

“All that is needed for evil to prosper is for people of good will to do nothing”—Edmund Burke

The



Whistle

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On the persecution of Richard Boyle, see pages 15–18.

BOOK REVIEW

Bullied by the brand

Reviewer: Brian Martin

JOSH BORNSTEIN knows what it's like to have his reputation come under attack. During the worst onslaught, someone assumed his identity online, made several posts and then submitted an article that was published in *The Times of Israel*. It was an anti-Palestinian rant. People around the world piled on, condemning the real Josh Bornstein, who lives in Australia. After *The Times of Israel* was informed about the fraud and published a correction and apology, the article continued to be circulated online, leading to further attacks.

Bornstein is a lawyer who has handled numerous free-speech cases. He has a wide network of contacts. Even so, he found it difficult to get officials to find the perpetrator of this and several other frauds targeting him. The police at first didn't want to do anything. Eventually, they arrested a man in Florida, who had single-handedly defamed many others besides Bornstein.

Not everyone is as well-connected as Bornstein and able to deal with attacks. By the same token, not everyone is as high-profile as him and therefore a prime target. Yet it doesn't take much to trigger an online pile-on.

Let's go back a step. In Australia and many other countries, civil liberties are prized. These include being entitled to vote, run for office, hold meetings, choose one's religion — and have free speech. However, these freedoms are seriously limited in one important domain: work. On the job, there are few democratic freedoms, no right to choose leaders, organise opposition parties — and no free speech. It's like when you're in a public place, you have civil liberties, but as soon as you go through the factory or office door, you don't.

In most discussions of civil liberties, the workplace seems to be forgotten. But there have been a few authors who have highlighted the absence of free speech at work, including David Ewing in his 1977 book *Freedom Inside the*

Organization: Bringing Civil Liberties to the Workplace, Bruce Barry in his 2007 book *Speechless: The Erosion of Free Expression in the American Workplace*, and Elizabeth Anderson in her 2017 book *Private Government: How Employers Rule Our Lives (and Why We Don't Talk about It)*. Now there is a new contribution to this important issue, far more readable than its predecessors, and with a focus on Australia: Josh Bornstein's *Working for the Brand: How Corporations Are Destroying Free Speech*.



Bornstein is an Australian lawyer with decades of experience defending clients in free-speech cases. He draws on that experience and his knowledge of free-speech issues in Australia, Britain, the United States and beyond.

Bornstein's important contribution to the discussion concerns the role of brand management. Large organisations — for example, Qantas, Coca-Cola and McDonald's — depend on their reputations.



Many people will choose to fly Qantas or drink a Coke simply because of their names, even when another airline or

cola provides an almost identical experience. It's like preferring the proprietary brand of a drug over a cheaper generic drug, even though their chemical contents are identical.



Corporate managers are highly sensitive to threats to their brands, and this means they are willing to muzzle workers who cause trouble. Imagine working for a university, where you're supposed to have academic freedom, and making a few tweets or Facebook posts that offend some group. If hostile campaigners decide to attack, they can mount a scare operation, with your comments taken out of context and condemned in the mass media (most commonly, in Australia, the Murdoch media) and social media. A hurricane of abuse is directed at you and, more potently, at the university. If you're lucky, university managers will defend you, asserting the importance of academic freedom. But if you're unlucky, like Peter Ridd at James Cook University or Gerd Schröder-Turk at Murdoch University, you may be hung out to dry.

The same pattern prevails in other domains, including government employment, private enterprise and the media. Bornstein tells one story after another, many from Australia, others from the US and Britain.



It used to be that an employee could have a life outside of work, but that has changed with the advent of social media. Something you said or did 20 years ago can be dredged up, splashed over social media and used to discredit you. Employers are so sensitive to threats to their reputations, to their

brands, that many of them acquiesce to the mob, cutting loose their hapless workers for something they said or did that had little or nothing to do with their job.

There has never been freedom of speech on the job, but now there is a new, insidious dimension. Most employers require workers to sign employment agreements that say harming the reputation of the organisation is not allowed. Bornstein says these agreements are unacceptably vague. What can happen is that a single tweet or post, maybe provocative, humorous or just innocuous, is seized upon by opponents and used to foster a storm of protest, with demands to sack the worker. The employer can interpret this as damaging the brand and use it as a pretext for dismissal. Bornstein has defended many workers who have been targeted this way, and has had many wins. But even when a worker survives the online assault, a message is sent to other workers: the only way to be safe is to say nothing at all. Brand management in this atmosphere is a process of silencing criticism, largely through self-censorship.

Bornstein sees the rise of silencing to protect the brand as linked to neoliberalism, in which governments outsource many of their traditional functions to private firms whose driving purpose is increasing shareholder value, as well as enriching top executives. The consequence is that the interests of workers are sacrificed. This is not a good look. To give the appearance of benevolence, corporate leaders engage in what Bornstein calls “ethics-washing.” This is promulgating high-sounding principles and supporting units that ostensibly promote them as a means of discouraging regulation. An example is corporate social responsibility (CSR), which is a thriving field to push corporations towards serving the public good.



Despite the sincerity of CSR advocates, the whole enterprise, according to Bornstein, achieves little in practice, mainly serving to give a misleading signal to workers, shareholders and the general public that the corporation is operating ethically. He gives numerous examples of ruthless corporate leaders, for example Alan Joyce, for many years CEO of Qantas, who sacked staff, failed to update the fleet and took home a huge package. CSR seemed to have little impact.

In the US, another form of ethics-washing is the corporate use of social-justice language, promoting diversity-and-inclusion initiatives. This sounds nice but its purpose is to counter unionisation.

Meanwhile, workers are muzzled by employment contracts that require not doing anything that might hurt the corporate image.



So while someone like Joyce can do massive damage, it is lower-level workers who both suffer and are penalised if they speak out. Bornstein is scathing about the double standard involved.

“It is difficult to reconcile morals clauses imposed on employees with the behaviour of a corporation that shifts its profits to notorious tax havens, subverts labour standards and suppresses wages, sells harmful goods or services, or falsely claims to be a carbon-neutral operation.” (p. 50)

In even more blatant hypocrisy, managers have decided the corporation does not have to follow its own rules: “... virtually all employment contracts in Australia provide an exemption to the employer from having to comply with its code of conduct and other workplace policies. When commerce and morality collide, there can only be one winner.” (p. 53)

Many whistleblowers are familiar with gagging clauses. When they suffer reprisals and seek compensation, they are given the choice between a ruinously expensive court struggle or a settlement. The settlement is attractive financially but comes along with the requirement to sign an agreement not to speak out about the terms of the settlement and, often, anything about what happened.

What Bornstein describes is an expansion of this gagging process to much of the workforce, pre-emptively giving employees a choice: never say anything that might potentially embarrass the company, or risk losing your job.



Josh Bornstein

In a sense, what Bornstein describes is a process of silencing that goes way beyond whistleblowers to just about any worker who speaks out on any topic that offends some interest group. He argues for trade unions as a counterweight to management, but it's a challenge because employers have been using dirty tricks against unions, whose memberships have been in decline for decades. In another double standard, large corporations regularly defy the law when they act against unions, but enforcement and penalties are limited.

Authoritative, filled with examples and insights, *Working for the Brand* is one of the most important contributions to understanding the clash between free speech and organisational power.

Brian Martin is editor of *The Whistle*.

Conference reports

WHISTLEBLOWERS AUSTRALIA'S 2024 annual conference was held on 16 November. It featured stimulating talks and discussion. The following articles are based on or related to talks at the conference.

Why whistleblower laws don't work

Notes on Jeff Morris's talk
by Brian Martin

JEFF IS WELL KNOWN as a whistleblower who exposed corrupt practices in the Commonwealth Bank. He paid dearly for his efforts.

Jeff said Cynthia rang him when he was at a weak point, inviting him to speak at the graveyard shift at the conference. Originally, he was going to introduce Eddie Lloyd [another speaker at the conference]. Eddie pioneered a new area of law on tree-sitters, on environmental law. Eddie has taken over David McBride's case after some other lawyers were less than successful. It's going to be a tough fight. She's doing it pro bono. She has legal conferences with David twice a week, 3–4 hours each, keeping up his morale.

Most lawyers are sharks. Jeff has seen many lawyers do over whistleblowers. Even with Eddie acting pro bono, it will cost half a million to pay barristers in David's appeal.

Most lawyers tell clients not to speak to the media. Years ago, Jeff was asked why he hadn't taken the Commonwealth Bank to court under the Corporations Act. Jeff said he would have lost, and it would have cost a fortune. Media coverage is the key.

Jeff thinks the Attorney-General Mark Dreyfus and Prime Minister Anthony Albanese wanted David McBride to receive a gaol sentence, as a deterrent to others. Only when Dreyfus and Albo take a beating in the media will they reconsider. Troy Stolz — who blew the whistle on money-laundering in clubs in New South Wales — did it the right way.

Kent Quinlan — who blew the whistle about misconduct by his employer, ERM Power — came with Jeff to Canberra. Troy Stolz joined them, late,

after a three-hour trip to Sydney. Troy did this while in extreme pain due to a massive tumour on his leg. Troy was willing to go to extreme lengths to support another whistleblower.

Jeff, David, Troy and Peter Fox — who blew the whistle on institutionalised child sexual abuse — had a meeting. They were struck by the similarities in their cases. There is a group working to get David out of prison; it includes some video uploaders.



Jeff Morris

Sending David to gaol is the nadir for those running the government, who have spent \$2 million to do it. It's not justice when the money is unequal. It is facile and cynical of Dreyfus to talk of justice. They are also going after Richard Boyle.

Jeff recommends avoiding the court system, instead going to the media. That's what Troy did. He won a settlement but was still out of pocket. Kent Quinlan has \$1 million at stake in a case.

The most appalling case is Sharon Kelsey, who finally pulled out after spending \$4 million. The problem with whistleblower protection laws is that it's impossible to win against a wealthy opponent.

There are too many people pretending to speak on behalf of whistleblowers who don't understand what's involved. Some of them say there is

nothing wrong with the PID Act (Public Interest Disclosures Act); some want to make the law work better. But it doesn't work and reforming it won't make much difference because, without equal resources, whistleblowers will always get smashed in the courts.

The proposed Whistleblower Protection Agency is a farce. It's the same sort of emasculated beast as the NACC (National Anti-Corruption Commission).

Corporations ruthlessly use the courts against borrowers, and they do the same to whistleblowers. But we're fighting back. We need to realise that no one will stand up for us.

Whistleblowers need to find the right journalist (for Jeff it was Adele Ferguson) and the right politician.

The whole system is crooked. Most stories on TV draw on whistleblowers, usually unacknowledged. Whistleblowers should go on strike, not give stories to journalists.

The government decided not to go after Dan Oakes over the McBride story, because they needed the media to be on side. Whistleblowers should forget lawyers (most of them) and get to the media. Pollies watch the polls.

Audience question: Can't we have both, media coverage *and* whistleblower protection?

Jeff: David being in prison is sending exactly the message the government wants. When I talk with potential whistleblowers, I tell them they'll lose their jobs, mental health, physical health, and they probably won't achieve anything. I don't tell them not to blow the whistle, just to know what's in store. The prosecutions of David and Richard will deter others from being whistleblowers.

Whistleblowers should be entitled to compensation (not rewards). Labor talked about compensation for bank whistleblowers but it hasn't happened.

Audience comment: Richard Boyle wanted to go ahead because he saw people distressed.

Jeff: What Richard did was similar to what the Robodebt whistleblowers did. They weren't prosecuted.

