

A Comparative Analysis of Criminal Protection for Whistleblowers of Administrative Corruption: A Study of the Legal Systems of Iran and the European Union

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Abstract

One of the most fundamental challenges faced by countries is administrative corruption, which has consistently concerned societies. Today, corruption and its control represent a central concern for all countries and international organizations. This concern is clearly reflected in the adoption of conventions and the issuance of numerous resolutions by various international organizations. On the other hand, corruption and the fight against it constitute an essential pillar of any society. Citizens play a crucial role in the detection and prosecution of corruption within any given society. Most anti-corruption strategies have imposed significant financial and human resource burdens on governments, and as social relations grow more complex, increasingly technical and costly solutions are required. One of the most significant strategies in combating administrative corruption is the utilization of social forces and the involvement of civil society in monitoring governmental performance. This approach not only reduces the need to recruit additional personnel and thereby decreases structural costs, but also enhances public trust in the government and fosters a sense of civic responsibility among citizens. Moreover, given the population's size and geographic dispersion across a country, if effectively implemented, this method can be more comprehensive than other anti-corruption tools. However, if poorly executed, it can be as dangerous as it is beneficial.

Keywords: Administrative corruption, criminal protection, whistleblowing, legal system, European Union, Iran.

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1. Introduction

Administrative corruption is one of the critical issues that has attracted the attention of various societies. This phenomenon entails multiple dimensions and consequences. Numerous strategies have been proposed for the prevention and combat of

administrative corruption. Most of these strategies impose significant financial and human resource burdens on governments. In recent years, one of the approaches considered by developed countries to control administrative corruption is the utilization of individuals who, based on ethical values, a sense of duty, and organizational responsibility, raise the alarm when misconduct or corruption occurs (Stolowy et al., 2019). These individuals are referred to as “whistleblowers.”

The use of public capacity for exposing administrative corruption relies on two essential prerequisites. The first and most important condition is public awareness of the occurrence of corruption, and the second is the existence of motivation and sufficient security for the whistleblowers. Transparency is required for the first condition, and the existence of supportive and incentivizing legal provisions in national legal systems is essential for the second. The detection of administrative corruption, in addition to promoting justice within society and preventing the violation of people’s rights, also contributes to enhancing their psychological security. Therefore, establishing legal frameworks to protect whistleblowers is necessary and highly significant. This necessity is even more critical in contexts where the first prerequisite—transparency in administrative institutions—is lacking, which in itself facilitates the emergence and expansion of corruption.

In Iran, various legal instruments such as the “Law on Promoting Administrative Health and Combating Corruption” and Book Five of the Islamic Penal Code (Discretionary Punishments and Deterrent Penalties) impose an obligation on managers and administrative personnel to report such behaviors to the relevant authorities. Nevertheless, for various reasons, these individuals may either fail to detect corruption or may lack the willingness to disclose or report such behaviors. Thus, it is essential to involve other individuals who, by any means, may become aware of such misconduct (Kamali, 2023).

On the other hand, many countries around the world have made slow progress in enacting laws to protect whistleblowers. Some of these countries either lack the necessary legal provisions in this area or have laws that remain ineffective in practice. Even in jurisdictions with strict laws and enforcement mechanisms, anti-whistleblowing cultures may neutralize the effectiveness of whistleblower protection laws. For many years, the European Union also lacked an integrated system to protect whistleblowers. However, recent scandals have highlighted the need for such a network at the EU level, as emphasized by the European Parliament in October 2017 (Davari & Adeli, 2022).

2. Definition and Justification of Whistleblowing

The term “whistleblowing,” which derives from the metaphor of “blowing the whistle,” was coined by American social activist Ralph Nader; however, its historical roots trace back to the 19th century. The act of using a whistle to alert or attract attention has long been common in various professions such as hunting and seafaring. Therefore, the metaphor relates to the use of a whistle to warn the public about a dangerous situation, such as a crime or rules violation. For example, referees in sports matches who use a whistle to signal a player’s foul or a breach of the rules are also referred to as “whistleblowers.” In the 19th century, this phrase became associated with law enforcement officers who used a whistle to warn the public or summon police assistance.

Whistleblowing manifests in multiple forms and dimensions. Its most prominent aspects include the expression of freedom of speech, an anti-corruption mechanism, and an internal management tool. This variety in scope and nature has led to various definitions of whistleblowing and whistleblowers, each emphasizing different facets of the issue. Nonetheless, based on legal texts and a general synthesis, a whistleblower is someone who provides information that, in their reasonable belief, indicates evidence of legal violations, rules infractions, gross mismanagement, significant waste of financial resources, abuse of power, or a serious and specific threat to public health or safety.

