MORAL INJURY IN WHISTLEBLOWERS: A LEGAL AND PSYCHOLOGICAL PERSPECTIVE ON COST, COURAGE, AND PROTECTION

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INTRODUCTION: WHAT IS WHISTLEBLOWING?

Whistleblowing, in its most fundamental sense, is the process of revealing information about suspected wrongdoing inside an organization to persons or organizations capable of taking redress action. The suspected wrongdoing can span from criminal or improper conduct to posing a threat to public health, safety, the environment, or general human rights. Yet for all its common use within law, scholarship, and public life, there is no single or universally applied definition of whistleblowing. Rather, the phenomenon has developed over time, subject to changing legal regimes, cultural attitudes, and political agendas. Scholarship typically understands whistleblowing as a sort of moral or ethical dissent by individuals who decide to reveal malfeasance that they perceive to be contrary to the public interest. Others, including Albert Hirschman and Ralph Nader, interpreted it as an "instrument of accountability" "voice" mechanism where people place concern for the well-being of society ahead of organizational allegiance. More encompassing definitions have developed over time, such as that of Near and Miceli, who stressed that whistleblowing entails internal and external revelations on the part of present or past members of an organization regarding illegal, immoral, or illegitimate conduct. Legally, both international conventions and national legislation view whistleblowing mainly as a device to fight corruption and ensure transparency. Tools like the United Nations Convention against Corruption (UNCAC) and the OECD Recommendations are cognizant of the whistleblowers' role in exposing illegal activities and highlight the imperative for protective mechanisms. However, even within these legal frameworks, considerable divergence remains with respect to who is considered a whistleblower, what can be disclosed, and how protection is extended. More recent trends, especially from independent rapporteurs and human rights groups, have stretched the concept of whistleblowing beyond corruption or misconduct in the

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workplace. Such alternative strategies prioritize the basic right of freedom of expression, promoting protections that do not depend on employment, motive, or narrowly construed categories of malfeasance. They maintain that what should matter most about the information revealed is its significance, not who reveals it or for what purpose. In practice, whistleblowing is a contentious but necessary means of accountability. It exists at the nexus of ethics, law, and civic responsibility, posing significant questions about loyalty, candour, and justice. As this paper will discuss, while some whistleblowers certainly behave out of a sense of moral courage, many of them endure great psychological and legal consequences has been referred to by some as moral injury. Comprehending the diverse aspects of whistleblowing is an essential first step towards developing legal provisions and support mechanisms that safeguard those who are willing to speak up in the interests of the public. But above and beyond definitional arguments and policy designs, the practice of whistleblowing is not merely a legal or institutional phenomenon; it is a profoundly personal and psychological one. Even as it is universally celebrated as an exercise of moral courage and civic responsibility, whistleblowing is also capable of leaving deep scars. Those who report often suffer not only external backlash but also internal disintegration, as their identity, meaning, and moral direction are called into question or even dismantled by the fallout of their revelation. This more profound, usually unseen damage is now increasingly understood as moral injury. Legal protections for whistleblowers are increasing, yet psychological damageparticularly moral injury not addressed in legal systems. The law must expand beyond procedural protection into mental health support. Far too often, legal frameworks concentrate on retaliation as an issue of wrongful dismissal or procedural unfairness, without acknowledging that whistleblowing is capable of demolishing a person's moral centerregardless of whether their information is eventually confirmed. Present legislation might provide reinstatement to employment, anonymity provisions, or damages, but is unlikely to treat the deep ethical wound of whistleblowers.

