



# "Utopian Business Ethics: Shaping National and International Whistleblower Laws"

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## ABSTRACT

Presume a situation- It is 2030 and India has one of the most ethically sound whistleblowing protective laws. Unfortunately, this protection is a national legislation not extending to the international boundaries where some other whistleblower is sacrificed unethically severing the environment for better whistleblowing protective laws leaving us in the same dilemma once again; are the present safeguards for whistleblowers enough or does such a measure needs to go global? The advancing goal may appear to be far-fetched. Still, the main aim of the corporation should be not just to implement laws for domestic insulation but to move towards global standardisation. This paper aims to investigate the lacunae in these global safeguards that are important to identify protective measures and establish safe working conditions for people employed outside their national boundaries. The goal is to understand robust legislations existing in Australia and United States as federal nations and compare it with Indian legislation to bring changes in the legal system for better ethical protection to the whistleblowers. Cases such as the one of Suchir Balaji needs to be examined with a cynical mindset to approach the idea of catering to the psychological and mental status of the whistleblowers that are always left unheard amidst the special legal policies, leading to a much-needed analysis over the criminalisation of such whistleblowers who are vehemently targeted by use of force and deceit through tormenting friends and relatives. The need of the hour is an amalgamation of such wide-ranging global laws each hand-picked and assembled from different countries that have incorporated whistleblowers protection as an agenda directing towards a newer law that will ultimately fulfil the utopia of safeguarding whistleblowers in all parts of the globe amicably.

The multifarious legislations and agreements have till this date not captured the true essence of whistleblowing policies and this paper comprehensively examines the standards on those parameters.

**Keywords:** Retaliation, Whistleblower Policies, National Legislation, Federal Laws, Global Standardisation, Comparison

## 1. INTRODUCTION

The term- whistleblowing was coined by Ralph Nader and was attached to its legal connotation in the 19<sup>th</sup> century meaning someone who is attached to exposing a foul play. The concept of whistleblowing is as long as almost three centuries dating back to 1777 when Samuel Shaw and Richard Marven exposed the abuse of power by the senior officer of the Commander of Navy, Esek Hopkins who was caught in an act of abuse of power and mistreating prisoners engaging in unethical practises. It is important to understand that laws for the protection of whistleblowers are not a novice concept and that the security of such an act needs to be guaranteed. Samuel and Richard become historical examples of risking lives and careers to expose the wrong and get protection from the authorities. Naturally, people will look up to these historical pieces of evidence and resume thinking about the current position of whistleblowing laws, regulations, policies and safeguards and be amazed to find none of them as powerful as globally strong-headed.

This is exactly why whistleblowing trends in corporations have seeped under the mask of fear, torture, brutality, and threat. India being a fast-growing economy always faces the threat of economic instability by the increase in such corruption and without guaranteeing a law that protects the revealing parties, would only risk its financial reputation in front of global entities. However, India remains stagnant on these issues and it has to be uncovered by data and historical records of whistleblowing in India about why the situation remains so.<sup>1</sup>

### 1.1 Background of Study

The research hypothesises that Indian legislation on whistleblower protections remains staggering in a pool of mud. This is to identify that though the cases reported as ‘whistleblowing’ within the national boundary appear faintly, the Indian workforce working for bigger corporations outside India in international boundaries are governed by their own state laws. This leaves us with a fear that the expeditious rise of reporting abuse, fraud and malpractices in foreign countries still keeps Indians in a fix, leaving them with no choice but to become a bystander in the consequences that the whistleblowers ultimately face. Therefore, the aim is to create an intersecting law that has a global say in such protections presuming safety and welfare for the corporate employees.

