

PROTECTION OF WHISTLEBLOWERS IN INDIA

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ABSTRACT

With the growth in developments in India, and India uplifting its status in front of various international standards, some factors pulling India backward. Some of them being corruption, dishonesty and fraud that occurs within governments, companies and various institutions. These malpractices lead to the development or emergence of the Whistleblowers who blows the whistle to alert the appropriate authorities about it.

Whistleblowing is an act that involves revealing the truth about such misconduct. It has emerged as a vital tool in fostering transparency, accountability, integrity within organisations and maintaining ethical governance both domestically and internationally. Whistleblowers can be termed as one of the many pillars of a functioning country. They come forward by disclosing information on any wrongdoing, misconduct, corruption or abuse of power which is happening within the organization be it public or private. A whistleblower can be an employee of the organization, a contractor, a supplier or even a mere observer. In order for a whistleblower to have the courage to speak the truth they need to be protected and safeguarded by the government.

In India the need to protect whistleblowers has been increasingly recognized especially after occurrences of various instances where these whistleblowers faced threats, harassment or even death for whistleblowing these malpractices. Despite their pivotal role, the legal provisions for protecting them is significantly insufficient and severely underdeveloped in India. We have a specific act for their protection. It is called The Whistleblowers Protection Act, 2014. This act was enacted to receive complaints by whistleblowers disclosing corruption, unlawful practices or abuse of power by government officials. Even though this act is also supposed to provide protection to the whistleblowers from various threats that the whistleblowers face for the bravery shown by them but it suffers severe shortcomings.

In practice, whistleblowers in India face numerous challenges. There have been several cases where the whistleblowers faced intimidations, life threats, threat to affect their family members and in some unfortunate cases even death. Sometimes they also face indirect intimidations from their departments like transfers, disciplinary actions, suspensions or worse – physical harm and assassination. The absence of a strong framework for protection makes the whistleblowers vulnerable in their own society or surroundings. This also discourages people from coming forward and taking the initiative to disclose or speak up about the malpractices or misconduct. The media and non – government organizations have contributed to bringing the situation of whistleblowers in front of public eyes and gave an indirect force to the Indian Judiciary to take legislative actions.

KEY WORDS :- Whistle blowers, Corruption, Malpractice, Competent Authorities, Role of Judiciary, Role of media, The Whistleblowers Protection Act, 2014.

INTRODUCTION

“Whistleblowers are the immune system of the body politic. They expose fraud and abuse, and protect the public from harm.”
– Edward Snowden

The word ‘whistleblower’ linked to the use of whistle to alert the authorities or public or a crowd about such dangers, malpractices or misconduct that will harm the nation. The word first came to surface during the 19th century. The first ever known whistleblower was a group of 10 naval officers who alerted the continental congress about abuses by Commodore Esek Hopkins, including torture of British PoWs during the revolutionary war. In India however, the concept and terminology became mainstream through media, legal reforms and activism in the late 1990s and early 2000s.

The protection of whistleblowers has emerged as a critical issue in the governance of democratic societies across the globe. In India the need to protect whistleblowers has become increasingly apparent in the recent decade, especially keeping in mind that many of them were harassed, threatened and even murdered for exposing the corruption and malpractice. The evolution of the protection of the whistleblowers indicate India’s ongoing struggle to ensure transparency, accountability and integrity in public administration.

India’s journey towards recognizing and protecting the whistleblowers was driven by some tragic cases. One of them is that of the Satyendra Dubey, a project director with the National Highways Authority of India (NHAI), who was murdered in the year 2003 after exposing the corruption in writing to the Prime Minister regarding the building of the Golden Quadrilateral Highway project. This led to huge protests and media coverage.

Before the enactment of this act in 2014 the whistleblowers had limited protection. The *Right to Information Act, 2005*, indirectly supported

whistleblowing by empowering citizens to seek information and expose corruption. However, it lacked specific provisions for protecting those who took the risk of reporting such issues from within organizations. Recognizing this gap, the Indian government introduced the *Whistle Blowers Protection Bill* in 2011, which was later enacted as the *Whistle Blowers Protection Act, 2014*. The 2014 Act marked the first formal legislative attempt to establish the process of making such disclosures and to protect individuals making such disclosures from victimization.

The Act provided for a mechanism to receive complaints relating to allegations of corruption or misuse of power by public servants and various organisations and ensured confidentiality and safeguards for the whistleblower. However, the Act has faced criticism for its shortcomings and being weak in protecting the whistleblowers. Some amendments proposed in 2015 sought to dilute the Act further by excluding disclosures that might impact national security, which many experts viewed as a threat to transparency.

