



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2026

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

WHISTLEBLOWING BY LAWYERS AND THEIR IMPACT

~ *Aditi Sonal*

ABSTRACT

The tension between professional duty and moral responsibility and its consequences forms the core research problem that this study aims to explore. It examines the complex relationship between the two as faced by lawyers particularly when there is a conflict between their duty of confidentiality and their moral responsibility to administer justice. The methodology used is based on an analytical and comparative approach drawn from legal articles, case studies as well as questionnaires. It addresses the main legal frameworks particularly the Whistle Blowers Protection Act, 2014 and landmark cases about attorney whistle-blowers. Historical developments have also been considered to get an idea of the recurring patterns and their evolution and indicate that the concept of whistle-blowing is not something new but has been in existence for a long time. The key findings suggest that whistle-blowing by lawyers is necessary for ensuring justice and preventing significant harm. It addresses the consequences like personal and professional risks, defamation as well as a negative impact on emotional well-being. It highlights the gaps that exist in the legal framework and what could be done to address the situation in an effective manner.

The paper puts forward the arguments about how a lawyer who is considered to be the “gatekeeper of justice” may not blow the whistle because of the possibility of retaliation and the severity of the consequences of the situation. It discusses how and in what ways whistle-blowing can affect lawyers as well as the general public. It defines the relationship lawyers could have with wrongdoers and the strain it would cause as a result of whistle-blowing. It states the process of whistle blowing and suggests that it should only be used when there are no alternatives available to resolve the problem. The lawyers must have sufficient evidence as well as the knowledge necessary to wish to get involved in it. It also states what problems a lawyer can get into when the misconduct is not disclosed by him knowing well how it would

cause public harm. It categorizes the different forms of illegal activities that could justify the use of whistle-blowing. A comparative analysis of whistle-blowing in different places has also been done in an effort to find a way out of the problem.

The relevance of this study lies in its enlightenment about how moral obligation should be given more focus along with the legal duties. It determines the circumstances under which confidentiality may be breached for the greater good. It identifies the barriers that come along the journey of whistle-blowing and how to overcome them. The debates about the evolution of lawyers' duties have been discussed along with the need to reform laws to provide a more transparent legal system to protect the whistle-blowers as well as maintain integrity of legal practice. The need to form an internal mechanism that deals with issues anonymously and in a quicker way has been emphasised. At the end, the paper gives suggestions on how to improve the system while guaranteeing that lawyers can act in an ethical manner without being subjected to unfair and excessive consequences for their actions and promoting administration of justice.

INTRODUCTION

Whistle-blowing is the act of exposing or bringing to attention the misconduct, unethical behaviour or illegal activities within an organization by reporting the issue to a higher authority. It is a tool through which problems that would have remained hidden and posed a significant risk for the public at large could be uncovered.

It could be defined as “a deliberate non-obligatory act of disclosure, which gets onto public record and is made by a person who has or had privileged access to data or information of an organization, about non-trivial illegality or other wrongdoing whether actual, suspected or anticipated which implicates and is under the control of that organisation, to an external entity having the potential to rectify the wrongdoing”.

In simpler terms, it is someone who reports corruption, abuse of power, fraud, public harm or any other illicit conduct to someone who is in a higher authority who is accountable for addressing such matters. Generally, the whistle-blower is someone working in the same organization where the wrongful conduct is taking place and discloses information which according to them is unethical.

It is considered to be a courageous act as deciding to speak up often puts one in a situation from which they cannot come back. Whistle-blowing can also have serious consequences for

whistle-blowers and is particularly risky in the legal profession given that legal professionals are guided by the principles of trust and loyalty and depend on their professional networks.

Background Information:

In the legal profession, confidentiality is one of the most important aspects without which clients would not be willing to trust and disclose relevant facts to lawyers. The concept of whistle-blowing is not new in the legal field but dates back to 2,500 years when a Greek military surgeon refused to conduct life-saving surgery on the Persian emperor because of his loyalty to the Greek states and thus failed to carry out his moral obligation¹. Writings of a judge shed light on the laws and customs including injunctions governing the disclosure of information protected by legal confidentiality². It stated that a client relies fully on the lawyer, and the lawyer can do no harm to the client even if the lawyer has some personal grudges against the client.