Ross Sullivan, whistleblowing pioneer

Lynn Simpson presented a tribute to Ross, who was in the audience.

Ross worked as a Municipal Engineer in Casino, NSW, from 1961–1963 and 1971–1973. He detected potentially fatal pollution in the town's water supply. The source of the pollution was traced to the local meatworks. Finally, in 1981, the meatworks was convicted of polluting the Richmond River.



In December 2002, Ross received an overdue apology.

"The following statement is published by Mr. John Lane:

APOLOGY

Mr. Sullivan was Casino Municipal Engineer during the period 1961–1963 and 1971–1973. He expressed concern as to shortcomings in that Council's administration and was subsequently suspended. He claims that a comment by Mr. Lane, the then Mayor of that Council, during that suspension, was defamatory, untrue and unjustified. Mr. Lane accepts those claims and apologises unreservedly to him for the hurt and embarrassment suffered by him as a result."

Thank you, Ross, for being a true pioneer of environmental protection.

Whistleblowing: financial costs update

Jane Anderson

At the Whistleblowers Australia conference in 2022, I gave a talk based on my experiences as a whistleblower. In almost all instances of whistleblowing, there are multiple well-documented adverse impacts. I chose to explore one of the less examined aspects of whistleblowing, which is the financial cost to the organisation.

My case study was centred around PIDs (Public Interest Disclosures) made relating to a pattern of inappropriate recruitment decisions. These decisions poisoned the entire team leading to a highly toxic, dysfunctional and unproductive workplace, with high levels of stress leave and high staff turnover.

As at 2022 I estimated the financial cost to the taxpayer to be in excess of \$1,765,000 as a result of staff sick leave, staff turnover and investigations. The cost of loss of productivity was not included. Nor were the ensuing investigations by the Ombudsman and ICAC taken into account. A senior manager was on leave for two years and resigned, with a glowing tribute from management, and potentially a 'bonus'. Since that time there have been five replacement managers, and ironically the current one was appointed without merit selection. One of the five replacement managers also went on stress leave.

At the Corruption Prevention Network October 2024 seminar, titled "Psychosocial Hazards in Corruption Investigations — Strategies for a Healthier Workplace in High-Stress Environments," officers cheerfully confirmed that the cost of even one small scale external investigation would be at least \$250,000. Incorporating loss of productivity, Ombudsman and ICAC investigations and other staffing costs, the taxpayer has probably spent approaching \$3 million just on this one example.



The incidents were neither life-threatening nor involved high-level corruption of millions of dollars – but yet a story familiar to many people. The tale is a long one and the (financial) tail is even longer. How many more of these cases divert taxpayer funds from being spent as they should be on services? It is time public organisations account properly for costs incurred as a

result of failure to address organisational wrongdoings that are eventually revealed by whistleblowing.



Raising concerns about airbag suspension

Barry Hicks

I HAVE 32 YEARS of tanker driving experience. Formerly, I served as an Occupational Health and Safety (OHS) representative. I believe there is an urgent need to review air suspension specifications to enhance stability and safety in heavy vehicles.

According to National Truck Insurer (NTI) statistics, farm pick-up tankers on rural roads are 2.4 times more likely to suffer a rollover than any other transport sector. Half of all truck occupant deaths resulted from rollover crashes. 180 drivers are killed in heavy vehicle crashes in Australia each year on average.



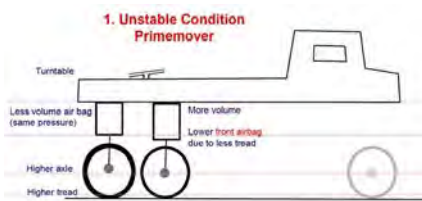
Currently, NTI is investigating the causes of heavy vehicle rollover crashes in the farm milk pick-up industry. This is a government-funded program. However, it is not examining the role played by different tyre tread depth axle to axle and airbag suspension profiles. That is regrettable because airbag suspensions are known to be unstable

and unpredictable in certain circumstances, and rollover is a leading cause of driver death.

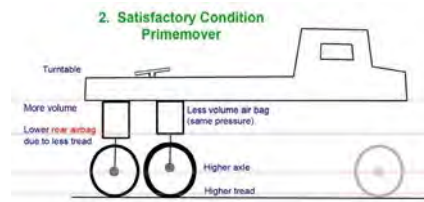
My work colleagues were concerned about the number of tanker rollover crashes. Some had noticed that truck stability decreased when worn tyres with reduced tread thickness were rotated with other tyres. At an OHS meeting, it was decided to document this concern, and the methodology of a trial was developed and implemented. The results demonstrated that an “up-at-the-front” airbag suspension module profile and increased airbag volume on some airbags increased instability and the risk of rollover.

The trials at my workplace showed that to deliver the best stability, tilt down at the front should be 0.25 degrees or less, to account for tread depth variations. Although I have written to various heavy vehicle regulators, this finding has not been investigated.

Some manufacturer’s specifications require the top of the airbag tilt or rake to be parallel to the ground but allow a 1-degree up or down (at the front) tolerance. In my opinion, based on the work trials, an upward tilt increases the risk of rollover through instability and should not be allowed. A tilt of 0.25 degrees or less down at the front should be considered optimal. This is a significant issue given the increased number of rollover crashes. I have called for dynamic live testing of driven heavy trucks to find the optimal rake and tolerances and the correct placement of rotated tyres with reduced tread.



It is widely accepted that the theories and mathematics of rollover risk are very complex and that dynamic tests are needed. Static tests and computer modelling do not include such variables as tyre tread depth and individual airbag volume. (Transport Research Board, Rating System for Rollover Resistance, pp. 31–34).



In my opinion, it is time for an industry-wide re-evaluation of air suspension systems. Prioritising proper air volume and suspension geometry is necessary to prevent accidents and ensure the safety of drivers, tankers, and the communities they serve.

The importance of tyre tread depth mismatch

Drivers found during the work trials that fitting full-treated tyres to the rear drive axle and leaving approximately 30% worn tyre depth on the front drive axle changed the airbag height, as can be seen in picture 1. The front drive axle is then lower (due to reduced tread depth). The front drive axle airbag then had more volume and was more rigid. This was noted to markedly increase yaw and the risk of rollover.

In summary, it was found during the trials that the front drive axle airbags with more air volume were more rigid due to the undesirable placement of tyres with reduced tread. A built-in down-at-the-front rake appeared to ameliorate this rigidity and risk in prime movers and trailers. In contrast, an up-at-the-front tilt of the air suspension profile decreased road tanker stability and increased rollover risk.

The rollover threshold with a 19-meter B Double on an 80 km/h highway-style corner dropped by an estimated 20 km/h due to the imbalance caused by the adverse tyre setup that changed airbag air volume variants. During emergency manoeuvres, the tanker exhibited exaggerated yaw characteristics, which were difficult to control.

Many drivers reported these issues both verbally and in writing, highlighting the practical dangers of such configurations.

When the tyres were correctly positioned — ensuring uniform tread depth across the axles — the same tanker combination became stable and a pleasure to drive, even under challenging conditions.

These findings underscore the importance of proper tyre placement and tread depth management in mitigating stability risks, improving safety, and ensuring a smoother driving experience for heavy vehicle operators.

The usual emphasis on milk slosh as the primary cause of tanker rollovers may mislead the public about the genuine issues affecting farm pick-up milk tankers. Modern farm pick-up tankers are designed with adequate baffles to prevent significant liquid movement, unlike the straight-barrelled tankers (without baffles) often depicted in NTI “Spilt Milk Programs” YouTube clips.

In a properly configured, modern farm pickup milk tanker, with baffles, milk slosh is not a problem. However, improperly loaded or poorly set-up suspensions can create instability that feels like milk movement. This misinterpretation of the issue diverts attention from important suspension setup problems, like airbag volume and too wide an up-at-the-front tolerance. A dynamic study needs to address these issues.

Live trials need to be conducted by independent, qualified truck engineering businesses equipped with sophisticated measuring tools to ensure accurate and reliable results.



Progress to date

I contacted the Victorian Transport Workers’ Union OHS Section, which directed me to the VicRoads Transport Section. VicRoads performed some trials and subsequently sent a report to the National Heavy Vehicle Regulator (NHVR). However, no response was forthcoming.

I met with an NHVR Chief Performance Based Standards engineer. While he fully understood the concerns raised during our discussion, no concrete answers followed. John De Pont, a truck tyre expert from New Zealand, conducted a survey, but no

conclusions were provided regarding tread depth issues.

After further discussions with individuals involved, I believe the significant issue outlined above is being overlooked. Concerns raised by drivers about electronic stability control and smart braking systems activating prematurely — and sometimes dangerously — are being ignored. In my opinion, the root of this issue lies both in the neglected relationship between air volume and rigidity within air suspension systems and in the recommended values and tolerances of the rake angle, which manufacturers and authorities have failed to address.

I strongly urge both the NHVR and the NTI Split Milk Program to review all relevant information already submitted on this subject and actively support live dynamic trials to thoroughly investigate these safety concerns.

Chris Delforce addressed the conference by video. The following press release concerns the issues he covered.

Federal Court denies injunction on animal slaughter footage

Farm Transparency Project
19 December 2024

- **The Federal Court has refused to block the publication of footage of the slaughter of animals, which was illegally obtained by animal protection organisation Farm Transparency Project earlier this year at the Game Meats Company slaughterhouse in Eurobin, Victoria.**
- **The organisation will be allowed to publish the footage — which contains evidence of animal cruelty and illegal activity — once the month-long appeal window has passed.**
- **The judgment follows a five-day trial in July where FTP admitted to trespassing at the facility and installing hidden cameras to capture footage of the slaughter of goats.**

In its judgment handed down today, the Federal Court of Australia has refused to grant an injunction to block the publication of illegally obtained animal slaughter footage, in a landmark case challenging the Australian public's

right to know what happens to animals in slaughterhouses.



Justice Snaden stated that while “most people eat meat ... commercial meat processing is a gruesome business, no matter how ethically or humanely it is performed.” He went on to describe the evidence presented in the case before giving the reasoning for his judgment. He stated that, while it was not a matter of contest that FTI directors Chris Delforce and Harley McDonald-Eckersall trespassed at the facility, the evidence did not support GMC’s claims that publications from the organisation constituted injurious falsehood. He makes reference to evidence given by a manager who admitted that there “may have been” a culture at the Abattoir that “[i]f we pass the external audit, everything is okay” and accepted FTP’s statements and communications following the publication of the footage to imply that “certain things occurred at the Abattoir and that those occurrences (or some of them) are apt to be described as having involved acts of animal cruelty.”

The Game Meats Company filed for an injunction in May which forced Farm Transparency Project to remove footage of animals being slaughtered at the Eurobin slaughterhouse, which they captured during a covert investigation at the facility earlier this year.

During a five-day trial in July, FTP admitted to trespassing at the facility to install hidden cameras and to sharing this footage in a formal complaint to the Federal Department of Agriculture, which was never formally acknowledged. FTP then shared the footage with 7 News who contacted the facility. It was also discovered during the trial that the Department of Agriculture informally notified the slaughterhouse of the footage and the interest from 7 News, rather than launching an official investigation, allowing the slaughterhouse to discreetly seek an injunction to block the footage.

Farm Transparency Project’s executive director, Chris Delforce responded to the judgment with the following statement:

“This is a historic win for animals, and for the public’s right to know what happens to them behind the closed doors of farms and slaughterhouses. The animal slaughter industry depends on utmost secrecy — it knows that this is a nation of animal lovers who aren’t aware that they’re paying for cruelty every time they buy meat, dairy or eggs. This case was a desperate bid to uphold that secrecy, as made clear throughout the trial as the slaughterhouse lamented what might happen if the way in which it was caught treating animals was made public.