Despite the limitations of the current legal framework, the very existence of the Act signifies a major step forward in acknowledging whistleblowers’ contribution to a clean governance. Civil society, the judiciary, and media continue to play an essential role in keeping the issue alive and advocating for stronger protections. India’s evolution in this area reflects the global realization that whistleblower protection is not merely about safeguarding individuals but about strengthening democracy, upholding the rule of law, and fostering a culture of accountability.

Edward Snowden, Whistleblowers are the immune system of the body politic. They expose fraud and abuse, and protect the public from harm.

Satyendra Dubey, 'Satyendra Dubey: A Martyr for Transparency' (2003)
<https://www.rediff.com/news/2003/nov/27dubey.htm> accessed 20 April 2025.

Right to Information Act, 2005 (India)
<https://rti.gov.in/rti-act.pdf> accessed 20 April 2025.

Whistle Blowers Protection Bill, 2011, Introduced in Parliament (India)
<https://legislative.gov.in/billtexts/1502.pdf> accessed 20 April 2025.

Manjunath Shanmugam, 'The Murder of Manjunath Shanmugam' (2005)
<https://www.indiatoday.in/india/north/story/re-membering-manjunath-shanmugam-271768-2015-11-19> accessed 20 April 2025.

Amendments to the Whistle Blowers Protection Bill, 2015 (India)
<https://www.thehindu.com/news/national/whistleblower-bill-amended/article7736785.ece> accessed 20 April 2025.

Whistle Blowers Protection Act, 2014 (India)
https://www.indiacode.nic.in/bitstream/123456789/2211/1/2014_17.pdf accessed 20 April 2025.

Safety of whistleblower's around the world:-

Just like India has its own act to protect the whistleblowers, it is needless to say that most of the countries around the world have their own measures to provide protection to the whistleblowers of their country. This article will access the existing information about the various acts and laws that safeguards the whistleblowers around the globe. The countries can be divided into 3 groups based on the efficiency of those acts or provisions.

1. Countries with strong legal protection :

i) US – The United States was the first nation to provide legal protection for whistleblowers through Occupational Safety and Health Act 1970 which was signed by Richard Nixon who was the president at that time. This act protected those whistleblowers who filed a complaint or demanded an investigation of the worker's safety. This ensured

that the factory owners or the employers didn't exploit the worker and provided with proper safety gears as per the rules. Subsequently the civil service reform act was passed by congress in the year 1978. After that almost 60 different regulations were passed, each of which covered and gave protection to whistleblowers of different fields like – breach of law, public health, illegal authority etc. Some of these acts are –

➤ Whistleblower Protection Act 1989 : It safeguards government employees of the US from prosecution for disclosing evidence showing breach of law, misuse of power, risk to public, illegal activity, etc.

➤ Whistleblower Protection Enhancement Act 2012 : This act basically covered up all the gaps that was there in the 1989 act. It made the act even more foolproof ensuring more people comes forward and blows the whistle.

➤ Sarbanes-Oxley Act 2002: It act is also known as SOX, it protected whistleblowers of publicly traded firms from being harassed by their surroundings for disclosing information. It mainly safeguards consultants, staffs and subcontractors of these firms.

➤ The Wall Street Reform and Consumer Protection Act 2010 : It is also known as Dodd-Frank. This makes sure that the Securities and Exchange Commission gives financial support to the whistleblowers who showed for their outmost honesty and bravery and blew the whistle on malpractices or theft happening in the corporates.

➤ Defend Trade Secrets Act 2016 : This act provided protection to whistleblowers against revealing of trade malpractices.

ii) European Union – Way before the existence of the modern-day existence of EU level protection of whistleblowers, the individual member states that form the EU had their own set of laws or acts or provisions to safeguard the whistleblowers. But these regulations varied from each other based on their scope or applicability and the amount of protection that is provided to these people. Thus leading to lack of uniformity across the whole of EU which

affected the dealings with other countries. The journey of evolution of all the countries into having a single act or law is stated below:-

➤ Luxembourg Leaks : In the year 2014, two whistleblowers named- Antoine Deltour and Raphael Halet both worked at PricewaterCoopers (PwC) in Luxembourg, leaked documents which revealed that over 300 MNCs like- Pepsi, IKEA, Amazon were escaping paying of tax. The documents showed proof that these MNCs entered into deals with the taxation authorities of Luxembourg which reduced their tax bills to as low as 1%.

These MNCs would set up subsidiaries or shell companies in Luxembourg and get a pre-approved tax guidelines through PwC. This helped them evade the taxes by paying the lowest possible amount. This process allowed them to shift their tax paying from a high taxed countries to a low tax country like Luxembourg. They got away with it for a long time because even though it was unethical but legal. This scam exposed flaws and loopholes in the EU's tax policies.

