

Whistle Blowing Of Corporate Frauds In India

ABSTRACT:

The paper studies the literature review in-depth about Whistleblowing in India as an ethical concept. A qualitative study with secondary based research has been carried out to understand the mechanism of whistleblowers in India. Purposive sampling has been used in terms of collecting selective episodes of corporate frauds, where whistleblowing was the key to identify the fraud and examine the role of whistleblowers in it. The analysis was done using analytical induction by the statements quoted by the Whistle-Blowers as evidence to media. People should consider whistleblowing an important concept for corporate governance. Whistleblowing act as an aid to many organisations or individuals in the effort to identify or reduce fraud or abuse. Recommendations of the analysis indicate that the individual's concerns shall be reported very seriously, proper action shall be taken on such cases, protection to the whistleblowers should be provided as that is the key to encourage other people to identify and report fraudulent activity in any organisation or individual role. The paper's major contribution is towards understanding the nature of whistleblowing act, and what it offers for the corporates.

KEYWORDS: Corporate frauds, Whistle Blowing, Unethical conducts, Whistle Blowers, India

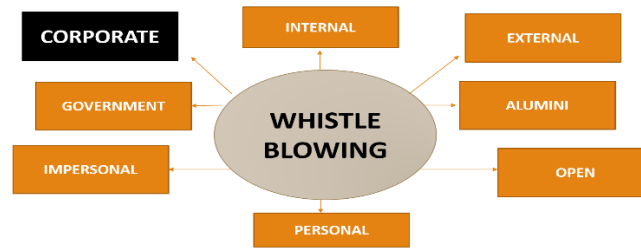
I. INTRODUCTION

Whistleblowing is defined as an act of a present employer or previous employee who may have seen some unethical or illegal behaviour in any organisation. The employee generally can go and disclose it to the public or the management which is also known as internal whistle blowing and the person who does this is called a Whistle-blower. In India, as per the recent cases, there have been instances where whistle blowing has concluded o be the mechanism to detect and prevent a fraud as for example the historic fraud Harshad Mehta was blown out by Sucheta Dalal (the well-known journalist) As righted said by Borrie and Dehn (2003) speedy developments in the revolution of the modern organisation is responsible for making it gradually tough for an organisation to have the essential checks and controls in place, and this makes it easier for employers and employees to act in ways that give in their professional honesty. The ACFE examined 959 cases of fraud related to corporations. They recognised that “almost all fraud involves the attempted concealment of the crime.” Consequently, insiders (i.e. whistleblowers) were viewed as essential for any effective anti-fraud program. The whistleblowing is defined as an action which exposes misconduct or malpractices which is happening within an organisation. Curtis (2006). There have been various world examples of Whistle blowers like Cynthia Cooper exploded the bubble of WorldCom when she happened to inform the management about the company cooking the books of accounts. Sheron Watkins who had busted out Enron Scandal being the Vice President writing a letter to Chairman describing the warning signals of organisation illegal practices. However, when we talk about India -there have also been various episodes of Whistle Blowers where they have been the key to blow out the scandals. It was in 2004 after the death of Satyendra Dubey, a civil engineer with the National Highways Authority of India who had exposed corruption in the allocation of contracts, the National Democratic Alliance government under pressure from the Supreme Court, empowered the Central Vigilance Commission to look into the complaints made by whistle blowers. This was done as an interim measure pending the enactment of a law.

II. TYPES OF WHISTLEBLOWING

Internal Whistleblowing	When the employee of the organisation reports the unethical behaviour or practice to the management of the company, for example, improper conduct, indiscipline in accounts, disloyalty etc
External Whistleblowing	When the unethical practices are reported outside the organisation to the general public via media, newspaper, any enforcement agencies.
Alumni Whistleblowing	When a former employee of any organisation discloses out the information about wrong doing.
Open Whistleblowing	When the Whistle-blower is ready to reveal his/her identity to the public
Personal Whistleblowing	When the wrong doings are specific to harm only one particular person
Impersonal Whistleblowing	When the intent of the wrong doing is for the entire organisation
Government Whistleblowing	When the officials of government are being informed about any illegal or wrong practices in an organisation
Corporate Whistleblowing	When the discloser is done in the corporation itself