“The case has brought to light the absolutely disgraceful attitude of the regulator, the federal Department of Agriculture, whose reaction to our formal complaint was to give a quiet heads-up to their mates at the slaughterhouse. Taking the complaint seriously would have meant acknowledging that their own employee, whose job it was as the On-Plant Veterinarian to identify the behaviour our hidden cameras captured, had utterly failed. What’s the point of even pretending to have laws protecting animals in slaughterhouses, if they’re not going to be enforced? Any faith the Australian public may have had in their government doing ‘the right thing’ when it comes to the welfare of farmed animals can now be considered unequivocally misplaced.

“Without our investigators risking their safety and liberty to bring these

atrocities to light, the suffering of these animals in the name of profit would continue unseen and unheard. Being a multi-million dollar company does not entitle you to exploit and harm others.”

Regarding his decision not to grant an injunction in this case, his Honour stated:

“Had I reached different conclusions as to falsity and malice in this matter, it may be that I might have been disposed to grant injunctive relief as requested ... I do not consider that any of the Three Publications is actionable as an injurious falsehood, nor that FTI’s undoubted intention to repeat them should attract the relief that is sought. GMC’s claim to relief in tort for injurious falsehood must fail.”

On other matters, including the issue of who holds copyright of the footage captured, Justice Snaden deferred to previous cases including *Windridge v. Animal Liberation* where injunctive relief was refused in similar circumstances.

FTP has been ordered to pay \$130,000 in damages to the slaughterhouse.



Sir Joh made me do it

Margo Kingston

This is an abridged version of Margo’s talk. The complete text was published on *No Fibs*, 9 December 2024

WHISTLEBLOWERS AUSTRALIA is an advocacy and support group for people who buck the system to tell the truth, scary.

WBA’s Cynthia Kardell asked me to speak at its annual conference after reading my *Saturday Paper* piece last month on my arrest.



Peter Fox and Margo

I met Peter Fox and Jeff Morris when I happened to sit at the same table for lunch after my speech. Two double diamond whistleblowers. Peter Fox helped trigger the Royal Commission into Institutional Responses to Child Sexual Abuse. And Jeff Morris was the first whistleblower who helped trigger the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry. Honoured!

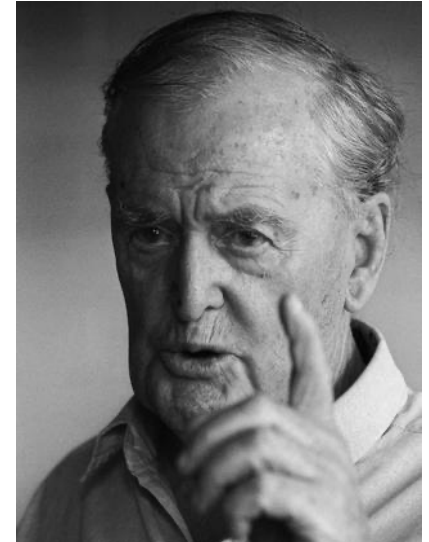


Margo and Jeff Morris

By accident, really, I was a mainstream media journalist from 1986 to 2005 after realising that being a commercial lawyer was not for me. I began at Brisbane’s *Courier Mail*, three years before the defeat of the Country Party-dominated coalition government that had ruled Queensland since 1957 and 18 years into the Premiership of Trump prototype Sir Joh Bjelke-Petersen. Power was so entrenched that business, police, the public service, government ministers and even elements of the judiciary were corrupted and effectively unaccountable. His rural gerrymander meant he won big without the popular vote.

I moved to Fairfax after writing two stories taken from Queensland Law Society journal reports on shameless findings by our sham Police Complaints Tribunal. Those stories triggered a whistleblower from the Builders Regis-

tration Board giving me documents revealing horrific political intervention by government ministers to stop disciplinary action against dodgy home builders. It was my first real scoop, and all hell broke loose in State Parliament. Fairfax’s Brisbane bureau noticed, and I joined the now-defunct *Times on Sunday* as its second Queensland reporter.



Joh Bjelke-Petersen

In May 1987 an explosive *4 Corners* report, empowered by whistleblowers, unambiguously exposed rampant police corruption enabling illegal brothels and gambling dens, which the Government had denied even existed. Acting Premier Bill Gunn, while Sir Joh focused on a run for federal office, ordered a Royal Commission headed by former Federal Court judge Tony Fitzgerald, after the legal profession and journalists vociferously opposed his preferred pick, the PCT head Judge Pratt.

I reported the Fitzgerald Royal Commission, which began with evidence from a former brothel madam turned whistleblower and ensnared corrupt police right up to Sir Joh’s hand-picked Police Commissioner Terry Lewis. Along with Lewis, four former or current National Party ministers were jailed.

Queensland adopted Fitzgerald’s recommendations to clean up our democracy, including the establishment of a Crime and Misconduct Commission, and in 1989 voters elected a Labor Government. My job was to write a feature on what happened each week

and report a scoop, easy really, since many former police officers who'd tried to be clean cops and suffered for it were giddy with relief and happy to chat.

The highlight of my career is an exclusive interview with Tony Fitzgerald, and he is my number one hero in public life.

Susie Russell is a close friend who lives on the Bulga Plateau south of the Comboyne Plateau where I live. She's fought with intelligence and passion for decades to protect NSW State Forests. Early last year I agreed to report her local Elands community campaign to stop logging in the Bulga State Forest.

NSW Forestry Corporation (FC), a company wholly owned by the NSW Government, was determined to meet its native logging supply contracts despite the devastating loss of state forest habitat in the 2019 bushfires. So I tweeted peaceful direct actions, including lock-ons to timber mill gates and tree sits, and published campaign stories on my citizen journalist website *No Fibs*.

The dream was to encourage the Coalition Government or Labor to pledge to end native forest logging before the NSW election. An Ellenborough Falls camping grounds close to town became campaign headquarters and numbers swelled. Then a police inspector visited to say the camp could break up because FC had decided to suspend Bulga Forest logging.

Instead citizens began direct action against logging in the nearby Yarratt State Forest, where FC was unused to organised protest. That's when I saw that my naive belief that the Government's regional forest agreement goal of sustainable logging in state native forests was a myth. It was clear fell, a degradation of native forests that could never recover.

The next shock: FC was lawless, save for way after the fact fines by the EPA for breaches of environmental laws largely exposed by citizens.

Why?

Unlike other states, NSW law bans anyone outside Government suing FC to enforce the law.

Here's part of my *No Fibs* February 2023 piece reporting my housemate's creative citizen's whistleblower experiment.

My lesson in FC's trashing of the rule of law and good governance began

when Inspector Moodie from Taree police station announced to #SaveBulgaForest in the Yarratt State Forest protesters on Monday that FC had just closed the entire Yarratt State Forest until August 7, so it was now unlawful to cross its boundaries for six months. Someone asked if that included public roads. "Yes," he replied.

I expected the forest closure to make local news and harm the campaign. But no local media reported the news and live Traffic NSW did not advise motorists of the public road closures.



In summary, FC issued a sham closure notice and made sure only protesters would face arrest and fines if they entered the *public's* forest and that other residents wouldn't. It wanted unfettered power to eject, arrest and fine people it didn't like the look of, while not inconveniencing other locals. The local FC office didn't get the con, read the notice, and took it seriously. When Council and NSW National Parks asked why they weren't informed FC lied, then changed the order, although contrary to what it told them, the roads remain closed with an exception for through traffic that didn't stop.

FC either lied to police or police were in on the lie. No wonder FC bosses don't give interviews and put out blather statements instead.

"I was 18 the first and only time I did something expecting to be arrested. On October 22, 1977, I joined other students at Queensland University to go to King George Square in Brisbane's CBD — engineering students rained water balloons down on us as we left the campus. 5,000 protesters gathered, 700 police occupied the street facing us and a large crowd formed an amphitheatre around the protagonists. Like 417 others I stepped onto the road and was put in a chock-a-block cell."

While my southern peers were on the streets marching for women's and gay rights we were fighting to be allowed

onto the streets after Premier Sir Joh Bjelke Petersen announced in September:

"The day of political street march is over. Anybody who holds a street march, spontaneous or otherwise, will know they're acting illegally. Don't bother applying for a march permit. You won't get one. That's government policy now."

I was a loner from the country uninvolved in organised politics, although I bought the southern papers the *National Times* and the *Nation Review* for news on Queensland's Police State. My father strongly supported Sir Joh, saying "He gets things done." My mother didn't talk about politics, but told me many years later she'd voted Labor.

In the cell women sang 'Solidarity Forever' — I'd never heard of the song — and I wondered what I'd got myself into. My mother picked me up after a cocktail party in my battered old black Hillman (she's a two-glass sleeper, so limits herself to one glass of wine when she drinks at all). As we turned the corner from the jail police pulled us over and told Mum she was driving erratically, her speech was slurred, and here's the RBT machine to blow into. She held me back from jumping out and blowing up, alighted, and faced the cop. "Excuse me, young man, you must be mistaken."

He said she had a faulty taillight and should get it fixed.

I knew then I'd done the right thing and so did Mum. She said she was proud of me, and I felt proud of myself. Something had to be done and I had to do my bit.

But once was enough.

Until now.

Like Queensland's police under Sir Joh, the rule of law has collapsed in NSW State Forests. FC routinely abuses its extraordinary legal powers. It was clear felling in native forests, breaking it down, annihilating habitat for koalas and other endangered native animals who'd lost their homes when the 2019–20 bushfires destroyed 700,00 hectares of the NSW native state forest. Elands was evacuated in those fires and Susie and some other locals fought for three weeks to save her home and others. Yet *The Guardian*, thanks to a whistleblower, reported in November

2021 that the NSW Government ignored and kept secret the post-fires Natural Resources Commission's advice to suspend timber harvesting for a minimum of three years in three native forest zones at "extreme risk", Narooma and Nowra on the south coast and Taree on the mid-north coast, because "there is a risk of serious and irreversible harm to environmental values from the cumulative impacts of fire and harvesting." In six "high risk" forests 75 percent should not be logged. Government response — no comment.

Pre-election the Government and Labor ignored the Commission's December 2022 report warning in stark terms that native forests were degrading so fast they would become net emitters of carbon and threaten water quality without "major intervention." It urged government to avoid "business as usual" approaches, saying this would result in "sub-optimal outcomes at best, or ecosystem and industry collapse under worst case scenarios."

And get this: FC — NSW taxpayers — loses millions a year from native forest logging and taxpayers could earn millions in carbon credits by protecting them. And older forests are harder to burn, ffs!

And what's the product of native forest "harvesting"? Hardwood timber flooring for the wealthy, and — most of it — wood chips and firewood. At the action at Pentarch Forestry's Herons Creek native forest timber mill I saw a huge truck waiting to collect native forest wood chips, slogan ANL — Australian Native Landscapes.

No!



Climate change abatement, water quality protection, saving endangered native animals, saving money after a just transition for the 1000 odd workers directly employed, tourism promotion of the regions — so many reasons to stop before it's too late. There's no reason to keep doing this except raw politics with closed eyes, big parties

oblivious to their duty to be stewards of our nation and its people.

The National Party owns the seats affected, and is in bed with the loggers and will allow no change except to further strengthen anti-protest laws. The Labor Party will not buck the CFMEU. All the evidence says no, power and money politics say yes.

So yes, I'll take a personal stand on this. I'll overcome my fear for the second time. It has to be done, and I want to do my bit. Although we'd postponed logging in the Bulga State Forest, we hadn't had any success with either rival for government. Indeed, just before calling the election the Coalition signed new five year logging contracts with timber mills with the same supply requirements.