With the development of the legal profession, discussions on the limitations of legal services also came into focus. There were instances where confidentiality was exploited to conceal illegal activities such as fraud, corruption, human rights violations, and environmental crimes³. There were debates on the roles and responsibilities of lawyers and provided a detailed history of common law development of whistle-blower protections⁴. It described how in certain cases the confidentiality factor could be waived. Whistle-blowing was given importance when certain cases led to the exposure of financial scams, bribery and corporate malpractice were discovered which eventually led to greater accountability.

Past and Current Situation:

Before, whistle-blowing was always looked down upon in the legal profession because of its belief that for a lawyer, a client's interests are of the greatest priority and must be protected no matter what. Disclosure would weaken the client-lawyer relationship and was considered as a professional violation⁵.

¹ Plato and Hippocratic accounts of loyalty and morality in ancient Greece

² Coke, Institutes of Law of England (1628)

³ R v Cox and Railton (1884)

⁴ Whistleblowing and Organisational Social Responsibility: A Global Assessment (2006)

⁵ V.C. Rangadurai v D. Gopalan (1979)

However, this has changed over the years and now confidentiality is not just followed blindly obstructing justice. Whistle-blowing has been recognized as a means to prevent significant harm, expose crimes and protect the public at large.

In India, whistle-blowing is primarily governed by the Whistle Blowers Protection Act (WBPA), enacted in 2014. The main objective of this act is to provide a system that guarantees the reporting of illegal and other malpractices by individuals without fear of retaliation. It prescribes the procedure for filing complaints, how investigations are conducted, and the action taken in response to them, ensuring a fair and transparent system. The Act mandates the establishment of a vigilance commission, which looks into whether whistle-blower complaints have been dealt with properly. Even after such efforts, whistle-blowers continue to face risks including threats, harassment, and even violence showing the need for better and effective enforcement of whistle-blowing laws.

RESEARCH PROBLEM

They have the responsibility to carry their client's sensitive information and are ethically bound to maintain confidentiality. However, legal practitioners are also entrusted with the responsibility of upholding justice⁶. Thus, whistle-blowing often puts them in a dilemma about whether to fulfil their moral obligation upon discovering some serious misconduct or criminal activity or to stay silent and let the injustice happen.

Breaching their duty of confidentiality can have serious consequences for the legal profession which could lead to professional sanctions and emotional harm and affect their own reputations and those of their colleagues.

HYPOTHESIS OF STUDY

This study is guided by the belief that even though whistle-blowing by lawyers is very complex in nature, it is ethically justified and is necessary in today's world to ensure justice and prevent significant harm.

OBJECTIVE AND SIGNIFICANCE OF THE STUDY

The main aim of this research is to understand the complexity of the ethical issue in whistle-blowing and explore the challenges faced by legal professionals regarding it. Through this

⁶ Supreme Court Bar Association v. Union of India (1998)

study, the conflicting duties of legal professionals and the best way to deal with such issues while safeguarding both individual rights and societal interests are discussed.

LITERATURE REVIEW

Myth of the Attorney Whistle blower (Carliss N. Chatman 2019)

The study critically examines the situation after the Enron scandal and the subsequent legal and regulatory changes, whose legal impact was the enactment of Sarbanes-Oxley Act (SOX) of 2002 and the Model Rules of Professional Conduct⁷. The main purpose was to give attorneys whistle-blowers protections. It revolves around the argument that the concept of an attorney whistle-blower is just a myth because it does not reflect the practical aspect of attorney-client relationship and the realities of modern corporate misconduct.

It highlights that new rules such as the mandatory “up-the-chain” internal reporting and the use of external reporting whenever required do not guarantee the expected results as they create a “prisoner’s dilemma” kind of situation for attorneys. When an attorney discloses information, the attorney ends up losing the client’s trust and affecting their company’s reputation. However, those who do not report the misconduct do not face any consequences or any disciplinary action because of the ineffective legal system. This motivates attorneys to hold back information if it will pose a potential threat.

The author has analysed the concept of corporate fraud and supported her theory using examples of Enron Corporation and Theranos⁸. According to her, fraud is not based on a lack of information but on deception and the inability to fully understand the underlying matters. It is easy for companies to manipulate the legal structures and corporate governance norms without letting the attorneys become aware of the full facts and affecting the attorney-client relationship in the process.