When Deltour (junior editor) became suspicious of the ongoing scam he wrote a small blog about it and spoke about it on French radio. The blog caught the attention of a journalist Edouard Perrin. When Deltour left PwC, he took with him documents which had evidence of the tax fraud. He eventually shared the documents with Perrin who along with the help of BBC started investigation.

International Consortium of Investigative Journalists, 'Luxembourg Leaks: Global Companies' Secrets Exposed' (ICIJ, 5 November 2014)

<<https://www.icij.org/investigations/luxembourg-leaks/>> accessed 18 April 2025.

The report revealing the tax fraud was published in France and England in the year 2012 which brought the truth about corrupted tax system in front of the public. In the year 2014, a second leak of documents was published stating all the various agencies like the PwC who helped in tax evasion.

Admist all of these PwC pressed criminal charges both the whistleblowers – Deltour and Halet along with the Perrin (journalist) who started unveiling of the scam. The trial went on for years, the three argued and tried to prove that they were the whistleblowers in this situation. Perrin and Deltour were acquitted. In 2016 Halet was awarded with a fine and suspended for 9 months for leaking the documents (he was still an employee of the company). His appeal in 2018 was dismissed. In 2021 the European Court gave a landmark ruling stating that the criminal conviction charges on his affected his personal freedom of expression and also as a whistleblower. Further the court ordered Luxembourg to pay him 55,000 euros along with legal cost to cover his damages.

➤ EU Directive on trade secrets 2016: in 2016 the EU took a step towards strengthening the protection of whistleblowers by adopting the Directive on Protection of Trade Secrets. Prior 2016 only UK, Ireland and Sweden had well developed legal frameworks safeguarding individuals who reported wrongdoingThe trade secret directive acted as a bridge between these member states and covered the gaps between them. This provision marked another step forward for EU towards acknowledgement influenced by cases of the European Court Of Human Rights that whistleblowers also deserve protection when they are acting in good faith while trying to expose threats of domestic values and public welfare.

➤ Proposal for the EU Whistleblower Legislation 2018 : This proposal was introduced by the EU on April 2018 and marked as another step forward towards introduction of the Whistleblower protection which would protect all the member states of EU. The European Court of human rights also played a very important role by giving landmark judgments in Guja vs Moldova and Heinisch vs Germany case which strengthened the recognition of whistleblowing as part of freedom of expression under article 10 of the European Convention on Human Rights. Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on

the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure [2016] OJ L157/1.

Guja v Moldova App no 14277/04 (ECtHR, 12 February 2008).

Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law [2019] OJ L305/17.

➤ Adoption of the EU Whistleblower Legislation 2019: The EU whistleblower legislation was adopted on 23rd October 2019 and marked a historic and transformative move. It requires all the EU members to follow the guidelines They are-

- establishing confidential and secure reporting channels within organisations and public authorities it means that the whistleblower should be able to disclose the information without the fear of their identity being public
- prohibiting retaliation against whistleblowers and providing legal frameworks and support it means that the whistleblowers must receive legal protection from the government in exchange of them blowing the vessel
- protection from a broad range of persons protections to a broad range of persons including employees contractors trainees or even 3rd parties whoever is associated to them.

➤ Transposition Period 2019 – 2021: From December 2019 to December 2021 the EU went through a transposition. It meant that all the member states within these two years have to implement the EU whistleblowers protection directive into their system it meant that from then on anyone who is blowing the whistle will be protected according to the guidelines of this act

2. Countries with Moderate Protection:-

i) Canada:-

➤ The issue of lack of act or law to provide protection to whistleblowers came into

attention or came in front of public eye during the Sponsorship scandal also known as Ad Scam. In the early 2000s the scam involved the misuse of public funds in Quebec and brought to light the challenges faced by federal employees who tried to speak out about the corruption. Public outrage and media scrutiny over the lack of accountability pressure the government to consider legal forms and think towards coming up with an act for the protection of whistleblowers.

Public Servants Disclosure Protection Act, SC 2005, c 46.

↳ This is the main federal statute governing whistleblower protection for public servants.

Government of Canada, '**Office of the Public Sector Integrity Commissioner of Canada**' (2024) <https://www.psic-ispc.gc.ca> accessed 19 April 2025.

↳ For details about the role, mandate, and reports of the PSIC.

House of Commons, '**Strengthening the Protection of Whistleblowers**' (Report of the Standing Committee on Government Operations and Estimates, June 2017) <https://www.ourcommons.ca/DocumentViewer/en/42-1/OGGO/report-14/> accessed 19 April 2025.

