

THE BEST WARNING SYSTEM: WHISTLEBLOWING AS A CONTINGENCY PLAN FOR CENSORSHIP DURING COVID-19

Mohd Aqib Aslam

Ph.D Research Scholar, Department of Law, University of Jammu

ABSTRACT

In the COVID-19 pandemic, whistleblowers have emerged as vital watchdogs, halting the control and suppression of information. Many governments have deliberately misled the people, promoted false beliefs, or neglected to provide timely or accurate answers to questions. Devoted public interest activists are resisting this oppression. The first whistleblowers in China to reveal that a new pandemic was probably starting were Drs. Fen and Wenliang. Since then, innumerable other whistleblowers worldwide have reported on the virus's growth, a shortage of medical supplies, and other facts of public concern. This study looks at relevant cases of whistle blowing in China, the US, Europe, and India and finds that many of them are initially silenced, face disciplinary measures, and eventually lose their jobs. On the other side, during the COVID-19 pandemic, whistle blowing has raised public awareness of institutional reporting systems' shortcomings and that whistleblowers are in a good position to spot risk early. Finally, during COVID-19, whistle blowing has become the "remedy" against censorship and is also becoming less troublesome as an openness approach.

Keywords: Whistleblowers, Watchdogs, Covid-19, Censorship.

I. Introduction

A person who exposes any form of unlawful, unethical, or ethically incorrect action within an enterprise, whether private or public is known as a "Whistleblower".¹In 1985, *Maria P. Miceli* and *Janet P. Near* described whistle blowing, "the disclosure by organisation members, former members, or current members, of unlawful, immoral, or legitimate actions under the control of their employers to persons or organisations that

may be able to affect action."² Whistle-blowing according to *David Banisar*, is a method of promoting accountability by allowing anyone to disclose information about wrongdoing but also safeguarding that person from all types of punishment.³ Whistleblowing is described by the International Labour Organization as workers or previous workers revealing unlawful, unequal, harmful, or unprincipled conduct by employer.⁴

¹ Nimisha Bhargava and Dr. Mani K. Madala, "An Overview of Whistleblowing: Indian Perspective" 4 *International Journal of Innovative Research in Science, Engineering and Technology* 337 (2015).

² Maria P. Miceli and Janet P. Near, "Effective Whistleblowing" 20 *The Academy of Management Review* 680 (1995).

³ David Banisar, "Whistleblowing: International Standards and Developments Corruption and Transparency: Debating

the Frontiers between State, Market, and Society" *World-Bank, Institute for Social Research, UNAM* (February 2011) available

at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1753180(last visited on January 2, 2022).

⁴ International Labour Organization Thesaurus (2005) available at <https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/occupational->

Whistleblowing is described in Article 33 of the United Nations Convention against Corruption as “any individual who communicates any facts concerning offences established by this Convention to the competent authorities in good faith and on reasonable grounds.”⁵

II. In A Post-Factual World: Pandemic

What measures might governments take to combat such a pandemic in a "post-factual" world? Many have deceived the public, propagated false beliefs, or failed to disclose information or have done so late. Transparency has been poorly promoted by leaders who are typically disdainful of the truth and facts. As other governments and institutions attempt to control the narrative around the pandemic's birth and spread, information censorship is more often the root cause than error or miscalculation. Whistleblowers like Drs. Li Wenliang and Ai Fen in China, along with a number of other (medical) workers worldwide, were instrumental in revealing information during COVID-19. Whistleblowers often commented on public-interest topics like the virus's spread, the lack of adequate medical equipment, and other difficulties in their workplaces, through civil organizations, and in traditional and social media.

This study examines the major cases of whistleblowing in China, the United States, and Europe. The author includes data through newspapers, news reports and reports from organizations that engage with whistleblowers, and, when possible, official government papers to map these cases. Several whistleblowers are initially blocked and subjected to disciplinary sanctions or even dismissal, according to the

[safety-and-health/lang--en/index.htm](https://www.oecd.org/g20/topics/anti-corruption/48972967.pdf) (Last visited on January 3, 2022).

⁵ United Nations Convention Against Corruption 2005, Article 33, *available at* <https://www.oecd.org/g20/topics/anti-corruption/48972967.pdf> (last visited on January 4, 2022).

