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Where Law Meets Corporate Culture: Whistleblower Protection in the US and the UK

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Abstract: The article examines whistleblowing as a vital mechanism for corporate accountability and transparency, focusing on the interplay between law and corporate culture in the United States and the United Kingdom. It argues that, while legal protection against retaliation is essential, it is insufficient without a supportive ethical environment within corporations. The study compares the US's externally oriented, incentive-based framework with the UK's internally focused, public-interest model, assessing their effectiveness across three dimensions: legal protection, encouragement to report wrongdoing, and promotion of an ethical corporate culture. It finds that, despite substantial statutory safeguards, both systems continue to foster a culture of fear and silence, discouraging potential whistleblowers. The article concludes that meaningful reform requires shifting from a compliance-based to a more culture-based approach, where ethical leadership, internal reporting systems, and trust replace financial incentives and punitive deterrence. Ultimately, whistleblowing should be embedded within corporate governance as an ethical practice that strengthens transparency, prevents misconduct, and sustains public trust in business integrity.

Keywords: *whistleblowing, culture, accountability, compliance, transparency.*

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1. Introduction

High-profile corporate scandals that burst in the early years of this century have shaken and disturbed the business community and financial markets. Calls for greater corporate transparency and accountability have emerged.[1] Considerable attention has been given to the need of companies to 'remain vigilant in detecting fraud and other forms of misconduct'.[2] As the pressure for greater transparency and disclosure increases, the need for alternative methods to combat fraud has become evident. Whistleblowing can serve as an effective means to detect and reduce wrongdoing, disclosing and reducing the risks of fraudulent activities, thus building a more accountable and transparent corporate governance framework.

Given the importance of strengthening whistleblowing procedures in companies, governments around the world have designed various legislative provisions to protect whistleblowers and ensure that the procedures are in place to respond to whistleblowers' claims. However, there are reasons to doubt the effectiveness of the existing whistleblower protection, as whistleblowers are reluctant to come forward due to the fear of retaliation, stigmatisation or marginalisation. Whistleblowers do not receive sufficient protection, leading to a culture of silence rather than openness. It is high time that companies guaranteed adequate protection for whistleblowers. This will be achieved not only by strengthening legal protections against retaliation but, more importantly, by instilling a corporate culture that promotes whistleblowing.

The aim of this article is to analyse whistleblowing from a corporate culture perspective in the US and the UK. In addition, it examines the effectiveness of the existing legal framework for the protection and encouragement of whistleblowing in the context of the US and UK corporate sectors. The examination of the effectiveness of the respective legal frameworks will be based on four distinct factors: adequacy of protection, encouragement, effective investigation, and corporate culture. Judicial interpretation has also played a central role in defining the practical scope of whistleblower protection in both jurisdictions. In

[1] B. Fung, *The Demand and Need for Transparency and Disclosure in Corporate Governance*, in *Universal Journal of Management*, 2014 vol. 2, No. 2, 72. See also D. Kafteranis, *Confused and Not Protected: The Case of Whistle-blowers in the EU Banking and Financial Sector,* in *Capital Markets Law Journal* 2023, vol. 18, No. 3, 426-451.

[2] J. Pascoe and M. Welsh, *Whistleblowing, Ethics and Corporate Culture: Theory and Practice in Australia*, in *Common Law World Review*, 2011, vol. 40, n. 2, 144, 144.

particular, courts in the UK and the US have significantly influenced the boundaries of protected disclosures, the meaning of public interest, and the conditions under which employees may rely on statutory safeguards. A comparative analysis, therefore, requires consideration not only of legislative design but also of the case law that shapes the operation of these protections in practice.

2. The Importance of Whistleblowing in Modern Corporate Governance

The aftermath of corporate scandals has drawn significant attention to the shortcomings of corporate governance systems and the role of gatekeepers in preventing company collapse. Gatekeepers, both internal and external to corporations, play a crucial role in monitoring company performance and behaviour to enhance accountability and protect shareholders and society's interests.[3] However, the failure of external gatekeepers, such as auditors and regulators, to detect corporate wrongdoing has been widely criticised. Various factors contribute to this failure, including corporate culture, complexity of modern corporations, and information asymmetry.[4] Corporate scandals have highlighted the limitations of relying solely on external gatekeepers for oversight. While gatekeepers share some responsibility for corporate failures, they are not solely to blame. Dysfunctional corporate culture also plays a significant role. Addressing future corporate failures requires rectifying corporate corruption and mismanagement, strengthening corporate governance, and enhancing corporate accountability.

One way to achieve corporate accountability and strengthen corporate governance is to focus more on the most important asset any corporation has — its employees. Arguably, the debate on effective corporate governance needs to be expanded and shift its emphasis from external gatekeepers to internal gatekeepers. The focus should be on encouraging employees and insiders to detect and report fraudulent conduct within the company. This will be achieved by establishing a well-supported whistleblower programme to address the disclosure of wrongdoing and misconduct within the company.

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[3] J. Coffee, *Gatekeeper Failure and Reform: The Challenge of Fashioning Relevant Reforms*, in *Boston University Law Review*, 2004, Vol. 84, 301, 303.

[4] J. Coffee, *Understanding Enron: "It's About the Gatekeepers, Stupid"* (2002) in *Business Lawyer*, 2002, Vol 57, No. 4, 1403, 1404.

Whistleblowing is defined as 'the disclosure by organisation members (former or current, such as corporate employees, directors and members of a company) of illegal, immoral or illegitimate organisational practices under the control of their employers, to persons or organisations that may be able to effect action'.[5] In essence, effectively encouraging employees to disclose their knowledge of wrongdoing is a critical step in discovering fraud and other corporate misconduct. Due to the complexity of uncovering financial misconduct, internal information from low- or mid-level employees within a company would be valuable assistance. Indeed, employees have an information advantage over external gatekeepers because they have more extensive knowledge of a large corporation's inner workings. Their position as 'insiders' could be instrumental in solving the inherent information problems of external corporate monitors mentioned above.[6]

As a result, whistleblowers can be considered as an effective source of feedback about managerial malpractices,[7] which can bypass obstacles to communication that often exist in large organisations and effectively provide important information to those with the power to act.[8] Most of the time, blowing the whistle allows external monitors to request and get access to information about alleged misconduct and subsequently involve the authorities.[9] Furthermore, wrongdoing reported by a whistleblower is often revealed and thus corrected more quickly than if discovered by an external monitor. The Securities and Exchange Commission (SEC) described the whistleblower program as one of 'the most powerful weapons in [its]…enforcement arsenal', as it supports 'identify possible fraud and other violations much earlier than might otherwise have been possible'.[10] Internal reports also facilitate the correction of misconduct and wrongdoing without the financial and reputational risks associated

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5 J.P. Near, M.T. Rehg, J.R. Van Scotter and M.P. Miceli, *Does the type of wrongdoing affect the whistleblowing process?*, in *Business Ethics Quarterly*, 2004, Vol 14, No. 2, 219, 220

6 K.F. Brickey, *From Enron to Worldcom and Beyond: Life and Crime After Sarbanes-Oxley*, in *Washington University Law Quarterly*, 2003, vol. 81, No. 2, 357, 374.

7 E.S. Callahan and T.M. Dworkin, *Do Good and Get Rich: Financial Incentives for Whistleblowing and The False Claims Act*, in *Villanova Law Review*, 1992, vol. 37, 273, 299; J.P. Near, *Whistle-Blowing: Encourage It!*, in *Business Horizons*, 1989, Vol. 32, No. 1, 2, 5.

8 M. H. Malin, *Protecting the Whistleblower from Retaliatory Discharge*, in *University of Michigan Journal of Law Reform*, 1983, Vol. 16, No. 2, 277, 313.

9 Callahan and Dworkin, *op. cit.* 300.

10 U.S. Securities and Exchange Commission, SEC Awards More Than $14 Million To Whistle-Blower, Washington, SEC, October 2013, https://www.sec.gov/News/PressRelease/Detail/PressRelease/1370539854258 (accessed October 13, 2025).

with external exposure. At best, whistleblowers can prevent avoidable misconduct from leading to indefensible consequences.[11] It is therefore arguable that the focus should be on those with accurate insider knowledge of corporations' inner workings, who can detect and identify misconduct more effectively.

Despite all the above, the actual importance of whistleblowers, namely employees who act as internal monitors within a company, is that they serve not only as a preventive mechanism against fraudulent activities but also as a trustworthy internal accountability mechanism in modern corporate governance. Overall, the combination of whistleblowing as an accountability mechanism and the role of external gatekeepers in financial reporting would help companies detect early warnings and act immediately, thus preventing the long-term disastrous consequences experienced in previous years.[12] For all these reasons, it is concluded that whistleblowers should be encouraged and protected by law, as they could play a significant role in upholding corporate accountability for the public good and promoting effective corporate governance.

