BOOK REVIEW

AJ Brown, David Lewis, Richard Moberly and Wim Vandekerckhove, *International Handbook on Whistleblowing Research* (Edward Elgar Publishing, 2014)

The whistleblower of popular culture is a lonely and often tragic figure. The decision taken to reveal corporate, institutional or governmental wrongdoing leaves the whistleblower cut off from family and friends, who often do not understand the whistleblower's radical and life-changing decision to place themselves in danger, walk away from a well paid job, take personal risks and incur whatever other costs inevitably follow.[1] Recent events have proven that these dramatised consequences are real. Two of the most well known whistleblowers in recent years are Chelsea Manning, who has been sentenced to 35 years imprisonment for leaking documents to WikiLeaks, and Edward Snowden, who remains in exile in Russia.

The *International Handbook on Whistleblowing Research* is a significant and all-encompassing contribution to the growing field of whistleblower research. At 617 pages, including a very extensive bibliography, it is in fact a very weighty book. The editors have prepared a work from a diverse range of contributors, from Australia, the UK, Europe, South Africa and the US, canvassing a range of approaches to all aspects of whistleblowing, including how to protect whistleblowers, how to reward them, how governments and institutions are responding to whistleblowers, the purposes served by whistleblowing and the importance of cultural influences on understanding the value of whistleblowing. In particular, the book flags its purpose in identifying areas that are in need of further research and examination at this critical time of balancing security and freedom. There are many multi-authored chapters, which provide the scope and capacity for issues to be addressed from multiple, complementary perspectives. The work is multi-disciplinary in scope, reflecting the nature of whistleblowing studies itself, drawing upon aspects of law, political science, psychology, information systems, business, criminology and media. Given the recent spike in interest in whistleblowing generated by the Snowden revelations, it is useful to have a comprehensive work that provides context for further considered debates regarding the role and value of the whistleblower.[2]

1 See, eg, *All The President's Men* (Directed by Alan Pakula, Wildwood Enterprises, 1976); *The China Syndrome* (Directed by James Bridges, Columbia Pictures, 1979); *Silkwood* (Directed by Mike Nichols, ABC Motion Pictures, 1983); *The Firm* (Directed by Sydney Pollack, Paramount Pictures, 1993); *The Insider* (Directed by Michael Mann, Touchstone Pictures,1999); *The Constant Gardener* (Directed by Fernando Meirelles, Focus Features, 2005); *Michael Clayton* (Directed by Tony Gilroy, Section Eight Productions, 2007); *The Informant!* (Directed by Steven Soderbergh, Participant Media, 2009); *The Whistleblower* (Directed by Larysa Kondracki, Voltage Pictures, 2010), *Fair Game* (Directed by Doug Liman, River Road Entertainment, 2010).

2 For a thorough discussion of the context and nature of the Edward Snowden revelations see Glenn Greenwald, *No Place To Hide: Edward Snowden, the NSA and the Surveillance State* (Hamish Hamilton, 2014).

The work identifies its purpose as providing a review of the existing state of whistleblower research, looking forward to directions and issues that need to be pursued. The book is intended to identify and address key issues, but also 'to advance debate on key contextual and definitional questions in whistleblowing research'.[3] In the opening chapter Lewis, Brown and Moberly plant the flag firmly in the sand, declaring: 'in the modern age of institutions, whistleblowing is now established as one of the most important processes — if not *the* single most important process — by which governments and corporations are kept accountable to the societies they are meant to serve and service'.[4] Whistleblowing is identified as a vital aspect of the 'health' of modern institutions and regulatory processes. This characterisation of whistleblowers as the guardians of good health and good morals is very often the one picked up in popular media.[5] However, it is also a role that is perceived as coming at significant risk to the health and wellbeing of the individual, who can end up losing their job, friends, family, health and possibly even their life in the effort to bring certain facts to light. Further, it raises real questions in terms of what support and legal protection (and even encouragement) should be given to whistleblowers if their role is indeed so vital in protecting corporate and regulatory good health.

