

An empirical study of whistle blowing in pharmaceutical

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Abstract

Whistle blowing can be defined as an act of disclosure of information by people within or outside an organization and that which is not otherwise accessible to public, generally activities of organization that are against public interest. Whistle blowing as a channel of unveiling information about illegal or unethical activities thus helping to take a positive step towards reduction of corruption. Here comes the question of Whistleblower protection Act. What if a Whistleblower take a step to blow any of illegal, unethical, or harmful practices? Now in India Whistleblower Protection Act, 2011 introduced. The past is witnessed many corporate scandal can be rectify earlier if they are handled by concern authority when whistle blows. In number of cases whistleblowers has lost their lives, job, mental agony etc.

So this article will throw some light on importance of whistleblower policy in Pharmaceutical industries. The article broadly will speak whistle blower policy in India and why all company must follow robust whistleblower policy?

Keywords: Whistleblower protection policy, Public Grievance Law and Justice

1. Introduction

Whistle blowing is the act, for an employee (or former employee) of disclosing what he believes to be unethical or illegal behavior to higher management (internal whistle-blowing) or to an external authority or the public (external whistle-blowing). Some see whistle blowers as traitorous violators of organizational loyalty norms; others see them as heroic defenders of values considered to be more important than company loyalty (e.g., the public health, truth-in-advertising, environmental respect).

According to Borrie and Dehn (2003) speedy developments in the revolution of the modern organisation is responsible for making it gradually tough for an organisation to have the essential checks and controls in place, and this makes it easier for employers and employees to act in ways that give in their professional honesty. To be efficient in the combat against immoral conduct in the work place, a wide-spread dedication to eliminate this behaviour is necessary. The whistleblower seemingly acts to convey an illegal practice to public notice so that those with authority are facilitated to rectify the situation (Khan, 2009) [7]. Whistle blower is described as an individual who reveals important acts of deception, waste, deceit, maladministration or exploitation of power in breaking the country's laws or regulations in either the public or private sector (Lee, 2005) [2]. Anwar, 2003 defined whistleblower as a rebellious spy or responsible corporate civilian who has the audacity to do as their conscience commands. Those who report individual or organizational defilements of federal or state laws to their administrators or the government may encounter major threats, and hence, the individuals who wish to report alleged wrongdoing should take a great pause while considering the possible outcomes of the decision before informing authorities about the wrongdoing (Brewer, 2005) [5].

On the other hand whistle blowing is a new form of worker resistance to the unending battle between labor and management to control the workplace.

Krant (2002) calls "whistle blowers as saints of secular

culture". Edward Morgan famously said "If I had to choose between betraying my country and betraying my friend, I hope I should have the guts to betray my country"; it seems that whistle-blowing is the choice between betraying one's company and one's humanity.

Although medical centers have established boards, special committees, and offices for the review and redress of breaches in ethical behavior, these mechanisms repeatedly prove themselves ineffective in addressing research misconduct within the institutions of academic medicine. As the authors see it, institutional design:

- (1) Systematically ignores serious ethical problems,
- (2) Makes whistleblowers into institutional enemies and punishes them, and
- (3) Thereby fails to provide an ethical environment.

The pharmaceutical industry in India ranks 3rd in the world terms of volume and 14th in terms of value. The Indian Pharmaceutical industry directly employs around 500,000 people and is highly fragmented. While there are around 270 large R&D based pharmaceutical companies in India, including multinationals, government-owned and private companies, there are also around 5,600 smaller licensed generics manufacturers, although in reality only around 3,000 companies are involved in pharmaceutical production. Most small firms do not have their own production facilities, but operate using the spare capacity of other drug manufacturers.

Before a pharmaceutical company can market a new prescription drug, the drug has to go through a long approval process. After extensive studies in the laboratory and in animals, the pharmaceutical company must test the drug's safety and efficacy in a series of clinical trials in which groups of patients with specific diseases are given the drug according to strict protocols. The results of these trials are reviewed by Federal Drug Administration (FDA, the body that regulates drugs) and, when the FDA is satisfied that the drug is safe and effective for the conditions in which it is tested, it approves the

drug for sale.

Consequently, whistle blowing is mandatory, it is permissible to whistle blow when the following conditions have been met. Under these conditions there is also an obligation to whistle blow.