The effectiveness of whistleblowing, however, depends on the level of protection and encouragement provided to whistleblowers by law. Effective whistleblowing is also attained when 'the questionable or wrongful practice (or omission) is terminated at least partly because of whistleblowing and within a reasonable time frame'[13] and when corporations encourage and embrace such internal reporting behaviour in their culture.[14] Even though there are various legislative provisions designed to protect whistleblowers, it is doubtful that the existing whistleblower protection is sufficiently effective to encourage whistleblowers to use reporting mechanisms to combat fraudulent activity. The existing legal protections most whistleblowers enjoy do not mitigate the fact that most people would rather not blow the whistle.

The decision to step up and to blow the whistle is not a straightforward one. Although one might assume that corporations appreciate such disclosures and respond positively, the experience of most whistleblowers suggests otherwise. Sometimes, misconduct goes unreported because

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[11] N.D. Bishara, E.S. Callahan and T.M. Dworkin, *The Mouth of Truth*, in *New York University Journal of Law and Business*, 2013, Vol. 10, No. 1, 37, 43.

[12] S. Andreadakis and S. Morrison, *Whistleblowers under the Spotlight: The cases of Japan and the UK*, in *European Journal of Comparative Law and Governance*, 2016, Vol. 3, No. 4, 353, 354.

[13] J.P. Near and M.P. Miceli, *Effective Whistle-Blowing* in *Academy of Management Review*, 1995, Vol. 20, No. 4, 679, 681.

[14] M. P. Miceli and J.P. Near, *What Makes Whistle-Blowers Effective? Three Field Studies* in *Human Relations*, 2002, Vol. 55, No. 4, 455, 457-8.

whistleblowers are discouraged by different sociocultural and inter-organisational reasons. The following section discusses the various reasons people are reluctant to report wrongdoing, including a possible negative attitude towards whistleblowers due to their disloyalty to their company, fear of retaliation, rationalisation that nothing will be done anyway, and the time it takes for wrongdoing to be investigated.

To begin with, a significant reason why whistleblowers are reluctant to report wrongdoing is the negative attitudes they face when they decide to blow the whistle. Too often, corporations view whistleblowers defensively and negatively, which is a major disincentive for whistleblowers to come forward. Prior to the 1960s, organisational culture allowed little room for employee rights. Loyalty to the firm was the expected norm. The duty of loyalty is usually expressed as 'acting in good faith' and 'acting in the best interests of the corporation'.[15] This is particularly important for maintaining corporate information confidential and for considering what arises from the organisation's activities to be 'the property of the employer'. In fact, there was commonly an unspoken rule that 'no matter what an employee saw inside an organisation, he would never make it public, even if the activity was unlawful or unethical'.[16] For that reason, whistleblowers were considered persons whose actions were assumed to violate loyalty to their former company, and thus they faced immediate retaliation.

Within such a penal environment, support for whistleblowers was nonexistent, and wrongdoing went unrevealed, as corporations revealed only what they perceived to be in their best interests. James M. Roche, then Chairman of the General Motors Corporation, in a 1971 speech, condemned the process of whistleblowing by stating that 'some of the enemies of business now encourage an employee to be disloyal to the enterprise. They want to create suspicion and disharmony, and pry into the proprietary interests of the business. However, this is labelled - industrial espionage, whistleblowing or professional responsibility – it is another tactic for 'spreading disunity and creating conflict'.[17] Given the negative sentiment towards whistleblowers, it is not surprising that they

[15] T. Uys and A. Senekal, *Morality of Principle Versus Morality of Loyalty: The Case of Whistleblowing*, in *African Journal of Business Ethics*, 2008, Vol. 3, No. 1, 38, 40.

[16] E. Rocha and B. Kleiner, *To Blow or Not to Blow the Whistle? That Is the Question*, in *Management Research News*, 2005, vol. 28, No. 11/12, 80, 85

[17] M. Davis, *Some Paradoxes of Whistleblowing,* in *Business and Professional Ethics Journal*, 1996, Vol. 15, No. 1, 3, 6.

have often been harshly dealt with by their employers, and thus, whistleblowers are reluctant to blow the whistle.

Positively, the prevalence of whistleblowing has increased dramatically since the 1970s, and organisations' attitudes towards whistleblowing have begun to change.[18] The expected company loyalty has been changed by loyalty to society, namely, environmental respect, public health, or safety issues.[19] As social loyalty increases, it was expected that whistleblowers would be inclined to speak out and companies would appreciate a disclosure of wrongdoing; however, despite the fact that there was a changing attitude towards whistleblowing, numerous cases of whistleblowing demonstrate that the act is not appreciated and that whistleblowers are severely victimised by their employers. Still, negative attitudes and conflicting perceptions toward whistleblowers persist; as Rothschild and Miethe note, 'some see [whistleblowers] as traitorous violators of organisational loyalty norms; others see them as heroic defenders of values considered to be more important than company loyalty'.[20] The following comments by Ben-Yahuda vividly illustrate this strain: 'the organisation sees whistleblowing as betraying the interests of the organisation, violating the rules of hierarchy, bypassing authority, squealing, damaging the reputation of the organisation, poisoning the atmosphere, and supplanting cooperation with suspicion. Whistleblowers, on the other hand, tend to justify their activities in such terms as doing one's job, being faithful to the community, revealing the truth, and doing something that is in the best interests of the organisation.[21]

As the statements above illustrate, conflicting perceptions of whistleblowers persist because corporations tend to regard whistleblowing as illegitimate. They consider whistleblowing a 'deviant act' that threatens the corporation's profitability and damages its reputation. Corporations 'consider whistleblowing to be a form of betrayal and therefore tend to deal with whistleblowers as traitors by punishing those who engage in this kind of activity'.[22] Consequently, employees who become aware of

[18] S.A. Zeff, *The Rise of Economic Consequences*, in *Journal of Accountancy*, 1978, Vol. 146, No. 6, 56-63.

[19] J.G. Caillier, *Agency Retaliation Against Whistle-Blowers*, in *Public Integrity* 2012, vol. 15, No. 1, 29, 32

[20] J. Rothschild and T. Miethe, *Whistle-Blower Disclosures and Management Retaliation: The Battle to Control Information About Organization Corruption*, in *Work and Occupations*, 1999, Vol. 26, No.1, 107, 111.

[21] N. Ben-Yehuda, *Betrayals and Treason: Violations of Trust and Loyalty*, Westview Press, Boulder, Colo., 2001, 79

[22] Uys and Senekal op. cit. 40

misconduct face a serious moral dilemma, which might discourage them from blowing the whistle. This dilemma concerns the choice between their obligation to care for the public good and their duty of loyalty to their employer. That is, when considering the choices whistleblowers face, they are confronted with a dilemma between morality and loyalty. In other words, whistleblowers must deal with the conflicting expectations of being loyal to the organisation and putting its interests first, while at the same time complying with the expectation that they should act in the best interest of the public, act in the service of fairness and justice and follow their conscience. As companies expect the principle of loyalty to be the prevailing allegiance,[23] whistleblowers are reluctant to go against those expectations and thus constitute a disloyal act. Especially when negative perceptions of whistleblowing exist, whistleblowers are increasingly discouraged from reporting wrongdoing in their workplaces.

Another major disincentive which discourages employees from blowing the whistle is the fear of retaliation. Although whistleblowing may be morally justified, whistleblowers often face retaliation from employers when they attempt to stop inappropriate actions. Retaliation may be defined as an 'undesirable action taken against a whistleblower—and in direct response to the whistleblowing—who reported wrongdoing internally (i.e., within the organisation) or externally (i.e., outside the organisation)'.[24] Ostracism is one type of undesirable action reported by whistleblowers.[25] Indeed, whistleblowers have frequently found their career prospects to decline steeply. Unfortunately, whistleblowing is often seen as being synonymous with professional or career suicide.[26] Whistleblowers may also be exposed to other reprisals, such as black listing, selective downsizing, unfavourable job evaluations, dismissal, demotion, verbal harassment, shunning, poor appraisals, job transfer,

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[23] R. Duska, *Whistleblowing and Employee Loyalty* in N. Bowie and P. Werhane (eds) *Contemporary Reflections on Business Ethics*, Springer, Cham, 2022, 216.

[24] J.P. Near, M. T. Rehg, J.R. V. Scotter and M.P. Miceli, *Antecedents and Outcomes of Retaliation Against Whistleblowers: Gender Differences and Power Relations*, in *Organization Science*, 2008, Vol. 19, No. 2, 221, 267.

[25] K. Williams, J. Forgas and W. Von Hippel, *The Social Outcast: Ostracism, Social Exclusion, Rejection, and Bullying,* Psychology Press, New York, 2005, 98. See also F. C. Alford, *Whistleblowers: Broken Lives and Organizational Power*, Cornell University Press, Ithaca, New York, 2001, 45.