## 2. RESEARCH OBJECTIVE

The pursuit of this study was to locate the gap between the legal system of India on whistleblowing laws and how much it lags behind other nation’s robust laws on ground reality. It has been tried over and again to identify the limitations of the law but the obstacles in the legal interpretation and its restrictions can be identified only by establishing the comprehensive legal amalgamation of a global scenario of whistleblowing and how Indian corporations find their way into those benefits. This study attempts to delve into the international bodies formulated against corruption and aims to understand the Indian involvement in the same. It raises questions on the ambiguous stand of India on any such matters and decodes the global stand of countries that are already, actively involved in the idea of whistleblower protection. Furthermore, having studied that it will also establish

<sup>1</sup> Shweta Mehrotra, R. K. Mishra, V. Srikanth, Govind Prasad Tiwari, E. V. Mahesh Kumar, State of Whistleblowing Research: A Thematic Analysis, FIIB Business Review, Pages 1-2, 2019.

the sound legal amalgamation that will ultimately not be suppressed by the corporate giants and their powers and thus a uniform, standard and strict law shall prevail.

The research will stand as a guiding framework<sup>2</sup> for even people who want to register a report anonymously against their corporations but are unaware of their rights and the existing laws under which they will be sheltered in case of any hazards by the business houses and the connections of the corporation. The issue with the repeated protest for protection stems from cases like the Satyendra Dubey Case of 2003, the Manjunath Shanmugam Case of 2005 and the Infosys Corporate Governance Case of 2019. The former two whistleblowers had been reportedly murdered whereas the latter did not attract any strict legal actions against them. These cases haunt whistleblowing legislation by exposing the fierce face of brutality meted out against reporters and thus calls out for stricter laws.

But the question that arises after carefully examining these cases is if the Whistleblower Protection Act already existed by 2014, why did it stand helpless in the face of protection of uncovering many such scams that resulted thereafter? This is the reason that calls for an active involvement in uncovering these questions and identifying the limitations that keep the Act from achieving its aims in the field of Business Ethics since the Act's aims and objective specifically protects the victims. But, does the mere laying down of laws guarantee any safeguard or not, will be the context of discussion further herein.

### 3. RESEARCH METHODOLOGY

This study initiates as 'fundamental' research concerned with gathering knowledge entirely based on pure research. The already established ideas on whistleblowing laws and case studies in the very same context provide a firm base for such a study helping identify the unanswered aspects on this topic. However, involving deep solutions for business organisations and studying laws on a widespread level, it shapes itself into the 'applied' form of research in the latter stage. Therefore, the study presumes itself as a multifarious, wide-scoped and vastly dimensional one, that delves into important questions of existing legal frameworks and their implementation on the ground level.

Scrutinising the legislation on a qualitative level has been undertaken as a major task in this study to try and understand the reasons for laxity and why the law has not yet been able to catch up the pace with appropriate safety standards for whistleblowers even after guaranteeing to do so on paper. Lastly, the 'doctrinal' approach has been brought into use by hypothesizing a research question revolving around the domestic and international laws of safety and protection. This is to verify, whether India has left to do a lot in this context or does the present stand on the whistleblowing issue suffice, even in this rapid age of technology where frauds have become easier to be carried out and safety faces a reprimanding backseat.

### 4. HOW FAR HAS INDIA COME IN ITS IMPLEMENTATION?

India is a fast-developing nation with the highest population in the world. Its developing phase, with a huge inflow of MNCs, new startups, and an increasing number of private sector entities, requires a robust mechanism to govern the actions of such private entities.<sup>3</sup>

Corrupt actions, wrongdoings, malafide means, and actions are often adapted to increase profits and maintain a standing within the market.

<sup>2</sup> Anshul Prakash & Kruthi N Murthy, Guide to Whistleblowing, Khaitan & Co., International Employment Lawyer.

<sup>3</sup> Whistleblower Protection in India, Forum IAS (Jan 23, 2025, 11:30 AM), [Whistleblower Protection in India - Explained, pointwise | ForumIAS](https://www.forumias.com/whistleblower-protection-in-india-explained-pointwise/).

