

## **A Study on Whistle Blowing Mechanism In Corporate India**

**Dr.Singam Sunitha**

*Dept.of commerce, St.Francis College for Women, Osmania University, India*

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**Abstract:** *Corporate Governance (CG) deals with determining ways to take effective strategic decisions to ensure efficiency and also to develop added value to the shareholders interests. One of the important aspects of Corporate Governance is Whistle Blowing Mechanism. Though whistle blowing mechanism is a Non-Mandatory requirement as per clause 49 of Listing Agreement, it plays a very crucial role in enhancing the CG standards of the company. The present study focuses on the effectiveness of functioning of whistle blowing mechanism at various listed companies of Corporate India. The study concludes that Corporate India provides conducive environment for the effective functioning of Whistle Blowing Mechanism.*

**Keywords:** *Corporate Governance (CG), Corporate India, SEBI, Listing Agreement, Whistle Blower, Whistle Blowing,*

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### **I. Introduction – Corporate Governance**

Business organizations across the globe are influenced by varied stakeholders whose interests are vital for their very existence. Shareholders not only expect a good Return on Investment (RoI) but also want safety for their investment. Since shareholders are widely scattered, the responsibility of protecting their interests lies with the management of the company. As the management (the Board) are the agents acting on behalf of the shareholders, there arises the conflict between the interests of shareholders and the interests of the management. Good Governance insures the safety of the shareholders investment. Thus, Corporate Governance (CG) is a set of processes, customs, policies, laws that govern the operation of an enterprise. It sets guidelines for directing and controlling the affairs of a corporate body in order to serve and protect the individual and collective interest of all shareholders. It thus refers to the structures and processes for the efficient control of companies in the interest of shareholders <sup>(1)</sup>.

#### **1.1 Understanding Whistle Blowing**

Whistle blowing basically means raising an alarm at the wrong within or outside the organization, where the interest of many people is at stake. One makes noise only with an intension to alert others to a misconduct or misappropriation. The intension to raise alarm should not be to create any kind of panic but only to raise alarm. It is considered very risky sometimes owing to the types of disclosures one makes. It is important for a whistle blower to make sure that certain aspects are taken into consideration before raising alarm. A whistle blower has to make sure that the information that he or she has are mere facts, not any kind of rumours. Otherwise it may create unnecessary tension among the stakeholders and also weigh the personal risks that are to be encountered if the choice is made to be a whistle blower. Quite often this will be the critical factor which makes the process difficult. However, this will help to deal with the future problems in a much easier way <sup>(2)</sup>.

#### **1.2 Whistle Blowing Policy Framework in India**

The Securities and Exchange Board of India ('SEBI') vide its circular dated August 26, 2003 has amended the Principles of Corporate Governance incorporated in the standard Listing Agreement. The amended principle makes it mandatory for all the companies to have a whistle blowing policy of its own. Any irregularity prevailing in the organization can be exposed by the employees or they can bring it to the notice of management. The management can think of having a proper redressal system to minimise the damages caused to the organization. While the government still has to bring out a comprehensive whistle-blower policy, SEBI has included these guidelines for companies in an amendment to Clause 49 of the listing agreement in August 2003. As per these guidelines, any employee wanting to report any kind of fraud or malpractice in the organization where he works can now have access to company's Audit committee <sup>(3)</sup>. The company will then pass on this information to all the employees working in the organization. It further informs employees that it is their right and privilege to be vigilant. The company also vows to protect such an employee from any kind of harassment or termination. This will be mentioned in the company's Corporate Governance report.

### **1.3 The Non Mandatory requirement – Clause 49 of Listing Agreement**

In Section 177 of the Companies Act, 2013 it is given that every listed company need to establish a vigil mechanism for the directors and employees to report any frauds or mis appropriations in the prescribed format. Accordingly code of conduct has been laid down by the company for its senior management executive and other top management members, which gives guidelines for their code of conduct. Clause 49 of the Listing Agreement is an agreement between stock exchanges and listed companies <sup>(4)</sup>. The Listing agreement makes it mandatory for all its listed companies to establish a mechanism called Whistle BLOWER Policy. It provides a platform for its employees to report any kind of mis appropriation, fraud-suspected or actual and any unethical behaviour to the Board. For protecting the interest of the Whistle BLOWER, the government of India has framed an Act called Whistle Blowers Protection Act, in the year 2011. It is an Act of the Parliament of India which provides a mechanism to investigate alleged corruption and misuse of power by public servants and also protect anyone who exposes alleged wrongdoing in government bodies, projects and offices <sup>(5)</sup>.