↳ This parliamentary report is the most critical official review of the PSDPA.

➤ Public Servants Disclosure Protection Act (PSDPA) 2007: In response to the concerns the Canadian Parliament enacted this act in 2007. This was the first comprehensive whistleblower act in Canada that aimed specifically towards the federal public sector. The key features of this act are-

- It allowed federal employees to disclose any information about any wrongdoing that happened internally to the office of public sector integrity commissioner (PSIC)
- It protected the whistleblowers from punishments, threats, mocking for disclosure of information in good faith
- The Canadian government created the public sector integrity commissioner (PSIC) to

receive an investigate disclosures and complaints.

➤ Some provinces and territories implemented their own laws for the protection of whistleblowers for example – Ontario, Alberta, Manitoba and Nova Scotia have public sector whistleblower protection legislation These laws vary significantly and has different enforcement powers, effectiveness and scope. There is no consistent national standard among these acts particularly for private sector employees which means that many of them does not have any protection at all.

➤ Multiple reviews that have concluded that the PSDPA is ineffective and needs to be reformed. Some of the criticisms include there is lack of transparency in investigations, there is fear of retaliation that remains widespread among public servants, there is low success rate of whistleblowers complaint.

OECD, 'OECD Integrity Review of Canada: Reinforcing Public Sector Integrity for a More Resilient Canada' (2021)
<https://www.oecd.org/gov/oecd-integrity-review-of-canada-2021-2b1f69e6-en.htm>
accessed 19 April 2025.

David Hutton, 'Why Canada's Whistleblower Law Is a Global Embarrassment' (National Observer, 21 March 2023)
<https://www.nationalobserver.com> accessed 19 April 2025.

Whistleblowing Canada Research Society, 'Canada's Broken Whistleblower Protection System' (2022)
<https://whistleblowingcanada.com> accessed 19 April 2025.

CBC News, 'Few Federal Whistleblowers Protected Despite Hundreds of Complaints, Report Shows' (CBC, 16 June 2023)
<https://www.cbc.ca/news/politics/federal-whistleblowers-retaliation-1.6877321> accessed 19 April 2025.

ii) Australia:- Before 2019 Australia didn't have a single piece of legislation that protected whistleblowers throughout the country there were different states and territories who had

their own kind of legislation that protected the whistleblowers and safeguarded them. Not all disclosures are protected by the laws in Australia at federal level whistleblower sometimes face potential imprisonment for making disclosure as our certain topics in that might include immigration or national security.

➤ Early recognition and state level reform: Australia's interest in whistleblower protection began in 1990 with a growing recognition of whistleblower as a valuable tool for uncovering corruption misconduct and malpractices in the government several Australian states and territories introduce their own whistleblower protection rules before the federal government did as a whole.

- Queensland introduced the Whistleblower Protection Act 1994

- New South Wales passed the protected disclosures act 1994 Which was later updated to public interest disclosures act 2022

- South Australia and Victoria enacted similar laws in the late 1990s and early 2000s

This early laws mainly focused on the public sector and provided limited protection against the threat they also lacked a mechanism for strong investigation and follow up action on that complaint

➤ Federal law public interest disclosures act 2013: It was the first Federal Reserve law in Australia and it applied to Australian public services employees and contractors the key features of this are

- It allowed disclosures about illegal conduct corruption and malpractices

- It established practises for internal and external disclosures.

- It provided immunity from criminal and civil liability for public servants making disclosures.

Australian Senate, *The Public Interest Disclosure Act 2013: Inquiry into Whistleblower Protections in the Public Sector* (Report, Parliamentary Joint Committee on Corporations and Financial Services, 2022).

Human Rights Law Centre, *Protecting Whistleblowers: The Urgent Need for Reform*

(Policy Brief, August 2021)
<https://www.hrlc.org.au/reports/2021/8/3/protecting-whistleblowers> accessed 19 April 2025.

Transparency International Australia, *Fixing Whistleblower Laws: A Blueprint for Reform* (2023)
<https://transparency.org.au/whistleblower-reform/> accessed 19 April 2025.

National Anti-Corruption Commission (NACC), 'Role and Functions'
<https://www.nacc.gov.au/about-us/our-role> accessed 19 April 2025.

John Howe, Tess Hardy and Cameron Roles, 'Navigating Whistleblower Protections in Australia: A Critical Appraisal' (2020) 43(2) *University of New South Wales Law Journal* 421.

- It prohibited retaliation or victimisation of whistleblowers.
- It established roles for agencies and the Commonwealth Ombudsman in managing disclosures.

Despite the intent of this act being safeguarding the whistleblowers it had to face some criticism stating it was too much complicated, didn't provide adequate remedies, created confusions.