I got involved again in the #SaveBulgaForest campaign in August, when Forestry Corp published its plan to resume logging the Bulga State Forest from September 30.



The Elands community plan was to delay logging as long as possible in hope of a miracle. So each night someone would lock on to the massive harvester on site and await police rescue to arrive to cut off the lock. Each hour delayed was 50 trees saved.

As arrests mounted the first Global Nature Positive Summit began in Sydney, hosted by the Federal and NSW environment ministers. It was no surprise NSW minister Penny Sharpe was a no show. Ken informed me later in a podcast that NSW had an elaborate scheme of environmental offsets for developers, but had exempted FC.

I attended a campaign meeting on Tuesday, October 8, when we'd just about run out of people to lock-on and delay logging. Susie asked if anyone could lock on the next day and I heard

myself saying I could do it Thursday. As anyone who read my *Saturday Paper* piece on my arrest knows, I am not temperamentally suited to lock on to a harvester, and I thought someone would step in when the time came, but I saw next day that Susie had locked on, meaning the campaign leader would no longer be legally allowed to enter the forest until after her court case under standard bail conditions. But Taree police played hardball to strangle the campaign — they refused bail and put her in jail for the night (The next day a magistrate released her on standard bail conditions). I got the call — it really was my turn.



Susie Russell being arrested

So I crossed the line from reporter of citizens engaging in civil disobedience to doing it myself. The experience was deeply distressing, and after 36 hours without sleep I was in shock. *The Guardian* reported Susie's and my arrest, our latest campaign's first mention in mainstream media. I decided not to write about what happened for a long time.

Next day the editor of the *Saturday Paper*, for whom I'd written three articles on the community independents movement during the 2022 election, emailed a request for a piece on my arrest. It had to be done, and I did it, although I'd only begun the process of working out why I'd been prepared to die after police rescue warned I was at significant risk of death or catastrophic injury if I didn't tell them where the keys were to avoid the angle grinder.

Then Cynthia Kardell from Whistleblowers Australia sent me an email saying she thought I was a whistleblower and could I speak to its annual conference on the matter.

So here I am.

WBA AGM

Whistleblowers Australia Annual General Meeting

17th November 2024

1. Meeting opened at 9.05am.

Meeting opened by Brian Martin, Vice President. Minutes taken by Jeannie Berger, Secretary.

2. Attendees: Brian Martin, Jeannie Berger, Feliks Perera, Michael Cole, Geoff Turner, Lynn Simpson, Christa Momot, Ross Sullivan, Barry Hicks, Fay Hicks, Alan Smith and one name withheld.

3. Apologies: Cynthia Kardell, Larry Vincent, Carol O'Connor, Jane Cole, Harry Albani, Ken Carroll, Julie Wilson, Inez Dussuyer, Stacey Higgins, Jason Fairclough, Richard Gates, Toni Hoffman, Lesley Killen, Sharon Kelsey, Kent Quinlan, Troy Stolz, Jim Page, John Stace, and Michael Wynne.

4. Previous Minutes, AGM 2023

Brian Martin referred to copies of the draft minutes, published in the January 2024 edition of *The Whistle*.

Brian Martin invited a motion that the minutes be accepted as a true and accurate record of the 2023 AGM.

Proposed: Feliks Perera

Seconded: Jeannie Berger

Passed

4(1) Business arising (nil)

5. Election of office bearers

5(1) Nominees for executive positions.

The following, being the only nominees, were declared elected.

President: Cynthia Kardell

Junior Vice President: Michael Cole

Treasurer: Feliks Perera

Secretary: Jeannie Berger

National Director: Lynn Simpson

Brian, as nominee for the position of Vice President, stood down for Michael Cole to act as chair. Because there were no other nominees, Brian was declared elected.

Brian then resumed the chair.

5(2) Ordinary committee members, 6 positions.

Because there were no other nominees, the following were declared elected.

Jane Anderson

Stacey Higgins

Katrina McLean

Christa Momot

Carol O'Connor

Geoff Turner

6. Public Officer

Margaret Banas has agreed to remain the public officer.

6(1) Brian Martin invited a motion that the AGM nominate and authorise Margaret Banas, the public officer, to complete and sign the required submission of Form 12A to the Department of Fair Trading on behalf of the organisation, together with the lodgement fee, as provided by the Treasurer.

Proposed: Michael Cole

Seconded: Feliks Perera

Passed

7. Treasurer's Report: Feliks Perera

7(1) Feliks tabled a financial statement for the 12-month period ending 30 June 2024. A motion was put forward to accept the financial statement.

Moved: Feliks Perera

Seconded: Michael Cole

Passed



Feliks' report

Once again it is my great pleasure to present to you the Annual Accounts for the Financial Year ending 30th June 2024.

This financial year the Association has recorded an excess of expenditure over Income of \$6,635.14. This is due

to subsidizing the entire cost of the 2023 Annual Conference. As there are still adequate funds available, your Association will cover the costs of the 2024 Conference.

My thanks also go to all those members who generously sent in donations.

I also want to express my thanks for the work the committee members have put in, to continue this battle to get recognition for Whistleblowers. I urge all members to extend their unqualified support to seek this legal recognition and protection.

ANNUAL ACCOUNTS TO YEAR ENDING 30 JUNE 2024

INCOME

DONATIONS	\$785.00
MEMBERSHIP FEES	\$2130.00
<u>BANK INTEREST</u>	<u>\$13.37</u>
TOTAL INCOME	\$2928.37

EXPENSES

WHISTLE PRINTING & POSTAGE	\$4106.61
DOMAIN FEES	\$79.16
ANNUAL RETURN	\$48.00
PAYPAL CHARGES	\$1.60
2023 CONFERENCE EXP	\$5322.14
TOTAL EXPENSES	\$9563.51
EXCESS OF EXPENDITURE OVER INCOME	\$6635.14

BALANCE SHEET, 30 JUNE 2024

ACCUMULATED FUND B/FORWARD FROM 2023	\$121,615.27
LESS EXPENDITURE FOR 2024	(\$6635.14)
	\$114,980.13
BALANCE AT NATIONAL BANK	\$114,380.13
DEPOSIT FOR 2024 CONFERENCE	<u>\$600.00</u>
TOTAL	\$114,980.13

7(2) Change of WBA's NAB Account to a Community Fee Saver account

The following motion was put:

That Treasurer Feliks Perera and co-signatories President Cynthia Ellen Kardell and Vice President Brian Martin to be authorised to transfer the funds in the existing NAB Account (BSB 084 620 Account Number 69841

4626) to a community Fee Saver Account with authority to open and operate on the proposed Community Fee Saver account with any two authorised to authorise transaction on behalf of Whistleblowers Australia Inc. C/-Feliks Joseph Perera, 1/5 Wayne Ave, Marcoola, Queensland 4564.

Moved: Jeannie Berger
Seconded: Geoff Turner
Passed

7(3) The final payment from the Geoff Hook Estate was \$4195.23. It was then proposed to move most of the money by opening an investment account with a substantially better interest rate.

Moved: Jeannie Berger
Seconded: Geoff Turner
Passed

8. President's report, Cynthia Kardell
Cynthia's report was read by Jeannie Berger.

This time last November David McBride was preparing for his sentencing hearing. This year Richard Boyle has been put on notice that his criminal trial will be heard in November next year.

I can't imagine how the two men felt when the Coalition unashamedly laid criminal charges in 2020 against both men saying it was upholding the law. It was political payback, pure and simple. But then, when opportunity knocked in 2022 Labor only admitted to the PID laws being no good. Even pointing to the work they've done on it and almost lamenting that it couldn't do more than — like the Coalition — uphold the law.

The thing is, they both had the opportunity not to prosecute and instead made upholding the law a false virtue. It's the art of not bothering whether something is right or wrong, but whether you can get away with saying it is. This is why we can't let any opportunity go by to remind them where it all started, back when they both turned a blind eye and covered up the war crimes being committed in Afghanistan. They call it protecting "our" national security. I say, same old, same old — they're protecting their shared political interests.

The two prosecutions have dominated public discourse for years now. It must continue if we're to make any headway at all on the things that matter

— that's the cover-up, getting McBride's conviction quashed and keeping Boyle out of prison. So, keep your shoulder to the wheel and help when you can. That's turning up for court hearings and other rallies, spreading the word and making the odd donation when you can. I know I can count on you, as you've proved your mettle.

I won't repeat here what I've been saying to you every other week, other than that, nothing will change until employers lose their preferred status as the good guys. The "internal" PID system has got to go, with whistleblowers able to go directly to what are now the "external" watchdogs and to the press. And the proposed Whistleblowers Protection Authority? Well, the proponents have good intentions, but it's a lemon. It won't do the job that's required to keep us in work and out of gaol.

I've enjoyed writing to you about the news and I hope you've found it informative, even enjoyable. Thank you. I hope to do much more in the coming year, as these issues come to a head.

9. Discussion: promoting WBA

There was a discussion about how to promote WBA, and, in general, getting the word out about whistleblowing. Lynn discussed how she would like to foster relationships with other like-minded and alternative whistleblower groups. It would help reduce doubling up of information and attending various events.

It was agreed by all to have a strategic approach to meeting other like-minded groups.

Brian commented as follows.

We've talked about how to promote WBA, including through advertisements, payments to Facebook and linking with kindred organisations. All these are worth considering, but they need to be compared with alternatives.

Research on social movements, like the environmental movement and the peace movement, shows that most people who join do so by being invited by someone they know. For example, a friend invites them to come along to a public meeting or a rally, and arranges to help them get there. After being exposed to information about the issue and to others involved, some of them decide to become more active. In other words, action (participation) comes

before, and motivates, acquiring more knowledge and generating greater commitment. Ads (including posters, leaflets and notices) are largely ineffective in attracting new members, except for a few issues where graphic images play a role, notably anti-abortion (photos of foetuses) and animal rights (photos of cruelty). For whistleblowing, there are no such emotive images, so it is likely that personal invitations will play the most important role.

To get more people to attend the conference, a personal email or phone call to someone you know and you think would be interested is promising, far more than a generic email or Facebook post.

Another approach is to contact someone you know who has specialist knowledge or experience, for example in education, law, management or communications. Tell them about someone who wants to expose corruption and ask their advice about what to do. This positions them as knowledgeable (in their field, which they are) and encourages them to think from the point of view of the (potential) whistleblower.

Sometimes you might know someone who knows a lot about an organisation or issue, someone willing to write a story about the challenges involved in exposing problems. Ideally, this person is not at risk themselves, which means they can investigate with greater freedom from reprisals. Also ideally, this person is seen to be independent, not in a close relationship with perpetrators or victims: being independent gives greater credibility. Journalists can play this role, but so can others, so-called citizen journalists. An article, blog post, podcast or video that tells a story can be a powerful tool in building support. It can be used to introduce the case to others without having to explain everything over and over.

10. Conference/AGM weekend 2025 is to be held at the Uniting Venues in North Parramatta, 15–16 November 2025.

11. AGM closed 11.22am



The cost of truth: when whistleblowers face retribution

Kofi Thompson
Modern Ghana, 2 November 2024



AS I REFLECT on my own experiences, I am reminded of the perils faced by truth-tellers worldwide. In Ghana's Central Region's erstwhile Gomoa Buduburam Camp Liberia refugee settlement area, now transforming, I have been targeted by mercenary character assassins and false witnesses hell-bent on spreading malicious falsehoods.