Whistleblowing is generally divided into two categories:

a. Internal whistleblowing: Reporting misconduct to another individual within the same organization;

b. External whistleblowing: Reporting misconduct to an external entity, such as law enforcement agencies or the media.

The term “reasonable belief” implies that an impartial observer, aware of the basic, readily verifiable facts presented by the employee or job applicant, could reasonably conclude that the organizational conduct reflects such violations, mismanagement, waste, abuse, or danger.

According to the definitions provided, whistleblowing has four key characteristics:

First, it is an individual act aimed at making information public;

Second, the information is disclosed to an external party, making it part of the public record;

Third, the disclosed information pertains to important matters within the organization;

Fourth, the whistleblower is a member of the organization, not a journalist or an ordinary citizen.

In addition to these four characteristics, the whistleblower's primary motivation must be to expose misconduct. Emphasizing the whistleblower's initial motive serves to distinguish whistleblowing from acts of malice, vengeance, or personal attacks aimed at discrediting others. Furthermore, individuals who disclose information solely for personal gain are excluded from this definition. However, it is incorrect to entirely exclude all financial benefits from the concept of whistleblowing.

Some individuals receive rewards or compensation for whistleblowing. Such payments serve as restitution for the loss of career opportunities or social isolation that whistleblowers commonly face after being identified. Ensuring compensation or rewards, as recognized in legal systems like that of the United States, can encourage individuals to monitor and report illegal or unethical behaviors and thus foster an environment conducive to whistleblowing.

The final point regarding the characteristics of whistleblowing is that it is generally undertaken as a last resort. Organizations typically have internal oversight and inspection mechanisms to manage affairs and correct inappropriate conduct. Additionally, there are often internal procedures in place to report violations. Whistleblowing thus represents an alternative mechanism for reporting misconduct in cases where structural hierarchies or internal protocols hinder the reporting and correction process (Mohseni, 2021).

Accordingly, whistleblowing is typically carried out by an employee of a public or private organization and directed at the public or authorities. Its subject matter includes mismanagement, corruption, or any illegal, unethical, or otherwise improper activities (Stolowy et al., 2019).

3. Whistleblowing in the Legal System of the United Nations

According to Article 33 of the United Nations Convention against Corruption, which has been accepted and ratified by many countries including Iran, emphasis is placed on the protection of whistleblowers. It is stipulated that each State Party to the Convention is obligated to undertake necessary actions and measures to protect honest whistleblowers who, in the interest of public welfare, disclose information and submit sufficient documentation to competent authorities, from any unjustified retaliatory actions by corrupt or offending individuals.

Additionally, pursuant to Article 35 of the same Convention, it is established that each State Party shall take appropriate measures, in accordance with its domestic legal system, to provide compensation for any damage, whether financial or non-financial, suffered by whistleblowers of administrative corruption.

Under the United Nations legal framework for the protection of whistleblowers, any act that results in unlawful discrimination (based on race, color, religion, gender, nationality, age, disability, marital status, or political affiliation), coercion into political activity, obstruction of fair competition, unjustified preferences, nepotism or tribalism, any form of punishment against the whistleblower, retaliation, bribery attempts toward the Office of the Special Advisor, or non-professional discrimination—or coercing others to perform such acts—is deemed misconduct and can be reported (Davari & Adeli, 2022).

4. Whistleblowing in the Legal System of the European Union

Until a few years ago, some European Union countries such as France lacked comprehensive and coherent legislation regarding the disclosure of misconduct and administrative corruption. The existing laws were often fragmented and incomplete (Smith, 2021). Lawmakers in these countries, recognizing the growing prevalence of whistleblowing in other jurisdictions and aiming to align with EU policies on whistleblower protection and financial security within the Union, enacted relevant legislation.

According to French law, whistleblowers can submit reports of administrative corruption to the National Commission on Informatics and Liberties without revealing their identity. The strong legal attention to freedom of expression is another commendable step toward promoting and supporting whistleblowers.

French whistleblower laws do not treat all domains of corruption equally. Instead, they prioritize health threats, environmental violations, scrutiny of public figures, and economic crimes, granting greater protection to whistleblowers in these areas. A notable feature of France's legal framework is its detailed outline of whistleblowing procedures and quality

standards, encouraging effective, principled, and constructive disclosures while discouraging baseless accusations. These laws require adherence to a hierarchy in whistleblowing: initially, the report should be submitted to the direct or indirect supervisor. If no appropriate action is taken, the whistleblower may report the matter to judicial authorities. If, after three months, no legal action has been taken against the corrupt parties, the whistleblower may disclose the issue publicly via the media.