➤ Treasury Laws Amendment Act 2019:- This law amended the Corporations Act 2001 and Taxation Administration act 1953. It extended protection to the current and former employees, contractors, suppliers and. It covered disclosures about misconduct or improper state of affairs in companies including tax avoidances it provided prohibition laws with protection from litigation and protection of identity from public disclosures. It introduced significant civil and criminal penalties for companies or individuals who breached confidentiality or did malpractice.

While a lot of reforms have been done in paper still a major number of whistleblowers hesitate of being harassed or losing their job if they come forward and blow the whistle. After recognising these issues Australian government introduced a public interest disclosure amendment bill 2022 for reviewing to improve

an introduce better reforms that will encourage the whistleblower to step forward this agenda was put forward by the attorney general who proposes that further reforms needs to be done in order to have a flawless system.

3. Countries with limited or weak Protection :-

i) China : The roots of resembling in China goes back to communist party where the ordinary citizens were encouraged to come forward and report any misconduct or corruption to the party authorities however this requests or these complaints went unnoticed and sometimes no legal action were taken for the protection of this whistleblower.

➤ Initial legal recognition (2005 – 2010) : in the mid 2000 China began to formally recognise whistleblowing as part of anti corruption movement. The SSP issued revolutions in 2000 and five encouraging reports of official corruption and offering anonymity and rewards. However the protections remain weak and the whistle was often faced high retaliation harassments detention and job loss.

➤ High profile cases and reforms 2013 to 2020 : The rise of anti corruption campaigns under President Xi Jinping brought renovation and focus on whistleblowing. But the high profile case especially during covid 19 outbreak example Dr Li Wenliang who tried to warn about the virus and later died highlighted that there is a lack of protection and transparency and that the whistleblowers life is not at all safe and that the law protecting them is very weak in nature. After public outburst and protest the authorities promised to reform the laws of protection of missile laws especially in health sectors and public sectors.

➤ In recent times anti corruption laws and party Regulations have expanded protections. The government introduced various rewards for whistleblowers to increase their participation and opened up channels for them to report any misconduct. Despite these reforms special loss protection are still limited. There are no comprehensive whistleblower act or law that

exists in China reports against powerful actors often lead to repression rather than justice and there is the freedom of expression of this country is often censored or constrained.

Constitution of the People's Republic of China (adopted 4 December 1982, amended 2018), arts 32, 41.

Criminal Law of the People's Republic of China (adopted 1 July 1979, amended 2020), art 254.

National Supervisory Commission of China, *Regulations on the Work of the Central Commission for Discipline Inspection of the Communist Party of China and the National Supervisory Commission* (CCDI/NSC, 2018).

State Administration for Market Regulation (SAMR), *Measures for the Administration of Reporting of Violations in the Field of Market Supervision* (2020).

China Banking and Insurance Regulatory Commission (CBIRC), *Measures for the Protection of Whistleblowers in the Banking and Insurance Sectors* (CBIRC, 2021).

National Health Commission of China, *Regulations on Reporting of Major Public Health Events* (2020).

Human Rights Watch, *China: Repression of COVID-19 Whistleblowers* (2020) <https://www.hrw.org/news/2020/03/30/china-repression-covid-19-whistleblowers> accessed 19 April 2025.

BBC News, 'Li Wenliang: Coronavirus Death of Wuhan Doctor Sparks Anger' (BBC, 7 February 2020) <https://www.bbc.com/news/world-asia-china-51409801> accessed 19 April 2025.

Transparency International, *Whistleblowing in Asia: Patterns, Policies and Practices* (TI 2019) <https://www.transparency.org> accessed 19 April 2025.

OECD, *Committing to Effective Whistleblower Protection* (OECD Publishing 2016) <https://doi.org/10.1787/9789264252639-en> accessed 19 April 2025.

ii) Iran, Saudi Arabia, Egypt :

➤ Iran – Iran does not have any whistleblower's protection law or any provisions that safeguards them if they disclose any malpractice or misconduct or any wrongdoing. Whistleblowers of Iran face arrests, imprisonment and even lose their job if they're exposing any malpractice or misconduct against the government or the religious authorities. Thus it can be said that there is no provision for protection of whistleblower and if one decides to disclose some evidence of misconduct or malpractice especially of the government or for religious authorities they may face imprisonment, lose their job or even be charged for criminal conviction

➤ Saudi Arabia – there is no specific law that protects and safeguards the whistleblower in Saudi Arabia but there is State controlled reporting call Nazaha there is the anti corruption authority. Public whistleblowing is very risky in Saudi Arabia that can lead to a lot of harassment and severe detention there is very minimal to know protection that is available.

