A BIRD'S VIEW OF THE BEST PRACTICES ON PROTECTION TO WHISTLE-BLOWERS IN US AND UK

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Abstract

India being a democratic setup requires transparency and accountability in its functioning, whereas on the other hand the problem of corruption, which is deeply rooted in our society, affects the same as it drains away the resources of our country thereby causing distrust in justness of democratic institution. The idea which the founding fathers of our constitution had in their mind has still not been able to be implemented. Recent cases of Coalgate scam, Vyapam scam are examples of it.

A huge step was taken by the parliament in this regard by enacting a Whistleblowers Protection Act, 2011 which could curb the unethical practices prevailing in the country especially in government bodies. Enforcement of the Act has been left on the Central Government, which has not notified any date till date and various drawbacks are alleged in this legislation throughout India. There is a tendency to compare almost every piece of legislation with the laws of developed countries for better implementation. United States is said to have the best Whistleblower protection policy, therefore author has made an extensive research on this particular area and has covered almost each area of this law. Author has also made an attempt to highlight the whistleblower policy in United Kingdom. The idea behind this paper is to understand the international standards so as to apply them on our legislation. This article will help us to understand the possible vacuum prevalent in The Whistleblower Protection Act, 2011. Also, since Indian Whistleblower Act is yet to be enforced, detailed analysis of provisions of these countries will help us implement and amend (if needed) the law in a much more better way.

Keywords: transparency, accountability, whistleblower, United States, United Kingdom.

INTRODUCTION

A democratic model of governance was introduced by the founding fathers of Indian constitution having transparency and accountability its core components. This model is now

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considered as the largest democracy all over the world. In the beginning years of democratic India, things went on smoothly as the country was under the leadership of those who struggled for its freedom. But in later years concentration of economic and political power led to the most loathed evil in our society i.e. corruption and in the present scenario, corruption has gone deep in to the roots of our country thereby draining away the resources of our country and causing distrust in justness of democratic institution. Constitution of India emphasizes on the principle that the holder of public office has a fiduciary duty towards the people but the reality is far away from it. The reason is corruption. The Incidents like Indian coal allocation scam, 2G spectrum scam and the most recent Vyapam scam are the examples of the current situation. Hence, there has to be a mechanism for holding public authorities accountable for corruption. One important step in this regard is the Whistleblowers Protection Act, 2011. The Act aims at extending protection to all those activists who intervene in their own organization and report unethical practices in the same. It also provides for providing mechanism for receiving complaints and inquiring into corruption but the Act is yet to be enforced. Since Indian Whistleblower Act is yet to be enforced, detailed analysis of provisions of these countries will help us implement and amend (if needed) the law in a much more better way.

The protection of public sector employees or private sector employees who make disclosure of unethical practices carried out within their corporation is necessary. The reason is to prevent their exploitation. Legislations have been passed in this regard by various major countries like Australia[1], Canada[2], Japan[3], New Zealand[4], South Africa[5], United Kingdom[6] and United States[7]which lays down substantial provisions to protect whistleblowers. This article seeks to analyze the legislative position of U.S. and U.K. with regard to whistleblower protection.

[1] Public Interest Disclosure Act, 2003
[2] Public Servants Disclosure Protection Act, 2005
[3] Whistleblowers Protection Act, 2004
[4] Protected Disclosure Act, 2000 (NZ)
[5] Protected Disclosure Act, 2000 (South Africa)
[6] Public Interest Disclosure Act, 1998; Employment Rights Act, 1996
[7] Whistleblower Protection Act, 1989; The Sarbanes Oxley Act, 2002; Dodd-Frank Act (Wall Street Reform and Consumer Protection Act), 2010

