BREAKING THE SILENCE: ENHANCING WHISTLEBLOWER PROTECTIONS TO COMBAT BID RIGGING

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ABSTRACT

Whistleblowers have aided significantly in stopping bid rigging, a blatant collusive market abuse where bidders work together to subvert a system's competitive bidding process, hindering a perfectly competitive market. The purpose of this paper is to examine several critical contributions made by whistleblowers on the merits of their individual case studies, especially in terms of revealing financial deception. Bid rigging is systematically characterized by excessive pricing, less than adequate service delivery, and reduced levels of innovation in the market, thus making its detection highly critical for the protection of public and private interests.

Whistleblowers, as usually insiders via direct knowledge, furnish elaborate evidence. The information elucidates some collusive untoward behaviour like identical bid documents or suspicious activities of subcontracting. Exposés from all around them may ignite investigations into myriad sectors of rot and corruption, leading to multiple litigations and alterations in the purchase policy customarily followed in organizations like the World Bank or IMF. The informants who helped in the construction and health sectors were able to obtain great penalties and important revenue after the bid-rigging activities came to light.

Payback and torment are only some of the dangers that informants can face. Important job deprivation is also an issue that all sources must contend with. Key legal protections like anonymity, disclosure rewards, and accolades are provided under the False Claims Act. Moreover, fostering a culture having complete transparency and unquestionable accountability can incentivize other people may come forward.

This research emphasizes that bid rigging would not be as efficiently concealed without the intervention of whistleblowers. Additionally, fair market competition and integrity are largely ensured with the help of whistleblowers. Ethical procurement is made possible because of the control against collusion made through the joint efforts from many different sides.

Keywords: collusion detection, transparency, procurement fraud, fair competition, collusion, bid riggers, legal protections, whistleblowers.

INTRODUCTION

Corruption through bid-rigging is widespread even today due to its capacity to circumvent the price system and undercut purchase processes. Bid-rigging manipulates free and fair competition by colluding competitors' preset market shortage and the auction's premium prize, thus defrauding the taxpayers, the private sector and the government. Alerting relevant jurisdiction on malpractice blunders in their companies is crucial in putting an end to such endeavours and enabling proper legal action through their testimony. Those who expose wrongdoing and the insiders are of great value supplementary to the outside gaze who usually does not have recourse to information regarding the mechanisms of concealed fraudulent practices. Understanding how so-called whistleblower players act to wholesale focus on exact price setting and limits self-imposed by cartel contracts through fixed profit margins enables integrity. Whistleblower witnesses to frame evidence to show how transactions are put in place knowing the details of the fraud being perpetrated through hand-held paraphernalia of perpetrators.

Whistleblowers can report the evidence such that their investigations reveal cases of corrupt and manipulative bids and bring about an industry-wide change." For example, unlawful disclosures made by whistleblowers in defence contracting, healthcare purchasing, and even in the auctioning of mineral rights have led to significant settlements and enforcement actions against the offending parties. Such actions will foster greater public and governmental accountability and more responsible conduct in the private business sector, discouraging future wrongdoing. Contesting employment for legal reasons, and being subjected to retaliation from peers and employers, poses an enormous risk for these individuals. Nevertheless, their information is crucial in the fight against collusive bidding practices. The Anti-bid collusion legislation like the False Claims Act (FCA) offers protection to whistleblowing individuals, along with anonymity, and promises a financial reward for information disclosure. Such provisions may shield individuals from retaliatory actions motivated by revealing information yet encourage exposing mistakes or misconduct.

The government's preferred approach in several countries is to rely on spontaneous public

reporting of suspected price-rigging activity.[1]. The public consists of

1. Consumers concerned with suspected anticompetitive activity in the marketplace and

2. Whistleblowers, who are typically employees and who are privy to or aware of a company's price cartel.

As a result, several governments rely on the active involvement of the public to successfully fight illegal activity (JFTC and USFTC). The UK's Competition and Markets Authority (CMA) and the USA's Citizen Complaint Centre were created to help customers report suspected price rigging and other illegal activity that they suspect harms competitive consumer markets.

