

The Scapegoats

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1. Introduction

Ostracism is as old as Man. Almost certainly one cave man was excluded from the cave. There may not have been a dislike button, but there has always been a human trait that dislike by some becomes ostracism by all. The one ostracized protects many who are not. Athenians institutionalised ostracism by voting to resolve the conflict between leaders.¹ The assembly of people voted to determine who should be exiled from the city of Athens. The ostracized were denied the right to a defense. They were not criminals. They could return after ten years, but they were exiled. Good for everyone except the one exiled. Each year the assembly of people was asked whether they wanted to hold an ostracism. Most often, the people said no. They may have sensed one day they could be the one.

Ostracism in modern times is less formal and less democratic than in 6th century Athens. There is no vote, only informal understanding. The ostracized are ostracized by stealth. They are whited out, deleted from conversations, deleted from social interaction. Ostracism protects the network from those whom the network deems to be too different. The network judges who should belong and who should not belong. The ostracized are not necessarily wrong, but they are necessarily different.

Scapegoating is the strongest form of ostracism. Scapegoats are ostracized and blamed. Scapegoating is the shifting of blame. Scapegoats are blamed to reconcile conflict.² Tyndale defined the sacrifice of goats on the Jewish Day of Atonement as scapegoating.³ Tyndale was scapegoated for his translation, blamed for being too transparent. Scapegoats are expelled, and sometimes executed, to cleanse the sins of the others. Satan's mechanism, where wrong is exonerated through a wrong.⁴

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Scapegoating is underwritten by two principles; to blame those who should not be blamed and to not blame those who should be blamed. Scapegoating inverts blame. Whistleblowers are the modern scapegoats, scapegoated for the wrongs of others. Whistleblowers may not be executed, but they are ostracized. Most are sacked or resign. Whistleblowers come to understand the inversion of blame. They pay the price for others. Whistleblowing is almost biblical, like an atonement for past sins. Whistleblowers experience bewilderment analogous to the experience of Joseph K in Kafka's *The Trial*.⁵ In *Whistleblowing and the Trial: A Kafkaesque Experience*,⁶ I reflected

“The trial of Josef K is the trial of most whistleblowers. When a person blows the whistle on wrongdoing, they are effectively arrested and judged; not formally, but certainly implicitly. Whistleblowers are judged by the perpetrators of the wrong, judged by the bystanders, judged by those with no duty or interest in the problem, and judged by themselves. Their trial begins when they blow the whistle, and their bewilderment parallels the bewilderment of K. The question of why recurs for a whistleblower just as it does for K. Why are allegations never fully investigated, why are the laws or codes not applied, why are the bystanders not supportive and why no independent investigation? Why is the whistleblower always remembered, but not the perpetrator? As for Josef K, the trial of the whistleblower is as much a trial within themselves as a trial with others. Whistleblowers often fail both trials.”

Whistleblowing becomes scapegoating. Whistleblowers absorb the negativity, wrongdoers very little. Whistleblowers are scapegoated for the truth they reveal. Wrongdoers shift the blame onto whistleblowers using bystanders as their accomplices. The bullying is so invisible as to not reveal the scapegoating.⁷ The strategy is

- (i) Target the weakness of the whistleblower.
- (ii) Excuse the wrongdoing.
- (iii) Establish a trade-off between the wrongdoer and the whistleblower.

The wrongdoing is excused through scapegoating the whistleblower.

The hierarchical structure of firms makes it easy to scapegoat a whistleblower. Within firms, there are implicit contracts, the most important of which is deference to authority. A whistleblower cannot easily blow the whistle on a supervisor. The supervisor is better connected to those higher in the firm. The supervisor has access to more information. The hierarchy is valued more than the truth. A CEO is not a CEO without reason. Whistleblowers are risky employees who become outsiders to the hierarchical network. Scapegoating shifts blame from the network of the firm to the whistleblower.

Scapegoating cannot happen without accomplices. Scapegoating by some becomes scapegoating by all. Scapegoating depends on the indifference of the bystanders. Bystanders who do nothing and regulators who do nothing underwrite the wrongdoing. They join the scapegoating by shifting blame from the wrongdoer to the whistleblower. They are underwriters. They underwrite wrongdoing; they underwrite scapegoating. Whistleblowers lose on both counts.

Some whistleblowers win. Some resurrect their career path. Some return from exile. Some high-profile whistleblowers continue to be profiled, if only in different careers. Whistleblower Jeffrey Wigand consults governments on tobacco control policies.⁸ Erin Brockovich consults for a law firm on personal injury claims for asbestos exposure.⁹ Time Magazine persons of the year in 2002, whistleblowers Cynthia Cooper, Coleen Rowley and Sherron Watkins, continue to give lectures on ethics and whistleblowing.¹⁰ John Liotine, who blew the whistle on maintenance at Alaska Airlines before the crash of Alaska 261, is an aviation instructor.¹¹

Australian whistleblowers have lower profiles. Philip Bowman who blew the whistle at Coles Myer in 1996 became a prominent UK businessman, and CEO of Smiths Group.¹² Jeff Morris, the whistleblower at the CBA, had a high profile during the 2018 Banking Royal Commission, and comments on matters of financial regulation and governance.¹³ Alan Kessing who blew the whistle on security regulation at Sydney airport is occasionally interviewed about security issues.¹⁴ Toni Hoffman who blew the whistle at Bundaberg Hospital is often interviewed about hospitals and lectures at a university.¹⁵ However, no Australian has been eponymized in a film.

Many have written of the short-term consequences for whistleblowers. They are bullied. They suffer retaliation. They incur legal and emotional costs. They lose their self-worth. They often lose their job and change their career. However, what of the long-term? There is no systematic study of the long-term consequences. We rely on anecdotes; the stories of Bill Toomer, Mick Skrijel, Alwyn Johnson, David Rindos, Stan van de Wiel are buried in parliamentary inquiries, and sometimes in books and electronic archives; but their stories are never fully told.

The long-term consequences for whistleblowers are the consequences of scapegoating. They are exiled. They are exiled from the network where they worked and could work. They are exiled from the expectations of the careers that they may have once pursued. They are exiled from the minds of others and exiled from aspirations of their own mind. They become outsiders, compelled to contest the unseen discrimination imposed on them. Unlike the ostracised in ancient Athens, they usually do not return from exile.

When I first looked up whistleblowing in a thesaurus, one of the synonyms was betrayal, implying the whistleblower was a betrayer, a traitor to the principles of the network. Who is the traitor? Betrayal involves deception. Betrayal is the difference between what someone expects to happen and what happens. The whistleblower reveals a truth the network wants to conceal. The network deceives to conceal that truth. The network betrays the principles that it purports to represent. The network betrays the whistleblower. The network becomes the real traitor.

We begin with a story of betrayal where the one deemed a traitor was not a traitor. The story did not begin as whistleblowing, but it became a whistleblowing benchmark. The Dreyfus Affair (1894-...) ¹⁶ concerned a French military officer Alfred Dreyfus who was falsely accused of espionage. Dreyfus was scapegoated. Dreyfus was exiled. Dreyfus was imprisoned on Devil's Island. Eventually Dreyfus was freed and exonerated by the actions of whistleblowers. Zola's *J'Accuse* ¹⁷ is the affidavit of a whistleblower. In my early years as a whistleblower, I was often referred to Dreyfus and to *J'Accuse*. ¹⁸ Every whistleblower writes a version of *J'Accuse* in their mind, if not in their documents. *J'Accuse* is the affidavit of the modern scapegoat.

2. Dreyfus

When in Paris, the reader should visit 146 Rue Montmartre and 142 Rue Montmartre. Metres apart, they bookmark a case that dominated France at the end of the 19th century. At 146 is the Taverne du Croissant where Jean Jaurès was assassinated on July 31, 1914. At 142 was where L'Aurore was located. L'Aurore published Zola's *J'Accuse* in 1898; and also where l'Humanité was located, the newspaper that Jaurès founded in 1904. Jaurès and Zola were Dreyfus supporters. They were Dreyfusards.¹⁹

The Dreyfus case was more than espionage. Dreyfus became the Dreyfus Affair, a trial between the established order and outsiders, between the hierarchy and the truth, between prejudice and the truth. Dreyfus became the template for whistleblowing. Katz and Lenglet crystallise Dreyfus as a paragon of whistleblowing²⁰

“Point by point, the Dreyfus Affair is a whistleblowing paragon: the wrongful accusation, the hasty investigation, the collusion of his superiors, the conspiracies to discredit the testimonials of the accused, the whistleblower publicly addressing the highest instance of the State hierarchy, only to be threatened and eventually assassinated.”

The case began when French Army Intelligence intercepted a bordereau addressed to the German military attache in Paris. Handwriting experts examined the bordereau and, despite inconclusive findings, Alfred Dreyfus, a thirty-five-year-old French army captain, was arrested on October 15, 1894, and convicted of high treason on 22 December 1894. Dreyfus was stripped of rank and degraded at the Military College on January 5, 1895, then transferred to Devil's Island, French Guiana where he arrived on April 13, 1895. Dreyfus's brother Mathieu and Bernard Lazare began the campaign to free Dreyfus. Lazare was an anarchist opposed to the simple-minded thought embedded in prejudice. He denounced the State bureaucracy and its privileges. In November 1896, his pamphlet, *"A Miscarriage of Justice: The Truth about the Dreyfus Affair,"* was mailed to 3,500 public figures in France. In sixty-four pages, Lazare protested *"In the name of this justice that we have misjudged."* He called for the review of the trial before all of France.²¹ Bernard Lazare was the first Dreyfusard.

In March 1896, the Intelligence Service acquired a telegram written by the same German attache to a French Commander, Ferdinand Esterhazy. Colonel Georges Picquart investigated, found Esterhazy was the bordereau's author, and informed the general staff. Picquart was a whistleblower. There was retaliation against him as there always will be. Picquart was sent to Tunisia. He was convinced of a plot against him, but he survived. In 1906, eight years later after Dreyfus was exonerated, Picquart became a major general, and Minister of War in the Clemenceau cabinet. Picquart's inversion was complete. Whistleblowers rarely experience such an inversion.

Esterhazy was relieved of duty in August 1897 but not denounced until November 1897, in a letter from Mathieu Dreyfus to the Minister of War published in some newspapers. In 1898, Esterhazy was acquitted but then re-arrested and discharged from the army. Esterhazy left France in September 1898 for England where he remained until his death. Esterhazy was an antisemite who continued to write antisemitic articles under the false name of Jean de Voilemont. A headstone erected after his death with his false name and birthdate had an inscription from Shelley "*He has outsoared the shadow of our night*". The falsity knew no bounds.

There was not just one wrongdoer. The Dreyfus Affair showed how cover-ups evolve. Cover-ups are designed to protect wrongdoing, as shown by the case of Colonel Henry. Henry forged correspondence between Italian and German attaches to implicate Dreyfus. Henry later admitted to the forgery, was arrested and committed suicide. He paid a price. Cover-ups are how networks insure themselves from the risks of their wrongdoing. Drake describes how the Affair became a battle between two forces²²

Traditionalists underpinned by values of order, authority, nationalism, and exclusion, against republican opponents defending a France built on truth, justice, reason, and human rights."

The Affair divided Paris intellectuals. Unsurprisingly, Emile Zola entered the debate. Zola was a chronicler of French contemporary history. His collection Les Rougon-Macquart had chronicled life under Napoleon III. Zola was an acute observer of humanity.

Zola's first article in support of Dreyfus appeared in *Le Figaro* in November 1897, but it was *J'Accuse*, published two months later, that enshrined him in the Pantheon of Dreyfus. *J'Accuse* was an open letter to the President of France, Felix Faure, on January 13, 1898. *J'Accuse* was published by Georges Clemenceau²³ who later became Prime Minister of France, and who appointed Picquart as Minister of War. The connections were strong. Zola began *J'Accuse* with these words

“What filth this wretched Dreyfus affair has cast on your name - I wanted to say ‘reign’ - A court martial, under orders, has just dared to acquit a certain Esterhazy, a supreme insult to all truth and justice. And now the image of France is sullied by this filth, and history shall record that it was under your presidency that this crime against society was committed. As they have dared, so shall I dare. Dare to tell the truth, as I have pledged to tell it, in full, since the normal channels of justice have failed to do so. My duty is to speak out; I do not wish to be an accomplice in this travesty.”

Zola was accusatorial. He accused majors, generals, handwriting experts, the War Office and the first court martial of complicity in a crime against humanity. He concluded

“As for the people I am accusing, I do not know them, I have never seen them, and I bear them neither ill will nor hatred. To me they are mere entities, agents of harm to society. The action I am taking is no more than a radical measure to hasten the explosion of truth and justice... My fiery protest is simply the cry of my very soul. Let them dare, then, to bring me before a court of law and let the enquiry take place in broad daylight! I am waiting.”

