Exploring the similarities and dissimilarities of whistleblower protection in the UK, the US and EU in the pandemic era: Covid-19

A Thesis Submitted for the Degree of Doctor of Philosophy

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Table of Abbreviations

AI	Artificial Intelligence
BSA	Bank Secrecy Act
AML	Anti-money Laundering
AMLA	Anti-Money Laundering Act
CARES	Coronavirus Aid and the Economic Security
CBILS	Coronavirus Business Interruption Loan Scheme
CDC	Centres for Disease Control
CEO	Chief Executive Officer
CFTC	Commodity Futures Trading Commission
CMA	Competition and Markets Authority
COVID-19	Coronavirus
CSR	Corporate Social Responsibility
DHSC	Department of Health and Social Care
DOH	Department of Health
DOJ	Department of Justice
DPT	Decentralised Privacy Proximity Tracing
EAT	Employment Appeal Tribunal
ECB	European Central Bank
ECHR	European Court of Human Right
ECJ	European Court of Justice
ETS	Emergency Temporary Standard

EU	European Union
ERA	Employment Rights Act
ERCC	Emergency Response Coordination Centre
EV	Electric Vehicle
FBI	Federal Bureau of Investigation
FCA	False Claims Act
FCA	Financial Crime Agency
FDLE	Florida Department of Law Enforcement
GDP	Gross Domestic Product
GDPR	General Data Protection Regulation
GPS	Global Positioning System
GRECO	Group of States against Corruption
HMRC	His Majesty's Revenue and Customs
ICU	Intensive Care Unit
IEA	International Energy Agency
ILOAT	International Labour Organisation's Administrative Tribunal
IRS	Internal Revenue Services
MERS	Middle East Respiratory Syndrome
MP	Members of Parliament
NDA	Non-Disclosure Agreement
NASA	National Aeronautics and Space Administration

NGO	Non-Governmental Organisations
NHS	National Health Service
NPI	Non-Pharmaceutical Intervention
NSA	National Security Agency
OECD	Organisation for Economic Co-operation and Development
OSHA	Occupational Safety and Health Administration
PCAOB	Public Company Accounting Oversight Board
PCR	Polymerase Chain Reaction
PCAB	Public Company Accounting Oversight Board
PHA	Public Health Agency
PHE	Public Health England
PPE	Personal Protection Equipment
PPP	Paycheck Protection Program
PESTEL	Political, Economic, Social, Technological, Environmental and Legal
PIDA	Public Interest Disclosure Act
PUWR	Provision and Use of Work Equipment Regulations
QE	Quantitative Easing
R&D	Research and Development
SAGE	Scientific Advisory Group for Emergencies
SARS	Severe Acute Respiratory Syndrome
SEC	Security and Exchange Commission

SEISS	Self-Employed Income Support Scheme
SNAP	Supplemental Nutrition Assistance Programme's
SOX	Sarbanes-Oxley Act
SWOT	Strength Weaknesses Opportunity Threats
TFEU	Treaty for European Union
UC	Universal Credit
UK	United Kingdom
UN	United Nation
US	United States
USEPA	United States Environmental Protection Agency
VAT	Value Added Tax
WPA	Whistleblower Protection Act
WHO	World Health Organisation

Chapter 1: Introduction

1.1. Background

> *"Whistleblowers play an essential role in uncovering corruption and other wrongdoing that threaten the rule of law, public health and democracy in general".*[1]

> *"Having effective protection in place for whistleblowers is essential for encouraging a speak-up culture which can lead to uncovering illegal practices and behaviour".*[2]

There is a general recognition of the importance of whistleblowers and the inadequate protection accorded to them, as alluded to in both quotations above. The abhorrent reprisal faced by whistleblowers for reporting misconduct became more evident during the coronavirus era,[3] as well as the fact that most countries around the world have arguably failed to endow sufficient protection to whistleblowers. At the same time, the role of whistleblowers is becoming more politically and socially acceptable due to their involvement in revealing important information that would not have been available in the public domain.[4] The outbreak of the coronavirus pandemic created further awareness of the degree of reprisal faced by whistleblowers, which raised questions about the effectiveness and the efficiency of the legislation that was in place back then. Whistleblowers exposed how the overburdened and underfunded healthcare system was made vulnerable. As a result, most governments took an unsystematic approach by initially trying to conceal the severity of the virus and the shortages in equipment. However, the continuous exposure by whistleblowers forced the governments to take proactive steps in introducing measures to contain the spread of the coronavirus.

This thesis is anchored in the premise of ascertaining the level of protection accorded to whistleblowers during the coronavirus era by appraising the effectiveness of whistleblower legislation. The study sought to comprehend employees' commitment to exposing organisational immoral practices, such as corruption and fraud, that cause enormous social and economic plight for employees, organisations and society. The study endeavours to

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[1] M. Terracol, 'Institutional arrangements for whistleblowing: Challenges and best practices' (Transparency International, 30 April 2021), <https://knowledgehub.transparency.org/assets/upload/helpdesk/Overiew-ofwhistleblowing-institutional-arrangements_2021_PR.pdf > Accessed 2 September 2025.

[2] OECD, 'Study on Whistleblower Protection Frameworks, Compendium of Best Practices and Guiding Principles for Legislation' (OECD, 2011), <https://www.oecd.org/g20/topics/anticorruption> Accessed 2 September 2025.

[3] H. Latan and others, 'What Makes You a Whistleblower? A Multi-Country Field Study on the Determinants of the Intention to Report Wrongdoing' (2023) 183 Journal of Business Ethics 885, 888.

4 S.R. Khan and L. C. Howe, 'Concern for the transgressor's' (2021) 173 Journal of Business Ethics 325, 327.

demonstrate that unethical practices can be averted or minimised through a practical whistleblowing framework. As evidence has shown, without effective whistleblowing systems, employees can face a dilemma about the right person to raise their concerns regarding organisational misconduct. Since the information recipients can influence the outcome of reported misconduct with the possible consequences of retaliation.

A fundamental part of this research is dedicated to investigating the impact of the coronavirus pandemic and the prominent role played by whistleblowers in risking their lives to expose necessary information that governments and organisations would have otherwise suppressed. This study substantially inculcates how the governments of the three jurisdictions were compelled to implement necessary legislation and guidelines to contain the spread of the coronavirus after continuous exposure of misconduct by whistleblowers. Undeniably, the outbreak of the coronavirus pandemic affected the political and socio-economic sections of society.[5] Governments resorted to reviving their existing healthcare legislation or promulgating new legislation to restrict the movement of their populations to halt the spread of the virus.

The measures taken by governments in response to the coronavirus highlighted the difficulties that involved trade-offs between civil liberties and the need to protect the general public.[6] Arguably, the severity of the virus necessitated that public health take precedence over civil liberties. The coronavirus pandemic cast a shadow on the extent of underfunded healthcare sectors, which consequently reduced their capacities to a minimum.[7] The healthcare systems around the globe were severely impacted by the outbreak of the coronavirus pandemic with shortages of hospital beds, breathing ventilators, masks, and Personal Protection Equipment (PPE). A surge in demand for PPE caused severe shortages that exacerbated the pandemic's problems during the first months of the crisis, as medical staff lacked sufficient resources to perform their duties as needed, reflecting a lack of government preparedness for a pandemic.[8] The death rate was considered moderate with the younger population but higher with the elderly and individuals with chronic underlying conditions during the first outbreak of the

[5] T. Landman and L. Splendore, 'Pandemic Democracy: Elections and COVID-19' (2020) 23 Journal of Risk Research 1060, 1062.

[6] M. Orzechowski, M. Schochow and F. Steger, 'Balancing Public Health and Civil Liberties in Times of Pandemic' (2021) 42 Journal of Public Health Policy 145, 149.

[7] P.J. Fleming and others, 'The Public Health Funding Paradox: How Funding the Problem and Solution Impedes Public Health Progress' (2021) 136 Public health Reports 10, 11.

[8] M. Nyashanu and others, 'Exploring the Challenges faced by Frontline Workers in Health and Social Care amid the COVID-19 Pandemic: Experiences of frontline Workers in the English Midlands region, UK' (2020) 34 Journal of Interprofessional Care 655, 657.

virus.[9] Universities and pharmaceutical companies collaborated to develop and test products and potential vaccines.[10] The government allowed all spectrums of the society, including cottage industries of small manufacturers and home-sewers to make masks for everyday use to mitigate against the spread of the virus.

Reactively, the government adopted the policy of lockdown to dissuade movement of people to avert the rapid spread of the virus. People's movements were limited to travel for food shopping, to purchase medical needs, exercise once a day within the vicinity and only report to work if necessary.[11] Sporting events, schools, restaurants, bars, gyms and other leisure related businesses were included in the lockdown policy.[12] This measure forced closure of offices and companies and encouraged remote working practices where practical. The government in turn supported the measures by paying 80 per cent of employees' salary directly to their organisations.[13] The governments implemented social distancing by 2 meters and mandated the wearing of face masks in public places to mitigate the spread of the virus.[14] Policy makers drew a conclusion that the physical distancing measure will reduce contact levels, which can lead to a decline in the number of cases.