This study is based on a qualitative case study that investigates the extent to which public procurement whistleblowers help expose and combat bid rigging. The study aims to show how whistleblowers help maintain clean buying practices and fair competition by considering specific cases in which they uncovered cheating. This study also considers the challenges faced by whistleblowers and what legal protections currently available can help. Finally, this paper aims to elaborate on the need for and importance of an open & transparent culture, with the ability for whistle-blowers to act freely and maintain the integrity of bidding processes worldwide.

LEGAL AND REGULATORY FRAMEWORK

Firstly, the definition of whistleblower needs to be understood to proceed further with the laws of the countries.

"A whistleblower is an individual who informs the person who is in a position to correct a problem about waste, fraud, abuse, corruption, or threat to public safety and health," according to the National Whistleblowing Centre.[2]. Whistleblowers usually are employees with knowledge of an employer's wrongdoing by his fellow employees or boss.

[1] Irina Haracoglou, 'Competition Law, Consumer Policy and the Retail Sector: Systems' Relation and the Effects of a Strengthened Consumer Protection Policy on Competition Law' (2007) 3 Comp Law Rev 175.
[2] National Whistleblower Centre, https://www.whistleblowers.org/what-is-a-whistleblower/ (last visited on April 2, 2025).

There are four primary means of Whistleblowing:

1. Report any illegal activity or wrongdoing to the relevant authorities (compliance hotlines, supervisors, or even the Department of Justice).

2. Do not engage in misconduct at work.

3. Provide testimony in a lawsuit against the company.

4. Give evidence of wrongdoing to the press

"Bid rigging" falls within the definition of anti-competitive practices and occurs when competing parties conspire illegally to control the outcome of the bidding process. It is considered a restriction to fair business competition and results in increased costs to the taxpayers and consumers. Below is a summary of some of the national and international legislations that deal with bid rigging:

INDIA: Competition Act, 2002.

The Competition Act, of 2002 is an extensive legislation brought into force to curtail anti-competitive practices and promote competition in India. It also approaches bid-rigging through several provisions:

> **Section 3(3)[3]:** The clause explicitly prohibits any agreements about collusion which result in or are likely to result in bid-rigging. Some of the actions covered are:
>
> Collusive bidding, in which competitors agree not to participate in an auction or to bid at a predetermined price.
>
> Cover Bidding where one bidder places a cover bid with the intent that he does not win, and another bidder wins the bid.
>
> Bid suppression occurs when the competition decides not to bid or decides to withdraw bids already presented.

[3] The Competition Act 2002, Section 3(3).

All these practices distort the competitive bid process and lead to trivial outcomes.

Section 3(3A)[4]: Whenever the Competition Commission of India (CCI) adjudicates that tenders were submitted following some collusive practice between companies, this section makes a rebuttable presumption of bid rigging. Unless proven otherwise, such kinds of agreements will be treated as bid rigging in the CCI's reasoning once it reaches that conclusion.

Section 27[5]: Covers sanctions for violations. Companies convicted of bid rigging can be fined by the CCI up to 10% of their average revenue for the last three financial years.

Section 19[6]: Empowers the CCI to inquire into bid rigging and other restrictive arrangements. The CCI can initiate investigations Suo moto or based on complaints.

UNITED STATES: Sherman Antitrust Act

Section 1[7]: Prevents agreements, combinations, or conspiracies that restrain trade, such as bid rigging. Bid rigging is a felony punishable by fine, imprisonment, or both.

Section 2[8]: While it does not mention bid rigging specifically, it prohibits monopolisation or attempts to monopolize any part of interstate commerce.

EUROPEAN UNION: EU Competition Law

Article 101(1)[9]: Undertakings' agreements, arrangements of undertakings and concerted practices which may affect the trade between the Member States, and which have as their object or effect the prevention, restriction, or distortion of competition are prohibited by Article 101(1) of the Treaty on the Functioning of the European Union (TFEU). Bid rigging is also included because it prevents competition.

[4] *Ibid.,* Section 3(3A).
[5] *Supra note* 3, Section 27.
[6] Supra note 3, Section 19.
[7] The Sherman Anti-Trust Act 1890, 26 Stat. 209, 15 U.S.C., Section 1.
[8] *Ibid.,* Section 2.
[9] The treaty on the functioning of the European Union (TFEU), OJ C 202, 7.6.2016, pp. 47-360, Article r3101(1).