Another noteworthy aspect of France's whistleblower protection system is that all medium-sized companies, defined as having more than 50 employees, are mandated to establish mechanisms for reporting and protecting against corruption and misconduct.

In the United Kingdom's legal system, it is emphasized that if a whistleblower faces retaliatory behavior from workplace managers, those managers must prove that their actions were unrelated to the whistleblower's disclosure. Otherwise, they will be subject to legal consequences. Similar to France and most EU countries, UK law provides stronger protection for whistleblowers in environmental, health-related, and economic crime sectors. A defining feature of EU legal systems is that their whistleblower protection laws have significantly increased individuals' trust in the legal system.

According to Article 9 of the Council of Europe Civil Law Convention on Corruption, states are obligated to protect whistleblowers from potential retaliatory actions by offenders and corrupt individuals.

In many EU countries where whistleblower protection is recognized, unauthorized public disclosure of corruption may itself be deemed a criminal offense. These laws require whistleblowers to submit their evidence to judicial authorities for formal investigation. This caution stems from the potential for wrongful accusations against innocent individuals or, conversely, the opportunity for real offenders to tamper with or destroy evidence if a matter becomes public too soon. Thus, whistleblowers are only permitted to report misconduct to competent authorities and are prohibited from publicly disclosing such issues until legal investigations are conducted.

To support whistleblowers, the European Parliament has issued a protective directive granting them the right to freedom of expression in both public and private settings. This protection applies to all levels of the EU and extends to journalists. Under this directive, any direct or indirect threat or obstruction of their activities will be subject to legal prosecution and penalties (Davari & Adeli, 2022).

5. Whistleblowing in the Legal System of Iran

Iranian legal texts do not contain a specific and comprehensive law exclusively addressing whistleblowing and the protection of whistleblowers. Nevertheless, this subject appears in various scattered legal provisions. Notably, the reporting of crimes and misconduct in Iran can be categorized into two legal frameworks:

5.1. *Mandatory Reporting Based on Legal Obligation*

First, it should be noted that reporting crimes is not a universal legal duty. It is only mandatory in certain cases—especially crimes against the administration of justice or where the law explicitly imposes a duty on individuals in specific professions. The significance of these offenses is such that even ordinary individuals may bear criminal responsibility for failure to report them. For instance, such laws have been enacted in France and in some U.S. states.

Second, in many cases, the facts of a legal matter may differ significantly from appearances. Individuals accused following a whistleblower report may ultimately be exonerated in court, which could result in the whistleblower being prosecuted under Article 697 of the Islamic Penal Code for defamation. Therefore, due to the potential consequences of publicly disclosing criminal behavior that involves public interest, it seems advisable that unless the whistleblower possesses compelling and court-admissible evidence, they should refrain from making media disclosures and instead report only to competent governmental authorities (Mohseni, 2015).

However, given the principles governing the exposure of unlawful and unethical behavior, it appears that lawsuits based on alleged violations of privacy related to such disclosures would not result in liability—if the behavior disclosed involves violations of law or ethics by the implicated individuals. In such cases, the exposure serves public interest and protection. Nevertheless, it is critical to recognize that when whistleblowing intersects with the right to privacy, the presumption favors privacy, and exceptions must be based on substantial public interest grounds—requiring the enactment of clear and precise laws.

Based on these principles, unlawful and unethical conduct precludes the perpetrator from claiming a violation of privacy when such behavior is exposed. Public awareness in these instances constitutes a form of protection for the public against such misconduct (Mohseni, 2015).

In addition to crimes against judicial integrity, other mandatory reporting obligations include:

- **Article 72** of the Criminal Procedure Code (2013): obligates officials and public employees who become aware of non-compoundable crimes within their jurisdiction to report them immediately to the prosecutor.
- **Article 606** of the Islamic Penal Code (2013): imposes penalties on heads or managers of organizations and institutions who fail to report crimes such as bribery, embezzlement, unlawful appropriation, fraud, or other offenses listed in Articles 599 and 603.
- **Article 43** of the Executive Bylaw of the Law on the Establishment of the General Inspection Organization (amended 2009): requires inspectors or inspection boards to report any important issues or indications of misconduct or criminal activity encountered during their duties.
- **Articles 13–15** of the “Law on Promoting Administrative Health and Combating Corruption” (2011): obligates all officials and employees of covered entities, as well as designated individuals within the scope of their responsibilities, to report any observed misconduct or crimes listed in these provisions to judicial or administrative authorities without delay. Article 14 also expands the scope of liability for inaction to include individuals outside the executive branch, such as inspectors, experts, auditors, and regulatory supervisors—subjecting them not only to criminal sanctions but also to non-criminal disciplinary measures.
- **Article 3** of the Executive Bylaw for the Prevention and Combat of Bribery in Executive Agencies (2004): requires all employees of entities covered by the bylaw to report any bribery-related conduct described in Article 1 involving themselves or others to administrative disciplinary boards or higher authorities, including identifying the individuals proposing the bribes, so the matter can be legally pursued.