[26] M. Fotaki, K. Kenny, S. Scriver and S Galway, *Whistleblowing and mental health: A new weapon for retaliation* in D. Lewis and W. Vandekerchove (eds.), *Developments in Whistleblowing Research*, International Whistleblowing Research Network, Oslo 2015, 106-107.

pressure to keep silent, browbeating over unrelated past offences, and denial of training or educational opportunities.[27]

Overall, whistleblowers have frequently faced severe retaliation from their own companies. Perceptions about reprisals may influence whether employees report problems; that is, employees may be less inclined to blow the whistle when they fear retaliation. Retaliatory acts may be motivated by an organisation's desire to silence the whistleblower completely or prevent the complaint from being made public.[28] Some even imply that corporations use retaliation to discourage whistleblowing, thereby deterring other potential whistleblowers from reporting in the future.[29] In this way, it is apparent that a culture of silence is emerging.

However, the abovementioned reasons are not the only disincentives to whistleblowing. The following are some other reasons identified in various studies. There is a perception that nothing can or will be done about misconduct, so there is no need to report it.[30] Moreover, it is assumed that the process of reporting wrongdoing is long and drawn-out.[31] When employees decide to blow the whistle, they should be aware that the process can take months or years to complete. Various variables encompass the time it takes to process a claim, such as the whistleblower as an individual, corporate culture, allegations of reprisals, and the evidence, or lack thereof. The realisation that it may take a long time to process and investigate a claim could make a whistleblower reluctant to forward accusations, no matter how important and valuable the claim would be.

From the discussion above, it is evident that whistleblowers do not feel confident in relying on the existing system. However, there is an

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[27] D. Lewis, *Retaliation for whistleblowing: some case studies on the experience of re employment/redeployment*, in *International Journal of Law and Management*, 2022, Vol. 64, No. 3, 292, 299; J. Boles, L. Eisenstadt and J. M. Pacella, *Whistleblowing in the Compliance Era*, in *Georgia Law Review* 2020, Vol. 55, No. 1, 147, 161-2; K. J. Lennane, *Whistleblowing—A Health Issue*, in *British Medical Journal*, 1993, Vol. 307, 667, 669.

[28] J. Mesmer-Magnus and C. Viswesvaran, W*histleblowing in Organizations: An Examination of Correlates of Whistleblowing Intentions, Actions, And Retaliation*, in *Journal of Business Ethics*, No. 62, 2005, 266, 271; M. J. Gundlach, S. C. Douglas and M. J. Martinko, *The Decision to Blow the Whistle: A Social Information Processing Framework*, in *Academy of Management Review*, Vol. 28, No. 1, 2003, 107, 111.

[29] E. Henik, *Mad as Hell or Scared Stiff? The Effects of Value Conflict and Emotions on Potential Whistle-Blowers*, in *Journal of Business Ethics*, 2008, Vol. 80, 111, 113.

[30] W. Vandekerckhove and A. Phillips, *Whistleblowing as a protracted process: A study of UK whistleblower journeys*, *Journal of Business* Ethics, 2019, Vol. 159, 201, 213.

[31] O. Lobel, *Citizenship, Organizational Citizenship, and the Laws of Overlapping Obligations*, in *California Law Review*, 2009, Vol. 97, No. 2, 433.

immediate need to protect these people under the law and encourage them to disclose wrongdoing without fear of retaliation or stigmatisation. In order to encourage whistleblowers to be more willing to blow the whistle, critical attention should focus on two key factors. Firstly, the effectiveness of the legal protection, which will be addressed in the next part and secondly, the corporate culture. Even if there is a regulation in place and a legal framework designed to protect whistleblowers, it is not enough if there is no ethical corporate culture to support it.

With a view to achieving effective whistleblowing policies, corporations need to cultivate a culture in which reporting fraudulent misconduct is considered welcome and necessary. The quality of corporate governance depends highly on the corporate culture. Corporate culture is a popular but elusive concept that has been the subject of considerable academic debate for many years and has been defined in various ways by scholars and practitioners.[32]

Corporate culture is defined as a system of publicly and collectively accepted 'meanings' which operate for a group/organisation at a particular time, as a pattern of 'basic assumptions' developed by a given group or organisation as it learns to cope with its environment and more simply as 'the way we do things around here'.[33] In the last decades, corporate culture has been referred to as the 'climate and practices that organisations develop around their handling of people, or to the espoused values and credo of an organisation'[34], or 'the shared values and beliefs of corporate members about what works within an organisation'.[35] As these definitions imply, values are considered the most fundamental aspect of culture. To understand a culture thoroughly, it is essential to understand its cultural values. Values form attitudes, which, in turn, shape people's behaviour. Indeed, cultural values shape the behaviour of all individuals in society and within the social environment.[36]

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[32] L. Sagiv and S.H. Schwartz, *Personal values across cultures*, in *Annual Review of Psychology*, 2022, Vol. 73, 517, 545.

[33] E. H. Schein, *The Role of The CEO In the Management of Change*, in T. A. Kochan and M. Useem (eds.), *Transforming Organizations*, Oxford University Press, Oxford, 1992, 111. See also H.M. Trice and J.M. Beyer, *Studying Organizational Cultures Through Rites and Ceremonials*, in *Academy of Management Review*, 1984, Vol. 9, No. 4, 653–669.

[34] J. M. Shafritz, J.S. Ott, Y. Suk Jang, *Classics of Organization Theory*, 8th edn, Cengage Learning, Boston, MA, 2015, 302.

[35] E.R. Reidenbach and D.P. Robin, *A Conceptual Model of Corporate Moral Development*, in *Journal of Business Ethics*, 1991, Vol. 10, No. 4, 273, 273.

[36] W. Griswold, *Cultures and societies in a changing world*, Sage, London, 2012, 290.

As it can be seen in the management literature, there is often the implication that a corporation's culture can influence ethical or unethical behaviours.[37] Corporations create cultures that can influence a company in a positive or negative way, depending on their aims and objectives, course of action, and tactics. For instance, when unethical behaviours are protected by the culture, members tend to reveal more unethical behaviour.[38] Unethical behaviour can be considered an indicator of a company's culture, and consequently, such behaviour might be associated more with characteristics of the business itself than with those of the individual employee.[39] For instance, when a company allows unethical behaviour to go unpunished and expects individuals to remain silent, it is clear that it instils a culture of silence. A culture, which does not promote ethical behaviour and makes it hard (or even impossible) for ethical oppositions to be heard, undermines truth and transparency.

Conversely, when ethical behaviours are strengthened by the corporate culture, these behaviours increase. Behaving ethically depends on the individual's capacity to identify ethical issues and to see things from an ethical perspective. Endeavours to enhance ethical standards and diminish pressure for unethical behaviours should, as a result, focus on the corporation and its culture. If a situation is not acknowledged as including ethical components, ethical reasoning will not be used to address it. A strong, ethical culture is necessary for openness and transparency in corporate governance.[40] In fact, the stronger the culture, the more effective the corporation. Researchers have supported some of these views by reporting findings that cultural 'strength' or certain kinds of cultures correlate with economic performance.[41] In the 1980s, corporate culture was recognised as a key factor for the success of the corporation. Trevino et.al have also established that more democratic cultures are

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[37] S. Key, *Organizational Ethical Culture: Real or Imagined?*, in *Journal of Business Ethics*, 1999, Vol. 20, No. 3, 217, 218. See also A.Y.S. Chen, R. B. Sawyers and P. F. Williams, *Reinforcing Ethical Decision Making Through Corporate Culture*, in *Journal of Business Ethics*, 1997, Vol. 16, No. 8, 855, 856.

[38] L.K. Treviño, K.D. Butterfield and D.L. McCabe, *The Ethical Context in Organizations: Influences on Employee Attitudes and Behaviors*, in *Business Ethics Quarterly*, 1998, Vol. 8, No. 3, 447, 455.

[39] M. Mccuddy, K. Reichardt and D. Schroeder, *Ethical Pressures: Fact or Fiction?*, in *Strategic Finance*, 1993, Vol. 74, No. 10, 57, 58.

[40] D. Salvioni, S. Franzoni, F. Gennari and R. Cassano, *Convergence in corporate governance systems and sustainability culture*, in *International Journal of Business Performance Management*, 2018, Vol. 19, No. 1, 7, 14.

[41] J.B. Sorensen, *The Strength of Corporate Culture and The Reliability of Firm Performance*, in *Administrative Studies Quarterly*, 2002, Vol. 47, No. 1, 70, 87.

linked with an increase in ethical conduct, including greater eagerness to take individual responsibility for behaviour.[42] It is arguable, therefore, that an ethical corporate culture explicitly promotes and encourages ethical decision-making and behaviour. In addition, a company which promotes an ethical corporate culture will make whistleblowers' voices heard without fear of stigmatisation or retaliation. Especially when the leadership of a corporation promotes positive perceptions surrounding the idea of blowing the whistle, whistleblowers will be increasingly encouraged to come forward and expose unethical practices or report wrongdoing in their workplace.

Unfortunately, the existing corporate culture in modern corporate governance cultivates a culture of silence rather than openness. It does not promote ethical behaviour and makes it hard (or even impossible) for ethical oppositions to be heard. Even when they are heard, it fails to take them seriously. Actually, various corporate scandals at the beginning of the millennium showed that many people were aware of the company's questionable financial practices and unethical behaviours. However, they preferred to remain silent due to the corporate culture's expectations.[43]

In essence, the failure of gatekeepers and dysfunctional corporate culture significantly contribute to corporate collapses, amplifying broader governance issues. External gatekeepers struggle to monitor effectively, while whistleblowing emerges as crucial for transparency. However, whistleblowers often face risks due to inadequate protections. Addressing corporate culture is essential. Moving forward, we will analyse whistleblowing protections in the UK and the US, considering their integration into corporate culture.