POSITION IN UNITED KINGDOM

United Kingdom has passed various legislations in this regard but most relevant is, the Public Interest Disclosure Act, 1998. As can be seen not only from the Parliamentary debates on the Bill but from the references to it in the White Papers on Freedom of Information Your Right to Know, the primary goal of this Act was to promote good governance and openness in organizations[8] Due to its wider impact on governance and relevance across all sectors the legislation received broad support by the Confederation of British Industry, the Institute of Directors and all key professional groups. The Act's genesis lies in the analysis of scandals and disasters in the 1980s and early 1990s. At that time it was revealed in every public enquiry that workers had been aware of the danger but were either too scared to raise their voices against such danger or had raised the matter in the wrong way or with the wrong person. As a result of which, during this period, there were a series of disasters, which could have been averted only if insiders had communicated their concerns.

This position is better explained with various events which can be taken as example of abovementioned situation. The first and foremost is, *the Clapham Rail crash*, where the Hidden Inquiry even after hearing that an inspector had seen the loose wiring said nothing because he did not want 'to rock the boat'. Further, there was a case of *the collapse of BCCI* in which Bingham Inquiry found that, there was an autocratic environment in which nobody dared to speak.[9] *The Piper Alpha disaster* (where the Cullen Inquiry concluded that "workers did not want to put their continued employment in jeopardy through raising a safety issue which might embarrass management"), Cullen enquiry was one of the major example of that time, the Cullen enquiry into the Piper Alpha Oil Platform explosion heard force in the UK sector of north sea field. Workers had not wanted to put their continued employment in jeopardy by raising a safety issue that might be seen as embarrassing to management and those short term contracts had been vulnerable to being 'not required back'. They had therefore suffered unsafe working practices in silence. It was the main incident due to which Public Interest Disclosure Act, 1998 was enacted.[10]

[8] 'Your Right to Know' (Gov.uk 1998) <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/272048/3818.pdf> accessed 11 April 2015.

[9] 'A Guide to PIDA' (Pcaw.org 2003) <http://www.pcaw.org.uk/guide-to-pida> accessed 15 April 2015.

[10] John Macdonald and Clive H Jones, *The Law Of Freedom Of Information* (Oxford University Press 2003) 628

The G20 countries committed in 2010 to carry out adequate measures for protection of whistleblowers submitted a final report on Whistleblower Protection Laws. Its object was to analyze the current state of whistleblowers protection legislations and their application in identification of wrongdoing in both public and private sectors. The Table[11] stating the ratings[12] of the legislative regime against international principles is given as under-

#	Principle	Public sector	Private sector
1	Broad definition of reportable wrongdoing	1	1
2	Broad definition of whistleblowers	2	2
3	Broad coverage of organizations	2	2
4	Range of internal / regulatory reporting channels	1	1
5	External reporting channels (third party / public)	2	2
6	Thresholds for protection	1	1
7	Confidentiality protected	2	2
8	Internal disclosure procedures required	3	3
9	Sanctions for retaliators	2	2
10	Broad retaliation protections	1	1
11	Oversight authority	3	3
12	Comprehensive remedies for retaliation	1	1
13	Transparent use of legislation	2	2
14	Provision and protections for anonymous reporting	3	3

[11] Simon Wolfe and others, 'Whistleblower Protection Laws In G20 Countries Priorities For Action' (Transparency international Australia 2014) <https://www.transparency.de/fileadmin/pdfs/Themen/Hinweisgebersysteme/Whistleblower-Protection-Laws-in-G20-Countries-Priorities-for-Action.pdf> accessed 16 April 2015.

[12] Rating: 1. Very or quite comprehensive, 2. Somewhat or partially comprehensive , 3. absent / not at all comprehensive

This report highlights the need to introduce laws for better protection of employees who work for private as well as public sector. The international principles which are only partially comprehensive or not at all comprehensive need immediate attention. For example, provisions regarding internal disclosure procedure, protection for anonymous reporting lack legislation and implementation. But on the brighter side, a significant progress has been made in certain principles like, regulating channels or remedies for retaliation which is commendable.