Zola did not have to wait long. He was brought to trial for libel only three weeks later; convicted in two weeks, sentenced to jail, and then removed from the Legion of Honour, Zola fled to England where he stayed for a year. In 1902, Zola died from carbon monoxide poisoning caused by a blocked chimney. In 1953, *Libération* published a confession by a roofer that he had murdered Zola by blocking the chimney of his house.²⁴ Zola wrote the whistleblowers' affidavit. Dare to tell the truth when normal channels fail, and speak out against injustice. Zola did not want to be the accomplice of injustice. Zola paid the highest price paid by a whistleblower.

Bernard Lazare was an anarchist. Jean Jaurès was a socialist. Both became Dreyfusards. Jaurès was a workers advocate who eventually became leader of the French Socialists. Lazare and Jaurès were humanitarians, men of compassion who recognized injustice. Dreyfus may have been from another class, but that did not matter to men of compassion. Jaurès was a champion of workers' rights, but he was also a champion of the individual. In 1892 he successfully campaigned for a miners' leader to be reinstated during a strike. In 1893, he was re-elected to the National Assembly as socialist deputy for Tarn, a seat he retained (except 1898 to 1902) until his death. In 1897, Jaurès became a Dreyfusard, In January 1898, Jaurès addressed the Chamber of Deputies and asked that the country be given "*the whole truth and not a mutilated and incomplete truth*" about the Dreyfus case. He demanded the same legal guarantees be observed towards a Jew as towards any other. He hailed Zola as "*the man who tore away from the General Staff grievous and arrogant irresponsibility, where every disaster for the country is being unconsciously prepared.*" In August 1898, Jaurès wrote an article for the Socialist newspaper he edited, La Petite République, asserting that Dreyfus while a bourgeois was still a concern for Socialists.²⁵

"I answer if Dreyfus has been illegally convicted and in fact, as I will soon demonstrate, he is actually innocent, then he is no longer an officer or a bourgeois; he has been stripped by the very excess of misery of all class character; he is nothing less than mankind itself, at the very deepest level of misery and despair which can be imagined... Surely we can respond to the pangs of our conscience without contradicting our principles and deserting the class struggle; we are not forced, in order to remain Socialists, to turn our backs on mankind."

Here was the universal compassion of Schopenhauer.²⁶

Like Picquart and Zola, Jaurès paid a price. He was defeated in the elections of 1898. Few were so motivated for the love of mankind.²⁷ Jaurès gave socialism a moral face. Francois Hollande²⁸ described him as "*the man of socialism, the man of all of France.*" Jaurès was assassinated in 1914 by Raoul Villain, who was later inexplicably acquitted. Jaurès was interred in the Pantheon in 1924. He rests in the same place as Zola. Malraux²⁹ suggested that Jaurès will be watched over by Justice. We should hope so. Jaurès and Zola were enemies of injustice.

Dreyfus was exonerated in 1906, readmitted to the army, promoted to the rank of Major, and admitted to the Legion of Honour. At the internment of Zola in the Pantheon in 1908, there was an attempt to assassinate Dreyfus by Louis Gregori. The trial of Gregori became a symbolic attempt by anti-Dreyfusards to retry Dreyfus. Gregori was acquitted. Dreyfus died in obscurity forty years after being sent to Devil's Island and was buried in Cimetière du Montparnasse, the cemetery where Sartre and de Beauvoir are also buried. Dreyfus' grave is hard to find. He was to be forgotten; except he could not be.

Dreyfus lent his name to justice. Dreyfus is not interred in the Pantheon but in the minds of those who fight for justice. He was accused of betrayal. He was the one betrayed. Hannah Arendt observed that ³⁰

“The case of Captain Dreyfus was never really settled. The reinstatement of the accused was never recognized by the masses and the passions which were originally aroused never entirely subsided. As late as 1908, nine years after the pardon and two years after Dreyfus was cleared, when, at Clemenceau's instance, the body of Emile Zola was transferred to the Pantheon, Alfred Dreyfus was openly attacked on the street. A Paris court, moreover, by acquitting his assailant indicated that it "dissented" from the decision which had cleared Dreyfus. A similar mood revealed itself at the premiere of L’Affaire Dreyfus in 1931. After thirty-two years the old atmosphere still prevailed: quarrels in the auditorium, stink-bombs in the stalls, the shock troops of the Action Française standing around to strike terror in actors, audience and bystanders. And here again it was the old story: the capitulation of Laval's government, unable or unwilling to guarantee order, a seeming triumph for the Dreyfusards, yet scarcely a night when the performance was not interrupted and, finally, summary suspension of the play. In 1935 when Dreyfus died the press was noticeably reserved. It was only the socialist papers that spoke openly of the injustice he had suffered. Extreme rightist circles still averred that he had been a spy. Far from having been settled by the court's verdict, the Dreyfus case has been throughout a vehicle of political expediency. The Third Republic possessed no tribunal with sufficient authority to apply the law and Clemenceau, for his part, recognized in this fact the approaching end of constitutional government and the beginning of a national collapse.”

Dreyfus is symbolic for whistleblowers. There is the same structure as in whistleblowing. Wrongdoing, blame shifting, prejudice, scapegoating, bystanders, exile, and solitude. Dreyfus is also symbolic because of betrayal. What began as an accusation of betrayal became another form of betrayal; betrayal of Dreyfus, Picquart, Zola, Jaures and others, betrayal of a France built on republican principles of justice, reason, and human rights. Betrayal of the truth. Whistleblowers experience the same betrayal of justice and truth.

Dreyfus is a story of prejudice. The prejudice against Dreyfus began as antisemitism, but the prejudice evolved as the case evolved, just as prejudice evolves in whistleblowing. Prejudice is the result of anchoring of the mind; and the anchors are not easy to remove. One mind may anchor others. The prejudice of one may become the prejudice of many. The evil of one may become the evil of many. Langer³¹ describes Adolf Hitler

“When he meets persons for the first time, he fixates his eyes on them as though to bore through them, ...a peculiar glint in them on these occasions that many have interpreted as a hypnotic quality ... he tries to overpower the other person with them.”

Prejudice does not normally transmit like this. Prejudice normally transmits invisibly.

In *J'Accuse*, Zola identified the source of evil in the Dreyfus Affair

“At the root of it all is one evil man, Lt. Colonel du Paty de Clam, who was at the time a mere Major. He is the entire Dreyfus case, and the entirety of it will only come to light when an honest enquiry firmly establishes his actions and responsibilities. He appears to be the shadiest and most complex of creatures, spinning outlandish intrigues, stooping to the deceits of cheap thriller novels, complete with stolen documents, anonymous letters, meetings in deserted spots, mysterious women scurrying around at night, peddling damning evidence. He was the one who came up with the scheme of dictating the text of the bordereau to Dreyfus; he was the one who had the idea of observing him in a mirror-lined room. And he was the one that Major Forzinetti caught carrying a shuttered lantern that he planned to throw open on the accused man while he slept, hoping that, jolted awake by the sudden flash of light, Dreyfus would blurt out his guilt.”

Every whistleblower encounters a Major du Paty de Clam, the root of the evil.

Whistleblowers often refer to a quote attributed to the English statesman Edmund Burke, that *“all that is needed for evil to prosper is for people of good will to do nothing.”* The sounds like Burke, looks like what Burke may have written, but it is not Burke’s. The quote has a thousand variations; one that is important is attributed to John Stuart Mill who was committed to individual freedom and opposed to the constraints of bureaucracy. Mill would have embraced whistleblowing as the logical response of individuals to the imposition of unfair control. Mill understood the importance of truth, evidence, and indifference in the contest between good and evil. In a notable speech, Mill delivered the inaugural address to the University of Saint Andrews on February 1, 1867. ³²

“The most incessant occupation of the human intellect is the ascertainment of truth... Bad men need nothing more to compass their ends, than good men should look on and do nothing. He is not a good man who, without a protest, allows wrong to be committed in his name...because he will not trouble himself to use his mind on the subject.”

The Dreyfus Affair allowed the prejudice of some to become the prejudice of the mob. The rule of the mob will always be the rule of emotion rather than the rule of reason, where minds are anchored to prejudice rather than natural fairness and natural justice. Dreyfus faced the rule of the mob, just as whistleblowers face the rule of the mob. Dreyfus was scapegoated for the wrong of Esterhazy, and the wrongs of the cover-up, as whistleblowers are scapegoated for the wrongs of others and the wrongs of the cover-up. Dreyfus was exiled to Devil’s Island, Picquart to Tunisia and Zola to England. Whistleblowers are exiled from their career path. Exile is the epithet of the scapegoat. The Dreyfus case differed from most whistleblowing cases. There was an inversion. Dreyfus was exonerated by a Commission and admitted to the Legion of Honour, Picquart became the Minister of War and Georges Clemenceau the Prime Minister. Zola and Jaurès were interred in the Pantheon. There was a sense of natural justice. The whistleblower is always seeking natural justice, similar to Joseph K in *The Trial* who asked the question just before his execution

“Where was the High Court he had never reached?”

The High Court for Dreyfus were whistleblowers.

3. The Game of Whistleblowing

Many will object to whistleblowing being called a game, but it is a game, a strategic game where blame is shifted from the wrongdoer to the whistleblower. It is not like chess because one player has all the pieces and the other player has only one piece, the truth. The wrongdoer's strategy is to generate as much uncertainty as possible about the wrongdoing and about the whistleblower. Wrongdoers need bystanders to just stand by.

The strategy is to prejudice the whistleblower, but it is a different kind of prejudice not defined by a specific attribute like race, gender, ethnicity, sexuality, religion, or identity. The prejudice experienced by whistleblowers is not the 0-1 prejudice of other prejudices. The prejudice against whistleblowers discriminates against a portfolio of their attributes; the most important is that they dared to blow the whistle when others would not so dare. As one armchair critic remarked to me, anyone else would have looked the other way. He was speaking for himself. He was the bystander who sees no evil and hears no evil, yet speaks evil through silence.

Bystanders are pivotal to the game. They are like referees who never blow the whistle. The prejudice of bystanders is the prejudice of their condescension to whistleblowers. Bystanders look down on whistleblowers to excuse their own inaction. It is a mechanism used to expiate guilt; to shift the blame from themselves to the whistleblower. Whistleblowers cannot be thought as doing the right thing; otherwise, the bystanders may be confronted by the conscience of their inaction. In *Beyond Beyond Good and Evil*,³³ I wrote that the conscience is the rational expectation of the consequences of our actions. However, it may also be the rational expectation of the consequences of our inaction. Conscience is how we connect to karma. Bystanders cannot afford to have a conscience about their inaction, for someday they may need a bystander to do something for them. In sum, there are two types of blame shifting

- (1) From the wrongdoer to the whistleblower.
- (2) From the bystander to the whistleblower.

Blame shifting involves prejudice, the ostracising and the smearing of the whistleblower. The whistleblower is on trial without a right to a defence,³⁴ the game of whistleblowing.

The game pits right against wrong. Each player believes they know of right and wrong, the balance sheet of right and wrong, the balance sheet of ethical assets and liabilities. Each player wants to persuade others their balance sheet is the right one, and shift blame. Wrongdoers want their wrongs to be thought less wrong, their right to be more right. Bystanders want their inaction to be thought less wrong, their right to be more right. Whistleblowers want their action to be thought right, and their wrongs to be less wrong. No player knows the nature of right and wrong, the true balance sheet of right and wrong. Each player estimates right and wrong, but none may be correct. We will never know.

I often reflect on the parry and thrust of right and wrong. I regard compassion as right, and dispassion as wrong. As I have written previously³⁵

“The absolute unity is fractured by excessive self-interest. Compassion heals the fracture. Compassion recognises the equivalence of I and Thou. Schopenhauer suggested a higher form of compassion, a universal compassion expressed as to hurt nobody, but on the contrary to help everybody as much as you can. But universal compassion is not always possible. Individual will is too strong. Self-interest is a powerful underwriter of evil.”

Whistleblowers will rarely be accused of excessive self-interest; for the cost is too great. The first Australian inquiry into whistleblowing was entitled *In the Public Interest*, but the public interest is so hard to define as to be non-existent, the self-interest is too strong. Whistleblowers learn of the bystanders who see themselves as the ideal observers³⁶

“The ideal observer is an absolute to which benchmarks are benchmarked; a proxy for God perhaps, an ethical absolute in a world of relativism, an infallible moral judge, omniscient and omnipercipient, cognizant of all facts and all the consequences of every action. The ideal observer is disinterested; they exhibit the impartiality of Bentham that every person should count for one and none for more than one. And the ideal observer is also dispassionate, without emotion of any form directed for or against a given individual. The ideal observer is then the detached one who observes and judges with full information, with transparency and with a consistency befitting of their omniscience. They are the ideal observer.”

Bystanders have the dispassion but not the omniscience of the ideal observer.

The Forgotten Sin³⁷

I forgot to hold the door open to let you in,
No matter, you and I know that it's not a deadly sin,
I forgot to say thank you when you opened the door for me,
No matter, you and I know that the entry was free.

I forgot to respond when you sent me an email,
No matter, you and I know that there's always more to the tale,
I forgot to stand up so as to let you sit down,
No matter, you and I know that you never wear a crown.