A dreadful obligation

Rothschild and Miethe found that over half the whistle blowers they interviewed had family problems, around two thirds of whistle blowers lost their job or were forced to retire and were blacklisted from getting another job in their field. Consequently, two thirds of them also had severe financial problems. They also found that they suffered from severe depression or anxiety and over two thirds of them also had declining physical health. Alford (2007)^[8] sees suffering as an essential part of whistle blowing. “The whistle blower is defined by the retaliation he or she receives. No retaliation and the whistle blower is just a responsible employee doing her job to protect the company’s interest”. If often the protest is most effective if one has already resigned from the organization then one can only choose between a total self-sacrifice and a partial and pointless self-sacrifice.

Literature Review

Whistle-blowing process

Organizational scholars have employed conceptual arguments using various theoretical frameworks to develop models depicting the whistle-blowing process. These include models developed by Greenberger, Miceli, and Cohen (1987)^[11], Gundlach, Douglas, and Martinko (2003)^[10], Henik (2008), and Near and Miceli (1995). Henik (2008) reviewed traditional models of whistle-blowing, recognizing that most describe the process as occurring over five stages:

Stage 1: is initiated by a triggering event, for example,

witnessing wrongdoing

Stage 2: the observer considers what action, if any, to take.

Stage 3: is marked by the observer taking action by either remaining silent or blowing the whistle

Stage 4: If whistle-blowing occurs, the organization reacts to the observer’s actions

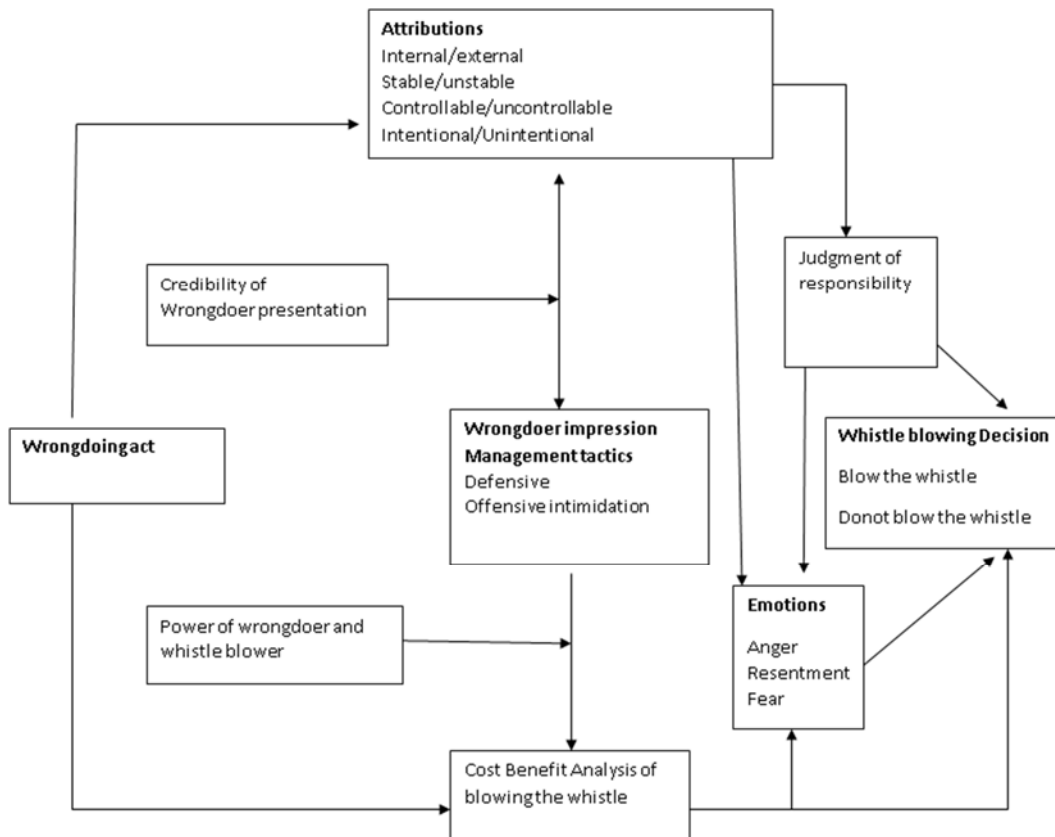
Stage 5: the whistle-blower assesses the organization’s responses and considers what action is now warranted. Further actions at this point include silence, escalating whistle-blowing efforts, or leaving the company.

Stage 1: Initiation

Social information processing model includes a number of variables like intrapersonal factors, interpersonal factors, wrongdoer impression management tactics, and wrongdoer power, which impact individual’s decisions to blow the whistle. This model pays particular attention to casual explanations and judgments about responsibility of the unethical behavior as well as the observer’s emotions and cost-benefit analysis. Of particular importance are attributions about the wrongdoing acts, the wrongdoer’s impression management tactics and power, and the observer’s emotions, for example, resentment.