The most well known recent real-life whistleblowers are of course Chelsea Manning and Edward Snowden. Chelsea (formerly Bradley) Manning, a US Army Private First Class stationed in Iraq as a military analyst, confessed to leaking thousands of US Government documents, including the Iraq and Afghan war logs and the US Embassy cables, to WikiLeaks.[6] In June 2013, Edward Snowden, a former NSA contractor and CIA employee, stunned the world with his revelations regarding the mass surveillance programs conducted by the US government (and other Western governments including Australia) and several major US tech companies.[7] Snowden is currently exiled in Russia, where he has been granted asylum until 2017.[8] The widespread ramifications of the revelations of these two whistleblowers have brought the concept of whistleblowing well

3 David Lewis, AJ Brown and Richard Moberly, 'Whistleblowing, Its Importance and the State of the Research' in AJ Brown et al (eds), *International Handbook on Whistleblowing Research* (Edward Elgar Publishing, 2014) 33.

4 Ibid 1.

5 See, eg, *All the President's Men* (Directed by Alan Pakula, Warner Bros, 1976); *The Insider* (Directed by Michael Mann, Blue Lion Entertainment, 1999); *The Constant Gardener* (Directed by Fernando Meirelles, Focus Features, 2005); *Michael Clayton* (Directed by Tony Gilroy, Samuels Media, 2007). See also John le Carré, *A Delicate Truth* (Penguin, 2013).

6 'Bradley Manning Sentenced to 35 Years' Jail for WikiLeaks Data Breach', *ABC News* (online), 22 August 2013 <http://www.abc.net.au/news/2013-08-21/soldier-bradley-manning-sentenced-to-35-years-jail/4903854>.

7 For a detailed insight into Snowden's actions and motivations see Glenn Greenwald, *No Place to Hide: Edward Snowden, the NSA and the Surveillance State* (Penguin Books, 2014); James Bamford 'Edward Snowden: The Untold Story', *Wired*, 22 September 2014, 78–95; *Citizenfour* (Directed by Laura Poitras, Praxis Films, 2014).

8 Snowden's temporary asylum was extended in August 2014 for a further three years: Alec Luhn and Mark Tran, 'Edward Snowden Given Permission to Stay in Russia for Three More Years', *The Guardian* (online), 7 August 2014 <http://www.theguardian.com/world/2014/aug/07/edward-snowden-permission-stay-in-russia-three-years>.

into the mainstream. Beyond this, however, is also the increasing complexity for journalists and their sources in an era of enhanced national security measures.

Australia has recently been grappling with the demand by the government for increased national security powers. Legislation was enacted in October 2014 increasing the maximum jail sentence from two to ten years for intelligence officers who leak information to third parties, including journalists and other members of the public.[9] Observing the 'risk presented by so-called "trusted insiders"' as a growing security threat, those reforms have clearly been prompted by concerns to deter any Australian security organisation whistleblowers, inspired by the acts of Snowden.[10] The *National Security Legislation Amendment Act (No 1) 2014* (Cth) created new offences relating to unauthorised dealings with intelligence records, including copying, transcription, removal and retention of such records. Dealings with intelligence material have never previously been criminalised and this will have a significant deterrent effect both on potential whistleblowers and on journalists who are provided with such material by whistleblowing sources.[11] In addition, the Act introduced a new s 35P into the *Australian Security Intelligence Organisation Act 1979* (Cth) providing that a person commits an offence, punishable by five years imprisonment, if they disclose information relating to a 'special intelligence operation'.[12] Section 4 of the Act provides a loose and somewhat circular definition of 'special intelligence operation', being an operation:

> (a) in relation to which a special intelligence operation authority has been granted; and
>
> (b) that is carried out for a purpose relevant to the performance of one or more special intelligence functions; and

9 *National Security Legislation Amendment Act (No 1) 2014* (Cth) sch 1 item 6. See also Commonwealth, *Parliamentary Debates,* Senate, 16 July 2014 (George Brandis); David Wroe and James Massola, 'Spies, Internet Firms in Firing Line of National Security Reforms', *Sydney Morning Herald* (Sydney), 16 July 2014, 10.

10 Commonwealth, *Parliamentary Debates,* Senate, 16 July 2014, 5156 (George Brandis).

11 Ben Grubb, 'Edward Snowden's Lawyer Blasts Australian Law that Would Jail Journalists Reporting on Spy Leaks', *Sydney Morning Herald* (online), 30 July 2014 <http://www.smh.com.au/digital-life/consumer-security/edward-snowdens-lawyer-blasts-australian-law-that-would-jail-journalists-reporting-on-spy-leaks-20140730-zyn95.html>; Gay Alcorn, 'Lachlan Murdoch Attacks Special Laws to Jail Journalists for up to 10 Years', *The Guardian* (online), 23 October 2014 <http://www.theguardian.com/media/2014/oct/23/lachlan-murdoch-attacks-special-laws-to-jail-journalists-for-up-to-10-years>.