⁶As quoted in Steven Lee Myers, ‘*China Created a Fail-Safe System to Track Contagions. It Failed*’, The New York Times, 29 March 2020 *Available*

research, despite significant distinctions in censorship and information management between China and the United States and Europe. While retaliation against whistleblowers is nothing new, the COVID-19 pandemic has influenced public sentiment upon that desirability of whistleblowers and it has mobilised civil society to act like a serious watchdog on government suppression of whistleblowers around the world. The study concludes how censorship is being addressed by a few of tenacious public interest advocates who are confronting information control and exposing key facts concerning the COVID-19 pandemic.

III. Real News and False Information: Censorship and Chinese Anti-Whistleblower Law

“I regret not yelling at the top of my lungs more often back then.”

Dr. Ai Fen is a neurologist, Wuhan Central Hospital.⁶

Dr. Li Wenliang, a medical doctor, made a message to a social media chat group in December 2019 regarding certain patients showing signs of a new ailment comparable to Severe Acute Respiratory Syndrome (SARS). His correspondence with his coworkers was quickly picked up by the local authorities. Dr. Wenliang was arrested on 3 January 2020 for “spreading false rumours” and was compelled to signing a policeman document admitting to seriously disrupting social order.⁷Article 41 of the Chinese Constitution guarantees citizens the “right to criticise but instead suggest things to any state organ or functionary,” as well as the “right to file complaints and charges against, or exposes of,

at <https://www.nytimes.com/2020/03/29/world/asia/coronavirus-china.html> (last visited on January 5, 2022).

⁷Helen Davidson, ‘*Chinese inquiry exonerates coronavirus whistleblower doctor*’, The Guardian, 20 March 2020 *Available*

at <https://www.theguardian.com/world/2020/mar/20/chinese-inquiry-exonerates-coronavirus-whistleblower-doctor-li-wenliang> (last visited on January 6, 2022).

each and every state organ or functionary for breaking the law or failing to perform their duties.” However, it is illegal to fabricate or falsify information for such purposes of libel or frame-up. As a result, it is critical to determine whether a report can be classified as a rumour during the reporting (process). Although several statutes forbid spreading rumours, Chinese law does not specify what constitutes a rumour.⁸ Rather than upsetting social order, Dr. Wenliang’s efforts to notify his colleagues and then the general public were critical in undermining information repression and control. This type of disruption is necessary for public knowledge to emerge, and such insider disclosure is required for accountability purposes. Dr. Wenliang was not the only one who raised the alarm about the possibility of a new pandemic, because he was not alone.⁹ On the same day as Dr. Wenliang’s chat group post, another medical practitioner, Dr. Ai Fen, informed to the hospital’s health protection and infection departments that she had seen a test sheet citing SARS symptoms.¹⁰ Hospitals, on the other hand, sometimes default to local health authorities when it comes to reporting infections, ostensibly to avoid shocking and embarrassing local officials. The mayor of Wuhan publicly agreed that the virus discovery should have been made public sooner, but that in his capacity as mayor, he could only

disseminate it after gaining permission from the appropriate authorities.¹¹

COVID-19 has re-ignited the issue in China about whistleblower protection, resulting in a broader public debate about just the significance of whistleblowers. The restrictions of information concerning the pandemic and government countermeasures are reminiscent of Shuping Wang’s whistleblowing in the 1990s, which exposed China’s mismanagement of HIV and hepatitis epidemics.¹² However, unlike in the past, public opinion on the significance of the whistleblower is altering. In China, a whistleblower is regarded as an enforcer of government regulations.¹³

Whistleblower protection is currently available in China in bits and pieces, including provisions in criminal law, labour law, workplace safety, foods and pharmaceuticals, product quality, securities, and financial industries. The purpose of the strategy is really to inspire and protect insiders who have actual inner information to come forward and aid the government in exercising its regulatory tasks, says a Chinese law expert. Whistleblowing is seen as a social control

⁸ E.g. Article 25 of the Law on Public Security Administration Punishments; Article 105 and Article 221 Criminal Law; Article 229 can be up to 7 years in prison. See Wang Junqi, *Truth, Rumors, and the ‘whistleblower’ System*, 19 February 2020 (Original source in Chinese, Available at https://legrandcontinent-eu.translate.google.fr/2020/06/28/red-la-verite-tenue-a-distance-lalerte-comme-remede-a-la-censure-lors-de-la-pandemie/?_x_tr_sl=fr&_x_tr_tl=en&_x_tr_hl=en&_x_tr_pto=sc (last visited on January 7, 2022)).