One, such legislation that is bleak and has a comparatively narrow interpretation is Whistleblower Protection Law 2014.<sup>4</sup>

The major drawbacks of the legislation include-

- Private sector entities are excluded from the purview of this legislation
- Financial incentives are not provided to encourage whistleblower actions
- Confidentiality of the whistleblowers is often not maintained, as anonymous complaints are not accepted
- Absence of Comprehensive and transparent legislation.
- A specific body dedicated to dealing with all issues relating to whistleblower protection, penalties, and reverting to the complaints.

From the comparative study done between Australia and the USA, India needs to adopt certain legislative frameworks and actions to improve and make its whistleblowing system more proactive and inclusive to avoid laybacks in the system and the economy. Non-reporting of such actions and the fear of higher officials in the whistleblowers often lead to actions within the society impacting not only a few but the society at large, one such example being THE SATYAM SCANDAL. Despite such scandals, the government has not taken any major action since 2009. It is 2025 and we are still dependent on the fragmented legislation available in our country like the **Whistleblowers Protection Act, of 2014<sup>5</sup>, Guidelines provided by the Securities and Exchange Board of India (LODR)<sup>6</sup>, and the Companies Act, of 2013<sup>7</sup>.**

Are we moving with the fast-paced world, or are we still stuck with the old legislative frameworks that provide leverage to the people in power and authority?

The Whistleblower Protection Act 2014, requires amendments, and needs to adopt the following from Australia & the USA in particular:

### AUSTRALIA

From the eastern Australian continent, the major legislative parts and ideology is that of a comprehensive and transparent system of whistleblower protection.

India needs to adopt a very comprehensive mechanism where not only the rights and protections should be mentioned but even protection for the whistleblowers and their families must be provided. Protections must be provided from Retaliation and prohibit victimization or adverse action against whistleblowers.

- Protection from dismissal, demotion, harassment & discrimination
- Also, legal framework to provide for compensation for damages caused by retaliation. Thereby, providing financial security to the whistleblowers.
- Anonymous reporting is permitted and thereby encourages the whistleblowers to voice out without their identity being revealed, and helps assure protection from retaliation by public or private entities.
- The introduction of multiple channels of reporting for such cases helps disclose the matters faster to regulatory bodies like the Central Vigilance Commission (CVC).

<sup>4</sup> Whistleblower Protection Act, 2014, §.

<sup>5</sup> supra note 3

<sup>6</sup> Securities Exchange Board of India, Guidelines on Listing Obligations and Disclosure Requirements, (Issued in 2015).

<sup>7</sup> Companies Act, 2013, §.

- Also, it is important to delegate powers to provide more decision-making authority to the Commission like the CVC, for a robust system of providing justice and curbing the wrongdoings.

CVC only holds the power to make recommendations and has no authority to impose penalties.

These implementations within the Indian legislation can help bring in more comprehensiveness and can help make the law more powerful.<sup>8</sup>

## USA

Adopting the earlier discussed benefitting legislative actions by the Western superpower the USA, we can help provide better opportunities, protection, and incentives to our whistleblowers thereby encouraging them to take the initiative of disclosing the wrong practices and helping authorities to get evidence to back them.

A country like the USA with the amount of legislation and acts available to protect whistleblowers and question the entities about their actions is a live example of the need for such laws in a developing nation like India.<sup>9</sup>

One such part of the legislation that requires immediate implementation and focus is the financial incentives for whistleblowers.

In a materialistic and modern world where money speaks louder than ethics, it is of utmost importance to provide and lure whistleblowers financially to bring out what they know. Technically, this sounds unethical too, but providing incentives in the form of money is a materialistic desire that triggers the human mind to act in a specific way and not suppress their voice under the fear of people in power.

Though providing security is more important, as the number of people being killed due to them voicing out about the wrong actions is increasing, it is also of utmost importance to understand that often these whistleblowers are not the people in power or people with authority, they are usually the normal employees of a multi-dollar company.