I forgot to pour you water when you needed a drink,
No matter, you and I know that you don't need water to think,
I forgot to acknowledge you when you were my underwriter,
No matter, you and I know it was you who made me mightier.

I forgot to pick you up when you fell down,
No matter, you and I know that we both had a frown,
I forgot to speak up for you when you spoke out,
No matter, you and I know that next time it's my shout.

I suppose that I should have remembered your contribution,
And accorded you more attribution,
But, avoiding the seven deadly sins, that was my passion,
I simply forgot about the sin called dispassion.

Whistleblowing is a game that interfaces with the contest between good and evil. Whistleblowing provides an insight into the universal balance sheet of right and wrong. A game where whistleblowers pay the price for the wrongs of others, a game whose outcome is inconsistent with natural justice. There is a residual unfairness that requires further arbitration, but arbitration that cannot be achieved by legislation or regulation. Legislation cannot fully protect whistleblowers. The game is too complex for regulation.

My experience points to a greater game where natural justice may have more relevance. I have written of synchronicity because I have observed synchronicity,³⁸ and written of karma because I have observed karma with the same exactitude as synchronicity.³⁹ Whistleblowing is not disconnected from these observations of synchronicity and karma. Karma is the moral equivalent of Newton's third law that every action has a reaction. We cannot know but, when we perceive injustice, we invoke the possibility of karma. Karma is a sense of equilibrium. Karma may be more real than the hypothetical we sense. The ancient scriptures may have been right.

In *The Contract of Existence*, I wrote that karma is a universal law⁴⁰

“Karma is more than hypothesis. Karma is belief. Why is it rational to believe in karma? Ancient wisdom believed karma as the cause of everything that happens in the universe. Karma became an envelope of belief, yet the first reference to belief is hard to identify. By the time karma appeared in literatures of Jainism, Ajivikism, Buddhism and the Veda, it was an old rather than new concept. Religious philosophies based in India came to believe in the cycle of birth and rebirth, that the time of a single existence was irrelevant. They believed in karmic retribution as stated by Bronkhorst (2011) ⁴¹

“Belief in rebirth and karmic retribution implies that one will reap the rewards of the seeds one sows in this life. ... the universe has an in-built moral dimension.”

Perhaps karma was observed, hypothesised to give hope or to be an antidote to suffering. Whatever the reason, karma was associated with liberation from constraints of existence. Four religions converged to the same hypothesis but diverged as to how to hedge karma. The Jainas believed in asceticism, that body and mind must be inactive to hedge karma. Inactivity would prevent formation of new karmic residue and purge old karmic residue. The Ajivikas agreed, except on purging old karma which is the province of the universe. The Buddhists believed in elimination of suffering through elimination of bad thoughts,

“All things are led by thought, controlled by thought, made up by thought. If one speaks or acts with malevolent thought, suffering follows, as the wheel follows the foot of an ox.”

Brahmins were priests of knowledge who came to believe in karma because of the others.

I have written articles and obituaries for whistleblowers who were not afforded justice. However, I have also observed karma with such exactitude that I have concluded as Rousseau concluded that we need to accept our fate.⁴²

“Let men and fate do their worst, we must learn to suffer in silence, everything will find its proper place in the end and sooner or later my tum will come.”

Rousseau’s turn did come, as it came for Turing, Tyndale, Dreyfus and other scapegoats.

Whistleblowing is a zero-sum game, but it may be revisited in another reference frame. Bystanders may become the whistleblowers in another incarnation. We will never know. I have observed many examples of karma but do not write of them, because to write of the misfortune of others and relate it to their past actions is to play the God we never are. I can provide one illustrative example where names are suppressed.

“I heard an interview with public official (A), a critical player in my whistleblowing case. Public official A was defending another public official (B) who had been accused of malpractice. I wrote to the journalist who conducted the interview. An extract is given below.

Dear

I write to express concerns regarding the interview that you conducted with public official A. Public official A was introduced as an authority on legal matters who was independent of B. There is a relevant case where A judged in a way that many may choose to question. In other cases, many have found A unresponsive when matters of substance and propriety were raised. Those who judge others should themselves be judged.

Yours...

Public official B resigned soon after. Public official A died suddenly a few days later.”

Was it karma? We will never know but, if so, it was not the karma I would have wanted. Karma is like an enigma machine reprogrammed with every thought and every action. I have observed enough karma to understand as Rousseau may have understood that there is an unknown determinism that we must accept. I have also come to understand that *Those who judge others will themselves be judged*. Those who smear whistleblowers, who put them on trial without hearing the evidence or giving them the right to a defence, will themselves be judged for their judgment. There is a risk in judgment.⁴³

“There is a circle of contradiction in Nietzsche’s thesis, a circle defined by the maxim those who judge others will themselves be judged. Nietzsche was judging moralists as they were judging him...We cannot free ourselves from our judgment. We cannot free ourselves from morality. Nietzsche lauded Christ for being non-judgmental but Nietzsche was himself judgmental. ... He was trapped in the circle of judgment. We all are.”

The game of whistleblowing is a test for whistleblowers, but also a test for other players. In *The Test Called Whistleblowing*,⁴⁴ I wrote of the test for whistleblowers

“Every life is a test but, in the workplace, few are tested more than whistleblowers. The act of whistleblowing is a comprehensive test of the whistleblower’s values, loyalties and above all their self-worth. The whistleblower who survives, survives these tests. Whistleblowing consists of five tests, a test of values, test of loyalties, test of justice, test of inversion and test of self-worth... Whistleblowers are long-term contributors in a short-term world. Contemporary civilisation, which elevates celebrity over the common good, values a person not by their long-term contribution but by their short-term wealth. The whistleblower, whose wealth is often restricted and whose contribution is long-term rather than short-term, is not highly valued by such a civilisation. The valuations of others inevitably affect the whistleblower’s assessment of themselves. It is difficult to value yourself highly when others have written you down, if not written you off entirely. The whistleblower must discount the values and judgement of others. The test of values by which they became a whistleblower underwrites their value.”

Wrongdoers and bystanders are also tested, they are judged as they judge whistleblowers. My observations of karma suggest we cannot free ourselves from the circle of judgment, we cannot free ourselves from an unknown determinism, from karmic residue of the past, from karmic residue of the present. We must accept the unknown determinism.

Karma is more relevant than is assumed. In the Dreyfus case, there was a sense of karma, albeit not enough to satisfy our sense of justice. Zola and Jaurès were both murdered, but they were then interred in *The Pantheon* among the great men of a grateful country.⁴⁵ Georges Clemenceau, the publisher of *J’Accuse* became Prime Minister of France. Picquart became a major general, and Minister of War in the Clemenceau cabinet. Conversely, Esterhazy died in exile, rarely remembered except as an antisemitic traitor. Colonel Henri committed suicide. Lt. Colonel du Paty de Clam, who Zola thought the root of evil in the case was wounded at the Battle of Marne and died from his wounds. Generals pivotal to the cover-up, Gonse and de Boisdeffre, retired early from public life. Dreyfus outlived them all. He is buried in Cimetière Montparnasse but interred in a greater Pantheon that underscores justice. Perhaps it was karma.

The possibility of karma implies that whistleblower legislation may be a poor substitute. It is the problem when legislators try to simulate karma. There are no obvious penalties for retaliation, bullying, ostracism, indifference, dispassion, scapegoating, and betrayal. Karma is too ambiguous to be simulated. If ancient wisdom is correct and there is a cycle of birth and rebirth, with one existence as a sample, then we do not have enough information to approximate karma. We do not know the karmic residue of previous incarnations or this incarnation. We are too ignorant to arbitrate wrongdoing.

Whistleblowing is a complex balance sheet of right and wrong with unresolved questions; whether the wrongdoing is materially significant and how it should be penalised; whether not acting on the wrongdoing will lead to more significant wrongdoing; whether whistleblowers should be protected and how should they be protected; whether whistleblowers should be rewarded and what should be the basis of the reward; whether there should be penalties for retaliation and the non-intervention of bystanders; whether mandated regulators should be regulated and how should they be regulated; whether the credibility of whistleblowers is relevant to the arbitration of whistleblowing. The rights and wrongs are so complex there will never be enough statutes for arbitration.

Many whistleblowing advocates prefer a simpler legislative model that focusses on the information disclosed rather than the informant. Vaughin et al (2003) ⁴⁶ propose an ideal whistleblowing law that has information, rather than the informant, as its first principle, implying that the rights and wrongs of the problem are arbitrated in terms of the wrongdoing, and not in terms of the credibility of the wrongdoer or the whistleblower. Karma can resolve the unresolved issues.

Karma in whistleblowing is almost always unobserved; and if observed it is discounted. It is easy to understand why. Whistleblowers experience unfairness that is inconsistent with natural fairness. Whistleblowers try to right a wrong and then they are wronged. Stan van de Wiel blew the whistle on the contamination of aviation fuel at a refinery. There was retaliation. He lost his career and his company.⁴⁷ He fought for more than twenty years to renormalise his position in the aviation industry. His actions may have saved lives but were discounted as immaterial. The unfairness was difficult to rationalise.

The game of whistleblowing is never fair. In 1994, the Australian Parliament established a Senate Select Committee to consider unresolved whistleblower cases.⁴⁸ The committee examined sixteen unresolved cases, including the first whistleblowing case of the author. The cases were unresolved in 1994, and they remain unresolved. They always will be. The case of Mr Bill Toomer is illustrative. As the Committee Report noted⁴⁹

“The initial whistleblowing claim in this case was that the quarantine procedures operated by the Department of Health in Western Australia in 1973 were deficient. At the heart was the issue of the appropriate method of estimating rat infestation on ships. Essentially, the Department of Health administration at the time, through Dr Mathieson, was requiring its quarantine inspectors to use a numerical estimation technique which Mr Toomer claimed was long out of date and inconsistent with international standards. In evidence to the Committee, Mr Toomer and Mr Walsh stated another area of concern was that of bribery of quarantine officials by shipping agents and fumigation contractors. The Committee finds this case a complex and comprehensive example of an administrative and professional dispute which escalated unnecessarily.... It is undeniable that Mr Toomer has suffered significantly through this process... The costs associated with this case, and all the inquiries, appeals and other investigations it attracted, have been massive for all parties involved, including Mr Toomer...The overall cost to taxpayers of the long conflict has been put in the millions of dollars.”

Whistleblowing cases are protracted. They lack the fairness of Saint Louis IX who sat under an oak tree to deliver justice. As the former Supreme Court Justice Scalia noted,⁵⁰ Saint Louis’ judgments under the oak tree were regarded as eminently just and good. The great unfairness of whistleblowing is the betrayal. The whistleblower is betrayed. Betrayal is the reason that Dreyfus is symbolic. Dreyfus was accused of betraying France, yet it was Dreyfus, the Dreyfusards, natural justice and the truth that were betrayed. Dreyfus was a story of betrayal just as every whistleblowing case is a story of betrayal. Every whistleblower meets Judas.⁵¹ Whistleblowers are betrayed by their accusers, by colleagues and those they have supported, by the indifference of bystanders and those who will not allow them the right to a defence. Whistleblowing is a game of betrayal. To survive, a whistleblower must survive their betrayal.

4. The Other Devil's Island

There was another penal colony, an isolated island surrounded by sharks, with a harsh, hot environment that had many risks. Exit from the island always proved to be difficult. Metaphorically it was similar to Devil's Island, but the metaphor was never understood. In the early days of exploration, one of its colonies had been called Van Diemen's Land, an allusion to demons, but only an allusion. The penal colony became something more, an island nation and island continent, but its convict past was never forgotten.

Convicts were sent to Australia for petty crimes. They were brutalised by prison guards. Clive James identified the cultural problem of Australia that many Australians may be descended from prison guards rather than prisoners.⁵² James may have been right. Australians defer to authority; exemplified in the pandemic,⁵³ but also in bureaumania.⁵⁴ Bureaucrats rule Australia, unaccountable to anyone except their fellow bureaucrats. Australians are subjugated by red tape. A penal colony founded on inequality, ignorance and intolerance of outsiders developed a culture of self-interested opportunism where the rule of law is rule of the mob. Whistleblowers encounter an inversion of right and wrong belonging to the convict past. Whistleblowers are renounced as do-gooders, snitches, lagers, any derogation except mates. As I wrote in *Courage Without Mateship*⁵⁵

“Mateship is a defining characteristic in Australia. Mateship is a pseudonym for networking and, in Australia, tightly controlled networks dominate. Mateship, not merit, is often the main prerequisite for employment, for promotion, for contracting and for acceptability. For a whistleblower, mateship becomes an anathema. By blowing the whistle, the whistleblower ceases to be a mate. The whistleblower becomes the outsider and the whistleblower's world inverts. Secrecy replaces openness, unfairness replaces fairness, and the network replaces true mateship. The outsider is never protected in such a world. Most Australians never see the Australia that whistleblowers see. As a consequence, there is a substantial divergence of opinion between non-whistleblowers and whistleblowers as to the state of our nation. Mehmet Skrijel, one of Australia's most significant whistleblowers, summed up his experience this way.