MORAL INJURY IN WHISTLEBLOWING: THE ETHICAL WOUND BEHIND RETALIATION

Moral injury (MI) in whistleblowing is the severe psychological and ethical harm inflicted on those who expose wrongdoing, especially if exposing it translates to betrayal, retaliation, or systemic inaction. Unlike Post-Traumatic Stress Disorder (PTSD), which is primarily caused by threats to bodily survival, moral injury arises from a transgression of strongly held ethical

convictions and expectations of conscience, not of fear. For whistleblowers, MI typically occurs when they take action on the assumption that revealing wrongdoing is obligatory and right, only to experience hostility, penalty, or silence from the same institutions for which they are attempting to hold them accountable. This disruption between expectation and result tears asunder moral coherence, leaving behind shame, powerlessness, disillusionment, and betrayal. As clinicians and scholars have noted, this experience is not peripheral but central to the whistleblowing process. The very action that constitutes whistleblowing as a moral intervention decision to put public good ahead of personal or organizational interest becomes the wellspring of the whistleblower's moral breakdown when retaliation ensues. Retaliatory actions like gaslighting, marginalisation, professional ostracism, or legal reprisals serve to more than just punish; they destroy the person's sense of ethical bearing and social trust.

While whistleblowers might exhibit PTSD-like symptoms, such as intrusive memories, nightmares, or hyperarousal don't come close to describing the special trauma of moral betrayal. Many whistleblowers are afflicted less by what they witnessed than by the fact that no one else did anything worse, by the fact that systems actively penalized them for moral discernment. This creates a situation of deep moral confusion and identity dislocation, in which even the whistleblower's own choice to expose may become a cause for guilt or remorse. Moral injury is not, therefore, an incidental aspect of whistleblowing, but an inherent aspect of its expense. It calls us to broaden our conception of whistleblower protections to include not just legal protections against retaliation, but also psychosocial mechanisms of repair and moral reintegration. Healing moral injury needs a trauma-informed response, one that legitimates the whistleblower's ethical position, acknowledges their trauma, and facilitates their restitution of a coherent self and justice in the wake. In the end, if whistleblowing is to be considered a public good, then individuals who undertake it should not be left to pay the private cost by themselves. Identifying and treating moral injury is at the heart of any attempt to genuinely safeguard whistleblowers not only from institutional damage, but also from the breakdown of meaning that frequently ensues from their most ethically defensible action. The law must thus change, not just to protect whistleblowers from retaliation but to help restore their moral and psychological health.

WHISTLEBLOWING LAWS ACROSS THE COUNTRIES

Whistleblower protection legislation seeks to promote the reporting of misconduct by providing statutory protections for those who make disclosures about corruption, fraud, or

institutional abuse. But the scope and efficacy of these protections are worlds apart between jurisdictions, and the majority of legal regimes fall short in how they deal with the deeper injuries whistleblowers endureespecially psychological harm, professional ostracism, and institutional betrayal. In India, the protection of whistleblowers is more a theory than a reality. The Whistleblower Protection Act, enacted in 2014, was meant to protect public officials and other insiders who blow the whistle on corruption. The Act has never, however, been put into effect, has been left unimplemented and in large part forgotten. Without official notification or implementation, its provisions are useless. As a result, Indian whistleblowers remain in a high-risk atmosphere, where revealing misdeeds can lead to transfers, harassment, social exclusion, or even bodily injury, as in the senseless murders of Satyendra Dubey and Shanmughan Manjunath. Institutional protections, like those provided by internal vigilance units or Lokayuktas, are patchy, non-obligatory, and filled with procedural loopholes. In the United States, whistleblower protection is both wider and positively enforced. Federal government workers are protected by the Whistleblower Protection Act, which forbids employers from acting in reprisal against people who reveal legal infractions, gross mismanagement, or danger to public safety. Private-sector whistleblowers are protected by legislation such as the Sarbanes-Oxley Act, aimed at corporate fraud, and the Dodd-Frank Act, aimed at financial abuse and securities fraud. What sets the U.S. system apart is its incentive system: under the Dodd-Frank Act, the Securities and Exchange Commission operates a whistleblower program providing monetary awards of 10 to 30 per cent of any penalty recovered in enforcement proceedings. Through 2023, this program paid out close to $2 billion, sending a strong message that whistleblowers are not only protected but financially appreciated.