12 Section 35P provides:
(1) A person commits an offence if:
(a) the person discloses information; and
(b) the information relates to a special intelligence operation.
(2) A person commits an offence if:
(a) the person discloses information; and
(b) the information relates to a special intelligence operation; and
(c) either:
(i) the person intends to endanger the health or safety of any person or prejudice the effective conduct of a special intelligence operation; or
(ii) the disclosure of the information will endanger the health or safety of any person or prejudice the effective conduct of a special intelligence operation.

(c) that may involve an ASIO employee or an ASIO affiliate in special intelligence conduct.

Such a definition makes it very difficult for a whistleblower or journalist to determine whether an activity falls within the definition of 'special intelligence operation', creating yet another chilling effect on disclosure and reporting.

These reforms also reflect a concerning trend of conflating the actions of the whistleblower and the journalist, imposing harsh obligations on the journalist who is neither an insider nor a source, and creating serious impediments to freedom of speech. This approach is reflected in the general lack of understanding, for example, of the role of WikiLeaks as a media platform, and the vilification of Julian Assange and WikiLeaks for its role in the publication of classified US government documents.[13] Many of the chapters of the Handbook also observe a general lack of understanding of the various roles of source, reporter, and concerned outsider. This blurring of reporter and the source in the online context has the potential to erode journalistic privileges regarding protection of sources by manufacturing a sense of collusion between whistleblowers and those journalists who choose to report their stories.[14] The Attorney-General George Brandis has attempted to allay concerns regarding the potential prosecution of journalists under these new sections by issuing a directive to the Commonwealth Director of Public Prosecutions, instructing the DPP to obtain the consent of the Attorney-General for any proposed prosecution of a journalist under these provisions.[15] Clearly, however, the criminalisation of the reporting of security operations reflects the frustration experienced by governments worldwide in the face of the Manning and Snowden disclosures and places reporters such as Glenn Greenwald, and media platforms such as WikiLeaks, in a very precarious situation.

How well are the actions of whistleblowers such as Manning and Snowden explained by existing whistleblower research? In order to address the current state of whistleblowing research, the book is divided into three parts: Part I, 'Research Fundamentals', identifying the scope and nature of whistleblowing for the purposes of research and policy making; Part II, 'Organisational Culture and Responsiveness', analysing design issues around whistleblower research in order to improve effective and insightful data collection; and Part III, 'Research in Action', exploring the failure of policy- and lawmakers to take account of good research regarding effective institutional reform, including some examples of whistleblowing incidents and individuals.

13 A number of prominent figures called for the assassination of Assange and labeled him an 'enemy combatant'. See Amy Goodman, 'The World Owes a Debt to WikiLeaks' Whistleblowing' *The Guardian* (online), 7 July 2011 <http://www.theguardian.com/commentisfree/cifamerica/2011/jul/06/julian-assange-wikileaks>.

14 Melissa de Zwart, 'Whistleblowers and the Media: Friends or "Frenemies"?'(2013) 38 *Alternative Law Journal* 250, 252; Henry A Giroux, 'Totalitarian Paranoia in the Post-Orwellian Surveillance State' (2014) 29 *Cultural Studies* 108, 120–1.

15 Lenore Taylor, 'George Brandis: Attorney General Must Approve Prosecution of Journalists under Security Laws', *The Guardian* (online), 30 October 2014 <http://www.theguardian.com/australia-news/2014/oct/30/george-brandis-attorney-general-approve-prosecution-journalists-security-laws>.

The book begins by addressing the key issue of what is whistleblowing and, by extension, who is a whistleblower. These questions, and a lack of a clear understanding of their answers, have muddied the debate surrounding the actions of Julian Assange, WikiLeaks, Manning and Snowden, and have generated significant confusion and conflict within media circles.