### **1.4 A Glance at Whistle Blowing in India**

Though the Whistle Blowers Protection Act, 2011 was approved by the Cabinet of India as part of a drive to eliminate corruption in the country's bureaucracy and passed by the Lok Sabha and Rajya Sabha on 21 February 2014 and received the President's assent on 9 May 2014, The Act has not come into force till now. The act provides a mechanism to investigate alleged corruption and misuse of power by public servants and also protect anyone who exposes alleged wrongdoing in government bodies, projects and offices. The wrongdoing might take the form of fraud, corruption or mismanagement. The Act will also ensure punishment for false or frivolous complaints. But the stories of whistle blower are pathetic and depressing <sup>(6)</sup>.

## **II. Literature Survey**

**Mary B Curtis (2006)** in her paper “**Whistle blower Mechanisms: A study of the Perceptions of “Users” and “Responders”**” aims to explore certain issues like confidential reporting mechanisms, whistle blower hotlines as tools in the organization’s internal control a system for dealing with fraud. The result of the study indicate that there is very little consistency within companies regarding the functions of their hotlines <sup>(7)</sup>. **CH Ponnee, K .Naidu and W.Zamri (2008)** in their paper “**Determinants of Whistle Blowing**” examine the three possible determinants, namely attitudes, subjective norms and perceived behavioural control of whistle blowing. The paper concludes that training programs to the employees can reduce an employer deviant behaviour and promote the reporting of unethical behaviour within the organization <sup>(8)</sup>. **C.Praseeda and K.Lubza Nihar (2009)** in their paper “**On Whistle Blowing and Whistle Blowers – A Diagnostic Approach to Human Resource Management Dimensions of Whistle Blowing**” studies the various dimensions of whistle blowing. The paper also attempts to design a policy of whistle blowing which is practical enough to be implemented. It was identified during the study that management needs to device a system, which encourage a worker to report the issue without taking the support of trade union <sup>(9)</sup>. **Arup Barman (2011)** in his article “**Whistle Blowing Exercise in Indian Corporation – Does it really blow?**” Delve on the factors that hinders over the whistle blowing for good governance and also suggest some measure in the light of available demerits of the system. The author makes an attempt to explain the mis-governance in Indian corporations, its degrees and intensities. The paper concludes that Indians need to understand the spirit of “My experiments with truth” by Mahatma Gandhi on ownership of failure so that management can reap the price and conviction <sup>(10)</sup>. **S.Srividya and C.Stalin shelly (2012)** in their paper “**Whistle Blowing Protection – A Watch Dog for the Organization**” focuses on the protection of whistle blowers. The paper discussed in detail the employee’s point of view and what makes some employees blow the whistle against wrong practices and corruption in the organizations. The paper concludes that in Indian context it is of high importance that organizations takes a serious view of instilling high sense of ethics and laws to protect its employees <sup>(11)</sup>. **Samar Srivastava (2013)** in his blog on **Whistle Blowing** discussed role of whistle blower “Dinesh Thakur” who blew a whistle about company’s falsification of certification documents submitted to drug controllers around the world. The article also highlights the incidents in India where innumerable instances of whistle blowers being killed, approximate 150 whistle blowers were harassed or jailed while 20 have been killed <sup>(12)</sup>. **Sonal Nagpal (2013)** in her article “**Whistle Blowing Mechanism – A Move Towards Better Corporate Governance**” attempts to explain the status of employees while blowing a whistle. The paper also highlights various legislators across the countries like US, UK, India etc in giving protection to whistle blowers across the globe. Finally the paper concludes that India has to revise the clause 49 of the listing agreement making the whistle blowing policy a mandatory requirement for the companies <sup>(13)</sup>. **Brain (2014)** in his article “**Research that Whistle Blowers Want – and What They Need**” discussed the emails that the author received from the whistle blowers. The writer outlines his experiences as a whistle blower adviser and describes some of the insight this role provides <sup>(14)</sup>. **Arjumand Bano and Sanjay Baijal (2015)** in the article “**Whistle Blowing in India – Introspection**” tries to inculcate