The governments introduced contact tracing measure to mitigate the spread of the coronavirus when the number of infections continued to increase. Economic support was provided to individuals and companies as a measure to prevent economic collapse and to secure business continuity.[15] Structural inequalities became evident during the outbreak of the coronavirus pandemic as income, education and access to medical care made minorities vulnerable to higher risk of infection and death. There was a global shift in businesses to more technological and scientific solutions as they became prominent as organisations try to gain competitive advantage.[16] The global lockdown measures enforced by governments as a consequence of the

[9] E.J. Williamson and others, 'Factors associated with COVID-19 related Death using Open SAFELY' (2020) 584 Nature 430, 432.
[10] P. Mirvis, 'Reflections: US Coronavirus Crisis Management – Learning from Failure January- April 2020' (2020) 20 Journal of Change Management 283, 293.
[11] M. Douglas, 'Mitigating the Wider Health Effects of Covid-19 Pandemic Response' (2020) 369 British Medical Journal 1, 2.
[12] Public Health England, 'Guidance on Social Distancing for Everyone in the UK' (Government of UK, 28 March 2020), <https://www.gov.uk> Accessed 2 September 2025.
[13] M. Brewer and L. Gardiner, 'The initial Impact of COVID-19 and Policy responses on Household Incomes' (2020) 36 Oxford Review of Economic Policy 187, 194.
[14] Y. H. Jin and others, 'A Rapid Advice Guideline for the Diagnosis and Treatment of 2019Nivel Coronavirus (2019-nCov) Infected pneumonia (Standard Version)' (2020) 7 Military Medical Research 1, 5.
[15] M. Goede, 'Covid-19 and Change' (2020) 8 Archives of Business Review 311, 325.
[16] K. Sing, 'The Impact of Technological Complexity and Interfirm cooperation on business Survival' (1997) 40 Academy of Management Journal 339, 367.

coronavirus pandemic gave respite to the environment from pollution.[17] The restrictions on local and global movements created a degree of economic shock around the globe. The impact of the pandemic resulted in the immediate contraction of global Gross Domestic Product (GDP), low investment, widespread inflation, fragmentation of global trade and recession in many countries. This study exhibits the positive and negative outcome from the measures adopted by governments to curtail the spread of the virus. The following section provides a comprehensive literature review from pioneering theorists of whistleblowing and numerous literary texts concerning the coronavirus pandemic. Additionally, the subsequent section outlines the contextual framework of the thesis.

1.2. Anthology of Literature on Whistleblowing and Its Contextual Framework.

Whistleblowing is expounded as employees reporting misconduct within the workplace to their employers or to outsiders, with the aim of obtaining prompt remedial action to prevent illegal practices that could significantly affect public interest.[18] The COVID-19 pandemic has notably challenged traditional perceptions of whistleblowing due to its global scope. It facilitated widespread connectivity through technology during a period when healthcare professionals, the most affected sector, were more communicative than ever.[19] Healthcare workers increasingly resorted to online platforms, such as ProMED and Twitter[20], to raise concerns during the early stages of the pandemic.[21] They utilised social media tools to communicate with the public, alert decision-makers, support one another, and share testimonials as the pandemic progressed.[22] Additionally, healthcare workers shared information about difficult working conditions, exacerbated by shortages of personal protective equipment.[23] They also directly

[17] R. Nigam and others, 'Positive Effects of COVID-19 Lockdown on Air Quality of Industrial Cities' (2021) 11 Scientific Reports 1, 2.
[18] T.V. Eaton and M. D. Akers, 'Whistleblowing and Good Governance' (2007) 77 CPA Journal 66, 67.
[19] M. Brony and others, 'A Systematic Review on Social Media Utilisation by Health Communicators in India: Insights from COVID-19 Pandemic' (2024) 14 Online Journal of Communication and Media Technologies 1, 6.
[20] M. Gagnon and others, 'Blowing the Whistle During the First Wave of COVID-19: A Case Study of Quebec Nurses' (2022) 78 Journal of Advanced Nursing 4135, 4137.
[21] A. Andrew, 'Understanding the "Infodemic" Threat: A Case Study of the COVID-19 Pandemic' (2024) 45 Korean Journal of Family Medicine 183, 184.
[22] S. Glasdam and others, 'Scandinavian Trade Unions' Guidelines Regarding Nurses' use of Social Media: A Fairclough-Inspired Critical Discourse Analysis' (2022) 17 Frontiers in Communication 1, 2.
[23] M. Kroneman and others, 'Personal Protective Equipment for Healthcare Workers During COVID-19: Developing and Applying a Questionnaire and Assessing Associations Between Infection Rates and Shortages Across 19 Countries' (2024) 146 Health Policy 1, 2.

observed and communicated the impacts of COVID-19 policies, which resulted in unprecedented moral distress and injury.[24]

The reviewed literature on whistleblowing protection concentrates on five pioneering theorists, whose definitions were selected because they encompass all aspects of the research questions. Moreover, the literature on COVID-19 whistleblowing significantly contributed to the thesis. Both bodies of literature offer comprehensive analyses of the definitions and the anticipated level of protection for whistleblowers. The theorists' definitions were meticulously examined to identify similarities and differences. These five definitions were deliberately chosen to represent a range of perspectives, with each providing distinct insights.

The initial definition by Bowie and Duska in 1990 includes various elements of whistleblowing related to an individual connected to an organisation, either in the public or private sector. The individual then chooses to "inform the public about a belief that either (s)he has been instructed to perform, or (s)he has gained knowledge that the institution is involved in activities which cause unnecessary harm to third parties, violate human rights, or contradict the institution's defined purpose."[25] This earlier definition of a whistleblower positively influenced later scholarly definitions, as they agreed that an appropriate, specific job-related role is reported to an agency or a competent person capable of investigating the wrongdoing and addressing the misconduct.[26] Two years later, in 1992, Miceli and Near put forward another definition of whistleblowing that has proven to be very influential and widely accepted because it covered whistleblowers' behaviors'. Miceli and Near opined that whistleblowing is a convoluted process by which members of the organisation (present or former) report information about inappropriate practices (which the employer is cognizant of) to persons or organisations that can take steps to remedy the misconduct.[27]

In 1994, De Maria expanded the definition of whistleblowing by proposing that a concerned citizen is motivated to defend the public interest by reporting misconduct. According to De Maria, the whistleblower would ensure that significant misconduct related to a specific role is reported to an appropriate individual or agency capable of investigating the wrongdoing and correcting it.[28] However, Chiasson et al. in 1995 suggested a different perspective on

[24] G. Anastasi and others, 'Moral Injury and Mental Health Outcomes in Nurses: A Systematic Review' (2025) 32 Nursing Ethic 698, 700.
[25] N. Bowie and R. Duska, *Business Ethics* (2nd edn, Prentice Hall 1990) 73.
[26] W. De Maria, *Whistleblowing and Unions: from Public Promise to Private Betrayal,* presented to Public Sector Union Conference, Hobart, 16 May 1994
[27] M. Miceli and J. Near, *Blowing the Whistle: The Organisational and Legal Implications for Companies and Employees* (2nd edn, Lexington Books 1992) 15.
[28] Ibid., 9.

whistleblowing. Chiasson viewed a whistleblower as a person who reports questionable practices that are carried out either internally or externally by an organisation or its members. The scholar distinguished an internal whistleblower as someone who reports misconduct to a person within the organisation to bring about change. External whistleblowing involves reporting internal misconduct outside the organisation to the media or regulatory agencies, as it attracts more attention.[29]

Finally, in 1999, Jubb provided a comprehensive definition of whistleblowing, asserting that it is a conscious, non-mandatory act of reporting misconduct that becomes public. The information is disclosed to the public by an individual who has privileged access to data belonging to the organisation. Such information typically involves significant illegal activities, whether actual, presumed, or likely to occur. While the dissemination of this information may adversely affect the organisation's reputation, an external institution can address and rectify the misconduct.[30] Scholarly definitions have consolidated various perspectives, including the employee's relationship with the employer, the level of trust necessary to report misconduct internally or externally for positive change, the increasing awareness of the inherent risks associated with reporting misconduct, and, most importantly, the intention to protect the general public.

To adequately review the extant literature on whistleblowing protection, this thesis delineates the research questions and parameters grounded in the well-established definition by Near and Miceli. Their classical definition characterises whistleblowing as ‘a process involving at least four elements: First, the whistleblower, who may be a former or current member of an organisation, possesses knowledge of misconduct but generally lacks the authority or capacity to effect necessary changes. Second, the act of whistleblowing entails disclosing an illegal, immoral, or illegitimate practice to individuals or organisations that possess the ability to initiate change. Third, the recipient of the complaint can be a third party (external whistleblowing) or someone other than, or in addition to, the immediate supervisor (internal whistleblowing). Lastly, the organisation refers to a public or private entity that is the subject of whistleblowing and that is expected to respond (or choose not to respond) to the disclosure of wrongdoing.

[29] M. Chiasson, G. H. Johnson and J. R. Byington, ‘Blowing the Whistle: Accountants in industry’ (1995) 65 Certified Public Accountants Journal 1, 24.

[30] P. Jubb, ‘Whistleblowing: A restrictive definition and interpretation’ (1999) 21 Journal of Business Ethics 77, 83.