Overview of the provisions:

- The Public Interest Disclosure Act 1998 (PIDA) provides for comprehensive protection of whistleblowers in the UK.[13] The main effect of PIDA was to amend the Employment Rights Act to embed whistleblower protections into employment law.[14]
- PIDA applies to a "worker" in both the public and private sectors, and extends protection to contractors.[15]
- Malpractice- The Act applies to people at work raising genuine concerns about crimes, civil offences (including negligence, breach of contract, breach of administrative law), miscarriages of justice, dangers to health and safety or the environment and the cover up of any of these.[16] It applies whether or not the information is confidential and whether the malpractice is occurring in the UK or overseas.
- Individuals covered- In addition to employees, it covers workers, contractors, trainees, agency staff, home workers and police officers. The usual employment law restrictions on minimum qualifying period and age do not apply to this Act. It does not cover the intelligence services or the armed forces.
- Internal disclosures (Section 1, ERA s.43-C)[17] - A disclosure made in good faith to the employer (be it a manager or director) will be protected if the whistleblower has a reasonable belief the information tends to show that the malpractice has occurred, is occurring or is likely to occur.
- Regulatory disclosures (Section 1, ERA s.43-F) - The Act makes special provision for disclosures to prescribed persons. These are regulators such as the Health and Safety

[13] The Public Interest Disclosure Act 1998 (PIDA)
[14] Employment Rights Act, 1996
[15] Employment Rights Act, 1996 s 43k
[16] Employment Rights Act, 1996 s 43b
[17] Employment Rights Act 1996 s 43 c (i)

Executive, the Inland Revenue and the Financial Services Authority. Such disclosures are protected where the whistleblower meets the tests for internal disclosures and, additionally, reasonably believes that the information and any allegation in it are substantially true and is relevant to that regulator.[18]

- Wider disclosures (Section 1, ERA s.43-G) - Wider disclosures (e.g. to the police, the media, MPs, consumers and non-prescribed regulators) are protected if, in addition to the tests for regulatory disclosures, they are reasonable in all the circumstances and they are not made for personal gain.
- Protection - Where a whistleblower is victimised or dismissed in breach of the Act he can bring a claim to an employment tribunal for compensation. Awards are uncapped and based on the losses suffered. An element of aggravated damages can also be awarded.[19] Presently where the whistleblower's claim is for victimisation (but not dismissal) he may also be compensated for injury to feelings. Where the whistleblower is an employee and he is sacked, he may within seven days seek interim relief so that his employment continues or is deemed to continue until the full hearing.[20]
- Secrecy offences - The legislation covers workers in the private and public sectors but Section 11 excludes the disclosures which would be an offence under the Official Secrets Act.[21]

  Where the disclosure of the information is found to be in breach of the Official Secrets Act or another secrecy offence, the whistleblower will lose the protection of the Public Interest Disclosure Act if –

  (a) He has been convicted of the offence or,

  (b) An employment tribunal is satisfied, to a high standard of proof approaching the criminal one, that he committed the offence.

Following cases will help to understand the position in a better way.

Jonathan Aitken and the Daily Telegraph[22]

In 1971, a prospective parliamentary candidate, Jonathan Aitken, was accused of offences under the Official Secrets Act for passing on classified information to the Sunday Telegraph.

[18] Employment Rights Act 1996 s 43 f
[19] Public Interest Disclosure Act, 2003 s 8
[20] Public Interest Disclosure Act, 2003 s 9
[21] Lucinda Maer and Oonagh Gay, 'Official Secrecy' (house of common library 2008) <http://fas.org/irp/world/uk/secrecy.pdf> accessed 20 April 2015.
[22] Maer and Gay (n 49)

This information was about the Biafran war in Nigeria. But, his plea that it was his "duty in the interests of the state" to have done so was accepted and a result of which he was acquitted of all charges.