“I survived Fascism, I survived Communism, but Australian democracy is killing me.”

Thomas Curnow blew the whistle on bushranger Ned Kelly. Thomas Curnow's story is so important that an article I wrote in 2016 is appended. An extract follows.⁵⁶

“History, particularly Australian history, tends to invert the truth. Whistleblowers know that better than most. Villains become heroes because of who they were not; heroes become unknowns they should not be. Such is the case of Ned Kelly and Thomas Curnow. Curnow is one of those great Australians we should all know of. He blew the whistle on Ned Kelly. While Kelly is known to everyone, Curnow is unknown to nearly everyone. It is one of our great inversions... I am not the first to champion the cause of Thomas Curnow, but one of the first to champion him as a whistleblower. Curnow was a whistleblower who was discriminated against not so much in his time, but after his time. Whistleblowing is more than revealing the malpractices of this age; whistleblowing is about changing a culture that has falsely commemorated the past. Geoffrey Robertson used the phrase “doing a Tom Curnow” to remember Curnow’s selflessness. It should be part of Australian idiom because one day anyone could be on the train to Glenrowan.”

Land of inversion⁵⁷

I know of a country,
A land girt by the sea,
Where a man called Kelly is a hero,
And Curnow is a man no one knows.

I know of a country,
Where things are not as they should be,
When too many wrongs are deemed right,
And those who are meek haven't the might.

I know of a country,
Where everyone says let it be,
When that which is false is made true,
And those who are false are thought true blue.

I know of a country,
Where everyone tends to agree
That it's better for number two to be number one,
But not for justice to be seen to be done.

I know of a country,
Where the free cannot be free,
Surely this can't be the country,
The land of you and of me.

Mr Mehmet Skrijel blew the whistle on drug trafficking from ships in Australia waters. The case is appended. He first observed heroin being dropped from a ship in waters near Southend, South Australia. Mr Skrijel reported his observations to the South Australian police, and so began one of the most complex and extreme whistleblowing cases in Australia, a case spanning more than twenty years. As a result of his disclosures, Mr Skrijel became the subject of extraordinary harassment which included the burning of his boat, and a primary and secondary boycott of his crayfishing enterprise. Later, the harassment of Mr Skrijel became more extreme. His business suffered systematic property damage, his house was destroyed by arsonists and his car was destroyed by fire.

In 1984, Mr Skrijel referred his complaints to the National Crime Authority (NCA). The NCA began investigating Mr Skrijel's complaints in 1985. However, in October 1985, Mr Skrijel himself was charged with illegal possession of drugs, explosives and firearms by the NCA, convicted and sentenced to prison. Mr Skrijel successfully appealed his conviction in 1988, arguing that the evidence against him was fabricated. The judges accepted that there was an anomaly in the evidence and the conviction was quashed.

In 1990, Mr Skrijel's case was referred to the Joint Parliamentary Committee on the NCA who recommended an inquiry into the matters raised by Mr Skrijel. The inquiry was conducted by an independent Queens Counsel who found that the evidence against Mr Skrijel was fabricated to incriminate him. The Queens Counsel recommended that a more formal investigation be conducted using the coercive powers of a Royal Commission. The Royal Commission never happened. Mr Skrijel was denied natural justice.

Thomas Curnow and Mehmet Skrijel lived a century apart, but they shared the common experience of whistleblowing. They became outsiders. Denied justice, they were denied a place in the collective memory of the nation, a place in the conscience of the nation. How did right and wrong become so inverted? One hypothesis is the convict beginnings. Convicts who were wronged by the law had no reason to believe in the rule of law. Convicts belonged to the mob. They preferred mob rule, and who could blame them? Speaking in 1838⁵⁸, Lincoln argued against mob rule. Lincoln believed in the rule of law. Lincoln was right but this colony never had a Lincoln.

The founding fathers of Australia were not like the founding fathers of other countries. They were federators who merged the colonies into a federation but not into a nation. There was no fight for independence. There was no fight for the rights fought by others. Most Australians have not read their Constitution because it lacks relevance for them. What is missing from the Constitution is more notable than what is in the Constitution. As the Australian Government Solicitor has noted⁵⁹

“The Constitution has no Bill of Rights, such as that found in the United States Constitution, which prevents a legislature from passing laws that infringe basic human rights, such as freedom of speech. Some express protections, however, are given by the Constitution against legislative or executive action by the Commonwealth, but not by the States...Section 117 prohibits the Parliament of a State from discriminating against non-residents of that State. It provides, in effect, that a resident in, say, Victoria shall not be subject to any discrimination or disability in say, Queensland.”

It is as if all that matters is whether a Victorian has the right to exist in Queensland.

The Constitution assumed the rights conferred by Constitutions of other countries, but the rights were never expressly stated. When not stated, rights are not real rights. Whistleblowing is a contest of rights and, if rights are ambiguous, the contest is unfair. At the Senate Inquiry into Public Interest Whistleblowing⁶⁰, I argued for a Bill of Rights. It has been a consistent refrain, but it is not likely to happen under this Constitution. Amendments to the Constitution are difficult requiring approval of a majority of voters, and a majority of voters in a majority of States. Australia needs a new Constitution.⁶¹

Absence of a constitution underwritten by rights and responsibilities has meant that whistleblowing legislation is not uniform. Rather it is a patchwork quilt of statutes where whistleblowers in Victoria have different protections from whistleblowers in Queensland. Whistleblowers confront the rule of the mob: immaturity, ignorance, and materialism. Mobs are scapegoaters. They use tokenism to absolve themselves of their unfairness. Immaturity, ignorance, materialism and tokenism are powerful sociological forces that weaken the resolve of whistleblowers.

Immaturity

Maturity, whether of Man or another species, is signified by independence from another. A child becomes adult when they no longer have an adult making decisions for them. Maturation involves fulfilling a purpose and realising a meaning. Childhood is for experimentation, of new thoughts and actions without necessarily being held accountable. A child conceals mistakes to minimise responsibility.⁶² A child seeks approval of adults. A child judges themselves through the judgments of others. There is incompleteness. They have not found their purpose.

A country can exhibit the immaturity of a child when there is a sense of incompleteness; when the constitution is not complete and the institutional structures are still evolving; where mistakes are concealed to minimise responsibility; approval is sought from others, to defer to the judgments of others rather than seek wisdom. Australia is such a country. Australia is like a child waiting to be approved by adults in the rest of the world. Australia is an immature nation; it once sought approval from its United Kingdom parent, then from a surrogate parent the United States, now tacitly from another surrogate, China. Australians did not fight for freedom on their soil; instead, they fought on foreign lands; Turkey, France, Borneo, Papua. The citizens are ruled by the leader of a foreign country whose first allegiance is to that country. It took nearly a century after Federation for Australia to establish that the highest court in the land was the High Court of Australia. Until then, it was possible for litigants to appeal to the Privy Council in London. As former High Court Justice Gleeson asserted⁶³

“There came a time when the Privy Council accepted that the common law of Australia could differ from that of England. One example concerned awards of damages in defamation cases. Another concerned the liability of shipowners and their agents to compensate harbour authorities for damage to property. That case also involved the approach of the High Court to overruling its own previous decisions and the balance between judicial and legislative law reform. The Privy Council said that the High Court of Australia can best assess the national attitude on matters such as these.”

A foreign court determined that Australia should judge for itself.

The Privy Council is not the only foreign court to which Australia wrongly deferred. The Essendon supplements case concerned the legality of supplements given to Essendon Football Club players during the 2012 Australian Football League season. The case began in February 2013. Following three years of anti-doping investigation and legal proceedings, in January 2016, the Court of Arbitration of Sport (CAS) found the players guilty of using a peptide Thymosin Beta-4 (TB4). They were suspended for two years.⁶⁴ The CAS Panel found that “*neither statistics nor science could inculcate the players*”. However, the players were inculpated.

There was a profound injustice as discussed in the paper *Beyond Reasonable Doubt*.⁶⁵ The players were playing in an Australian competition (the Australian Football League), indigenous to Australia. They were cleared of a doping violation by the AFL tribunal. The World Anti-Doping Authority (WADA) ignored the determination of the tribunal and initiated a de novo action to appeal to the CAS. WADA did not appeal the tribunal’s judgment based on error in law. Rather, they initiated a new trial of the same matter. Court appeals are usually based on errors in law. A higher court determines whether a lower court judgment is unreasonable, wrong in law or not supported by the evidence. The determination of the CAS could not be appealed except to the Swiss Federal Court. It was not an appeal in the usual sense, because it could not be based on an error in law. The players were denied the right to appeal to an Australian court. It should have been to the High Court, not the Swiss Federal Court, but this was not possible. There was the same deference to authority that had allowed appeals to the Privy Council for so long. The politicians and public were too immature to recognise the importance of sovereignty. The absence of collective wisdom meant that the Essendon players were scapegoated. The collective immaturity meant the players paid the price.

The same immaturity has led to the deferral of legislation to protect whistleblowers. Parliamentary Committee after Committee made recommendations that were not enabled until there was an imperative to do so. Politicians should have respected the collective wisdom of those appearing before them. However, they listened but did not enable. Alternative voices not heard, policies on the back shelf, recommendations not enabled. The signature of political failure.⁶⁶ The signature of immaturity.

As written before,⁶⁷ in 1994-1995, I appeared before two Senate Committees on Public Interest Whistleblowing. The committees made fifty-five recommendations, one of which to establish a Federal Public Interest Disclosure Agency, an ICAC. It never happened. None of the other recommendations ever happened. It took twenty years for Federal Whistleblowing Legislation. In 2001, I appeared before a Senate Committee on universities. They recommended the establishment of a Universities Ombudsman, but it never happened. To not enable what has been recommended is a signature of immaturity.

Political immaturity has been demonstrated in the response to a False Claims Act. Since 1996, I have advocated for an Australian False Claims Act in articles⁶⁸ and submissions to Parliamentary inquiries. A False Claims Act (FCA) would be based on the US model that allows a whistleblower to initiate a lawsuit on behalf of the government. Any knowingly false claim on the Commonwealth would be liable under the FCA. The FCA has the advantage that it is simple, it formalises the partnership of government and whistleblowers, it incentivizes whistleblowing, it deters fraud, and it is cost effective. Since the 1986 amendments to the US FCA, the US Department of Justice has recovered more than \$70 billion of fraud, two-thirds arising from whistleblower-initiated lawsuits. A FCA is long overdue. If it had been implemented in 1996, it would have saved the country billions of dollars, and deterred billions of dollars of fraudulent claims.⁶⁹

Resistance to the FCA is based on the notion whistleblowers should not be rewarded, but this is a misconception of the risk. Rewards compensate for the risks of whistleblowing. In 2003, I wrote a newspaper article⁷⁰ advocating a FCA. Two days later the newspaper editorialized *Protect, Not Pay, Whistleblowers*. In 2012, when I was approached by an inquiry into the Building Education Revolution as to the possibility of a FCA, I wrote a paper recommending such an Act. The recommendation was ignored. When I proposed a FCA to the then Attorney-General in 2008 he replied that “it was too early for Australia.” It always is. It is a signature of immaturity.

Australia has deferred to the authority of other nations, failed to legislate what should have been legislated, and failed to codify the rights that other nations have codified. Whistleblowers have paid the price for a nation that has not codified its rights. Whistleblowers have paid the price for immaturity.

Ignorance

Ignorance is bliss, but not for whistleblowers.⁷¹ Socrates spoke of the wisdom of knowing that you do not know.⁷² *The Apology* refers to the risk of thinking you know too much

“I am wiser than this man, for neither of us appears to know anything great and good; but he fancies he knows something, although he knows nothing; whereas I, as I do not know anything, so I do not fancy I do.”

Socrates was advising us of the wisdom of uncertainty. To be wise is to be uncertain. Time has reinforced the logic of Socrates. Aristotle refined it to *“the more you know, the more you know you don't know.”* Socrates started the process and others understood.

Australia is blissfully ignorant, but not the ignorance of the uncertainty of Socrates, rather the ignorance related to the ignorance of a constitution enshrining a bill of rights. Sport rather than rights is the opiate of the masses. Sport allows contests to be determined where the nation benchmarks itself against others. Sport allows gambling on uncertainty. Sport and gambling are the two great addictions. Sport defines a culture of ignorance. Being at the end of the world, the great sources of knowledge were mainly imported. The renaissance did not happen in Australia. Australia was too late for a renaissance. The great scientific discoveries were not made in Australia, although there are some. Aristotle, Socrates, Mozart, Da Vinci, Kafka, Spinoza, Einstein, Turing, and Dostoevsky were imported, just as most ideas and goods are imported. A nation that began by importing convicts became the importer of the refined and exporter of the unrefined.

The problem with the blissfully ignorant is that they do not recognize their ignorance. They are too certain to know. Their ignorance has implications for whistleblowers. They judge with the certainty and excessive negativity that underwrites scapegoating. They defer to the rule of the mob, as posited in *Beyond Good and Evil*⁷³

“Fromm (1962) contends evil has its genesis in ignorance. Individuals do not understand that their indifference underwrites wrong. Individuals may also be indifferent because of the risk of being different. The mob is easier to join than to oppose. The mob incubates evil. Perhaps that is why the mafia is called the mob.”

