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**An Exploration of the Whistleblowing Phenomenon and its
Mechanisms in the USA: The Case of Edward Snowden**

**A Dissertation Submitted to the Department of Letters and English Languages in
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Culture**

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Dedication

I dedicate this work to my parents, no words can ever do you justice.

Thank you for always teaching me that no matter how many times life knocks you down, it is the ability to continue that determines the quality of your life. Thank you for being the constant source of strength, love, and hope, for always being the candle that lights up the darkest rooms.

Abstract

The present dissertation explored the whistleblowing phenomenon in the United States and highlighted the case of Edward Snowden. Judging the persona of the whistleblower has always been a matter of discussion in the American community. It is an area of debate where the views vary and oppose one another. The exclusive case of the National Security Agency (NSA) and Snowden made the government project him as a traitor while the public seemed to support his message and consider him a hero. The deliberation about his image kept the momentum of not settling on a final judgment. Within the scope of this dissertation, the attained results affirm that the young whistleblower is a national hero. As reinforcement to the confirmed hypothesis, the current work asserts a collection of convincing arguments to put an end to the long lasting debate about the image of Snowden, proving that whistleblowers are often subject of rejection by the government if their message falsifies in any shape or form the credibility of the system upon which it operates.

ملخص

بحثت المذكرة ظاهرة الإبلاغ عن المخالفات في الولايات المتحدة الأمريكية وأبرزت قضية إدوارد سنودن. لطالما كان الحكم على صورة الشخص المبلغ موضوع نقاش في المجتمع الأمريكي بحكم أن المسألة تفتح مجال جدل تختلف فيه الآراء وتتعارض. القضية القومية الخاصة بوكالة الأمن الدولي و سنودن عملها السابق جعلت الحكومة الأمريكية تعرض صورته كخائن للدولة بينما بدا الشعب الأمريكي مؤيدا لرسالته و أظهر إستعدادية لتبنيه كبطل قومي. أبقى التداول حول صورته على حيوية المناظرة مع عدم تسوية الحكم النهائي. ضمن نطاق هذا البحث تؤكد النتائج المتحصل عليها أن سنودن هو بطل قومي و كتعزيز للفرضية المؤكدة و فرت المذكرة زمرة من الحجج المقنعة التي تمكنت من وضع حد للنقاش الطويل الأمد و التي أثبتت أن المبلغين عن المخالفات غالبا ما يشغلون موضع انتقاد للحكومة الأمريكية، خاصة إن كانت رسالتهم تمس بأي شكل من الأشكال مصداقية النظام المعتمد من طرف السلطات و الذي يضمن سيرورة عمل الدولة.

List of Abbreviations and Acronyms

ACFO	Association of Canadian Financial Officers
ADM	Archer Daniel Miland
ALJ	Administrative Law Judge
CFO	Chief Financial Officer
CIA	Central Intelligence Agency
DIA	Defense Intelligence Agency
FBI	Federal Bureau of Investigation
FCA	False Claims Act
FDA	Food and Drug Administration
GPA	Government Accountability Project
GSK	GlaxoSmithKline
IC	Intelligence Community
IG	Inspector General
KBR	Kellogg Brown & Root
NSA	National Security Agency
ODNI	Office of the Director of National Intelligence
OECD	Organization for Economic Co-operation and Development
OSC	Office of Special Council
SEC	Securities and Exchange Commission
SOX	Sarbanes-Oxley Act
US	United States

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Introduction

The workplace of an individual is an arena in which he operates according to certain policies that are essential to the organization's entity. The employee is restricted to the adaptation of the moral institution of the organization, and has an ethical responsibility to respect what it represents. The acceptance of the organization's nature creates a sense of duty that leads the employee to carry his occupation with devotion, persistence, and most crucially, faithfulness. These concepts are familiar within any industrial field. Regardless, in certain cases they tend to create a dilemma in which the employee stands at a crossroads; finding himself in a situation that requires a sort of action captured in remaining silent by staying indulgent to his organization, or putting his ethical beliefs as a priority and take the initiative step to speak up about the wrongdoings installed within his workplace.

The decision to confront the moral or illegal issue of the organization can simply be defined as the act of blowing the whistle. Within the political territory, this act is presented in the term "whistleblowing", a phenomenon that takes an international dimension and echoes a voice globally encompassing the UK, Australia, South Africa, South Korea, Thailand, Peru, Norway, Ireland, and Switzerland. The US, the focal point of this research work, is no exception.

Whistleblowing in the US has made a drastic change and identifiable footprints in the political history of the nation. The American Constitution which is the core for the course of justice demonstrates in the third clause of the First Amendment that, "Congress shall make no law... or abridging the freedom of speech" which stands for the essence and captures a legitimized statement for the act of blowing the whistle which is simply to SPEAK UP.

From another perspective and taking into consideration the widespread phenomenon across the US, it is extremely hard to focus on the message without having any recognition of the messenger. The whistleblower who chooses to stand up and represent "the other" within

his organization is the individual who takes it upon himself to keep his ethics, honesty, and morality at the expense of his occupation, remuneration, and persona. Correspondingly, his voice stands for the communal benefit of the public sector, and most importantly, for a case that demands to be heard.

Going through the US history of whistleblowers in the last decade, one cannot overlook the example of Edward Snowden, the loudest whistleblower. The 29-year old former NSA employee who discovered that his organization is operating as opposed to the Constitution and his moral standards. Consequently, the young whistleblower took the biggest risk there is in any workplace and blew the whistle against the NSA. The response to Snowden's actions varied among political experts and the public sector; some viewed the whistleblower as a national hero while others stigmatized his image by labeling him a "narcissistic traitor". Respectively, it is safe to say that the case of Edward Snowden is indeed one suitable example for examining the phenomenon of whistleblowing in the US.

The importance of this research lies in the fact that whistleblowing is an international phenomenon that requires deep scrutiny. It is worthwhile to conduct this research because the act of blowing the whistle is related to any employee and exists in every framework whether industrial, political, or even ethical. The selection of the topic has initially been triggered by the interesting nature of the phenomenon in question because whistleblowing as a term by itself creates curiosity that needs to be academically fulfilled.

The work presented is set to examine whistleblowing in the US and construct a comprehensive analysis of the phenomenon by investigating its concepts and evaluating the variety of perspectives Americans share as well as attempting to settle the heated debate that is based on the image of the whistleblower, being a hero or a traitor. More importantly, it is undertaken to provide an understanding of how exactly the act of blowing the whistle takes

place within or outside organizations. The research will expose and explain the crucial criteria of protection acts implemented in the US political system.

When putting into perspective the US context and the dynamics of whistleblowing, a series of questions are raised. This research will attempt to provide persuasive answers to the following: What are the concepts of whistleblowing? At what level can it operate? Is it an act of loyalty or disloyalty? Is there any difference between internal and external whistleblowing? What is the legitimacy of whistleblowing? Does the law provide protection to whistleblowers? What are the motives of a whistleblower? Why is there a focus on the messenger rather than the message? Does the whistleblower symbolize integrity or signify a sense of betrayal? Is the whistleblower a national hero or a cowardly backstabber?

It is safe to say that whistleblowing is among the most interesting topics to be tackled within the arena of academia. This is due to the nature of the phenomenon and the possibility it offers to approach it from a variety of aspects whether ethical, political, or social. In fact, it is quite crucial to put into perspective what researchers, journalists, politicians, and scholars have said about whistleblowing in order to build a crystal clear image about the essence it possesses. This literature will act as the cornerstone upon which the examination of the presented work is set.

One of the most controversial areas concerning the act of blowing the whistle lies in the state of knowledge achieved of the term itself. In their article “A Dialectic Analysis of the Whistleblowing Phenomenon”, Andrea Bather and Martin Kelly play on the image note and demonstrate that whistleblowers are viewed from the public as national heroes; they go further to explain that the performers of blowing the whistle are perceived as honest individuals due to their commitment to principles. Bather and Kelly emphasize the idea that the actions of the whistleblower come from a motive of courage rather than betrayal, and it is an absolute must to take into account that these individuals are jeopardizing not only their job

and their public image, but their families as well; those whistleblowers are likely to be victimized, threatened, and even with the tendency of being suicidal. From another reflective point of view, the two scholars present a paradoxical thought to the previous one. They state that in most cases, whistleblowing is portrayed as an act of disloyalty and whistleblowers are only seeking retribution.

The US stands as a nation that operates on a level of political intricacy that seems impeccable due to a constitution that stood the test of time and a political system that is intact in core. On the same line of thoughts, the whistleblowing phenomenon covers a political nature in terms of laws and protection systems established. The spirit of the report *Committing to Effective Whistleblower Protection* holds the view that the protection of whistleblowers stands as a legitimized protection from any misconduct at any workplace as long as it is based on reasonable groundings.

The report demonstrates that protecting whistleblowers creates a sense of integrity, faithfulness, and most importantly safety to report any wrongdoings. Additionally, it advocates that the key feature of protection systems is granting a prerogative to the employees. These prerogatives allow them to have a voice that can echo on both national and global levels. Apart from that, it grants governments the opportunity to pinpoint the problems and difficulties of the people as well as the chance to respond to their reported concerns for the sake of achieving the common good.

In the same framework, Edward Elgar in his book *A Global Approach to Public Interest Disclosure: What Can We Learn from Existing Whistleblowing Legislation and Research?* presents two approaches concerning the matter. On the one hand, the first approach adapts protection systems as a law against all sorts of discrimination including: social status, gender, ethnic minorities, and sexual bias. He explains that the main reason behind performing the act of blowing the whistle is usually the result of the abusive

treatments employees face on a daily basis, and that discrimination at the workplace has become an international trend. Alternatively, the second approach pinpoints the unfair dismissal by employers leads to committing whistleblowing. It is one of the several contributing acts in providing a touchstone for establishing protection laws. On the same vein, Elgar emphasizes the creation of balance between promoting the public interest and protecting the prerogatives of the employers.

The cornerstone of this research is captured in the case of Edward Snowden. The loudest whistleblower in US history will operate as a perfect example for demonstrating the dynamics of an American whistleblower. Going further with this research, there is a requirement to shift the focus from the messenger to the message. To develop this point, it is pivotal to review the work of Glenn Greenwald entitled *No Place to Hide: Edward Snowden, the NSA and Surveillance State*. In his book, Greenwald signifies the role of the government and the NSA in abridging the privacy of the public. He states that the government played on the safety note and justified the misused entitlements of the NSA by declaring that the nation must sustain security and safety against terrorism at any expense. He illustrates that the paranoia of terrorism led the government to take extreme measures and have unlimited, unrestricted authority even if it meant breaking the law.

Authors, scholars, politicians, and journalists will remain at the level of diversity whenever dealing with the topic of whistleblowing due to the purpose of building a comprehensive consensus that can encompass all the aspects of the phenomenon. The works mentioned above are further examined throughout the process of developing the presented research. The intricate essence of whistleblowing requires a deep analysis of the related materials. In this regard, the qualitative method is an essential element for the construction of this research because it grants the opportunity to examine a variety of descriptions, illustrations, and critical thoughts provided by experts in the field. Be that as it may, the

analytical approach is followed in the process of developing the recent work. As a consequence to the use of qualitative materials, the results are descriptive in nature for the purpose of presenting a comprehensive understanding of the topic under study.

This dissertation includes three chapters. The first chapter portrayed in “The Dynamics of Whistleblowing in the US Context”, demonstrates a step-by-step understanding of the whistleblowing phenomenon by presenting its concepts. It argues that there is a variety of explanations suitable for defining the entity. The chapter explains the difference between internal and external whistleblowing through setting the criteria that allows the employee to choose the appropriate way of reporting. It goes on to unfold the aftermath expected as well as projecting the phenomenon as an act of loyalty and disloyalty in order to facilitate the process of judging. Each façade of whistleblowing is reinforced with persuasive academic arguments.

The second chapter is entitled “Whistleblowing Laws and Protection Systems in the US”, goes further and covers the aspect of whistleblowing laws; what sort of prerogatives the government has to offer for whistleblowers as well as analyzing the protection laws, and the reason behind the diversity of legal acts. The second chapter deals with minor case studies related to protection policies. It draws examples from a variety of fields for the purpose of putting these acts of protection into practice which eventually allows grasping what sort of strengths and deficiencies each act maintains.

The third and the final chapter captured in “Edward Snowden: A National Hero or a Cowardly Backstabber”, covers the case of the most wanted man in the world. The chapter is developed gradually introducing the NSA and the nature of the organization as well as investigating the dynamic relationship between employers and their workplace, then the light is shed on the dilemma of Snowden in an attempt to end up with a persuasive analysis of his persona. Most crucially, the chapter settles the long lasting debate about whether Snowden is

a hero or a traitor. The presented dissertation stands as a humble addition to the broad scope the whistleblowing phenomenon maintains. Despite the complexity of its nature, whistleblowing is an intriguing area of study because it bears limitless divergent approaches by which scholars can tackle its features deeply and critically. This research is conducted through dealing with whistleblowing as an entity created by setting the grounds and building it up to reach specific elements. A suitable start for this study is to draw the early beginnings of its emergence along with reflecting on the historical legitimacy it is attached with. The exclusivity of chapter one is presented in the following.

Chapter One

The Dynamics of Whistleblowing in the US Context

The intricate nature of the overall phenomenon of whistleblowing can encompass a diversity of elements. These criteria when put into perspective profoundly contribute to the establishment of the term and its meaning. Like any other notion, a historical background is crucial for one's basic understanding. For that matter, this chapter is developed to give a sense of a historical tone upon which examination of the different elements of whistleblowing, along with an analysis of its ethical approach are set to take place.

1.1. Historical Overview of the Phenomenon

Blowing the whistle is a phenomenon that is considered as a recent act of reporting. However, it is important to explore previous cases in a variety of fields which had witnessed the act. Consequently, a certain curiosity is implemented to provoke the need for research in the course of history. Within the sphere, a collection of the most interesting cases of whistleblowers along with a preview of an extract of the official document that paved the way for whistleblowing is presented.

1.1.1. The Constitutional Legitimacy

It is safe to say that the principle of whistleblowing can be traced back to the 18th century with the establishment of the American Constitution. During the Philadelphia Convention which took place on September 17, 1787, the Founding Fathers such as John Adams, Benjamin Franklin, John Jay, Thomas Jefferson, James Madison, Alexander Hamilton, and George Washington paved the way for the possibility of blowing the whistle. The constitutional right given to each and every American falls under the 1st Amendment and states the following "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of

grievances” (qtd. in Kohn, “Federal Whistleblower...”). As a result, Americans obtained the right to speak up whenever and at any expense simply because they were allowed to. This sparked the urge to widen one’s horizon and use this right in more areas trying to take the best advantage of the presented act of speaking up, of blowing the whistle.