The European Union has become closer to a harmonized whistleblower model with the 2019 Whistleblower Protection Directive. The legislation compels every EU member state to implement national law that safeguards employees who report a breach of EU law. The Directive also requires private and public sector employers to set up safe, confidential internal reporting mechanisms and create protection against reprisals. It also calls for the provision of external reporting avenues in case of failure or threats to internal mechanisms or the whistleblower. By creating a uniform minimum standard for the entire bloc, the Directive provides evidence of increasing awareness of the necessity for transnational systematic protection within an intricate regulatory landscape. Despite these advances in law, there are still important gaps throughout jurisdictions. The majority of whistleblower legislation targets mainly the avoidance of direct retaliationdismissal, demotion, or harassment, neglects the

internal psychological and moral impacts of whistleblowing. There is no current federal law requiring mental health counselling for whistleblowers, even though many studies and congressional reports assert that whistleblowers experience emotional collapse, depression, PTSD, and suicidal tendencies. The mere act of stepping forward shatters one's identity and community, particularly when the retort is from institutions to which they had previously been beholden. The ensuing moral injury and severe psychological trauma arising from a violation of one's most fundamental values are not addressed or acknowledged by any current legal regime.

In addition, whistleblower statutes hardly ever catch subtle, endemic patterns of retaliation in institutional contexts. These are gaslighting, professional sabotage, abusive work environments, malicious gossip, and blacklisting on an industry-wide level. According to a U.S. congressional report, many whistleblowers are quietly removed from their careers through manipulated performance reviews, the withholding of future opportunities, and social isolation tactics that are oftentimes imperceptible to courts and regulators. The law’s inability to account for these covert reprisals means that many whistleblowers suffer in silence, enduring reputational harm and career stagnation without recourse. Ultimately, while legal systems have taken steps to shield whistleblowers from overt punishment, they remain ill-equipped to address the full spectrum of harmslegal, emotional, social, and moralthat whistleblowers endure.

CASE STUDIES

The accounts of well-known whistleblowers such as Edward Snowden, Dr. Li Wenliang, Satyendra Dubey, and Manjunath Shanmugam expose the severe psychological, legal, and ethical pressures faced by those who uncover institutional malfeasance. The case studies uncover a similar pattern: those compelled by conscience to speak truth to authority usually endure retaliation, ostracism, and extreme emotional suffering. Their stories reveal not just the failure of legal safeguards within systems worldwide but also the eye-watering cost whistleblowers payrarely acknowledged, and frequently alonein the interest of truth. Edward Snowden's case is one of the most extensively discussed cases in the history of whistleblowing. In 2013, Snowden, a former NSA contractor, released top-secret documents exposing the nature of global eavesdropping programs. Completely cognizant of the price to be paid, he said then, "I will be made to suffer for my actions." He had fled the United States and eventually received asylum and then citizenshipin Russia. The U.S. government indicted him immediately

upon the leak under the Espionage Act, a law that contains no public interest defence provision, and still pursues his extradition. In addition to the legal implications, Snowden has been frank about the psychological cost, particularly the human toll on his family. He has bemoaned that his action instilled fear and anxiety in those he loves the most, and disclosed that the human cost of whistleblowing extends far beyond the whistleblower to include their whole support network. In spite of these challenges, Snowden's revelations were subsequently partially confirmed when U.S. courts declared that certain NSA programs he leaked were illegal. He is still, however, in exile, a traitor to some and a hero to others, stuck in a legal purgatory that highlights the wide disjunct between public admiration and legal denunciation. Dr. Li Wenliang's case in China is a moving illustration of moral courage in the face of authoritarian oppression. Dr. Li, an ophthalmologist in Wuhan, attempted to alert colleagues to a new respiratory virus that was similar to SARS in late 2019. His attempts at alerting others were forestalled by state censorship. Police officers called him in and compelled him to sign a vow not to "spread rumours." Despite this, Dr. Li persisted with his medical practice and subsequently caught the virus himself. In his last interview, he explained to reporters that he still planned to go back to the frontlines after recuperation, saying, "I don't want to be a deserter." Unfortunately, he died of COVID-19 in February 2020. His death triggered a rare display of sadness and rage throughout China, briefly shattering the nation's tight controls on dissidence. Though the government subsequently cleared Dr. Li of wrongdoing and formally apologized to him, the harm had been done. He had not died for violating the law but for performing his ethical obligation as a doctor to forewarn others of danger. His tale demonstrates the price at which whistleblowing can come when it occurs within oppressive governments: one's life, even in subsequent posthumous honour in public memory.