Article 102[10]: While not directly mentioning bid rigging, Article 102 TFEU covers abuse of dominant position.

CANADA: Competition Act

Section 45[11]: Forbids competitors from entering arrangements, understandings, or agreements to determine prices, allocate markets, or limit production, including bid fixing.

Section 46[12]: Concerns about bid rigging. It makes it unlawful to agree to bid at a price that is not reasonable or to refuse to bid.

Impact and Enforcement

By ensuring equal competition in procurement activities, bid rigging statutes help protect consumers and taxpayers. To maintain the integrity of the market, enforcement authorities across the world actively investigate and sanction bid rigging. Anticompetitive conduct is discouraged by adding leniency programs and harsh penalties.

Comparative analysis between leniency policy of India, USA[13]

Aspect	India	USA
Legal Framework	Section 3 of The Competition Act	Section 1 of the Sherman Act
Regulatory Authority	The Competition Commission of India (CCI)	Anti-Trust Department USA
Punishments (Criminal)	There are no such punishments coded for criminal activities under the act.	The act mentions that the individual will face a maximum imprisonment of up to 10 years.

[10] *Ibid.*, Article 102.
[11] the Competition Act, R.S.C., 1985, Section 45.
[12] *Ibid.*, Section 46.
[13] Udai S Mehta and Suchismita Pati, *Designing Effective Leniency Programme for India: Need of the Hour*, CUTS International, January 2016 (chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://cuts-ccier.org/wp-content/uploads/2019/01/Designing_Effective_Leniency_Programme_for_India-Need_of_the_Hour.pdf).

Punishments (Civil)	A penalty of as much as 10% of the turnover of the company per year the contract is operative, or three times the company's total profits which broke the contract, whichever is greater.	The highest penalties that can be imposed on corporations is $100 million (i.e., 10 crores in Indian Rupee), while the highest fine for an individual is $1 million (i.e., 10 lakhs in Indian Rupee).
Leniency Provision	Section 46 of The Act, 2002	Corporate Leniency Programme, 1993
Conditions	To benefit from the leniency policy, the following must be satisfied: Supplying relevant information regarding cartels. Collaborative efforts to break up the cartel with the Competition Commission.	The following conditions need to be fulfilled to gain the benefits of the leniency policy: Everything needs to be reveale, andthe company should not have encouraged participants to form a cartel. No inquiry is ongoing. The company shall pay damages to injured parties where possible.
Benefits	For meeting certain requirements, the original petitioner is conferred 100% immunity. The penalty of up to 50% can be waived for the second application. The third applicant can receive a penalty reduction of a maximum	The benefits under the USA lenienc y policy can be received only by the first applicant. 100% of the penalties will be waived.

ROLE OF WHISTLEBLOWERS

As an important first line of defence against misconduct in the company, whistleblowers play a significant role in detecting and preventing fraud. For authorities to act swiftly against fraud, they provide valuable findings and intelligence that might otherwise remain undetected.

Role in the Detection of Fraud

Whistleblowers often possess insider information that regulators and external auditors would not easily obtain. Blowing the whistle can result in serious investigations and corrective actions by revealing information about fraud, mismanagement, or ethical violations. A critical function performed by whistleblowers is revealing claims of corporate malfeasance. This was the case with the scandal regarding Enron and the recent Volkswagen emissions testing scandal. As noted, your disclosures and the resulting company accountability recovery often create a financial benefit, underscoring the value of transparency.

Rewards and Protection

Governments give monetary reward to individuals willing to expose illegal activities to encourage whistleblowing. The U.S. would be a prime example of this through the False Claims Act's qui tam Provisions allowing share from money recovered, with instances of bid rigging yielding large payouts.

The creation of a supportive environment for reporting wrongdoings is associated with legislation that offers protections against retaliatory measures such as the European Directive 2019/1937, U.S. Criminal Antitrust Anti-Retaliation Act (CAARA), and Japan's Whistleblower Protection Act.

Gamification in Reporting

By offering legal protection and monetary compensation, these policies "gamify" competition Whistleblower anti-competitive advocacy. Most notably in the Republic of China (Taiwan) and India with its new 'Lesser Penalty Plus' System, this approach has been successful globally.