The authors of Chapter 1 state:

> A whistleblower is fundamentally an organizational or institutional 'insider' who reveals wrongdoing within or by that organization or institution, to someone else, with the intention or effect that action should then be taken to address it.[16]

Key elements of this definition are the *insider status* of the whistleblower, as distinct from an investigative journalist; the need to reveal that information to a *third party* with the intention or effect that the revelation be *acted upon*, and of course the need for the information to relate to *wrongdoing*. The authors argue for the recognition of the importance of whistleblowing laws in protecting and supporting whistleblowers in order to foster and encourage the disclosure of valuable information. As such, whistleblowing should be recognised as a vital aspect of the ongoing health of a democratic society. Whilst there has been research conducted on the importance of whistleblowing (in particular what prompts whistleblowers to come forward and what happens to them post-disclosure), the authors identify certain areas in which more work needs to be done. They observe that one aspect of whistleblowing that has not been addressed is the adequacy of responses to whistleblowing. Media reports and popular understandings of whistleblowing focus on high-profile cases. However, this can distort understandings of whistleblowing, blurring it with concepts of leaking and investigative reporting. The unique power of the whistleblower's voice is that they are an insider, one who has been privy to the inner workings of an organisation. Therefore, some further work needs to be done on how institutions and organisations are responding specifically to whistleblowing.[17] Recalling that the whistleblower is acting in the hope the revelations will be acted upon, research should consider how and to what extent change is actually being effected post-disclosure. Further, greater understanding needs to be reached regarding the media's relationship with and responsibility to whistleblowers.

The introduction alone provides a very comprehensive overview of all of the issues raised in the following chapters and provides clear road signs regarding how the book may be approached, flagging issues and further work to arise out of the book.

16 Lewis, Brown and Moberly, above n 3, 4. The authors note that the definition is based upon Janet P Near and Marcia P Miceli, 'Organizational Dissidence: The Case of Whistle-Blowing' (1985) 4 *Journal of Business Ethics*, 1, 4. This definition is used as the foundation for most of the chapters of the book.

17 A unique example of this is the website of Archer Daniels Midland (ADM), which offers a detailed response and FAQ to the issues raised in the Matt Damon film *The Informant!* which provides a dramatised account of the whistleblowing efforts of Mark Whitacre, a former executive of ADM who was involved in assisting FBI investigations into price-fixing in the lysine market but who became embroiled in his own money-laundering and kickback scandal. See ADM, *About ADM and the Informant!* (2015) ADM and the Informant! <http://www.adm.com/en-US/informant/Pages/default.aspx>.

Chapter 2, 'Understandings of Whistleblowing: Dilemmas of Societal Culture', considers the importance of cultural context to the encouragement of whistleblowing, exploring questions such as the role and importance of language (notions of 'squealing', 'disloyalty' and 'informing') in colouring the actions of and attitudes towards the whistleblower.[18] This includes a consideration of how attitudes, expressed through language, may encourage or curtail future whistleblowing. The authors' observation is that whistleblowing implicates various and shifting relationships of power and exposes a need for a more detailed understanding to be developed of what levels of power are being observed and measured. Again, such research is relevant in predicting environments that might encourage whistleblowing behaviour in the future.

Chapter 3, 'Outsider "Whistleblowers": Conceptualizing and Distinguishing "Bell-Ringing" Behavior', advocates for the introduction of the use of the term 'bell-ringers' for people (other than journalists or publishers) who are not members of an organisation who voluntarily bring attention to the wrongful conduct of an organisation.[19] The disclosure must be made to those who the 'disclosers reasonably believe can stop the wrongdoing or can disseminate the information widely'.[20] This analysis clarifies the common misconception regarding the status of WikiLeaks, which is a media organisation (and neither a bell-ringer nor whistleblower). This chapter establishes a new path for whistleblower research, considering the role and actions of bell-ringers, their motivations and how and if they should be encouraged, widening the scope of roles played by those who observe and report upon wrongdoing. Notably, the bell-ringer does not, under this definition, actually have to want to stop the wrong — they may merely want to report it. Examples are discussed here (and in other chapters) which highlight the potentially vital role of bell-ringing in corporate governance, such as 'Harry Markopolos, a former securities industry executive, who reported Bernie Madoff's Ponzi scheme to the US Securities and Exchange Commission (SEC)'.[21]

Chapter 4 provides a comprehensive examination of the scope and nature of acts and behaviour that may constitute 'wrongdoing' that may influence a decision to make a report, how, when and to whom.[22] Such characterisation is vital in terms of insider motivation to report such behaviour, as well as to the interpretation of relevant whistleblowing statutes (where such exist). For example, in Australia, protection under the *Public Interest Disclosure Act 2013* (Cth) provides immunity from liability, remedies for reprisals against and protection of identity for 'public interest disclosures' (Pt 2 Div 1) of whistleblowers. 'Public interest disclosures'

18 Wim Vandekerckhove et al, 'Understandings of Whistleblowing: Dilemmas of Societal Culture' in AJ Brown et al (eds), *International Handbook on Whistleblowing Research* (Edward Elgar Publishing, 2014) 37.

