

# Whistleblower protections have never been more urgent

Kieran Pender, Bill Brown – *Canberra Times* – 26 November 2021

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We live in difficult times. On top of the climate crisis, a once-in-a-century pandemic and rampant global inequality, democratic norms continue to be eroded at home and abroad. We have seen a dramatic increase in secrecy, while transparency and political accountability face growing threats. Optimism can be in short supply.

But amid the gloom, there is light. There are courageous people who speak up, who call out wrongdoing and injustice, who blow the whistle on corruption and maladministration. Over a hundred years ago, an American judge argued for transparency to fight corruption: "Sunlight is said to be the best of disinfectants". It is as true today as it was then.

Thanks to brave individuals, we know about misogyny in Parliament House. We know about alleged war crimes committed by our soldiers in Afghanistan, our government's attempts to manipulate climate science and the maladministration of the Murray Darling Basin Authority. We know about misconduct at the big banks. Change comes when people see something and say something. Whistleblowers - often in collaboration with journalists - are powerful agents of positive change.

The public agrees. Recent polling conducted by The Australia Institute and the Human Rights Law Centre, found three-quarters of Australians agree that whistleblowers make Australia a better place, including 75 per cent of Coalition voters, 78 per cent of Labor voters and 80 per cent of Greens voters. Support is even higher among older Australians, who have had more time to witness the difference whistleblowers make.

Despite this, Australia's whistleblowers are imperilled. Domestic and international research has consistently underscored the immense personal and professional toll of speaking up. One Australian study found that four in five whistleblowers suffered negative repercussions. Some are demoted, others fired, others still have faced legal action. The harder we make it for people to speak up about wrongdoing, the more likely they are to stay silent. It raises the question: what don't we know because potential whistleblowers are worried about the consequences of speaking up?

It is for this reason that nations around the globe have introduced laws to protect and empower whistleblowers. Australia was once a world-leader - Queensland and South Australia introduced some of the first whistleblowing laws, behind only the United States. But laws that were once best practice are now outdated. Australia has not kept up with international developments. Whereas the European Union recently enacted landmark whistleblowing reform, our government continues to prosecute whistleblowers who act in the public interest, and the shortcomings in our laws are being exposed.

This is particularly true for the Public Interest Disclosure (PID) Act, which is meant to protect public servants blowing the whistle on corruption, malpractice and unlawful conduct

within the federal government. In 2016, an independent review found that the experience of whistleblowers under the law was "not a happy one" and recommended a range of reforms. Last year, the Coalition belatedly accepted the recommendations.

Yet as we find ourselves midway through the final parliamentary sitting period of the year, robust reform to the PID Act remains beyond the horizon. Five and a half years since the independent review, and almost 12 months since the government's response, [draft amendments have yet to be made public](#). It seems unlikely change will be enacted before the election.

This is scandalous. Seven in 10 Australians agree that reform of the PID Act should be a priority. Not a single whistleblower has won a case using the PID Act in its current form. Reform is needed, and it is needed urgently.

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The continuing failure to enact stronger whistleblowing laws is made all the more perverse by the ongoing prosecution of whistleblowers. [Bernard Collaery faces jail time](#) for allegedly speaking to the ABC about Australia's espionage against Timor-Leste. Australia used that espionage to secure a commercial advantage in gas negotiations. Then-attorney-general Christian Porter gave the green-light to prosecute Collaery, and Porter and his successor, Michaelia Cash, have sought to shroud the prosecution in secrecy. Despite Collaery winning his appeal against trial secrecy in the ACT Court of Appeal, the government is threatening to [take his case to the High Court](#).

Likewise, David McBride - who [blew the whistle on alleged war crimes in Afghanistan](#) to the ABC, and Richard Boyle - who spoke up to the ABC and *Sydney Morning Herald* about [unethical practices at the Australian Tax Office](#), are also awaiting trial. Both believed they were doing the right thing. They raised their concerns internally first, and only went to the media - as permitted under the PID Act - after their concerns went unheeded. Both have been vindicated by independent investigations and inquiries. They should be lauded. Instead, they both face potential jail time.

Australia needs robust laws that empower whistleblowers to speak up and ensure they don't suffer as a result. As we tackle immense global challenges, it is vital that elected representatives and public servants act in our best interests. We need to make sure they are accountable. We need the sunlight that whistleblowers bring.

The public overwhelmingly agrees that whistleblowers should be protected, not punished. It is time for the government to listen and act - now.

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