The article asserts that the current legal framework is ineffective in the case of attorney whistleblowing and attorneys should be used as a regulatory force to prevent misconduct by providing incentives and rewards.

Lawyers, Confidentiality and Whistle blowing: Lessons from the McCabe Tobacco Litigation (Christine Parker, Suzanne Le Mire and Anita Mackay 2016)

⁷ Sarbanes-Oxley Act of 2002

⁸ Conspiracy of Fools: A True Story (2005)

This article discusses the ethical and legal challenges faced by lawyers who engage in whistle-blowing on discovering any misconduct. In the case of *McCabe v British American Tobacco Australia Services Ltd (BATAS)*, the need to re-evaluate the legal obligations is emphasized and the article asserts that in certain circumstances, lawyers are obligated to go beyond their duty of confidentiality to administer justice.

The article analyses the case study of the 2006 leak by Christopher Dale, a former partner at Clayton Utz law firm, who leaked documents which revealed that lawyers destroyed evidence of McCabe case⁹. Through this, the author explored the question of whether whistle-blowing is ethical and legal. Here, Dale's actions occurred because he believed that fraud was committed on the Supreme Court of Victoria and thus his actions were justified. This motivation shows the lawyer's dilemma of deciding between his duty towards his clients and upholding justice.

It has been argued that professional conduct rules are too narrow, mainly focusing on individual crimes rather than broader issues of professional misconduct and abuse of power and reforms should be made that allows lawyers to disclose confidential information when it is a matter of administration of justice.

The article goes deep into the process of whistle-blowing, suggesting that before disclosing the information, lawyers should first check if they have sufficient information and whether there are no other options left but to disclose it. Even though Dale was criticised for his actions, his efforts proved to be in the public interest.

So, to sum up, the article contends that the legal and ethical frameworks need to evolve and adapt with time to support and protect lawyers from facing negative consequences of whistle-blowing. The author believes that whistle-blowing is not a breach of contract but rather a means of exposing those who exploit the legal services.

The Ethics of Whistle blowing in the Legal Profession (Kagaba Amina G. 2025)

Whistle-blowing is a complex ethical issue where one has to balance the principles of confidentiality and trust against the public interest. It involves lawyers bringing to everyone's attention to the dishonest, illegal and unethical activities and making those responsible liable

⁹ *McCabe v British American Tobacco Australia Services Ltd* (2002)

for their actions. However, doing so puts lawyers in a difficult position negatively impacting them.

It addresses how it is more dangerous in the legal profession because of lawyers' relationship with their clients and colleagues which are based on confidentiality. Lawyers have to evaluate whether their breach of duty is worth all the trouble that they would have to go through.

It discusses the existence and applicability of the Whistle Blowers Protection Act in safeguarding government employees who report illegal activities. However, it has significant gaps due to its lack of clarity and its failure to address consequences arising from a breach of ethical rules¹⁰. While reporting misconduct is necessary, improper whistle-blowing can have severe legal penalties.

Lawyer whistle-blowers are inflicted with emotional and professional risks with long-lasting effects. Their actions could be considered a of betrayal by their colleagues and employers, and might be blamed in case of professional setbacks. Lawyers with the intention of doing the right thing might end up being subjected to injustice themselves. It has been advised that lawyers seek legal counsel to understand the legal and ethical issues and the potential consequences they may face if they continue with the process.

RESEARCH METHODOLOGY: -

Whistle-blowing by legal professionals is of great value in today's world. It is in the hands of legal professionals to ensure justice and fairness in society, as their actions directly contribute towards it. However, emergence of situations like corruption, malpractice or other illegal activities questions their ethical and professional obligations. The reason why I chose this topic for my research is because it highlights both the legal and ethical considerations of lawyers and the challenges faced by them. It provides insights on how to balance the interests of clients while also fulfilling their duty towards the public. In addition to this, it also shows the consequences when the misconduct stays hidden, compromising justice and public trust in legal institutions. It also states how if whistle-blowing is not managed properly, it may lead to wrongful disclosure of sensitive information, reputational damage, and even threats to the whistle-blower's own career¹¹.