To wrap up these ideas to be implemented, it is important to understand that not any single idea or change would work in isolation, all these changes and amendments would together bring the desired change in the legislative system of whistleblower protection, and these changes would surely take a long time, it will not be seen overnight.

## European Union

Unlike The EU India has not 1 legislation to govern whistleblower protection.

The only major implementation that should be in the Indian laws is the importance of maintaining the confidentiality and anonymity of the whistleblower, having a wider interpretation of the legislation, and providing multiple platforms for the whistleblowers to approach and reach out.<sup>10</sup>

**The above-mentioned study of the 3 countries reveals that India still has a long way to go in developing and implementing whistleblower protection laws.**

<sup>8</sup> Abigail McGregor, A new era for Whistleblowers in Australia, Norton Rose Fulbright (Jan 22, 2025, 9:30 PM), [A new era for Whistleblowers in Australia | Australia | Global law firm | Norton Rose Fulbright](#).

<sup>9</sup> Whistleblower Protection, U.S. Securities and Exchange Commission (Jan 23, 2025, 10:30 AM), [SEC.gov | Whistleblower Protections](#).

<sup>10</sup> Protecting whistle-blowers in the EU, European Parliamentary Research Service (Jan 23, 2025, 10:45 AM), [Protecting whistle-blowers in the EU](#).

## 5. IDENTIFYING THE GREY AREAS IN A GLOBAL PLAYGROUND OF WHISTLE-BLOWING LAWS

The argument remains between the bodies that have focussed on whistle-blowing better than other nations and these mainly revolve around the above 3:

### 1. AUSTRALIA

On the global platform, various countries have their respective whistleblower protection laws, which make the robust system more transparent and avoid white-collar crimes by exposing corporate houses' actual actions. All countries have a series of legislation protecting the whistleblowers who bring out the wrong actions.

At the global level, we do not have a protocol as strong as other treaties & legislations protecting whistleblowers. This lights up the need & requirement for the same.

Not every legislation is perfect thereby, parts of legislation across the globe make those countries legally armed in this field of protection.

Such countries mainly include the USA & AUSTRALIA.

- The USA leads through its robust financial incentives and sector-specific protections.
- Australia excels with its comprehensive coverage and strong confidentiality measures.

*(The comparison constrains to the United States of America & Australia for this study.)*

Moving towards the laws in the western continent of Australia, it has a vigorous legislative system to protect whistleblowers, maintain confidentiality, protect them from retaliation, and ensure the correct and proper implementation of the legislation by companies situated within the country. Such measures help build a system that is less corrupt & more transparent.

Legislations have created a consolidated whistleblower protection regime applying to all entities and marking a drastic shift from previously fragmented legislation.

Australian legislation including the Public Interest Disclosure Act 2013 (PID Act)<sup>11</sup>, Corporations Act<sup>12</sup>, and Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019<sup>13</sup> passed in December 2018, all maintain strict confidentiality thereby protecting the whistleblower's identity and penalising them for breach of the legislation, also extending protection for their family members & dependents, compensation for victimization, and many more legislations favouring & protecting the whistleblowers<sup>14</sup>.

ASIC also provides in-depth information on the rights and protection of whistleblowers and how the organization handles whistleblower reports.

Australia can also be considered a comparatively better nation in the field of whistleblower protection due to the robust mechanism it follows<sup>15</sup> and the comprehensive coverage it has, unlike the rest of the world. Thereby raising it to a higher pedestal than the others.

<sup>11</sup> Public Interest Disclosure Act, 2013, §.

<sup>12</sup> Corporation Act, 2001, §.

<sup>13</sup> Treasury Laws Amendment, 2013, §.

<sup>14</sup> Amy Cooper-Boast and Fiona LUU, The first test cases of Australia's Whistleblower Protection Laws- Key lessons, LK Law Pty Ltd (Jan 22, 2025, 9:15 PM), [The First Test Cases of Australia's Whistleblower Protection Laws – Key Lessons - LK - The First Test Cases of Australia's Whistleblower Protection Laws – Key Lessons](#).