1.1.2. Footprints of Notable Figures in a Historical Framework

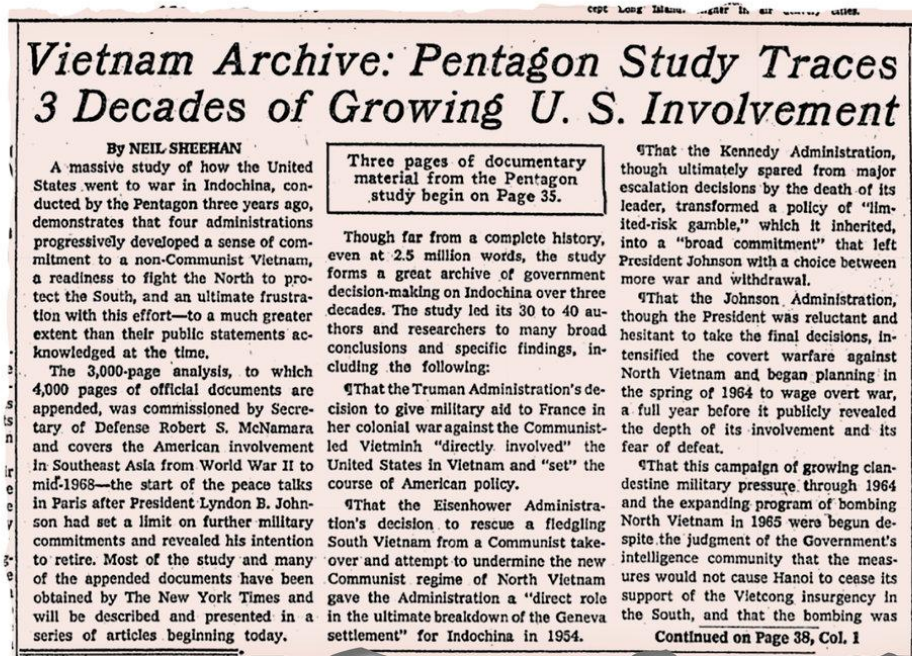
History is a manuscript as it moves in both continuous and discontinuous manners. It is shaped by factors and people that managed to make a change and leave a print. The individuals who took it upon themselves to blow the whistle were marked throughout history as identifiable figures. Michael M. Ting describes their role as a crucial one because they were the first initiators to pass information, documents, and data from lower ranks of power to higher officials (249).

Being the democratic nation it is today, America witnessed the birth of the 1st act of whistleblowing through Benjamin Franklin. In 1773, the Founding Father exposed confidential letters that demonstrated the infidelity of Massachusetts Governor Thomas Hutchinson who had on purpose deluded parliament to promote military bases in colonies. John L. Smith, Jr. tells the story of how the good intentions of Franklin backfired on him by almost causing a war.

Opposing his previous teammate Thomas Hutchinson, Franklin passed secret British government documents to Boston’s leaders. Those documents created accusations towards the British Governor for handing down misleading information about Americans to higher British officials, and that it was not parliamentary ministers’ fault. Rather, it was the Governor’s. The American polymath at the time was the first non-British to be granted the heights gold achievement award by the Royal Society of London. Nevertheless, because of his act of blowing the whistle British’s admirable American was soon to turn from an honorable arbitrator to an agitator with a cause.

In 1971, there was an outburst concerning the matter of the Vietnam War. *The New York Times*’ reporter Niraj Chokshi asserted the disillusionment of Daniel Ellsberg with the Vietnam War, and his act to leak top-secret documents.

Figure 1: Vietnam Archive: Pentagon Study Traces 3 Decades of Growing US Involvement.



Source: Chokshi, Niraj. "Behind the Race to Publish the Top-Secret Pentagon Papers." *The New York Times* 20 Dec 2017: n.pag. Web. 11 Jan. 2019

<https://www.nytimes.com/2017/12/20/us/pentagon-papers-post.html>

The former State Department Employee, as shown in figure 1, revealed the deep involvement of the United States in Southeast Asia war on both political and military levels. The reaction was massive. The information was far too heavy on both Johnson and Nixon administrations. From one aspect, Ellsberg's act of blowing the whistle led to the exposure of Johnson administration by portraying it as a deceiving system which lied to the Congress, and had the United States fuel the war by the hellish bombing of Cambodia.

From another aspect, Nixon administration attempted to falsify the statements and accuse Ellsberg with conspiracy espionage. The urge to uncover the whole scandal came from a place of frustration and agony; Ellsberg realized he had the power to take matters into

his own hands, and that he was the change he sought. The whistleblower described his inner conflict by saying: “Then it was as though an ax had split my head, and my heart broke open, but what had really happened was that my life had split in two” (qtd. in Chokshi). Shortly after, he aimed for *The New York Times* to become the medium for exposing the malfeasances, mainly because it had the right criteria to publish the story, publish the truth.

Forward to 1972, according to Sara Kettler, the godfather of whistleblowers, William Mark Felt blew the whistle on the presidency of Richard Nixon. John L. Mays reports that the Federal Bureau of Investigation (FBI) special agent and Associate Director handed information about the wrongdoings of Nixon; leading him to eventually file his resignation. What was interesting, and to some extent an exception is the fact that William Mark Felt kept his identity secret for almost 32 years until he was convinced by his daughter to finally reveal it in 2005 (Carlson 235). Instead, Annette Mcdermott claims that *The Washington Post* reporters Bob Woodward and Carl Bernstein uncovered the story that the whistleblower was adopting the nickname “Deep Throat” throughout the process of leaking information during the Watergate Scandal.

Moving away from the political territory, whistleblowing was manifested in other fields such as agriculture. Thom Geier reports that the early 1990’s had witnessed the breakthrough of another whistleblower called Mark Whitacre. The life of the 35 years old was documented in a book entitled *The Informant*. Whitacre at the time was assigned as the vice president at Archer Daniel Miland (ADM), a leading company in agriculture (Pavlo). After gaining insights about the wrongdoings of the company, he sought to inform the FBI which appointed him as a secret agent, as an informant in what later became known as the biggest price fixing case in history.

The scandal essentially revolved around the entanglement of ADM in an international price fixing scheme called “Lysine Price-Fixing Conspiracy” (Jani). The

former vice president worked for the Federal Agents for a total of three-year period before uncovering what sounded to be unbelievable; Whitacre had embezzled 9 million dollars (Connolly). Being subject to the shock, the government punished the embezzler with almost 9 years in prison (Geier). The whistleblower was later released in 2006, and had a large support from the public who thought he was worthy of a pardon for the prison punishment. Their claim was that if it were not for his act to blow the whistle, ADM would never pay a total of 30 million dollars as a fine, and those who were involved would never face prison (Pavlo). Whitacre expressed his remorse over a phone interview with *Forbes* magazine.

The former FBI informant stated that: “I take responsibility for what I did, but I can say that I paid a tremendous price as well” (qtd. in Pavlo). Additionally, the whistleblower expressed the massive role his wife played in exposing the malfeasance and manifested this fact by saying that: “it was Ginger who was the true whistleblower of the ADM case. If it was not for a 34-year old stay-at-home mom of three young children, the largest price-fixing scheme in US history may never have been exposed” (qtd. in Jani). An acknowledgement for both Whitacre and his wife is necessary in this context because he was not the only whistleblower in the case presented. His wife was his motivator and the ultimate support, the person without which the case would have never surfaced.

Fast forward 6 years later, the tobacco industry was another field that experienced the phenomenon of whistleblowing. Jeffrey Wigand, also called “the insider”, was the vice president at Brown and Williamson, the third largest tobacco manufacturer and marketer in the US (“Brown and Williamson Tobacco”). In 1999, Wigand had decided to blow the whistle due to his knowledge and affirmation that his former employer was aware of the severe harm caused by the cigarettes produced; it contained carcinogenic and other addictive products which maximized the effect of nicotine on the smoker at the expense of his/her

health (Mays). Chuck Salter confirmed that Wigand wanted to be called everything but a whistleblower.

The journalist continues to report that the former tobacco executive specifically stated that: “The word whistle-blower suggests that you’re a tattletale or that you’re somehow disloyal, but I was not disloyal in the least bit. People were dying. I was loyal to a higher order of ethical responsibility.” Being the head of research and development for Brown and Williamson, Wigand did not hesitate to go public and tell the tale on the *60 Minutes* in which he advocated that the company was “a nicotine-delivery business” (Brenner). As a consequence to his brave declaration, Wigand was subject to harsh harassments and death threats on a regular basis (Salter). Despite the hardships the tobacco whistleblower was facing, he kept his message and protected his ethical responsibility.

During the interview Wigand emphasized this fact by saying: “They can’t blow smoke at me, I constantly keep them on truth course. I keep the truth lit, and they don’t like it. But I’m not alone. I’ve got more people to shine the light on them now” (“Jeffrey Wigand on *60 minutes*”). Wigand blew the whistle for a noble cause because their case was not only a matter of personal gain. Rather, the health of the public was at jeopardy.

Benjamin Franklin the first whistleblower, Daniel Ellsberg and the Pentagon Papers, Mark Felt the godfather of whistleblowers, Mark Whitacre the informant, and Jeffrey Wigand the insider are all American figures that shaped the history of whistleblowing. Although each one voiced a different message, all of them fought for the same case, fought for the ultimate good.

1.2. Fundamental Constituents of the Entity

The whistleblowing phenomenon is one that can surely be thought of as an entity; it encompasses a variety of elements that shape its core. This is why it is important to shed light on the key notions of whistleblowing; starting from the foundations, the meaning of

the actual term, the difference between its forms, the resulting consequences, and the possible perceptions surrounding it.

1.2.1. Whistleblowing as the Figurative Notion of Reporting

The notion of whistleblowing has not been one that is known in every sector or domain. Rather, it is a term and a concept that earned a fair share of wide and diverse definitions. Frederick A. Ellison expresses three possible ways to define the term. First, it can be said that whistleblowing is the act of going public with information that protects a certain product. Second, it can be described as the sound of an alarm located inside an organization; the sound stands for a threat or mistreatment of the public sector. Lastly, it is when an employee takes the step to report wrongdoings without informing his employer. He decides deliberately to voice hidden issues to an outside organization. The author continues to stress his intention; it is about identifying the term rather than appraising it. In the same vein, neither does Ellison form a bias nor a prejudice either with or against the targeted phenomenon (167). The notion of whistleblowing holds different interpretations, yet the phenomenon always revolves around the act of exposing a malfeasance.

Joan E. Sieber plays on the psychology note when it comes to whistleblowing, portraying the phenomenon as a whole process which includes several factors. She demonstrates that whistleblowing resembles the experience of early teenage years. It is something that falls closely to the experience of leaving home, and settling in a foreign country. The purpose behind these statements is to capture the feeling of being obliged to follow something, or accept the undesirable. It is the sense of facing the bombshell that no employee has ever anticipated.

Whistleblowing, in other terms, can be related to the particular experience of childhood; that one time when there is a look for an adult to report a wrongdoing, and instead of an expected praise, disappointment is the result (Sieber 8). The phenomenon

does not only play on the note of politics, it bears both ethical and psychological qualities. The process includes the wrongdoing, the state of mind of the whistleblower, and his ethical responsibility. All these factors have an important role when an employee decides to commit the act.

Similar to the movement of Classicism, the notion of whistleblowing holds a restrictive scope. It encompasses a limited number of factors that shape its definition. Peter B. Jubb explains that these crucial elements are presented in act of disclosure, actor, disclosure subject, target, disclosure recipient, and outcome. Within the sphere, it is a notion that has always been characterized on the basis of a dissenting act. Stepping into journalism, the echo of the term “whistleblowing” is intriguing to every reporter. It is stated to possess a “sensational quality” that never ceases to sufficiently serve every context in which the malfeasances are being unfolded (“Whistleblowing: A Restrictive...” 77). The cases involving blowing the whistle are interesting to the extent of being projected in Hollywood movies. They are so intriguing to the media because they provoke a sense of exploring and knowing what has been unknown.

Blowing the whistle is exclusively concerned with the individual and does not specifically require a group to be performed. Gerald Vinten states that it can be linked with the ancient practice of individualism; one of America’s core principles. Additionally, he proposes various terms that can be used interchangeably. Whistleblowing, according to him, can also be referred to as conscientious objector, ethical resister, informer, concerned employee, rat, or licensed spy. The spirit of his work carries his own definition of the phenomenon.

Vinten argues that whistleblowing is “the unauthorized disclosure of information that an employee reasonably believes evidences the contravention of any law, rule or regulation, code of practice, or professional statement, or that involves mismanagement,

corruption, abuse of authority, or danger to public or worker health and safety” (25). What the act certainly stands for is the courage to voice what is right even if the individual has no backup. Employees who put their reputation at stake to protect the public from further harm are admirable figures to say the least. They deserve to be praised because they capture what it means to be a genuine person with integrity in the workplace.

Forming an accurate understanding of a certain concept can often be more successful if it was compared to another. Brian Martin applies the same approach. He characterizes whistleblowing as a form of nonviolent act; it is simply taking the initiation to speak up without causing any harm to the public interest. However, he highlights, these two concepts are rarely discussed from a common perspective although they share different areas.

Whistleblowing and nonviolence are similar in the sense that they each involve an activity, an organization, a body of writing, and a practical experience (15). Focusing only on the act of blowing the whistle, Martin defines it in terms of casual usage. He states that it means reporting information for the sake of escaping imposed work patterns (16). Suitably, blowing the whistle means prioritizing the principles of one’s self over the policies of the corporation.

The act of blowing the whistle is not restricted, by all means, to the American context only. Throughout history, the concept thrived in different areas and cultures across the world. Joyce Rothschild remarks that the meaning of the word “whistleblowing” in a political context refers to an act of “*parrheisa*”. The term, he writes, is mainly originated in ancient Greece where citizens used it as an indication of a request to speak without restrictions (886). On another note, what falls beyond the norm is that whistleblowing does not fit the typical mould. The employees who embrace whistleblowing are no longer attached to the moral commitment of accepting everything stated or done by their employers (Perks and Smith 15). They are required to analyze what they are witnessing in their workplace. They need to distinguish between what is considered acceptable and unethical.

The definitions and explanations of whistleblowing are numerous. Reporters, politicians, and scholars have all had a share in shaping what the term stands for. This practically led to their experience with the phenomenon. Regardless, these meanings attain a common feature, a distinguished quality of an act. Whistleblowing, in simple terms, revolves around one word represented in “wrongdoing”.