¹⁰ The Whistleblower's Protection Act, 2014

¹¹ Some Paradoxes of Whistleblowing (1996)

The topic helps in understanding the real-life challenges of legal professionals in navigating the moral conflicts it presents. The study is based on an analytical and comparative approach and has been gathered through multiple sources including articles and case studies provided by legal professionals and judges about whistle-blowing in the legal sector and also data collected through interviews of legal professionals and online questionnaires.

RESEARCH AND DISCUSSION: -

It is difficult to determine if whistle-blowing is an ethical issue. On one hand, it is considered to be a moral duty to confront wrongdoings while on the other hand it brings the guilt of betraying one's employers or colleagues by breaching the confidentiality that exists between them¹². The main problem arises when one is torn between their personal interests and the courage to speak up. For instance, while the whistle blower would be willing to expose unethical behaviour, the consequences that follow thereafter would stop them from going along with it. The whistle blowers always fear that their actions might backfire on them in the form of losing their jobs and even alienation from their peers. It becomes a real task to reveal the sensitive information without breaching the confidentiality agreement and thus they have to weigh the transparency against the risks associated with it. Such consequences might be irreversible and may significantly affect their careers.

It is not just dependent on personal belief but on the culture of the company. If the company has a culture that discourages transparency rather than promotes it, lawyers will not feel confident to share anything. They would be filled with worries about not being considered a "team player" making them uncomfortable and ultimately leaving the company in a worse position¹³.

Before blowing the whistle, a lawyer would first evaluate its significance by taking into consideration the severity of the consequences and whether they are reversible, and after weighing them would likely affect their moral decision-making.

Those who choose not to blow the whistle compromise their integrity and if their failure to disclose such information is later revealed, it could still implicate them¹⁴. It is also influenced by the attitude of society towards whistle blowing. Most of people are looked upon in a way

¹² Lawyer Whistleblowing and Client Confidentiality (2003)

¹³ The Successes and Failures of Whistleblower Laws (2012)

¹⁴ Ethics in the Practice of Law (1978)

that creates an environment of fear and silence discouraging people from coming forward such revelation.

Reporting misconduct could bring about positive outcomes for the larger society and uncover additional incidents of misconduct. The previous incidents could be addressed preventing such misconduct from taking place in the future.

CONSEQUENCES

A lawyer could get into a lot of trouble if he does not maintain the client confidentiality and trust, thereby preventing the clients from receiving the full benefit of legal services. The conflicting responsibilities result in ethical dilemmas and while making such complex decisions, it could further lead to significant consequences. These consequences can prevent an individual from making the right choice.

Whistle-blowing could have a huge impact on one's career. It may strain the relationship with the employer, creating a hostile environment and could also lead to demotion or even termination. It could also limit future job prospects as employers would try to avoid any disruptions in work and thus might hesitate to hire someone who has a history of whistle-blowing.

Whistle-blowing can emotionally and negatively affect lawyers especially when it comes to one's professional reputation and relationships with colleagues. They would fear that their colleagues would regard their actions as disloyal and that the situation may backfire on them. Feelings of isolation, stress, and anxiety may hinder professional performance and opportunities for growth. It could further lead to depression and anxiety and lack of support due to organizational alienation.

Thus, making an ethical decision requires a lot of courage as well as awareness of the potential repercussions and the need to be prepared when reporting misconduct.

CASE LAWS

History itself is the evidence that people have to pay a great price for their bravery. Many incidents have shown various consequences faced by whistle blowers. in the case of Satender Kumar Antil v. Central Bureau of Investigation & Ors, Satyendra Dubey, an engineer working with the National Highways Authority of India was tragically murdered in 2003 after he reported serious corruption taking place by certain members of the Golden Quadrilateral

highway project. Although he sent his complaint confidentially to the Prime Minister's Office, his identity was exposed, and his death triggered widespread anger, which eventually led to the drafting of India's Whistle Blowers Protection Act, 2014.

In *State of Uttar Pradesh v. Suresh Kumar Agarwal & Others*, Shanmugam Manjunath, a sales officer at Indian Oil Corporation and an alumnus of IIM Lucknow, was killed in 2005 after he sealed a petrol pump for selling adulterated fuel. He was abducted and later shot to death. The Allahabad High Court sentenced the criminals involved, including the petrol pump owner, to life imprisonment. His death became a symbol of the high cost of integrity in public service.