Conversely, the literature accumulated during the coronavirus outbreak begins with the experiences of employees who observed misconduct in the workplace and opted to disclose these internally or externally following a careful ethical deliberation and an assessment of potential risks and consequences.[31] Healthcare professionals, including physicians and nurses, identified policy and management deficiencies, injustices, and their repercussions on patients, families, and colleagues.[32] The case of Doctor. Li Wenliang, the initial COVID-19 whistleblower who issued a warning on the Chinese messaging platform WeChat on 30 December 2019 and subsequently succumbed to COVID-19, exemplifies a compelling reminder that whistleblowing within the healthcare sector transcends geographical boundaries.[33]

Furthermore, the literature on COVID-19 comprehensively discusses misconduct across various sectors during the pandemic era, thereby significantly enhancing the robustness of this research. In the healthcare context, Blenkinsopp et al. define whistleblowing as the act of highlighting issues related to "unsafe, unethical, or poor-quality care to persons, " which emphasises the concept of "moral whistleblowing".[34] Consequently, it is understandable that numerous guidelines for whistleblowing in public health emphasise patient safety.[35] In other literature, Morley and others[36] highlighted the ethical issues surrounding the use of tracking apps that were used to mitigate the spread of the coronavirus. It was asserted that the tracking apps may be beneficial, but if they do not adhere to strict guidelines and principles even in an emergency or crisis, they can be dangerous when they ignore the real costs, including severe and long-lasting harms to fundamental rights and freedoms. Baumgart[37] also concurred that the COVID-19 pandemic forced many public health care systems to adopt new technologies at a speed that did not allow them adequate time to understand the risks and data security needs that

[31] J. N. Hirsch, 'Ethics of Nudging in the COVID-19 Crisis and the Necessary Return to the Principles of Shared Decision Making: A Critical Review' (2024) 16 Cureus 1, 9.
[32] D. T. Ha and others, 'Mental Health Impact on Healthcare Workers from COVID-19 in Vietnam: Suggestions for a Preventive Program' (2024) 33 International Journal of Mental Health Nursing 1370, 1375.
[33] J. Chen and J. Cheng, 'The Generation of "instant memory": the digital memory of Dr. Li Wenliang in the COVID-19 Outbreak in China' (2025) 10 Chinese Journal of Communication 1, 2.
[34] J. Blenkinsopp and others, 'Whistleblowing Over Patient Safety and Care Quality: A Review of the Literature' (2019) 33 Journal of Health Organisation and Management 737, 756.
[35] A. M. Ibrahim, 'Nurses' Ethical Responsibilities: Whistleblowing and Advocacy in Patient Safety' (2024) 31 Nursing Ethics 1289, 1292.
[36] J. Morley and others, 'Ethical Guidelines for COVID-19 Tracing Apps' (2020) 582 Nature 29, 31.
[37] J. G. Baumgart and others, 'The Early Impacts of the COVID-19 Pandemic on Mental Health Facilities and Psychiatric Professionals' (2021) 18 International Journal of Environmental Research and Public Health 1, 2.

are involved when moving to a primarily digital system. Besides, Vokinger and others38 question the legal frameworks of the tracking apps.

The primary research question of this thesis is to assess the level of protection afforded to whistleblowers during the coronavirus pandemic. The existing literature suggests that legal mechanisms are inadequately designed, and their implementation has ultimately led to inconsistencies in whistleblower protection. Each section of the literature views a separate area of investigation. The conclusion of each section highlights its importance to the thesis by clarifying the main research questions it raises, as well as any expected outcomes. Furthermore, a summary following this chapter revisits each question and expectation, emphasising the areas where the thesis has contributed academically. The subsequent section analyses the aims and objectives, followed by the research questions, methodologies employed, and the structure of the thesis.

1.3. Aims and Objectives

The primary aim of this study is to examine the level of protection accorded to whistleblowers. This research attempts to deduce the extent of legal protection rendered to whistleblowers in the UK, the US and EU Member States during the coronavirus pandemic. The research examines the extent to which potential whistleblowers will feel adequately protected, encouraged, and motivated to bring wrongdoings to the attention of the public, especially during periods of socio-economic crisis. This research also offers insights as to why the US model of whistleblower protection is considered a pacesetter across the international community. Furthermore, the research conducted a stress test to determine whether the PIDA, which protects whistleblowers, should be reformed following the UK's exit from the European Union. Additionally, the research examines how Member States have been transposing the Directive into their national laws to guarantee protection for whistleblowers. The examination will help to validate the effectiveness of the EU Whistleblowing Directive and determine if it can successfully persuade potential whistleblowers and mitigate the effects of corruption in both the public and private sectors.

The main objective of this study is to interrogate the effectiveness (chapter 4) of the legal structures by analysing case law in the UK, the US and EU Member States that propound whistleblowing. This will help in the research to investigate the circumstances in which

[38] K. Vokinger and others, 'Digital Health and the COVID-19 Epidemic: An Assessment Framework for Apps from an Epidemiological and Legal Perspective' (2020) 150 Swiss Medical Weekly 1, 3.

whistleblowers in the three jurisdictions are deprived of legal protection. The effectiveness of the study will help identify deficiencies in the current whistleblowing legislation that require amendments to ensure adequate protection for whistleblowers.

The second objective is to determine the degree of organisational involvement in cases of COVID-19 misconduct. The findings from this research elucidated the financial implications of COVID-19-related malpractices39 and underscored the repercussions of retaliatory actions against whistleblowers.[40]

The final objective of this research is to identify the risks associated with COVID-19 whistleblowing.[41] This research examines remedial strategies adopted by the governments of the UK, the US, and EU Member States.

1.4 Research Questions

To properly comprehend the inadequate level of protection afforded to whistleblowers in the UK, the US, and EU Member States, it is imperative to critically analyse the ineffective legislative framework within these jurisdictions that purport to protect whistleblowers in organisations. It has become necessary to re-appraise the existing regulations. The thesis aims to address the following research questions:

i) How adequately does the current whistleblowing legislation protect whistleblowers in the three jurisdictions? [42]

ii) What is the level of protection accorded to COVID-19 whistleblowers? [43]

The research question seeks to examine how adequately whistleblowers are insulated by the law when their employers' reprisals infringe their protected disclosures. The primary purpose of this inquiry is to ascertain whether the existing level of legal safeguards functions as an adequate mechanism to confirm whistleblower protections. In the absence of comprehensive legislation that explicitly mandates employers to shield whistleblowers from retaliation, employees are likely to continue experiencing reprisals upon reporting misconduct. Current legislation presents numerous deficiencies that undermine its effectiveness in protecting whistleblowers. Chapter 5 introduces a proposed reform that advocates for the complete protection of whistleblowers when making a protected disclosure.

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[39] E. Anessi-Pessina and others, 'Reconsidering public budgeting after the COVID-19 outbreak: key lessons and future challenges' (2020) 32 Journal of Public Budgeting, Accounting & Financial Management 957, 962

[40] L. Zhang, H. Li and K. Chen, 'Effective Risk Communication for Public Emergency: Reflection on the COVID19 (2019-nCoV) Outbreak in Wuhan, China (2020) 8 Healthcare 1, 6.

[41] Ibid.

[42] Discussed in Chapters 4 and 5 of the thesis.

[43] Discussed in Chapters 4 and 5 of the thesis.

The primary research inquiry of this thesis concerns the level of protection afforded to whistleblowers during the coronavirus pandemic. Existing literature elucidates the extent of legal protection granted to whistleblowers, but a closer examination of the results suggests otherwise. The legal mechanisms appear flawed in their design, and their implementation ultimately leads to inconsistencies in the protection of whistleblowers.

To answer the research question, this study analyses the effectiveness of the legal systems and whistleblower legislation in the UK, the US, and EU Member States. Besides examining the level of protection given to whistleblowers, this thesis also investigated the gaps and inadequacies in existing whistleblowing laws that need to be addressed. Additionally, the research helped to determine whether the handling of reported COVID-19 cases was appropriate, as this will influence or discourage future reporting of wrongdoing.

1.5. Research Methodology

The thesis adopted a doctrinal[44] and comparative research method[45] coupled with PESTEL and SWOT models. The legal doctrinal analysis formed the principal method for this research, because the first research question was centred solely on legal appraisal. This chosen method helped uncover complexities, rationally organise them, and establish their correlation with the other mentioned research methods.[46] In addition to the research methodologies adopted, the thesis also used case law, journal articles and existing literature.

1.5.1. Doctrinal Research Methodology

Doctrinal research is defined as a structured evaluation of the rules governing a distinct legal category, which scrutinises the relationship between laws, interprets areas of complexity, and envisions future progress.[47] Generally, doctrinal research identifies areas of law related to specific matters.[48] Doctrinal research is primarily qualitative in nature, as it precludes the statistical analysis of any data.[49] It places emphasis on legal principles and particularly on how they have been developed and applied. Commonly, doctrinal research presides over finding a

[44] T. Hutchinson and N. Duncan, 'Defining and Describing What We Do: Doctrinal Legal Research' (2012) 17 Deakin Law Review 84, 101.
[45] J. Hage, 'Comparative Law as Method and the Method of Comparative Law in Maurice Adams and Dirk Heirbaut' (eds) *The Method and Culture of Comparative Law* (Hart Publishing 2014) 37.
[46] T. Hutchinson, '*Doctrinal Research: Researching the Jury*' (Routledge 2013) 10.
[47] Hutchinson and Duncan (n 44) 101.
[48] M. McConville and H. W. Chui, *Research Methods for Law* (2nd edn, Edinburgh University Press 2017) 12.
[49] Ibid 12.

particular statement of the law or meticulous analysis of legal rationale. As a result, the doctrinal analysis will be adopted to examine all the relevant sources of whistleblower legislation in the jurisdictions of this study. Such legal analysis relies on both primary and secondary sources (legislation, case law and academic literature), as the research question cuts across different pieces of legislation from the three jurisdictions.

With this method, all the necessary attributes of the legislation and case law were reviewed, and the essential elements were linked to demonstrate the prevailing concerns. Arguably, doctrinal research is often criticised for being theoretical and technical, restrictive to specialities and failing to provide a narrative of economic and social importance to legal process.[50] However, the doctrinal research method will be adopted in this thesis as it helps to critically analyse the available primary sources that form an integral part of this study.