<sup>15</sup> Jack Thrower, An Australian Whistleblower rewards scheme could reduce white-collar crime while raising billions in revenue, The Australian Institute (Jan 22, 2025, 9:45 PM), [An Australian whistleblower rewards scheme could reduce white-collar crime while raising billions in revenue - The Australia Institute](#).

Often when corrupt practices and means are adopted by companies to maximize profits and financial credibility, the employees, and the staff within the organization fear to voice out such activities within the society due to the chances of their identity being disclosed. Their identity revelation can have a great impact on their job security, which has a rippling effect on their social, economic, and financial standing. This can also directly or indirectly impact their family and dependents.

## 2. USA

Similarly, the USA is the most developed system, setting standards in various fields for all the countries across the globe, it is also providing a Whistleblower protection framework that serves as a model for the rest of the countries.

The legislations stand out from the others solely due to the robust financial incentives that are provided to the whistleblowers and the sector-specific protections.<sup>16</sup>

The legislative framework centres around the Whistleblower Protection Act of 1989<sup>17</sup>, its main goal is to eliminate corporate scandals and promote agreements in the companies that coordinate with other legislations and work under the legal boundaries of the country.

Other Acts governing Whistleblower include: the Sarbanes Oxley Act of 2002<sup>18</sup>- which addresses corporate fraud and mandates whistleblower disclosure under certain circumstances, if reporters fail, this could lead to criminal penalties.

The Dodd-Frank Act of 2010<sup>19</sup> helped significantly in strengthening the protections of the financial sector. Including –

- S.922 of Dodd-Frank Act – Whistleblower program to award them for the information provided regarding securities fraud by the Securities and Exchange Commission.
- S.748 of Dodd-Frank Act – Whistleblower program to be established by Commodities Foreign Trade Commission.
- Department of Justice (DOJ) and the Securities and Exchange Commission (SEC) – Have an enforcement authority over the Foreign Corrupt Practices Act (FCPA). Even rewards are given for reporting international fraud and financial schemes.

These legislations have even helped keep the identities of whistleblowers confidential while providing the evidence to the proper authorities.

One of the most out-of-ordinary parts of these legislations is FINANCIAL REWARDS for the whistleblowers.

Such financial incentives encourage whistleblowers to come forward and report such practices and wrongdoings, showcasing their contribution to the success of prosecutions.<sup>20</sup>

This often plays a positive role in encouraging people to voice out the wrongs and malafide practices around them, it brings in a sense of being part of the success of prosecutions and it is a very common way of playing

<sup>16</sup> Whistleblower Protection and Rewards, National Whistleblower Center (Jan 23, 2025, 9 AM), [Whistleblower Protections and Rewards - National Whistleblower Center](#).

<sup>17</sup> Whistleblower Protection Act, 1989, §.

<sup>18</sup> Sarbanes-Oxley Act, 2002, §.

<sup>19</sup> Dodd-Frank Whistleblower Protection and Rewards, Kohn, Kohn & Colapinto (Jan 22, 2025, 10 PM), [Dodd-Frank Whistleblower Protections and Rewards](#).

<sup>20</sup> Whistleblower Protection, U.S. Securities and Exchange Commission (Jan 23, 2025, 10:30 AM), [SEC.gov | Whistleblower Protections](#).

with the human psychology and triggers positive actions among the individuals to ensure legislations are being properly implemented or not.

Examples of these rewards are-

- The False Claims Act –

15-30% of the government's monetary sanction collected to be paid to whistleblowers if they help with the prosecution of fraud in connection with government contracting and other government programs.

- Dodd-Frank Act –

10-30% of monetary sanctions collected to be paid to whistleblowers if they help with the prosecution of securities and commodities fraud.

- IRS whistleblower law –

payment to whistleblowers of 15-30 % of monetary sanctions collected if they assist with the prosecution of tax fraud.<sup>21</sup>

### 3. European Union

Directive (EU) 2019/1937 is the whistleblower protection directive in the EU, which was introduced in 2019.