Incentives and Protection to the Whistleblowers:

Organizations or governments often fail to protect whistleblowers who, despite facing substantial risks, play an invaluable role in revealing fraud, corruption, or misbehaviour within organizations. Various organizations and governments have developed protective incentive frameworks which promote disclosures while safeguarding whistleblowers against retribution. Such protective measures include guarantees of anonymity, as well as payments dependent on

the results of the investigations, cash payments based on the investigation results and guarantees of paying money relevant to the outcome of the investigation. For instance, the Dodd-Frank Act and the U.S. False Claims Act provide financial rewards for whistleblowers based on the fines resulting from their testimony. In the same manner, the legislative protective measures and the Whistleblower Protection Act allow individuals to be free of suffering negative consequences, such as harassment and dismissal. These frameworks aim to encourage accountability, deter bad behaviour, and allow individuals to protest injustice without fear of reprisal by combining robust legal protections with incentives.

The following are the elements which proved to be helpful in US laws:

AIDING WHISTLEBLOWERS TO PROTECT THEIR ANONYMITY

It is a safeguard under various pieces of legislation for whistleblowers to be able to present evidence of wrongdoing without exposing their identities. Perhaps the most effective way of ensuring that whistleblowers will not be punished for making disclosures to the advantage of society is by keeping people suspected of wrongdoing unaware of who they are.

It is also important to note that confidentiality protections are not always available, and even where they are, the accused can usually figure out the whistleblower's identity from the information they are given. However, whistleblower programs often provide essential identity protections for whistleblowers.

PROVIDING CASH REWARDS TO WHISTLEBLOWERS TO INDUCE THEM TO HELP WITH PROSECUTIONS

Monetary rewards are provided by several robust U.S. statutes to induce individuals to provide evidence of wrongdoing; the amount of the reward is based on how much the whistleblower contributed to making prosecutions successful. These reward statutes include, for instance:

The False Claims Act: requires that whistleblowers who assist with the prosecution of fraud on government contracts and other government programs are entitled to 15 to 30 percent of the monetary sanctions recovered by the government.

The Dodd-Frank Act: requires that whistleblowers who assist with the prosecution of securities and commodities fraud are entitled to 10 to 30 per cent of the monetary sanctions

recovered.

The IRS whistleblower law: requires that whistleblowers who assist in the prosecution of tax fraud receive 15–30% of the money sanctions recovered.

Notably, U.S. citizens are not the only beneficiaries of these programs. Provided that the violation at hand has a U.S., nexus or violates certain laws with international implications, whistleblowers from all over the globe are eligible to report under a range of laws and receive financial rewards.

Since 2011, law enforcement agencies operating these programs have awarded about $6.7 billion in rewards to whistleblowers and received an astounding $43.4 billion for taxpayers and investors.

EQUIPPING INDIVIDUALS WITH THE NECESSARY RESOURCES TO CONTEST FRAUD IN THE INTEREST OF THE CITIZENS

The whistleblowers' right to file a *qui tam* lawsuit under the Federal and state False Claim Acts is allowed. A *qui tam* act allows a particular person to stand in and act on behalf of the government and help enable the citizens to claim some money that they are to get back. If the government decides to step in and do prosecution, the relator receives a reward of 15-25% of the money the relator is awarded only if the government steps in and does the prosecution. For a successful prosecution, that amount increases to 25%-30% of the resources available to the government if the relator goes ahead and argues the case against the defendant even if the government refuse to support the *qui tam* action.

RETALIATION REMEDIES

Retaliatory actions in most cases are taken by a person or an entity to undermine or punish a whistleblower who has exposed their wrongdoings. This is quite common when the accused has power over the whistleblower's employment. After proving she has suffered retaliation, several remedies as prescribed by whistleblower laws are provided to reduce such retribution, including:

Reinstatement after an unlawful termination and receiving Back pay (wages and benefits lost)

Resuming the role the whistleblower held prior

Receiving Front pay (benefits and wages paid toward the duration a new job needed to be sought).

Out-of-pocket expenses like those incurred in searching for new employment

Monetary damages for emotional distress

Exemplary damages

Costs associated with the prosecution and attorney's fees

DECISION-MAKERS WITHOUT PREJUDICE

In case a fair arbitrator is needed to ensure their complaint of power misuse is received and processed without any bias, numerous whistleblower acts involve detailed procedures of reporting. Both to ensure an equitable hearing of the claim of wrongdoing of the offender as well as to acquire anti-retaliation protections and bonuses, the utmost importance lies in following through on these processes, such as reporting deadlines. To ensure rights remain secured, seeking the services of a trained whistleblower attorney is advisable.

