and Fear:** Despite legal protections, whistleblowers might still fear retaliation or continue to face retaliation and victimization despite legal safeguards (Ellen Pao vs Kleiner Perkins). This fear can be a significant deterrent, especially if previous cases of retaliation have been witnessed within the organization or in similar contexts.
- 3. Inadequate Enforcement:** Weak enforcement mechanisms or a lack of proper implementation and oversight such as inadequate support systems including financial assistance, counselling services, and protection from personal and professional repercussions can undermine the effectiveness of whistleblower protection laws. When laws aren't enforced rigorously, wrongdoers may still find ways to retaliate against whistleblowers without consequence.
- 4. Limited Scope of Protections:** Some laws might have limitations in their scope, such as protecting only certain types of disclosures or specific sectors. Narrowly defined protections might leave out individuals who witness different forms of misconduct or work in sectors not covered by the law.

5. **Legal Complexities and Loopholes:** Legal complexities or loopholes within the legislation can create uncertainty for whistleblowers. Ambiguities or loopholes might allow employers to find ways to retaliate legally or discourage potential whistleblowers from coming forward. In the case of *Kong v Gulf Bank International (UK) limited* [2022] the dismissed the whistle blower and claimed that the reason was not whistle blowing but due to subsequent behavior of the employee that lead to the breakdown of relationship between her and the legal head. The court held the reason for dismissal of whistle blower was breakdown of relation following the whistleblowing rather than the whistle blowing itself and it was valid<sup>34</sup>.
6. **Challenges in Investigation and Redressal:** The process of investigating whistleblower claims and providing redressal might face obstacles due to bureaucratic hurdles, delays, or insufficient resources allocated for such procedures<sup>35</sup>.

## Conclusion

The importance of whistleblower protection laws is vividly illustrated, underscoring how they empower individuals to expose wrongdoing while safeguarding their rights. The article elaborates the historical milestones, highlighting pivotal cases and legislative changes that shaped modern whistleblower protection. The laws try to ensures transparency and accountability, and maintain the standards and procedures essential for effective whistleblowing, it explains the significant risks and motivations involved. The article draws attention to the complexities in implementing these laws, emphasizing challenges faced by the government. In an era where accountability is paramount, whistleblowing serves as a fundamental check-and-balance mechanism. It reinforces the fabric of ethical conduct within organizations, driving them toward greater responsibility and ensuring that the public interest remains paramount. Ultimately, whistleblowing is not merely an act of dissent; it is an act of service to the greater good. It embodies the spirit of individuals who refuse to turn a blind eye to wrongdoing and strive to foster a world built on integrity, transparency, and justice. In embracing and protecting whistleblowers, we fortify the very foundation upon which our societal values rest—a commitment to truth and ethical conduct.

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<sup>34</sup> <https://protect-advice.org.uk/key-whistleblowing-cases-of-2022/>

<sup>35</sup> <https://www.studyiq.com/articles/whistleblower-protection-act-2014/>