Their determination to silence me raises a critical question: what do they stand to lose? The answer lies in the entrenched interests of power and corruption. When individuals like myself dare to speak truth to power, demanding accountability and transparency, we become threats to the status quo.

Consider the cases of:

- ACP Benjamin Agordzo, a Ghanaian police officer who criticized the National Investigations Bureau (NIB) for unprofessionalism, facing reprisal and trial for alleged treason
- Jamal Khashoggi, brutally murdered for criticizing Saudi Arabia's regime
- Maria Ressa, arrested and harassed for exposing corruption in the Philippines
- Edward Snowden, forced into exile for revealing NSA surveillance abuses

In Africa, the pattern repeats:

- Anna Nimiriano, a South Sudanese journalist arrested and detained for reporting on human rights abuses
- Mahamane Camara, a Malian journalist killed for exposing corruption in the government
- Daphne Caruana Galizia, a Maltese journalist assassinated for investigating government corruption

The consequences are dire. I have faced thinly veiled death threats, and the hatred is palpable. But I am not alone. Whistleblowers globally face similar reprisals, from character assassination to physical harm.

The stakes are high, but the rewards of transparency and accountability are higher. As writer and activist Naomi Klein once said, "The truth will set us free, but first it will piss us off."

We must support and protect truth-tellers, ensuring their safety and amplifying their voices. The international community must condemn reprisals against whistleblowers and journalists.

In conclusion, speaking truth to power comes at a great personal cost. But silence is not an option. We must continue to demand accountability, even in the face of adversity.

Kofi Thompson is a writer and activist for environmental justice and human rights.

Whistleblowers in West Africa: death threats, job losses, and lack of protection

Pamela Ephraim
Global Voices, 9 December 2024

ON NOVEMBER 26 AND 27, the first-ever conference on whistleblowing and whistleblower protection in West Africa was held in Abuja, Nigeria, under the theme "Reducing corruption in West Africa: The importance of whistleblowing and whistleblower legislation." The conference, which was organized by the African Center for Media and Information Literacy (AFRICMIL), brought together delegates from the Network of Anti-Corruption Institutions in West Africa

(NACIWA), key civil society actors, media, security, law enforcement, and anti-corruption organizations, government agencies, and various international development organizations.



Delegates at the conference

Across Africa, corruption remains a critical barrier to development, undermining democratic institutions, slowing economic growth, contributing to governmental instability, and fueling organized crime and general insecurity. The 2023 Corruption Perceptions Index (CPI) reveals most African nations are struggling to make progress against corruption.

The agenda tackled pressing issues in the fight to protect whistleblowers, including a keynote address on the effect of corruption on economic growth and democratic processes in West Africa, a presentation on regional experience in whistleblowing and witness protection, and panel discussions on whistleblower protections.

Role of whistleblowing in combating corruption

In 2001, during the session of the Authority of Heads of State and Government held in Dakar, the Economic Community of West African States (ECOWAS) adopted the Protocol on the Fight against Corruption — a set of strategies to prevent, suppress, and eradicate corruption in the region. West African activists are continuing this fight and hoping to bolster whistleblower protections.

Speaking at the conference, Kole Shettima, Africa Director of the MacArthur Foundation, said:

Whistleblowing is one of the major instruments that can be used to improve accountability mechanisms in our region. The fight against corruption requires different tools

and whistleblowing is certainly one of the tools. It is the responsibility of citizens to report crime and we have seen so many people coming out to report on so many corrupt practices that have happened.

Of course, whistleblower policy, as we know, has its challenges, and I think that the major challenge we have seen over the number of years is the question of protection. We know there are a number of people who have been victimized because they have come to report or have reported certain people who have done some bad things within their ministry, within their institutions and that issue of protection is certainly a critical factor.

In August 2024, Wale Edun, Nigeria's finance minister, said the government launched sting operations which recovered USD 609 million, NGN 83 billion (USD 52.5 million), and EUR 5 million (USD 5.3 million), respectively, with the help of its whistleblowing policy.

The plight of whistleblowers

Joseph Ameh, an architect who worked as the head of the physical planning division at the Federal College of Education in Delta State, Nigeria, explained the ordeal he experienced after calling out corruption. He told Global Voices that:

Due process was never followed in the engagement of workers. Quacks were engaged to carry out projects. At a point, there was a building collapse. My entire fight was to safeguard the public from danger and the secondary fight has to do with the economic effect of the corrupt practices. In the sense that, when a project is awarded, it is usually overinflated. Before the project even commences, they take out about half the contract sum [for] themselves. In October 2019, I wrote to the Independent Corrupt Practices Commission (ICPC). They sent a letter to the institution where I worked and shortly after, my ordeal began. I was threatened, sacked, and trailed in vehicles. I have even been offered checks in millions which I rejected.

Another whistleblower who suffered a similar fate was Ntia Thompson, who

was fired for exposing alleged fraud at the Nigerian Ministry of Foreign Affairs in 2016 but was later reinstated through sustained advocacy by civic groups.

AFRICMIL coordinator Chido Onumah, whose organization has been advocating for whistleblowers through its corruption anonymous project, emphasized the need to protect them from retaliation in an interview with Global Voices.

Whistleblowers have been facing all kinds of retaliation ranging from stigmatization and discrimination, dismissal from a place of work, criminal sanctions, and death in extreme cases for daring to take what is obviously a delicate conscious action. This makes whistleblowers an endangered species, so to speak. And we totally agree with the ECOWAS Commission that one of the best ways of giving them cover is for member states to provide a comprehensive legal framework through the whistleblowing legislation for disclosure of information and protection against any retaliation as a result of making disclosures.

The need for whistleblower protection

In July 2016, the ECOWAS commission met in Cotonou, Benin, and fortified its regional anti-corruption efforts by unveiling the ECOWAS whistleblower protection strategy and plan of action. The key focus of the whistleblower protection strategy is to encourage member states to enact a law to protect public interest whistleblowers as a way of reducing corruption and enhancing transparency and accountability in West Africa.

Professor Etannibi E. Alemika, a criminologist and expert in security and criminal justice sector governance, in his keynote address called for the adoption of stronger whistleblower protection legislation across West Africa to combat corruption. He said:

What we need is comprehensive legislation that ensures anonymity, protection from victimization, and, where necessary, relocation of whistleblowers and their families.

Chido Onumah, AFRICMIL Coordinator, noted that "Of the 15 countries that make up ECOWAS, only Ghana has a whistleblower protection law.

This is not a good advertisement for ECOWAS, whose region is consistently rated poorly on Transparency International's Corruption Perception Index (CPI) and the majority of whose member countries are still considered as the most corrupt countries in the world."

Jailed whistleblower David McBride says he has faced threats from other inmates in Canberra prison

Adele Ferguson and Chris Gillett
ABC, 19 November 2024

In short

DAVID MCBRIDE was sentenced to five years and eight months' jail for leaking secret military documents to journalists.

The documents formed the basis of the ABC's 2017 investigative series *The Afghan Files*, exposing allegations of war crimes by Australian soldiers.



What's next?

McBride's appeal against his conviction and sentence is expected to be heard in the ACT Court of Appeal next year.

Sitting in a tiny interview room inside the Alexander Maconochie Centre, Canberra's only prison with a high-security wing, David McBride stares at the cameras uncomfortably.

It's the first time a television crew has been allowed into the prison to interview an inmate and he wants to make the most of it.

The former military lawyer is less than seven months into a prison sentence of five years and eight months after pleading guilty to three charges relating to sharing secret documents with journalists.

McBride has said his intention in leaking the documents was not to expose war crimes by Australian

soldiers but instead to ensure military leaders were held to account.

However, the documents formed the basis of the ABC's 2017 investigative series exposing alleged war crimes titled *The Afghan Files*.

"We do have whistleblower protection laws, but they are a con," he tells 7.30.



"They do not work. They're like the disinformation laws ... they're the opposite to what they claim to do.

"The actual reality is whistleblowers like myself, who clearly were simply well-intentioned, end up in jail as if we were criminals."

Wearing a loose grey T-shirt, shorts and runners, McBride describes his new life as hard.

"I've been looked after by a few senior people in here, prisoners, but you won't necessarily survive jail," he says.

"You literally do not know whether you're going to make it because every day is an opportunity for violence to flare up and people here are pretty serious.

"There's been threats — serious enough to make me uncomfortable being a whistleblower.

"There was a certain group that hated me because they thought that I was against good Aussie soldiers ... it's a dangerous place. You're not in here for parking violations."

"People are murderers or have committed very serious offences: rape, whatever, so ... they have the ability to actually carry out their threats," he says.

But he says he knew prison wasn't going to be easy.

"I don't like to complain about it because one of the things I've been saying for the last couple of years is, 'Put me in jail. It doesn't scare me. If it's a price, it has to be paid, I'm prepared to pay it,' so it will be silly for me to complain about it now and say, 'Oh my God, jail is tough,' but it is tough," he says.

McBride says each day is structured.

"I thought I'd be sitting around writing a lot of letters by candlelight, a bit like I was in the Tower of London awaiting execution. It's not really like that.

"You wake up ... you all go to the gym together, you come back together, you all have lunch together, and then you have another three inspections later on in the afternoon, and you all get locked in relatively early, locked into your rooms, but you're quite emotionally exhausted each day."

"You're always on edge that someone might jump out and attack you over something ... It's tiring. I've got friends in here now but I'll be breathing a big, a big sigh of relief when I get out."

McBride hopes his release will come sooner rather than later.

He is appealing his conviction and sentence next March in the ACT Court of Appeal.

If he loses, he will go to the High Court.

His lawyer Eddie Lloyd, who is preparing the appeal, says at McBride's trial, the government was successful in having evidence crucial to his defence struck out of court.

The government argued that the evidence would endanger Australia's security, which McBride denies.

She says the evidence not being admitted by the court left him with no defence and he was forced to plead guilty.

"This is a case that goes to the heart of public confidence in government, and we are turning to the public to help fund it," she says.

McBride says his case is hugely important for whistleblowing.

"I want to achieve a revolution in truth. I think it's a very dangerous situation where the government controls what you see," he says.

"People who are actually, genuinely exposing problems with the government are classified as criminals and put in jail ... it's very, very dangerous."

McBride has gained detractors who have questioned his motives. Some say he's not a whistleblower.

It's a question he doesn't flinch at.

Secret defence force documents obtained by the ABC give an unprecedented insight into the clandestine operations of Australia's elite special forces in Afghanistan.

"People say I'm not a whistleblower because I'm not a war crimes whistleblower in the sense that I didn't say I saw Trooper Smith shooting an Afghan, you know, blowing his brains out one day. I didn't, and I never have said that.

"I am a whistleblower against the government. So that's a confusion to say I'm not a whistleblower. I clearly am, but I'm not a whistleblower against soldiers. I'm a whistleblower against the leadership, the generals."

McBride's stance has cost him dearly.

"Lost my job, I've lost my mental health, I had a drinking problem, I had a drug problem, I lost my wife, I almost lost my life on a number of different occasions. So yeah, it's a rocky road. It's not for the faint-hearted, but it's great to be involved in something that you actually really believed in. It's a battle that has to be fought."

He says he would do it all again.

"It is great to be doing something which makes you proud, makes your kids proud and it's important. I think it's important for the world."



Whistleblower to whipping boy. Richard Boyle punished for playing by the rules

Michael West Media

16 November 2024

TAX OFFICE WHISTLEBLOWER RICHARD BOYLE has once again been denied justice, or rather, the High Court found the whistleblower legislation lacking, giving the judges no option but to deny his appeal and uphold the judgment against him.