India's whistleblower tragedies, those of Satyendra Dubey and Manjunath Shanmugam, show the deadly consequences of reporting corruption in a system where legal safeguards are nonexistent or weakly enforced. In 2003, Dubey, who was a civil engineer involved in national highway projects, addressed a letter to the Prime Minister's Office describing corruption in infrastructure contracts and asked that he be kept anonymous. But his letter was circulated along with his identity to the very officers he had criticised. He was killed within weeks. While three people were subsequently convicted, the public outcry following his killing compelled Parliament to debate more robust whistleblower protection. The resulting legislation, enacted a decade later, has yet to be fully implemented. Likewise, Indian Oil Corporation officer Manjunath Shanmugam was killed in 2005 after he had tried to suppress petrol adulteration.

Though some of his assassins were convicted and sentenced to life imprisonment, the larger lesson that India can be a death sentence for whistleblowers has not been forgotten by civil society. His assassination, as with Dubey's, triggered demands for reform but produced scant systemic change. In both instances, justice arrived belatedly and in symbolic form; neither man survived to witness judicial acknowledgement of their sacrifices.

Together, these cases underscore the personal and psychological burden that whistleblowers carry. They act from a deep sense of duty, whether it be to their profession, their country, or a universal commitment to truth. Yet, the systems they seek to correct often respond with hostility, denial, and punitive measures. Either by legal persecution, professional blacklisting, or even murder, whistleblowers are often made examples of, not as heroes of accountability but as cautionary tales. Research has established that whistleblowers consistently experience intense anxiety, depression, and post-traumatic stress following what they have endured. Their isolation is not only legal and institutional but also deeply emotional, often isolating them from their co-workers, communities, and families. Though popular opinion may later turn in their direction, and governments may even confer belated honours, such tokenistic gestures can do little to erase the agony experienced in the moment. Legal safeguards, where they are present, too frequently lag and are partial at best, providing no genuine safety net. These tales require a wider, more empathetic vision of what it means to blow the whistle and a greater legal obligation to those who dare to do so.

THE DISCONNECT BETWEEN LEGAL FRAMEWORKS AND PSYCHOLOGICAL REALITY

India's whistleblower protection regime presents a telling disconnect between the letter of the law and the lived reality of those who blow the whistle. At its fundamental level, the legal scheme continues to be overwhelmingly formalistic, based upon the assumption that a whistleblower is a purely rational agent working through a neutral legal scheme. In so doing, it overlooks the heavy emotional cost, social isolation, and moral damage usually involved with whistleblowing in actual situations. The Whistle Blowers Protection Act, 2014, gives a definition of whistleblowing in arid procedural language, describing it as a "public interest disclosure" and establishing a bureaucratic framework for reporting the same to a suitable authority. But nowhere does the Act recognise that whistleblowing is invariably a very personal, morally agonised, and emotionally disorienting act, one from which the whistleblower emerges with fear, guilt, insomnia, anxiety, and even suicidal thoughts. This

formalism of law is especially to be seen in the way the Act treats victimisation. Section 11 of the law does guarantee protection from reprisal, but the protections are circumscribed and linked to concrete, objective actions—like suspension, dismissal, or demotion. The section allows a whistleblower to appeal for a directive from the competent authority to reinstate him or impose sanctions on the erring official, but it does not provide for any recognition of emotional damage as a valid effect of reprisal. A whistleblower who suffers debilitating anxiety, mental fatigue, or post-traumatic stress is not given any recourse under this system. Courts and tribunals interpreting the law in like manner limit their analysis to material harms, dispensing with emotional breakdown or psychological distress as non-justiciable, or at most, irrelevant to judicial remedy.