1.2.2. Forms of Blowing the Whistle: Internal vs. External Procedure

The act of whistleblowing involves different measures to be taken into consideration. In any case, the performer of the action has to be cautious about what kind of message he is revealing, and to whom it is going to be reported. Respectively, these measures are not only thought of on an analytical level, but also a normative one. Any employee who is willing to reveal a wrongdoing is faced with two options: blowing the whistle to an authority from his workplace or approaching a third party represented in an external organization.

In the same sphere, internal whistleblowing is exposing a malfeasance to someone who can correct it, and with the needed power to eliminate it. In other terms, it is not reporting to a peer. Rather, it is exposing the wrongdoing to someone whose position is more forceful like directors and chief officers while external whistleblowing is seeking change from an outside organization like media (qtd. in Chung, Monroe, and Thorne 6-7). The process of whistleblowing asks its performer to go through two stages.

The first is when the whistleblower reports his message within his organization, and the second takes place when his purpose is not achieved. In this case, the employee decides to resort to an outside recipient with the ability to fulfill what his organization failed to attain (7). The employee has to prepare a plan of how to report his message and which organization he should go to. He needs to formulate a backup plan in case the organization he sought help from is overlooking his message.

In an article entitled “Internal vs. External Whistleblowing: A Comparison of Whistleblowing Processes”, Terry Morehead Dworkin and Melissa S. Baucus assert that the

decision is determined by the possibility of being protected (1281). Most whistleblowers tend to direct their message to an external organization such as the case of Mark Whitacre who sought to inform the FBI, rather than approach the Archer Daniels Midland (ADM) Company. However, seeking help from a person with authority can be a smart move because it will guarantee the delivery and reception of the message. Others who occupy this role of possessing a higher power may offer the choice to report internally or externally, backing up the whistleblower's decision in both scenarios.

Dworkin and Melissa identify the phenomenon as a process encompassing four possible stages. First, whistleblowing requires the existence of a flaw, a mistake, or a wrongdoing which eventually activates the whistleblower to make his move. Second, he digs deeper in order to collect more information serving his case. Third, the whistleblower makes his case public either with him staying inside or outside his institution. Lastly, a response is anticipated to accept the claims or completely overlook it. These stages do not operate out of pure spontaneity. They demand a level of awareness, dangerousness, and precariousness.

The choice to voice requires a level of consideration in terms of which channel to access, either reporting the message to an internal or external organization. Mainly, the case is determined by the kind of protection offered. The whistleblower tends to approach the kind of organization that will provide a safe haven (1282). For this reason, the employee should not jeopardize revealing the malfeasance unless he is certain about the power attained by the organization he reports to. For example, seeking help from the media is an excellent decision because it guarantees the widespread of the message.

The process concerning the nature of whistleblowing is related to a number of criteria presented in the illegal or unethical action, the whistleblower, and the context of blowing the whistle (Dworkin and Baucus 1283). To begin with, the illegal action is voiced externally if the consequences are thought of in terms of jeopardizing the health, the costs, and the

regimented repetition of the action. However, the message is revealed internally if the whistleblower feels an ethical responsibility to do so.

Another possibility to report externally takes place if the internal whistleblowing is not acknowledged, or the organization has remote to no power to make a change. Dworkin and Baucus observe that the nature of whistleblowing is determined by the degree of harm resulting from the wrongdoing; internal whistleblowing takes place when the harm is merely dangerous such as causing negative psychological effect on the employee while external whistleblowing is present when the harm concerns the public to a major extent (1285). External whistleblowing provides the kind of coverage needed to raise awareness among the concerned ones because it is not a matter of an organizational problem anymore; the case attains a personal attachment to anyone who is affected by the wrongdoing.

The second criterion that determines the nature of whistleblowing, either internal or external, is the performer of the action himself. According to Dworkin and Baucus, the gender of the whistleblower is crucial in this scope. It has been proven throughout the course of history that male whistleblowers outnumbered the females in terms of the famous cases. This is due to the rebellious nature that men possess; they are less likely to obey what has been wrongly imposed than women who tend to adapt to the situation. Male whistleblowers resort to external whistleblowing and female whistleblowers to internal whistleblowing.

Another factor is the position of the whistleblower in his organization. If the whistleblower is new to his workplace, he will reveal the wrongdoing externally because he is not aware of the policies within the organization; he lacks the knowledge of the right ways by which he could report internally to a higher authority. By contrast, whistleblowers with more experience in the organization tend to report internally because of two main reasons. The first being that they are aware of how to unfold the illegal action to a higher recipient from the same workplace, and the second being that they obtain a level of personal and

professional attachment to the their corporation which will lead them to favor internal whistleblowing to avoid a more harsh punishment for the organization involved (1283). Dworkin and Baucus, continue to incorporate the role of education and intellectuality in this decision.

The two authors state that it is more likely for the intellectual whistleblower to report internally because he is capable of collecting enough evidence and sensitive information to reinforce his case (1284). Powerful evidence is the key to get the message across due to two main reasons: the first being that the evidence will ensure the backup for the statements about the wrongdoing being practiced, and the second is it will provide the necessary means to fix the situation and return to the state of stability.

The third and final criterion is presented in the context of whistleblowing. It often has a direct relationship to whether a person should report to an internal or external organization. In the case of internal whistleblowing, the context of the organization is flexible in the sense that the organization's policies tolerate any kind of rejection that may come from the employee, and not only the employers (Dworkin and Baucus 1284). Contrasting the previous case, the authors demonstrate that whistleblowers are more likely to report externally if the organization allowed them to gather enough materials to support their claim (1285). The whistleblower is required to estimate how the organization operates.

On the one hand, if the organization is tolerant to accept any intervention from the employee, internal whistleblowing is the most suitable way to voice the message. However, if severe punishments such as losing the job are part of the process, the employee should resort to a different source for salvation. On the other hand, the performer of an external whistleblowing is highly subject to severe punishment because he is viewed by his organization as a traitor (Lewis 209). To be committed to whistleblowing means putting everything at stake, the employees take a leap of faith by trusting that their act is the right thing to do. At any expense, there has to be a limit for the wrongdoings; the interest and safety of the public should be considered above all.

1.2.3. The Consequences of Exposing a Malfesance

The phenomenon of whistleblowing is not only restricted to what it means, who is the performer of the action, and what are the forms that can be practiced. A more crucial question has to be raised within the current sphere. What is next? What comes after blowing the whistle? And is it worth the risk? It can be said with certainty that there is more to the story than just being called a “snitch”, “traitor”, or “betrayor”. Putting the context of patient safety into perspective, Lim et al. state that blowing the whistle results in both negative and positive consequences (1). The negative aftermath includes occupational, socioemotional, and physical consequences.

In terms of occupational implications, the whistleblower is either punished directly or indirectly. A direct consequence would be to lose the job or get suspended. However, an indirect consequence would be to reduce the regimented hours, getting transferred, withhold promotions, being pressured to quit, being bullied by his peers, and being labeled abusive names. Socioemotional consequences are represented in the form of anxiety, suspiciousness, and powerlessness which may lead to even more severe mental illnesses such as depression or being suicidal.

The physical consequences, perhaps the more obvious, encompass weight loss, having trouble falling asleep, constant headaches, and the increased need for nicotine when it comes to smokers. In some cases, whistleblowers can even suffer from family problems within their households because of their decision to blow the whistle like experiencing relationships breakdowns and getting divorced (3). Positive consequences are presented in the increased accountability of the employees and their attempt to improve the status quo of the organization (4). The battle for what is right has always been a difficult one. Therefore, the negative consequences outweighs the positive ones. Yet, any employee whatever his occupation should bear this in mind because the right thing to do is always worth fighting for.

The consequences of whistleblowing deduce a price for the act which falls on the whistleblower. It is claimed that: “many who bring these issues to light face also severe repercussions for their actions. They lose their jobs or are ostracized for their activities. Some are charged with crimes for violating laws or employment agreements. In extreme cases, they face physical danger” (Banisar 1). Apart from this, the continuous frequency of the wrongdoing even after blowing the whistle is considered a negative outcome. If the wrongdoing gains momentum, it is more likely to be at the expense of the public (Brojkel 276). Correspondingly, calculating what comes next is a smart move made by the whistleblower. By doing this, he can decide whether to take the risk or not.

James S. Lubalin, Mary-Anne E. Ardini, and Jennifer L. Matheson estimate the percentage of whistleblowers reporting an outcome. Their report “*Consequences of Whistleblowing for the Whistleblower in Misconduct in Science Cases*” shows that 69% of whistleblowers report negative outcomes, 31% rarely go through negative experience, 28% report only one negative consequence, and the majority of 74 % experience more than one negative outcome because of their act.

They add that these findings help justify two scenarios. They reject the fact that all whistleblowers face a kind of hardship after their act, and confirm the fact that nearly every whistleblower experiences permanent impact, a reaction to his action (17). Without a doubt, losing one’s occupation is heavy to any individual. However, earning a living through genuine efforts is much more worth it than personal gain through illegal actions or at the expense of others.

The rule is every action has a reaction. In the case of whistleblowing, the consequences are an integral part of the equation. They are the reaction that every employee should take into consideration before taking the decision to blow the whistle, a decision which could possibly change the course of his/her life.

1.3. An Ethical Approach to the Phenomenon

The world needs a system and rules to follow. These rules are the map by which human life could function in order, and without which it can easily turn into chaos. Within the sphere, ethics is one of the several key elements to embrace for the sake of having the peace of mind that every individual aspires to obtain. In any field, the need for ethics in the workplace is inevitable. Being the flexible phenomenon, whistleblowing stretches to maintain an ethical quality. It accepts the possible ethical interpretation within its context. Consequently, the presented research demands the projection of whistleblowing as an act of loyalty as well as an act of disloyalty.

1.3.1. Reporting a Wrongdoing as an Act of Loyalty

Loyalty without a doubt is a trait that everyone seeks to have as well as to find in any acquaintance. It is the quality which creates that sense of safety when it comes to any action or a relationship. The concept of the term stands for:

a willingness to sacrifice. It carries that notion of sacrifice with it, because a loyal individual designates someone who is willing to act for the benefit of someone or something else. A quick etymological sidestep shows such interpretation is very partial. “Loyal” is traced back through Old French loial and leial to Latin legalis and legalem, with roots leg- and lex-, which designate law. “Loyal” hence means what is conform to the law, or that which is of the conditions required by the law. (qtd. in Vandekerckhove and Commers 227)

Loyalty in marriage, friendship, occupation, and even loyalty to the self is absolutely essential. Loyalty to one’s self is demonstrated by being committed to what one promises himself to achieve. Nevertheless, the concept of loyalty in the context of whistleblowing is attached to the workplace. If the employee plans to break this accoutrement, he is more likely

to ask questions such as is whistleblowing the last and only alternative? Is there no time to use routine channels? Are internal channels corrupted? Are there no internal channels? (Wroge 35). The answers to such questions will pave the way for the decision to whether the employee should blow the whistle or step aside without any intervention on his behalf.

Studying the phenomenon leads the researcher to develop a passion towards the interesting nature it possesses. Whistleblowing provokes the intrigued ones; while some never stop to examine the possible areas, others' creativeness emerges. Being loyal when it comes to blowing the whistle is something that deserves praise at any given second. That is what the poem "Ode to Whistleblowing" aspire to portray in its transparent verses. It stands for the paradoxical thoughts surrounding whistleblowing. It tells the story of whistleblowers who are considered as traitors where they should be perceived as employees to look up to. Instead of being rewarded, these individuals are stigmatized and their psyche is traumatized because what they believe to be a loyal act is unfortunately dealt with as a disgracing act.

Blow the whistle, blow the fuse,
 mortality, morbidity, unemployability,
 about these muse.
 Ignominy, disgrace, self-destruction,
 among these choose.
 Why should it be,
 that the blower be blown up,
 sacrificed on the altar of vindictive gregariousness,
 that pseudo-loyalty born of schoolchild ethics?
 Corruption, fraud, pollution, health and safety abuse, mismanagement,
 discrimination,
 these are the seed beds from whose fertile soil springs the ethical triggers

which project the bearer into a world in which their virtue is controverted into vice, tables turned, the biter is bit, the informer informed on.

Why should it be?

The trauma to be endured, the excruciations, these were noble acts,

acts so bold as to launch the bee-sting of career mortality. (qtd. in Laurea 11)

In the context of loyalty, there is another concept related to it. This concept which is introduced by Wim Vandekerckhove and M. S. Ronald Commers is called “rational loyalty”. This new type of loyalty replaces the conventional one in the sense that it is no longer viewed from an individual perspective, yet an organizational one as it is no longer perceived as loyalty, but as rational loyalty. Vandekerckhove and Commers state that loyalty to organizations is not considered as a must because the workplace neither necessitates being loyal nor being a whistleblower (227). The employee should bear in mind that blindly following the policies of his company is a matter of his own choice and not imposed on him by any means. The decision to take the risk and blow the whistle stems from his ethical responsibility and integrity.

The persona of the whistleblower is one of the components affected by the act. Exposing a wrongdoing results in a certain reputation for the person who performs it. If the employee is someone who is committed to his principles, then there is no decision to think of in the first place. Blowing the whistle in this scenario becomes a given matter. Bather and Kelly assert that the employee faces a “choiceless choice”. The whistleblowers who take it upon themselves to jeopardize their income are the ones who are attached the most to the organization’s loyalty (qtd. in Wroge 36). Due to the fact that the malfeasance comes from the greedy individuals or the headmasters who abuse their prerogatives, the employee tends

to blow the whistle to create a positive impact. From this point of view, the act of blowing the whistle stems from his loyalty to the organization rather than loyalty to the corrupted system ran by the directors in higher positions.

It is typical to think about whistleblowing as an act of loyalty since the phenomenon bears an ethical quality. However, revealing what has been wrongly practiced is not only courageous and powerful, but also a sign of resilience. Petit and Cusin define this concept of resilience as the ability to bounce back after a hardship. It is the capacity to endure and surpass the consequences of whistleblowing and attain the control to return to the initial status. Be that as it may, resilience when it comes to blowing the whistle is simply the adaptability between the employee and his corporation (148). A resilient whistleblower, in other terms, becomes a wall at which a wrongdoing fails to progress.

Loyalty is a sensitive subject once analyzed. The interpretations are numerous because what is considered ethical for a person might be the opposite for another, and what is possible for an employee might be impossible for his coworker. Börnfelt et al. play on this note by stating that the choice to blow the whistle while remaining loyal to the organization is not an option because the two notions; whistleblowing and loyalty, are by nature contradictory. This perspective becomes a rigid rule for the employees to obey because the traditional way of operating in any field imposes the idea that the emergence of any report of a wrongdoing is held as a betrayal and a violation to the organization's loyalty (1). As a result, the whistleblower might take a step back and evaluate the aftermath to figure out if the act is worth the risk or it would just harm him on both personal and professional levels.