In a saga that reads more like a satirical dystopia than reality, Richard Boyle — a man of integrity and courage — finds himself facing the full wrath of the very government he endeavoured to

serve. Once a dedicated employee of the Australian Taxation Office (ATO), Boyle is now entangled in a legal nightmare that exposes the government's alarming double standards and raises critical questions about the nation's commitment to transparency and justice.

Boyle's journey from esteemed public servant to embattled whistleblower began when he uncovered aggressive and ethically questionable debt collection practices within the ATO. Disturbed by the indiscriminate use of garnishee notices, which allowed the ATO to seize funds directly from taxpayers' accounts without adequate warning or consideration, Boyle took the appropriate steps to report these issues internally, adhering to the protocols outlined in the Public Interest Disclosure Act.

But instead of being lauded for his diligence, Boyle was met with indifference. His concerns were swept under the bureaucratic rug, leaving him with a stark choice: remain silent or shine a light on the malpractices. Choosing the path of integrity, he approached the media, culminating in a damning exposé on ABC's "Four Corners." The revelations sparked public outrage and prompted official investigations, vindicating his claims about the ATO's heavy-handed tactics.

Whistleblower wonderland

It is also known as the land where accountability gets jail time and wrong walks free.



Falling down the rabbit hole isn't so entrancing for whistleblowers

One would think that exposing systemic flaws would earn Boyle protection under whistleblower laws. Yet, in a twist dripping with tragic irony, the government opted to prosecute him. Facing 24 charges that could result in decades behind bars, Boyle is being punished not for wrongdoing but for

daring to uphold the very principles of accountability and transparency that the government publicly espouses.

The ATO, an institution ostensibly committed to fairness, appears more akin to a fortress protecting its own interests. By pursuing legal action against Boyle, it sends a chilling message to any would-be whistleblowers: challenge us, and you risk everything. This isn't just a legal strategy; it's a deterrent designed to preserve a status quo where oversight is minimal and internal scrutiny is stifled.

Enter Attorney-General Mark Dreyfus, a man who, while in opposition, was the herald of a new era of accountability. He championed the creation of the National Anti-Corruption Commission (NACC), promising it would be the watchdog that Australians deserved — a body to hold corrupt politicians and government departments to account.

Yet, when presented with Boyle's case, Dreyfus's response has been, at best, a masterclass in political foot-dragging.

Despite having the authority to intervene and halt the prosecution, Dreyfus has remained conspicuously silent. His inaction isn't just a personal failing; it's emblematic of a government that pays lip service to integrity while simultaneously undermining it. Similarly, The NACC, once touted as a beacon of hope, risks becoming another toothless entity unless those in power demonstrate the courage to support the very principles they claim to uphold.



The strange virtues of the ATO

The double standards at play are as blatant as they are infuriating. While the government lauds the importance of transparency and the noble role of whistleblowers in safeguarding democracy, it paradoxically prosecutes those who embody these ideals. It's a bit like praising firefighters while handing out matches to arsonists. The rhetoric is there, but the actions are fundamentally contradictory.

Boyle's predicament is a textbook example of shooting the messenger. He didn't embezzle funds, compromise national security, or engage in any malfeasance. His "crime" was to highlight practices that were not only unethical but also detrimental to the public trust. Yet, he faces the possibility of spending the rest of his life in prison while those responsible for the questionable practices continue their work with impunity.

This situation sets a dangerous precedent. It suggests that in Australia, exposing the truth can be more hazardous than perpetrating the wrongdoing itself. It's a reality that would make even the most seasoned satirist baulk. Imagine a world where honesty is penalised and obfuscation is rewarded — a place where the moral compass doesn't just spin but has been entirely discarded.

The Dreyfus "solution"

The tragic irony is that the mechanisms designed to protect individuals like Boyle have become the very tools used against them. The Public Interest Disclosure Act, intended to shield whistleblowers, has loopholes and ambiguities that allow for such prosecutions. It's akin to installing a security system that alerts the burglars instead of the police.

It's time for the government to reconcile its actions with its professed values. Dropping the charges against Richard Boyle isn't just the right thing to do, it's a necessary step in restoring public faith in our institutions. It would signal a genuine commitment to transparency and an acknowledgment that justice isn't about preserving power structures but about upholding ethical standards.

Moreover, supporting Boyle would encourage others within government ranks to speak out against corruption and malpractice without fear of retribution.

It would foster a culture where integrity is valued over complicity, and where the pursuit of truth isn't a perilous endeavour.

As citizens, we must demand better. We must hold our leaders accountable for their promises and challenge the systems that allow such injustices to occur. The persecution of Richard Boyle is not just a personal tragedy; it's a blemish on our national conscience.

In the end, the measure of a society isn't found in its declarations of virtue but in its actions when those virtues are tested. The government now stands at a crossroads: it can continue down a path of hypocrisy and repression, or it can choose to honour the principles it claims to champion.

Richard Boyle took a stand for what was right at great personal cost. It's time for those in power to show similar courage. Justice demands it, and so do the Australian people.

The author has requested to be anonymous but is known to Michael West Media.

“I didn't have a chance, did I?”

Richard Boyle

Walkleys.com, 21 November 2024

“I personally am broken, physically, mentally, and financially,” whistleblower Richard Boyle said in an address at the 2024 Walkley Awards.

MANY OF YOU know of my whistleblowing story, and what I stood up against at the end of my fourteen-year career at the Australian Taxation Office.

As a quick recap, in mid 2017, as the financial year wrapped up, staff across the country, not just Adelaide, were instructed to take money out of people's bank accounts, shutting down many small to medium businesses without due cause.

It did not matter to the Tax Office if their debts were incorrect.

In fact, I was sanctioned for accessing a young taxpayer's case more than once, as many of us did every day, to ensure that the tax system was administered fairly, efficiently and honestly.

Some months after this “cash grab” in June 2017, I wrote a formal public interest disclosure to outline this abuse of power, as well as the other significant failures of administration by the Tax Office that I was observing.

And who did I have to send that complaint to, by law?

To the Australian Taxation Office.

I didn't have a chance, did I?

After I had navigated this ineffectual and broken Commonwealth public

interest disclosure process, that the ATO botched, and that South Australian courts have found was incorrect at law, I took my complaint to the Inspector General of Taxation.

Once again, there was no action, no feedback, no investigation.

When all of these processes were exhausted, I took my story to the media.

The *Four Corners* episode titled “Mongrel Bunch of Bastards,” ensured that there was enough public pressure to achieve lasting reform and change.

After multiple investigations, by multiple government departments, *only then* did this type of vile abuse by the ATO cease.

Abuse that gravely risked the health and safety of the public, was stopped dead in its tracks.

The resulting reforms that have been implemented, safeguard against this type of abuse of power in the future.

This is the power of the fourth estate, and your incredibly important craft, that we are celebrating here tonight.

This is why we need robust whistleblower protections in Australia.

The legislation and whistleblower protections introduced by Australia's Attorney General, the Honourable Mark Dreyfus KC MP, in 2013, have failed spectacularly.

I am grateful to the ABC for reporting on this issue outside the District Court of South Australia, last Monday.

My criminal trial is now set to proceed in a year's time, commencing 3 November 2025, unencumbered by Dreyfus' so-called whistleblower protection laws.

This date at the end of next year for my criminal trial, will be eight and a half years after we were instructed to take this oppressive “cash grab”, against the Australian people.

Eight and a half years.

This is absurd.



Richard Boyle spoke at the 69th Walkley Awards in Sydney on 19 November, 2024. Photo: Adam Hollingworth @ Hired Gun.

The *Commonwealth Public Interest Disclosure Act 2013* is clearly deficient and defunct.

I do not know how anyone could be proud of this legislation.

In these intervening years, Louise and I should have been starting a family, buying a house, settling into the routines of life together.

Instead we are here with you tonight, both completely and utterly broken.

Louise can speak for herself, but I personally am broken, physically, mentally, and financially.

I am a survivor.

What do we need to do to re-establish faith and confidence in our public service, and our Commonwealth Institutions?

I propose we need three vital qualities: *fairness, trust* and *transparency*.

I thank all of you who have written articles about my case.

I hope that you all can continue to advocate for fairness, transparency and trust, in our government, and governance in this country.

I hope that you might keep my story alive, and hold the current executive government to account, for their promise *before* the last election, and in the words of our Prime Minister, to:

“Protect whistleblowers, expand protections and the public interest test. Delays (to Freedom of Information), obstacles, costs & exemptions make it easier for government to hide information from the public. That is just not right.”

Louise and I thank you deeply for your support.

Thank you again, and enjoy your special night tonight.

Walkley Foundation calls on the government to ensure whistleblowers are “safeguarded, rather than punished”

The Walkley Foundation chair, Adele Ferguson, and Walkley director and Chair of the Walkley Judging Board, Sally Neighbour, followed Richard Boyle's speech with a message to the Attorney-General and the Prime Minister:

“In June this year, Attorney-General Mark Dreyfus said the government was ‘committed to delivering strong, effective and accessible protections for whistleblowers’.



Sally Neighbour (Walkley director, left) and Adele Ferguson (Walkley Foundation chair) at the 69th Walkley Awards in Sydney on 19 November, 2024. Photo: Adam Hollingworth @ Hired Gun.

“The Walkley Foundation calls on the Attorney-General and the Prime Minister to deliver on that promise as a matter of urgency.

“Further, we urge the government to honour the pledge it made five years ago to create a Whistleblower Protection Authority to ensure whistleblowers are safeguarded, rather than punished, for their contribution.

Thank you.”

Six ideas to fix Australia’s secrecy problem

Australia Institute, 25 October 2024

A LACK OF TRANSPARENCY AND INTEGRITY lies near the heart of every political issue facing Australia.

The Australia Institute’s inaugural 2024 Transparency Summit brought together experts, whistleblowers and those working to ensure the interests of all Australians are represented in our policy-making process.

We are sleepwalking towards disaster when we accept the idea that the more secret we are about decision-making, the safer we’ll be.

– Richard Denniss, Executive Director of the Australia Institute

Here are six big ideas to reverse Australia’s culture of secrecy.

1. Public hearings in the National Anti-Corruption Commission

“Having the NACC operate in secrecy fights against integrity.” — Senator David Shoebridge

The Albanese Government passed legislation to create the National Anti-Corruption Commission in 2022. The Commission’s role is to investigate

serious corruption and so far these investigations have largely been taking place in the dark.

Preventing the commission from holding public hearings even when in the public interest to do so reduces transparency. Removing the limit on holding public hearings except in “exceptional circumstances” would enable the commission to openly demonstrate effective and appropriate measures are taken to investigate corruption.

2. Rewards for whistleblowers

“If we can look at [whistleblower rewards] not as an incentive for people to come forward, but as a way of supporting people who do come forward...giving somebody the support and protection and the ability to do things as a result of their whistleblowing.” — Frank O’Toole, National Whistleblowing Advisory Group, Transparency International Australia

Recently the government has prosecuted several whistleblowers who exposed serious alleged misconduct. Australia Institute research finds most Australians say whistleblowers make Australia a better place.

In the US, whistleblowers are rewarded. Mary Inman from Whistleblower Partners spoke about the model of whistleblower rewards used in the US.

“The largest reward of all time was paid in May 2023 to one whistleblower — \$279 million. The average award to whistleblowers is typically \$5 million or less.”

These whistleblower rewards schemes have led to the explosion of reports about fraud, tax underpayment and organised crime.

3. Establishing a Whistleblower Protection Authority

“Whistleblowers are an important part of accountability and a healthy democracy. They risk their jobs, their reputations and safety to shine a light on wrongdoing. But for all that risk we have clearly fallen short.” — Senator David Pocock

Whistleblower protections are critical to ensure those coming forward, can do so without fear of reprisal. Recent trials

against whistleblowers in Australia have highlighted the need for protections.