19 Marcia P Miceli, Suelette Dreyfus and Janet P Near, 'Outsider "Whistleblowers": Conceptualizing and Distinguishing "Bell-Ringing" Behavior' in AJ Brown et al (eds), *International Handbook on Whistleblowing Research* (Edward Elgar Publishing, 2014) 71.

20 Ibid 73.

21 Ibid.

22 Marit Skivenes and Sissel C Trygstad, 'Wrongdoing: Definitions, Identification and Categorizations' in AJ Brown et al (eds), *International Handbook on Whistleblowing Research* (Edward Elgar Publishing, 2014) 95.

by a 'public official' are protected provided that they satisfy the criteria set out in s 26. Generally, external disclosures (such as to a journalist) must relate to matters of illegal conduct, corruption, maladministration, danger to public health or the environment (s 29). The Act specifically excludes from protection intelligence information or matters relating to an intelligence agency (s 26). The process established by the Act also imposes an obligation on the whistleblower to have made an internal disclosure relating to the same information prior to it being disclosed to an external source. Thus the identification of the subject matter of the disclosure as some legally recognised form of wrongdoing is of vital importance. Chapter 5 considers the increasing incidence of whistleblowing as a mandatory aspect of someone's role rather than an individual choice.[23] Both of these chapters (and Chapter 6) flag the need for further research to be done linking attitudes and intention to action.[24]

Chapter 7 returns to the perennial question of power: how much power does the whistleblower wield and what is the nature of this power?[25] The balancing of the largely informal nature of the power of the whistleblower against the organisational power requires an understanding of the particular relationships involved. The classic dichotomy of either blowing the whistle or doing nothing and remaining silent does not adequately explain the complexity and range of options and issues which are actually at play. This chapter advocates a more in-depth and contextual consideration of the factors that prompt people to blow the whistle, or potentially take other actions in response to observed wrongdoing. This in turn can pave the way for a better and broader response by lawmakers in order to facilitate and support whistleblowing.

Chapter 8 flags the beginning of Part II of the book. It addresses 'reporting versus inaction' and argues that the common perception that whistleblowing is rare 'and the employee who does so [is] extraordinary' is erroneous.[26] This fascinating chapter establishes that employees are far more likely to report observed wrongdoing than media reports of exceptional acts of whistleblowing would imply. Drawing on empirical research, the chapter identifies that factors influencing a decision to report wrongdoing are not solely based on personal preferences, but are institutional, environmental and collective, meaning that 'common stereotypes of whistleblowers as heroes or villains' are misleading.[27] The chapter goes on to identify and examine various situational, organisational and public policy factors that encourage and support whistleblowing. In particular, the chapter outlines the role that appropriately crafted laws can play in protecting the whistleblower,

23 Jos Leys and Wim Vandekerckhove, 'Whistleblowing Duties' in AJ Brown et al (eds), *International Handbook on Whistleblowing Research* (Edward Elgar Publishing, 2014) 115.

24 Brita Bjørkelo and Hege Høivik Bye, 'On the Appropriateness of Research Design: Intended and Actual Whistleblowing' in AJ Brown et al (eds), *International Handbook on Whistleblowing Research* (Edward Elgar Publishing, 2014) 133.

25 Kim Loyens and Jeroen Maesschalck, 'Whistleblowing and Power' in AJ Brown et al (eds), *International Handbook on Whistleblowing Research* (Edward Elgar Publishing, 2014) 154.

26 Jane Olsen, 'Reporting Versus Inaction: How Much is There, What Explains the Differences and What to Measure' in AJ Brown et al (eds), *International Handbook on Whistleblowing Research* (Edward Elgar Publishing, 2014) 177.

27 Ibid 185.

and thus encourages future action. These themes are also picked up in the next chapter, 'Motivations for Whistleblowing: Personal, Private and Public Interests'.[28] Roberts explores where the motivation is located for whistleblowing. Again, in the popular imagination motivation is entirely internal, and can range from self-interest to altruism. Roberts articulates the reality that motivation can in fact be largely controlled by external factors, such as institutional culture, protection of whistleblowers, and applicable laws. The understandings articulated in these chapters are vital for policymakers considering the desirability of whistleblowing laws to enhance corporate and institutional responsibility.