3. Assessment of the Effectiveness of the Current Whistleblower Legal Framework in the US and the UK

The evaluation and assessment of the US and UK legal frameworks will focus on three key factors. Firstly, the adequacy of legal protection against retaliation for whistleblowers will be assessed. Secondly, the level of encouragement for employees to report wrongdoing will be examined.

[42] Treviño, Butterfield and McCabe, op. cit., 471.

[43] On this topic, see T. Devine and T.F. Maassarani. *The corporate whistleblower's survival guide: A handbook for committing the truth*. Berrett-Koehler Publishers, San Francisco, CA, 2011.

Lastly, the promotion of an ethical corporate culture, fostering openness and transparency, will be analysed.[44]

3.1 Protection afforded to whistleblowers in the US and the UK

Commencing with the US system, it is worth mentioning that the framework of protection for whistleblowers can be characterised as 'patchwork'[45]. This is mainly because there are numerous, often complicated and hard-to-find provisions designed to protect whistleblowers in both the private and public sectors. These include anti-retaliation provisions, which are encompassed in federal statutes regulating terms and conditions of employment, such as anti-discrimination laws, health and safety laws, minimum wage and maximum hours laws, and pension laws.[46]

The primary specialised federal statute, which provides general whistleblower protection to most federal public employees, is the Whistleblower Protection Act of 1989. More recent additions in the US legislative framework encompass the Sarbanes-Oxley Act of 2002 (SoX), the Tax Relief and Health Care Act of 2006 (TRHCA), and the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank), which aim to further reinforce the efforts of the government to protect and support whistleblowers. For instance, section 806 of SoX bans retaliation against employees of publicly traded and private companies or employees of nationally recognised statistical rating organisations who disclose 'questionable accounting or auditing matters.' Section 922 of the Dodd-Frank Act amended the Securities Exchange Act of 1934 to add a new Section 21F, which prohibits employers from discharging or otherwise discriminating against an employee for providing information related to wrongdoing. Dodd-Frank also provides protections for whistleblowers' anonymity when they decide to file a claim. The interpretation of these protections has also been shaped by US courts. In *Lawson v. FMR LLC,*[47] the Supreme Court extended protection under Sarbanes–Oxley to employees of private contractors serving public

[44] For broader comparative analysis of whistleblower protection frameworks, see D. Lewis and W. Vandekerckhove (eds), *Developments in Whistleblowing Research*, International Whistleblowing Research Network, Oslo, 2015.
[45] B.H. Earle and G.A. Madekn, *The Mirage of Whistleblower Protection Under Sarbanes-Oxley: A Proposal for Change*, in *American Business Law Journal*, 2007, Vol. 44, No. 1, 1, 17.
[46] See National Labor Relations Act 1935 and Fair Labor Standards Act 1938.
[47] 571 U.S. 429 (2014)

companies, significantly broadening the statute's reach. By contrast, *Asadi v. G.E. Energy (USA), LLC* adopted a narrower interpretation of Dodd-Frank's anti-retaliation provisions, highlighting tensions that the Supreme Court later addressed.[48]

Although there is a plethora of legislative protections for whistleblowers, a notable weakness undermines their protection. The whistleblower provisions of federal statutes provide protection only to employees of publicly traded companies who report unlawful accounting and other financial practices.[49] Both public and private employees may be protected under topic-specific federal laws, but such laws apply only to a narrow set of unlawful activities.[50] Private-sector employees are not protected by federal whistleblower protection statutes if they report violations of federal laws that lack whistleblower protection provisions or of state laws.[51] Thus, in many situations, employees of private companies or state and local governments cannot seek federal whistleblower protection.

In contrast to the US 'patchwork' of protection, in the UK, whistleblower protection is primarily governed by Part IVA of the Employment Rights Act 1996 (ss 43A–43L), as amended by the Public Interest Disclosure Act 1998 (PIDA). This framework adopts a more unified legislative approach, seeking to balance organisational confidentiality with employees' ability to disclose wrongdoing in the public interest.[52] In its effort to promote and protect open whistleblowing, regulatory oversight, and broader accountability, PIDA has established a tiered disclosure system that focuses on internal reporting. Interestingly, PIDA has been considered as a 'forward-looking legislation' and as one of the most 'far-reaching

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[48] No. 12-20522 (5th Cir. 2013). The court ruled that the Dodd-Frank Act (15 U.S.C. § 78u-6(a)(6)) defines a whistleblower specifically as someone who provides information to the SEC. Consequently, an employee who makes only internal reports of wrongdoing is not protected under the Act's anti-retaliation provisions.

[49] G. Sinzdak, *An Analysis of Current Whistleblower Laws: Defending A More Flexible Approach to Reporting Requirements*, in *California Law Review,*2008, Vol. 96, No. 6, 1633, 1645.

[50] For example, Occupational Safety and Health Act 1970. See P. Yeoh, *Whistleblowing laws: Before and after Sarbanes–Oxley*, in *International Journal of Disclosure and Governance*, 2015, Vol. 12, No. 3, 254, 261.

[51] W. Dorsey, *An Overview of Whistleblower Protection Claims at The United States Department of Labor*, in *Journal of National Association of Administrative Law Judiciary*, 2006, Vol. 26, No. 1, 43, 51.

[52] J. Mendelsohn, *Calling the Boss or Calling the Press: A Comparison of British and American Responses to Internal and External Whistleblowing*, in *Washington University Global Studies Law Review*, 2009, Vol. 8, No. 4, 723.

whistleblower protection laws in the world'[53]. Thus, it has set a benchmark for regulatory whistleblowing across many countries.[54]
However, PIDA also has its flaws. Concerns and criticism have arisen as to the insufficiency of the protection offered to whistleblowers. Firstly, the protection under the Act is limited as it only deals with specific disclosures relating to: (1) criminal offenses, (2) failure by a person to comply with a legal obligation, (3) miscarriages of justice, (4) dangers to health and safety, (5) dangers to the environment, or (6) concerns that information about one of these matters is being deliberately concealed. Accordingly, PIDA might not protect disclosures for everything which is in the public interest.[55]
The major criticism, however, is that whistleblowers are given protection only if they have already suffered detriment as a result of the disclosure they have made.[56] In essence, PIDA aims to protect those who raise a specific type of concern in a specified way, and it does so only indirectly by encouraging employers to have effective whistleblowing arrangements in place and to treat whistleblowers well. It does not protect employees, who have just raised their concerns about the company's malpractices. Apparently, the PIDA's protection of whistleblowers raised uncertainties about its effectiveness. As a consequence, whistleblowers prefer to remain silent even if they are aware of malpractices in their workplace.
The doctrinal development of PIDA has been heavily influenced by judicial interpretation. In *Parkins v Sodexho Ltd*, the broad interpretation of "legal obligation" significantly expanded the scope of protected disclosures, prompting concern that led to legislative reforms a decade later.[57] Subsequently, *in Chesterton Global Ltd v Nurmohamed,* the Court of Appeal clarified the meaning of the public interest requirement introduced by the Enterprise and Regulatory Reform Act 2013 (ERRA), confirming that disclosures affecting a section of the workforce may satisfy the

[53] E. Oakley and A. Myers, *The UK: Public Concern at Work*, in R. Calland and G. Dehn (eds), *Whistleblowing Around the World: Law, Culture & Practice*, PCAW, London, 2004, 173. See also A. Myers, *Whistleblowing—The UK Experience*, in R. Calland and G. Dehn (Eds), *Whistleblowing Around the World: Law, Culture and Practice*, PCAW, London, 2004, 132.
[54] W. Vanderkerchove, *Whistleblowing and Organizational Social Responsibility: A Global Assessment*, Ashgate, Aldershot, 2006, 293-4.
[55] ERA 1996 § 43b; L. Vickers, *Whistling in The Wind*, in *Legal Studies*, 2000, Vol 20, No. 3, 428, 434.
[56] J. Ashton, *15 years of whistleblowing protection under the Public Interest Disclosure Act 1998: Are we still shooting the messenger?*, in *Industrial Law* Journal, 2015, Vol. 44, No. 1, 29, 38.
[57] *Parkins v Sodexho Ltd* (2002) IRLR 109

statutory threshold.[58] Further clarification was provided in *Kilraine v London Borough of Wandsworth*, which refined the distinction between allegations and disclosures of information.[59]
As the UK's whistleblower framework needed improvement, the ERRA was a welcome addition. Still, however, it did not fill all of the previous gaps.[60] The EERA includes a requirement that whistleblowers act in the public interest, but removes the need for disclosure to be in 'good faith' as PIDA required. This leaves public interest as the primary test for any disclosure made in relation to protections under PIDA without examining 'bad faith' disclosures made by people with no ethical intentions. The UK has been a pioneer in public disclosures and whistleblower protection, with a track record of government initiatives to improve accountability, raise awareness of reporting mechanisms, and ultimately drive cultural change.[61]
Nowadays, whistleblowers in both the US and the UK have more protection against retaliation, but the law varies significantly from theory to practice. The reality is very different as the application and enforcement of certain provisions fail to ensure adequate protection and to serve justice. Many reports and studies from both the US and the UK have revealed that retaliation and reprisals against whistleblowers are frequent phenomena.[62] The published percentages are often shocking and indicate a culture of victimisation and silence rather than one of openness.[63] Other studies also reported how severely retaliation may affect whistleblowers' mental health, finances, and their relationship with family and friends.[64] Whistleblowers may also feel haunted, unable to control or avoid the situation and its consequences.