Ignorance about whistleblowing was illustrated in two exchanges with senior politicians. The first was prior to the 1996 election soon after the Senate inquiries on whistleblowing. I asked a politician what the government would do about whistleblowing. He replied “*Whistleblowing, I think we fixed that.*” The politician did not understand the problem. He was blissfully ignorant and probably still is. National legislation was not introduced until 2014, and it has not fixed whistleblowing. Whistleblowing cannot be fixed so easily. An exchange with a Senator was illustrative. “*I have been a whistleblower all my life.*” Yet he never lost his job and remained in the Senate for 40 years. He had privilege.

Ignorance is costly. Many policymakers are ignorant of the subtleties of whistleblowing. Vaughn, Devine and Henderson proposed principles for an ideal whistleblowing law.⁷⁴ The principles are

1. Focus on the information disclosed, not the whistleblower.
2. Relate the law to freedom of expression laws.
3. Permit disclosure to different agencies in different forms.
4. Include compensation or incentives for disclosure.
5. Protect any disclosure, internal or external, citizen or employee.
6. Involve whistleblowers in the process of the evaluation of their disclosure.
7. Have standards of disclosure.

They are the principles of a whistleblowing model where the focus is on information and not on who discloses or receives the information, where economic incentives play a role, and where efficiency matters. But how many legislators in Australia would understand? Hence the reluctance to legislate a False Claims Act which allows whistleblowers to compete on a level playing field, where the whistleblower is incentivized and compensated for the risk, and where freedom to disclose information is protected. Freedom of disclosure cannot be protected in Australia without commensurate rights. Political ignorance has had consequences.

Ignorance becomes important in individual cases. Whistleblowing has many subtleties requiring judgments that are balanced, not judgments based on prejudice. Whistleblowers are scapegoated because bystanders focus on the whistleblower, not the wrongdoing. Whistleblowing is good in the abstract but not in my firm.⁷⁵

"There are now good whistleblowers and bad whistleblowers. The good whistleblower is the whistleblower who lives in another country, or who works for another organization (preferably a competitor), or who blew the whistle 50 years ago. The bad whistleblower is the whistleblower in your own organization who blows the whistle now."

Information and not the informant is what matters. The David Rindos case shows why.⁷⁶ Rindos was a senior lecturer in archaeology at the University of Western Australia. He blew the whistle on the conduct of Professor Sandra Bowdler in the same department. Rindos was a scholar of high repute.⁷⁷ His allegations were supported by depositions by many students. He was supported by the testimony of archaeologists across the world.⁷⁸ A report by two UWA Professors suggested that his allegations should be taken seriously. It was not enough. Rindos suffered retaliation. He was smeared. He was denied tenure. A Parliamentary Committee concluded

"Dr Rindos did not have adequate and fair opportunities to present his case and has not, in all circumstance, been afforded common law procedural fairness."

Few whistleblowers are afforded procedural fairness. Rindos was denied more than most. He died before the case could be resolved. I had visited him two months before he died. I advocated for his case. Many pushed for the inquiry to continue to resolve the matter. His death meant that was not possible, even though his allegations were still relevant. Rindos deserved better. The University of Western Australia denied him natural fairness.

Whistleblowers seek anonymity but rarely get it. They are often denied anonymity because others assume they are the source. My second whistleblowing case concerned a student who offered consulting opportunities to staff and a donation to the university.⁷⁹ In raising the question of propriety, I requested to be granted anonymity and protection. Neither were granted. After questioning, the student proceeded to my office to abuse me. It was not the last time. Whistleblowers are targets. They must learn to accept it.

Whistleblowers are sometimes blamed for matters for which they are not responsible. When newspaper articles appeared about the case,⁸⁰ I was blamed. I had refused to speak to the media. One journalist remarked, “*We know you are the whistleblower, but you are the only one who will not speak with us.*” I responded that I would only speak when I was assured of protection. It was not in my interest to speak to the media, but I was blamed. There was no logic to the blaming, except the logic of scapegoaters. Some years later when safe to do so, the student’s donation was accepted anonymously by the university. Anonymity protected the student and the university.

Corruption is a branching process. One anomaly is often a red flag for others. It is why the *US Foreign Corrupt Practices Act* uses red flags to flag potential corruption.⁸¹ Whistleblowers are like canaries in the coalmine. My first whistleblowing case involved fifteen colleagues and I writing to the Dean of the Business Faculty at RMIT⁸² requesting an inquiry. Of the sixteen who called for the inquiry, only two remained three years later. The matter was settled in the Victorian Supreme Court. In 1995, the Senate Committee on Unresolved Whistleblowing Cases suggested a further inquiry into the matters raised. It never happened.

There were red flags, but evidently not enough. In 2001, I was approached by several staff at RMIT concerning an issue of under enrolment of students. Staff were requested to sign up for online courses to correct the under enrolment. Some staff enrolled, did the assessment, and received a grade. Others enrolled but never did any form of assessment, yet still received a grade. Minutes from successive Departmental meetings illustrate

“Members were informed that the University had grave concerns about under enrolment in the VET sector. The University is under enrolled by 10.4%. The Acting Dean commended Entrée as a programme to increase VET numbers. The programme is available to students and is also offered to staff as a Staff Development Project. The programme would be offered free of charge to staff.”

“Members were informed that under enrolment in the VET sector was reduced to 5.8%. The Acting Dean wished to have his thanks noted to all those in the Faculty who had helped rectify the problem.”

An email from the Vice-Chancellor in January 1999 provided the final vote of thanks

“One of the major issues which caused considerable concern in 1998 was the slow progress we were making toward the achievement of our VET student contact hours target. Failure to achieve this would have resulted in considerable financial penalties for the University. You will be pleased to know that we have exceeded our target, in the third week of December. I write to thank everyone who has responded to the need to achieve this target. Some excellent work has been undertaken. Congratulations to all involved.”

Some may think it wrong for a university to enrol staff to cover a funding shortfall. Some may excuse it. When it was referred to the Auditor-General, they took no action. Right and wrong are ambiguous.

In 1996, two years after I left RMIT, the Faculty of Business moved into a building in Bourke Street Melbourne. The building was constructed in 1969 and in the 1980s, had housed various government departments including postal and telecommunications. In 1993, RMIT leased floors 4-17 of the building. It later bought and refurbished the building to be used by the Faculty of Business between May 1996 until August 2012. Each year the number of students in the Faculty of Business numbered in the thousands. In 2006, an article appeared in *The Age* relating to a cluster of brain tumours among staff working in the building.⁸³ Seven staff who worked on levels 15-17 contracted tumours. All seven staff subsequently died, but an epidemiology study cleared the building of radiation issues or other environmental factors. A newspaper article the following year in the *Herald Sun* alluded to the problem⁸⁴

“The top two floors were closed for more than two months last year over fears of a cancer cluster. An investigation into seven brain tumours revealed an additional 20 unreported tumours in staff and student but found that there was no cluster and the building and a nearby phone tower were not responsible for any tumours.”

Subsequently I became aware of other staff who had worked in the building and died from a variety of cancers. In 2006, the former Dean to whom I blew the whistle in 1992 died of a brain tumour. A colleague who joined Deakin University after working at RMIT, was diagnosed in 2008 with a brain tumour and died. There were others.

The building was riddled with asbestos. It was a seventeen-storey building with non-opening windows and an internal air conditioning system. In 2011-2012, RMIT removed the asbestos from the building. Documents pointed to the risk

“On Wednesday September 21, 2011, Level 16 was closed for half a day following a high fibre reading in an air monitor.” “It is stressed to all staff (and students) to eliminate the risk in their relocation, that they specifically do not remove any hardware or items directly affixed to walls or ceilings of Building 108, regardless of which level.”

Sick buildings are difficult to diagnose. Asbestos elevates carcinogenic risk, but asbestos-related brain tumours are relatively rare as noted by Westwick, Jansen, and Da Silva⁸⁵

“Brain metastases of mesothelioma are particularly uncommon, with approximately 100 cases documented, most commonly in autopsies of patients with mesothelioma.”

I gave the evidence summarised above to journalists and others. There was no response.

Whistleblowing is at the fulcrum of ethics. In ethical dilemmas I asked whether it was

- (1) Wrong for research monies to be used for the private interests of individuals.
- (2) Wrong for a student to offer consultancies to staff.
- (3) Wrong for a university to accept a donation from a student who had offered those consultancies to staff.
- (4) Wrong for staff to be enrolled to correct a problem of under enrolment.
- (5) Wrong not to fully investigate a cancer cluster in a building riddled with asbestos.

Evidently it was not so wrong for others. Right and wrong are difficult to arbitrate. What is ethics? We do not know. The answer is not in ethics courses. Spinoza wrote⁸⁶

“I pass to the remaining portion of my Ethics, concerned with the way leading to freedom. I shall therefore treat therein the power of reason, showing how far reason can control emotions, and what is the nature of mental freedom or blessedness; we shall then be able to see, how much more powerful the wise man is than the ignorant.”

However, the wise man may be more powerful than the ignorant, but still not know right. Ethics is contestable, yet the ignorant seem to be more certain of ethics than the wise.

I have written previously⁸⁷ that the modern use of whistleblowing began in the 1970's,⁸⁸ but that whistleblowing has a long and rich history. Many defining moments of history were written by whistleblowers. Jesus blew the whistle on the “robbers” in the temple; Gandhi blew the whistle on those who denied voting rights to Indians in South Africa; Rosa Parks blew the whistle on segregation in Alabama. All were whistleblowers. They shared a commitment to the force of truth that Gandhi referred to as satyagraha. Truth is the most important asset of whistleblowers but their most important liability.

The truth is often ambiguous. As an academic whistleblower, I often quoted the *Statement on Professional Ethics of the American Association of Professors*⁸⁹

“As a member of his community, the professor has the rights and obligations of any citizen. He measures the urgency of these obligations in the light of his responsibilities to his subject, to his students, to his profession, and to his institution. When he speaks or acts as a private person, he avoids creating the impression that he speaks or acts for his college or university. As a citizen engaged in a profession that depends upon freedom for its health and integrity, the professor has a particular obligation to promote conditions of free inquiry and to further public understanding of academic freedom.”

The statement separates professional ethics from other ethics, to focus on information, just as Vaughn, Devine, and Henderson⁹⁰ suggested for an ideal whistleblowing model.

We can never know the right formula for ethics. There may be other unknowns. Philosophers from Spinoza to Schopenhauer have pondered connections in the universe. In 2006 while visiting the University of Western Australia, I attended the wake of the Dean at RMIT to whom I blew the whistle in 1992. The Dean had supported me but did not support me when senior management had intervened. When asked to attend his wake, I reluctantly agreed. A eulogy was given by Bowdler, the respondent to David Rindos. We are ignorant of unseen connections. We are more connected than we think.

Ignorance is the incubator of scapegoating. The mob needs to find someone to blame, perhaps from guilt or the certainty of their judgment, but mainly from their ignorance. The mob are ignorant of right and wrong, but they do not have the wisdom to know that. They do not have the wisdom of Socrates.

Materialism

Money is a powerful aphrodisiac. Money changes incentives from the pure to less pure. Money generates excessive self-interest. As I wrote in *Beyond Beyond Good and Evil*⁹¹

“While self-interest is necessary for survival, unbounded self-interest is not. Unbounded self-interest fractures the absolute unity of the metaphysical will that underwrites us. Excessive self-interest generates negative externalities in problems like corruption,

Money is one reason for the emergence of whistleblowing. Monetary values have replaced other values. Values like truth and professional ethics, that whistleblowers regard as important, will never be priced on the stock exchange. We have seen significant institutional change in recent decades. Public entities accountable to taxpayers have become listed corporations accountable to shareholders, concerned with return on equity. But not ethics.⁹²

The mixing of public and private monies means self-interest and public interest conflict. The public-private partnerships that emerged to enable governments to stabilize public sector debt were the precursor to the privatisation of utilities, infrastructure and banks. Privatisation meant there were gaps in regulation. Whistleblowers became regulators.⁹³ Public institutions like universities began to behave like corporations⁹⁴

“When universities became corporations, the defining attributes of the old university were subordinated. The new constraints, which defined the institution, were the constraints of the market. It was market signals that were priced, not scholarship. Universities began to behave like firms with no shareholders, operating with a declining government subsidy, and trying to maximise sales in a market with excess demand. Student demand was paramount, and the determinants of demand became the determinants of the university. The constraints, which shaped the university, were now the number of students enrolled, the fees that were charged, the students’ ability to pay, the efficiency of the service and the quality of the product. Universities were competitors, competing on the basis of a quality-adjusted price.”

The values of the old university were replaced by the values of the market.