1.5.2. Comparative Law Research Methodology

In addition, comparative law was adopted to gain a better understanding of the strengths and weaknesses of the whistleblowing rules and the regulations in the three jurisdictions of this study. The UK, the US and EU Member States were chosen because they have strong economic and socio-political structures that promote good corporate governance, freedom of speech, and human rights protection. Furthermore, this choice of countries helped to focus on subtle differences. Moreover, these countries have well-developed, organised, efficient and dynamic governments. A comparative study of the jurisdictions highlighted the advantages and disadvantages of the three legal orders, which focuses on how governmental systems/processes encouraged or hampered whistleblowing activities.

Zweigert and Kotz defined comparative law as 'an intellectual activity with law as its object and comparison as its process'.51 They went further to include the feature of internationalism in the definition, which makes it palatable for the comparison of the different legal systems around the globe. The principal function of comparative jurisprudence is to advance legislation and the practical furtherance of the law.[52] For this research, comparative law was utilised to evaluate the legislation under examination, to establish the similarities and dissimilarities in the protection of whistleblowers. It explores the impartial and methodical solutions that exist in different legal mechanisms that provide legal protection, and it then explores legal

[50] T. Hutchinson, *Researching and Writing in Law* (3rd edn, Law Book Co. 2010) 22.
[51] K. Zweigert and H. Kotz, *Introduction to comparative law* (3rd edn, OUP 1998) 15.
[52] R. Cormacain, 'Keeping Covid-19 emergency legislation socially distant from ordinary legislation: principles for the structure of emergency legislation (2020) 8 The Theory and Practice of Legislation 245, 251.

advancements made in these systems.[53] Apart from the practical purpose, it encourages other legislators to learn about solutions applied in other jurisdictions (the US and the UK) regarding whistleblowing protection. Similarly, the transposition of the Whistleblowing Directive to national law is intended to harmonise the protection of whistleblowers in Member States.[54] The rationale for using comparative analysis is mainly to focus on the diverse judgments applied by various legal systems. Furthermore, the comparative methodology helped to explore the different approaches adopted in each legal system in a quest for similar solutions to the same predicaments.[55] Comparative law also gave a clearer illustration of the similarities and differences in the legal structures and practices across the three jurisdictions. Adopting comparative law for this research also provided a better understanding of the legal processes, and vital lessons acquired can be used in other jurisdictions.[56] Additionally, comparative law enabled the research to compare the level of protection afforded to whistleblowers and provide ideas and views for future reform.

During the evaluation process, consideration was given to the culture in which legislation is promulgated in the respective jurisdictions. It is right to assert that the idea of legal culture presupposes that rules, practices, doctrines, and institutions are an integral part of a broader culture.[57] The culture of a country serves as the fundamental basis on which laws are promulgated. This study showed the gateway and properly reviewed the legislation enacted in the three jurisdictions by comparing the cultures.[58] According to Legrand, there are two core attributes of a comparative method: a commitment to theory and a commitment to interdisciplinary research.[59] These attributes are adopted in the following research methods, utilising the Political, Economic, Social, Technological, Environmental, and Legal (PESTEL) model to examine the impact of the coronavirus holistically, the measures taken by the governments of the three jurisdictions, and the outcome of those measures in combating the coronavirus pandemic.

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[53] P. De Cruz, *Comparative Law in a Changing World* (3rd edn, Routledge 2007) 7.
[54] S. Farran and E. Orucu, 'The Continuing Relevance of Comparative Law and Comparative Legal Studies' (2019) 171 Journal of International and Comparative Law 171, 176.
[55] E. Billis, 'On the Methodology of Comparative Criminal Law Research: Paradigmatic Approaches to the Research Method of Functional Comparison and the Heuristic Device of Ideal Types' (2017) 24 Masstricht Journal of European and Comparative Law 864, 867.
[56] V.V. Palmer, 'From Lerotholi to Lando: Some Examples of Comparative Law Methodology' (2005) 53 American Journal of Comparative Law 261, 262.
[57] M. Adams and D. Heirbaut, 'The Method and Culture of Comparative Law: Essays in Honour of Mark Van Hoecke' (2015) 19 The Edinburgh Law Review 285, 296.
[58] R. Cotterrell, 'Comparative Law and Legal Culture' in M. Reimann and R. Zimmermann (eds) *The Oxford Handbook of Comparative Law* (2nd edn, Oxford University Press 2019) 711.
[59] J. Gordley, 'Comparison, Law, and Culture: A Response to Pierre Legrand' (2017) 65 The American Journal of Comparative Law 133, 135.

1.5.3. PESTEL and SWOT Models

The PESTEL model was chosen because of its versatility in analysing multi-criteria decisions. With this study, the PESTEL model was the best tool used for examining complex and multidimensional predicaments faced by governments around the globe during the era of the pandemic. The model effectively highlighted the challenges and then proffered appropriate solutions after looking at the measures taken to contain the spread of the virus. Both PESTEL and SWOT models complement the Doctrinal and Comparative methodology as they provide deeper insights into the strengths and weaknesses of rules and regulations implemented by governments during the coronavirus outbreak. Additionally, the models complement the socio-political structures of the three jurisdictions by critically examining the characteristics (Political, Economic, Social, Technological, Environmental, and Legal). Using the PESTEL model to examine the measures adopted by the governments of the three jurisdictions during the outbreak of the coronavirus helped to expose insufficient protection accorded to whistleblowers. On the other hand, the reporting of misconduct by whistleblowers during the era of the coronavirus increased their relevance in holding governments and organisations to account for unethical misconduct.

1.6. Structure of the Thesis

The thesis comprises four substantive chapters, each designed to address a specific research question. The composition of these chapters is outlined as follows:

After the introduction provided in the present Chapter, Chapter 2 began by addressing the core part of the research question, comparing the policies implemented across the three jurisdictions to mitigate the coronavirus pandemic. The emphasis was on common policies, such as social distancing, mask-wearing, contact tracing, travel restrictions, quarantine, PPE procurement, and economic support, as well as highlighting differences, especially among EU states such as Sweden, regarding lockdowns and mandatory vaccines. The chapter clarified the US's federal policies and noted variations between states. The chapter provided a detailed overview of the actions taken by the governments to mitigate the coronavirus, utilising the strategic management tool that focuses on the Political, Economic, Social, Technological, Environmental, and Legal (PESTEL) framework to critically analyse the external factors. The SWOT model, which stands for strengths, weaknesses, opportunities, and threats, was used to evaluate the PESTEL framework. The SWOT analysis seeks solutions by assessing the internal strengths and weaknesses, as well as how government policies functioned in mitigating the

virus, and the justification for adopting the models in this research. The chapter concluded by examining the extent of threats and retaliation faced by COVID-19 Whistleblowers.

Chapter 3 examines the definitions of whistleblowing by legislators and theorists to understand how whistleblowers are protected. This chapter not only defines whistleblowing but also discusses the importance of the legislative frameworks that safeguard whistleblowers in the UK, the US, and EU Member States. Chapter two is divided into eight sections. Section 1 defines whistleblowing, Section 2 explores the definitions of whistleblowing by theorists, and Section 3 examines the legislative definition of whistleblowing. Section 4 differentiates between whistleblowing and leaking, and Section 5 presents the stories of COVID-19 whistleblowers across the three jurisdictions. Section 6 compares the scope of the definitions, while Section 7 analyses the scope of these definitions in relation to COVID-19 disclosures. Finally, Section 8 investigates the factors that motivate whistleblowers to come forward.

Chapter 4 compared the legal protections for whistleblowers in the three jurisdictions during the coronavirus pandemic. The chapter detailed policies and procedures implemented across the three jurisdictions to curtail and contain the spread of the coronavirus. Chapter 3 further detailed how governments decided to legislate policies and procedures to curb and contain the spread of the coronavirus. The chapter provides an analysis of the effectiveness of promulgated legislation and the contribution of whistleblowers during the coronavirus era across the jurisdictions. Chapter 3 concluded by highlighting the weaknesses in the legislation that failed to protect COVID-19 whistleblowers.

Chapter 5 presented synthesis arguments in support of whistleblower protection. The chapter considered measures to enhance the protection of whistleblowers against retaliation after the COVID-19 pandemic. This chapter further distinguishes between compensation and rewards for whistleblowing. Additionally, it examined how implemented regulations reward whistleblowers for reporting misconduct and the compensation they receive. Furthermore, chapter four explores how rewards can strengthen protections for whistleblowers in the post-pandemic COVID-19 era. It also provided an overview of the various justifications for endorsing incentives for whistleblowers following the COVID-19 pandemic. Finally, the chapter concluded the thesis with a discussion on its contribution to knowledge and final conclusions.