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[58] [2017] EWCA Civ 979. In this case, a disclosure affecting around 100 senior managers was sufficient to constitute the public interest.
[59] See also *Babula v Waltham Forest College* [2007] EWCA Civ 174, confirming that a reasonable belief in wrongdoing may suffice even where the underlying allegation is ultimately mistaken.
[60] D. Lewis, *Ten Years of Public Disclosure Act 1998 Claims: What Can We Learn from The Statistics and Recent Research?*, in *Industrial Law Journal*, 2010, Vol. 39, No. 3, 325, 328; K. Bouloy, *The Public Interest Disclosure Act 1998: Nothing More Than A "Cardboard Shield"*, in *Manchester Review of Law, Crime &* Ethics, 2012, Vol. 1, No. 1, 1-18.
[61] C. Hodges, *Law and Corporate Behaviour: Integrating Theories of Regulation, Enforcement, Compliance and Ethics*, Hart Publishing, Oxford, 2015, 524.
[62] I. Macneil, *Enforcement and Sanctioning*, in E. Ferran, N. Moloney and J. Payne (eds), *The Oxford Handbook of Financial Regulation*, OUP, Oxford, 2015, 287.
[63] Devine and Maassarani, op. cit., 187.
[64] J. S. Lubalin and J. L. Matheson, *The Fallout: What Happens to Whistleblowers and Those Accused but Exonerated of Scientific Misconduct?*, in *Science of Engineering Ethics*, 1999, Vol. 5,

It is still early to make conclusive evaluations, but there has still been growing concern that neither PIDA nor federal law in the US is working as it should. The fact that too many whistleblowers faced employer retaliation and that others believed speaking up may be risky, not only increased concerns about ineffective protection but also created a wall of corporate silence. With the success rate being considerably low and with whistleblowing scandals increasingly emerging on a regular basis, more reforms need to be initiated in both countries.

3.2 Provision of Adequate Channels for Reporting Wrongdoing

Both the US and the UK provide internal and external compliance programmes that allow employees to report malpractice within the company. However, the main difference between them is that the US system favours external reporting by giving greater protection to external reporting, while the UK seems to favour more internal reporting and the idea of 'doing the right thing'. Such a distinction should not be treated as a sign of concern because at least there is a framework of protection, and there should not be pressure, at least at the present moment, to have in place a kind of universal pathway to blow the whistle.[65]
US federal statutes mostly support external reporting as they aim to protect employees who report wrongdoing to a government agency. However, when a statute does not specify whether it prefers disclosure to be reported internally or externally, it is up to the discretion of the US courts to decide whether employees will be protected. Although courts have consistently held that the federal anti-retaliation statutes should be interpreted broadly to protect both internal and external reports, it is uncertain whether employees who make internal reports will be protected by the law.[66] For instance, the US Whistleblower Protection Act of 1989

No. 2, 229, 237; B. Bjørkelo, S. Einarsen, M. Birkeland Nielsen and S. Berge Matthiesen, *Silence Is Golden? Characteristics And Experiences of Self-Reported Whistleblowers*, in *European Journal of Work and Organisational Psychology*, 2011, Vol. 20, No. 2, 206.

[65] M. Brivot, M. Roussy and Y. Gendron, *The riskification of internal auditors' ethical deliberation: An emerging third logic between norms and values?*, in *Journal of Business* Ethics, 2023, Vol. 19, 1-22, 14. See also R. Mannion, J. Blenkinsopp, M. Powell, J. McHale, R. Millar, N. Snowden, and H. Davies, *Understanding the knowledge gaps in whistleblowing and speaking up in health care: narrative reviews of the research literature and formal inquiries, a legal analysis and stakeholder interviews*, in *Health Services and Delivery Research*, 2018, Vol. 6, No. 30, 1, 14-15.

[66] I. Kampourakis, *Whistleblowers as regulatory intermediaries: Instrumental and reflexive considerations in decentralizing regulation*, in *Regulation & Governance*, 2021, Vol.15, No. 3, 745, 750.

allows both internal and external reporting, but some courts have inherently limited the protection afforded to many internal reports.[67] Additionally, Dodd-Frank requires whistleblowers to report possible wrongdoings directly to the SEC, as only then can they benefit from the incentives and awards offered for their disclosures. Although there is a provision that allows whistleblowers to first report the violation internally within 120 days, the SEC made it clear that reporting through the internal compliance system is not a requirement for an award.[68]
Moreover, Dodd-Frank requires the Commodity Futures Trading Commission (CFTC) and the SEC to establish whistleblower offices that provide a formal venue for whistleblowers to raise their concerns and submit evidence to the relevant agencies. The fact that there are offices where claims can be filed and evidence presented can significantly change public perceptions of whistleblowing. Whistleblowers are encouraged not just to step up and fight against a company, but to do it through official channels. In this way, they receive support, advice, and expertise from competent authorities, and can be assured that their claim will be processed.[69] This restrictive interpretation was confirmed in *Digital Realty Trust, Inc. v. Somers*[70], where the Supreme Court held that Dodd-Frank's anti-retaliation protection applies only to individuals who report directly to the SEC. The decision reinforced the external orientation of the US model and arguably weakened incentives for internal reporting.[71]
However, these provisions can be criticised for encouraging a preference for external reporting. Specifically, they leave the impression that internal reporting mechanisms would be neither useful nor effective. As a result, the message that most employees will get is that if they want to blow the

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[67] S. Andreadakis and D. Kafteranis, *Internal vs. External Whistleblowing: Doing the Right Thing … in the Right Way*, in M. Van Portfliet and A. Phillips (eds) *Whistleblowing Policy and Practice, Volume II: External Aspects*, Palgrave, Cham, 2025, 79-95.
[68] M.H. Hurwitz and J. Kovacs, *An overview of the SEC's Whistleblower Award Program*, in *Journal of Corporate & Financial Law*, 2016, Vol. 21, No. 3, 531, 543.
[69] R. Wortley, P. Cassematis and M. Donkin, *Who Blows the Whistle, Who Doesn't and Why*, in A. Brown (ed), *Whistleblowing in The Australian Public Sector: Enhancing the Theory and Practice of Internal Witness Management in Public Sector Organisations*, Australian National University, Canberra, 2008, 89-90.
[70] *Digital Realty Trust, inc v. Somers*, n° 16-1276, 583 U.S.
[71] Under the Dodd-Frank Act, the US Supreme Court made it clear that whistleblowers can have financial rewards only if they report to the SEC. They can report internally but should report to the SEC to be eligible for a reward. For a detailed analysis, see S. Andreadakis and D. Kafteranis, *Internal Whistleblowing in the US after Digital Realty Trust v Somers: Any Lessons to be Learnt from Europe?,* in Industrial Law Journal, 2025, Vol. 54, No. 2, 357-388.

whistle, they should directly provide information to the SEC instead of giving time to the company to investigate the information themselves. Additionally, critics of this system have contended that a 120-day period would be insufficient for companies to fully investigate and resolve such matters internally.[72] It is therefore arguable that the US model is clearly oriented towards external reporting, leaving little opportunity for companies to correct their wrongdoings internally.

In contrast, in the UK, there is discouragement of wider disclosures and external reporting, as employees are more encouraged to blow the whistle internally through the internal mechanisms and channels in place for handling such disclosures.[73] The focus is based on the idea that internal reporting will enhance the development of an ethical culture within the companies.[74] In accordance with the above, it is assumed that, if companies want to detect, combat, and eliminate fraudulent practices, they should focus on increasing transparency and accountability in their internal procedures and on fostering a more ethical culture. This will be achieved by changing companies from the inside. The support of external reporting undermines internal procedures and does not encourage companies to change their culture and mindset. Furthermore, companies should support internal reporting because otherwise, when whistleblowers make disclosures externally first, or they prefer not to raise their concerns at all, then unjustified harm can be done to the reputation of the corporation when the news reaches the public domain.[75] It is wiser for companies to take internal whistleblowing seriously by adopting a long-term perspective and showing sufficient commitment to the reconstruction of their internal culture. In that way, employees will be more confident in relying on the system and in exposing malpractices for the benefit of the company and the public in general.