Chapter 10 addresses the relationship between 'whistleblowers and suffering'.[29] This is a common image from the media and popular culture. Again, this is based upon the few, high-profile cases reported in the media, as well as chilling dramatisations, such as Russell Crowe's performance as tobacco industry whistleblower Dr Jeffrey Wigand in the film *The Insider*. Suffering can take many forms, such as ostracism from friends and family, loss of career, financial harm, death threats, retaliation, imprisonment, and even death. Words used in connection with whistleblowers such as 'sacrifice' and 'scapegoat' have semi-religious connotations. Smith argues that:

> One practical consequence of the suffering whistleblower stereotype is that employees may refrain from reporting observed wrongdoing, since they are not prepared for the martyrdom that they are warned will inevitably follow their action.[30]

In fact, no such consequences may follow, and the opportunity for positive institutional change that could have been brought about by the potential whistleblower is lost. Thus there is a need for further research to address in greater detail the outcomes and impacts for whistleblowers.

New media is the focus of Chapter 11: 'Going Public: Researching External Whistleblowing in a New Media Age'.[31] The authors discuss the false sense of security that exists amongst journalists and whistleblowers alike regarding the use of IT in making and discussing issues. New media and the internet have of course facilitated the creation of new platforms such as WikiLeaks, which can facilitate rapid and global publication of large document sets. Digital technology has also made it possible to almost instantaneously copy, save, send and disclose vast amounts of documents. Doug Ellsberg took months to photocopy the Pentagon Papers, whereas Manning was able to download vast troves of documents onto

28 Peter Roberts, 'Motivations for Whistleblowing: Personal, Private and Public Interests' in AJ Brown et al (eds), *International Handbook on Whistleblowing Research* (Edward Elgar Publishing, 2014) 207.

29 Rodney Smith, 'Whistleblowers and Suffering' in AJ Brown et al (eds), *International Handbook on Whistleblowing Research* (Edward Elgar Publishing, 2014) 230.

30 Ibid 231.

31 Rachelle Bosua et al, 'Going Public: Researching External Whistleblowing in a New Media Age' in AJ Brown et al (eds), *International Handbook on Whistleblowing Research* (Edward Elgar Publishing, 2014) 250.

a CD-ROM in a matter of minutes.[32] However, the media is crucial in bringing attention to a whistleblower's story and prompting action. Julian Assange has observed that even WikiLeaks is but 'the shadow of a shadow' in the face of the vast amount of data that is being collected by governments and organisations.[33] The media plays a key role in maintaining accountability in the face of massive data collection and surveillance. Therefore issues of trust and relationship building between particular journalists and whistleblowers are vital. Publication of information may be rapid and easy, but to get the whistleblower's message across and to prompt action, the interpretation, analysis and context provided by a journalist may be essential. Without it, the message and all of the effort made to gather the relevant disclosure may be lost. Snowden has observed on a number of occasions that his big fear was that his message would be lost or ignored, particularly in the media fascination with personality and celebrity rather than the story, hence his very deliberate decision to give his story to Laura Poitras and Glenn Greenwald.[34]

Chapter 12 also deals with the recipients of whistleblowers' disclosures.[35] These recipients may be internal, such as management, peers or board members, or external, such as regulatory bodies, media or unions. They are often the catalyst for responses to the whistleblowers' disclosures, yet little work has been done on their motivations and support networks. Whistleblowing research has not focused on how the recipient deals with the disclosure they receive. For example, they can ignore the disclosure, punish the whistleblower or take action, yet little insight exists regarding how they make these decisions. Legislative schemes such as the Australian whistleblowing laws may require certain avenues for reporting by whistleblowers, but that does not mean the individuals receiving the report have the training or resources to deal with those disclosures. Further, as Moberly observes, more work needs to be done on how a whistleblower's report has been resolved and how this influences the decisions of later whistleblowers. Related issues are explored in Chapter 13, 'Managerial Responsiveness to Whistleblowing: Expanding the Research Horizon'.[36] Noting the fact that whistleblowing is now frequently seen as an aspect of good governance of an organisation, the authors of this chapter again focus on the need for recipients of whistleblowing disclosures,

32 Michael Kazin, 'Daniel Ellsberg, the Original Big Leaker: Why a Decades-Old Act of Defiance Still Hasn't Been Surpassed', *New Republic* (online), 26 June 2013 <http://www.newrepublic.com/article/113625/daniel-ellsberg-edward-snowden-and-bradley-manning-leakers>.