Additionally, the burden-shifting device under the Act, although intended to benefit the whistleblower, imposes another degree of legal abstraction. Once the whistleblower makes out prima facie victimisation, the accused needs to establish otherwise, but that interaction occurs in a formal court environment, with set timelines and proof requirements. The whistleblower needs to make a formal application, may face hostile proceedings, and wait for orders by an authority appointed by the government. Appeals have to be made within 60 days, or relief can be withheld altogether. Instead of being a source of solace, the process itself becomes an additional source of psychological pressure, compelling already-vulnerable victims to deal with complicated and formidable bureaucracies under duress. Most importantly, the Whistleblower Protection Act has never been operationalised. Although enacted in 2014, it was never notified, and many of its provisions were subsequently withheld or suggested for amendment. As of 2025, over a decade since its enactment, the central provisions of the law are still on the back burner, making even the legal safeguards illusory. This is compounded by the fact that there is no Indian law in place at present that requires any kind of psychological or trauma-informed care for whistleblowers. Neither the Whistle Blowers Protection Act nor akin legal provisions—e.g., corporate governance regulations under the Companies Act—refer in any terms to counselling services, mental health leave, or institutional support. The law deals with whistleblowers as isolated individuals claiming legal rights, rather than vulnerable citizens challenging powerful systems. The emotional work of whistleblowing—characterised by threat of retaliation, ostracism from colleagues, and moral damage through betrayal—is quite literally invisible in law.

Legal analysis has started to acknowledge this gap. Scholars and attorneys have noted that "the stress of whistleblowing… can have a significant psychological impact, including anxiety," but "support services for mental health may be lacking or inadequate." And yet, the law has not changed. There is no trauma counselling, peer group support, safe rooms, or therapeutic services offered to whistleblowers. There is no government initiative for psychological support or financial assistance for whistleblowers who have lost their jobs or been ostracised. Instead, there is a procedural perfectionist requirement: punctual applications, documentation in detail, and waiting patiently through multiple appeals. All in all, India's legal system provides a restricted understanding of harm that only allows its remedies to lie in retaliation that can be easily recorded and repaired through legal orders. The emotional impact of whistleblowing—usually the most enduring and crippling element—is left outside legal acknowledgement. Whistleblowers are thus not only unprotected in practice but also unrecognised in their wholeness. The silence of the law on trauma is a moral blind spot that ignores whistleblowers not just as legal actors, but as human beings facing fear, betrayal, and loss in seeking truth.

PROPOSALS FOR REFORM

India's whistleblower protection scheme must urgently transition beyond its present procedural and legalistic dimensions to include the fact of moral injury and psychic trauma as integral elements of the whistleblowing process. Currently, while statutes such as the Whistleblower Protection Act, 2014 actually delineate disclosure mechanisms and even make retaliation illegal, they do not acknowledge or compensate for the emotional and ethical wounds that whistleblowers regularly suffer. This is remarkable, particularly considering that Indian law already provides a platform upon which such recognition can be based. The Indian Penal Code lists injury to the mind as one of its categories of "injury" in its definition, and recognises psychological harm as a legally recognisable form of suffering. In addition, Article 21 of the Constitution safeguards the right to life and personal liberty—a right the Supreme Court has interpreted to cover dignity and mental well-being as well, especially where the State does not take measures to prevent or respond to harm. Besides, the Mental Healthcare Act, 2017 enshrines a rights-based approach to mental well-being, requiring public institutions to take psychological damage with the same alacrity as physical injury. In light of this legal framework, the psychological price of whistleblowing—most notably, the moral injury caused by betrayals or silencing of whistleblowers by the very institutions that they are trying to reform—must be openly recognised as an economically recoverable and judicially enforceable