5.2. *Reporting Crimes Without Legal Obligation*

Whistleblowing refers to the act of reporting crimes and misconduct without any statutory obligation to do so. As previously mentioned, whistleblowing today plays a significant role in enhancing governmental performance, corporate accountability, organizational governance, administrative and social integrity, and more. Undoubtedly, such an act stems from the whistleblower’s sense of social responsibility. Social responsibility is an ethical theory whereby a social unit—be it an individual or organization—feels obligated to fulfill its civic duties, with the outcomes benefiting society as a whole. The presence of social responsibility in individuals leads to a balance between economic development, public welfare, and the community’s ecosystems. In other words, social responsibility entails balancing profitable activities with those that benefit society. This concept has both passive and active dimensions: refraining from harmful social behaviors represents the passive aspect, while engaging in activities that directly advance social goals reflects its active nature.

It is evident that providing legal protections—including immunity from retaliatory actions by employers and job security for whistleblowers—along with institutional responsibility by all organizations, is among the prerequisites for achieving transparency and effectively combating corruption. Organizational responsibility refers to a body’s duty toward the stakeholders and groups it affects, such as shareholders, investors, customers, employees, officials, communities, and ultimately, society at large.

In light of the above, the drafting and adoption of comprehensive, specialized, and practical legislation on whistleblower protection and the promotion of social and organizational responsibility will encourage reporting and disclosure of misconduct and crimes across corporate, organizational, and governmental sectors—even in the absence of a legal mandate.

Other legal provisions indirectly related to whistleblowing, although not labeled as such, include:

- **Article 8 of the Constitution of the Islamic Republic of Iran:** “In the Islamic Republic of Iran, the invitation to good, enjoining what is right, and forbidding what is wrong is a mutual and universal duty for the people toward one another, for the government toward the people, and for the people toward the government. The conditions, limits, and methods of this duty shall be determined by law. ‘The believers, both men and women, are guardians of one another: they enjoin what is right and forbid what is wrong.’”

- The **Law on the Protection of Promoters of Virtue and Preventers of Vice** (2015), enacted pursuant to the above constitutional principle, outlines related provisions. Article 8 of this law recognizes citizens' rights to advise, counsel, and guide the government. Under this provision, citizens may enjoin what is right and forbid what is wrong concerning officials, managers, and employees across all branches of government, including ministries, organizations, and institutions. This extends to internal and external organizational personnel.
- **Article 2 of the Law on Dissemination and Free Access to Information** (2009) upholds the principle of freedom of information and guarantees Iranian citizens access to public information within the bounds of the law.
- **Paragraph 9 of Article 7 of the Law on the Securities Market of the Islamic Republic of Iran** (2005) obliges the relevant authority to report certain violations in the securities market to the competent authorities and assigns follow-up responsibility to the organization's board of directors.
- **Articles 17 and 26 of the Law on Enhancing the Administrative System and Combating Corruption** (2011) require the government, under Article 17, to legally protect, ensure the security of, and compensate individuals who, as informants or reporters, provide information for the prevention, detection, or proof of a crime or for identifying the perpetrator—and who are thereby exposed to threats or retaliatory actions. Article 26 mandates that managers, supervisors, employees, or individuals who identify and report the offenders listed in the law shall be rewarded.
- A **draft bill entitled "Financial Support for Whistleblowers of Corruption"** is currently under consideration in the Islamic Consultative Assembly (Parliament). According to the bill, any natural or legal person who becomes aware of the commission of a crime under Article 36 and its Note—whether an accomplice, partner in crime, or a responsible person within the relevant institution—may report the matter confidentially or publicly to the local prosecutor, head of the county or provincial judiciary, the head of the Inspection Organization, or the head of the Judiciary. The whistleblower will then be entitled to receive up to 50% of the value of the illicitly obtained assets, up to a ceiling of 1 trillion IRR in economic disruption cases and 100 billion IRR in ordinary cases. The funds will be allocated from a specific budget line in the following fiscal year. If multiple individuals report the offense, the reward will be divided among them. The head of the Judiciary is obligated to propose the total annual reward amount in the national budget. The Planning and Budget Organization must allocate this amount by June of the following year. If the whistleblower is an accomplice or partner in the crime, they will be exempt from punishment.
- Additionally, a separate **bill titled "Support and Protection of Whistleblowers and Informants of Corruption"** is being reviewed by the Parliament. According to this bill, natural or legal persons or employees who report any of the offenses listed in clause (a) of Article 1 of the "Law on Enhancing Administrative Health and Combating Corruption" (2011) will not only benefit from the protections of Article 17 of the same law but also receive additional support under the "Law on the Protection of Promoters of Virtue and Preventers of Vice" (Mohseni, 2021).