This legislation is one of the most comprehensive as the single directive covers multiple areas relating to the same, instead of having fragmented legislation. It is uniform across all the member states of the EU, hence reducing the disparities and creating a comprehensive framework.<sup>22</sup> At the same point, the member states do enjoy some level of autonomy to implement stricter laws if required and encourage innovation in whistleblower protection too.

The directive provides whistleblowers the opportunity to report via internal channels or they can even directly connect to the designated external authorities. Also, whistleblowers have the official legal permission to disclose the information publicly, like the media only if the afore- mentioned mechanisms fail.

This directive has provided for a wider interpretation of the whistleblower definition and includes not only the employees but also the suppliers, shareholders, trainees, and even the people connected with the whistleblower thereby protecting all in cases of them facing retaliation and pushing the burden of proof on the organizations<sup>23</sup> to prove that their actions were not retaliatory to the disclosure by the whistleblowers.

The best part is that whistleblowers are not forced to reveal their identities and they hold the power to report anonymously and confidentiality is thereby maintained.

Even financial assistance, psychological support, and legal advice are provided whenever and wherever necessary.

Hence, such integrated legislation has helped balance public interest and the organization's accountability.

<sup>21</sup> Whistleblower Protection, U.S. Department of Labor (Jan 23, 2025, 9:30 AM), [Whistleblower Protections | U.S. Department of Labor](#).

<sup>22</sup> Protecting whistle-blowers in the EU, European Parliamentary Research Service (Jan 23, 2025, 10:45 AM), [Protecting whistleblowers in the EU](#).

<sup>23</sup> 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, EUR-Lex (Jan 23, 2025, 11 AM), [Directive - 2019/1937 - EN - eu whistleblowing directive - EUR-Lex](#).

## **6. ARE WHISTLEBLOWERS SAFE IN THE PARADISE OF WHISTLEBLOWER LAWS ILLUSION?**

The legalities of whistleblowing need to be approached cynically, considering recent cases like the mysterious death of Suchir Balaji. No law at the moment protects whistleblowers in consideration of their nationality, geographical placement and conditions. This is why when people from a certain country move to different corporations outside their own country, fatalities of exposing corporate fraud follows them, to the extent that it renders them helpless in the land of stranger laws. Suchir Balaji's case revolves around the exposure of Open AI alleging his very own company where he extensively worked on research, for illegal use of articles and violating copyright laws. The AI primarily draws special attention in the case, directing us to newer threats and algorithmic risks associated with exposing illegalities done using AI tools.<sup>24</sup>

The whistleblower's parents turned hostile and suspected his death to be a murder when the media had widely reported it as a suicide. The doubts of his being murdered arise from his immediate calling out of the organisation and AI-driven technologies insufferably being used against laws. However, if the world would have had an impactful AI protection or even the right national and international laws at hand, we would not have lost a tech brain to the very same AI. This is where the AI-driven whistleblowing protection and the global protection facet arises.<sup>25</sup> The areas of concern for whistleblowers are primarily two- *anonymity and security*.

To be able to take care of both, presently The United Nations has a Convention against Corruption<sup>26</sup> signed and ratified by 140 countries and is identified as a country with a dedicated national law for protecting whistleblowers.<sup>27</sup> However, this has not been instrumental in protecting people like Balaji even in this time and age. Ever since the G-20 Anti-Corruption Plan<sup>28</sup> came into effect it has highlighted the active implementation of the UN's Corruption plan by enhancing the transparency and inclusivity of the UNCAC Implementation Review Mechanism and strengthening their working group under the capacity of the Financial Action task Force (FATF).

In 2016, the Organisation for Economic Co-operation and Development considered and analysed the trends through the 2014 OECD Public Sector Whistleblower Protection Survey undertaken by 32 member countries of the OECD Public Governance Committee. These directories have mandated whistleblower protection as the ultimate method to secure public committees and corporate industries.<sup>29</sup>

Therefore, what the world needs is a comprehensive amalgamation of directing laws that guide actions and lead international corporations to establish a routine analysis of insider frauds and illegalities as well as protect people who want to come out against it.