Chapter 2: Comparing the PESTEL Policies Implemented Across the Three Jurisdictions During the Outbreak of the Coronavirus Pandemic

2.1. Introduction

Coronavirus (COVID-19) is among the family of coronaviruses that cause illnesses such as the common cold, severe acute respiratory syndrome (SARS) and the Middle East Respiratory Syndrome (MERS).[60] Some identified COVID-19 symptoms include shortness of breath, cough, fever, muscle or body aches, sore throat, headache, fatigue, new loss of taste or smell, vomiting, nasal congestion, or runny nose. COVID-19 can be severe; the viral infection has caused several deaths in many countries since its discovery in Wuhan, China, in December 2019. According to the US Centres for Disease Control and Prevention (CDC), scientists are still learning more about COVID-19 every day but older individuals and people with certain underlying medical conditions were at greater risk of contracting the coronavirus that led to severe illness and even death.[61]

Scientists derived the name "coronaviruses" from the crown-like spikes on their surfaces, visible when viewed under a microscope.[62] After the outbreak, the virus mutated from alpha to delta, and then to omicron. Human-to-human infections caused by animal coronaviruses are rarely seen, as was evident in two previous coronaviruses, MERS-CoV[63] and SARS-CoV[64]. However, the SARS-CoV-2 virus is considered a beta coronavirus when compared to MERS-CoV[65] and SARS-CoV. One significant similarity is that the origin of all three viruses has been traced to bats. The sequences from the US patients are similar to the one China initially posted, thus consolidating claims that the COVID-19 pandemic emerged from an animal reservoir. Nonetheless, scientists have not found the exact cause of the virus.[66]

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[60] S. Roth, L. Clausen and S. Moller, 'COVID-19, Scenarios of a Superfluous Crisis' (2021) 50 Kybernetes 1621, 1626.
[61] M. Wexler and J. Oberlander, 'COVID-19 As a Super Crisis: Implications for Place Management' (2021) 14 Journal of Place Management and Development 481, 489.
[62] S. Sahoo and S. Pandey, 'Evaluating Research Performance of Coronavirus and Covid-19 Pandemic Using Scientometric Indicators' (2020) 44 Online Information Review 1443, 1445.
[63] V. Gupta and G. Sahu, 'Virus Outbreaks and Tourism Resilience Strategies: A Perspective of Asian Countries' in Kulshreshtha, S.K (ed.) *Virus Outbreaks and Tourism Mobility (Tourism Security-Safety and Post Conflict Destinations* (Emerald Publishing Limited 2021) 59.
[64] Ibid 62.
[65] R. T. Alsafi, 'Lessons from SARS-CoV, MERS-CoV, and SARS-CoV-2 Infections: What We Know So Far' (2022) 11 Canadian Journal of Infectious Diseases and Medical Microbiology 1, 7.
[66] R. Slagle, 'The Perfect Storm amid a Pandemic: The Use of Information within an Institution's Concurrent Crises' (2021) 45 Online Information Review 656, 661.

This chapter is divided into 10 sections. Section 1 examined the common policies adopted in the three jurisdictions to mitigate the spread of the coronavirus, and Section 2 provided an overview of the political impact of the coronavirus on these jurisdictions. Section 3 explains the economic impact, Section 4 examines the social impact, Section 5 examines the technological impact, Section 6 details the environmental impact, and Section 7 examines the legal impact. Then, Section 8 examined the actions of COVID-19 whistleblowers and the retaliation they faced. Section 9 discusses the justification for adopting the PESTEL framework tool to evaluate measures adopted by the governments to mitigate the coronavirus pandemic, and Section 10 concludes.

2.2 Common Policies Adopted to Mitigate the Spread of the Coronavirus

The governments of the three jurisdictions took critical measures to contain the coronavirus outbreak. A continued surge in the COVID-19 mortality rate forced the World Health Organisation (WHO) to declare the outbreak a pandemic.[67] As a result, the governments of the three jurisdictions were impelled to promulgate targeted policies to contain and curtail the virus. Despite all the containment policies implemented, the virus continued to mutate, leading to a spike in cases and many deaths.[68] However, the discovery of the COVID-19 vaccines became significant as a mitigating containment policy that spontaneously curtailed the spread of the virus despite the challenges of vaccinating hesitant population segments.[69]

This section critically evaluates the common policies adopted across the three jurisdictions: social distancing, mask-wearing, contact tracing, economic support and vaccination. The section highlights differences regarding lockdowns and mandatory vaccination, especially among EU Member States. For example, Sweden initially deviated from the strict policy approach regarding the COVID-19 pandemic prevention and control relative to other EU Member States.[70] This chapter further outlined the US federal policies and the variations in measures adopted between states to curtail and contain the spread of the coronavirus. In the US, there was uniformity and coherence on the federal level, but the states continued to show disparity in individual policy responses. After the Coronavirus Aid, Relief, and Economic Security Act was promulgated in March 2020, the federal policy response was finite; the

[67] M. Cruickshank and R. Z Shaban, 'Lesson to be learnt from a once-in-a-century global pandemic' (2020) 29 Journal of Clinical Nurse 3901, 3901.
[68] R. Wang and others, 'Mutation on COVID-19 Diagnostic Targets' (2020) 112 Genomics 5204, 5213.
[69] Ibid, 47.
[70] J. F. Ludvigsson, 'How Sweden approached the COVID-19 Pandemic: Summary and Commentary on the National Commission Inquiry' (2023) 112 Acta Paediatrica 19, 19.

government passed the mitigating policy responses to the states and local governments to palliate among themselves.

For simplicity, the research focuses on four states' responses to the COVID-19 crisis: New York, Washington, Alabama and Missouri. Relatives to the 46 other states in the US, the four states were selected for various reasons. Consideration is given to the difference in timelines when the first outbreak occurred, political diverseness, and policy responses regarding the patterns in the number of cases, hospitalisation and deaths. The four states' analyses of COVID-19 are not a suggestion of typology of responses but rather a precedent of response characteristics over all 50 states. This chapter gave a transient detail of the extent of threats, retaliation faced by COVID-19 whistleblowers reporting misconduct. The subsequent section examined the types of common policies adopted in the three jurisdictions.

2.2.1. Analysis of Social Distancing Measures Adopted to Curtail the Spread of Coronavirus

Social distancing, also known as physical distancing, is asserted as a non-pharmaceutical intervention to halt the spread of a contagious disease; it keeps physical distance between people and cuts the number of times they come in proximity.[71] Various measures include but are not limited to school closings, workplace closures, cancellation of mass gatherings, and travel restrictions.[72] Many countries implemented social distancing policies in the absence of antiviral drugs and vaccines to curb the spread of the COVID-19 pandemic.[73] The governments intended to hold the peak infection level lower than the resource availability.[74] Efforts were geared towards research for vaccine development and reducing the burden on available scarce healthcare resources.[75] This measure played a pivotal role during the first wave of the COVID-19 outbreak, as evidence shows the success of the policies in the UK, various EU Member States and some US states.[76]

In April 2020 and July 2020, the UK government sought to lessen social contact and mitigate the spread of the coronavirus with social distancing measures for England. The social

[71] G. Dural, 'Effectiveness of Non-Pharmaceutical Interventions During an Outbreak under the Influence of Behavioural and Cultural Aspects' (2024) 10 Journal of the Operational Research Society 1, 1.
[72] I. A. Moosa, 'The effectiveness of social distancing in containing COVID-19' (2020) 52 Applied Economics 6292, 6293.
[73] B. Yang and others, 'Comparison of Control and Transmission of COVID-19 across Epidemic Waves in Hong Kong: An Observational Study' (2024) 43 The Lancet Regional Health – Western Pacific 1, 3.
[74] P. J. Turk and others, 'A Regionally Tailored Epidemiological Forecast and Monitoring Program to guide a Healthcare System in the COVID-19 Pandemic' (2024) 17 Journal of Infection and Public Health 1125, 1126.
[75] Ibid
[76] M. Fajgenblat and others, 'Evaluating the Direct effect of Vaccination and Non-Pharmaceutical Interventions During the COVID-19 Pandemic in Europe' (2024) 4 Communications Medicine 1, 2.

distancing measures consisted of maintaining a 2-meter distance from other people, avoiding social gatherings with family and friends, and intermittently shopping for only indispensable items.[77] Besides government efforts on research for vaccines to contain the spread of the coronavirus, it is opined that the social distancing policy imposed on people during the COVID-19 lockdown had various levels of success amongst the demographic. However, the social distancing measures interrupted social connections outside the household, negatively impacting social well-being.[78] Nonetheless, there was a consensus that the social distancing policy reduced the spread of the virus.[79]

In March 2020, Europe was the epicentre of the COVID-19 pandemic, with the highest mortality (excluding China) compared to other continents.[80] Most Member States proactively implemented measures such as social distancing and closure of public places. The measures for social distance mitigation differ among Member States. This disparity is due to imbalances in virus spread in the Member States, resulting in the gap in promulgated social distancing measures.[81] Italy, the most impacted Member State with an alarmed number of COVID-19 cases and deaths, imposed the strict isolation measure on 9 March 2020, with enforced nationwide restriction of movement.[82]

On the other hand, Sweden adopted a loose approach, where the health authorities implemented no mandatory social distancing in 2020. The policy implemented by the Swedish government was considered inadequate for containing the virus, but people adopted social distancing on their own accord. Moreover, the Swedish government took some measures to close universities and schools for older children, banned gatherings of over 50 people, and closed ski resorts. In addition, people's habits changed as they worked from home, which reduced the level of contact with other households.[83] The inherent reasons for Sweden's policy approach were cultural allegiance to rationality, cooperation and personal responsibility.[84]

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[77] His Majesty Government, 'Social Distancing Guidance' (26 June 2020), <https://www.gov.uk/government/publications/review-of-two-metre-social-distancing-guidance> accessed 2 September 2025.

[78] J. Lee and others, 'Self-quarantining, Social Distancing, and Mental Health During the COVID-19 Pandemic: A Multi Wave, Longitudinal Investigation' (2024) 19 Plos One 1, 9.

[79] T. Dahriri and O. Ozmen, 'Quantifying the Effects of Social Distancing on the Spread' (2021) 18 International Journal of Environmental Research and Public Health 1, 2.

[80] G. Gabutti and others, 'The Epidemiological Characteristics of the COVID-19 Pandemic in Europe: Focus on Italy' (2021) 18 International Journal of Environmental Research and Public Health 1, 4.