⁹ For a view that Dr Wenliang cannot be categorized as a whistleblower as he did not follow internal reporting procedures see “Why is Li Wenliang not a ‘whistleblower’?”, 9 February 2020 (Original source Chinese, Available at https://www-jintiankanshame.translate.google/t/Neisunzui?_x_tr_sch=http&_x_tr_sl=f&_x_tr_tl=en&_x_tr_hl=en&_x_tr_pto=sc (last visited on January 7, 2022)).

¹⁰ Gong Jingqi, Whistleblower, 10 March 2020, original in Chinese, Available at in archived form only: <http://archive.is/OLdHs> (last visited on January 8, 2022).

¹¹ Al Jazeera, ‘China: Truth in a Pandemic’, 10 April 2020, Available at <https://bit.ly/3d0XSSv> (last visited on January 8, 2022). Chinese law requires the disclosure of information with authorisation as provided in Article 19 of the “Regulations on the Disclosure of Government Information”.

¹² BBC News, *Shuping Wang: Whistleblower who exposed HIV scandal in China dies*, 26 September 2020, Available at <https://www.bbc.com/news/world-asia-49834904> (last visited on January 10, 2022).

¹³ Li Huihui, ‘Reflections on the ‘Whistleblower’ System’, China Law Insight, King & Woods Mallesons, 18 October 2019; original source in Chinese, Available at <https://bit.ly/2USVQML> (last visited on January 11, 2022).

technique by the Chinese government, particularly for regulating official corruption.¹⁴

The COVID-19 whistleblowers in China, on the other hand, do not match this limited definition of a whistleblower as a government agent enforcing regulations. Rather, they are emphasising the role of a whistleblower that raises an alarm in the public interest, even when the government strives to suppress or control the circulation of such information. This is demonstrated by Dr. Wenliang's instance. When he died of Covid-19 in February 2020, it sparked widespread public outrage, with many citizens openly calling for freedom of speech on social media, resulting in nearly two million views that were later censored, and the phrase "Wuhan government owes Dr Li Wenliang an apology" receiving tens of thousands of views before being removed.¹⁵ As a result, Dr. Wenliang is viewed as a whistleblower who attempted to set off an alarm in the public interest but was silenced rather than encouraged by the government in China.

This implies that the public's desire to know may conflict with the government's efforts to keep such knowledge hidden. The COVID-19 pandemic has brought the significance of whistleblowers as public interest voices and a kind of freedom of expression to the fore in China. It remains to be seen whether such a viewpoint can be held, let alone translated into law.

IV. In The United States And Europe, Censorship And Silencing Of Whistleblowers

While the implications of suppressing and controlling information in China are severe,

employees all around the world, particularly medical workers on the front lines of the COVID-19 struggle, have been pressured to remain silent by governments and authorities. According to The New York Times:

"In New York City, the epicentre of the crisis in the United States, every major private hospital system, as well as several public institutions, has sent letters in recent weeks warning employees not to speak with the media."¹⁶

Workers have faced disciplinary penalties and even dismissals after raising concerns about their working conditions, in addition to being restricted in their ability to speak out about the COVID-19 pandemic. The Government Accountability Project, Washington, D.C. based whistleblower protection and advocacy organisation, has documented multiple incidents of whistleblowers being dismissed for speaking out. For example, a Seattle emergency department physician was sacked after giving a newspaper interview about insufficient protective equipment and testing, while a Chicago nurse was fired after requesting better equipment in emails with her coworkers.¹⁷

The scenario has been identical on the other side of the Atlantic. In the United Kingdom, medical professionals working for the National Health Service have been pressured not to speak out, with the media reporting that tactics used to silence staff include "threatening emails, the prospect of disciplinary punishment, and some people being sent home from work."¹⁸

¹⁴ Ting Gong 'Whistleblowing: What does it mean in China?' 23(11) International Journal of Public Administration, 1899-1923 (2000).