When the objective is to maximise wealth, systemic corruption may and does follow. Corruption has become so embedded in institutions that it is no longer seen as corrupt. We no longer question why the senior management of Australian universities are so unaccountable, while the casual staff who underpin the university are so accountable. We no longer question the excessive salary of a CEO relative to the average employee. We no longer question what we once questioned. We no longer question exploitation. We have become inured to unfairness.

Mandated regulators regulate to minimise systemic risk; they want the system to cohere. Their monopoly power hermetically seals institutions, an expression used by a regulator in describing the regulation of universities. It could have been used by any regulator. Many regulators see whistleblowers as competitors, sometimes even a threat. Whistleblowers risk the cohesion of the regulatory network. It is why they are exiled. Whistleblowers value intangibles that the network does not value.

Money distorts the ethical balance sheet. Money becomes the principal measure of value. Money is measurable. Money can be maximised. Money is tangible and observable whereas truth is intangible. Money has replaced the spiritual. The spiritual is intangible. The spiritual is too individual to be measured. The spiritual cannot be taught in universities, schools, or on television. Hence the rise of atheism and excessive self-belief; the rise of dispassion and not compassion; and the extinction of species other than Man. Money has become the arbiter of who we are.

Money renders whistleblowers easy to scapegoat. They become the scapegoats of networks because they do not subscribe to maximising self-interest and monetary wealth. They are outsiders because their balance sheet diverges from the balance sheet of others. The firm uses money as the dominant and only value. The firm represses using income. The firm promotes using increments of income. The firm scapegoats by taking income away and removing access to income. Money is the instrument of scapegoating. Whistleblowers must survive without compensation and without monetary support. The importance of money was seen in the cases of Alwyn Johnson and Albert Lombardo. Money was pivotal to both.

Whistleblowers are indebted to Alwyn Johnson.⁹⁵ His case led to the first Australian Senate inquiry into whistleblowing. Senator Newman moved a motion for an inquiry with

“The whistleblowers who have come to my attention have not gone public. There is a misapprehension abroad that whistleblowers are somehow disloyal to the organisation for which they work because they go public. Frequently, they do not go public; they go to a very senior officer and then the organisation punishes them accordingly. I have had this concern for a long time. What finally moved me to take action was not a case in the public sector but a case in the private sector, in my home state of Tasmania.”

Johnson had two whistleblowing cases. The first was profiled by Grace and Cohen.⁹⁶ He had extensive experience in banking. He was chief manager at the state-owned Tasmania Bank when he identified an exposure to non-performing loans. In June 1990 he wrote an anonymous letter to the Premier of Tasmania. External auditors were brought in, and a \$150 million exposure revealed. The bank’s managing director resigned. The writer of the anonymous letter was thanked by the Board. In March 1991 Tasmania Bank merged with the SBT bank to form the Trust Bank. The Trust Bank was a private bank. There were no shareholders. The corporate structure made it difficult to blow the whistle.

Johnson identified serious problems at the highest levels of the Trust Bank. He approached the Premier of Tasmania. He was unresponsive. There was no whistleblowing legislation. Banking regulation was flawed in 1991; and it is still flawed. Johnson turned to the possible regulator, the Governor of the Reserve Bank of Australia. That’s where his problems began. On July 1, 1991 Johnson advised the Governor of the problems at the Trust Bank. On July 2 the Governor rang the CEO of the Trust Bank, and on July 3 Johnson was sacked. The one-two-three punch of whistleblowing; blow the whistle, confidentiality breached and retaliated against. It was a textbook case of reprisal. The Trust Bank was the largest bank in Tasmania with 45% of all Tasmanian deposits. It took nearly ten years before an inquiry into the case conducted by a Queens Counsel. The inquiry found unequivocally in Johnson’s favour, *“he deserved compensation for wrongful dismissal, loss, pain and suffering, defamation and loss of the amenities of life”*. He had saved the taxpayers of Tasmania \$300 million in the two whistleblowing cases. He was not compensated.

Albert Lombardo owned a lead recovery and battery recycling business in Melbourne. This account is from Keith Potter⁹⁷

“Planning constraints had motivated vested interests to seek to acquire the company’s site, but Lombardo would not sell. Lombardo alleged that the vested interests had then used Victoria’s Environment Protection Authority (EPA) to force him out of his business. The company had used heavy machinery to lawfully retrieve lead from illegally dumped slag wastes at a nearby domestic tip. However, this attracted the attention of the EPA. The EPA had turned a blind eye to the dumping, saving offenders thousands of dollars. Lombardo reported the dumping to the police and the EPA. However, the authorities took no action. Instead, they forced the closure of his operations. The EPA prohibited the company from using its lead-melting furnace, alleging it was emitting excessive smoke, even though no tests were conducted. The EPA alleged the company was dumping battery acid in an adjoining public drain, even though the pH acidic levels indicated otherwise. The EPA served notices prohibiting the company from operating; and finally laid criminal charges against him. His wife had a stroke and died on hearing of the charges. The EPA withdrew the charges the next day.

Lombardo was Italian and not fluent in English. He had planned to defend himself in the Magistrates Court with the aid of an interpreter, but the EPA dropped the charges, thereby avoiding the only opportunity for a judicial hearing on the merits of the case. Eventually the authorities purchased the company’s site for some major road works. Despite representations by parliamentarians including the Shadow Attorney-General, Albert Lombardo was never afforded restitution.”

Alwyn Johnson and Albert Lombardo amplify why money is pivotal to whistleblowing. Money generates excessive self-interest; natural fairness becomes an afterthought; sometimes the afterthought is too late. Albert Lombardo’s case was a tragedy. There have been many others, a consequence of scapegoating, betrayal, and lack of compassion. Thomas Curnow, Mehmet Skrijel, Albert Lombardo, Alwyn Johnson, Witness K, Stan van de Wiel, Lori O’Keefe, Karl Konrad, Lesley Pinson, Debbie Locke, Toni Hoffman, have shown how dispassionate Australia has been towards those fighting for their rights. It is the story of excessive materialism.

Tokenism

There is a prejudice in Australia, the prejudice of ignorance and negative judgment that has its genesis in the anchoring of minds (see *Beyond Beyond Good and Evil*, p.36).⁹⁸ The prejudice of scapegoating, where the whistleblower is judged by one attribute only, and not by other attributes; the prejudice of condescension towards the whistleblower; and the doubling down to justify the scapegoating. The prejudice becomes self-fulfilling. The scapegoating is complete but there is one missing element: tokenism.

Tokenism is the offset to prejudice; window dressing designed to disguise the dispassion. Lee⁹⁹ describes tokensim as a sophisticated way of making institutions look progressive. Token appointments are used to defend institutions against charges of sexism, racism, homophobia, ableism. Tokensim disguises the hierarchical preference structure. Tokenism is more general than making the institutions look better than they are. Tokenism is a deception that makes the nominal seem real. Australia specialises in it. Having said sorry a century too late, Australians acknowledge the aboriginal people in the prefaces of every speech, yet there is no such acknowledgment in the Constitution. Prefatory acknowledgements may purge the guilt, but only when the conscience is false. A real conscience would find guilt in the dispassion of the present.

Whistleblowers understand tokenism better than most; in freedom of information requests denied or so heavily redacted as to be nearly denied; in recommendations of Senate Committees that have never been enabled or been enabled too late; in the failure to establish a public interest disclosure agency or Federal Anti-Corruption Commission; in the failure to enable a False Claims Act; in the failure to enact uniform Federal whistleblowing legislation until twenty years after it had been proposed; and in the failure to prosecute any individual or any firm for retaliation against a whistleblower.

Retaliation is typically invisible. Whistleblowers are put on the slow drip of retaliation, while wrongdoers are promoted, generating a gap observed only by the whistleblower.¹⁰⁰ The gap is the price of the tokenism that protects whistleblowers in name only. Retaliation is a hate crime, but it will never be so regarded. There is no statute for hate. Whistleblowers become targets. Whistleblowers are exiled like the ostracised in Athens, but the Athenians did not disguise it with tokenism.

Whistleblowers are subjected to many forms of retaliation, from the petty to the serious. Hate letters, surveillance, property tampering, workplace retribution, and limitless smearing and betrayal, the retaliators' handbook is a compendium replete with malice. Retaliators show more imagination than they ever showed before. Finding their niche, they are supported by accomplices, bystanders who become their scapegoating partners. Hate is not easy to redress.

In 1996, I organised a national conference of *Whistleblowers Australia* in Melbourne. At the time, we were calling for a Royal Commission into the National Crime Authority based on the case of Mehmet Skrijel. Nearly one hundred people attended the conference. Most were whistleblowers. When I returned after issuing a press release, I found that a box containing cash, cheques and the list of attendees was taken. I reported it as stolen. Two months later, a legal case involving the National Crime Authority was determined. The judge ruled they had acted beyond their authority. The next day I received the cash and cheques from the conference in my post office box, but not the list of attendees.

Julian Assange attended the conference. Wikileaks was born out of the inability of whistleblowers to reveal the truth. Wikileaks became a whistleblowing clearing house. Assange was scapegoated by those who did not want the truth and scapegoated by those who profited from the truth. Assange was exiled. He was denied the right to a fair trial. Assange is the modern scapegoat. Australia produced him but would not support him. Australia was a bystander.

Nothing has changed since I first blew the whistle. A nation born a penal colony has not freed itself from the immaturity, ignorance, materialism and tokenism of a penal colony. At Edwardsville, Lincoln spoke of the importance of freedom¹⁰¹

“What constitutes the bulwark of our own liberty and independence? It is not our frowning battlements, our bristling sea coasts, the guns of our war steamers, or the strength of our gallant and disciplined army... Our defense is in the preservation of the spirit which prizes liberty as the heritage of all men, in all lands, everywhere. Destroy this spirit, and you have planted the seeds of despotism around your own doors.”

Lincoln knew what freedom meant. The False Claims Act is Lincoln's Law.¹⁰²

Australia has no Bill of Rights, and its Constitution makes no specific reference to rights. If rights are assumed and not stated, then rights will depend on statutory interpretation. On July 30, 1778, the United States Congress passed a whistleblowing resolution¹⁰³

“That it is the duty of all persons in the service of the United States, as well as all other the inhabitants thereof, to give the earliest information to Congress or other proper authority of any misconduct, frauds or misdemeanours committed by any officers or persons in the service of these states, which may come to their knowledge.”

The resolution was years before the 1791 First Amendment protecting freedom of speech. Many signatories to the resolution were also signatories to the First Amendment. The whistleblowing resolution was a preamble to the First Amendment. The US Senate has designated July 30 as National Whistleblower Appreciation Day.

Australia is unlikely to commemorate its own National Whistleblower Appreciation Day. It would require too much of an inversion, for how could such a day be commemorated without citing Thomas Curnow, Mehmet Skrijel, Alwyn Johnson, or Julian Assange? Whistleblowing is more contestable than other rights, and even those rights are not stated. Whistleblowers will have to depend on laws that do not protect them but protect politicians who think they have fixed it. Such is life for the Australian whistleblower. Thomas Curnow understood.

Can culture change? France is ambiguous about whistleblowing,¹⁰⁴ perhaps it is cultural. France does not subscribe as much as other nations to the singularity of right and wrong. Whistleblowing is ambiguous. Right and wrong are always weighed on different scales. Right and wrong are contestable. Whistleblowing brings the contest to the surface. Whistleblowing allows the prejudice of one to become the prejudice of the many. Whistleblowing brings out the scapegoaters.

Scapegoating has a long history, but no country has scapegoated more than Australia, from aborigines, minorities, refugees, football players, intellectuals, to whistleblowers. The scapegoating of Novak Djokovic was of a nation that has done it before.¹⁰⁵ Scapegoating is the rule of a mob that prefers to be the prison guard and not the prisoner. The mob is not always right. The Gods may see things differently.

5. Reflection

There are whistleblowing survival guides, but every whistleblower must write their own. Every whistleblower must accept the unacceptable truth that they are scapegoats. Whistleblowers are not ordinary persons, but neither are they heroes. They are people exercising professional responsibility. The psychology of whistleblowing is complex. The psychology has three components; the psychology of the whistleblower, the psychology of the game, and the psychology of how to survive.

Samuel Oliner¹⁰⁶ conducted a large study of altruistic behaviour of four hundred people who risked their lives to rescue Jews in Nazi-occupied Europe. He contrasted their behaviour with seventy people who did nothing. In comparison to the bystanders, the rescuers were more empathetic, underscored by their sense of fairness and responsibility. Yet they were more tolerant. In my experience, most whistleblowers exhibit fairness and responsibility. Their commitment is to another type of stranger, the unknown other. A whistleblower knows a bureaucrat employing a relative is unfair to an unknown other. A whistleblower knows a company paying a bribe is being unfair to an unknown other. A whistleblower knows when a company ignores safety, it is unfair to an unknown other. Whistleblowers protect the rights of the unknown other. They don't need codes of ethics. Their code is professional responsibility.