[81] T. P. Bao Thu and others, 'Effect of the social distancing measures on the spread of COVID-19 in 10 highly infected countries' (2020) 67 Science of the Total Environment 1, 1.

[82] M. Gatto and others, 'Spread and Dynamics of the COVID-19 Epidemic in Italy: Effects of Emergency Containment Measures' (2020) 117 Proceedings of National Academy of Sciences 10484, 10484.

[83] C. B. Okuyan and M. A. Begen, 'Working from Home During the COVID-19 Pandemic, its Effects on Health, and Recommendations: The Pandemic and Beyond' (2021) 58 Perspectives Psychiatric Care 173, 174.

[84] T. Timpka and J. Nyce, 'Face masks use during the COVID-19 pandemic-the significance of culture and symbolic meaning of behavior' (2021) 59 Annals Epidemiology 1, 3.

During the COVID-19 pandemic, many countries followed a central policy scheme. At the same time, the US government left decisions about non-pharmaceutical interventions (NPI) to individual states, resulting in a high level of policy variation.[85] In the US, the state-level variations were tailored to the six intervention policies: school closure mandates, restaurant and bar limits, ban on large gatherings, nonessential business closures, limited stay-at-home orders and state-wide stay-at-home orders.[86] It is, however, worth noting that success in the social distancing measure in the US was not only driven by policy, but people in most states had already begun to cut the time they spent outside their residences before any state policy of non-pharmaceutical interventions was implemented. For states such as Missouri, people's presence at home increased prior to the implementation of social distancing policies, indicating the occurrence of voluntary social distancing.[87]

States with proactive local laws passed fewer COVID-19-related policies that curtailed and contained the coronavirus pandemic's spread.[88] These policies included restrictions such as bans on large gatherings and economic support of mandatory paid sick leave. Alabama and Missouri appeared to have the highest level of pre-empt laws, compared to New York, with the lowest level, and Washington, with the intermediate level.[89] In New York State, the continued surge in COVID-19 cases made Governor Cuomo set up the first containment zone on 10 March 2020.

2.2.2. Wearing of Face Masks to Mitigate the Spread of the Coronavirus

Prior to the development of effective COVID-19 vaccines and antivirals, which determined the end to the anguish caused by the pandemic, a pivotal part of the response was the enforcement of non-pharmaceutical public health measures.[90] Face masks became a predominant part of the worldwide response; notwithstanding their significance, they had notable contestation.[91] During the first waves of the pandemic, face masks or face coverings were seen as a 'low-cost'

[85] Y. Liu and others, 'Effectiveness of Non-Pharmaceutical Interventions for COVID-19 IN USA' (2024) 14 Science Reports 1, 2.
[86] R. Abouk and B. Heydari, 'The Immediate Effect of COVID-19 Policies on Social-Distancing Behavior in the United States' (2021) 136 Public Health Reports 245, 249.
[87] Ibid, 246.
[88] D. A. Crow, 'Policy Learning and Change During Crisis: COVID-19 Policy Responses Across Six States' (2022) 40 Review of Policy Research 10, 14.
[89] D. A. Wolf, J. K. Montez and S. M. Monnat, 'U.S State Preemption Laws and Working-Age Mortality' (2022) 65 Journal of Preventive Medicine 681, 682.
[90] L. Martinelli and others, 'Face Masks During the COVID-19 Pandemic: A Simple Protection Tools with Many Meanings' (2021) 8 Frontiers in Public Health 1, 3.
[91] F. Schonweitz and others, 'The Social Meanings of Artifacts: Face Masks in the COVID-19 Pandemic' (2022) 10 Frontiers in Public Health 1, 2.

measure that could protect and reduce SARS-CoV-2 transmission to those around the person wearing the masks.[92] Generally, the universal adaptation of face masks or face coverings as a source of protection for the population was unquestionable.[93] Nonetheless, the policy for mandating the wearing of face masks was seen negatively by the marginalized groups in society.[94] The concern is centred on the communication requirements of deaf people, or those who lip-read, which were not considered. Another concern is raised for people with post-traumatic stress disorder[95] or those whose mask-wearing precipitates previous memories of abuse, but members of the public discount their reasons for not wearing masks.[96] The implementation of the face mask policy differed in the three jurisdictions; some governments mandated the use of face masks, while others left it for the population to use them voluntarily when necessary.

An Executive Order was issued in January 2020 by President Biden, requiring federal employees and individuals in federal buildings to wear face masks. The Executive Order obligated the Secretary of Health and Human Services to reinforce compliance by requiring people to wear face masks.[97] The Executive Order was extended in January 2021 and mandated people to wear face masks at airports and public transportation. The Mandates for face coverings implemented at the federal level were extended to state and local levels in January 2021. The standard policy amongst the states was a demand for face coverings in all public places where social distancing is impossible.[98] An executive order was signed by Governor Cuomo, which obligated New York residents to wear face masks.[99] The governor of Alabama announced the mandatory statewide wearing of face masks in July 2020 in public places.[100]

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[92] J. Lai and others, Relative Efficacy of Masks and Respirators as Source Control for Viral Aerosol Shedding from People Infected with sars-CoV-2: A Controlled Human Exhaled Breath Aerosol Experimental Study' (2024) 104 The Lancet 1, 1.

[93] E. Verleysen and others, 'Titanium Dioxide Particles Frequently Present in Face Masks Intended for General Use Require Regulatory Control' (2022) 12 Scientific Reports 1, 2.

[94] C. Rivers, K. Anad and A. P. Moore, 'Compliance with COVID-19 Government Guidance and Rules by Disabled People and People from Minoritised Ethnic Groups: Qualitative Findings from the CICADA Study' (2024) 19 Public Library of Science 1, 2.

[95] B. T. Poon and L. M. Jenstad, Communication with Face Masks During the COVID-19 Pandemic for Adults with Hearing loss (2022) 7 Cognitive Research: Principles and Implications 1, 4.

[96] A. Hanafi, 'A case Report of Home-Based Cognitive-Behavioural Treatment for Late-Onset Post-Traumatic Stress Disorder, Triggered by Mask-Wearing in the Context of the COVID-19 Pandemic' (2022) 21 Clinical Case Studies 589, 601.

[97] B. Pomerance, 'Behind the ``Mask: Analysing Legal Powers to Mandate Face Coverings in Public Places Amid a Global Pandemic' (2020) 84 Albany Law Review 73, 97.

[98] Z. Deng and Q. Chen, 'What is Suitable Social Distancing for People Wearing Face Masks During the COVID-19 Pandemic?' (2021) 10 International Journal of Indoor Air 1, 2.

[99] C. Francescani, 'The First 100 days of New York Gov, Andrew Cuomo's COVID-19 response' (abc news, 17 June 2020), < https://abcnews.go.com/US/News/timeline-> accessed 2 September 2025.

[100] C. Adolph and others, 'Governor Partisanship Explains the Adoption of Statewide Mask Mandates in Response to COVID-19' (2022) 22 State Politics & Policy Quarterly 24, 38.

Missouri had no state-level compulsory wearing of face masks. Instead, the state health officer stressed personal responsibility to stop the spread of the coronavirus pandemic.

In the UK, there was a dramatic shift in policy from no face masks wearing during the first wave of the pandemic between January 2020 and April 2020. However, in May 2020, face masks were recommended when social distancing was impossible.[101] Progressively, face mask mandates were rolled out across the four nations of the UK over the summer of 2020 in public places such as shops and public transport. The government's stance on a public health emergency for mandating face masks gave them a plausible reason to avert the expected levels of parliamentary scrutiny. From then on, the law for face masks continued to sway in the UK as the pandemic evolved. Arguably, face masks offered no protection for people wearing them; however, there was a noticeable mixture of support for population-level impacts.[102]

In EU Member States, the guidance for using face masks differed considerably during the first wave of the pandemic.[103] On the whole, wearing face masks was a mitigating measure to reduce the spread of the coronavirus across Member States, even though wearing face masks in the EU was uncommon.[104] The policies were not homogeneous across Member States; they varied from legal compulsion to wear face masks in public places to financial penalties for noncompliance, while some Member States merely made recommendations. For example, in Germany, the mandatory wearing of face masks achieved more compliance than the voluntary approach, which was seen as a socially responsible intervention.[105] In contrast, Slovenia imposed the use of masks in all public spaces between April 2020 and June 2020 and then compulsory use in closed places in July 2020. Irrespective of all the efforts, the country was amongst the top three countries with the highest number of COVID-19 deaths. Similarly, the Lithuanian government enforced mandatory face mask use in closed spaces in April 2020, compulsory use in all spaces from May 2020 to June 2020, and required use in all spaces from November 2020. Regardless of all the attempts, Lithuania reported an unduly high number of daily cases in EU Member States.[106] It became evident that mandating face masks without

[101] E. Hanna and others, Experiences of face mask use during the COVID-19 pandemic: A qualitative study' (2021) 44 Sociology of Health & Illness 1481, 1482.
[102] J. Howard and others, 'An Evidence Review of Face Masks Against COVID-19' (2021) 118 Proceedings of the National Academy of Sciences 1, 3.
[103] D. Wang and Z. Mao, 'A Comparative Study of Public Health and Social Measures of COVID-19 Advocated in Different Countries' (2021) 125 Health Policy 957, 960.
[104] Martinelli and others (n 90) 2.
[105] Schonweitz and others (n 91) 2.
[106] M. Sobczak and R. Pawliczak, 'COVID-19 Mortality Rate Determinants in Selected Eastern European Countries' (2022) 22 British Medical Council Public Health 1, 2.

accompanying them with other measures was insufficient to curtail the morbidity and mortality during the coronavirus pandemic.