¹⁵ Verna Yu, 'Hero who told the truth: Chinese rage over coronavirus death of whistleblower doctor', The Guardian, 7 February 2020, Available at <https://bit.ly/2KP3O4V> (last visited on January 12, 2022).

¹⁶ Noam Scheiber and Brian M. Rosenthal, 'Nurses and Doctors Speaking Out on Safety Now Risk Their Job', *The*

New York Times, 9 April 2020, Available at <https://nyti.ms/3aQwJjN> (last visited on January 14, 2022).

¹⁷ Samantha Feinstein, 'COVID-19: The Largest Attack on Whistleblowers in the World', *Government Accountability Project*, 8 April 2020, Available at <https://bit.ly/3bTgX98> (last visited on January 15, 2022).

¹⁸ Sarah Johnson, 'NHS staff forbidden from speaking out publically about coronavirus', *The Guardian*, 9 April 2020,

Even more severe pressures have been recorded in European Union countries where the rule of law had weakened before COVID-19. A healthcare worker in Poland, for example, was sacked by the hospital director after utilising social media to inform about missing masks and equipment.¹⁹ The Polish Ombudsman responded to the incident by writing to the Ministry of Health, requesting that the decision to terminate the health worker be overturned and reminding the Ministry of the constitutional freedoms and rights to freedom of expression in Poland.²⁰ The problem is really not unique to one doctor, but it appears to be spreading, with medical personnel being asked to meet with management and doctors being forbidden from discussing their work or COVID-19-related issues with journalists directly.²¹

Hungary is an even more extreme instance, as blowing the whistle is impossible due to regulations restricting freedom of expression that are specifically targeted at journalists, including a five-year prison sentence for false reporting.²²

Serbia, an EU candidate state, has also been accused of putting pressure on whistleblowers and restricting freedom of speech. A whistleblower, for example, tried to expose the fact that perhaps the Union of Workers is compensating for masks that medical personnel should wear.²³ In another example, a local TV crew member was detained following examining a report from a

whistleblower that perhaps the reporter did not follow COVID-19 preventative health precautions when he visited City Hall.²⁴

In the face of pressure and dismissals of whistleblowers, as well as the potential imprisonment of journalists who help bring the facts to the public's attention, more than 95 civil society organisations from across Europe and the world have issued a statement calling for whistleblower protection and stating that they will continue to monitor and expose whistleblower censorship.²⁵

V. COVID-19 And Whistleblowers Act As Watchdogs

During the COVID-19 epidemic, whistleblowers served as watchdogs, demonstrating the flaws in institutional reporting systems as well as the specific significance of whistleblowing in disclosing risk at an early stage. During the COVID-19 epidemic, there was a systemic lack of transparency and information-sharing failures. Government and authority censorship of information suggests a preference for putting reputational interests ahead of tackling critical problems like medical equipment shortages and worker safety, particularly for medical experts. Governments can only control the narrative and public opinion in the near run through censorship. Maintaining transparency is not merely a checklist item for good governance when dealing with a

Available at <https://bit.ly/3bUjXCc> (last visited on January 15, 2022).

¹⁹ Angelika Piton, 'The Hospital director fired the midwife because she alerted on Facebook that masks and equipment were missing', *Wyborcza.pl*, 24 March 2020, Original source in Polish, Available at <https://bit.ly/3d27Fru> (last visited on January 16, 2022).

²⁰ Letter by the Ombudsman to the Minister of Health, Available at <https://bit.ly/2z3n4cc> (last visited on January 16, 2022).

²¹ Karolina Nowakowska, 'Doctors are silent about coronavirus. Doctors silence medics', *Gazeta Prawna*, 26 March 2020, Original source in Polish, Available at <https://bit.ly/3f88aCo> (last visited on January 16, 2022).

²² European Federation of Journalists, COVID-19: Journalists threatened with imprisonment in Hungary, 23 March 2020, Available at <https://bit.ly/2z1iBqw> (last visited on January 16, 2022).