## **7. COMPREHENSIVE NEED FOR GLOBAL STANDARDS AND A UTOPIAN MODEL ESTABLISHED IN A LEGAL FRAMEWORK**

### **Recommendations to approach the whistle-blower laws globally**

The current scenario around the world, when described in a nutshell shows that there has been a lack of measures that have been adopted. All the efforts taken at the international level have unfortunately failed to achieve the intended purpose, due to the non-binding nature of international law, and lack of monitoring mechanism

<sup>24</sup> Wu Henry, *AI whistleblowers*, SSRN, 2024.

<sup>25</sup> Isabella Lorenzoni, An 'AI whistle-blower' to monitor algorithmic Infringements? Volume 15 Issue 1 pp 31-49, *The Competition Law Review*, January 2023.

<sup>26</sup> United Nations, *United Nations Convention Against Corruption*, Vienna, (Issued in 2005).

<sup>27</sup> National Whistleblower Centre, *Whistleblower Laws Around the World*, <https://www.whistleblowers.org/whistleblower-laws-around-the-world/>.

<sup>28</sup> Group of 20 Anti-Corruption Working Group, *Anti-Corruption Action Plan 2022-2024* (Issue in 2022-24).

<sup>29</sup> Organisation for Economic Co-operation and Development, *Committing to Effective Whistleblower Protection*, Paris, (Issued in 2016).

regarding the implementation of the conventions. Secondly, there exists a lot of diversity among the legislations of different countries and the interpretations which they carry with them. This creates a huge room for malpractices and for the multinational corporations. Due to these the whistleblowers of the countries having a weak legislative framework might end up getting exploited even more on the corporate front.

This emphasizes the need for standardization at a global level. The need for an independent authority has been felt time and again which looks after the enforcement of the same. At the same time, the authority should be ensuring anonymity in a manner that is free from any lacunae. So, the authority should ensure that while reporting the instances of whistle-blowing the anonymity of the whistle-blowers remains intact that is the incident should be reported but the anonymity of the whistleblower should remain protected and better accurate mechanisms and measures should be taken to maintain their security, and to combat the fear of getting disclosed.<sup>30</sup> *The time demands for proper adjudication authority that specifically investigates the matters of whistle-blowing cases and it should be empowered to adjudicate and investigate the cases with Suo moto cognizance once it has reasonable grounds to believe the same.*

Secondly, there exists a lot of diversity among the laws of the individual countries hence, there should be a standardization at a global level among these because one of the major sources of whistleblower's exploitation is that of multinational companies. It is very easy for them to exploit their employees because there is a lot of disparity among the laws of different countries and their procedural compliances.

There is a need to take an initiative at the international level where there stands robust monitoring to ensure a proper mechanism that re-affirms whether the signatory countries are implementing the guidelines into the domestic laws or not. Also, it has been observed that significant work has been done regarding the public sector concerning whistle-blowing however, the private sector suffers the most thus, there is a need to enhance the legislation and the Framework for upholding the private sector whistle-blowing as well.

There should be a fact-checking mechanism where it can be ensured that all the companies do follow the principles of corporate governance. There should be a comprehensive independent disclosure procedure within a company regarding corruption-related activities.

These would ensure that more and more people come up fearlessly to report the wrongdoings. Other than this, incentives can be provided for the same and adequate assurance regarding the security of the whistleblowers is necessary on a wider level globally.

Apart from this, specifically in India, the whistleblowing laws are quite scattered i.e. the Whistleblowing Protection Act of 2014, Companies Act of 2013, Listing Obligations and Disclosure Requirements (LODR) by SEBI, and other such guidelines of SEBI along with other regulatory authorities, which emphasis a need for a single comprehensive legislation. Separately, there is also a need for a special adjudication authority for the purpose solely dedicated towards whistleblowing, which has several investigations and adjudicatory powers concerning whistleblowing in the private sector.