TYPES OF WHISTLE BLOWING



Source: The Institute of Company Secretaries of India

Fig1. Source: Authors own compilation from ICSI

III. LITERATURE REVIEW

S.N	NAME OF THE AUTHOR & Year	TITLE OF THE STUDY	JOURNAL /INSTITUTE NAME	Findings from the source
1	Li Chen 2019	A Review of Research on Whistle-Blowing	American Journal of Industrial and Business Management, 2019, 9, 295-305	The study discussed the concept of Whistle Blowing and tried to identify the decision making processes of whistle blowing behaviour and influencing factors of whistle blowing intention. The study indicated the Prosocial Organisational Behaviour model, Ethics Behaviour Model and Social information processing model in which the factors affecting employee whistle-blowing include individual factors, organisational factors and national factors. The authors suggested a longitudinal study to further clarify the persistence of whistle-blowing behaviours and the psychological changes of reporters.
2	Dr.Singam Sunitha, 2018	A Study on Whistle Blowing Mechanism In Corporate India	IOSR Journal of Business and Management (IOSR-JBM)	The study indicated the importance of Whistle blowing as conduct to Corporate Governance and is crucial to enhance the Corporate governance of any organisation. The study emphasised Clause 49 of SEBI. The result of the study indicated that there is a need for employers to end to ensure that the company provides a positive friendly environment for the whistle blowers to respond and put forward their voices on illegal practices.
3	Ms Monika Makhija & Dr Shweta S. Kulshrestha, 2018	A QUALITATIVE STUDY ON IMPACT OF WHISTLE-BLOWERS ON PERFORMANCE OF THE ORGANISATION	INTERNATIONAL JOURNAL OF ENGINEERING SCIENCES & RESEARCH TECHNOLOGY	The study focuses on the impact of whistleblowing on the performance of the organisations. It also discusses the advantages and limitations of Whistleblowing. The study concluded that the rules and regulations must be applied to protect the welfare of whistle-blowers, as well as encourage the culture of reporting in the workplace
4	Nimisha Bhargava, Dr Mani K. Madala, 2015	An Overview of Whistleblowing: Indian Perspective	International Journal of Innovative Research in Science, Engineering and Technology	The study talks extensively about Whistle blowing process, consequence's and the need to develop a whistle blowing policy to encourage the best practice in India
5	Jenny Bartuli Behnud Mir Djawadi René Fahr, 2016	Business Ethics in Organisations: An Experimental Examination of	Institute of Labor Economics	The study focusses to suggest an innovative experimental design in order to study the nature of whistleblowing in an employee-organisation. The study

		Whistleblowing and Personality		suggested that detection can only be possible when the employee observing the other employee's wrongdoing blows the whistle and that might not lead to any consequence to the whistle blower
6	Benjamin Mordedzi, 2015	WHISTLEBLOWING IN GHANA: A CONCEPTUAL ANALYSIS	International Journal in Commerce, IT & Social Sciences (Impact Factor: 2.443)	The study discussed the Ghana Whistle-blower Act, 2006 (Act 720). The paper suggested the wokeness's in the Act and pointed out the salient suggestions to improve.
7	Deborshi Chaki	Whistleblowing and India's giant corporations	Thomson Reuters	The articles discuss the common corruption in private sector and highlighting the anti-bribery laws which have to be relevant in Indian companies
8	Gladys Lee Neil Fargher, 2012	Companies' Use of Whistle-Blowing to Detect Fraud: An Examination of Corporate Whistle-Blowing Policies	Springer	This study investigates the variation of whistle-blowing disclosures... The results of the study suggests that the extent of whistle-blowing disclosures is positively associated with the reporting and organisational support for whistle-blowing by the external directors, audit committees and management responsibilities.

Table1. Source: Authors own compilation

IV. MECHANISM OF WHITLE BLOWING IN INDIA

The Company's Act 2013	Section 177 (9) of Companies Act, 2013 says that all public companies have to mandatory follow the vigilant mechanism to establish a whistle blowing policy. <ol style="list-style-type: none"> 1. The violations should be channelised and addressed to the management. 2. From the entry-level employee to the director level – each one of them is allowed to address any issue or illegal practice in the organisation. 3. As soon as the issue is directed the management should take direct action. 4. Zero harassment should be ensured to the whistle blowers. 5. Confidentiality should be maintained at every level
Section 208 of the Company's Act	An inspector to be appointed other than the registrar to look into the records
Section 210 of the Company's Act	The intervention of the Central Government to investigate the allegations/ suggestions by Inspector
Section 210 of the Company's Act has led to "SFIO-SPECIAL FRAUD INVESTIGATION OFFICE)	Power to arrest the offenders of the fraud after deep investigation.
SEBI – Securities Exchange Board of India	Clause 49 – Principles of Corporate governance <ol style="list-style-type: none"> 1. Listing Obligations and Disclosures Requirements Regulations 2015- listed companies are given the mandate to have a whistle blowing policy 2. The direct intervention of the chairperson of Audit committed in the situations of whistle blowing issues
Whistleblowing Protection Act of 2015	Mr N Mittal (Chief Vigilance officer) initiated the bill in 1993 and the bill was passed in 2015 by Lok Sabha with various amendments mentioned in the Act related to the Inquiry by the competent authority and certain issues that are exempted during the time of inquiry

Table2. Source: Compiled by authors concerning ICSI

V. METHODOLOGY

1. Research Objectives

- a) To understand the Mechanism of Whistle Blowing in India
- b) To validate the existence of Whistle Blowing in Indian Scandals through press shreds of evidence

A qualitative study with secondary based research has been carried out to understand the mechanism of whistleblowing in India. Purposive sampling has been used in terms of collecting recent case studies of corporate frauds, where whistle blowing was the key to identify the fraud and examine the role of whistle blowers in it.