Later on, a Report[23] was published by Public Concern at Work (PCAW), which compiled the case laws that has been decided by the Employment Tribunal. These case laws will provide us the clear understanding of the provisions of Public Interest Disclosure Act. A bare perusal of these cases signifies that the term 'detriment' has been given a broad connotation by the court.

Almond v Alphabet Children's Services (2001)

Tribunal held that the word 'Detriment' connotes an offer of less work to a casual worker. The brief facts of the case were as followed- Almond was a casual worker at a care home. ET held that after she made a protected disclosure (though to whom or about what is not stated in the summary decision), the care home offered her less work than they had previously. The ET found that this was a detriment and awarded her £1,000. Therefore, a wide connotation to the word 'Detriment' has been given by the ET.

Bhatia v Sterlite Industries (2001) - PIDA's application overseas; tribunal held, 'Detriment' includes threat to destroy the whistleblower; £800,000 award.

Evidence has suggested that due to the expense of running a whistleblowing cases, many whistleblowers accepts a settlement in return for silence before going to the employment tribunal despite a ban for such clauses in Section 43J of PIDA[24]. This has resulted in extensive use of 'gagging clauses'. These 'non-disparagement clauses' are counterintuitive to the release of information in the public interest to the public domain and removes the focus on rectifying wrongdoing. In 2013 the 'Francis Report' found: "non-disparagement clauses are not compatible with the requirements that public service organizations in the healthcare sector, including regulators, should be open and transparent".[25]

PIDA does not apply to 'service members' i.e., employees of the armed forces, the Ministry of Defence and the intelligence services. They are not afforded protections when making public interest disclosures.[26] This is a glaring gap in the legislation, especially considering the

[23] 'Notable-Pida-Cases-2003' (Pcaw.org 2003) <http://www.pcaw.org.uk/cms/sitecontent/view/id/85/highlight/case+summaries> accessed 20 April 2015.

[24] Contractual duties of confidentiality.-Any provision in an agreement to which this section applies is void in so far as it purports to preclude the worker from making a protected disclosure.

[25] Robert Franics, 'Executive Summary' (The Mid Staffordshire NHS Foundation Trust 2013) <http://webarchive.nationalarchives.gov.uk/20150407084003/http://www.midstaffspublicinquiry.com/sites/default/files/report/Executive%20summary.pdf> accessed 22 April 2015.

[26] Employment Rights Act 1996 s 192 amd 193

highly secretive nature of such employers. In addition to this, there is restraint on disclosure of information if it concerns a matter of 'national security'.[27]

POSITION IN UNITED STATES

The most significant efforts for protection of whistleblowers have been made by USA. Initiation of these efforts can be traced through the Civil Service Reform Act of 1978 (hereinafter CSRA), which prohibited eleven personnel practices. Under this Act, a Federal Office of the Special Counsel (OSC or Special Counsel) was created, which was to provide adequate remedial measures to disgruntled whistleblowers before the US Merit Systems Protection Board (MSPB).[28]The relation between the two was that of a prosecutor and judge respectively. Along with these Acts, the major legislation in this regard is The Whistleblower Protection Act of USA (hereinafter the WPA Act). It is based on four primary principles. These are:

(*1*) Giving whistleblowers an individual right of action (IRA) before MSPB so that they can control their cases.

(*2*) Making the agency a risk-free option by elimination of the discretionary powers possessed by the Special Counsel.

(*3*) Elimination of prior loopholes so as to expand the stage of protection, broadening the shield for protected conduct and expanding the scope of illegal employer conduct.