Advantages of Strong Whistleblower Protections

Strong whistleblower protections ensure that it is safe for individuals to speak out. Therefore, antitrust laws are better enforced, and this results in:

Increased Competition: Whistleblowers help to level the playing field and establish a fairer, more competitive market by exposing anticompetitive conduct.

Lower Prices for Consumers: Ultimately, consumers suffer the loss when companies engage in price-fixing or other anticompetitive conduct. Lower product and service prices are the byproduct of whistleblower actions, which help to prevent such abuses.

Deterrent Effect: Companies are forcibly reminded that anti-competitive conduct will not be tolerated when whistleblower cases prevail. This deters companies from going against the rules by acting as a deterrent.

IMPORTANCE OF WHISTLEBLOWERS IN ANTI-TRUST AGREEMENTS

It can be very difficult to find antitrust violations. Large companies often operate behind a veil of complex contracts and internal policies. Because they are underfunded, regulatory agencies largely must use insider tips to investigate any wrongdoing. Whistleblowers play a critical role in this regard.

Employees with firsthand experience with anticompetitive activities, such as bid rigging, price-fixing, or market allocation plans, are in an ideal position to expose such illegal activities. Whistleblowers serve as the eyes and ears of antitrust enforcement by speaking up.

Their ability to be the "eyes and ears" of antitrust enforcement underscores whistleblowers' importance. Due to their limited investigation powers, they provide precious information that would otherwise be difficult for regulators to obtain. When internal channels fail or expose risks, whistleblowers can instead report directly to authorities, though antitrust compliance programs often call for internal reporting procedures[14]. For instance, the Federal Trade Commission (FTC) and the Department of Justice (DOJ) have leniency programs to incentivize whistleblowers to report information about cartel activity.

Whistleblowers face challenges such as legal danger and retaliation despite their value. The absence of legal privilege for in-house counsel might discourage internal reporting in certain nations.[15] Additionally, it is harder to discover violations due to the complexity of antitrust rules, which are often adaptive and backwards looking. Under regulatory oversight, ordinary corporate conduct could be confused with antitrust infractions.[16]

Whistleblowers are even more valuable during crisis periods, such as during the COVID-19 pandemic, when competitors collaborate more, and collusion and price fixing are more likely to occur. To enforce compliance, regulators focused heavily on staying alert to such behaviour and largely depended on insider tips.[17]. To promote equitable competition and deter market distortions globally, whistleblower input remains vital.

[14] Informa, https://informaconnect.com/antitrust-compliance-programmes-challenges-and-opportunities/ (last visited on April 6, 2025).
[15] *Ibid.*
[16] Cato Institute, https://www.cato.org/commentary/case-against-antitrust (last visited on April 06, 2025).
[17] Deloitte, https://www2.deloitte.com/content/dam/Deloitte/us/Documents/finance/us-antitrust-risks-and-considerations.pdf (last visited on April 06, 2025).

CASE STUDIES

S.K. Energy Co. Ltd., GS Caltex Corp., and Hanjin Transportation, The Oil Companies Big-Rigging Exposed by a Whistleblower[18]

A whistleblower exposed a decade-long conspiracy to rig bids between South Korea's largest five oil companies in 2020.

The oil companies resolved the matter by paying $163 million under the False Claims Act and another $200 million in penalties and fines. “These are the largest (Clayton Act) Section 4A settlements in American history,” the U.S. Department of Justice stated. The Procurement Collusion Strike Force, an interagency task force of federal prosecutors, the FBI, and the Defence Department & Postal Service Inspectors General, was established due to this case, the government claims. The government provided 12.5%, while the maximum payout from the Federal False Claims Act was 25%.

The court told the government to pay the client $1 million immediately and place approximately $15 million in an escrow account. The Court awarded nearly the maximum share, 23 per cent, of the $163 million False Claims Act settlement, $37 million, considering the parties' substantial pleadings.