some of the suggested remedies in whistle blower protection program to safeguard the position of whistle blower. The paper used secondary data for the study and conclusions have been drawn on the basis of information provided by various journals, book, websites, newspapers and research articles. In their concluding remarks the authors remarked that whistle blowers in India face innumerable problems and employees here are unable to raise concerns about wrong doing of the company <sup>(15)</sup>. **Priyanka Biswas (2015)** in her paper “**Role of Employees in Corporate Governance with Reference to Whistle Blowing Policy**” deals with whistle blowers policy of various corporate and the legal protection afforded to such actions in countries like USA, UK and India under their legal framework. The paper suggests to restore back the mandatory requirement of including a whistle blowing structure of the company which is now made as non-mandatory requirement. The author concludes that for effective whistle blower policy to be in place, the judicial system must give proper space to whistle blowers so that their spirits are lifted <sup>(16)</sup>. **Nimisha, Mani (2015)** in her paper “**An Overview of Whistle Blowing: Indian Perspective**” examined the whistle blowing process in India, its consequences, need for building a whistle blower policy, recommendations for India to encourage whistle blowing. The authors further discussed various episodes of whistle blowers in India. These episodes highlight the odds that whistle blowers face in India <sup>(17)</sup>. **Shikha (2015)** in her paper “**System of Whistle Blowing in India**” highlighted the term whistle blower as someone who draws public attention to a foul in a game by blowing of the whistle. In conclusion the author emphasised the need to strengthen the provisions of whistle blower protection Act and see to it that the Act does not become a paper tiger <sup>(18)</sup>.

### **III. Statement of the Problem**

Corporate industry in India has undergone drastic changes in recent years which demands huge amount of capital investments. The complexity of the corporate increased with the Public Private Partnership model introduced in India, wherein the interests of both stakeholders and stock holders need to be balanced. The growing complexity also resulted out of rampant fraudulent practices which have shaken the economies across the world which resulted in the stockholders losing confidence in the managers of their funds. This calls for a study in the area of Corporate Governance with special reference to whistle blowing mechanism.

### **IV. Need for and significance of the Study**

The series of corporate failures like Enron, Xerox, Satyam, Sahara and King Fisher etc., resulted in overseas investors lose confidence. India being a growing economy needs huge foreign investments to pour in, as Indian government is looking at MNC's to provide capital and technical know-how to fund the major projects. The present study aims to highlight the importance of Corporate Governance norms with respect to whistle blowing mechanism and other regulations for the effective functioning of the companies.

### **V. Objectives of the study**

The paper aims at achieving the following objectives:-

1. To understand the functioning of whistle blowing mechanism in Corporate India
2. To examine the employers' perspective of whistle blowing mechanism in Corporate India
3. To examine the employees' perspective of whistle blowing mechanism in Corporate India

### **VI. Hypothesis of the study**

To realise the above objectives, the following hypothesis is set in order to draw a meaningful conclusion.

**H<sub>0</sub>**: There is no association between Whistle Blowing Mechanism and Corporate Governance.

### **VII. Research Methodology**

The present research is a descriptive and qualitative in nature. It requires qualitative information from the top officials who are at the helm of affairs of the company. The data required has been collected from primary as well as secondary sources. Primary data was collected through personal observation, personal interviews, structured questionnaire so on and so forth. While secondary data is collected from various companies documents, research articles, journals, magazines, and Official websites of Ministry of Finance, SEBI etc.

The study however hinges mainly on Primary data for which two separate questionnaires have been prepared and served.