(*4*) Focus on creating more realistic burdens of proof.[29]

Another exclusive and commendable provision in the WPA Act is the ability of whistleblowers to *opt for a transfer*. This is a unique provision which is not available in any other country. After completion of litigation, whistleblowers often find the work environment to be hostile, where employers constantly find faults in their work in order to remove them from employment. This situation is remedied by the WPA Act, which enables whistleblowers to file petition for transfer. This provision can also be invoked during the interim stage. The legal position regarding whistleblowers in USA after commencement of WPA Act in1989 has become a dynamic process wherein time and again new statutes come into force as per the need of time. The most recent and perhaps most significant of these statutes is the *Sarbanes-Oxley Act* which was enacted by the Congress in 2002. The need was felt, after the

[27] Employment Rights Act 1996 s 202

[28] Abhinav Chandrachud, 'PROTECTION FOR WHISTLEBLOWERS: ANALYSING THE NEED FOR LEGISLATION IN INDIA' (2004) 6 SCC (jour) 91 <http://www.ebc-india.com/lawyer/articles/2004v6a9.htm#Ref35,> accessed 20 April 2015.

[29] ibid.

misconduct of companies such as Arthur Anderson, Enron and World.Com, to introduce a substantial legislation which provides for protection of whistleblowers who report that a company subject to the Securities and Exchange Commission's Regulations has engaged in any number of fraudulent activities, including federal mail fraud, wire fraud, securities law fraud, etc. on a reasonable belief.[30]

Like Sarbanes-Oxley, Dodd-Frank also provides certain effective protections to whistleblowers. It defines whistleblower as any person who provides "information relating to a violation of the securities law to the SEC." It prohibits retaliation by employers (whether public or private) "because of any lawful act done by the whistleblower—(i) in providing information to the SEC in accordance with this section; (ii) in initiating, testifying in, or assisting in any investigation or judicial or administrative action of the SEC based upon or related to such information; or (iii) in making disclosures that are required or protected under Sarbanes-Oxley"[31]

Dodd-Frank also (unlike Sarbanes-Oxley) permits employees claiming retaliation to seek redressal in federal court directly without first seeking administrative relief, provides more time to do so (six years from the violation or three years from discovery of the violation, so long as such claim based on discovery is not asserted more than ten years from the violation itself) and provides for certain enhanced recoveries, including two times back pay with interest and attorney and expert fees. Dodd-Frank also created a bounty program, backed by a $450 million investor protection fund, to incentivize corporate whistleblowing. The relevant provision provides that in any action by the SEC resulting in monetary sanctions exceeding $1 million, the SEC "shall pay an award," in an amount between 10-30% of the monetary sanctions collected, to whistleblowers who "voluntarily provided original information to the SEC which led to the successful enforcement" of the action.[32]

A report on Whistleblower Protection Laws in G20 Countries analyzing the current state of whistleblowers protection legislations and their application in identification of wrongdoing in both public and private sectors was submitted in 2014. The Table[33] for Whistleblower

[30] 'Sarbanes-Oxley Act Summary And Introduction' (soxlaw.com 2007) <http://www.soxlaw.com/introduction.htm> accessed 18 April 2015.

[31] Yaron Nili, 'The Expanding Scope Of Whistleblower Protections' (corpgov.law 2014) <http://corpgov.law.harvard.edu/2014/05/21/the-expanding-scope-of-whistleblower-protections/> accessed 17 April 2015.

[32] 15 U.S.C. § 78u-6(b)- Securities whistleblower incentives and protection

[33] Wolfe and others (n 36)

Protection Laws in G20 Countries Priorities for Action stating the ratings[34] of the legislative regime against international principles is given as under-

#	Principle	Public sector	Private sector
1	Broad definition of reportable wrongdoing	1	1
2	Broad definition of whistleblowers	1	1
3	Broad coverage of organizations	1	1
4	Range of internal / regulatory reporting channels	1	1
5	External reporting channels (third party / public)	2	2
6	Thresholds for protection	1	1
7	Confidentiality protected	1	1
8	Internal disclosure procedures required	2	2
9	Sanctions for retaliators	1	1
10	Broad retaliation protections	1	1
11	Oversight authority	2	1
12	Comprehensive remedies for retaliation	2	2
13	Transparent use of legislation	1	1
14	Provision and protections for anonymous reporting	1	1

This report highlights the need to introduce laws for better protection of employees who makes internal disclosure, but on the other hand it shows that U.S has substantial laws to protect the whistleblowers.