At the Transparency Summit 2024, Senator David Pocock announced a private member’s bill to establish a whistleblower protection authority.

“It is time we finally gave whistleblowers the support they deserve because when they are protected, all of us benefit.”

Australia Institute polling finds that seven in ten Australians (71%) agree that whistleblower protections for public servants should be strengthened.



A panel on whistleblowing at the Transparency Summit

4. Refining freedom of information and secrecy laws

“Is Australia the world’s most secretive democracy? I’m not sure, but boy, we certainly have to be in the running for the title of democracy with the most secrecy laws.” — Jake Blight, Independent National Security Legislation Monitor

Australia’s secrecy laws are needlessly broad and expansive — they are not fit for purpose.

Democratic mechanisms such as Freedom of Information (FOI) requests are crucial tools to the work of Grata Fund and individual “FOI warriors” like Rex Patrick.

In the public service, common practices mean legally valid FOI requests go unfulfilled.

“While there is an enormous amount of work that needs to be done in turning off that fire hydrant of lies, we also actually really need to be securing reliable, accurate information from the source, and the FOI system is designed to enable us to do that.” — Isabelle Reinecke, Executive Director and Founder, Grata Fund.

“Transparency is a word only shouted from opposition benches.” — Former senator Rex Patrick

5. Truth-telling

“Transparency and accountability are fundamental components of truth telling.” — Professor Eleanor Bourke, Chair, Yoorrook Justice Commission



Eleanor Bourke

The Yoorrook Justice Commission is the first formal truth-telling process into historical and ongoing injustices experienced by First Peoples in Victoria.

Professor Eleanor Bourke, Chair, and Cindy Penrose, CEO, reflected on lessons from Australia’s first Indigenous-led truth-telling inquiry.

“If a nation is committed to being transparent in the present, it needs to be transparent about the past.” — Cindy Penrose, CEO, Yoorrook Justice Commission

Australia’s culture of secrecy is partly rooted in an ongoing history of concealing the injustices against Australia’s First Peoples. Truth-telling processes present an opportunity for Australians to acknowledge that the path forward needs to be paved with truth about the past.

6. Protecting public interest journalism

“Democracy 101 says that we have to have a free press” — Peter Greste, Journalist and Professor of Journalism, Macquarie University

The media landscape faces unprecedented challenges, from misinformation, audience fragmentation and political polarisation to fake AI-generated content.

On top of all of this, the government’s culture of secrecy impedes fearless journalism that holds power to account.

“Government has become closed and inward facing. Citizens sense this. We can’t understand why our own governments don’t want to talk to us anymore. And of course, the primary people doing that talking are journalists, working in the public interest.” — Professor Chris Wallace — Canberra School of Politics, Economics and Society, University of Canberra

“When we look at disinformation — purposefully spread misinformation — the purpose of that is to erode institutions. The only antidote to that is transparency.” — Head of Strategy & Public Affairs, Australian Associated Press

Secrecy is not security.

The Albanese Opposition spoke promisingly about the importance of a culture of disclosure and open government in the lead-up to the 2022 election, but in government it has been lacking.

“On balance, when it comes to transparency, the Albanese government more closely resembles the Coalition government that preceded it, than “a big dose of Australian sunshine” — the promise of Albanese in opposition” — Bill Browne, Director, Democracy & Accountability Program, The Australia Institute

In our climate policies, our defence procurement and even in how we develop our public policy — flimsy excuses obscure even flimsier decision-making.

Australia urgently needs a whistleblower protection authority

A J Brown

The Conversation, 28 November 2024

AS FEDERAL PARLIAMENT rushes to a close, it’s become clearer that a dedicated agency to enforce the

nation’s various whistleblower protection laws will be an important priority for the 48th parliament, after the next election.

Widely recognised as the biggest missing link in Australia’s national integrity systems, such a body would support employees who speak up about wrongdoing. It would also help employers and regulators resolve claims of detrimental action. Finally, it would help make legal protections real by shouldering the huge costs of securing compensation for impacts suffered by those doing the right thing.



A J Brown

This month, the landmark parliamentary inquiry into the PwC scandal, led by Labor Senator Deborah O’Neill and Green Barbara Pocock, was unanimous in its clear imperatives for reform:

- **Ensuring whistleblower protections apply across all sectors and types of organisations.** Because they are “partnerships” rather than “corporations,” large audit, accounting and consulting firms are one example of employers that escape current protections.

- **Aligning whistleblower protection laws across the public and private sectors.** The inquiry noted at least ten federal laws provide different, confusing standards of protection across different entities and sectors.

- **Greater practical support for whistleblowers.** Key to this is the establishment of a Whistleblower Protection Authority, covering “both the public and private sectors.”

These calls should help focus the two efforts the federal government has underway to review existing laws. The first is a consultation by Attorney-General Mark Dreyfus on fixing our failing public sector whistleblowing laws, which is yet to bear fruit. The second is a new statutory review of the main whistleblowing regimes that apply to the private sectors, overseen by Assistant Treasurer Stephen Jones.

This week, federal independent MPs Andrew Wilkie, Helen Haines, David Pocock and Jacqui Lambie upped the ante by taking further steps towards their own Whistleblower Protection Authority bill.

This follows recommendations dating as far back as the Senate Select Committee on Public Interest Whistleblowing in 1994, and the Parliamentary Joint Committee on Corporations and Financial Services in 2017.

A body to protect whistleblowers could make a real difference

While any actual reform is unlikely before the next election, all these developments point to a growing consensus for action.

But with new integrity agencies coming under scrutiny, how do we expect a whistleblowing protection body — whether stand-alone or built into an existing body — to make a difference?

In a stark reminder of what is needed, Australian Taxation Office whistleblower Richard Boyle lost a bid earlier this month to have the High Court intervene in his six-year-long prosecution for speaking up against oppressive debt collection practices by his agency.

The High Court ruling demonstrated the gaping holes in federal whistleblowing laws. For example, they fail to cover reasonable preparatory or supporting actions that a whistleblower may need to undertake, not just the actual act of disclosure.

In a technical tactic to avoid the whistleblowing law, the ATO and Director of Public Prosecutions charged Boyle with improperly recording information — not with revealing it. This enabled them to pursue him criminally, despite having already sacked him for complaining too much.

In my view, far from serving any public interest, this prosecution was and

is simply malicious. It should have been stopped long ago.

This loophole in the law needs to be fixed. But in addition, a whistleblower protection authority would have a crucial role to play as an extra check-and-balance, by acting as a block on any such prosecutions unless they truly are necessary.

And that is especially the case when agencies seek to punish whistleblowers after failing to first deal properly with their internal disclosures about wrongdoing. This situation applies not only to Richard Boyle, but also to Afghan Files whistleblower, David McBride.

In October, McBride won the right to appeal his five year, eight month prison sentence for providing defence documents to the ABC about the military justice response to alleged Afghan war crimes by Australian special forces.

The Commonwealth's tactics in suppressing all evidence relating to his internal complaints about perceived injustices were central to his inability to raise a public interest defence as a whistleblower. These were never recognised by the Inspector-General of the Australian Defence Force for what they actually were: protected public interest disclosures.

Again, a whistleblower protection authority would ensure federal agencies honour the principles underpinning our whistleblower protection law. If they fail to recognise and manage internal disclosures properly, a whistleblower should then be entitled to raise a statutory public interest defence in a fair and open court.

Many agencies and companies fulfil their responsibility to have good whistleblowing policies. They are listening to whistleblowers and learning to properly support and protect them. These are fundamental goals of our laws.

Commonwealth public servants need particular protection

But as well as lots of loopholes and inconsistencies, there are too many agencies simply not implementing the laws, and doing nothing to support and compensate whistleblowers. This again proves why a dedicated enforcement agency is necessary.

The Robodebt scandal proved the problem on a wide scale. Despite Services Australia officers such as

Jeannie-Marie Blake objecting to the scheme, none of their complaints were recognised for what they were: concerns about serious maladministration (or worse) requiring independent monitoring and rights to protection, under the Public Interest Disclosure Act.

Indeed, our research compiled for the attorney-general's review of public sector protections highlighted that when a federal public servant raises concerns about wrongdoing, they are four times less likely to be recognised and protected as a whistleblower than in the New South Wales government. And seven times less likely than if the disclosure was made in the Queensland public service.

Small wonder, then, that protection and support do not flow, and that whistleblowers are left flailing for support and compensation for any damage done.

A whistleblower protection authority to change this situation will only be as good as the powers and resources it is given, and the people tasked to lead it. The laws it enforces also badly need upgrading and simplification.

Thankfully, as momentum builds towards Australia's next parliament, there is increased hope that within the next three years, this necessary reform will come to pass.

Half of employees fear losing their job if they blow the whistle, survey finds

Lauren Brown

People Management, 7 October 2024

HALF (51 per cent) of UK employees would not feel safe disclosing if their company was breaking the law, new research has revealed.



Less than one in five (18 per cent) of the 2,000 UK workers surveyed by Bloomsbury Square Employment had high confidence that if they did blow the whistle, they would be able to stay in their current job.

Almost half (45 per cent) said the main thing that would prevent them from speaking up is fear for their job, followed by a fear of retaliation or bullying (39 per cent) and their confidentiality being broken (36 per cent).

Half again (51 per cent) said they would not feel safe disclosing a miscarriage of justice, or actions that risk or actually damage the environment (52 per cent), and a third (33 per cent) were not confident that their current employer would ensure that their confidentiality would be protected. Less than one in five (18 per cent) were very confident their employer would support them and protect them from retaliation.

Only half of employees (50 per cent) knew the whistleblowing procedure in their organisation, and one in 10 said they would consider turning to social media.

Will Burrows, a partner at Bloomsbury Square Employment Law, said: “UK workers want to be able to speak up but are being prevented by fears for both their personal and professional lives. Despite recent scandals such as the Post Office that could have been prevented had employees blown the whistle, unless there is greater protection for whistleblowers, it is likely that people will avoid speaking up and potential wrongdoing will continue to go unchecked in the UK. This will lead to further scandals and crises of confidence. Any desire to ‘do the right thing’ is being cancelled out by the current lack of protection and a genuine fear of retaliation.”

He said “urgent” reform is required if whistleblowers are “going to risk speaking out”: “With the research showing that employers are still not providing clear whistleblowing policies, there clearly needs to be more open discussion about what whistleblowing looks like,” he said. Employees need to be given a better understanding of the legal rules and requirements around whistleblowing. The fact that one in 10 would consider turning to social media, which in most cases would automatically negate their

rights as a whistleblower, demonstrates the current confusion over the law.”

The firm is calling on the government to push through the Whistleblowing Bill, which includes a proposal to introduce new civil offences and criminal offences punishable by fine and/or imprisonment, for subjecting whistleblowers to detriment.

The Protection for Whistleblowing Bill, brought as a private members’ bill by Lib Dem peer Baroness Kramer, is currently receiving its second reading in the House of Lords.

Rachel Suff, senior employee relations adviser at the CIPD, described the findings as “disappointing” and encourages employers to “build a safe working environment for whistleblowing, [which] means having a policy explaining what constitutes whistleblowing and making it clear to employees what to do if they come across malpractice.”

“They should train line managers to ensure that matters are resolved in line with the policy, and in a way that will cause the least damage to the organisation. Policies should be fully supported by senior managers and be communicated to all employees,” she said.