6. Legal Support Strategies

Legal support refers to measures aimed at protecting whistleblowers in accordance with existing laws and during judicial proceedings, as well as against retaliatory actions by corrupt parties. Some of these strategies require the whistleblowing process to be clarified in advance so that whistleblowers understand the legal implications and refrain from illegal conduct. Legal strategies include:

1. **Defining Reportable Acts:** The law must clearly define the acts and behaviors that may be reported and are subject to legal protection, ensuring the whistleblower does not inadvertently commit an offense (Khosravi, 2020).
2. **Addressing Legal Gaps:** Experience shows that sometimes even whistleblowers have faced legal repercussions. Where legal gaps exist regarding reports to competent authorities, such gaps must be filled (Qaderi, 2022).
3. **Establishing a Corruption Reporting Platform:** Dedicated platforms should be developed to receive reports from whistleblowers and forward them to the appropriate institutions (Mohebi et al., 2022).
4. **Implementing the Law on Free Flow of Information:** Compliance with the law on the free flow of information is a necessary practical step and should be complemented with whistleblower protection legislation (Shargh Newspaper, 2021).

5. **Appointing Pro Bono Legal Counsel:** Provision of legal counsel and support by judicial authorities to ensure the physical, financial, and occupational safety of the whistleblower is a vital protective mechanism (IRNA, 2023).
6. **Legal Protection for Investigative Journalists:** Minimum legal protections should be guaranteed for journalists who take the risk of investigating corruption-related issues (Kamali, 2023).
7. **Compensation for Retaliatory Actions:** Despite the immunities granted to whistleblowers, legal mechanisms must allow them to claim compensation through competent authorities if retaliatory actions are taken against them (Khosravi, 2020).

7. Conclusion

Today, whistleblowing and the disclosure of information regarding illegal, dangerous, or unethical activities by governments and private organizations have emerged as effective tools for combating crime and corruption, and for reducing hazardous situations. Accordingly, fostering a whistleblowing culture through public awareness, financial incentives, expedited reporting channels, and criminal law protections—particularly via the enactment of independent, specialized, and comprehensive legislation—is considered a key strategy for institutionalizing whistleblower practices. Nevertheless, whistleblowers often face significant personal and professional costs, and concern over these repercussions leads many employees to remain silent.

Despite this, the importance of whistleblowing and the fight against mismanagement, crime, and corruption should not override the right to privacy of individuals or organizations under scrutiny. In other words, while honoring the boundaries of transparency, whistleblowing, and various dimensions of informational privacy, whistleblowing must be treated as a lawful and regulated act.

The absence of protective institutions for whistleblowers—and more importantly, the lack of a clear legal definition of whistleblowing in the country—has created an adverse climate within Iranian organizations. Unfortunately, this has led to increasing disregard for whistleblowing and heightened hostility toward institutions and individuals who engage in such disclosures.

Whistleblowers are a foundational element recognized in the United Nations Convention against Corruption, and this concept has been incorporated into domestic laws such as the Law on Promoting Administrative Health and Combating Administrative Corruption. This law is regarded as Iran's most important domestic legislation for preventing corruption-related crimes. Although it emphasizes situational and social prevention strategies—such as improving public access to information and enacting laws to fill legal gaps, including the development of a national framework by the Judiciary—many of these commitments have not been fulfilled. In some cases, conflicting interpretations have resulted in the suspension or abandonment of related preventive laws.

By drawing upon the experiences of successful and knowledgeable countries and emulating their practices—particularly the formation of associations and organizations that support whistleblowers—significant progress can be made toward creating the cultural and legal infrastructure needed for effective whistleblowing in Iran. It appears that establishing a centralized, independent institution—separate from both governmental and non-governmental entities but under the direct supervision of the Judiciary—could serve as a practical and enforceable solution for legally institutionalizing whistleblowing in the country.

Authors' Contributions

Authors contributed equally to this article.

Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Ethical Considerations

All procedures performed in this study were under the ethical standards.

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Conflict of Interest

The authors report no conflict of interest.

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