Oil and Gas Industry Bid Rigging Case 2009[19]

In February 2012, the U.S. Department of Justice and two gas companies settled for $500,000 in a False Claims Act suit regarding an alleged bid-rigging fraud on mineral rights leases. A former vice president at one of the companies brought a 2009 whistleblower case, which resulted in the government's anti-trust suit.

Gas companies Gunnison Energy Corp. and SG Interests were charged with violating federal law by colluding in auctions for gas leases from the Bureau of Land Management (BLM). The whistleblower alleges that the presidents of both companies signed an illegal contract in which it was agreed that the companies would divide the expense of future lease purchases 50/50 and

[18] Costantine Cannon, https://constantinecannon.com/whistleblower/whistleblower-insider-blog/record-shattering-whistleblower-rewards-2020/ (last visited on April 07, 2025).
[19] Waters Kraus, https://waterskraus.com/practice-areas/qui-tam-whistleblower/bid-rigging/ (last visited on April 07, 2025).

that they would agree on which acreage to bid on and what bid price was acceptable for a parcel.

The settlement is the first of its kind to combat bid-rigging conspiracies for mineral rights leases, the Department of Justice said. The brave whistleblower in this case allowed federal oil and gas rights to be hotly contested by stepping forward.

Egypt Construction Contracts Case (1980s-1990s)[20]

Bid-rigging on government-supported construction jobs in Egypt was uncovered by a whistleblower. Bill Harbert International Construction Inc., Harbert Construction Services, Bilhar International Establishment, Harbert Corp., and Harbert International were among the defendants on this whistleblower complaint. Three U.S. government-funded Egyptian construction contracts in the 1980s and 1990s were claimed to have been the target of bid-rigging.

The jury granted $34 million in damages, which are "trebled" under the False Claims Act, after finding that the defendants had violated the law.

In this instance, bids for three construction projects financed by the U.S. Agency for International Development during that time were supposedly manipulated. The investigation led to several guilty pleas and criminal indictments in the Northern District of Alabama, which resulted in the delay of the civil False Claims Act action.

WHISTLEBLOWER'S LEGAL FRAMEWORK IN INDIA

Abuse of power and public corruption were exposed by Indian Engineering Services officer Satyendra Dubey (2003), a project director and whistleblower in the National Highway Authority of India, and Manjunath (2005), an Indian Oil Corporation sales representative. Dr Anand's 2003 exposure to the VYAPAM government college and job recruitment system and a series of mysterious deaths identified the dangerous position whistleblowers are in India. RTI activist Shehla Mahsood was murdered in Madhya Pradesh in August 2011, after accusing officials of illicit diamond mining. Journalist Ramesh Singha was killed in a road accident in

[20] Finch Mccranie LLP, https://www.finchmccranie.com/whistleblower-blog/whistleblower_case_victory_in/ (last visited on April 08, 2025).

the same year, after exposing illicit mining in the state of Haryana[21]. A polished proposal to curb complexity within the legal framework must be obligatory. For over two decades, the Indian government has undertaken some initiatives within the context of protecting informers.

Several committees have proposed some moderation policies on informers: Murthy Committee Report 2003, Naresh Chandra Committee 2002, and Kumar Mangalam Committee 1999. The Indian Law Commission advanced a draft bill for the protection of disclosures in 2001.

In 2003, the Ministry of Corporate Affairs formed the Serious Fraud Investigation Officer (SFIO) following recommendations from the Naresh Chandra Committee and a cabinet decision, which dealt with rising economic fraud issues across various economic statutes. The 179th Indian Law Commission report, which featured the issue of informers in 2001, made some proposals which were more than what the Whistleblowing Bill 2011 offered.

The bill on informers was placed in the parliamentary standing committee for public recommendation in September 2010. The committee proposed the Whistleblower Protection Bill (2011), which was introduced and approved by the Lok Sabha in December 2011. The bill was passed by the Rajya Sabha on February 21, 2014, without any amendments. The 2014 Whistle Blowers Protection Act sets out the extent and operation of the Act, as well as other relevant terminology and standards for disclosure in the public interest. It also sets out the Competent Authority's powers and responsibilities in receiving disclosures and matters that it cannot investigate. The Act further outlines what must be contained in protections against victimization, protection of identities for witnesses and complainants, and sanctions when the identity becomes public. The Lok Sabha was given the WB Protection (Amendment) Bill, 2015, which prohibited the disclosure of ten different types of public interest disclosures to a Competent Authority. Since these reforms were not ratified by the Rajya Sabha, they lapsed due to the 2019 general elections.