2. Data Collection

Episodes of some Indian scandals collected from various trusted sources- (Lamba (2011); Gupta (2015); Grand Thornton (2016); Reddy (2018)
Selection of press shreds of evidence/statements of Whistle Blowers from top viewed newspaper as rated by Alexa Traffic- Hindustan Times, The Economic Times and Business Standard
Content Analysis performed to validate the existence of Whistle Blowing

3. Data Analysis

Media- content analysis is the subset of content analysis and involves the examination of the content of press/magazine articles (Macnamara, 2005). Use of media content analysis was considered particularly suitable in the present case since press articles covering frauds constitute documented evidence that can be systematically scrutinised to identify and understand the characteristics of the fraud (Cohen et al., 2010). This technique also helps quantify qualitative data (Jones and Shoemaker, 1994). Finally, this thematic analysis allows inferences to be drawn from the quantified data (Jones and Shoemaker, 1994). An independent coder was hired to check the validity of the content analysis, the convergence rate was 95%.

Table 1. Indian Whistle-blowers and the Episodes

Sr.no	Company Name	When the scandal went public	Press Articles / Other references reviewed			Total Articles Reviewed	Alleged Fraudsters	Whistle Blower	"Statements found in the press"
			Hindustan Times	Economic Times	Business Standard				
						44			
1	Punjab National Bank	2018	Sep 07,2018 Feb17,2018	Feb15,2018	May21,2018 Feb18,2018	5	Nirav Modi	Hari Prasad	"I wrote to all agencies concerned (ED, CBI, SEBI) in early 2016 to look into the matter seriously because there is a fraud, but nobody took any action. So, then I finally wrote to the Prime Minister's Office (PMO), "These are big fraudsters and that makes me worried," he said.
2	RotoMac	2017-2018	Oct 28, 2018	Feb 19, 2018	Feb 23,2018 Feb20,2018	4	Vikram Kothari	Bank of Baroda	The CBI registered a case after receiving a complaint from Bank of Baroda against Kanpur-based Rotomac Global Private Limited, its director Vikram Kothari, his wife Sadhana Kothari, and son Rahul Kothari and unidentified bank officials

3	Winsome Group	2016-2017	April 9, 2019	May 31, 2016 Jun 29, 2018	April 5, 2017 June 11, 2019	5	Jatin Mehta	Bank of Maharashtra and Union Bank of India	The CBI has booked absconding diamantaire, Jatin Mehta, in two fresh cases pertaining to an alleged loan fraud of over Rs 587.55 crore on complaints from Bank of Maharashtra and Union Bank of India, officials said.
4	Maharashtra scholarship scam	2017	—	Oct 29, 2018	— Additional Times of India_Dec17,2017	2	Many officials of State Government	Anjali Damania	"In her first full-fledged interview, Damania said she is aware that there will be a lot of mud-slinging (in the coming days) and therefore she is braced for a vicious campaign"
5	Uttarakhand flood relief scam	2015	April 11, 2019	June16,2015	May 31, 2015 June 2, 2015	4	Many officials of State Government	Ajay Bhatt	"A BJP delegation led by Leader of Opposition Ajay Bhatt met Uttarakhand Governor Krishna Kant Paul in Nainital on Monday, demanding the CBI investigation into the alleged scam"
6	Saradha Group Scam	2013	April 2, 2019 Feb 04, 2019	Dec 13, 2014	Dec5,2013	4	Sudipta Sen	Somen Mitra	"Sen began to sell secured debentures and preferential bonds but did not conform to the guidelines of the market regulator SEBI or seek its permission to FLoat the schemes"- Somen Mitra said the city police chief should face the central agency. "If Kumar is innocent, what is he afraid of?" Mitra asked.
7	2g Spectrum Scam	2011-2012	Oct 22, 2011 Dec 19, 2011	May 20, 2011	Oct9,2018	4	Andimuthu Raja	Aseervatham Achary	"Aseervatham Achary, Raja's former additional private secretary, told Special CBI Judge O P Saini these three corporate executives, also accused in the 2G case, used to meet Raja and his ex-private secretary R K Chandolia to pursue their cases with the Environment ministry"
8	CWG Scam	2011	May 21, 2011	Aug 06, 2011 Jan 10, 2013 Apr 26, 2011	Jan 20, 2013 May 30, 2013	6	Suresh Kalmadi	Vinod Rai	After the CWG concluded in 2010, 53 cases of corruption were examined by the Central Vigilance Commission against the Organising Committee. The main accused was the CWG Organising Committee Chairman Suresh Kalmadi. The official figure of estimated loss is around ` 40,000 crores, said Vinod Rai- The man Behind exposing CWG scams