Stage 2: Decision-Making Processes

This is the major step in a whistle-blowing process after a triggering event is the deliberation process. The focus of the deliberation differs across models. Henik (2008) focuses on recognition/assessment of wrong act, cost-benefit analysis, and assumption of personal responsibility to act, while Greenberger *et al.* (1987)^[11] downplay cost-benefit analysis and highlight group-level factors. Gundlach *et al.* (2003)^[10] likewise include cost-benefit analysis but add attributions, wrongdoer impression management strategies, emotions, and judgment of responsibility to the deliberation process.



The present model identified cost–benefit analysis as critical in the decision-making process, along with several other factors. Most participants in this study reported engaging in contemplative assessments of whether blowing the whistle was an appropriate step to take. Results suggest decision making is a complex process motivated by a myriad of factors. In considering this decision, whistle-blowers talked with relevant others, weighed the costs and benefits of whistle-blowing, acted out of their own sense of idealism& fairness, and considered their own involvement in the wrongdoing.

Conversing with others

Most participants did not decide to blow the whistle without first seeking counsel and advice from peers, colleagues, friends, and administrators. The first people they sought advice from were senior colleagues; some were dismissive, some were supportive, but not vocal; quietly supportive.” Conversations with relevant others is predictive of whistle-blowing intentions and allows affected individuals an opportunity to make sense of unusual, even traumatic events.

Cost–benefit analysis

Scholars have consistently included cost–benefit analysis as a critical factor influencing whistle-blowing deliberations. In this equation, observers consider whether the potential costs associated with blowing the whistle, including retaliation, outweigh the expected rewards, including possibly ending the wrong-doing. Several whistle-blowers in the present study reported engaging in this deliberation.

Idealism and fairness

Participants in the present study reported being motivated by a sense of idealism or fairness, which influenced their decisions for blowing the whistle

Stages 3 and 4

Whistle-Blowing Activity and Organizational/Stakeholder Response

Although whistle-blowing models generally recognize the mutual influence between the decision stage and the organizational response stage, they generally portray these stages as discrete from

One another. Their initial whistle-blowing efforts were typically met with inaction, or retaliation, causing them to decide whether to continue their efforts with higher ranking targets or those external to the organization. It is important to note that much of the retaliation in these stages was gendered in nature; we found that retaliation was (a) sexualized and (b) emphasized that (female) whistle-blowers were intruders on the male domain Subjects routinely encountered retaliation sexual in nature.

Stage 5: Whistle-Blower Reflections

In the final stage whistle-blowers assess whether the organization’s responses met their expectations and reflect upon whether blowing the whistle was worth the costs afflicted on their lives. A number of factors influence whether whistle-blower’s protests ultimately lead to

Wrong doing termination. These include the organization’s willingness to change, its dependence upon the wrongdoing, less bureaucratic structure, and power of the wrongdoer. Each of these factors was mentioned, either directly or indirectly, as affecting the success of the whistle-blower’s calls for an end to

wrongdoing. The primary reasons whistle-blowers expressed dissatisfaction with their cases were the system that caused the unethical behavior remained intact and that wrong-doers were not held accountable.

Fletcher (1998) outlines several moral justifications for whistleblowing: (1) The reason the whistleblower is blowing the whistle is because he sees a grave injustice or wrongdoing occurring in his organization that has not been resolved despite using all appropriate channels within the organization, (2) The whistleblower morally justifies his course of action by appeals to ethical theories, principles or other components of ethics, as well as relevant facts, (3) The whistleblower thoroughly investigates the situation and is confident that the facts are as he understands them, (4) The whistleblower understands that his primary loyalty is to the patient(s) unless other compelling moral reasons override this, (5) The whistleblower ascertains that blowing the whistle most likely will cause more good than harm to the organization and (6) The whistleblower understands the seriousness of his actions and is ready to assume responsibility for them.

Types of Whistleblowers

- **Internal:** When the whistleblower reports the wrong doings to the officials at higher position in the organization. The usual subjects of internal whistleblowing are disloyalty, improper conduct, indiscipline, insubordination, disobedience etc.
- **External:** Where the wrongdoings are reported to the people outside the organization like media, public interest groups or enforcement agencies it is called external whistleblowing.
- **Alumni:** When the whistleblowing is done by the former employee of the organization it is called alumni whistle blowing.
- **Open:** When the identity of the whistleblower is revealed, it is called Open Whistle Blowing.
- **Personal:** Where the organizational wrongdoings are to harm one person only, disclosing such wrong doings it is called personal whistle blowing.
- **Impersonal:** When the wrong doing is to harm others, it is called impersonal whistle blowing.
- **Government:** When a disclosure is made about wrong doings or unethical practices adopted by the officials of the Government.
- **Corporate:** When a disclosure is made about the wrongdoings in a business corporation, it is called corporate whistle blowing.