Comparison between the Law Commission of India Bill and the current Whistleblowers Protection Act:

The ambit, definitions, procedures, and enforcement provisions of the Law Commission of India Bill and the Whistle Blowers Protection Act (hereinafter referred to as The WB Act)

[21] Mid-day, https://www.mid-day.com/lifestyle/culture/article/six-times-indian-whistleblowers-uncoveredscams-and-made-headlines-23197139?form=MG0AV3&form=MG0AV3 (last visited on April 08, 2025).

differ substantially. One of the key differences is the degree of transparency. Whereas The WB Act restricts disclosures to public servants only, the Law Commission Bill permits disclosures both against ministers and public officials.[22]

By defining "disclosure" as a complaint regarding the abuse or misuse of power, an offence against any law, or maladministration, the Law Commission Bill provides a wider framework in terms of definitional precision. It also affords more precise protection to whistleblowers in that it defines the term "victimization"[23]. The WB Act, however, limits the term to complaints regarding offences under the Prevention of Corruption Act, 1988, misconducts likely to be demonstrated to have cost the government funds or to benefit a public official, or other criminal offences. Interestingly, the term "victimization" is not defined.[24]

On the issue of protecting identity, the Law Commission Bill allows for the identity of the complainant to be revealed to the concerned public official unless anonymity is desired by the complainant, or it is deemed that public interest lies in keeping the information confidential.[25] In contrast, the Vigilance Commission is not permitted to disclose the complainant's identity to the organisation's leader under The WB Act, except in cases where it is necessary.[26]

The Law Commission Bill provides the authority responsible with jurisdiction to direct the concerned authorities to initiate criminal cases against the guilty public employee.[27] The Vigilance Commission under The WB Act has been empowered to recommend appropriate actions, which may include initiating action and seeking compensation on behalf of the government.[28]

There are immense variations between the two frameworks in terms of time limits. Under the Law Commission Bill, investigations must be completed within six months and two years from the receipt of the complaint.[29] The WB Act, however, provides that a time frame for

[22] Law Commission of India, 179th Report on "THE PUBLIC INTEREST DISCLOSURE AND PROTECTION OF INFORMERS" 2001.
[23] *Ibid.,* at Para 7.15
[24] The Whistleblowers Protection Act, No. 17 of 2014, Section 3, 2014 (India).
[25] *Supra note* 14, at Para 7.16
[26] *Supra note* 16, Section 4(1).
[27] *Supra note* 14, at Para 7.20.
[28] *Supra note* 16, Section 7.
[29] *Supra note* 14, at Para 7.22.

explanations by the concerned department head should be given, but does not specify a fixed time limit for making a discreet inquiry.[30]

There is a significant difference in the distribution of the burden of proof. The Law Commission Bill fundamentally reverses the burden of standard evidence because it shifts the burden on the accused public servant or employer in cases where it is a complaint under the victimization of a whistleblower.[31] As there is no such clause in The WB Act, the burden of proof lies upon the complainant.[32]

Finally, the punishment for wrongful complaints differs in the two. Under the Law Commission Bill, issuing a false complaint would attract a fine of ₹50,000 along with a possible three-year prison term.[33] The WB Act, however, provides a lesser penalty in the form of ₹30,000 worth of fines and imprisonment for two years.[34]

POLICY RECOMMENDATIONS

Strengthening Whistleblower Protection Laws:

ENHANCED LEGAL PROTECTIONS:

1. Create robust legal protections, such as job security, confidentiality, and legal recourse, to safeguard whistleblowers against retaliation.

2. Ensure that these protections are available in both the public and private sectors.

UNAMBIGUOUS REPORTING CHANNELS:

1. Make reporting channels accessible, secure, and clear so that individuals who wish to reveal malfeasance can do so without fear of retaliation.

2. Ensure that such channels are widely accessible and well known.

[30] *Supra note* 16, Section 5(2).
[31] *Supra note* 14, at Para 7.23.
[32] *Supra note* 16.
[33] *Supra note* 14, at Para 7.29.
[34] *Supra note* 16, Section 17.