LEGAL MECHANISMS

Whistle-blowers rely on the whistle-blower protections laws to safeguard them against any injustice and encourage them to make informed decisions. There are various legal frameworks across countries to help secure lawyers in such situations. The Whistle Blowers Protection Act, Occupational Safety and Health Act, Public Interest Disclosure Act and Canadian Environmental Protection Act are some of the laws to prevent whistle-blowers from facing any workplace discrimination¹⁵.

Provisions of Whistle blower Protection Act, 2014

In India, the primary legislation is the Whistle Blowers Protection Act, 2014 to safeguard individuals who disclose information of misconduct or any corrupt activities or misuse of power. The provisions under this act not only protect whistle-blowers but also people associated with them and conduct investigation to prevent any potential harm. It provides a platform where whistle blowers can file complaints against any public servant regarding illicit conduct. The complainants are required to reveal their identity in order for the authority to proceed with the action but are also guaranteed police protection and retribution against those who attempt to victimize them. The required time period for filing a complaint under this act is 7 years.

The other laws include Section 177 of the Companies act, 2013 that establishes a vigil mechanism that allows directors and employees to report their concerns. The Securities and Exchange Board of India (SEBI) has also mandated listed companies to establish whistle-blower policies.

¹⁵ Occupational Safety and Health Act of 1970

SUGGESTIONS and CONCLUSION: -

The organizations should provide clear reporting mechanisms to facilitate the whistle-blowing activities. Confidential channels should be made available so that anyone can report their concerns in the safest manner possible. Reporting through the organization's internal mechanisms should be the first course of action as it will cause the least harm to the organization provide the best opportunity to control the situation. It could impose penalties on the wrongdoers and solve the issue more quickly. It helps the organization to adapt to the situation and get an idea of how the public would react if the word got out and accordingly lessen the impact. It has a significant influence on employees who are driven by a sense of right and wrong. Having an effective mechanism means that it should investigate and resolve the matter in a transparent way. The establishment of training programs would provide guidance on how to respond to an ethical dilemma. If an organization takes the required steps, it will not only improve its reputation but also foster a workplace culture committed to the greater good.

The existing laws should be strengthened allowing effective mechanism and should be made accessible to a large extent including the public and private sectors for the protection of the whistle-blowers.

India should take the best points from other countries and adopt globally accepted practices as well as participate in such initiatives.

Even journalists should be provided with such protection as they work closely with the whistle-blowers and promote access to information to the public while also being discreet in the case of national security¹⁶.

Right now, the concept of whistle-blowing is not yet known by everyone. So, efforts must be made to ensure that it spreads across the country through seminars and other public platforms.

The procedure for filing a whistle-blowing complaint must be included in the training of employees from the start¹⁷.

The fact that a complainant's identity may be disclosed should be largely discouraged as it could be dangerous for the whistle-blowers and make them victims of harassment.

REFERENCES

¹⁶ PUCL v Union of India (2003)

¹⁷ Section 177 of the Companies Act 2013

- A Word to the Whistle-Blower. (2002). *Workforce*, 81(7), 28.
- Enrich, D. (2001). Jeffrey Wigand. (Cover story). *U.S. News & World Report*, 131(7), 70.
- Good of, D. A. (2010, Spring), Whistle blower Reform: Insufficient Protection, Uncertain Future, *Business Law Review*, 43, 17-29.
- Weinberg, N. (2005). The Dark Side of Whistle blowing. (cover story). *Forbes*, 175(5), 90-98.
- R v Cox and Railton (1884)
- The Whistle blower's Protection Act, 2014
- McCabe v British American Tobacco Australia Services Ltd (2002)
- Sarbanes-Oxley Act 2002
- Onyango G. Whistle blower protection in developing countries: a review of challenges and prospects. *SN Business & Economics*. 2021
- Myth of the Attorney Whistle blower (Carliss N. Chatman 2019)
- Lawyers, Confidentiality and Whistle blowing: Lessons from the McCabe Tobacco Litigation (Christine Parker, Suzanne Le Mire and Anita Mackay 2016)
- The Ethics of Whistle blowing in the Legal Profession (Kagaba Amina G. 2025)