3.3 Provision of Financial Incentives

The encouragement of whistleblowers through financial incentives is a very controversial area of law. This is illustrated by the different

[72] F.D. Lipman, *Whistleblowers Incentives, Disincentives and Protection Strategies*, Wiley Corporate F&A, New Jersey, 2012, 34-6.

[73] K. Kenny, W. Vandekerckhove and M. Fotaki, *The Whistleblowing Guide: Speak-up Arrangements, Challenges and Best Practices*, John Wiley & Sons, London, 2019, 23.

[74] N. Smaili and P. Arroyo, *Categorization of whistleblowers using the whistleblowing triangle*, in *Journal of Business Ethics*, 2019, Vol. 157, No. 1, 95, 99

[75] H. Stolowy, Y. Gendron, J. Moll, and L. Paugam, *Building the legitimacy of whistleblowers: A multi-case discourse analysis*, in *Contemporary Accounting Research*, 2019, vol. 36, No.1, 7, 34.

perspectives held by the UK and the US. The US provides incentives to whistleblowers to encourage them to come forward with information about wrongdoing and misconduct, whereas the UK does not.

The False Claims Act provides a bounty of usually 15-25% to prospective whistleblowers, but it can reach as high as 30% of any recovered damages of the total proceeds as long as the amounts identified through the involvement of the whistleblower (taxes, penalties, and interest) exceed the amount of $2 million. The scope for financial sanctions has been further extended by the Dodd-Frank Act. Whilst the False Claims Act applies only to financial fraud committed against the government, the Dodd-Frank Act applies to a much broader range of financial fraud committed by a business. Section 922 of Dodd-Frank authorised the whistleblower program to reward individuals who offer high-quality original information that leads to a successful court action. For a whistleblower to be eligible for an award, the SEC must obtain monetary sanctions in an action or related actions totalling more than $1 million. The incentives range from 10% to 30% of the monetary sanctions.[76]

By contrast, UK legislation denies protection to whistleblowers who provide information for gain. The Financial Conduct Authority has expressed concerns over the impact of incentivising whistleblowers.[77] Reports have illustrated that a rewards system is not suitable for the UK's regulatory framework, as it 'undermines the moral stance of a genuine whistleblower and it will inevitably result in the negative portrayal of whistleblowers'.[78]

Despite the fact that in the US the reward system seems to be working based on the amounts of the rewards paid, bounty awards and financial incentives have been heavily criticised for various reasons. Concerns have been raised regarding the effectiveness of such a strategy, the payment of whistleblower rewards, or the incurring of unnecessary administrative

[76] J. Bowers Qc, M. Fodder, J. Lewis and J. Mitchell, *Whistleblowing: Law and Practice*, 2nd ed., OUP, Oxford, 2012, 368.

[77] Financial Conduct Authority, *The FCA's response to the Parliamentary Commission on Banking Standards*, FCA, October 2013, London, https://www.fca.org.uk/publication/corporate/pcbs-response.pdf last accessed 12 October 2025

[78] Public Concern at Work, *The Whistle-Blowing Committee: Report on The Effectiveness of Existing Arrangements for Workplace Whistle-Blowing in the UK*, November 2013, London, 14, https://www.tuc.org.uk/sites/default/files/Whistleblowing%20Commission%20Report%20Final.pdf last accessed 12 October 2025. See also S. Lombard, V. Brand and J. Austin, *Corporate Whistleblowing Regulation*, Springer, Singapore, 2020, 45-48.

costs on courts and agencies.[79] Indeed, there is a financial hurdle for the federal government to spend substantial sums to effectively implement the goals of the Dodd-Frank Act's whistleblower provisions. Although the pay-outs will eventually come from the offending corporations, the SEC is responsible for conducting the necessary investigations before it can collect fines and make payments to whistleblowers.[80]

The biggest concern, however, is that such systems may negatively influence the behaviour and the moral decisions that whistleblowers may take. Offering financial incentives to whistleblowers poses a major risk: they may make opportunistic decisions about disclosing wrongdoing and become more self-interested than socially interested. Someone who is self-interested and opportunistic usually needs only the prospect of a minimal personal benefit (weighed against any prospect of personal risk) to be induced to disclose information to external agencies. However, when the prospect of a significant personal benefit is huge, then even loyal employees might consider bypassing internal reporting procedures and report possible wrongdoings directly to external agencies instead.

Furthermore, employees may be less inclined to report malpractice internally if they believe they could recover much larger bounties. Equally, there is always the jeopardy that whistleblowers will not report anything, as they will choose to wait until the wrongdoing intensifies to 1 million and reaches a point where they will be eligible for a financial reward.[81] Lastly, employees may be false accusers who turn into informants against their employers, with inadequate safeguards regarding the quality of their information and without moral motivation.[82] Thus, disclosures could be made for malicious rather than altruistic reasons.

In general, even if we accept that this system of financial incentives is the most suitable for the US, as it brings the expected results, we cannot accept the negative impact that such a method has on the corporate

[79] Y. Feldman and O. Lobel, *The incentives matrix: the comparative effectiveness of rewards, liabilities, duties and protections for reporting illegality*, in *Texas Law Review*, 2010, Vol. 88, No. 6, 1151, 1161 and U. Desai, *Crying Foul: Whistleblower Provisions of The Dodd-Frank Act of 2010*, in *Loyola University Chicago Law Journal*, 2012, Vol. 43, No. 2, 427.

[80] M. Davis, *Rewarding whistleblowers: a conceptual problem*, in *International Journal of Applied Philosophy*, 2012, Vol. 26, No. 1, 269, 272.

[81] M. Baer, *Reconceptualizing the Whistleblower's Dilemma*, in *University of California Davis Law Review*, 2016, Vol. 50, No. 5, 2215, 2219. See also S. Andreadakis and D. Kafteranis, *A New Perspective on the Protection of Whistleblowers Under ECHR: Halet v Luxembourg*, in *Studies in Logic, Grammar and Rhetoric*, 2023, Vol. 68, No. 1, 611-627.

[82] Y. Givati, *Of snitches and riches: Optimal IRS and SEC whistleblower rewards*, in *Harvard Journal on Legisation*, 2018, Vol. 55, No. 1, 105, 111.

culture and on the decision-making of future whistleblowers. In fact, whistleblowing will become an endless pursuit of financial rewards disconnected from its principal intention: eliminating misconduct and thus establishing transparent corporate governance.[83]

3.4 Enhancing an Ethical Corporate Culture

The comparative legal frameworks reveal that statutory protection alone cannot generate organisational trust. Legal rules may prohibit retaliation ex post, but they cannot, by themselves, cultivate the internal conditions necessary for employees to perceive disclosure as both safe and institutionally valued. The most important criterion which the existing legal framework failed to support is the promotion of an ethical corporate culture. Not only the US statutes but also the PIDA seem to have had little effect on corporate culture. Both failed to achieve openness, transparency and accountability.

Especially in the US, the failure of its legal framework to promote a corporate culture is related to the external reporting system. As mentioned before, requiring external reporting to authorities and obliging whistleblowers to report to the SEC for a chance at financial reward undermines internal procedures and prevents companies from changing their structures or mindset. Change always comes from the inside, and companies should be left to try to correct their wrongdoings on their own.[84] For this reason, internal reporting should be supported and implemented in the company's culture.

In addition, the US system of monetary reward does not encourage the enhancement of a corporate culture that encourages employees to act ethically in the interests of their company and society in general. Specifically, offering financial incentives to encourage whistleblowing could cause 'market norms of self-interest to govern whistleblowing decisions rather than ethical norms, thereby decreasing the perceived moral obligation employees feel to blow the whistle'.[85] Therefore, it is better to rely on the UK's approach, which promotes individual initiative and sensibility rather than reliance on a bounty. The problem, however, is

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[83] For a comparative evaluation of reward-based systems, see Y. Feldman and O. Lobel, *The Incentives Matrix* in *Texas Law Review*, 2010, Vol. 88, No. 6, 1151.

[84] Lewis op.cit

[85] M. Fullan, *Leading in a culture of change*, John Wiley & Sons, London, 2007, 77-78; D. Kafteranis, *The question of one million dollars: financial rewards or not for the whistle-blowers*, in *International Journal of Banking Law and Regulation*, 2021, Vol. 36, No. 4, 160.

that the UK provides no meaningful reward or recognition for legitimate whistleblowers. The lack of meaningful reward or other recognition for whistleblowing reflects a corporate culture that is not conducive to whistleblowing.[86]

Furthermore, ignoring complaints or delaying action on the investigation of wrongdoing is also an indication that the legal framework fails to foster a good corporate culture. Such inaction gives the green light for illegal activities to be permitted and go undetected. In contrast, when a corporate culture is established in companies where employees feel their contributions and concerns are taken seriously, they have more incentive to report wrongdoing, thereby eliminating potential future risks. Regarding hotlines, unfortunately, companies often go no further than implementing an anonymous hotline that 'is not felt to be the right answer when attempting to promote and encourage a culture of openness, transparency and accountability'.[87] It is not clear how a hotline, without any other supporting mechanisms and active initiatives, can ensure that people will start behaving ethically. While many corporations and state institutions are keen to endorse transparency and to protect whistleblowers, what really matters is how much trust there is in these mechanisms and whether there is indeed an intention to hear what the hotlines reveal, rather than just shooting the messenger, as is so often the case nowadays.[88]

In conclusion, the analysis reveals that the current legal frameworks for whistleblower protection in both countries fall short of their intended effectiveness. While no significant gaps exist in the letter of the law, shortcomings are evident in its spirit. Bridging these gaps requires an emphasis on fostering an ethical corporate culture. Corporate culture serves as an essential "gap filler" by promoting socially desirable behaviours beyond legal requirements. Effective protection, encouragement, and enforcement under the law can only be realised in an environment where whistleblowers feel safe from retaliation, stigma, and marginalisation.