1. For top level management
2. For middle level and lower level management

### 7.1 Statistical Tools

The questionnaire include both subjective and objective. For analyzing the primary data statistical tools like Chi-square test, Percentage Analysis, Standard Deviation have been used. For this purpose SPSS 17 has been used.

### 7.2 Sample size

The sample companies selected for the study are top 50 corporate companies operating in India. The data required for the study has been collected from the Board of directors, Company Secretary, Auditors, and also from top level employers' and middle and lower level employees of the companies.

## VIII. Scope And Limitations Of The Study

1. The scope of the study is confined to administration and governance issues related to Corporate India. It does not include any other aspects relating to finance, marketing and HR.
2. The issues pertaining to Board of directors their classification, role, duties, powers etc are not covered in the study.
3. The Whistle Blowing mechanism is the perception of the select employees and employers and hence is subject to the knowledge of the respondents about the system at the organisations that they work.
4. The number of respondents to represent thousands of people working in Corporate India may not be truly representative as the respondents may give biased response.
5. The study does not include the Companies Act, 2013 provisions.

### The present study has been divided into Two Parts:

**Part A:** Employers perspective on Whistle Blowing Mechanism in Corporate India.

Employers include the top management of corporate India. Though the upper level cadre also come under the definition of employees of the organization, for the convenience of the study, the top management that includes Board, and other creamy layer of the organisation are referred as employers while studying their perspective on implementation of whistle blowing policy in Corporate India

**Part B:** Employee's perspective on Whistle Blowing Mechanism in Corporate India.

Employees include the middle level and lower level employees of the organizations. These are the ones who usually do not have access to the top management. Especially the lower level employees of the concern have no clue about the functioning of the top level management. They are the ones who report to the middle level management. The information collected from this category of employees is subject to the knowledge they have about the functioning of the whistle blowing mechanism at organizations.

**Table - 1** Factors that Employers agree upon

Factors	Mean Score on 3
Corporate India provide conducive environment to the whistle blowing	2.89
Corporate collapses like Enron and Satyam could have been prevented by an effective whistle blowing policy at work place.	2.36
Unethical practices can be curtailed to a certain extent by an active whistle blowing policy	2.31
Identity of the whistle blower is kept a secret at the organizations.	2.29
Well placed whistle blowing mechanism will dissuade employees from resorting to unethical practices at work place	2.29

**Source:** Compiled from primary data

Table 1 reveals the five factors that employers agree with the most with respect to effectiveness of Whistle Blowing Mechanism at Corporate India. The mean scores given on 3 by the employers indicate the factors that employers agree upon the most. The factors or the statements indicate the positive environment that exists in Corporate India. 2.89 score on 3 indicates that almost cent percent of the respondents agree with the statement that Corporate India provide conducive environment to the whistle blowing. They also agree on the statements like corporate collapses like Enron and Satyam can be prevented by an effective whistle blowing policy at workplace. Satyam scandal is the latest example of the corporate scandals which could have been averted with timely alerts. Had Satyam provided conducive environment to the whistle blowers the scandal of this magnitude could never happen. Corporate India takes care of the fact that a friendly and safety environment provided in the organization can be helpful to the organization itself.

**Table - 2** Factors that Employers do not agree upon

Factors	Mean Score on 3
Whistle blower use trade union support	1.74
Whistle blower protection bill effective in India	1.77
Management is more concerned about the identity of the whistle blower than the issue	1.8
Early alerts would diffuse potentially larger disasters	1.86
Management has their own source of information other than whistle blowers	1.92

**Source:** Compiled from primary data

Table 2 describe the factors about whistle blowing in Corporate India that employers do not agree the most with respect to effectiveness of Whistle Blowing Mechanism at organizations. These are the factors that do not hold any good in influencing the whistle blowing policy in Corporate India. It is opined that trade unions do not support a whistle blower. They do not ensure any kind of protection to the whistle blower which is very unfortunate. Whistle blower do not get any protection from the legal system here in India. This is understood by the second statement where it is declared that whistle blower protection bill is not effective in India. On the contrary 1.86, a very insignificant score also point that early alerts would diffuse potentially larger disasters. But it is rather a contradicting statement in itself as on one hand majority of the respondents feel that corporate collapses like Enron and Satyam could have been prevented by an effective whistle blowing policy at work place, the respondents also opine that early alerts would not be of any use in diffusing the early alerts.