1.3.2. Uncovering the Truth as an Act of Disloyalty

The perceptions surrounding the phenomenon vary from one individual to another. While some may view it as an act of loyalty, for others it as an act of disloyalty. This stigma about being disloyal is what most whistleblowers face after their action. Debra Wroge

estimates that the biggest anticipated label concerning whistleblowers is “troublemaker”. The author adds that the majority of employers perceive those who blow the whistle as abusive employee because they jeopardized the reputation of the organization as well as the headmasters (36). When a group of participants were asked about whether the employee should be identified as a loyal or disloyal employee, their immediate responses were “that is a tough one”, “it could be a combination”, and “it depends on what motivates them” (40). From this angle, the whistleblower is subject to a variety of interpretations determined by the scenario, the circumstances, and the motives of the employee. If there is a personal gain in the equation, he is most likely to be presented as a disloyal worker who betrayed the trust of his corporation.

Whistleblowers find themselves at the center of attention rather than their message. There is a tendency to see these employees as more important because their voices provoke interest among the media and the public. Due to this shift in focus, whistleblowers are more likely to experience hardship. They are subject to the shame of being disloyal because of the severe tension they are exposed to (qtd. in Bather and Kelly). The quality of disloyalty can be attached to the whistleblower by the form of the performed action, either internally or externally.

Whistleblowers with high education tend to report externally because reporting internally leads the employers to directly punish their employees by firing them, labeling them as “disloyal”, or both (Dworkin and Baucus 1284). Even if they were regarded as disloyal their act cannot be dealt with as a violation of trust (Lewis 209). Revealing a wrongdoing is an intricate process. It is not operating according to an immediate impulse because reporting without studying the aftermath of the action might leave only the stigma of a disloyal employee.

An exception can be made when it comes to being disloyal to an organization. There is a gap that can be used in the favor of the employee, a justification for his infidelity. Michael Davis proposes a theory entitled “The Standard Theory” in which he provides five main conditions. When these conditions are met, disloyalty becomes allowed. The first condition is when the organization the whistleblower is part of causes harm to the public. The

second condition is when the whistleblower reports the wrongdoing internally, and realizes that his superior has no intention of fixing the status quo.

The third condition is when the whistleblower figures the possible danger not only to himself, but to his colleagues as well. The fourth condition is when the whistleblower accesses valuable information that would support his case and convince anyone who doubts his credibility. Lastly, the fifth condition is when the whistleblower affirms that exposing the malfeasance will prevent harm at a reasonable cost (6-7). The theory provides a boost of confidence for whistleblowers; it stands as an affirmation for the fact that blowing the whistle does stand for a cause. It reassures the employees that revealing a wrongdoing is worth the risk, even if their reputation is at stake.

Loyalty creates a sense of safety among employers; they guarantee the stability of their work because their loyal employee would never tell the tale of their wrongdoings. Disloyalty is quite the opposite. A disloyal employee is a threat to the corporation; he is expected to expose the organization's secrets at any given moment (Lukacs et al. 56). Those whistleblowers need to identify themselves as disloyal to their co-workers and the organization might treat the action as a betrayal (qtd. in Bather and Kelly 5). On the contrary, this breach of trust can be considered in a positive manner because blowing the whistle proves the commitment of the employee towards the public (Laurea 3). Nowadays whistleblowers are encouraged to be disloyal by other corporations which portrayal the whistleblower's organization as an enemy. They want to create instability in the workplace in order to gain an advantage (Hoffman and McNulty 8). Whistleblowers are provoked to reveal the wrongdoing due to a variety of reasons. Whether they were encouraged by another party or merely by their ethical responsibility, there is a risk of being labeled "disloyal" despite the intention behind the act.

The ethical interpretation is a must when it comes to forming an understanding of the phenomenon. Whistleblowing as an act of loyalty or disloyalty is a point that holds complexity due to the different views of concerned ones. In addition, the variety of ethical

principles each individual obtains is different from those of another which makes the task even more intricate to deal with. Judging an act of whistleblowing should not be based on intuition. Rather, it requires a deep analysis and a study that covers all aspects, from the intention of the whistleblower, the nature of his motives, the ethical responsibility he bears, his stand toward the organization, to the circumstances in which the act is performed. A walk through these criteria will help in the process of judging the act of whistleblowing, labeling it either as an act of loyalty or disloyalty.

Chapter Two

Whistleblowing Laws and Protection Systems in the US

Blowing the whistle has always been an act associated with a variety of fields. Whether analyzing it from an ethical perspective, a political point of view, or a media stand, the phenomenon carries enough complexity that encourages and intrigues any scholar to search and develop the necessary concepts in order to unfold its varied aspects. A political adaptation is crucial in this context. It is an element that would partly and entirely equip any whistleblower with the right weapons in order to perfect his acting of reporting.

2.1. Comprehensive Review of Legal Protection

Laws are the rules that organize the societal life. Human right, as an example, is not only a compound word granted to each individual. Rather, it exceeds what it stands for in the sense that these rights are more of a law that governs the dignity of human life. In the case of whistleblowing, human rights are portrayed in the version of protection laws. These laws vary in context and concept, yet serve the same purpose which is to build a firm arsenal for the people who jeopardize their status to voice the message of credibility, honesty, and loyalty in their workplace.

2.1.1. Whistleblowing Protection vs. Witness Protection: Two Sides of the Same Coin?

The scene of testimony in a court is something familiar to anyone. Whether experienced in real setting or a movie theater, the person in the witness stand can be one of two things, either identified as a “witness” or a “whistleblower” and only in rare cases he can be considered both. According to Ukawa et al., witnesses are not necessarily viewed as whistleblowers nor the vice versa (viii). Equally important, whistleblowing protection is different from witness protection. While the first means “Protection from discriminatory or disciplinary action public and private sector employees who report in good faith and on reasonable grounds suspicions of corruption to competent authorities” (qtd. in Ambler), the

second notion stands for a security program provided for individuals who attain sensitive information that would affect the course of the case tremendously, and more importantly would jeopardize their well being.

This kind of program can even create new identities in order to ensure the safety of the witnesses. The program started in the US and evolved globally where the concept is the same yet applied to the context of each country (Bąkowski 1). These programs gained much interest because of the positive outcomes created in all fields. The contributions of witnesses and whistleblowers are recognized as the vehicle to manifest justice loudly and internationally.

Due to the remarkable role of the witness and the whistleblower in criminal justice, figuring out how to protect them and providing a safe harbor for their status at a variety of levels has always been a focus for law enforcement authorities internationally (Ukawa, et al. vi). For this reason, citizens from all around the globe should obtain legal knowledge about what their governments can offer in such cases in order to maneuver and walk away from the matter safely and with the least damage possible.

Within the sphere, people involved in a witness protection program are more likely to experience a change in all aspects of their lives; the witness can even move to another country and start a whole new life with new identity and different occupation. Nevertheless, whistleblowing protection guarantees that the witness's occupation will remain preserved despite the employer's desire (Bothwell). Consequently, it can be said that the two notions differ in degree. Witness protection is more general in the sense that it strives to guarantee the safety of the person at any expense, while whistleblowing protection tend to focus more on the professional life of the whistleblower by protecting his rights from being abused by his employers and headmasters in his workplace.

Whistleblowing protection has not been an obvious idea since day one. In the past, there was little importance given to protecting the whistleblower. However, after the phenomenon gained momentum the government started to take action and interfere in the

process due to the increased cases reported in all fields about the malfeasances conducted in the workplace. This made the act of blowing the whistle an international matter; the sound of the whistle is now a governmental case, and no longer an echo only heard within the organization. The government reaction toward the matter is manifested in the establishment of protection. As stated by Connor Berkebile, Whistleblowers are now the ultimate tool for fighting wrongdoings. On the basis of three scientific studies, whistleblowers are proven to be not only the ultimate tool, but also the most effective one for striving against corruption in all fields (1). Therefore, whistleblowers indeed deserve this privilege of being protected by the law.

Correspondingly, the reason behind this protection is portrayed in two main aspects. Yu-Hao Yeh asserts that the first aspect is the change concerning the interaction of human relationships. In previous times, the individual held stability at the level of finance. Therefore, any problem that would take place in a large organization would not necessarily affect him. In other terms, it was not his issue. Contradictory to nowadays and due to the massive growth of businesses and corporations, the worker started to realize his involvement. Any problematic situation in one of these large corporations would eventually cause an impact on his own organization (55). On that account, the demand for protection of whistleblowers increased and the government had no choice but to deliver.

The second aspect, as Yeh estimates, is the result formed by the legislatures and courts' observation while examining different whistleblowing cases. They came to the decision of the necessity to establish protection for this act. They shed light on their resolution because of the powers imbalance found between employees and their headmasters (56). The prerogatives granted to the employers are part of an organizational systematic structure that helps to create a flow of a healthy working environment. Having the ability to hire, promote, and being the representative of the corporation is a privilege to say the least.

Regardless, when these rights are abused by overlooking a wrongdoing, personal gain is attained at the expense of the corporation, and a whistleblower is fired for his act of reporting, those prerogatives must be taken away and the government has to interfere to solve the issue by providing protection laws for whistleblowers and punishment for the headmasters who muted them.

In this context of protection programs, the end should be the central focus over the mean. Whether the person is subject to whistleblowing protection or witness protection programs, his safety and security is what matters because those individuals have risked what they own for the sake of doing what is right. In a courtroom, the witness or the whistleblower is the credible voice. He is the medium that connects the dots to reach a decision serving justice over his personal interest.

2.2. The Different Mechanisms of Protection in the US

The US is known for its political firm system, intact in nature and excellent when operating in a given context. Established in 1787 in Philadelphia, Pennsylvania, the American constitution asserts a well revised formula containing a federal system, three main branches of governmental powers captured in the executive branch represented by the president, the legislative branch represented by the congress, and the judicial branch represented by the Supreme Court (Trethan). When examining the history of whistleblowing protection in the US, the Congress is the first stop where it all started. It is stated that this kind of protection was granted to whistleblowers in 1989 to ensure the stability of their position in the workplace (Bothwell). The congress acted as the first official initiator for this protection and granted the whistleblower a weapon to be reckoned.

The Constitution introduced the compatible relation between federal and state government. Although one can often confuse the two, the concept is really simple. Both entities have their own prerogatives. For example, federal powers are captured in collecting

taxes, regulating interstate commerce, and solving legal issues between states (Judis). However, all the powers remaining are granted to state government on the basis of the 10th amendment of the US Constitution which states, “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people” (US Const. amend. X). Within the current context, these two bodies incorporated whistleblowing protection in their systems. As a result, whistleblowing protection in the American atmosphere operates on two main levels: federal and state.

2.2.1. Protection at the Federal Level

In the sphere of the American federalist system, whistleblowers are subject to two models of whistleblowing legislations, each covering a different criterion. The first model focuses on motivating the whistleblowers to increase their activeness, while the second model manifests in protection against retaliation (Callahan and Dworkin 100). As the Government Accountability Project (GPA) explains, protection against retaliation is provided to federal employees in one of the following cases: if the employee files a complaint, if he testifies or helps another colleague in his act of reporting, if he cooperates or reveal the information to the Office of Special Council (OSC), or an agency Inspector General (IG), and if he rejects to complete an order that would abridge a law (10). Additionally, most federal laws attempt to provide a reason for the act of reporting in order to ensure the safety of the whistleblower against any type of harassment or punishment (Callahan and Dworkin 100). Consequently, passing a law to protect those out spoken individuals is pivotal.

The first model of federal whistleblowing protection operates through offering incentives to employees for their act of courage, and to employers whose success in building an effective whistleblowing mechanism was their way of promoting work ethics in their corporations. Moreover, the one procedure that characterizes an effective whistleblowing system within an organization is usually the one which attains publicity, control, and

guarantees no harm for the whistleblower (Callahan and Dworkin103). This element of protection against abuse is the essence of the second model which means that by focusing on incentives and protection, the two models experienced by federal employees go hand in hand and create the harmony of an effectual federal whistleblowing protection.

The formula of the federal system in the US contains productive models that proved to be sufficient when handling the cases of corruption. Yet, there are flaws that can hinder the process of protection. Federal whistleblowing laws, as Kohn states, are restricted because they can only be activated in a specific situation, within a specific industry, and by a certain type of whistleblower not to mention that each case involving whistleblowing must be dealt with in terms of the nature of the employer, the kind of information revealed, and in what state blowing the whistle took place (“Concepts and Procedures...” 79). All these criteria must be taken into consideration by lawyers when covering the scenario of reporting a malfeasance, and evaluating any retaliation concerning the matter. After this procedure, the lawyers will have a clear vision about whether the employee should be protected as well as the suitable federal law to fulfill the protection.

2.2.2. Protection at the State Level

The US is a nation that stands for both diversity and uniformity. Diversity is manifested in the variety of ethnic groups inhabiting the continent, the different nationalities, and the wide range of religions practiced from day to day basis. It is no stranger to find an Asian American fully engaged in a conversation with a Latino or an African American married to a Native American. This proves the theory of the cultural mosaic or the salad bowl which proved to be applicable due to this factor of multiplicity (Mahfouz 2). Within the same scope, diversity in the US enriched what is known as “individualism”. Embracing this concept encouraged every citizen, no matter what is his religion, what language he speaks, or what is his skin color as long as he is working hard, he will be granted the right opportunities

to reach happiness, or to be precise, granted the right to pursuit happiness which the declaration of independence identifies as a right that cannot be usurped.

Uniformity, when put into perspective is the accurate notion to represent the other side of the theory which states that the US is a “melting pot”, a term which was first used by the British writer Israel Zangwill as a title for one of his stage plays (Higgins). Back to the previous point, the citizens of this nation are unified because they bear the responsibility of adhering to the 229 year old document entitled “the Constitution”. Accepting its amendments and adapting to its highly qualified laws allowed the US to stand as a unified country. Furthermore, the Constitution paved a path for states’ governments. It gave enough flexibility to each one of the 50 states to practice the laws that operate best in their context. Within the framework, whistleblowing protection adapted the same approach and concentrated on whistleblowers’ guardianship on the state level.

As Callahan and Dworkin estimate, protection on the state level is structured on the basis of a double factor embodied in judicial protection and statutory protection of states. To begin with, whistleblower state protection replaced the federal one in the 1980’s due to two turning points: the passage of the whistleblower protection statutes and adapting the tort theory when handling matters of whistleblowing (105). The tort theory is part of the tort law which constitutes of several theories in a number of fields. Also, it is a branch of the civil law along with the contract and property laws. In a contemporary context, the tort theory specializes in handling cases that involve legal consequences of an act (Coleman). In the presented research of whistleblowing protection, the tort theory operates by covering the act of firing an employee.