Encouraging whistleblowing effectively necessitates a shift from the prevailing culture of silence and fear to one characterised by transparency and ethics. The crucial challenge is cultivating and managing an ethical corporate culture. The next section will offer recommendations to

[86] Lipman op.cit.,10

[87] D. Lewis and T. Uys, *Protecting Whistleblowers at Work: A Comparison of The Impact of British and South African Legislation*, in *Managerial Law*, 2007, Vol. 49, No. 3, 76, 82.

[88] Ashton, op. cit., 29-30

enhance legal protections for whistleblowers and promote employee engagement by instilling a culture of openness and transparency.

4. Recommendations for Changing the Existing Corporate Culture

The existing corporate culture fosters fear and silence, as whistleblowers feel they cannot be protected solely by the law. The 'key to protection for whistleblowers is to be found within the company itself, in its corporate culture and inner commitment to setting up effective compliance programmes'.[89] It is crucial that the existing 'culture of silence' be replaced by a culture that promotes ethical behaviour, transparency, and accountability. Creating an ethical culture is the only way companies can position themselves to meet the requirements of transparency and accountability.

An important first step in changing the existing corporate culture and thus providing whistleblower protection is developing an internal code of ethics. Such a code requires companies to create compliance systems which internalise sound moral and ethical values.[90] Disclosure of wrongdoing should be valued positively and promoted by codes of ethics to instil sound internal systems and encourage whistleblowers to speak up. Ethical codes of conduct should be considered the benchmark that companies should seek to align with in their compliance programmes and corporate culture.[91] However, a lot more must be done to cultivate ethical practices within companies. For instance, it would be wiser to place greater emphasis on promoting a values-based code that fosters moral attitudes and practices between employees and management, rather than creating a detailed list of rules and principles to regulate conduct. It is important that such codes be more deeply embedded in the companies' culture and modus operandi. If a code of ethics aims to encourage ethically accountable behaviour within a company, such behaviour is only feasible when the company's cultural framework enables it. As Schneider rightly stated, 'No management idea, no matter how good, will work in practice if it does not fit the culture. An organisation can have the most superb strategy, but if its culture is not aligned with and supportive of that

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[89] Pascoe and Welsh, op.cit., 157

[90] V. D. Lachman, *Whistleblowing: Role of Organizational Culture in Prevention and Management*, in *Ethics, Law and Policy*, 2008, Vol. 17, No. 4, 265, 266.

[91] P.M. Erwin, *Corporate codes of conduct: The effects of code content and quality on ethical performance*, in *Journal of Business Ethics*, 2011, Vol. 99, No. 4, 535-548.

strategy, the strategy will either stall or fail'.[92] Therefore, it is important that the code of ethics includes the requirement for ethically accountable behaviour on both the individual and corporate levels. Attaining this is not an easy task, but it is a worthy aim because if attained, it can activate employees' and managers' normative and social desires to comply with the ethical standards, values and policies that have been set.[93]

However, a code of ethics alone is insufficient. Its effectiveness depends on proper implementation, distribution, and communication. It is essential to reflect on how the code of ethics should be 'distributed, the intensity and frequency with which it is communicated, or the way in which it has been developed'.[94] In order to achieve the formation of an ethical corporate culture which stimulates ethical behaviour within corporations, an important first step would be the introduction of an extra statutory duty. Such a duty will require employees to raise concerns and provide evidence if they become aware of potential wrongdoing. In this way, whistleblowing will be vigorously promoted within the companies. Employees, who become aware of misconduct, will not be confronted with the dilemma between morality versus loyalty, as the duty of disclosure will be the prevailing allegiance within companies.[95] Companies will expect employees to follow their duty, without being considered disloyal. Furthermore, negative perceptions surrounding the idea of blowing the whistle will be eliminated, and, thus whistleblowers will be increasingly encouraged to report wrongdoing in their workplaces.

The endorsement from top management is a critical factor in changing the corporate culture. This is because a company's culture likely reflects the personality and attitudes of its leaders. The behaviour demonstrated by the leader and the management team reflects and impacts the overall development of culture and the attitudes adopted within companies. Leadership is a key determinant of employee perceptions and thus of their actions. If leaders do not consistently uphold or follow the standards stated in the code, then the standards will be considered as ineffective and

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92 W. E. Schneider, *The reengineering alternative: A plan for making your current culture work*, Professional Publishing, Burr Ridge IL., 1994.

93 M. Kaptein and M.S. Schwartz, *The Effectiveness of Business Codes: A Critical Examination of Existing Studies and the Development of an Integrated Research Model*, in *Journal of Business Ethics*, 2008, Vol. 77, No. 2, 111, 116.

94 M. Kaptein, *Ethics Programs and Ethical Culture: A Next Step in Unravelling Their Multi-Faceted Relationship*, in *Journal of Business Ethics*, 2009, Vol. 89, 261, 277.

95 T. Uys, *Professional Ethics Versus Corporate Loyalty: Whistleblowing in The Financial Sector*, in C.V. Krishna Rao (ed). *Whistleblowing: An Introduction*, Lemag Books, Hyderabad, India, 2006, 15.

not trustworthy. Thus, employees will not feel obliged to follow the code, thereby changing the corporate culture.

Furthermore, leadership and high-positioned managers must understand the value of whistleblowing not only as a mechanism for addressing a specific instance of fraud, but also as a means of detecting internal inaccuracies that enable fraud. The common view, therefore, is that corporations should foster an environment in which employees can disclose violations without fear of reprisal or retaliation.[96] Punishing employees, who report misconduct or unethical practices, by denying them advancement opportunities, promotes a culture of silence instead of openness. Similarly, when employees face retaliation or other forms of reprisals by their employers, it is very likely that employees would feel discouraged from reporting wrongdoing internally. Consequently, a recommendation would be to introduce criminal sanctions for employers who retaliate against their employees.

Even though such sanctions already exist in certain jurisdictions, it is believed they should be included in all legal frameworks.[97] Immunity or more lenient standards for leaders who commit misconduct, as opposed to every other employee, will weaken the corporation's credibility. Knowing that leaders are held to very different standards is a major disincentive for those who want to blow the whistle and for creating a new corporate culture. Ensuring the consistent application of disciplinary action is critical to employee perceptions of fairness, integrity and credibility of the corporation.[98] It is also important to ensure that the leaders and management are timely and adequately informed of material compliance concerns and are actively engaged in assessing and managing associated risks.

Companies should actively publicise their commitment by publicly recognising the value of dissent and monitoring how employees are rewarded through internal reporting. Rewarding is always a major incentive for coming forward. However, an incentive, such as a monetary reward, may lead to opportunistic behaviours that are not aligned with what an ethical culture aims to establish. Therefore, leadership must consider awarding employees who report misconduct internally, such as

[96] M. Knoll and R. Van Dick, *Do I hear the whistle…? A first attempt to measure four forms of employee silence and their correlates*, in *Journal of Business Ethics*, 2013, Vol. 113, No. 2, 349-362.

[97] B. Berry, *Organizational Culture: A Framework and Strategies for Facilitating Employee Whistleblowing*, in *Employee Responsibilities and Rights Journal*, Vol. 16, No. 1, 2004, 1, 25.

[98] B. Culiberg and K. Mihelič, *The evolution of whistleblowing studies: A critical review and research agenda*, in *Journal of Business Ethics*, 2017, Vol. 146, No. 4, 787, 791.

recognition or promotions. In addition, leadership should publicly acknowledge such reports and counsel other employees to do the same. After all, when a company publicly acknowledges that it is rewarding employees who raise concerns about ethical issues, it is basically sending the message that management is serious about addressing issues before they become endemic.[99] The perpetuation of negative attitudes towards employee whistleblowers, such as being considered disloyal or 'snitches', will be prevented.[100] In addition, the negative consequences for the employees, such as retaliation and stigmatisation, will also not be an issue for them because, instead of losing their jobs, they will be promoted by their companies.