Whistleblowers are often unprepared for what follows. The whistleblower believes in a system they think they know, but don't. They must learn a new system defined by a network that recognizes the obligation to the network rather than to procedural fairness. The game of whistleblowing often involves hate, and hate is a powerful emotion. Those who had no propensity for hate, find the propensity when someone blows the whistle. We study forces in physics; electricity, gravity, magnetism, but have little understanding of the psychological forces that control us. The forces converge on the whistleblower. Whistleblowing is the test of ethics, loyalty, legality, inversion, and values described in *The Test Called Whistleblowing*.¹⁰⁷ To survive, a whistleblower needs to find belief. They must detach, but not forget. They must learn the importance of being unimportant.

The Importance of Being Unimportant¹⁰⁸

Unimportance confers dividends,
To the unimportant there is never pretence,
Rather there is the revelation,
Of whom they are, without qualification.
Unimportance confers space,
Crowding out is never in your place,
Rather you have the time for solitude,
And the benefits of your own exactitude.
Unimportance confers silence,
With noise you can dispense,
Rather you can listen to the voice which matters.

Whistleblowers are not unimportant. They are the disinfectants of corruption,¹⁰⁹ who are wedged between the legitimacy of whistleblowing and the legitimacy of others. Whistleblowing interfaces the trial of good and evil. In *Beyond Beyond Good and Evil*,¹¹⁰ I wrote that good and evil are too intangible for us to know, but I regard them as forces. The contest between them is in all of us. No one is pure evil, and no one is pure good. Whistleblowing reinforces evil, for hate and betrayal could never be regarded as good. In *Karma: The Unobservable of Existence*¹¹¹, I wrote of the problem of ignorance, that life is unfair because we cannot answer the questions that need to be answered; we do not know whether the universe arbitrates us; and we do not know whether we have a soul. We are bounded by ignorance. so that when we perceive injustice, we invoke karma.

My observations have suggested that whistleblowing is more deterministic than we think. I may not have experienced multiple whistleblowing cases without a reason. Whistleblowing provides insights into how the universe works in calibrating karma. Whistleblowers become outsiders who see networks better than networks see themselves, Whistleblowers understand how the prejudice of one can become the prejudice of many. I have often reflected on the *Outsider*.¹¹² We all may have a brother in the universe; a brother that observes and does not judge, the indifferent brother that understands.

It is the dividend of the whistleblower.

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APPENDIX

*The Man Who Blew the Whistle on Ned Kelly*¹¹³

History, particularly Australian history, tends to invert the truth. Whistleblowers know that better than most. Villains become heroes because of who they were not; and heroes become the unknowns they should not be. Such is the case of Ned Kelly and Thomas Curnow. Curnow is one of those great Australians we should all know of. He blew the whistle on Ned Kelly. While Kelly is known to everyone, Curnow is unknown to nearly everyone. It is one of our great inversions.

Thomas Curnow had been the schoolteacher in Glenrowan for four years. On Sunday June 27, 1880, he and his family were taken prisoner by the Kelly gang in the Glenrowan Inn. An account by Linton Briggs summarises how Curnow acted.

“Curnow becomes aware of the Kellys’ plan to derail the Police Special Train, and anxious to intervene, he convinces Ned that he is a sympathiser and to allow him to return his unwell family to their home in the old township. Ned is swayed and permits this. Curnow—leaving his wife and child at home—then takes his sister’s red scarf and a candle to the railway line to flag down the train. He succeeds in getting the pilot engine to halt, thereby foiling the gang’s plan to wreck the Police Special Train. Instead, the police mount their own assault on Ann Jones’ Inn, which results in the fall of the Kelly gang.”

In Curnow’s own account to the Royal Commission that followed, his motivation was clear. Curnow had learnt three things while imprisoned by the Kellys. First, that the Police Special Train not only had police on board but also civilians; secondly that the Kellys intended to shoot those who escaped death from the wrecked train including civilians; and thirdly that the Kellys had shot police at or near Beechworth the previous night. Curnow stated that his sole motive was to save life, to uphold justice and to secure as far as possible the safety of his family. Curnow acted in the public interest but at great cost to himself. Curnow was the good Samaritan that we should have remembered. Curnow was the one we forgot.

Curnow knew some of the risk *ex ante*; in testimony to the Royal Commission, he stated that Ned Kelly declared to those imprisoned at the Glenrowan Inn that he would have the life of anyone who aided the police or showed friendly feeling for them, and he could and would find them out. Kelly's last words to Curnow were "See you go to bed and don't dream too loud, or you will be shot." Unsurprisingly, after stopping the train, Curnow returned home to find his wife greatly troubled; they blew the lights out and hid the red scarf, the wet clothes and the candle. Ned Kelly was not someone to cross.

But Curnow did not understand all the risks of his whistleblowing. While he received a reward variously estimated as £550 to £800 (of the £8,000 on offer), and the Silver Medal of the Victorian Humane Society, Curnow became a pariah to many, and an unknown to later generations. After the siege at Glenrowan, Curnow was granted a week's leave of absence to pack up and leave Glenrowan, for North-East Victoria was Kelly country. Curnow taught for some time under an assumed name in Gippsland but later settled in Ballarat where, according to one report at the time, he was given a resounding welcome by a crowd of four or five hundred at the Mechanics' Institute. It was a reception he should have received more often.

Curnow was not discriminated against in his employment or by the government; but he has been discriminated against in our collective memory. Ned Kelly was larger than life; Curnow was not. Kelly wore a suit of armour; Curnow did not. Kelly declared support for a Republic of North-Eastern Victoria; Curnow did not. Instead, through his actions, he declared support for the rights of others. Kelly has been memorialised and Curnow forgotten. Kelly would say "Such is life," but only if it is allowed to be so.

I am not the first to champion the cause of Thomas Curnow, but I am one of the first to champion him as a whistleblower. Curnow was a whistleblower who was discriminated against not so much in his time, but after his time. Whistleblowing is more than revealing the malpractices of this age; whistleblowing is also about changing a culture that has falsely commemorated the past. Geoffrey Robertson has used the phrase "doing a Tom Curnow" to remember Curnow's selflessness. It is a phrase that should be part of Australian idiom because one day any one of us could be on the train to Glenrowan.

*The Man Who Blew the Whistle on Drug Trafficking*¹¹⁴

In March 1978, a South Australian cray fisherman, Mr Mehmet Skrijel observed heroin being dropped from a ship in waters near Southend, South Australia. Mr Skrijel reported his observations to the South Australian police, and so began one of the most complex and extreme whistleblowing cases in Australia, a case spanning more than twenty years.

Mr Skrijel's allegations were investigated initially by the South Australian police, but the trafficking continued, and no persons were arrested. As a result of his disclosures, Mr Skrijel became the subject of extraordinary harassment which initially included the burning of his boat, and a primary and secondary boycott of his crayfishing enterprise. No action was taken by the authorities on this boycott, yet it had been referred to the Trade Practices Commission.

Later, the harassment of Mr Skrijel became more extreme. During the period 1978-82, his business suffered systematic property damage. In 1982, there was an attempted rape of his 12-year-old daughter. His house was subsequently destroyed by arsonists and, in 1988, his car was destroyed by fire at Tullamarine Airport in Melbourne after an article had appeared in the press. There were no convictions of any persons in relation to these incidents, nor in relation to the original claims of drug trafficking.

In 1983, Mr Skrijel referred his complaints to the Costigan Royal Commission (the Royal Commission on the Activities of the Federated Ship Painters and Dockers Union)¹¹⁵ and in December 1984 to the National Crime Authority (NCA). The NCA began investigating Mr Skrijel's complaints in 1985. However, in October 1985, Mr Skrijel himself was charged with illegal possession of drugs, explosives and firearms by officers of the NCA. In 1987, Mr Skrijel was convicted of these offences and subsequently served six months in Pentridge Prison, Melbourne.

Mr Skrijel successfully appealed his conviction in the Victorian Court of Appeal in 1988, arguing that the evidence against him was fabricated. The judges accepted that there was an anomaly in the evidence and the conviction was quashed. Despite the order from the court that Mr Skrijel be given a new trial, the Office of the Public Prosecutor (DPP) in Victoria entered a *nolle prosequi* with respect to the charges. There was no retrial.

Mr Skrijel responded in various ways to his ordeal. He and his family were compelled at one point to live in a tent in the bush because of fear for their lives. Mr Skrijel protested for one hundred and twenty days outside Parliament House in Canberra during the 1980s, including a period of twenty-five days spent on a hunger strike. He made many representations to state and Federal politicians, the majority of whom failed to respond. He was supported by community groups like the North Belconnen Baptist Church.

In 1990, Mr Skrijel's case was referred to the Joint Parliamentary Committee on the NCA as three of the four officers involved in the arrest of Mr Skrijel were officers of the NCA. Mr Skrijel presented a detailed summary of his case in Submission 19 to the Committee. The Committee recommended an inquiry into the matters raised by Mr Skrijel, but the Federal Attorney-General's Department advised against an inquiry. Eventually, in 1993, Mr Skrijel obtained a limited inquiry into the circumstances of his conviction. The inquiry was conducted by an independent Queens Counsel, Mr. David Quick who reported to the Attorney-General and Minister for Justice on April 4, 1995.

The findings of Mr Quick were unequivocal. He stated

“In my opinion, there is substantial evidence upon which it is reasonable to base a strong suspicion that evidence was fabricated in order to incriminate Mr Skrijel on serious criminal charges involving drugs and explosives.”

He recommended that

“A more formal investigation be carried out in relation to some of the allegations made by Mr Skrijel. That such investigations have coercive powers of investigation and be conducted the Royal Commissions Act of 1902. For the purpose of such further investigation, it should be assumed that Mr Skrijel was not guilty of the offences.”

Mr Quick recommended a Royal Commission. Given Mr Skrijel's observations of drug trafficking and the possible complicity of authorities, it was an extremely serious matter. However, only two of the ten members of the Joint Parliamentary Committee voted to institute a Royal Commission. Despite representations from whistleblowing advocates, the Royal Commission never happened. Mr Skrijel was denied natural justice.

ENDNOTES

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- ¹ Forsdyke, S. (2000). "Exile, Ostracism and the Athenian Democracy," *Classical Antiquity*, 19(2), 232-263.
- ² Girard, R. (1986). *The Scapegoat*. translated by Yvonne Freccero. Baltimore: Johns Hopkins University Press.
- ³ Campbell, C. (2011). *Scapegoat. A History of Blaming Other People*. London: Duckworth Overlook.
- ⁴ Girard suggests scapegoats were like the great legislators who never legislated in their lifetime but were thought to be sacred because of their reconciliation of violence.
- ⁵ Kafka, F. (1925). *The Trial*. Berlin: Verlag Die Schmiede.
- ⁶ Sawyer, K. R. (2002). "Whistleblowing and the Trial: A Kafkaesque Experience," *The Whistle* July 2002, <https://www.bmartin.cc/dissent/>
- ⁷ Sawyer, K.R. (2015). "The Invisible Hand: When the Firm Becomes the Bully," https://www.researchgate.net/publication/277005410_The_Invisible_Hand_When_the_Firm_Becomes_the_Bully
- ⁸ https://en.wikipedia.org/wiki/Jeffrey_Wigand
- ⁹ https://en.wikipedia.org/wiki/Erin_Brockovich
- ¹⁰ <https://time.com/5793757/the-whistleblowers-100-women-of-the-year/>
- ¹¹ <https://amerares.com/blogs/frinvblog/in-memoriam-the-federal-government-should-never-leave-whistleblowers-to-their-own-fates-against-much-more-powerful-employers/>
- ¹² https://en.wikipedia.org/wiki/Philip_Bowman
- ¹³ <https://www.jeffmorris.com.au/>
- ¹⁴ https://wikileaks.org/wiki/Allan_Kessing
- ¹⁵ https://en.wikipedia.org/wiki/Toni_Hoffman
- ¹⁶ The case is profiled at https://en.wikipedia.org/wiki/Alfred_Dreyfus.
- ¹⁷ <https://www.britannica.com/topic/Jaccuse>
- ¹⁸ Robert Steele first brought Dreyfus to my attention.
- ¹⁹ The Dreyfusards were those who wanted Dreyfus exonerated.
- ²⁰ Katz, G. and M. Lenglet (2010). "Whistleblowing in French Corporations: Anatomy of a National Taboo," *Philosophy of Management*, 9, 1, 103-121.
- ²¹ <http://www.dreyfus.culture.fr/en/dreyfus-and-his-family/the-support-of-family-and-friends/bernard-lazare-the-first-dreyfusard.htm>
- ²² Drake, D. (2015) Review of The Dreyfus Affair and the Rise of the French Public Intellectual. by Tom Conner. *French Studies: A Quarterly Review*, 69,3, 410.
- ²³ The following passage concerning the Dreyfus case is attributed to Clemenceau
- "What irony is this that men should have stormed the Bastille, guillotined their king and promoted a major revolution, only to discover in the end that it had become impossible to get a man tried in accordance with the law!"*
- Clemenceau, *Contre la Justice* (Paris 1900).