What this theory focuses on, according to Callahan and Dworkin, is equipping whistleblowers with a degree of power when standing against their headmasters in a courtroom. These headmasters abused their powers because they fired the employee for not

obeying an order which will lead to a violation of a certain regulation. What this theory does in such scenario is raising the likelihood of punishing the employers because whistleblowers are granted the right to sue them in the name of the tort law, a law adopted by most states of the US. As Olivia Dixon Explains:

For example, in tort, to recover damages for pure psychiatric injury, the plaintiff must demonstrate that the defendant owed a duty of care because the psychiatric injury was reasonably foreseeable; and the degree of risk, on balance, was that the plaintiff would suffer a psychiatric injury. In general, there is no liability in negligence for causing 'distress, alarm, fear, anxiety, annoyance, or despondency, without any resulting recognized psychiatric injury which significantly limits its applicability to whistleblowers. (179)

Conversely, the tort law opposes a condition on the whistleblower in exchange of his protection. He is required to provide the violation of a well-established law or regulation (106). This condition is known as "burden of proof" which operates compatibly with the general employment law (Thüsing and Forst 25). This law stresses on the necessity of examining the case of discharging from the perspective of the employee who has to prove it was the right procedure to handle the situation (Samuels 78). The tort theory proved to be effective because whistleblowers are now more impulsive when it comes to reporting a wrongdoing in the sense that they can confidently confront their employers in a courtroom and potentially win the case.

Within the scope, judicial whistleblower protection is practiced through the alteration of the common law at-will which prevents firing the worker for no matter reason besides the violation of public policy. However, at-will was initially passed as a law that allows employers to commit the act of discharging for whatever cause and at any expense (Kohn, "Concepts and Procedures..." 21). This led to harsh criticism made by scholars who

considered the at-will doctrine as abusing to the worker and a change is needed. From another aspect, this backlash created a positive impact because it led to the acknowledgment of whistleblowers in a society that celebrates democracy (22). The core aspect of the state judicial protection is based on this element of giving the whistleblower a weapon of resistance in front of his employer's powers.

Moving to the statutory protection, each state in the US has embraced whistleblowers protection in one way or another. What these laws have in common is the focus on reinforcing anti-retaliation statutes. In addition, they shed light on the discouragement of seeking help from the media. As Alec Samuels asserts, the media should not be an option for the whistleblower, or at least not the first entity to report the problem in (77). The media does stand as the fourth estate after the three powers of the executive, legislative, and judicial branches. It is known in the democratic society as the main medium to inform, express, and access information. The mass media excellently function as "the fourth estate, the guardians of democracy and defenders of the public interest" (qtd. in Amodu, Usaini, and Ige 1). Be that as it may, the whistleblower should second-guess his decision to strive for help from the fourth estate because if the information is not sufficient enough, his public persona is at jeopardy and can easily be viewed as the victimizing not the victimized.

Although the statutory protection of the US fifty States shares elements of protection laws, it does obtain diversity when it comes to a collection of criteria concerning the phenomenon of whistleblowing. These elements of division are captured in the type of the protected whistleblower, to whom the information is reported, the nature of the information, the intention of the whistleblower, the degree of evidence sufficiency, and what kind of compensations or rewards are granted to the whistleblower who experienced hardships in the workplace for his act (Callahan and Dworkin 107-108). What the statutory protection is individualized in is the emphasis on other factors besides the evidence provided by the

employee, something which the judicial protection left behind due to its concentration on dealing with cases involving the tort law or the at-will employment doctrine.

Despite the differences between federal and state whistleblowing protection, the aim is the same. The goal is not simply manifested in protecting the whistleblower at any expense, but it is about accurately handling the case with what the nation stands for and reassuring the credibility of the judgment. These laws are implemented in all states and most importantly they are very critical when evaluating each detail concerning the act of blowing the whistle, protection is deserved only when credibility and integrity are present.

2.3. The Legitimized Shields of Whistleblowers

Being described as the most effective mean to fight corruption, the whistleblower is armed with a collection of laws and acts that guarantee the safety of his well-being. Although the Congress failed to provide a clear explanatory protection for the employee whose whistles voiced the justice needed, there is a collection of state and federal remedies that serve as a substitute to fulfill this purpose (Kohn, "Concepts and Procedures..." 79). These remedies are presented in the form of laws and acts. They do not only protect, but also motivate the employee to report any insights about a wrongdoing in his workplace. In number they are plenty. However, they operate differently. Thereby, a need arises to examine and explore the dynamics of the most known and used laws and acts in the cases involving the phenomenon of whistleblowing.

To begin with, there is a necessity to identify why an act does not fit the mold of a law and why these two terms are not used interchangeably in the sphere of courts room or attorney's bureau. S. Surbhi explains that a law is a collection of well-studied rules identified in each country as the means to keep organization, avoid chaos, maintain order, and essentially preserve and protect the rights of citizens. More importantly, a law is sacred in the sense that no one can suppress or surpass it; no one is above the law. An act, however, is one

element that falls under the umbrella term “law”. It is one part of a whole structure. For this matter, a law is the broader aspect of an act. While the first is referred to generally by all people, the second can be recognized by experts in the field of politics and justice.

Figure 2: The Difference between an Act and a Law

BASIS FOR COMPARISON	ACT	LAW
Meaning	Act alludes to the statutes created by the legislature that concentrates on a particular subject, and contains provisions relating to it.	Law refers to the principles and rules that govern the affairs of the society, created and enforced by the stipulated authority.
Nature	Specific	Generic
What is it?	It is a bill that is passed by both houses of parliament.	It is an established phenomenon.
Outlines	Why and how laws are enforced.	What should be and should not be done.
Objective	To let people know the rules and regulations about specific situations.	To protect people from unfair practices and to maintain public order.

Source: S, Surbhi. “Difference between Act and Law.” Key Differences, 2 Mar. 2017: n.pag. Web. 16 Apr. 2019.

<https://keydifferences.com/difference-between-act-and-law-html>

As demonstrated in figure 2, an act functions exclusively in specific circumstances and applies on specific type of citizens. It is a means to inform the people how to handle a situation in terms of legal matters. Therefore, an act is the most suitable notion to adopt when

dealing with the phenomenon of whistleblowing. An act functions when a report about a wrongdoing is mentioned and the sake of the whistleblower is at stake.

2.3.1. The False Claims Act

A claim first and foremost, is a term that functions differently in each field. When it comes to dealing with legal problems, filing a claim falls separately than filing a lawsuit. It is stated to be the first step which leads to a lawsuit in the way that if the claim is not solved in a cordial manner, resulting in a lawsuit is inevitable (Lynch). Hence, the whistleblower's attorney should file a claim first. If the matter is not resolved peacefully, a lawsuit is set to take place automatically.

The False Claims Act (FCA) was established during the era of the Civil Rights specifically in 1863 (Berkebile 8). It is also referred to as the "Lincoln law" (Vandekerckhove, "Whistleblowing and Organizational..." 173). This act paved the way to pass laws, acts, and regulations that protect citizens who are in the middle of handling situations of whistleblowing. On the same ground, it is validated as the basic groundings upon which whistleblowers protection laws are structured (Yeh 58). The general concept of the FCA, as the Association of Canadian Financial Officers (ACFO) states, is that it "allows individuals to sue on behalf of the government to recover lost or misspent money and to receive up to 30% of the amount recovered" (12). Therefore, the FCA is considered the medium to fight fraud and corruption against any figure with high powers whether it is a superior in the workplace or even reaching the government.

Since the mechanisms of protection in the US operate on federal and state levels, the FCA is attached to the federal whistleblowing protection (Callahan and Dworkin 99). However, this act is not similar to other federal laws because it does not only grant protection to a specific type of citizens. The FCA covers cases of all employees whether they were federal or not (Yeh 58). This act is prominent because of its ability to demonstrate how the

whistleblower can be more impulsive and motivated to commit the act of revealing the information.

Respectively, according to the Organization for Economic Co-operation and Development (OECD), the FCA is manifested as a channel of encouragement to all types of employees (97). In conformity, this encouragement is implemented in whistleblowers through rewards. What the act revolves around is simply that the FCA allows all employees to file a lawsuit in the name of the government and also for themselves. What this means is that the employee who reported the fraud has the right to gain an amount of the money recovered by the government (Vandekerckhove, "Whistleblowing and Organizational..." 173). The whistleblower in this situation is motivated to expose the malfeasance by more than just an ethical responsibility. The motive is reinforced because the element of personal gain has become part of the equation.

The efficiency of the FCA was successful at the federal level yet debilitated at the state level. The only two states offering considerable amount of profit through the FCA are Illinois and Florida while Oregon, South Carolina and Wisconsin grant rewards to whistleblowers that are so minimum in worth that they can barely benefit the concerned ones (Callahan and Dworkin 110). From another perspective, there is no denial that the act does have a significant impact in terms of multiple criteria. The first being motivating the whistleblowers to be the voice of credibility and integrity, the second being banning any organization from taking profit through illegal manners, and the third being creating a risk of punishment for entities which are in the middle of gaining advantages; The FCA makes them contemplate the urge to continue with their wrongdoings (Yeh 59). It is safe to say that this act was well-studied before being established because its focus is not only on illuminating fraud, but also on dedicating a reward for the ones who help in the process; something which benefits both the employee as an individual and the nation as a whole.

A perfect example about the efficiency of the FCA is the fascinating case of Cheryl Eckard. She was a worker for GlaxoSmithKline (GSK), a corporation which is considered “one of the world’s largest research-based pharmaceutical corporations that discovers, develops, manufactures and markets branded human health products” (Weyzig 2). The story began when the US Food and Drug Administration (FDA) expressed concerns about the bad quality of drugs being manufactured at the facility. As a response to the claims, the GSK sent Eckard to investigate the case and what she found was unpleasantly indescribable; there was no sterilization, water was contaminated, and drugs were being filled in the wrong doses (Smyth). After discovering the issue, she immediately did the right thing and blew the whistle.

Eckard reported this information to the headmasters of the GSK extensively to solve the matter yet what happened was quite the opposite. Due to her act of reporting a wrongdoing, Eckard was discharged from her position but only to start a major lawsuit by filing 130 pages long complaint. Eckard dragged the GSK in court under in the name of the FCA. After the charges were confirmed, the federal officials punished the GSK with \$750 million penalty and rewarded Eckard with a total of \$96 million (Lipman 28). The purpose of this case is to demonstrate how the FCA operates as a weapon for the whistleblowers who are entering a lawsuit whether with major or small corporations.

Although this act deserves to be acknowledged as the most suitable act to handle such cases, there are flaws within its formula. The FCA can sometimes lead the whistleblower to be punished rather than rewarded. Shawn Marie Boyne explains that the original act of 1984 stressed on punishing employees who file a complaint purposefully for the sake of utilizing the FCA. If they filed the claim against the government, they will pay the double cost of damages caused to the government plus a \$2000 penalty which was raised to \$10000 by the FCA of 1986 for each false claim made (431). Despite this, the positive impacts of the FCA

are way too significant to be overlooked. Even if it carried a malfunction in its structure, it did prove to be an act that every whistleblower should shed light on and utilize to the maximum.

2.3.2. The Sarbanes-Oxley Act

The whistleblowing protection system does not only encompass acts that function the same, each act is subject to specific surroundings and a result to certain circumstances that paved the way for its emergence. The Sarbanes-Oxley Act (SOX) was passed by the Congress in 2002 as one of the major security laws (Bame-Aldred, Sweeney, and Seifert 105). The Congress held the intention of reinforcing the powers of whistleblowers in order to keep their interference to stop fraud and corruption active, they based their focus around establishing an act that would resist the code of silences among workers, a code that “discourage[d] employees from reporting fraudulent behavior not only to the proper authorities, such as the Federal Bureau of Investigation and the SEC, but even internally” (qtd. in Zuckerman 1). The Congress did the accurate first step because they thought about what prevents employees from reporting. It is the consequences that form the obstacle for blowing the whistle.

The SOX was enacted especially to construct a legal shield for employees who suffer from retaliation because of their act of blowing the whistle in the sense that they can utilize the SOX to gain remedies and compensations (Martin, Hoffman, and Casey 1). The act was established as a result to the series of scandals like Enron, WorldCom, Global Crossing, and Tyco that highlighted the year of 2001 and cost these employees billions of dollars due to their code of silence (Rubinstein 638). As Terry Morehead Dworkin states “it was the wrongdoing, scandals, and resultant publicity, and the anger brought on by the leaders of failed corporations such as Enron and WorldCom that were the particular impetus for the law” (1785). These corporations did not only cost financial damages to the workers, but also broke the trustworthiness of the public when dealing with such massive corporations.

Although the act succeeds in protecting whistleblowers, it is different than other passed laws and regulations. The SOX stands distinctively due to two reasons. As asserted by

Daniel P. Westman, the first distinction is presented in the kind of cases the SOX deals with in the way that it exceeds what previous acts and laws had stopped at. In compliance, other federal and state laws only offered protection for the employees who report issues in the field of public health and safety. The SOX, however, broadened those limitations to include protection for the workers who reported malfeasances conducted by shareholders as well (141). This factor of the SOX will lead to the increasing number of whistleblowing cases and simultaneously to the increasing of credibility in other workplaces besides health and public safety.

The second difference lies in the incorporation of internal information as a crucial element to solve the issue. Previously, the headmasters did not rely on checking the validity of the financial reports because federal securities law enforcement such as Securities and Exchange Commission (SEC) did not have access to such documents, something which hindered the process of judging whether an ethical malfunction is happening or not. This will lead to the widespread of corruption within their companies. The SOX highlighted this gap and emphasized on the necessity of depending on insiders who are closely attached to the organization to report about the financial fraud. This operation of reporting internally is described as “undersight” because it falls on behalf of the insider informants as opposed to “oversight” which is the responsibility of official committees like the SEC (142-143). The SOX in this case empowered the workers because the assignment of rising concerns about what is happening in the corporations is no longer restricted to official securities. Even the worker with the least power has the prerogative of being protected every time he reports a malfeasance.

From another perspective, the SOX does not perform as the act to approach when protecting the whistleblower. It does contain setbacks that prevent from achieving the state of safety for the workers who choose to speak up. Richard Moberly, a Professor of Law from

Nebraska University, claims that there are three main questions scholars raise whenever they need to verify the efficacy of a whistleblower protection law. These three questions are: Does the law motivate employees to report the wrongdoing? Does the law offer protection after they blow the whistle? And if they do report, are their messages assessed effectively to make a change? (21). The author continues to explain that the SOX fails at fulfilling two purposes out of the three.