Andrew Pepper-Parsons, director of policy at Protect, noted that currently there is no requirement in the UK for employers to do anything when a whistleblower comes to them, and that “they don’t even have to have a whistleblowing policy.” He agrees there “should be a change in the law to make it compulsory for companies and organisations to investigate the issues that whistleblowers raise, and where they fail, they need to be held to account.”

He said: “Whistleblowers are an organisation’s eyes and ears. The people working inside organisations are the first to know about wrongdoing, risk and malpractice and can therefore be any employer’s internal alarm system. Spotting the problems at the frontline and dealing with these issues should be every organisation’s priority. Whistleblowing is critical for this and should be embraced by any organisation wanting to improve its performance and ways of working.”

Pepper-Parsons agrees that “here is an important role for HR and compliance teams to play in making sure staff know there are clear channels to raise concerns that are confidential and

trustworthy.” “Demonstrating the commitment to staff wellbeing and having a positive speak up and listen culture is key,” he said. “There should always be a commitment to investigating anonymous concerns, however hard this is to

We can no longer shoot the messenger — whistleblowers need protection

The Independent, 4 November 2024

WE, as the undersigned, support the whistleblowing charity Protect in its call for the government to amend the Employment Rights Bill so that employers are required to investigate whistleblowing concerns.

Having all experienced whistleblowing first hand, identifying problems and putting a stop to wrongdoing on the frontline should be every organisation’s priority. From addressing patient safety to stamping out sexual harassment, everyone in the workplace should feel confident that when they speak up, action will follow. However, far too often, the only reaction is to shoot the messenger.



Azeem Rafiq

Our current law places no legal obligation on employers to investigate whistleblowing concerns. According to the UK’s leading whistleblowing charity, Protect, 40 per cent of the callers to their whistleblowing advice line say that when they speak up, they are ignored; their concerns disappear into a black hole.

Every government wants to focus on improving the future, rather than ad-

dressing the mistakes of the past. Whistleblowing has been the common thread linking the recent public inquiries into the infected blood scandal, the Grenfell Tower fire and the Post Office scandal. But whistleblowing concerns fell on deaf ears in each of these cases.

Putting a stop to wrongdoing at the earliest opportunity can only be a positive move for employers, those working in organisations and the wider public. This government is pledging to make a historic impact on employment rights — the opportunity to make a step change in how whistleblowing is addressed in the UK is now.

Azeem Rafiq, *Racism in Cricket whistleblower*, **Michael Woodford**, *Olympus whistleblower*, **Josie Stewart**, *FCDO whistleblower*, **Professor Nigel MacLennan**, *British Psychological Society whistleblower*, **Stephen Murdoch**, *Cornwall Air Ambulance whistleblower*, **Ian Foxley**, *GPT Special Project Management whistleblower*, **Linda Fairhall**, *NHS whistleblower* and **Maggie Oliver**, *Greater Manchester Police whistleblower*

Four ways Mohamed Al Fayed silenced whistleblowers in his organisation

Kate Kenny

The Conversation, 1 November 2024

ON THE FIRST ANNIVERSARY of former Harrods owner Mohamed Al Fayed's death, more than 20 women accused the billionaire of rape, sexual assault or harassment while they worked at his luxury department store. Many had been in their late teens and early twenties at the time.

Since then, a further 65 women have come forward to the BBC with allegations dating back as far as 1977, and 40 people are reported to have contacted the police.

How did Al Fayed silence potential whistleblowers for such a long time? I've researched whistleblowing in organisations for almost 15 years. Looking at the allegations made against him, four apparent strategies stand out as textbook examples of how leaders

can suppress dissent to continue their terrible behaviour — even today.

1. The organisation as a fortress

As the chairman-owner of Harrods, Al Fayed could wander around its swanky shopping halls and oak-panelled offices as he pleased. And it appears he looked for women to target as he did so.

Security guards had their role, in some cases reportedly turning a blind eye to distraught and dishevelled women leaving Al Fayed's apartments and houses after attacks. HR people might likewise focus on recruiting certain women — like the security staff, they were just getting on with their work.

That is the thing about bureaucracies, as philosophers from Hannah Arendt to Max Weber have highlighted. Staff are not responsible for the outcome. They just need to do their job.

My research on whistleblowing in financial services shows clearly that the kind of blind rule-following many organisational roles require stops workers questioning the big picture and acting ethically by stepping in.

2. Hi-tech surveillance

The IRA bomb that exploded in Harrods' car park in 1983 led to a top-notch system of surveillance being installed by its then owners.

So, when Al Fayed bought the store two years later, his need for control was satisfied with cameras and recording systems. Eventually, everyone working at Harrods apparently knew about the system, which appears to have stopped them talking to each other about Al Fayed's behaviour.

Shockingly, the former Harrods owner appears to have extended this surveillance to the very bodies of the women he targeted. Doctors associated with the company were said to administer mandatory gynaecological examinations to female staff. Fayed was reportedly sent their test results. This meant he had eyes on his workers, bodies and all.

Today, with things like social media and the ability to share large amounts of data rapidly, it is more difficult for organisations to keep information in-house. And so, we have seen a rapid growth in insider threat detection — using technology like keystroke monitoring, where every keystroke on a

computer is tracked without the user's knowledge, to identify potential leaks.

A byproduct has been a “chill effect” on workers speaking out about wrongdoing they see in their organisations — something that has been highlighted by the UN as a problem for society.

My research alongside other academics into whistleblowing in health-care, engineering and government shows one thing clearly: if trust in the organisation is lacking and workers do not feel protected against potential reprisals, they stay silent. Overt surveillance deters disclosures of organisational abuses.



Mohamed Al Fayed

3. Legal pressure

The “non-disclosure agreement plus settlement payoff” tactic that Al Fayed employed with a number of Harrods staff was straight out of the Harvey Weinstein playbook. The disgraced film producer used non-disclosure agreements systematically to silence survivors.

While non-disclosure agreements are not allowed to be used to stop workers reporting possible crimes or serious wrongdoings, a frightened 20-year-old is not likely to know this.

In the case of Al Fayed, when *Vanity Fair* magazine published victims' testimonies and allegations of serious criminality, his lawyers knew the solution. Keep the legal pressure on until the magazine settled.

The use of legal tools to silence whistleblowers is one of the biggest concerns for researchers today. From

“Slapp” suits — strategic lawsuits against public participation, filed against people who speak out — to inappropriate use of non-disclosure agreements, defensive organisations increasingly turn to the law in public whistleblowing cases. As analysis of the case of whistleblowers at the disgraced blood testing firm Therasys made clear, often the threat of legal action is enough to keep a worker silent.

4. Dehumanise targets

Al Fayed, we are told, would chuckle as he openly groped women. One woman reported his laughter after an attempted rape at his Villa Windsor in Paris, when he fell on the floor after she pushed him off.

Most people would not find humour in such situations, unless they don't see their victims as “real people”.

But the likelihood of targets speaking out is, again, slim. A very young person told they are worthless, treated as such, and reminded of it regularly by colleagues and bosses, is not best placed to speak up. Our research with other survivors in work organisations shows how the experience of sexual violence and harassment can leave them vulnerable. They find disclosure of the abuse intolerable without empathetic and supportive colleagues.

In an organisation designed to prevent workers discussing their concerns together — as Harrods appears to have been — the solidarity required to speak out and be protected through the collective is utterly absent.



Harrods in London

Harrods' current owners have said they are “appalled” at the allegations, and the business has reached settlements with many of the people who have complained.

When executing a campaign of “attack, isolate and silence”, money and

influence can buy predators a lot of leeway, as other high-profile abusers like Weinstein and Jimmy Savile figured out. But the key thing is the organisation. With the right PR, surveillance, HR and lawyers to take legal action should stories get published, predators will be safe. The secret stays kept — until, one day, people have finally had enough.

WikiLeaks whistleblower Chelsea Manning says censorship is still “a dominant threat”

Sam Meredith
CNBC, 14 November 2024

FORMER U.S. Army intelligence analyst Chelsea Manning says censorship is still “a dominant threat,” advocating for a more decentralized internet to help better protect individuals online.

Her comments come amid ongoing tension linked to online safety rules, with some tech executives recently seeking to push back over content moderation concerns.

Speaking to CNBC's Karen Tso at the Web Summit tech conference in Lisbon, Portugal, on Wednesday, Manning said that one way to ensure online privacy could be “decentralized identification,” which gives individuals the ability to control their own data.

“Censorship is a dominant threat. I think that it is a question of who's doing the censoring, and what the purpose is — and also censorship in the 21st century is more about whether or not you're boosted through like an algorithm, and how the fine-tuning of that seems to work,” Manning said.

“I think that social media and the monopolies of social media have sort of gotten us used to the fact that certain things that drive engagement will be attractive,” she added.

“One of the ways that we can sort of countervail that is to go back to the more decentralized and distributed internet of the early '90s, but make that available to more people.”

Asked how tech companies could make money in such a scenario, Manning said there would have to be “a better social contract” put in place to

determine how information is shared and accessed.

“One of the things about distributed or decentralized identification is that through encryption you're able to sort of check the box yourself, instead of having to depend on the company to provide you with a check box or an accept here, you're making that decision from a technical perspective,” Manning said.

Manning, who works as a security consultant at Nym Technologies, a company that specializes in online privacy and security, was convicted of espionage and other charges at a court-martial in 2013 for leaking a trove of secret military files to online media publisher WikiLeaks.

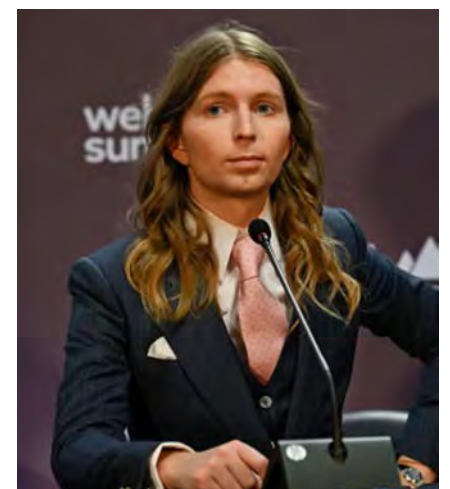
She was sentenced to 35 years in prison, but was later released in 2017, when former U.S. President Barack Obama commuted her sentence.

Asked to what extent the environment has changed for whistleblowers today, Manning said, “We're at an interesting time because information is everywhere. We have more information than ever.”

She added, “Countries and governments no longer seem to invest the same amount of time and effort in hiding information and keeping secrets. What countries seem to be doing now is they seem to be spending more time and energy spreading misinformation and disinformation.”

Manning said the challenge for whistleblowers now is to sort through the information to understand what is verifiable and authentic.

“It's no longer secrecy versus transparency,” she added.



Chelsea Manning

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Whistleblower laws

Twenty years ago, Tom Devine wrote, “On balance, in practice US statutory whistleblower laws have been Trojan horses, creating more retaliation victims than they helped achieve justice.” Congress would pass a law, and courts would interpret it so whistleblowers were shafted. Congress would pass a stronger law, and courts would do it again.

Devine has been a key figure in the Government Accountability Project, a longstanding and prominent US whistleblower advocacy organisation.

Australia started its legal odyssey through whistleblower protection about 20 years after the US, and so far the journey seems quite similar to what Devine saw.

Delay — law — failure to enforce — revised law — narrow court interpretation — delay ...

No wonder some start to think the law is a sham, giving the appearance of protection without any substance.



Whistleblowers Australia membership

Membership of WBA involves an annual fee of \$25, payable to Whistleblowers Australia. Membership includes an annual subscription to *The Whistle*, and members receive discounts to seminars, invitations to briefings/ discussion groups, plus input into policy and submissions.

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