-
- ²⁴ Mounier-Kuhn, A. (8 August 2014). "L'asphyxie d'Émile Zola". *Le Temps* (in French). pp. 8–9.
- ²⁵ Goldberg, H. (1958). "Jean Jaurès and the Jewish Question: The Evolution of a Position," *Jewish Social Studies*, 20,2, 67-94.
- ²⁶ Sawyer, K.R. (2020a). "Beyond Beyond Good and Evil," [https://www.researchgate.net/publication/339939415 Beyond Beyond Good and Evil](https://www.researchgate.net/publication/339939415_Beyond_Beyond_Good_and_Evil)
- ²⁷ Goldberg, H. (1958, p.72). Op. cit.
- ²⁸ https://en.wikipedia.org/wiki/Jean_Jaur%C3%A8s
- ²⁹ http://www.dreyfus.culture.fr/en/the-aftermath-of-the-affair/intellectuals-in-politics/media-77-Manuscrit_by_Malraux_in_which_he_evokes_Jaures.htm
- ³⁰ Arendt, H. (1942). "From the Dreyfus Affair to France Today," *Jewish Social Studies*, 4(3), 195-240.
- ³¹ Langer, W. (1972). *The Mind of Adolf Hitler*. New York: Basic Books.
- ³² Mill, J.S (1867). Inaugural address, University of St. Andrews, February 1. https://en.wikisource.org/wiki/Inaugural_address_delivered_to_the_University_of_St._Andrews,_Feb._1st_1867
- ³³ Sawyer, K.R. (2020a). Op. cit.
- ³⁴ Sawyer, K. R. (2010). *Trial with No Exit*. Book Pal.
- ³⁵ Sawyer, K.R. (2020a). Op. cit.
- ³⁶ Firth, R. (1952). Ethical Absolutism and the Ideal Observer, *Philosophy and Phenomenological Research*, 12, 3, 317-345.
- ³⁷ Sawyer, K. R. (2013). *Poetica*.
- ³⁸ Sawyer, K.R. (2018a). "Synchronicity and the Search for Significance," *Significance*, 15,6,34-37.
- ³⁹ Sawyer, K.R (2018b). "Karma the Unobservable of Existence," [https://www.researchgate.net/publication/325986798 Karma The Unobservable of Existence](https://www.researchgate.net/publication/325986798_Karma_The_Unobservable_of_Existence)
- ⁴⁰ Sawyer, K.R. (2021c). "The Contract of Existence," [https://www.researchgate.net/publication/350874483 The Contract of Existence](https://www.researchgate.net/publication/350874483_The_Contract_of_Existence)
- ⁴¹ Bronkurst, J. (2011). *Karma*. Hawaii: University of Hawaii Press.
- ⁴² Rousseau, J-J. (1979). *Reveries of the Solitary Walker*. Translated by Peter France. London: Penguin.
- ⁴³ Sawyer, K.R. (2020a). Op. cit.
- ⁴⁴ Sawyer, K.R. (2005). "The Test Called Whistleblowing," [https://www.researchgate.net/publication/252570095 The Test Called Whistleblowing](https://www.researchgate.net/publication/252570095_The_Test_Called_Whistleblowing)
- ⁴⁵ "Aux grands hommes la patrie reconnaissante."
- ⁴⁶ Vaughn, R., Devine, T. and K. Henderson (2003). "The Whistleblower Statute Prepared for the Organization of American States and the Global Legal Revolution Protecting Whistleblowers", *George Washington International Law Review* 35(4), 857-902.

-
- ⁴⁷ Sawyer, K.R. (2022c). *The Whistle*, April 2022. *The Whistle*, 110, https://www.bmartin.cc/dissent/contacts/au_wba/
- ⁴⁸ *The Public Interest Revisited: Report of The Senate Select Committee On Unresolved Whistleblower Cases*. October 1995
- ⁴⁹ *The Public Interest Revisited* (1995). Op. cit. p.130.
- ⁵⁰ Scalia, A. (1989). "The Rule of Law as a Law of Rules," *The University of Chicago Law Review*, 56,4, 1175-1188.
- ⁵¹ The Dreyfus-Judas connection is explored by Reynolds, S. (2011) "One Traitor or Another: The Dreyfus-Judas Connection during the Dreyfus Affair," *University of Florida | Journal of Undergraduate Research | Volume 13, Issue 1 | Fall 2011*.
- ⁵² <https://www.spectator.com.au/2020/09/mr-morrison-tear-down-these-walls/>
- ⁵³ Sawyer, K.R. (2020b). "Risk Management of a Pandemic," https://www.researchgate.net/publication/344339153_Risk_Management_of_a_Pandemic
- ⁵⁴ Sawyer, K.R. (2021b). "Bureaucracy and Bureaumania," https://www.researchgate.net/publication/356419075_Bureaucracy_and_Bureaumania
- ⁵⁵ Sawyer, K.R. (2004). "Courage Without Mateship," https://www.researchgate.net/publication/228511153_Courage_Without_Mateship
- ⁵⁶ Sawyer, K.R. (2016). https://www.bmartin.cc/dissent/contacts/au_wba/whistle201610.pdf
- ⁵⁷ Sawyer, K. R. (2013). Op. cit.
- ⁵⁸ January 27, 1838 Address Before the Young Men's Lyceum, Springfield
- ⁵⁹ The Australian Constitution. <https://www.aph.gov.au/constitution>.
- ⁶⁰ Senate Select Committee on Public Interest Whistleblowing (1994). In the Public Interest, The Parliament of the Commonwealth of Australia. https://www.aph.gov.au/binaries/senate/committee/history/uwb_ctte/pi/report.pdf
- ⁶¹ Chile is now considering a new constitution. <https://www.nytimes.com/2021/12/28/climate/chile-constitution-climate-change.html>
- ⁶² Bruner, Jerome S. (1 January 1972). "Nature and Uses of Immaturity". *American Psychologist*. 27 (8): 687–708.
- ⁶³ Gleeson, M. (1988). http://www.hcourt.gov.au/assets/publications/speeches/former-justices/gleeson/cj_cj_18jun08.pdf
- ⁶⁴ Sawyer, K. R (2021a). "Beyond Reasonable Doubt," https://www.researchgate.net/publication/352212561_Beyond_Reasonable_Doubt
- ⁶⁵ Sawyer, K. R (2021a). Op. cit.
- ⁶⁶ Extracted from Sawyer, K.R. (2022a). "Government COVID Response a Series of Policy Failures," *Independent Australia January 8*. <https://independentaustralia.net/politics/politics-display/government-covid-response-a-series-of-policy-failure,15914>
- ⁶⁷ Sawyer, K.R. (2022a). Op. cit.

-
- ⁶⁸ Sawyer, K.R. (2011). "Lincoln's Law: An Analysis of an Australian False Claims Act," https://www.researchgate.net/publication/228207422_Lincoln's_Law_An_Analysis_of_an_Australian_False_Claims_Act
- ⁶⁹ Based on estimates given in W. Stringer (1996) "The 1986 False Claims Act Amendments: An Assessment of Economic Impact," An Economic Study Commissioned by *Taxpayers Against Fraud, The False Claims Act Legal Center*.
- ⁷⁰ Sawyer, K.R. (2003). "Let's Encourage Whistleblowers," *The Age, January 13*.
- ⁷¹ The introductory paragraph is extracted from Weyser, C. (2019). *Apophthegmata: Essays from Paris*.
- ⁷² G. Fine (2008) "Does Socrates Claim to Know that He knows Nothing?" *Oxford Studies in Ancient Philosophy*, 35, 49-88.
- ⁷³ Sawyer, K.R. (2020a). Op. cit.
- ⁷⁴ Vaughn, R., Devine, T. and K. Henderson (2003). "The Whistleblower Statute Prepared for the Organization of American States and the Global Legal Revolution Protecting Whistleblowers", *George Washington International Law Review* 35(4), 857-902.
- ⁷⁵ Sawyer, K.R. (2004). Op. cit.
- ⁷⁶ The case is fully discussed in De Maria, W. (1999). *Deadly Disclosures. Whistleblowing and the Ethical Meltdown of Australia*. South Australia: Wakefield Press.
- ⁷⁷ His best-known work is Rindos, D. (1984). *The Origins of Agriculture. An Evolutionary Perspective*. Academic Press.
- ⁷⁸ The website housing the depositions is at <http://rindos-anthropology.webapps.buffalo.edu/>
- ⁷⁹ The two whistleblowing cases are discussed in Sawyer, K.R. (2001). Submission 91 to the 2001 Senate inquiry, *Universities in Crisis*. https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_Employment_and_Workplace_Relations/Completed_inquiries/1999-02/public_uni/submissions/sublist
- ⁸⁰ The Age September 11, 2000, SMH January 2001, SMH February 9, 2001.
- ⁸¹ Department of Justice and Securities Exchange Commission (2012). A resource guide to the *US Foreign Corrupt Practices Act*, www.justice.gov/criminal/fraud/fcpa.
- ⁸² Sawyer, K.R. (2001). Op. cit.
- ⁸³ *The Age*, May 30, 2006. "The Mystery of Building 108".
- ⁸⁴ *Herald Sun*, October 13, 2007.
- ⁸⁵ Westwick, H., Jansen, G., and Da Silva, V. (2013). "Neurosurgical Management of Intracranial Metastatic Mesothelioma," *Canadian Journal of Neurological Sciences*, 40, 878-880.
- ⁸⁶ Spinoza, B. (1993). *Ethics*. London: Everyman.
- ⁸⁷ Sawyer, K.R. (2004). Op. cit.
- ⁸⁸ Nader, R., Petkas, P. and Blackwell, K. (1972). *Whistleblowing: The Report of the Conference on Professional Responsibility*. New York: Grossman.
- ⁸⁹ <https://www.aaup.org/NR/rdonlyres/DCB2B487-5ACF-400C-BCAA-118A27788B57/0/EthicsStmt.pdf>

-
- ⁹⁰ Vaughn, R., Devine, T. and K. Henderson (2003). Op. cit.
- ⁹¹ Sawyer, K.R. (2020a). Op. cit.
- ⁹² Sawyer, K.R. (2004). Op. cit.
- ⁹³ Sawyer, K.R. (2016). "The Independent Regulator," <https://www.researchgate.net/publication/308898682> *The Independent Regulator*
- ⁹⁴ Sawyer, K.R., Johnson, J. and M. Holub (2009). "Decline in Academe," *International Journal for Educational Integrity*, 5, 2, 10–28.
- ⁹⁵ https://www.bmartin.cc/dissent/contacts/au_wba/whistle201910.pdf
- ⁹⁶ Grace, D. and S. Cohen (2013). *Business Ethics*. 5th edition. Oxford University Press.
- ⁹⁷ Potter, K. (2009). "Bureaucracy's Criminal Solutions: The Albert Lombardo Story," *The Whistle*, 60, https://www.bmartin.cc/dissent/contacts/au_wba/whistle200910.pdf
- ⁹⁸ Sawyer, K.R. (2020a). "Beyond Beyond Good and Evil," <https://www.researchgate.net/publication/339939415> *Beyond Beyond Good and Evil*
- ⁹⁹ Lee, A. (2020). "All You Have Gotten is Tokenism," in L.T. Benato et al (eds). *Prejudice, Stigma, Privilege, and Oppression*. Springer Nature Switzerland.
- ¹⁰⁰ Discussion of the whistleblowing gap is given in Sawyer, K.R. (2005). Op. cit.
- ¹⁰¹ Lincoln, A. (1858). Speech at Edwardsville, Illinois, September 11, 1858.
- ¹⁰² Sawyer, K.R. (2011). Op. cit.
- ¹⁰³ Sawyer, K.R. (2022b). "Learning from an Early Whistleblower Story," *The Whistle*, 109, https://www.bmartin.cc/dissent/contacts/au_wba/whistle202201.pdf
- ¹⁰⁴ Katz, G. and M. Lenglet (2010). Op. cit.
- ¹⁰⁵ Sawyer, K. R. (2022b). "When a Visa is not a Visa: The Case of Novak Djokovic," <https://www.researchgate.net/publication/358386236> *When a Visa is not a Visa The Case of Novak Djokovic*
- ¹⁰⁶ Oliner, S. (1984). "The Unsung Heroes in Nazi Occupied Europe: The Antidote for Evil," *Nationalities Papers*, 12, 1, 129 – 136.
- ¹⁰⁷ Sawyer, K.R. (2005). Op. cit.
- ¹⁰⁸ Sawyer, K.R. (2013). Op. cit.
- ¹⁰⁹ Brandeis, L. (1913). "What Publicity Can Do?" *Harpers Weekly*.
- ¹¹⁰ Sawyer, K.R. (2020a). "Beyond Beyond Good and Evil," <https://www.researchgate.net/publication/339939415> *Beyond Beyond Good and Evil*
- ¹¹¹ Sawyer, K. R. (2018b). Op. cit.
- ¹¹² Weyser, C. (2013). *The Diary of an Aphorisiac*.
- ¹¹³ Sawyer, K.R. (2016). Op. cit.
- ¹¹⁴ Sawyer, K.R. (2016). Op. cit.
- ¹¹⁵ https://en.wikipedia.org/wiki/Costigan_Commission