33 Julian Assange et al, *Cypherpunks: Freedom and the Future of the Internet* (OR Books, 2012) 145.

34 Snowden elaborated on this in his 2014 TED talk: 'by working with journalists, by giving all of my information back to the American people, rather than trusting myself to make the decisions about publication, we've had a robust debate with a deep investment by the government that I think has resulted in a benefit for everyone'. See TED, 'Here's How We Take Back the Internet', *TED Talk,* March 2014 (Edward Snowden).

35 Richard Moberly, 'To Persons or Organizations that May Be Able to Effect Action: Whistleblowing Recipients' in AJ Brown et al (eds), *International Handbook on Whistleblowing Research* (Edward Elgar Publishing, 2014) 273.

36 Wim Vandekerckhove, AJ Brown and Eva Tsahuridu, 'Managerial Responsiveness to Whistleblowing: Expanding the Research Horizon' in AJ Brown et al (eds), *International Handbook on Whistleblowing Research* (Edward Elgar Publishing, 2014) 298.

in this case the management, to be trained and equipped to deal with and respond to whistleblowers' disclosures as part of their managerial toolkit.

Part III presents diverse case studies, highlighting particular areas where further research is required.

Chapter 14 provides an overview of the essential questions that a comparative law analysis of whistleblower protection must address.[37] Fasterling makes a number of important points regarding the differing cultures within which whistleblowing may occur. Legal matters that need to be considered include: whether there is a right of freedom of expression (if not, specific whistleblower protection laws acquire greater importance), the availability and nature of legal remedies, limits upon reporting, the operation of confidentiality laws, offices such as an ombudsman to whom complaints may be directed, reporting obligations under various statutes such as corporations and investment laws, and financial incentives. In particular, Fasterling reminds us that there is a difference between the individual whistleblower's freedom of expression, and the broader question of the public good.

Chapter 15 outlines a comparative study of civil and employment remedies for whistleblowing in the US, the UK, Australia, New Zealand and Canada.[38] This chapter provides a valuable overview of the Australian law in the area and outlines the experience of several Australian whistleblowers, highlighting gaps in the law. As noted above, this area is becoming increasingly complex in the context of national security laws.

Chapter 16 canvasses the need for a multilateral treaty to implement a financial incentives system for whistleblowers to report corporate fraud to regulators, based on the *False Claims Act*, 31 USC §§ 3729–33.[39] Again, this chapter highlights the growing perception that whistleblowing is an important aspect of corporate good health. Providing a comparative overview of various national schemes, it concludes that such a scheme is beneficial and cost effective in deterring and uncovering corporate fraud, although more work is needed on how such a scheme could most effectively be implemented as part of a trade-based global model.

Chapter 17, 'When It All Goes Bad: Criminal Remedies', observes that the criminal law is 'increasingly being used to prosecute whistleblowers whose actions allegedly threaten national security', whereas criminalisation of the actions of those who take reprisals against whistleblowers, such as employers, 'is rarely successful'.[40] This is despite the evidence discussed above regarding the growing

37 Björn Fasterling, 'Whistleblower Protection: A Comparative Law Perspective' in AJ Brown et al (eds), *International Handbook on Whistleblowing Research* (Edward Elgar Publishing, 2014) 331.

38 David Lewis, Tom Devine and Paul Harpur, 'The Key to Protection: Civil and Employment Law Remedies' in AJ Brown et al (eds), *International Handbook on Whistleblowing Research* (Edward Elgar Publishing, 2014) 350.

39 Tom Faunce et al, 'Because They Have Evidence: Globalizing Financial Incentives for Corporate Fraud Whistleblowers' in AJ Brown et al (eds), *International Handbook on Whistleblowing Research* (Edward Elgar Publishing, 2014) 381.

40 Maureen Spencer and John Spencer, 'When It All Goes Bad: Criminal Remedies' in AJ Brown et al (eds), *International Handbook on Whistleblowing Research* (Edward Elgar Publishing, 2014) 405, 428.

recognition of the value of whistleblowing. The authors of this chapter observe that there are often very real and very damaging costs and repercussions imposed on whistleblowers, even in those jurisdictions where there is theoretically some form of legislative framework designed to protect them. This includes dismissal, harassment, blacklisting and other forms of victimisation. The themes of this chapter are followed up in Chapter 18 which looks at the need for reform in the specific context of international governmental organisations ('IGOs') which are not subject to domestic laws protecting whistleblowers, nor to external judicial review in labour disputes.[41] Whistleblowers in IGOs are therefore particularly vulnerable to the fear and actuality of retaliation for any attempts to call attention to problems within the IGO, such as the harassment, humiliation and criminal investigation of James Wasserstrom, who reported his concerns regarding corruption involving the UN Mission in Kosovo to senior officials.[42]