➤ Egypt – There is no dedicated whistleblower protection law in Egypt although there was a brief progress that could be seen post 2011 revolution but things went back to the way it was under the governance of the current government. Whistleblowers in Egypt face very harsh retaliation including imprisonment, terror charges or under cyber crime laws. Thus it can be said that the protection of whistleblowers in Egypt is nonexistent.

Transparency International, *Whistleblower Protection in the Middle East and North Africa: A Key to Combat Corruption* (TI 2021) <https://www.transparency.org/en/publications/whistleblower-protection-in-the-middle-east-and-north-africa> accessed 18 April 2025.

United Nations Development Programme, *Whistleblower Protection in the Arab Region: An Overview of Legal Frameworks and Gaps* (UNDP 2020) https://www.arabstates.undp.org/content/rbas/en/home/library/dem_governance/whistleblower-protection.html accessed 18 April 2025.

Arab Reform Initiative, *Silencing the Whistle: The Legal and Political Risks for Whistleblowers in Egypt, Iran, and Saudi Arabia* (ARI 2019) <https://www.arab-reform.net/publication/whistleblowing-in-authoritarian-regimes/> accessed 18 April 2025.

Legal Provisions safeguarding the whistleblowers

1. Whistle Blowers Protection Act, 2014.
2. Right to Information Act, 2005,
3. Constitutional Provisions

1. The Whistleblowers Protection Act, 2014 :-
i) Background :-

➤ Pre 2000s: Lack of legal protection: India didn't have any legal framework for the protection of individuals who reported any corruption or abuse of power or any malpractise or misconduct. They faced serious consequences, retaliation, harassment and even death. Public servants feared there would be professional consequences like detention, disciplinary action or demotion and for private citizens the situation was even worse.

➤ The murder of Satyendra Dubey 2003- A turning point : Satyendra Dubey was as a project manager working for the National Highway Authorities of India (NHAI) and he was part of Golden Quadrilateral Project. During his time as a project manager he came to know about some corrupt practises carried out by the engineers the financial irregularities by the construction authorities and the low quality of materials used for construction and the maladministration of funds provided. He then gave a letter to the prime minister of India stating all the details about the corruption practises, malpractices, misconduct, maladministration that was happening. Dubey requested his identity to be kept undisclosed from the public and action been taken on these complaints but his identity was disclosed in public. The Prime Minister wrote a letter to the Ministry of road transports and highway after receiving the complaint of Dubey in which his identity was disclosed. Eventually Dubey was murdered. The CBI reported it as a murder

robbery case. This led to a widespread outcry the public a lot of protests went on that pressure as the government to implement the Information Act 2005 followed by the whistleblowers protection act of 2014 for the protection of whistleblowers and protecting their anonymity while blowing the whistle.

➤ Formation of CVC guidelines 2004: Following the public's pressure the government introduced the central vigilance commission CVC to act as a designated agency for receiving the whistleblowers complaint. However as this body did not have a proper statutory backing this lacked strong enforceability and was not always law binding

➤ Shanmugam Manjunath case 2005: In 2005 another case of murder added fuel to the increased outcry for protection of whistleblowers in India. Shanmugam Manjunath an IIM Lucknow graduate was working in Indian Oil Corporation as an officer. In 2005 while working at Lakhimpur Kheri, Uttar Pradesh, Manjunath discovered that the petrol pumps were selling adulterated fuel upon finding out he ordered to seal both the petrol pumps that were violating the fuel purity norms. Later on he found out that one of them had resumed operating the illegal activity when he went to inspect the owner got angry and Manjunath was shot dead at the petrol pump by the owner of the petrol pump and his accomplices. Later on his bullet ridden boating was found in a car. This case drew national attention just like Dubey's case and the main accused was sentenced to death which was later transferred to life imprisonment and the accomplices also received wrong prison time.

➤ By the late 2000s many RTI activists civil society and anti corruption groups started campaigning for a strong whistleblower protection law

➤ Introduction of the bill 2011: the Govt of India introduced the visceral protection bill in the Lok Sabha in the year 2011. This was influenced by the Anna Hazare led anti corruption movement. The demand was for strong public institutions like Lokpal and

Lokyuktas. The bill wanted to encourage people to report corruption and ensure that upon reporting the corruption their life is not at risk.