Firstly, the act fails in adequately assessing the validity of the information. For example, the financial crisis of 2008 in which banks granted mortgages to people who did not have the ability to handle the matter. In other words, people were not able to pay them back. This caused the companies that invested in these banks to experience massive financial loss. Furthermore, when the inside workers had reported this misconduct in the name of the SOX, the act did not examine the case effectively to prevent the financial bubble burst (23). In this case, the act is insufficient because “the mortgage meltdown has proven that Sarbanes-Oxley had absolutely no impact on corporate behavior. Any improved investor confidence was sorely misplaced” (qtd. in Pollock). This shows that even after whistleblowers reported the wrongdoings, the SOX had little to no impact when it comes to anticipating and preventing the financial crisis that swept the country at the time.

The second factor that the SOX failed at achieving is protecting the whistleblower from retaliation (Moberly 27). The act claims offering protection yet statistics of the cases in which the SOX were part of prove quite the opposite because the SOX is not effective due to the difficult procedure whistleblowers have to go through in order to file the claim, the restrictions surrounding the act, and the deficient remedies provided (Dworkin 1764-1765). A perfect illustration of this would be the famous case of *Welch v. Cardinal Bankshares Corp.* Although a detailed explanation of the case is beyond the scope of this research, the case was basically about David E. Welch, a former Chief Financial Officer (CFO) at the Cardinal

Bankshares Corp who filed a complaint under the SOX whistleblowing protection claiming that the company had fired him for his refusal to sign illegal financial documents (Friedman). The case is a suitable example due to the aftermath that came after whistleblowing.

After filing the claim under the SOX, the Administrative Law Judge (ALJ) discovered that the company abused Welch for his act of blowing the whistle and under the SOX it issued a compensation of \$1 million dollars along with a reinstatement of his position as a CFO. However, the federal court reversed the decision stating that it was not final because the confusion was created due to procedural complexity of the SOX (Schachter and Sherman 1). As a conclusion, the act does contain some weak aspects that prevented its success.

Although the SOX was approved by five hundred twenty-two members of the US Congress and refused by only three members, seven years after its establishment the hats should be tipped and the bows should be taken to those three (Pollock). On the same note, the SOX is not entirely a fail with zero winning cases, the act often complicates the process of protection rather than completely paralyzing it.

2.3.3. The Dodd-Frank Act

There are a number of acts under which the whistleblower can be protected. One of the major acts that possesses this function is the US federal Dodd-Frank Wall Street Reform and Consumer Act which protects whistleblowers who suffer from retaliation for revealing information that breaches securities laws (Groot). The Dodd-Frank Act was signed by President Barack Obama in 2010 as a legislation that contributes to the credibility in the financial industry by encompassing a collection of regulations established to motivate whistleblowers by offering protection whether they were part of the financial arena or not (McLaughlin and Marcus). Respectively, this act grants flexibility for those who choose it to file their claims because it is not only restricted to workers who occupy the role of insiders, but also to people who are considered outsiders to the financial industry.

The Dodd-Frank Act excelled among other acts which hold similar intent captured in protecting the whistleblower in the way that it was structured to achieve what the SOX, for example, failed at (Stamatikos and Chung 1). According to Megan Foscaldi, the Dodd-Frank Act amended the SOX by adding two major criteria, the first being the creation of a mandatory bounty program paid by the SEC for qualifying whistleblower tips and the second being the significant expansion of anti-retaliation provisions for whistleblowers in some situations (487). In this vein, the Congress initiated the change because the SEC was not offering whistleblowers the appropriate amount of compensations and rewards, and as a result the bounty granted to the tale tellers was raised (Lipman 12). The Dodd-Frank Act is dealt with in reference to the SOX because the two acts cover the area of finance.

The author continues to explain that the first change means there is an obligation that falls on the SEC to pay the whistleblower a bounty if the information he provided leads to the collection of a minimum of \$1 million dollars. Against this background, there are conditions to be validated before granting the bounty. The information must be the result of a voluntary act, it needs to be unfamiliar to the SEC in the sense that they have never dealt with it (487). These transformations reinforced the effectiveness of the Dodd-Frank because the whistleblower, firstly, is no longer an easy target due to his protection, and secondly the validity of the information is crucial in order to handle the issue exposed and to ensure the liability of the workers who report about the misconduct.

The second change, as Foscaldi asserts, is about broadening the scope of protection when it comes to evaluating the cases. What this means is the Dodd-Frank Act improved whistleblowers protection through expanding the meaning of an “employee” and simplifying the complexities of filing a claim (489). The procedure of reporting under the Dodd-Frank is facilitated, and the finances when it comes to the rewards are doubled if not tripled. As Lipman claims “the minimum bounty a whistleblower can receive is effectively \$100,000.

However, the maximum jackpot is enormous” (13). In other words, the formula of the Dodd-Frank Act functions toward breaking the limitations for whistleblowers from both the procedural and financial aspects.

One of the several cases that gained heavy publicity under the Dodd-Frank Act is the famous case of Kellogg Brown & Root (KBR) (Brower and Johnson 2). The technology and engineering firm was accused by the SEC for breaking securities laws due to their act of not allowing its employees to report about any wrongdoing or discuss their corporations' matters without their approval (Lurie). Under the Dodd-Frank Act, the filed claim had cost KBR a total of \$579 million as a sanction of their violation (Lipman 13). From a broader perspective, it is safe to say that the establishment of the Dodd-Frank Act was a smart move by the Congress because it operated upon improving what had been considered as a default or the missing component of what would make an effective act of whistleblowers protection.

The existence of the overall notion of protection is an element that impacts positively in any scenario experienced in all fields of life, not only the professional. The same adaptation is approached by whistleblowers. Knowing that they would have a firm legal shield of protection will boost their motivation and create a relief whenever they second-guess their decisions of blowing the whistle on wrongdoings. Taking this into account, the establishment and the continuous attempts to improve these laws and acts are absolutely crucial to say the least because any whistleblower will report and defend his claim confidently if he knew there was some sort of legal backup ready to protect him. These laws and acts may differ in the way they operate, yet their purpose is the same. No matter what they offer, they prove to be the ultimate encouragement to voice what is legal, ethical, and right.

Chapter Three

Edward Snowden: A National Hero or a Cowardly Backstabber?

The theoretical examination of whistleblowing is necessary in order to comprehend how the mechanisms of the phenomenon operate. The recognition of its nature along with identifying the key elements of its entity paved the way for law interference. Nowadays, whistleblowing is a well identified notion that echoes globally and maintains a series of laws and acts which build its legitimacy. Focusing on the practical aspect of the phenomenon grants it a sense of validity established through covering a vivid case of whistleblowing with full dedication and attention to details. The remarkable case of this chapter is that of the most wanted man named Edward Snowden and the National Security Agency (NSA).

3.1. The National Security Agency as a Digital Intruder

The fear of the unknown and the anxiety of unpredictability is without a doubt a haunting idea that can dominate sleepless nights. On this ground, security has become an essential pursuit to everyone. The concept of it exceeds the walls of one's own home. It is not only a notion established within closed doors. Being secure and safe is one of life's necessities every human seeks to attain and provide for his surroundings. It can be manifested on a variety of levels. For example, financial stability, health insurance, a well-studied contract, an authorized weapon, human rights, and life insurance are all types by which security is obtained.

Expanding the understanding of its concept leads to the focus on two main aspects. Marc von Boemcken and Conrad Schetter claim that one façade presents security “as something that can be objectively known and thus needs to be diligently measured, monitored and improved upon by means of reason and scientific inquiry.” While the other façade simply projects it as something that should be conceived as a good thing and that everyone should consistently work to achieve (2). It can be said that the authors' clarifications of the term are

the interpretation of the traditional meaning of security in the way that they revolve around capturing it as a personal concern and not as a collective matter because each individual may vary in his perception of what it means to be secure.

Viewing this concept of security on a normative level widens its horizons because the idea of being secure by having a weapon, for example, is the minimized version of any nation's case. Respectively, a national security, a well-equipped army, and a crime prevention system are what any country incorporates to achieve the stable secure state of its citizens (Brooks 2). Focusing on the criterion of national security, in an age of electronics, digital intelligence, and networking, the need to establish an entity exclusively specialized in protecting those elements has become a requirement. The US did not fall short on establishing such a body. Due to the fears of being unsecure, the NSA is a main corporation that contributes to creating a stabilized secure country for all Americans.

3.1.1. Unfolding the History of the NSA

The NSA, first and foremost, was created in a protective manner to the point that even the presidential order of establishing it was recognized as top secret (Epstein). It is a member of the US Intelligence Community (IC) which is a network of corporations and organizations. Those entities work independently and collectively in order to be part of intelligence activities needed for the achievement of foreign relations. Into the bargain, the IC functions for the preservation of the US national security (Shedd 7). The essential mission of this community is to provide a firm protection shield for the nation's security.

The IC is created on the basis of a structure that encompasses a total of 17 agencies and offices such as the Office of the Director of National Intelligence (ODNI), Central Intelligence Agency (CIA), National Security Agency (NSA), Defense Intelligence Agency (DIA), and the Federal Bureau of Investigation (FBI) (Agrawal). Each agency and office covers a specific assignment which no other body of the IC interferes in, yet utilizes for the main purpose; protecting the national security of the US.

Back to the previous idea, the NSA was created in conditions of extreme secrecy, no one wanted to inform the public about the nature of its functioning. When asked about the nature of the NSA, Washington officials responded with mockery stating that the initials meant “No Such Agency” (Epstein). Regardless, the corporation is assigned with the responsibilities of gathering intelligence data for the sake of protection against potential foreign attacks (NSA 2). It is the official US cryptologic association operating under the Department of Defense (Rouse). The NSA, as Ray estimates, is charged mainly with securing US military electronic codes as well as conducting researches in the field of computer science.

The NSA, in simple words, is an agency whose mission is to monitor foreign information systems for signals intelligence and collecting data including cell phones and emails in order to build a wall of protection against any potential counterintelligence attack. The US establishment of this agency is one of many because the NSA is only one part of a bigger intelligence network. Forming this agency with restriction of functions enables it to perform its tasks with mastery of its field.

According to Michael X. Heiligenstein, the history of the NSA dates back to July 1917. The author continues to assert that the NSA started to take its first steps as a needed response to the tension the US was suffering from during the First World War. The story dates back to the era where the US directed its defense toward Germany which led to the necessity of acquiring good communications intelligence vehicles. Fast forward five years later, the Cipher bureau, which is also labeled as “the black chamber”, witnessed a major success. It was manifest through its capabilities of providing a way out for American diplomats to control the situation with the Japanese because they were able to get a hand on their surveillance during the naval conference in Washington, DC which was about naval arms limitations. One can say that the NSA is not an agency established over night due to its long and rich history.

The American Black Chamber did not remain a lasting label for the agency. On November 4, 1952, the corporation established its official identity as the National Security

Agency (Howe 11). It was formed during the administration of President Harry S. Truman who assigned its functions as a means to “provide an effective, unified organization and control of the communications intelligence activities of the United States conducted against foreign governments, to provide for integrated operational policies and procedures pertaining thereto” (qtd. in Ray). The NSA, from a restricted perspective, is an agency exclusively attached to protecting the US from any potential foreign intelligence threat.

3.1.2. The Espionage Act: The Authorized Backup of the NSA

The exploration of NSA history leads to the Espionage Act because it is considered a channel that paved the way for the birth of the NSA. The Espionage Act, according to Robert Longley, was passed by Congress and signed by President Woodrow Wilson in 1917 as an act that charges penalties for anyone who violates the security of the country, and helps the enemies of the US to bring down its forces. This was a move taken in order to make any potential disloyal citizens second-guess their betrayal because their safe status is at jeopardy.

Within the context, the act is also applicable to anyone who leaks information that is assessed as threatening to national security. In other words, the Espionage Act was a weapon against whistleblowers. It received a major backlash and was stigmatized as one of the most controversial laws of the US (Carter) mainly, because it was perceived as a breach of the First Amendment of the US Constitution which promotes freedom of speech at any expense (Stonet 335). Americans, in the light of the Espionage Act, are no longer privileged to voice their thoughts because a penalty is situated to react for any possible leaked information. Another defect of the act is the ambiguity attached to it, the nation experienced a massive wave of disloyalty which led Congress to reinforce protection by passing the Sedition Act in 1918. The act, as DeWitt explains, punishes and prohibits any declares of statements standing against the US government, Constitution, and military for the purpose of rejecting the way it operates.

The Espionage Act has become the tool to stand against the haunting nightmare of being exposed. However, this matter has always been associated with portraying leakers as foreign spies whether they were Americans or not, something which encouraged passing the enforcement laws to serve two main purposes presented in the protection of the nation as well as the freedom preservation of the citizen (Gardner ix). The US in this scenario is not only required to provide protection against any foreign danger, but also from within in the way that the NSA prerogatives end where the privacy of the American citizen begins.

On this ground, on May 23, 2013 President Barack Obama expressed his support for the NSA by highlighting the importance of its existence through stating that the NSA had to keep its constant operations and remain attached to its mission in order to establish the accurate equilibrium between obtaining the necessary security along with drawing restrictions of freedoms that allow Americans to practice their lives freely as their nation had always promised (qtd. in NSA 1). The NSA, respectively, has a double role in the way that it is responsible for creating the shield of protection for the US as well as emphasizing what should not be exceeded in order to allow the American citizen to have his own privacy, a paradoxical stand that will be examined later on in this research.

3.1.3. The NSA and the Agent who Told the Tale

The essential mission of the NSA is protection. It is the agency that provides a sense of safety in a field where everything is at stake of being hacked and eventually attained. However, what was about to happen to the history of the NSA was everything but anticipated. A story that raised national concerns and broke every feeling of security made the US a nation that will never be perceived the same. The story to tell in this research is the case of Edward Joseph Snowden, a young aspiring man who blew the whistle on the NSA.

Before diving into one of America's most controversial cases, there is a need to identify and construct a ground of knowledge about the man behind this case. Edward

Snowden, as Michael Ray demonstrates, was born in the summer of 1983 in Elizabeth City, North Carolina where he grew up in an atmosphere where each member of his family was serving the federal government. He did not complete his academic journey due to his decision to drop out of high school. However, he did decide to study unsteadily at a community college where he did receive an academic degree. Fast forwards to 2005, Snowden became a security guard at the University of Maryland which is associated with the NSA.

Breaking the conventional pattern of the obligation to obtain a well eligible college degree, Ray reports that due to the high abilities Snowden possessed in the digital arena, he was offered to occupy a position in the CIA. In 2007, he was placed in Geneva to work with a diplomatic cover as a network security technician. Two years later, he changed his position to become a private contractor for the NSA, an occupation that entirely changed his life from all aspects.