A deeper analysis of understanding the translucent legislation with an opaque implementation will create transparent results for a better future in the arena of corporate ethics.

## **8. THE TIME MACHINE OF THE WHISTLEBLOWING PROTECTION LAWS**

Whistleblowing remains one of the areas where there is still a huge scope of advances to be made in the legal system. Despite all the efforts, it is unfortunate that we have come to the realization that there lacks standardization at the global level, and we still have a long way to go in this regime.<sup>31</sup> There have been several progresses in international laws, but they are not effective because of the non-binding nature of international

<sup>30</sup> Dimitrios Kafteranis, The International Legal Framework on Whistle-Blowers: What More Should Be Done?, 19 Seattle Journal for Social Justice 729, 733-48 (2021).

<sup>31</sup> Culiberg, B., Mihelič, K.K. The Evolution of Whistleblowing Studies: A Critical Review and Research Agenda. Volume 146, J Bus Ethics 146, 787–803, pages 787–803, (2017).

law. Many countries have signed many treaties and conventions; however, they fail to effectively serve their purposes, the shortcomings of which have been already pondered upon. According to the data provided by the World Bank, corruption costs us a whopping 5% of the entire world's GDP, which itself explains the sense of urgency behind strengthening the whistle-blower mechanism worldwide. The moment calls for a need for international standardization regarding whistle-blower protection.

The whistleblower protection regime saw its beginning in around 1990s, when the anti-corruption movements gave birth to various conventions internationally, this further acted as the founding block of whistleblowing legislation in various countries. However, in this initial stage, there were a lot of differences between them causing a huge amount of disparity amongst the legislations around the world. Some of the fundamental aspects of the legislation as to "who may report the corruption, that is only the members of the organization or an outsider? or questions such as "whom to disclose the insider pieces of information– only the authority or the public domain" differs from country to country.

One such international convention is that of the United Nations Convention against Corruption (UNCAC)<sup>32</sup>, which remains the only legally binding treaty regarding anti-corruption came into force in 2005. Only 7 UN member countries have not ratified it till now. Further on, this contains several provisions that are non-binding in nature, and some are even vague having multiple interpretations which further reduces its efficacy. Apart from this, the problem regarding its implementation stands as it is. One such example is that of Article 33, which obligates the state parties to protect whistle-blowers, such an important foundation step in the whistleblower protection regime is a non-binding provision. This convention specifically talks about the whistleblowing in context of reporting corruption, but in the growing times there exists a need to expand its scope from merely reporting corruption incidents.

This stands as an obligating reason as to why the current status needs to work upon hefty recommendation plans to achieve the goals of utopia in the field of whistleblowing.

## 9. CONCLUSION

*"I have another name for what they're terming whistleblowers, and that's righteous heroes. From Bradley Manning to Snowden. They are people of conscience who are unwilling to turn a blind eye to the crimes of our government. And thank goodness for them." ~ Tom Morello*

The numerous legislations have seamlessly been offering aid to the whistleblowers on paper but now, it's high time that we start to act. An act that will not only ensure protection but assurance and confidence to blow whistles against all frauds.

Whistleblowing should not just be viewed through a narrow lens of people and parties via corporations but should be glanced at by a third perspective of the audience. This audience catering to the corporates and organisations suffers the maximum loss, seeing no alternative in such scams and fraud cases. In most circumstances, they do not recover what's lost. That simply means that with the advent of the advanced era, the need of the hour is not merely another legislation or law but rather a directive action that suitably accommodates all beneficiaries of the act of whistle-blowing.

As soon as, this becomes a reality of the legal framework of whistle-blowing laws, the 'utopian model' shall see a bright light in its implementation and adjudication ahead and we shall achieve all that has not been possible up till now.

<sup>32</sup> supra note 5