An additional policy should require the establishment of formal processes, such as confidential and/or anonymous reporting, for disclosures.[101] In addition to anonymous and confidential helplines, options include open-door policies, joint management/employee committees that consider allegations of wrongdoing, audit committees, non-union and union-sponsored grievance procedures, ombudspersons, and impartial arbitration.[102] In order to encourage whistleblowers to voice their concerns, it is important that the mechanisms provided by the company are clearly communicated to them. Leadership should promote a culture of compliance throughout the organisation by ensuring effective, sufficiently regular communication from the top of the organisation that reinforces that culture. It is important to ensure that employees understand how to use available mechanisms and the importance and value of internal reporting.[103] Furthermore, companies should regularly assess the efficacy of their reporting systems and implement necessary modifications. Ultimately, the perceived availability and feasibility of options for communicating concerns will determine whether an employee decides to act.

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[99] L. Ravishankar, *Encouraging Internal Whistleblowing in Organizations*, 2003, Santa Clara Markkula Centre for Applied Ethics, https://www.scu.edu/ethics/focus-areas/business-ethics/resources/encouraging-internal-whistleblowing/ last accessed 12 October 2025

[100] S. Andreadakis, *Enhancing Whistleblower Protection: It's All about the Culture*, in *European Business Law Review*, 2019, Vol. 30, No. 6, 859, 879

[101] D. Lewis, *Stigma and whistleblowing: Should punitive damages be available in retaliation cases*?, in *Industrial Law Journal*, 2022, Vol. 51, No. 1, 62-83. See also Miceli and Near 2002, op. cit.

[102] J.P. Near and T.M. Dworkin, *Responses to legislative changes: Corporate whistleblowing policies*, in *Journal of Business Ethics*, 1998, Vol. 17, No. 14, 1551-1561.

[103] S. Stubben and K. Welch, *Evidence on the use and efficacy of internal whistleblowing systems*, in *Journal of Accounting Research*, 2020, Vol. 58, No. 2, 473, 498.

Another way to promote an ethical culture is to raise awareness through employee training. Ongoing employee training and clear communication are essential to embed ethical norms and support whistleblower mechanisms. Training and awareness levels should be maintained consistently, which implies a regular, ongoing program of education and training to support the code of conduct. A culture of awareness will be supported by informal discussions, coaching, newsletters, e-mail alerts, in-service training, meetings, e-learning, and formal training programmes.[104] Establishing such strategies encourages interpretation, models application, and requires continuous employee dialogue to bring transparency. Awareness should also be raised about the importance and desirability of whistleblowing within companies. In essence, enabling an employee to report wrongdoing requires the company to clarify that such disclosure will not affect the employee personally. If employees are convinced that they will not face retaliation, stigmatisation or marginalisation, such realisation can facilitate the requisite reflection process that leads to disclosure behaviours desired by the company.[105] In essence, if a company wants to change the existing corporate culture of silence, it should not only support and protect employees who raise concerns but also identify employees who elevate them. This should be made clear to all members of a company.

The most crucial incentive to encourage whistleblowers and foster an ethical corporate culture is ensuring that whistleblower complaints are taken seriously and addressed promptly. Successful whistleblowing mechanisms depend on swift investigation of reported wrongdoing and clear communication of investigation outcomes within the company. Quality investigations, protection of rights for all parties involved, and consistent resolution build trust among company members.[106] Therefore, companies should establish procedures for promptly responding to reports of potential law violations, seek advice from experienced counsel in compliance and investigations, and assess the validity of reports through internal investigations. Offering multiple timely, responsive reporting channels enhances employees' perception of viable options for raising concerns.

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[104] S. Valentine and L. Godkin, *Moral intensity, ethical decision making, and whistleblowing intention*, in *Journal of Business Research* 2019, Vol. 98, 277, 281

[105] Smaili, Vandekerckhove and Arroyo Pardo, op. cit., 287.

[106] M. Van Portfliet, *Resistance will be futile? The stigmatization (or not) of whistleblowers*, in *Journal of Business* Ethics, 2022, Vol. 175, No. 3, 451, 463.

It is important to recognise that whistleblowing laws or codes of ethics alone cannot solve all ethical dilemmas. Real change requires more than just written policies; it demands genuine commitment from companies to deter retaliation against whistleblowers, encourage internal reporting of ethical concerns, and create an atmosphere where employees feel empowered to act ethically. Ultimately, effecting desirable change hinges on transforming corporate culture. Only by fostering a culture of ethics and responsibility can whistleblowing serve its purpose as an effective accountability mechanism.

5. Conclusion

Whistleblowers serve as both a deterrent against fraudulent activities and a reliable accountability mechanism, leveraging their insider knowledge to uncover and address wrongdoing within companies. However, despite legal protections in the US and UK, whistleblowers often face fear of retaliation, marginalisation, and stigma, indicating inadequacies in their protection and a reluctance to speak up. This article concludes that effective whistleblowing protection hinges more on corporate culture than solely on legal frameworks. The comparative analysis also demonstrates that legislative architecture alone is insufficient without coherent judicial interpretation and predictable doctrinal standards.

Specifically, replacing the existing culture of silence with one of openness and transparency is crucial for effective protection. This can be achieved by implementing systems within companies that not only encourage whistleblowing but also make it desirable. Treating whistleblowing as an ethical issue and institutionalising it within internal governance frameworks is recommended. Genuine leadership and consistent support for internal compliance systems contribute to a culture that encourages internal whistleblowing, fostering openness and transparency within companies. While altering a company's mindset is challenging and requires time and willingness for change, it is a worthwhile goal to pursue.

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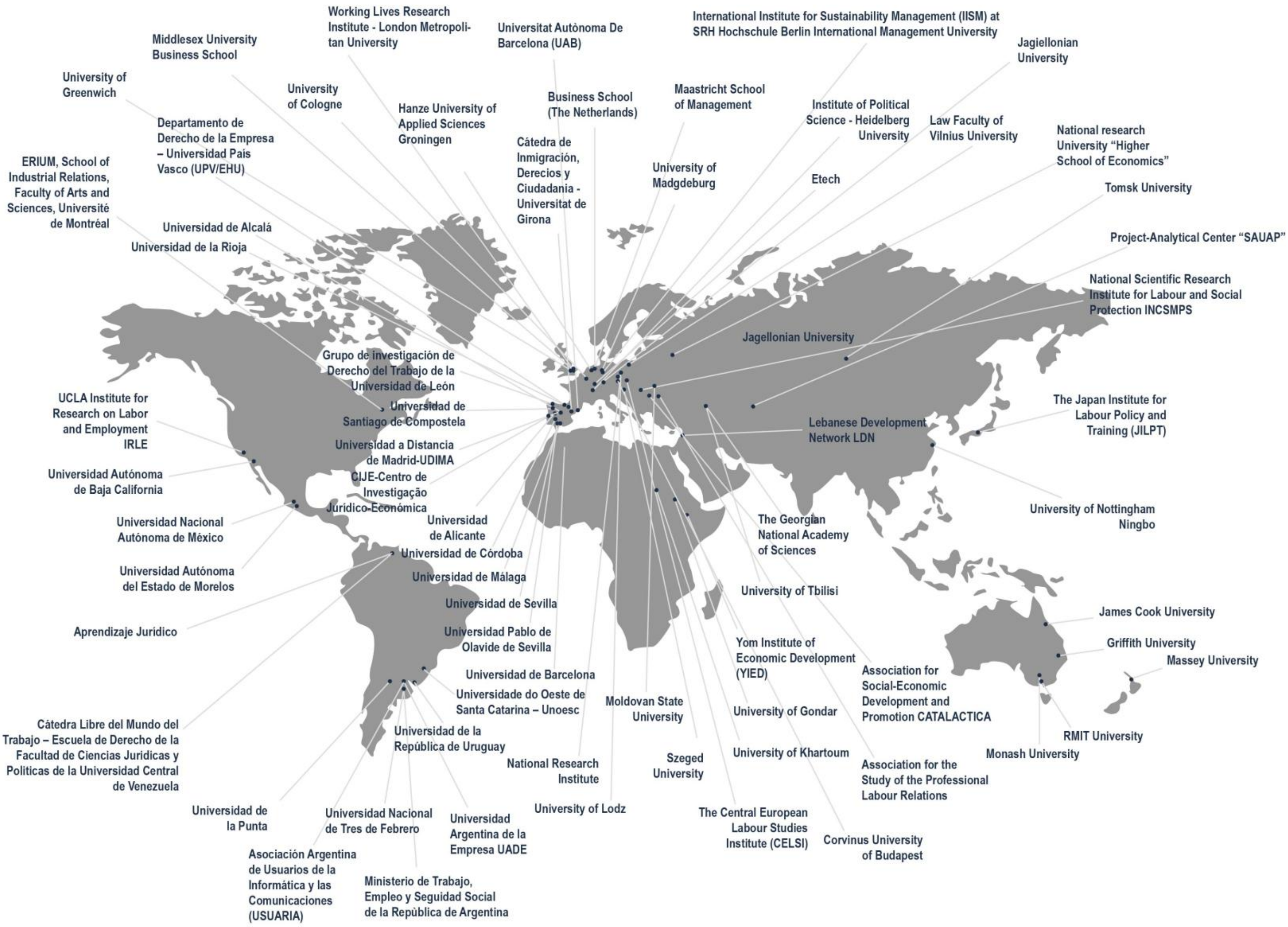

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