9	Uttar Pradesh food grain scam	2003	Dec 09, 2010	May 24, 2012	January 21, 2013	4	Mulayam Singh Yadav	Vishwanath Chaturvedi	TERRORISING THE WHISTLEBLOWER- "Those times shook my confidence for a while as they tried all possible things to nail me down. But then I gathered myself again. Eventually, the more atrocious they became, the more adamant I turned," SAID THE WHISTLEBLOWER- Vishwanath Chaturvedi_additional source from Times of India-Dec 9, 2010
10	Dinesh Dalmiya Scam	2001	Mar 16, 2006 Oct9,2006	Oct 05, 2013	February 6, 2013	3	Dinesh Dalmiya	Christopher Byron	US journalist Christopher Byron, who exposed several of Dalmia's swindles in that country, drew the committee's attention to his astonishingly brazen scams.
11	Harshad Mehta Scam	1992	Nov 04, 2018	Jul 05, 2016	Jan 01, 2002- Business Lines	3	Harshad Mehta	Sucheta Dalal	On 23 April 1992, journalist Sucheta Dalal exposed Mehta's illegal methods in a column in The Times of India. Mehta was dipping illegally into the banking system to finance his buying.

Table 3. Source: Authors own compilation

VI. CONCLUSION

1. To understand the Mechanism of whistle blowing in India

The study explains various legitimacy under the legal procedures and talks about the whistle blower protection Acts in India

2. To validate the existence of Whistle Blowing in Indian Scandals through press evidence

The results and analysis of the study in Table 3 which shows the detailed content analysis done on the entire data. The cases of 11 corporate scandals show the existence of Whistle Blowing. Whistle blowing means raising an alarm at the wrong within or outside the organisation, where the interest of many people is at stake. One makes noise only intending to alert others to misconduct or misappropriation. The intention to raise alarm should not be to create any kind of panic but only to raise alarm.

The press evidence for these frauds was also extensive ranging from 8-9 press articles. Overall the articles that were reviewed had minimum 2 and maximum 9 – total 44.

- a) It is seen in the press evidence that the whistle blowers tried to blow the fraud as soon as they were aware of the conditions which were going wrong in the organisations. However, the whistle blowers only demand the safety and some seriousness towards their actions which they are taking towards the integrity of the organisations.
- b) It is found from the analysis that the Whistle blowing mechanism works effectively only with the strength and support of the management.

If collaborated with Behavioral red flags of frauds mentioned in the SAS240 of the ICSI the WHISTLE BLOWING can be a more effective tool for early detection of frauds.

VII. SUGGESTIONS AND IMPLICATIONS OF THE STUDY

Although a person's choice to whistle blows a particular illegal activity depends upon its wish and integrity, the following suggestions can be taken into account while framing the policies:

1. An ethical and moral environment should be made available in the organisations where actions are taken against any wrongdoing or wrong practices.
2. An individual should be inspired to convey his/her ethical apprehensions internally or externally
3. An employee in an organisation needs to have trust that his/her complaints or issues will be addressed seriously and action will be taken.
4. An employee needs to feel that he/she will not undergo any retribution for their actions. Proper safety shall be provided to them
5. A proper mechanism of whistle blowing policy should be guided to every employee at the time of their joining
6. The term "Victimisation" and "bullying" must be clearly defined in the Whistleblower Protection Act of India
7. The Behavioral red flags of fraud if combined with WHISTLE BLOWING can have a significant contribution to the organisational values

In the industry where fraud is considered as the most important factor to disturb the financial state of the economy, it is very necessary to the industry to communicate the WHISTLE BLOWING ACTS and behavioural red flags of fraud to their employees and senior management for their awareness and ethical conduct. The study if combined with real-time practice in the corporate sector with ratio analysis, corporate ethical due diligence, analysis of accounting practices etc would give significant contribution in preventing frauds. Whistle blowing can be both internal and external, it depends upon the whistle blower whether he/she wants to make them public or not.

Academically the study has been conducted with various literature reviews and supported context of various trusted legal reports of Big 4, CBI and ACFE. However, the study would contribute to the knowledge of researchers working in this domain.

VIII. FUTURE SCOPE OF THE STUDY

The authors suggest that the future scope collect the awareness and knowledge from anti-fraud experts on the process to understand employee's awareness to Whistle Blowing Act. 2. It is extremely important to understand that these behavioural red flags, contains some situations and some circumstances which have been dealing with various fraud cases so if they could be known to employees the INTEGRITY to become a whistle blower might be increased in Corporates

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