### IX. Hypotheses Testing

To analyse the above concepts and validate the results, a testing method called Hypothesis test is used. Hypothesis testing is an essential procedure in statistics. A hypothesis test evaluates two mutually exclusive statements about a population to determine which statement is best supported by the sample data. Hypotheses 1 & 2 are employers perception on the given statements and Hypothesis 3 & 4 are the employees perception on the given statements

**H<sub>01</sub>:** There is no association between organizations keeping identity of Whistle Blower a secret and conducive environment being provided to the Whistle Blowers by the management.

**H<sub>02</sub>:** There is no association between complainants having access to the CEO of the company and employers' position in the organization.

**H<sub>03</sub>:** There is no association between organizations keeping identity of Whistle Blower a secret and conducive environment being provided to the Whistle Blowers by organizations

**H<sub>04</sub>:** There is no association between complainants having access to the CEO of the company and employees' position in the organization.

**Table – 3** Hypotheses Testing

Pearson chi-square Tests	Value	df	Asymp.sig. (2 sided)
There is no association between organizations keeping identity of Whistle Blower a secret and conducive environment being provided to the Whistle Blowers by the management.	49.885 <sup>a</sup>	4	0.000
There is no association between complainants having access to the CEO of the company and employees' position in the organization	32.006 <sup>a</sup>	4	0.000
There is no association between organizations keeping identity of Whistle Blower a secret and conducive environment being provided to the Whistle Blowers by organizations	59.947 <sup>a</sup>	4	0.000
There is no association between complainants having access to the CEO of the company and employees' position in the organization	13.856 <sup>a</sup>	4	0.008

The hypotheses are tested with the help of chi-square test at 5 percent level of significance. Since the calculated values are less than 0.05 at 5percent level of significance, all the null hypotheses are rejected.

**Table - 4** Factors that Employees agree upon

Factors	Mean Score on 3
Corporate India provide conducive environment to the whistle blowing	2.58
Whistle blower protection bill effective in India	2.32
Management more concerned about the identity of the whistle blower than the issue	2.29
Whistle blower use trade union support	2.28
Early alerts would diffuse potentially larger disasters	2.23

**Source:** Compiled from primary data

The above Table 4 explains the factors that employees agree the most with respect to effectiveness of Whistle Blowing Mechanism at Corporate India. A mean score of 2.58 on 3 indicates that majority of the employees agree that Corporate India provides conducive environment to whistle blowing, which is also opined by the managers. Employees seconding the opinion of the managers only suggests that Corporate India has a friendly and threat free environment as far as whistle blowing is concerned. The factors that employees agree upon are the whistle blowing protection bill being effective in India, management more concerned about the identity of the whistle blower than the issue, whistle blower uses trade union support and early alerts would diffuse potentially larger disasters. Employees taking trade union support for whistle blowing though seen as a positive aspect for employees but it is a matter of concern for the managers and the organization. The trade unions enjoy the strongest network in the business concern and their support to the employees in matters concerning whistleblower may not go well in the interest of the management. It is also true that early alerts would diffuse potentially larger disasters. The mean scores are very close with respect to all the statements which indicate that employees have more or less have same opinion on all these aspects.

**Table -5** Factors that Employees do not agree upon

Factors	Mean Score on 3
Complainants have access to the CEO or chairman or vice chairman of the company	1.83
Corporate collapses like Enron and Satyam could have been prevented by an effective whistle blowing policy at work place.	1.86
A well placed whistle blowing mechanism will dissuade employees from resorting to unethical practices at work place	1.90
Management have a formal system of accepting an anonymous complaint	1.91
Strength and support of the superiors encourages whistleblowers to give in to their desires of idealism and morality	2.02

**Source:** Compiled from primary data

Table 5 explains the factors that employees do not agree with the most. The lowest scores are given to these factors in their respective tables. The lowest mean scores on 3 indicate that employees do not agree with these statements. The statements like corporate collapses like Enron and Satyam could have been prevented by an effective whistle blowing policy at work place, A well placed whistle blowing mechanism will dissuade employees from resorting to unethical practices at work place will only mean that employees do not have much idea about how a whistle blowing mechanism works.