➤ Passage of the act 2014: The whistleblowers protection bill was passed by in Lok Sabha in the year 2011 and by Rajya Sabha in 2014 it became a law as a whistleblower protection act 2014 and received presidential consent on the same year. The main aim for the passage of such a bill was to create a statutory mechanism through which whistleblowers can report their concerns and also to safeguard whistleblowers retaliation after they blow the whistle.

ii) Key highlights or features of the visible protection act 2014:-

➤ The Act establishes the mechanism to receive complaints related to disclosure of allegations of corruption or willful misuse of power or discretion against any public servant and to cause an inquiry into such disc location

➤ This act allows reporting of corruption abuse of power criminal offences misuse of position delivered wastage of public money negligence in duty causing harm to public interest. It also covers a wide range of conduct to ensure public accountability and ethical governance

➤ It provides adequate safeguard against victimisation of the person making such a complaint

➤ It allows any person including a public servant to make a public interest disclosure before the competent authority the law has elaborately defined various competent authorities for instance competent authority to complain against any Union Minister is the prime minister

➤ The law doesn't allow any anonymous complaints to be made at clearly states that no action will be taken unless the name of the identity of the whistleblower is mentioned in the complaint.

➤ The maximum time for making a complaint from the day the incident happened is seven years

➤ There is an exception for making complaint under this act. No complaint can be made against the special protection group (SPG) personals and officers constituted under the special protection group act 1998.

➤ If a person is not happy with the response received from the competent authority they can file an appeal to the high court within a period of 60 days.

➤ This law also states that if a person mala-fidely complains against any individual the component authority and if it is found out upon inquiry then they will be awarded up to two years of imprisonment and hefty fine of Rs 30,000.

➤ If any person from the competent authority reveals the complainants identity mala-fidely then they will be awarded with a punishment of three years imprisonment along with a fine of Rs 50,000

➤ The competitor authorities forms a yearly report stating all the progress that they received and then submit the document to the central or the state government.

2. Right to Information Act, 2005:-

i) RTI Act a tool for exposing corruption: This act empowered citizens in 2005 to seek information from public authorities making government responsible for being transparent and accountable. The tool was widely used by citizens journalists activists as well as whistleblowers to expose scams demand accountability and collect evidences of corruption negligence and abuse of power.

ii) Numerous RT activists have acted as de facto whistleblowers uncovering wrongdoings like land scams illegal mining public distribution system and government contracts but unfortunately they faced a lot of harassment and many of them were even killed due to lack of protection that was available at that time

iii) Despite the introduction of the whistleblower's protection act the implementation was little delayed so whistleblowers, social activists kept on using RTI as a statutory protection which safeguarded them from being victimised

iv) The RTI Act 2000 and five laid the foundation for transparency in India and indirectly pointed out towards the risk and harassment and sometimes even death that was faced by the whistleblower this led to a natural progression in demanding of the strong whistleblower's protection act which would safeguard the individuals.

3. Constitutional Provisions:-

Although the Constitution of India does not explicitly mention the word misled in it but there are several fundamental rights and directive principles of state policies that supports and enables the production of the whistleblowers they are:

i) Article 14 – Equality before law: This article guarantees equality before law and equal protection of law whistleblowers laws are often targeted for exposing corruption but are entitled to equal protection against victimisation this ensures the whistleblowers are not discriminated against a single doubt on unlawfully detained by the state if a whistleblower is harassed or punished the authorities without any proper cause just for the sake of blowing the whistle then it violates the right to equality

ii) Article 19 (1)(a) – freedom of speech and expression: This article is the most critical constitution right for whistleblowers as it enables citizens to raise concerns about corruption, mismanagement, abuse of power and maladministration. This article acts as a foundation for the Right to Information Act 2005 which is often used by whistleblowers to access public information which in turn laid foundation for the Protection of Whistleblower act 2014

iii) Article – 21 protection of life and personal liberty: It ensures safety and dignity of whistleblowers it protects them from physical harm, harassment, mental trauma due to their disclosures it imposes a positive duty on the state to protect the citizens including whistleblowers probably retaliatory actions.

iv) Article 30 – Right to constitutional remedies: This article allows the whistleblower to directly approach Supreme Court in case of a

violation of their fundamental right it enables quick and direct access to judicial protection which safeguards the individuals life from danger

v) Article 226 – Power of high court to issue Writs: This article allows whistleblowers to approach the high court to seek protection against harassment or arrest question of retaliatory proceedings when issue mandamus to ensure fair investigation of confidence they made this ensures that the protector from being victimised.

Whistle Blowers Protection Act, 2014 (India), Section 1, https://www.indiacode.nic.in/bitstream/123456789/2211/1/2014_17.pdf accessed 20 April 2025.

Satyendra Dubey, 'Satyendra Dubey: A Martyr for Transparency' (2003), <https://www.rediff.com/news/2003/nov/27dubey.htm> accessed 20 April 2025.

Whistle Blowers Protection Act, 2014, Section 6.