2.2.3. Travel Restrictions Adopted to Curtail the Spread of the Coronavirus

Governments issued travel restrictions to China in February 2020, causing several airline companies to cease or limit flights to numerous countries, including Australia, the US, Russia, and Italy.[107] International travel restrictions measures aimed to reduce transmissibility by lingering both the epidemic activity and several internationally imported contaminants.108 The government's containment measures of travel restrictions limited the virus's national and international spread, as the travel quarantine delayed the overall epidemic trajectory.[109] Notably, there was internal spread of the coronavirus as many governments delayed the ban on international travel. Many individuals exposed to SARS-CoV-2 who travelled internationally without being detected spread the virus internally.[110] The Travel ban was initially effective, reducing international case importations while the internal cases grew.[111] As evident in the three jurisdictions, travel limitations were only modestly practical unless paired with other public health interventions and behavioural changes that facilitated a considerable reduction in the spread of the virus.[112]

In the US, various actions were taken by the federal government, including restrictions on immigration into the US, as well as non-pharmaceutical measures such as the closing of schools after the first reported case in Washington State in January 2020.[113] In New York State, the order was replaced with mandatory testing for travellers from states with a 10 percent or higher test positive rate. New York State experienced a high number of cases and hospitalisations in the US during the outbreak of the coronavirus pandemic. Governor Andrew Cuomo was forced to announce guidelines for commuting and advised individuals to cease using public

[107] K. A. Grepin and others, 'Evidence of the Effectiveness of travel-related Measures During the Early Phase of the COVID-19 Pandemic: A Rapid Systematic Review' (2021) 6 British Medical Journal Global Health 1, 2.
[108] M. Chinazzi and others, 'The effect of travel restrictions on the spread of the 2019 novel coronavirus (COVID-19) outbreak' (2020) 368 Research 1, 1.
[109] C. Wells and others, 'Impact of international travel and border control measures on the global spread of the novel 2019 coronavirus outbreak' (2020) 117 Proceedings of the National Academy of Sciences 7504, 7506.
[110] T. W. Russell and others, 'Effect of Internationally Imported Cases on Internal Spread of COVID-19: A Mathematical Modelling Study' (2021) 6 Lancet Public Health 12, 14.
[111] Grepin and others (n 107) 2.
[112] Chinazzi and others (n 108) 6.
[113] Y. Ge and others, 'Impacts of Worldwide Individual Non-Pharmaceutical Interventions on COVID-19 Transmission Across Waves and Space' (2022) 106 Internal Journal of Applied Earth Observations and Geoinformation 1, 5.

transport.[114] Governor Jay Inslee of Washington State declared a state of emergency after the first US death was confirmed as COVID-19-related.[115] The surge in the cases made the governor suspend the movement within counties in late June 2020 and extend cessation indefinitely in July 2020 as the reported cases increased. Initially, Governor Mike Parson of Missouri declared no plans to order people to stay at home but reverted the plan on 6 April 2020.[116] There were state-level restrictions, but a two-phase reopening in May 2020 was planned. After the first coronavirus case was reported, Governor Kay Ivey declared a state of emergency in April 2020, following the formation of the Alabama Coronavirus Task Force in March 2020. A state-wide stay-at-home order was declared in April 2020, and businesses were permitted to open with restrictions, and elective medical procedures were allowed.[117] In New York State, Governor Cuomo imposed 14 days of quarantine on New York state visitors experiencing a 10 per cent or higher test positive rate.

To contain the spread of the virus, governments in the EU Member States implemented a series of unilateral and collective measures, ranging from travel restrictions to complete lockdown and temporary closure of educational institutions.[118] Government lockdowns, quarantines, border closures, and social distancing policies helped reduce the spread of the coronavirus. Governments have introduced stay-at-home measures to contain the spread of the novel coronavirus. Industries and regular constant activities are all grounded to a halt.[119] Following drastic lockdown measures and border closures within the Schengen zone.

When most governments worldwide went into lockdown to limit the spread of the coronavirus, Sweden employed a unique soft measures approach in dealing with the pandemic. Swedish government depended heavily on principles of voluntarism and personal responsibility[120] with negligible legislative control. Despite the Swedish government's unique policies compared to other countries, it has been severely criticised nationally and internationally.[121] However, the

[114] C. S. Weissert and others, 'Governors in Control: Executive Orders, State-Local Preemption, and the COVID-19 Pandemic' (2021) 51 The Journal of Federalism 398, 400.
[115] J. H. Rooksby and K. E. Handick, 'COVID-19 and Corporate Social Responsibility: Business Responses to the Pandemic in the Inland Northwest' (2021) 82 Montana Law Review 143, 147.
[116] P. C. Erwin and others, 'Different Responses to COVID-19 in Four US States: Washington, New York, Missouri, and Alabama' (2021) 4 America Journal of Public Health 647, 648.
[117] Ibid, 649.
[118] W. Al-Salem and others, 'The Emergence and Transmission of COVID-19 IN European Countries, 2019-2020: A Comprehensive Review of Timelines, Cases and Containment' (2021) 13 International Health 383, 384.
[119] E. Neumayer, T. Plumper and M. Shaikh, 'The Logics of COVID-19 Travel Restrictions between European Countries' (2021) 102 Social Science Quarterly 2134, 2135.
[120] J. H. Nielsen and J. Lindvall, 'Trust in government in Sweden and Denmark during the COVID-19 epidemic' (2021) 44 West European Politics 1180, 1180.
[121] M. Fredriksson and A. Hallberg, 'COVID-19 Testing in Sweden During 2020-Split Responsibilities and Multi-Level Challenges' (2021) 9 Frontiers in Public Health 1, 1.

determination to bring down transmission and flatten the disease curve resulted in considerable restrictions during the second and third waves of the pandemic.[122]

Compared to other countries, the UK government adopted the lockdown policy to dissuade people from moving to avert the virus's rapid spread. People were permitted to travel for food shopping, purchase medical products, exercise once a day within the vicinity and only report to work if necessary.[123] Furthermore, sports events, schools, restaurants, bars, gyms, and other leisure-related businesses were included in the lockdown policy.[124] This measure forced the closure of offices, and companies encouraged remote working practices where practical.

2.2.4. Contact Tracing Measures Adopted to Curtail the Spread of the Coronavirus

Digital contact tracing technology was part of a tool used to mitigate measures right from the outbreak of the coronavirus pandemic.[125] Contract tracing applications created an opportunity for the authorities to monitor the populations on their social distancing, which was the practice for curtailing the spread of airborne infectious viruses. The digital contact tracing application is accessible on consumer handheld or wearable technology that does not require Bluetooth but uses cell phone network data, Global Positioning System (GPS), Wi-Fi, and other smartphone sensors to pinpoint the geolocations of application users,[126] with many embedded sensors. Several countries adopted digital contact tracing applications that allowed the measurement of the physical distance between individuals and alerted the authorities when contact with an infected person has happened. Contact tracing measures were hugely effective as a precautionary intervention, as they immediately alerted individuals to self-isolate or quarantine.[127] However, the use of digital technology encountered several challenges, such as users' privacy concerns, interoperability between mobile gadgets, and, more importantly, a lack of global consensus on the use of apps.[128]

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[122] A. Kavanliunas and others, 'Swedish Policy Analysis for Covid-19' (2020) 9 Health Policy and Technology 6, 36.
[123] V. Filimonau and others, 'The Covid-19 Pandemic and Food Consumption at Home and Away: An Exploratory Study of English Households' (2022) 82 Socio-Economic Planning Sciences 1, 2.
[124] Public Health England (n 12)
[125] B. Unim and others, 'The Role of Digital Tools and Emerging Devices in COVID-19 Contact Tracing During the First 18 Months of the Pandemic: A Systemic Review' (2024) 34 European Journal of Public Health 11, 24.
[126] M. Mann and P. Mitchell and M. Foth, 'Between Surveillance and Technological Solutionism: A Critique of Privacy-Preserving Apps for COVID-19 Contact-tracing' (2024) 26 New Media and Society 4099, 4103.
[127] K. Y. Leung and others, 'Effectiveness of a COVID-19 Contact Tracing App in a Simulation Model with Indirect and Informal Contact Tracing' (2024) 46 Epidemics 1, 2.
128 K. Stokes and others, The Use of Contact Tracing Technologies for Infection Prevention and Control Purposes in Nosocomial Settings: A Systematic Literature Review' (2024) 16 Infectious Disease Reports 519, 520.

Evidence intimates that contact tracing had inadequate success in the UK in reducing the number of infections during the coronavirus pandemic. Insight into why contact tracing implementation was ineffective as initially anticipated in the UK ranged from various reasons. The UK government renounced the NHSX Tracing App due to operational challenges encountered by developers involved in the activation of Bluetooth when the application is idle on iPhones and adopted the NHS Covid-19 App three months later.[129] Additionally, the NHSX had a problem with the accuracy of proximity calculation. For example, the NHSX Tracing App could not measure the distance between two devices on 20 June 2020. The NHSX Tracing App had issues with security and data protection (data encryption, collected data, and risks of hacking). Using a centralised data storage system caused problems between NHSX's developers and other partners, such as Google and Apple. In addition, elderly or disabled people hardly use smartphones, which has diminished the relevance of digital tracing.