²³ A.S. and M.J., 'Union charges employees with protective masks, including an administrative ban', *Južne Vesti*, 30 March 2020, Original source in Serbian, Available at <https://bit.ly/2VQpKDe> (last visited on January 17, 2022).

²⁴ KTV Zrenjanin: Our team arrested on a false accusation that they did not disinfect', *NI*, 26 March 2020, Original source in Serbian, Available at <https://bit.ly/2VWBLap> (last visited on January 18, 2022).

²⁵ The Good Lobby, Coalition to Make Whistleblowing Safe During COVID-19 and Beyond, 6 April 2020, Available at <https://bit.ly/2KOccSl> (last visited on January 18, 2022).

catastrophe like COVID-19; it may actually save lives.

VI. Conclusion

Whistleblowers are filling the transparency vacuum and have become an important watchdog in ensuring that governments manage the pandemic properly. The cases reviewed in this study reveal that the goal of these whistleblowers was to uncover major flaws or a lack of resources in the health-care system so that they might be corrected as soon as feasible. Simultaneously, whistleblowers have been pressured to remain silent, and in cases when they have spoken up, they have been reprimanded or terminated. Journalists who attempted to disclose their tales have been threatened with incarceration in severe circumstances. Such efforts to limit freedom of speech have energised civilized society to mobilise globally in support of long-term legislative solutions and whistleblower protections. Finally, whistleblowing as a means of accessibility is not only becoming less problematic, but it has also emerged as the remedy against censorship during COVID-19.

VII. Suggestions

1. Make a policy for whistleblowers, publicise it, and encourage people to blow the whistle.
2. Communication about retaliation bans for whistleblowing activities is emphasised.
3. The message of whistleblower incorporation must travel from top to bottom, from top management to entry-level employees even in public domain.
4. There should be a commitment to putting in place a whistleblower programs, statutes and strict laws for the protection of whistleblowers.
5. If an inappropriate act occurs, it must be thoroughly investigated using whistleblowers required necessities.

Bibliography

Singh, Vijay Kumar, Whistle Blowers Policy

Challenges and Solutions for India with Special Reference to Corporate Governance (SSRN, 2017)

Goel, Shivam, Protection of Whistle-Blowers in India: A Corporate Perspective (SSRN, 2015)

Johnson, R. A., *Whistleblowing: When It Works — and Why* (Lynne Rienner Publishers, 2003)

Kohn, Stephen M., *The Whistleblower's Handbook: A Step-by-Step Guide to Doing What's Right and Protecting Yourself* (Lyons Press, 2011)

Alford, C. Fred, *Whistleblowers: Broken Lives and Organizational Power* (Cornell University Press, 2002)

Fowler, Susan J., *Whistleblower: My Journey to Silicon Valley and Fight for Justice at Uber* (Viking, 2020)

Ventegodt, Soren, Niels, Jorgen Andersen and Merrick, Joav, *The COVID-19 Pandemic: A Tribute to the Corona Whistleblowers* (Nova Science Publishers, Incorporated, 2020)

Samrudhee, Shah, "Whistle Blowing Mechanism in India, an Analytical Study", Volume 2 Issue 2, *Pimpri Law Review Journal* (2023)

Arroyo, Paulina and Smaili, Nadia, "Whistleblowing Academic Research: Historical Perspective, Vol. 32 No. 1, *Journal of Financial Crime* (2025)

Clements, Lynn H., "Whistleblowing: Who, What, When, Where, Why & How?" Vol. VI, *Journal of Forensic Accounting* (2005)

Nie, Jing-Bao and Elliott, Carl, "Humiliating Whistle-Blowers: Li Wenliang, the Response to Covid-19, and the Call for a Decent Society", *Journal of Bioethical Inquiry* (May 2020); DOI: <https://doi.org/10.1007/s11673-020-09990-x>

Gupta, Seema, "Whistleblower Protection Legislation in India: A Critical Analysis", Volume 4, Issue 1, *Arthavaan* (December 2021)

Agrawal, Preksha, "A Study on the Laws Regarding Protection of Whistle-Blowers in India", Vol. 6 Issue 2, *International Journal of Law Management & Humanities* (2023)