Manjunath Shanmugam, 'The Murder of Manjunath Shanmugam' (2005), <https://www.indiatoday.in/india/north/story/remembering-manjunath-shanmugam-271768-2015-11-19> accessed 20 April 2025.

Right to Information Act, 2005 (India), <https://rti.gov.in/rti-act.pdf> accessed 20 April 2025.

Whistle Blowers Protection Bill, 2011 (India), <https://legislative.gov.in/billtexts/1502.pdf> accessed 20 April 2025.

Whistle Blowers Protection Act, 2014 (India), Section 8, https://www.indiacode.nic.in/bitstream/123456789/2211/1/2014_17.pdf accessed 20 April 2025.

Whistle Blowers Protection Act, 2014 (India), Section 9, https://www.indiacode.nic.in/bitstream/123456789/2211/1/2014_17.pdf accessed 20 April 2025.

The Constitution of India, Article 14, https://www.india.gov.in/sites/default/files/notifications/constitution_india.pdf accessed 20 April 2025.

The Constitution of India, Article 19(1)(a), https://www.india.gov.in/sites/default/files/notifications/constitution_india.pdf accessed 20 April 2025.

The Constitution of India, Article 21, https://www.india.gov.in/sites/default/files/notifications/constitution_india.pdf accessed 20 April 2025.

The Constitution of India, Article 30, https://www.india.gov.in/sites/default/files/notifications/constitution_india.pdf accessed 20 April 2025.

The Constitution of India, Article 226, https://www.india.gov.in/sites/default/files/notifications/constitution_india.pdf accessed 20 April 2025.

Loopholes and challenges in this act :-

i) Exclusion of private sector: The Act applies only to public servants and doesn't cover employees in the private sector. With increase in privatisation in India and public private partnership private section corruptions are also increasing. Thus the whistleblowers in private sector or companies are left without protection under this law which limits their encouragement of coming forward with the disclosure of information.

ii) The Act requires the whistleblower to disclose their full identity and that position of work in order to file a complaint this causes an insecurity in the mind of the whistleblowers and they hesitate from coming forward due to the fear of retaliation threat harassment in spite of them having safeguarding under the law

iii) An amendment built into 2015 was put in the Lok Sabha which stated that the act we amended and 10 categories related to national security sovereignty intelligence be immune from this act. This means that if the bill is implemented then whistleblowers cannot come forward and file a complaint about any misconduct that is done by people working in those ten categories this would be a huge step back and make this act practically very weak

iv) The act doesn't give up specified timeline for the competent authority to revert back to the complaint or start the investigation or inquiry and this means delayed investigation can lead on to suppression of evidence or discouragement of future whistleblowers .

v) Although this act provides protection to the whistleblowers who come forward and disclose the information regarding malpractice or misconduct it does not lay down any strong or protective measures or penalties if someone retaliates the whistleblower.

vi) There is very less awareness among employees and citizens of India about the existence of this act and the provisions mentioned under it and there is no effort being done to increase the public outreach or training.

vii) This act does not provide protection to the witnesses of the whistleblowers who support the whistleblowers during the inquiry or testify the accusation

viii) The authority that is responsible for receiving the complaints are not independent in nature which means they might be hierarchically connected to the accused which raises the conflict of interest and thus compromise their work ethics.

Suggestions that could improve the whistleblowers Protection Act 2014:-

i) Inclusion of private sector : Amendments of Act must be done to include employees of private companies, NGOs and institutions that engage in public service or government contracts and this will enhance the efficiency in private sector and also encourage missile roads to come forward and report any misconduct as they will be safeguarded under this act

ii) Anonymous complaint mechanism: There should be a proper encrypted online portal for people to file anonymous complaints this will establish a system where identity can't be revealed even if someone has a malicious interest

iii) The 2015 bill that was introduced in the Lok Sabha should never be implemented as this will dismiss the whole purpose of the act

iv) There should be a fixed time mentioned within which the comparison authority needs to start the investigation or inquiry and produce the final report this will ensure accountability transparency and also higher chance of getting positive report

v) They should be awareness campaigns launched regarding this act that will enhance the knowledge of this among the general public so that people who face injustice inequality can come forward and file a complaint

vi) There should be an introduction of fitness protection scheme where the witnesses who supports the inquiry or testifies the inquiry of the whistleblower's complaint also receives protection and does not bear victim of victimisation

vii) The legal protection and safeguarding that is provided to the whistleblower should be mentioned properly to enhance the effectiveness of it

viii) There should be independent whistleblower protection authority where the interest of the officials does not affect the investigation of the enquiry and which ensures that there are no way connected to the person against whom or the department against whom the complaint is made