Whistle blowing mechanism works effectively only with the strength and support of the management. To what extent management of any organization supports its employees varies from organization to organization. Corporate India at the outset seems to have rather friendly and supportive environment which is a good sign and the managers of the concerns with coordination and cooperation with the employees seem to work towards providing a conducive environment for the whistle blowers. The earlier statements have also vouched the same.

**Table - 6** Factors that have varied opinions of Employers and Employees

Factors	Employers Mean score on 3	Employee Mean score on 3	Difference in means
Whistle blower protection bill effective in India	1.77	2.32	0.55
Whistle blower use trade union support	1.74	2.28	0.54
Corporate collapses like Enron and Satyam could have been prevented by an effective whistle blowing policy at work place	2.36	1.86	0.5
Management is more concerned about the identity of the whistle blower than the issue	1.8	2.29	0.49
A well placed whistle blowing mechanism will dissuade employees from resorting to unethical practices at work place	2.29	1.90	0.39

**Source:** Compiled from primary data

Table 6 explains the varied opinions of employers and employees on the given statements. The diverse mean scores on various statements indicate how employers and employees differ with respect to certain issues is a matter of concern. Whistle blower policy is effective in India is not agreed by majority of the employers, the

mean score of 1.77 on 3 indicate that. Whereas employees opine that it is indeed effective. Employers being highly knowledgeable and informative, their opinion holds good with respect to the bill because it is popular opinion in India that though bill is introduced in India in 2003, it has shown little impact with respect to providing safety and security of the whistle blowers. A well placed whistle blowing mechanism will dissuade employees from resorting to unethical practices at work place is another statement that holds varied opinions. The mean score of employers shows that they completely agree with the statement and it is also true to the larger extent. A well placed mechanism can only act as a big support system to the organization at large and also help the employees blow the whistle without any fear and favour.

**Table - 7** Factors that have similar opinions of Employers and Employees

Factors	Employers Mean score on 3	Employee Mean score on 3	Difference in means
Corporate India guarantee the confidentiality of identity of the whistle blower to safeguard whistle blower's interest	2.06	2.08	0.02
Internal whistle blowers are better than external whistle blowers	2.18	2.10	0.08
Management has their own source of information other than whistle blowers	2.16	2.10	0.06
Whistle blowing is a challenge to the management	2.14	2.04	0.1
Corporate India has a well placed protection mechanism in place for the whistle blowers	2.26	2.07	0.19

**Source:** Compiled from primary data

Table 10 gives the factors that attract same views and same responses from both employees and employers on Whistle Blowing Mechanism. The mean scores on 3 have been obtained from the respondents and the table shows the highest values obtained on these statements. On the statement that Corporate India guarantees the confidentiality of identity of the whistle blower to safeguard whistle blower's interest both employers and employees have expressed the same opinions. There is just fraction of difference between the opinions of these two people. Then followed by statements like internal whistle blowers are better than external whistle blowers, Management has their own source of information other than whistle blowers, Whistle blowing is a challenge to the management and Corporate India has a well placed protection mechanism in place for the whistle blowers.

### X. Summary

Whistle Blowing Mechanism at Corporate India is prominent and the Companies provide best possible environment to check upon unwarranted practices and ensure transparency in operations. There is a greater onus on employers to ensure that the organisations provide positive and friendly environment for the whistle blowers to respond. A threat free environment is required to make things happen and give fruitful results. It is found from the analysis that Whistle blowing mechanism works effectively only with the strength and support of the management. To what extent management of any organization supports its employees varies from organization to organization. It is also revealed that the organizations have friendly and supportive environment which is welcoming change and the managers of the concern with coordination and cooperation with the employees seem to work towards providing a conducive environment for the whistle blowers.

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