Objectives

- To know the concept of whistle blowing
- To understand the position of whistle blowing in pharmaceutical industry
- To know the provisions regarding protection of whistle blowers

Research Methodology

This paper focuses on extensive study of secondary data collected from various books, published national and international journals; various websites etc. this paper focuses on various aspects of whistle blowers in India.

Case of Whistle Blowing in India

It is the case of IFS officer Sanjiv Chaturvedi. As the Chief

Vigilance Officer of All India Institute of Medical Sciences (AIIMS), he exposed how private clinics were selling fake medicines in AIIMS. Chaturvedi's efforts were recognised with a Magsaysay Award in 2015, but today he is running from one courthouse to another fighting with the appointments Committee of Cabinet (ACC) headed by Prime Minister Narendra Modi over a mere No Objection Certificate that would allow him to take up a job with the Delhi state government. Chaturvedi have been sitting at home without a job. He will get my full salary and have an accommodation, but his appraisal reports have been held back. Anti-corruption activists and officers like Chaturvedi have long been waiting for the Whistleblowers Protection Amendment Bill to end their agony. The bill allows public interest disclosures against acts of corruption or criminal activity by public servants. But the bill does not cover or protect employers of the private establishments. The bill is stuck in the Rajya Sabha, or the upper house, for approval. But activists and whistle-blowers themselves are not optimistic that the bill will help whistle-blowers though. Chaturvedi is grateful that he holds a government job. If I was in private sector the minute I raise my voice I will be sacked, so thanks to our constitution as a public servant I can still raise my voice against corruption in the administration, he said.

SANJIV CHATURVEDI
 CHIEF VIGILANT OFFICER- ALL INDIA INSTITUTE OF MEDICAL SCIENCES
What he blew the whistle on
 As a chief vigilant officer of AIIMS, Chaturvedi cancelled licences of a pharmacy chain that was selling counterfeit medicines
How it worked
 In his position as the Chief Vigilance Officer, Chaturvedi took a series of actions against some corrupt officials of AIIMS. One of them was going after a pharmacy chain that was selling banned drugs to patients.
What happened next
 Chaturvedi was removed from his post in 2014; he has been sitting at home without a job but gets full salary and has a government accommodation. His appointment to Delhi state government has been stalled by the central government, he alleges.

Source: <http://economictimes.indiatimes.com/industry/healthcare/biotech/pharmaceuticals/how-drug-whistle-blowers-in-india-have-to-fight-a-long-battle/articleshow/52334944.cms>

Whistle Blowers Protection Act, 2011

Whistle Blowers Protection Act, 2011 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. The wrongdoing might take the form of fraud, corruption or mismanagement. The Act 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 on 27 December 2011. The Bill became an Act when it was passed by the Rajya Sabha on 21 February 2014 and received the President's assent on 9 May 2014.

Suggestions

1. The meaning and Definition of 'Competent Authority' should be amended so as to make the ambit of the term wide and bring into its purview many agencies/organizations which are currently not included like the Lower Judiciary.
2. The Whistle Blowers Protection Act should provide for a Protection Agency which would not only protect whistleblowers but would also encourage new emerging whistleblowers and guide them in to making public disclosures in a correct manner.
3. The Act should also incorporate and bring into its ambit protection to a separate kind of Whistleblowers. The People and witnesses who come up to corroborate the disclosure made by the Whistleblower during the stage of inquiry should be provided with protection so that the offenders are not left scot free due to non-proving of the disclosure made by the Whistleblower.
4. The State should find a way to deal with frivolous complaints, maybe by developing an efficient method to screen complaints. Taking away the provision for anonymous complaint complicates the process of whistle blowing and discourages people from coming forward with their complaints.

Conclusion

In nutshell, Whistle Blowing in organization is an issue which has recently received public attention and systematic study. it can be said that role of encouraging whistle blowing lies with both companies and law. Companies have to provide for the pre requisite culture, support of top management and high level corporate leadership for whistle blowing. And government needs to not only frame but ensure the implementation of laws governing whistle blowing mechanisms and systems. In general, the level of whistle blowing activity is likely to depend not just on the legal protection granted to whistle blowers but also on the regulatory response to whistle blowing. So, we recommend there is a strong need for Whistle Blowing Act in India to save the interest of all stakeholders and no more person's loss their lives after they blow the whistle.

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