[34] Rating: 1. Very or quite comprehensive; 2. Somewhat or partially comprehensive; 3. absent / not at all comprehensive

In U.S, there exist numbers of legislations on this particular subject. The level of inconsistency among these laws, especially in corporate sector, is a concern to many US NGOs, stakeholders and regulators. The reason for this deficiency is due to increasing difficulties in implementation, inefficiencies and regulatory burdens entailed in having multiple laws that have evolved in ad hoc ways over time.

Analysis of Legal Position in USA

Government employees:

One of the world's first comprehensive whistleblower laws was The 1989 Whistleblower Protection Act, which covers most federal government employees which was significantly strengthened in 2012 by the Whistleblower Protection Enhancement Act. Among many improvements, it closed loopholes that discouraged whistleblowers from reporting misconduct broadened the types of wrongdoing that can be reported, and shielded whistleblower rights against contradictory agency non-disclosure rules through an "anti-gag" provision.[35]As a result of which, from 2007 to 2012, the number of new disclosures reported by federal employees increased from 482 to 1,148, and the number of whistleblower retaliation cases that were favorably resolved rose from 50 to 223.[36]

Corporate employees:

Following the string of corporate and Wall Street scandals, two laws were passed- Sarbanes-Oxley and Dodd-Frank to grant legal protections and disclosure channels to private sector employees. These laws only cover the persons who work for publicly traded companies, thereby excluding about two-thirds of the country's non-agricultural workers. Under Dodd-Frank, more than $14 million were paid to whistleblowers by the Securities and Exchange Commission (SEC) in recognition of their contributions to the success of enforcement actions pursuant to which ongoing frauds were stopped in their tracks. From the beginning of program in August 2011 to September 2013, the SEC received 6,573 tips and complaints from whistleblowers.[3738]

[35] 'Whistleblower Protection Enhancement Act Summary of Reforms' (pogo.org 2012) <http://www.pogo.org/our-work/resource-pages/2012/20120917-whistleblower-protection-enhancement-act.html?referrer=https://www.google.co.in/> accessed 25 April 2015.

[36] Carolyn Lerner, 'Annual Report To Congress' (US Office of special Counsel 2012) <https://osc.gov/Resources/ar-2012.pdf> accessed 27 April 2015.

[37] Sean McKessy, 'Annual Report to Congress on The Dodd-Frank Whistleblower Program' (US Securities and exchange commission 2013) <https://www.sec.gov/about/offices/owb/annual-report-2013.pdf> accessed 27 April 2015.

[38] Joe Nocera, 'The Man Who Blew The Whistle' (nytimes.com 2014)

Whistleblowing in intelligence agencies:

Notwithstanding the existence of internal whistleblower provisions for each of the national security and intelligence agencies (such as the CIA and NSA), US officials have time and again come under criticism for their prosecution of national security and official secrecy whistleblowers such as Thomas Drake, John Kiriakou, Bradley Manning and Edward Snowden. There are carve-outs for "classified information" but not for the agencies themselves. External disclosure is not permitted for these employees. In October 2012 President Barack Obama signed an executive order (Presidential Policy Directive 19) establishing new protections for national security and intelligence community whistleblowers.[39]Support for whistleblowers and advocacy for stronger legal protections, including the Government Accountability Project, Project on Government Oversight, and Public Employees for Environmental Responsibility is provided by many NGOs in the US.