The case, as Luke Harding reports, first started by an email sent to *The Guardian*, a well famous British newspaper with dedicated readers from all around the world (Saleem), without any identification information as if the sender was nothing but a ghost. The email's first words were "I am senior member of the intelligence community..." this intrigued the reporter of *the Guardian* named Glenn Greenwald. Why would it not? This could be the scoop of a lifetime and a story even the best Hollywood scenario writers would not think of.

The email held high classified materials of the NSA and the FBI indicating that the two agencies were exceeding their prerogatives by examining the emails of well known Muslim American in the name of security and protection from terrorism and foreign attacks (Goldfarb). The NSA discovered the leak in the first week of June 2013 and recognized the shocking news of exposing highly sacred documents containing communication intelligence from a well secured regional base associated with the NSA located in Oahu, Hawaii (Epstein). These files had brought a massive wave of doubt because they claimed that the

white house was not only using its prerogatives to spy on its allies like Germany and France and potential foreign threats like the Russians and Al-Qaida, but also violating the privacy of the US citizens (Harding). The NSA, as a result, was in a dark place and the old name of the “black chamber” became ironically the most suitable entitlement.

Examining the events that led to this case is necessary in order to construct a full understanding of the big picture. During the course of the 9 year period Snowden had spent as an important agent for both the CIA and the NSA, and his hypersensitive position in global NSA bases such Japan, Switzerland, and China as well as regional bases like Maryland and Hawaii made him realize the camouflage the NSA was portraying (Goldfarb). The whistleblower expressed his thoughts about the matter saying “much of what I saw in Geneva really disillusioned me about how my government functions and what its impact is in the world. I realized that I was part of something that was doing far more harm than good” (qtd. in Harger). Snowden became aware of the wrongdoing which the agency was relentlessly active in. He was not able to deny the malfeasances the security agencies were responsible of.

3.1.3.1. The CIA and the Geneva Incident: The Swiss Locality where it all Started

A background about the Geneva incident which Snowden was talking about revolves around realizing the manipulative actions of the NSA. Blowing the whistle by himself was not an impulsive act based on pure ethical responsibility. Snowden did try to maneuver the situation and hoped for a change by the government, a change that would take place without dropping the bombshell he was aware of. Going back to 2007, As Malcolm Curtis reports, Snowden worked for the CIA which stationed him as a technical assistant in Geneva, Switzerland. During this time, he had the authorized right to access highly classified intelligence materials. An exclusive power that made him come across secured sensitive information. Occupying this position allowed him to witness and experience the first glimpses of CIA malfunctions.

The agency, according to Tobias Schwarz, intentionally planned and executed a well thought of manipulative operation. They targeted a Swiss banker and allured him to consume a considerable amount of alcohol, enough that would make him spill any information he had deliberately. The CIA agents wanted to attain sensitive Swiss banking information in order to use it for their favor. Furthermore, the CIA went to the extent of motivating the intoxicated banker to drive home in that state for the purpose of erasing any trace of the incident. A smart move, yet non-humanistic to say the least.

The unethical undertaken action was too successful and in favor of the CIA because even after the drunk banker got arrested for driving under the effect of alcohol, the agency emerged as a savior. As a consequence, a relationship of trust was formed between the Swiss banker and the CIA operatives (Harger). Be that as it may, one cannot help but wonder. What are the lines those security agencies are drawing? To what extent they can go? If obtaining information is a necessity at any expense, the popular view about the US as a leading nation should seriously be put into question.

Being aware of this case, the credibility of those security agencies was diminished for Snowden because if official national specialized bodies in security and privacy were the main character in such scenarios, then there is probability if not a certainty that the whole government is operating on the wrong bases. Focusing on the stand of Snowden in this operation, he expressed what had been going on in his mind by saying that it was then when the idea of exposing the government and taking the lead off dominated his thoughts. However, the whistleblower second-guessed his decision and did not perform such act (Greenwald, MacAskill, and Poitras 5). In other words, blowing the whistle was postponed in the hope for a change manufactured by the US government.

Snowden's decision not to come forward and inform about the Geneva incident was the result of putting two main factors into perspective. *The Guardian* reports that the

whistleblower had two reasons preventing him from voicing his message. Firstly, the disclosure did not surface because the majority of the CIA files were about people. The documents were not about a system that can be altered without causing any type of harm to any individual. With this in mind, Snowden did not jeopardize the stability of the people involved in those files. Secondly, Snowden did not blow whistle in 2007 due to the political situation happening at the time. The Obama administration was on the rise and the long waited president is promising to renovate the working systems of security agencies (Greenwald, MacAskill, and Poitras 5). Those reforms, as Snowden hoped, would eventually lead the CIA to get back on the right track of operating within the norms of national laws.

Unfortunately, those aspirations did not last for long. They ended up being shattered. Obama promises ceased to exist, and his words remained an ink on paper. Days before his inauguration, he conducted an interview with ABC News concerning the matter saying that part of his job is about letting the experts in each field work without any pressure. In other words, raising investigation in a particular field may disturb and affect the procedure and productivity of the workplace. His exact words are “at the CIA, you’ve got extraordinarily talented people who are working very hard to keep Americans safe. I don’t want them to suddenly feel like they’ve got to spend all their time looking over their shoulders” (qtd. in Gardner xi). Putting this in mind, Snowden’s decision to cover the story of the CIA in the hopes of radical intelligence reforms has vanished, and a backup plan is about to be conducted.

The whistleblower walked out of the CIA to head to the NSA bearing a lesson in mind. Snowden waiting for someone else to do the right thing was a lost case. In his interview with *The Guardian*, the young intelligent man commented on the matter saying “you can’t wait around for someone else to act. I had been looking for leaders, but I realized that leadership is about being the first to act” (qtd. in Greenwald, MacAskill, and Poitras 6).

This statement should be the profound brain tattoo in the minds of all employees. No matter what position they occupy, they need to realize that it is their responsibility to inform, it is their responsibility to manifest work ethics by blowing the whistle.

On these grounds, Snowden made the conscious choice to take matters in his own hands. The whistleblower left Geneva, Switzerland and headed to Oahu, Hawaii to work with Booz-Allen Hamilton, a consulting firm described in *The New York Times* as “the world’s most profitable spy organization” that gets paid billions of dollars for the sake of serving Security agencies like the NSA (Rosenberg). Snowden was part of the corporation as a contractor with the intention of collecting more evidence to support his case (Harger). He headed to Hawaii with a mission that exceeded the limits of just performing the job accurately.

Snowden, from the very beginning was supporting a cause. Being the cyber genius, he was certainly not executing an intricate plan poorly. Moreover, he planned to collect valuable data for the sake of putting an end to the continuous wrongdoings he was witnessing. Wrongdoings which he firmly believed it was a breach of the US Constitution. The whistleblower defended his decision in an interview with Texas teleconference by saying “I took an oath to support and defend the Constitution and saw that the Constitution was being violated on a massive scale” (qtd. in Goldfarb). This marked the beginning for the cyber battle of the decade, and Snowden is about to become the world’s most wanted man.

3.2. Edward Snowden: The Fanatic Millennial and his Global Journey of Resistance

The case of Snowden gained a global reaction. Being citizens of the US or not, individuals from all around the world were intensely following every detail of the case. What granted it the mysterious, yet exciting nature is the degree of importance both sides of the case attained. Unlike other minor cases examined along the way in this research, cases where often the light was shed on either the message or the messenger, the case study of this chapter

is one where both are equally highlighted. From a certain angle, covering the story of Snowden as a whistleblower requires more concentration rather than effortlessly mentioning the man who will always be known within the American community of intelligence.

The journey of the most wanted man began after he realized that it was his responsibility to blow the whistle on the NSA. His case was not created from his office, and his process of informing was not a matter of reporting the privacy malfeasances from the comfort of his own home. Snowden experienced so many circumstances and hardships, yet he was constantly persistent to voice his message at any cost, even if it meant fighting the US government. Thus, there is a duty for any researcher dealing with this case to profoundly highlight what Snowden had gone through.

3.2.1. Unraveling the Narratives of Hong Kong, China: The First Station of Snowden

Snowden intended to blow the whistle on the NSA with a plan in mind. The young intelligence contractor had flown to Hong Kong before the bombshell of the year was dropped (Epstein). In his interview with *The Guardian*, the whistleblower justified his choice of escape by the political nature China was known for; a nation where free speech is considered as a commitment. Especially, because China is one of the few countries in the world with the ability to stand against the tyrannies of the US (Greenwald, MacAskill, and Poitras 3). The choice of China was not random, Snowden had to deeply evaluate his decision through ensuring that the place of getaway would not add more complexity to his operation.

Three weeks before his departure, Snowden was reaching the final stage of his operation of evidence collection. After copying the last documents, Snowden requested a vacation in order to recover from epilepsy, a neurological medical condition in which the patient suffers from seizures (Huff and Huff). On May 20th, the young whistleblower arrived to Hong Kong where he stayed in his hotel room 24/7 with the exception of leaving it only three times during those 504 hours (Greenwald, MacAskill, and Poitras 3). After reaching out

to *The Guardian* reporters, Snowden requested a meet up in Hong Kong for the sake of providing more discrete classified NSA documents (Harding). The former NSA contactor needed to guarantee the validity of his information and confirming his side of the story through a face to face meeting with *The Guardian* reporters.

On June 9, 2013, from a luxurious room at Mira Hotel in Hong Kong, Snowden revealed his identity as the whistleblower who leaked the highly classified NSA documents. With a tone of frustration, Snowden made heavily confirmed accusations against the NSA which deliberately violated the US Constitution. Yet, with a trembling voice, the young man expressed his inclination to bear the harmful aftermath associated with his act (Epstein). Staying at the Mira Hotel was a great of a risk for Snowden. Identifying who he is created one of the most extreme global manhunt the world had even witnessed since the intensive hunt for Osama Bin Laden which swept the world after the horrific 9/11 bombing (Tedesco). The NSA whistleblower became the world's most wanted man, and the state of security and stability for his well being may never be accomplished.

In a moment of time when everything seemed to freeze for fracture of a second, Snowden was about to turn the switch to release everything he had collected. *The Guardian* reporter Greenwald who met Snowden in Honk Kong describes the state of the millennial whistleblower. He asserted that he was in a state of assurance, a state of emotional, intellectual, and psychological stability. He did him justice capturing the kind of admirable person Snowden is, his words are "but during that momentous summer he radiated a sense of tranquility and equanimity. He had reached a rock-like place of inner certainty. Here, nothing could touch him" (qtd. in Harding). This goes to show that doing the right thing will always be the honorable commitment that creates one's peace of mind no matter what the end result meant.

Snowden did not only steal the NSA documents, but also he got his hands on top secret information concerning the type of cyber spying the CIA, the Department of Defense, and the British cipher service conducted while performing their missions (Epstein). As a

consequence of his acts of blowing the whistle, Snowden was charged by the US District Court for the Eastern District of Virginia for surpassing the Espionage Act (Verble 16). Snowden immensely anticipated what the government would execute by claiming that “I have broken the Espionage Act and helped our enemies, but that can be used against anyone who points out how massive and invasive the system has become” (qtd. in Greenwald, MacAskill, and Poitras 4). Snowden knew too well what his government had in store for him which strongly justifies his escape and his conscious decision to seek security in a foreign country.

One can only imagine what his situation must have been like; to leave his family, his stable job, his massive income and his peaceful state of mind in order to fight for not only his cause, but that of all Americans is remarkable to the least. Hong Kong is not where the story ends, yet it remains a station where one the most intriguing cases in history echoed. It was a station that formed the safe haven of Snowden before he left to Russia, where the puzzled story continues.

3.2.2. Moscow, Russia: From an Intermediate Stop to a Permanent Sanctuary

After the series of events situated in Hong Kong, Russia was the next stop on the map for this case. The narrative in Russia, as Theresa Tedesco narrates, dates back to June 23, 2013 when Snowden’s airplane left the gates of the Chinese airport. The plan as Snowden explains was about heading to Latin America. However, after he landed in Moscow, his passport was cancelled by the US preventing him from both traveling and leaving Russia. The whistleblower expressed his frustration during a news conference at Moscow’s Sheremetyevo Airport saying “I never intended to end up in Russia, much less choose it”. It is safe to say that the US had paralyzed Snowden by cancelling his passport which would have been his vehicle to become a fugitive.

The whole situation of ending up being stuck in Russia is a destiny’s mockery if one can say. Now an American citizen, putting aside the fact he is a whistleblower, is now within the territory of the Russians who the NSA once described as one of the biggest nations responsible for cyber-espionage. Ironically, the NSA ended up doing the exact same thing

and even with a higher degree (Harding). There is a quite suitable proverb in the Arabic culture that can be applied in this particular scenario; one cannot grant what he does not attain. The US should not accuse another country of performing wrongdoings while its own NSA is duplicating the same malfeasances.

As a way of adapting to the current circumstances Snowden was experiencing, he requested asylum from the Russian Federation which ended up fulfilling his request by granting him a one year temporary haven (Kerrigan 17). In January 2014, the short-term asylum was extended for another 3 years (Webster). The Russian Federation officials expressed their willingness to embrace Snowden by keeping an open door for his staying for an eternity (qtd. in Verble 16). Analyzing the essential factors of this scenario leads to questioning the purpose behind accepting Snowden. Why would Russia accept a citizen of a country that is considered as an enemy and they both share a long history of feud?

An attempt to answer the previous question would be through examining the stand of the fugitive country concerning the matter. Lloyd C. Gardner maintains that the US tried to gain Snowden by sending a letter written by Eric Holder Jr., a General Attorney, to the Russian Minister of Justice requesting for the return of Snowden. The letter held two promises if their request had ever been fulfilled. The first promise of the US is that Snowden will not face the death penalty because what he had been charged for does not lead to such punishment. The second promise presents the possibility that Snowden will not face any kind of torture indicating that the US does not bear such abusive horrendous acts. With this in mind, it seems like the US wanted Snowden to enter the American airspace with a guarantee of his well being.

Russia did not ignore the call, and the response came from a higher official than the Minister of Justice. Vladimir Putin, the Russian Premier just entered the deal without a direct indication of his stand. A spokesman named Dmitry Peskov designated that Putin has no

intention to interfere in order not to jeopardize the national relations with Washington at the time. However, Putin did declare after the one year asylum had been granted to Snowden that Russia “did not hand over, does not hand over and will not hand over anybody” (qtd. in Gardner). Snowden, respectively, is protected from being handed to the US against his will.

From a legal perspective, as Alex Kerrigan argues, what the previous statement projects is not mandatory for Russia. The author claims that the country had and will always have the ability to hand Snowden for the US authorities. Inevitably, Russia had to be holding Snowden for non declared purposes (27). One of the reasons behind the nation’s decision to attain the whistleblower could be for the establishment of an Extradition Treaty with the US. The transcripts of history give a strong backup for this assumption. As an instance, in 2009 the US was pressured by Russia to sign an extraction agreement. However, the attempt was unsuccessful (28). Kerrigan’s predictions about the motives of Russia behind keeping Snowden is not necessarily true because Russia, being one the most powerful nations, can surely obtain the whistleblower if its needs are not met whatever what the treaty between the two rival countries dictates.