INVESTIGATION AND OVERSIGHT:

1. Beware of unauthorized oversight that performs investigations of whistleblower cases without creating independent bodies to enforce whistleblower rights.

2. Such organizations ought to have the means of studying abuses of retaliatory policies and developing remedial strategies.

UNDERSTANDING ON WHAT A WHISTLEBLOWER IS:

1. Develop lectures that emphasize the role of a whistleblower, the legal boundaries, and the importance of exposing unlawful activities.

2. Show the success stories of whistleblowers who have brought forth positive changes.

Improving the financial incentives for whistleblowers:

ALLOWANCES:

1. Create allowances with set standards that reward informants financially when their actions lead to positive changes or recoveries.

2. Schedule award payments which should be significant enough to encourage further reporting.

PROTECTING FINANCIAL INTERESTS:

1. Introduce policies aimed at safeguarding the financial interests of whistle-blowers, such as reimbursement for legal expenses and lost wages resulting from retaliation.

2. Assist in covering the legal fees, wages, and other costs that arise because of identifying workplace issues.

TAX CONCESSIONS:

1. to increase the net income of whistleblowers through direct payments, tax concessions are to be provided.

2. It is also permissible to categorize the payout to the whistleblower as a tax-free expenditure.

GLOBAL COOPERATION:

Cooperate with global organisations to unite the whistleblower awards such that they are seen and appreciated worldwide.

Increasing Awareness and Corporate Compliance Measures:

MANDATORY TRAINING PROGRAMS:

1. Mandate companies to provide training to their employees of whistleblower procedures and policies.

2. Ensure that such programs emphasize the importance of moral reporting and the available security measures.

CORPORATE GOVERNANCE STANDARDS:

1. Install and implement strict corporate administration codes including strong whistleblower rules.

2. To ensure compliance with these standards, audits must be held from time to time.

DISCLOSURE REQUIREMENTS FOR THE PUBLIC:

1. Mandate companies to publicly provide any complaint reactions of whistleblower policies and publicly available whistleblowers.

2. Due to this public disclosure, more individuals will disclose wrongdoing, which can also help in building confidence.

BEST PRACTICES FOR THE INDUSTRY:

1. Development and spread of best practices in industries for the safety and handling of whistleblowers.

2. Encourage companies to adopt these procedures in a bid to develop an open and obedient

culture.

Governments and companies can promote an environment in which whistleblowers are comfortable and are encouraged to report misconduct by applying these recommendations. It will increase responsibility and honesty in every field.

CONCLUSION

The role of whistleblowers in detecting and preventing bid rigging as an example of collusion that reduces competition and increases public procurement costs was addressed in this study. It is evident from a case study approach that insider disclosures are often the most effective, and at times the sole means, of revealing sophisticated bid-rigging cartels which are masked by elaborate webs of agreements and secrecy. In cases where investigation and regulatory control are limited, whistleblower actions can catalyse legal reforms and enforcement initiatives. The case studies in question show a pattern: whistleblowers often identify anti-competitive behaviour that remains hidden, which initiates compelled investigations that result in substantial fines, recovery of public expenditure, and recurrence control.

However, these results depend on the existence of proper procedures for protecting whistleblowers, adequate means of disclosure, and an environment that favours silence. These informants are put off from reporting in countries with no or poor protection due to social, legal, and retaliatory consequences. As the report elaborates, the competition and regulatory authorities equally need to promote an environment that encourages whistleblowers towards reporting. It does offer legal protection, but assumes far-invariable range of incentives, monetary or otherwise, filmmakers are presumed to set that lessens the risks that whistleblowers face. Public advocacy and training campaigns could greatly support procurement agencies to shift the narrative around whistleblowing as a public good rather than an act of treachery.

To carry on, whistleblowers are arguably some of the most impactful fighters against bid rigging. They help to enhance the accountability, transparency, and the overall integrity of procurement systems. However, this outcome is only ideal with institutional and supportive legal structures balanced, comprehensively, through protection, stating, providing support for their voice, along with valuing the risk looms for revealing collusion. Propose research questions could involve investigating from a broader perspective the impact cross country have

in the absence of the supporting infrastructure focused on legislations created to protect whistleblowers.

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