The "Protected Activity" under Sarbanes-Oxley's:

There is no dispute as to Sarbanes-Oxley's Anti-Retaliation Provision which covers whistleblower disclosure relating to "fraud against shareholders." [40], but, a difference of opinion has developed in the lower courts regarding whether disclosure of mail, wire, bank or other fraud must relate to "fraud against shareholders" in order to constitute protected activity under the statute. Some courts have taken independent construction of each of the statutes listed in Sarbanes-Oxley's Anti-Retaliation Provision, and do not require that information relating to a violation of each of these statutes also "relate to fraud against shareholders" in order for protections to apply. To these courts, it is only necessary to show that the information relates to fraud against shareholders where the statute whose provision has been violated is not specifically listed in Sarbanes-Oxley's Anti-Retaliation Provision. These courts reason that requiring each Sarbanes-Oxley retaliation claim to relate to the reporting of shareholder fraud renders the enumeration of the other fraud statutes "wholly superfluous."

Application of Dodd-Frank's Whistleblower Protections when an Employee Reports internally and not To the SEC:

<http://www.nytimes.com/2014/08/19/opinion/joe-nocera-the-man-who-blew-the-whistle.html?_r=1> accessed 28 April 2015.

[39] David Axe, 'Obama Order Protects Intelligence Community Whistleblowers' (publicintegrity.org 2012) <http://www.publicintegrity.org/2012/10/15/11473/obama-order-protects-intelligence-community-whistleblowers> accessed 12 April 2015.

[40]18 U.S.C. § 1514A(a)(1)-Civil action to protect against retaliation in fraud cases

An employee intending to disclose alleged wrongdoing generally has two options: external reporting (to a governmental authority such as the SEC), or internal reporting within the organization. Unlike Sarbanes-Oxley, under which a whistleblower is afforded the same protection whether he reports internally or externally, coverage under Dodd-Frank's Anti-Retaliation Provision for internal disclosures is unsettled. Dodd-Frank's anti-retaliation protections apply to three categories of whistleblowers: those who (i) provide information to the SEC; (ii) assist in an SEC investigation; or (iii) make "disclosures that are required or protected" under Sarbanes-Oxley, the securities laws, and other SEC regulations[41]. While the first two categories are clear (an employee is protected if he reports to or otherwise assists the SEC), courts differ as to whether the third and last category protects whistleblowers from retaliation after they have reported internally. Therefore, internal reporting is not an established principle under this Act.

Secrecy provision:

The United States does not have a broad-reaching Official Secrets Act, although the Espionage Act of 1917 has similar components. Although some has been struck down by the Supreme Court as unconstitutional because of the First Amendment, much of it still remains in force.18 U.S.C. § 798, enacted in 1951[42], makes dissemination of secret information involving cryptography, espionage, and surveillance illegal for all people, and is thus an "official secrets act" limited to those subjects. Scope of the espionage Act has been limited by the amendment and judicial pronouncement, now it is used only for certain limited provisions which are inalienable for the security of the state. The law is not restricted to properly prohibiting the release of classified information. The law is not restricted to protecting legitimate government secrets. The law broadly prohibits any publication by anyone (newspapers included) of information related to national security, which may cause an "injury to the United States".[43]

CONCLUSION

From the above discussion it is clear that both the countries are having substantial laws to deal with the provisions relating to protection that needs to be given to Whistle Blowers. U.S had some restricted rules in the legislation but due to judicial pronouncement and

[41]15 U.S. Code § 78u–6 - Securities whistleblower incentives and protection,

[42] 18 U.S. Code § 798 - Disclosure of classified information

[43]Stephen Kohn, 'National Whistleblowers Center - The Guardian' (*Whistleblowers.org*, 2010) <http://www.whistleblowers.org/index.php?option=com_content&task=view&id=1320&Itemid=85> accessed 28 April 2015.

amendments, they have been liberalized. Judiciary has played a commendable role in the U.S. because of which broad protective guidelines and procedure has been established there.

In U.K, judicial and quasi-judicial authorities have played a tremendous role in providing justice to Whistle Blowers. A significant progress has been shown in providing remedies for retaliation which is commendable. Tribunal has given wide interpretation to the word 'detriment' and awarded compensation to the victims, which shows that even a minute impairment to whistle blower is not allowed there. Hope, Indian law adopts the same route as U.S. and U.K.