In Chapter 19 the authors argue for a more expansive approach to whistleblower research, to move beyond questions of who does it, for what reasons and what the consequences might be, to an examination of the impact and effectiveness of whistleblower protection, regulation and legislation.[43] In particular, there is a need for extended focus on the role whistleblowing 'plays in governance and political life, including how managers, organizations and institutions respond, and what happens in terms of other outcomes, including measures of impact and effectiveness'.[44] This chapter also includes a comprehensive examination of the background to the recent enactment of the *Australian Public Interest Disclosure Act 2013* (Cth) and its state and territory equivalents. This chapter highlights the distinction between desire on the part of regulators to protect whistleblowers and the practical and effective implementation of that desire. Whilst there may be legislative regimes to protect whistleblowers, it is still how they are actually received and treated by colleagues and managers that will determine the consequences faced by whistleblowers and incentives for others to come forward. As the authors observe, 'the criminal, disciplinary and compensation remedies in whistleblowing legislation have thus proved to be largely theoretical deterrents' to reprisals and retaliation against whistleblowers.[45]

41 Shelley Walden and Bea Edwards, 'Whistleblower Protection in International Governmental Organizations' in AJ Brown et al (eds), *International Handbook on Whistleblowing Research* (Edward Elgar Publishing, 2014) 430.

42 Ibid 443. See also 'Whistleblowers in the UN: Victory for James Wasserstrom, the UN's Leading Whistleblower', *The Economist* (online), 30 June 2012 <http://www.economist.com/node/21557728>; Julian Borger, 'UN Tribunal Finds Ethics Office Failed to Protect Whistleblower', *The Guardian* (online), 27 June 2012 <http://www.theguardian.com/world/2012/jun/27/un-tribunal-whistleblower-james-wasserstrom>. For a further (dramatised) version of the difficulties of whistleblowing within the UN see *The Whistleblower* (Directed by Laysa Kondracki, Voltage Pictures, 2010). The film stars Rachel Weisz and examines the acquiescence of UN peacekeeping forces in Bosnia to human trafficking. See also Ed Vulliamy, 'Has the UN Learned Lessons of Bosnian Sex Slavery Revealed in Rachel Weisz Film?', *The Observer* (online), 15 January 2012 <http://www.theguardian.com/world/2012/jan/15/bosnia-sex-trafficking-whistleblower>.

43 AJ Brown et al, 'Whistleblower Support in Practice: Towards an Integrated Research Model' in AJ Brown et al (eds), *International Handbook on Whistleblowing Research* (Edward Elgar Publishing, 2014) 457.

44 Ibid.

45 Ibid 474.

Part IV contains the concluding chapters. Chapter 20 observes that commonly reported stories about whistleblowers focus on the highly dramatic cases, but researchers could do more to supplement these stories with reports of more mundane, low-level whistleblowing, with lessons learned regarding risks and support services.[46] The practical advice offered by this chapter seems particularly timely in the context of increased emphasis on the value of whistleblowing for corporate and institutional good governance, meaning that training and support must be given to those managers who are likely to receive such disclosures as well as to whistleblowers. The final chapter summarises the outcomes of the book and marks a starting point for future research.[47] It is hoped that this call to arms will be acted upon.

Clearly this work provides a vital and thought-provoking resource at a time when whistleblowing is emerging as a key element of good corporate governance, whilst at the same time being under attack as a threat to national security. Recent debates have highlighted the threats posed to investigative journalism by enhanced national security measures. Individual privacy is being eroded by entrenched surveillance practices by governments and the collection of data by corporations which occurs on a daily basis. It is important that regulators get the definitions right — who is a whistleblower, who is an insider, and who is a journalist — as well as providing supportive and protective legal regimes to ensure that effective and important disclosures continue to flow for the benefit of the organisation and society at large. As a multi-disciplinary and international work, the authors have provided us with an excellent guidebook to help us on this path.

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46 Brian Martin, 'Research that Whistleblowers Want — and What They Need' in AJ Brown et al (eds), *International Handbook on Whistleblowing Research* (Edward Elgar Publishing, 2014) 497, 512.

47 Wim Vanderkerckhove et al, 'Strategic Issues in Whistleblowing Research' in AJ Brown et al (eds), *International Handbook on Whistleblowing Research* (Edward Elgar Publishing, 2014) 522.