The eagerness to recognizes what kind of plan Russia has for the case of Snowden is as equally important as knowing the state of mind Snowden was experiencing in this country. In an interview with *The Washington Post*, the millennial whistleblower described himself as “an indoor cat” in Russia. More importantly, he revealed how he viewed himself. Away from any media point of view, Snowden perceives himself as a winner. According to him, his mission had been successfully completed and he “already won” (qtd. in Gellman 2). Although Snowden believes that his mission is accomplished, the reaction and the global response to his case is no near the finishing line. The US and the world’s media are yet to manifest what they believe.

3.3. The World’s Response to Edward Snowden’s Message

What the world had in store for Snowden could have not been anticipated. Blowing the whistle on such massive company like the NSA was certainly going to take the world by

storm. It is a necessity to examine what the world had to say about one of America's most controversial cases in order to construct a better judgment about the matter. Correspondingly, the view of a variety of elements that expressed its engagement with the case are going to be presented. Starting with the most important factor captured in the government standpoint.

3.3.1. Obama's Administration Reflects on Snowden's NSA Exposure

It is safe to say that the Obama administration and the president himself did not hold back when it came to expressing their views. The president at that time anticipated what the future of the nation would be like if such scenario was to be repeated. Obama stated that if any American citizen blew the whistle anytime he would find difficulty with accepting the system upon which the government operates, than the safety of the people will never gain the possibility of being reached (qtd. in Bria 11). In conformity, US President Obama and UK Prime Minister Cameron charged Snowden with jeopardizing the safety of the nation through raising the likelihood of terrorist attacks (Scheuerman 6). It would be a kind of naïve perception to predict a positive reaction from the government. After all, the stigma was attached to its image, the same as to the NSA.

Going back in time before Obama occupied the presidency, the US had constantly showed a support for whistleblowers. This is something that can be projected through the enforcement of whistleblower protection laws such as the ones dealt with in the previous chapter, namely the Dodd-Frank Act, the SOX Act, and the False Claims Act. However, in comparison with what happened during the Obama administration one can notice a paradoxical thought. As Vandekerckhove maintains, Obama was willing to stand in support of whistleblowers in only one of two cases; if the whistleblowing appeared within the scope of governmental misconduct. Yet, if the case concerned national security than a stop sign must be raised ("Freedom of Expression..." 11). Whistleblowers in this context are situated in the area of attack rather than protection.

If there has to be an entitlement granted to the nature of relationship Obama and Snowden share, then a suitable name would be “rivals”. Based on the promises Obama made about security reforms before his inauguration, Gesa Mackenthun portrays the president echoing the sound of hope while Snowden was voicing the sound of truth (2). Having to stand in opposition to Snowden, Obama reported that the only possible way of granting the whistleblower a pardon is associated with his willingness to face the charges in the US courtrooms. Be that as it may, Evan Greer highlighted that Obama’s statement is illusory because he simply obtained the prerogative that allows him to do so (Nelson). Clearly, the previous president was deliberately in no position to consider the pardon, at least not until his condition was fulfilled.

In an attempt to backup his point of view, Obama sugarcoated the fact that NSA was crossing the line. In an Interview with *The Tonight Show with Jay Leno*, the president asserted that “We don’t have a domestic spying program. What we do have is some mechanisms that can trace a phone number or an e-mail address that is connected to a terrorist attack” (qtd. in Goldfarb). He continued by adding that he made sure to verify the NSA with a “healthy skepticism” which led him to be convinced that the operations of the agency help prevent terrorist attacks (Gardner). It seems like the president maintained a static perspective against Snowden. No matter what the allegations he was facing in the consequences of the leaks, Obama backed up the NSA every step of the way.

Obama’s opinion made the world perceive him as the character in George Orwell’s famous novel *1984* named “The Big Brother” (Burghardt). The reason behind this resemblance is that the character in the novel is known for keeping an eye on everyone and at all times. American citizens, under the pervasive acts of the NSA, were occupying the setting of a post modernist novel. The president, respectively, was referred to as “big brother is watching you.” In the current context, a more accurate description would be “Obama is

watching you.” The world had more to say about the case, and more comparisons to draw. Under the mass-media cover, people could not help but associate Snowden with one of the most famous whistleblowers US history had ever witnessed.

3.3.2. Snowden as the Duplicated Younger Version of Daniel Ellsberg

Constructing the grounds of this discussion begins with putting focus on the whistleblower of the Pentagon Papers named “Daniel Ellsberg”. His case, as Bruce Franklin reports, dates back to 1971 when he blew the whistle on the Nixon administration. Ellsberg leaked over than 7000 high classified Pentagon Papers to one of the US most famous newspapers *The New York Times*. These papers indicated that the US had been involved in conspiracies leading to the horrific situation Vietnam was suffering from at that time. Ellsberg act of blowing the whistle took the world by a storm. Due to the massive impact the whistleblower had made, he became the ideal reference to Snowden, the millennial whistleblower.

Examining both cases, “the 20th century whistleblower and the 21st century whistleblower”, as Ewen MacAskill characterizes them, share a collection of identical variables. In terms of the corporation conducting the wrongdoings, the NSA meets the Nixon administration. Concerning the documents exposed, the NSA surveillance documents meet the Pentagon Papers. In the matter of the channel by which information was released to the world, *The Guardian* meets *The New York Times*. As part of the consequences, both Snowden and Daniel were stigmatized as “traitors” by government officials and labeled as “heroes” by people (Moretti). In the sphere of entitlements, “the most wanted man in the world” meets “the most dangerous man in America” (MacAskill). To some extent, the similarities both cases share could possibly be a proof that history does repeat itself, yet in the most non-anticipated ways.

Snowden and Ellsberg may share the same story, but there are factors that separate the two men. According to Garance Franke-Ruta, the 21st century whistleblower suffers from lack of well established insider ties due to his low ranking position as a contractor in the NSA, while Ellsberg maintained a firm set of professional relationships in Washington due to

his high ranking job that allowed him to take part in the drafting of the Vietnam War.

Additionally, Snowden's leaks served to highlight a theoretical threat, while Ellsberg's act of blowing the whistle drew attention to matters causing death. Probably the point that could be used against Snowden, in this context of comparison, is his departure from the US.

Franke-Ruta continues to bring the young whistleblower down by stating that he should have stayed in his country. He should have presented himself as the leader of the change he wanted to advocate and he should have committed to informing the American people and not seek a worldwide audience. Despite these allegations, Snowden's decision to blow the whistle is the right act even if it was not performed perfectly. The points that Franke-Ruta raised seems to fall in the most common trap most reporters find themselves in. They place a much bigger focus on the messenger rather than the message itself.

In an interview that only happens once in a lifetime, one can only wish to be in the presence of the two most iconic American whistleblowers, Snowden and Ellsberg. *The Guardian* managed to unite the younger whistleblower with his older version in an interview about whistleblowing. In an online interview that connected California where Ellsberg is, Moscow where Snowden is, and London where *the Guardian* is, the three-part conversation took place. The reporter named "Ewen MacAskill" initiated the question to open the room for both whistleblowers to give their part and present their perspective.

When asked about the process of leaking the information in the 70's, Ellsberg mentioned that the process was much more difficult, especially if the leaks encompassed millions of documents as in the case of Snowden. The Pentagon Papers, as Ellsberg reported, took months of copying and relentless effort during sleepless nights. Snowden proceeded to comment on the matter adding that the difference between the two periods is that Ellsberg's operation happened within the limits of a particular safe document while his own covered an entire network. A digital space that allows the person to get his hands on information even the president does not have access to.

The following question raised by *The Guardian* reporter was about their motives to become whistleblowers. Starting with the older informant, Ellsberg expresses that his act was the result of seeing other Americans imprisoned because they preferred to turn down the Vietnam War at the expense of their freedom. Those young soldiers refused to raise their weapons in a war they believed is needless. Ellsberg was motivated to risk his stability for the same cause. He argued that if it were not for those brave people, the Pentagon Papers would have never surfaced. He continued to emphasize that “courage is contagious” referring to Snowden by saying “I have heard you say, Ed, that the most dangerous man in America was a factor in encouraging you to do what you did.”

Snowden replied with a confirmation stating that before his decision to blow the whistle, he was weighing up the pros and cons and going through a difficult experience that ended up at ease by watching the documentary about Ellsberg and the Pentagon Papers. The young informant states that “hearing the arguments from someone who has lived through this, it helps prepare someone to make that jump themselves”. Regardless of the negative media coverage which tried to draw a line of preference over the two whistleblowers, Snowden and Ellsberg seem to share a healthy relationship and a level of conformity that allows each one of them to admire the other. Throughout the course of history, there is no doubt that the most dangerous man in America and the most wanted man in the world will always stand as the whistleblowers to look up to.

Putting an end to the long lasting debate whether Snowden is a national hero or a cowardly backstabber, within the scope of this research, leads to one of the two entitlements. Edward Joseph Snowden is a national hero. Examining his case with the NSA bears enough complexity that makes it understandable why the standpoint of someone contradicts that of another. The genius cyberspace whistleblower found himself in a situation that made him question everything about his government.

The CIA Geneva incident put him in a complete state of disillusionment. He could have blown the whistle then, yet he hoped for his government to change with the promises of the upcoming to be president. When faced with disappointment, he decided to individually proceed with collecting enough evidence that would make a strong case to support his stand; a stand that would lead to the improvements of his nation. Pointing out a mistake has always been for the purpose of correcting it rather than diminishing whoever performed it.

If Snowden initially aspired for heroism, he would have identified himself from the very beginning. However, the whistleblower in his interview with *The Guardian* made sure to clear this assumption by saying that “I don’t want public attention because I don’t want the story to be about me. I want it to be about what the US government is doing” (qtd. in Greenwald, MacAskill, and Poitras 2). Additionally, the whistleblower did not want to advocate a movement of change at the expense of raising insecurities among the American citizens.

In an interview with *The Washington Post*, Snowden expressed his thoughts about the matter stating that “I didn’t want to change society. I wanted to give society a chance to determine if it should change itself”, he continued, “All I wanted was for the public to be able to have a say in how they are governed” (qtd. in Gellman 2). It is clear that Snowden wanted to be the channel through which people could have an opinion in the way they were secured. The young whistleblower is a hero not at the expense of portraying the NSA as the traitor in the case. Despite the malfeasances being performed, the NSA is an agency run by human beings who can fall in the trap of misconduct at any given moment.

The whistleblower did express his intention behind revealing the NSA surveillance documents. The previous NSA contractor declared that those who considered him backstabber simply misconceived his intentions. Snowden sought improvements for his agency, not destruction. Although he is a refugee in Moscow, Snowden considers himself an

active agent for the NSA. He stated, "I am still working for the NSA right now. They are the only ones who don't realize it" (qtd. in Gellman 5). Snowden had the best interest of both his nation and his agency. If the NSA remained on the same track, another whistleblower would definitely surface with the same case sooner than later.

Going through the details of this case and without taking into consideration any media perception of the whistleblower, it is extremely difficult to view him as traitor. Snowden gave up everything he had to perform this mission, he even jeopardized the safety of his family. He left his country with the possibility of never being able to return. This was the price to pay for the sake of American citizens to live in security maintaining their privacy, and for the sake of his government to improve. The Pentagon Papers should have been a lesson, and Snowden's impact should effectively perform as a wakeup call for the US government. A hero's impact, no matter what were the consequences, is inevitably always a positive one.

Conclusion

Due to the complexity of nature the whistleblowing phenomenon maintains, conducting the research allowed the exploration of different aspects. An essential departure for this area of study necessitated setting the grounds for what the actual term stands for. Understanding the essence helps the employee to recognize what their action means as well as what type of whistleblowing serves in voicing the message loudly and profoundly. The employee is attached to numerous criteria that determine the way he reports. Respectively, their action leads to experiencing both positive and negative aftermath. This depends on the situation the employee is involved in.

One of the several expected consequences is the impact on the employee's image. The perception of his persona varies between who praises and demeans the act. Regardless, one cannot judge the employee based on mere personal opinion. There are requirements by which the image of the whistleblower is constructed. The character he possesses, the motive behind blowing the whistle, and the intention he bears is what will prevent misjudgments when it comes to deciding if his act is the result of loyalty or disloyalty.

The US gave the right for the citizens to speak up by legitimizing the act through the constitution. It went further to shed the light exclusively on the protection of whistleblowers. The government established a collection of acts that grants a legal shield for those who take it upon themselves to unfold the wrongdoing at any expense. Each law is set apart based on the circumstances in which it can be activated. Yet, the purpose is always unified. Obtaining the protection optimizes both the worker's motivation to fulfill his ethical responsibility and enhances the work environment by putting an end to the abusive wrongdoings hindering its existence.

Protecting whistleblowers is the rule in the American law. However, an exception took place in the case of the most wanted man named "Edward Snowden." The young whistleblower was not a subject to any whistleblowing protection. The case gained a global audience because of

the intense events surrounding it. The narratives stretched to encompass the US two rivals Russia and China. The millennial whistleblower showed commitment to the mission he started without any hesitation to back down. He followed the footsteps of Daniel Ellsberg, the man who took the lead off exposing Nixon's administration. Snowden sparked a long lasting debate. With different views, Snowden's persona shifts between a hero and a traitor. The government or the people, each stands with his own perspective.

The current research presents Snowden as a national hero due to his attachment to the matter on both personal and professional levels. The young man sacrificed his occupation along with the stability of his private life, one the several prices he had to pay for the sake of exposing the wrongdoings the NSA was intentionally responsible of. One cannot examine the case of the NSA without remembering the similar case of the Pentagon Papers. The US history raises numerous questions about the credibility of its government. It stands as a country that leads and rules. However, the gap in the system cannot be unnoticed. The continuous momentum the nation keeps witnessing shows a malfunction.

Employees in all fields should always consider and execute the act of blowing the whistle. The ideal worker is not the one who aspires for promotion by working relentlessly and blindly, yet he is the one who insists on investing his time and energy on performing the job concretely and ethically. The people should be receptive of whistleblowers' acts and embrative of their messages. Whistleblowing is a phenomenon that undoubtedly leads to improvements because it promotes work ethics. It helps every worker to have the peace of mind needed in the sleepless nights; those darkest hours haunted by the idea of enclosing a wrongdoing. Blowing the whistle should be the first action to take. It might not be the safest act to perform, but indeed it is the right thing to do.

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