harm. To make this recognition operational, whistleblower protection statutes must move beyond confidentiality and anti-retaliation provisions to incorporate required psychological support services. International best practice, such as that of the World Health Organisation (WHO), prescribes counselling and peer-support models as essential elements of any whistleblower scheme. These are based on evidence that whistleblowing is regularly followed by isolation, stress, and depression—ills which can be avoided through organised psychological intervention. In India, both private and public sector employers must implement Employee Assistance Programmes (EAPs) providing access to trained counsellors, support groups, and mental health experts. This is especially necessary in high-stress industries such as public infrastructure, healthcare, energy, and finance, where whistleblowers often work in inimical work conditions. Enshrining counselling responsibilities within law would recognise whistleblowers not just as legal informants, but as psychological victims of trauma, thereby assisting in a process that can often be emotionally brutal.

Existing delay-ridden application of interim protection also adds to psychological distress. Though the Whistle Blowers Protection Act, 2014 formally empowers the Competent Authority to grant interim relief—e.g., suspension of penalty actions or protection of salary—this relief ends up being delayed or patchy in reality. Following the Satyendra Dubey case in 2004, the Supreme Court set out guidelines permitting the Central Vigilance Commission to grant interim protection even without legislation. This precedent makes more imperative the imposition of time-limited and enforceable interim protections. Parliamentary reforms ought to require that complaints be dealt with within set time limits, that temporary reassignment of whistleblowers to safe or neutral positions be required, and that their pay continue throughout the investigation. These reforms would go a long way to eliminate uncertainty and alleviate the psychological cost of protracted legal or administrative uncertainty. A wider reform agenda will also need to include a rethinking of whistleblower trauma as an occupational risk in India's new labour law environment. Some Indian labour legislations are already considering psychological harm. The Factories Act, for instance, after recent amendments, calls for employers to handle physical and mental hazards at the workplace. The Sexual Harassment of Women at Workplace (POSH) Act, 2013 equates the definition of harassment to include mental injury and mandates internal redressal committees. By analogy, labour codes and occupational health regulations should mandate institutions to establish systematic support mechanisms for whistleblowers. This may encompass mandatory psychosocial hazard evaluations, the creation of whistleblower assistance committees (similar to POSH in-house committees), training of

managers and human resources staff in trauma-informed interventions, and legal requirements for follow-up after reporting. The new Occupational Safety, Health and Working Conditions Code, specifically, presents a chance to incorporate such provisions. In addition, under guidelines for Corporate Social Responsibility (CSR), firms are already nudged to invest in mental-health programs; broadening this requirement to include whistleblower support would bring corporate responsibility into line with ethical rule-making. To institutionalise such support on a larger and fairer scale, a specific Whistleblower Mental Health Fund should be established. Such a fund, patterned after victim-compensation programs under the Criminal Procedure Code (CrPC), would give monetary and counselling relief to whistleblowers who have caused them psychological damage. Section 357A of the CrPC already authorises courts to award compensation from the State to victims even in cases where the accused is acquitted. Likewise, the IPC and CrPC include mental injury as a basis for victimhood. A special fund for whistleblowers may provide reimbursement for therapy, psychiatric services, legal counselling, and temporary financial assistance. Funding could be managed by state or central Vigilance Commissions, Labour Boards, or Human Rights Commissions, and could be funded from fines accruing under anti-corruption legislation, public donations, or CSR contributions. This would send a strong message that psychological injury is not a personal cost, but a public expense resulting from systemic malfunction—and that society has a duty of care for the moral and mental well-being of those who expose abuse. Finally, these reforms have to be legislated in the form of amendments to whistleblower laws, labour codes, and corporate governance rules. Legal protection cannot be reduced to confidentiality alone or procedural remedies. It should include a complete acknowledgement of whistleblowers as human beings vulnerable to serious moral and psychological harm. Such laws are not only inadequate but are actually participating in the same suffering they purport to avoid. An integral, trauma-aware legal framework would not only defend whistleblowers but would also promote a greater culture of accountability, resilience, and moral courage across Indian institutions.