On the other hand, the NHS Covid-19 App was the only smartphone compatible with Android 6.0 (2015) or iOS 13.5 (2020), and there were various difficulties with downloading and installing the application.[130] Apart from the technical problems, there were substantial behavioural challenges around adherence, requiring consideration of why individuals did not abide by guidance. Contact tracing was ill-suited as the sole control strategy. Still, well-implemented contact tracing would have brought small but potentially significant benefits to controlling and preventing outbreaks, providing a percentage reduction in infections. Arguably, contact tracing was unlikely to avert large outbreaks otherwise implemented in combination with physical distancing measures, including prohibiting large gatherings.[131]

Thus, contact tracing technology emerged as an exit strategy to curb the spread of COVID-19 in many countries, including the EU Member States, when lockdown interventions were lifted.[132] Authorities and technology developers encountered political and technical difficulties while implementing contact tracing apps on apparatus to monitor and slow the spread of COVID-19 in the EU Member States. To mitigate the spread of the virus, EU Member States adopted StopCovid (France) and Coronalert (Belgium) technological solutions for contact

[129] G. Samuel and F. Lucivero, 'Framing Ethical Issues Associated with the UK COVID-19 Contact Tracing App: Exceptionalising and Narrowing the Public Ethics Debate' (2022) 24 Ethical and Information Technology 1, 5.
[130] S. Jacob and J. Lawaree, 'The adoption of contact tracing applications of COVID-19 by European governments' (2021) 4 Policy Design and Practice 44, 53.
[131] E. L. Davis and others, 'Contact tracing is an imperfect tool for controlling COVID-19 transmission and relies on population adherence' (2021) 12 Nature Communications 1, 5.
[132] N. Irwin and other, 'Digital Contact Tracing Technology in the COVID-19 Pandemic a Systematic Review' (2024) 14 Health and Technology 1229, 1235.

tracing.[133] These digital tracing applications were aimed to increase tracing responsiveness by informing individuals as speedily as practicable. The development and implementation of contact tracing apps gave rise to several problems, including but not restricted to the operability, the exchanges and synergies between the different digital contact tracing applications, the security and data protection, and the population's effectiveness and acceptability.

The StopCovid App lacked interoperability as it uses a decorum (Robert Protocol) that is non-identical to other Member States that use Decentralised Privacy Proximity Tracing (DPT). Practically, data converted to other applications was not achievable.[134] The solution was a technological concession between the French centralised system and the decentralised system used by different Member States.[135] Amongst other problems was security and data protection, which involved data collection and uploading all recorded interactions into the central database. There was the risk of hacking into the database and the smartphone's vulnerability when Bluetooth was activated.[136] Furthermore, the proficiency of the StopCovid App during the pandemic was contingent on the minimum usage rate by individuals. In the case of StopCovid App, the utilisation rate of three percent as of June 2020 was below the anticipated threshold and coupled with a higher number of de-installations.

Belgian government introduced the Coronalert application with a feature that allowed voluntary and manual installation.[137] Coronalert was interoperable with similar applications in other EU Member States such as the Netherlands, Germany and Switzerland. However, the development and implementation of the contact tracing apps gave rise to several problems, including but not restricted to the operability, the exchanges and synergies between the different digital contact tracing applications, the security and data protection, the effectiveness and the acceptability by the population.[138] Thus, the Belgian government and the software developers faced various issues before its implementation. The problem emerged when the Belgian federal system wanted to institutionalise an alliance between the federal and regional

[133] L. Coric and A. Cartolovni, 'Ethical, Legal and Policy Challenges in COVID-19 Contact Tracing Apps: A European Perspective' (2024) 97 Trivent Ethics in Science & Technology 95, 102.
[134] S. Pigera and others, 'Privacy and Security in Digital Health Contact-Tracing: A Narrative Review' (2024) 15 Applied Science 1, 13.
[135] Jacob and Lawaree (n 130) 53.
136 L. Reichert and S. Brack, 'A Survey of Automatic Contact Tracing Approaches Using Bluetooth Low Energy' (2021) 2 Transaction on Computing for Healthcare 1, 5.
[137] K. Proesmans and others, 'COVID-19 Contact Tracing in Belgium: Main Indicators and Performance, January-September 2021' (2022) 80 Archives of Public Health 1, 2.
[138] O. Ayalon and others, 'Not only for Contact Tracing: Use of Belgium's Contact Tracing App among Young Adults' (2022) 6 Mobile Wearable Ubiquitous Technologies 1, 14.

powers. The ability of the technology developer (Sciensano) to protect the database from hackers having access to personal data such as national registry numbers and telephone numbers was doubtful.[139] Users could not be assured that data was kept nameless, the risk to private data was prevalent, and the possibility of piracy was significant. Lastly, smartphone usage was uncommon, as only 22 per cent of the Belgian population owned a mobile phone; therefore, the relevance of the Coronalert App was questionable.[140]

Contact tracing was used across all health departments in the US to reduce transmission of COVID-19.[141] Some of the behavioural challenges faced by the health authorities during the contact tracing process were, namely, unwillingness to disclose information due to lack of trust in the government, reluctance to disclose names of potentially exposed persons resulting from fear of stigma to quarantine restrictions and lack of response to telephone calls from local public health officials.[142] Cumulative problems accounted for ineffective contact tracing mitigation to contain the spread of the coronavirus pandemic in the US. Long delays in receiving test results and insufficient public health resources negatively impacted the effectiveness of the contact tracing intervention.[143] Delays affected the contact tracing programme throughout the pandemic; there was an average delay of 6 days between specimen collection and contact notification, which reduced the chances of holding up transmission during the increase in several coronavirus infections.144 Worse, the US Centres for Disease Control and Prevention (CDC) remained reticent during a significant part of the COVID-19 outbreak, contributing to a lack of national coordination.[145]

Nevertheless, noticeable measures were taken by the US government to contain the spread of the virus with tools, such as migration maps, mobile phone signals and mobile payment applications to collate real-time data on the user location.[146] The mobile data collected were used to mitigate the spread of the virus by keeping people within isolated vicinities. Furthermore, the US government adopted digital technologies to collate real-time data to

[139] K. Bollaerts and others, 'The Role of Real-world Evidence for Regulatory and Public Health Decision-making for Accelerated Vaccine Deployment- A Meeting Report' (2024) 85 Biologicals 1, 2.
[140] Jacob and Lawaree (n 130) 50.
[141] R. R. Lash and others, COVID-19 Case Investigation and Contact Tracing in the US, 2020' (2021) 4 JAMA Network Open 1, 2.
[142] Ibid, 2.
143 E. Clark, E. Y. Chiao and E. S. Amirian, 'Why Contact Tracing Efforts Have Failed to Curb Coronavirus Disease 20189 (COVID-19) Transmission in Much of the United States' (2021) 72 Viewpoints 415, 416.
[144] S. Conderion and others, 'Evaluation of the New York City COVID-19 Case Investigation and Contact Tracing Program: A Cascade of Care Analysis' (2024) 24 British Medical Council Public Health 1, 7.
[145] Clark, Chiao and Amirian, (n 143) 415.
[146] Johns Hopkins University, 'COVID-19 Dashboard' (2020) Systems Science and Engineering, <https://www.coronavirus.jhu.edu> accessed 2 September 2025.

contain and prevent the spread of the coronavirus. The dashboard technology was utilised for time-series charts, geographic maps, clinical trials, contact tracing and community surveillance.[147]

2.2.5. Economic Support Measure Adopted During the Coronavirus

The emergence of the COVID-19 pandemic on global public health led to concerns and uncertainties, as the economic impacts caused havoc across all economies, throwing most countries into economic depression.[148] Evidence of shocks transpired across the three jurisdictions, the UK, the US and EU Member States. To exacerbate the economic situation, countries experienced lower production and supply because of a decline in demand for goods and services, which led to a contraction of global Gross Domestic Product (GDP), low investment and prevalent inflation.[149] Domestic and international logistics were suspended as borders were closed to contain the spread of the virus. Most governments around the globe decided to restrict people's movement, and lockdown was the most effective way to avert transmission of COVID-19.[150] At the same time, the governments took proactive steps to implement various economic packages to redress the hardship of the population. The PESTEL models under Economic Measures (section 1.3) fully explain the economic measures implemented in the three jurisdictions.

2.2.6. PPE Procurement Measures to Contain the Spread of the Coronavirus

There was a global scramble to purchase PPE as most nations, including the three jurisdictions, had a shortfall in their reserve for pandemic preparedness. A surge in demand for PPE outstripped the supply, causing severe shortages during the first wave of the coronavirus pandemic.[151] The UK government immediately awarded contracts for procuring PPE as the number of those infected with the coronavirus grew. Available PPE was prioritised in high-risk

[147] J. Budd and others, 'Digital Technologies in the Public-Health Response to COVID-19' (2020) 26 Nature Medicine 1183, 1185.
[148] C. Basdekis and others, 'Trends and Challenges after the Impact of COVID-19 and the Energy Crisis on Financial Markets' (2024) 17 Energies 1, 2.
[149] P. A. Adistya, S. B. Radise and G. Agustin, 'The Analysis Between Purchasing Power Parity and Exchange Rates, Inflation and Gross Domestic Product in Developing and Developed Countries Asia and Europe During Covid-19 Pandemic' (2024) 5 International Journal of Business, Law and Education 897, 898.
[150] S. Al Barak, 'The Impact of COVID-19 Lockdowns on Adult Mental Health' (2024) 12 Psychotherapy and Counselling Journal of Australia 1, 2.
[151] Z. Li and others, 'Urban Pandemic Governance Personal Protective Equipment Allocation Strategies: A System Dynamics Simulation' (2025) 15 Scientific Reports 1, 1.

areas of the healthcare sector.[152] The coronavirus pandemic exposed gaps in the UK healthcare sector and the social system. Medical professionals lacked essential protective equipment, and shortages in hospital beds and ventilators were evident.

In the US, President Trump shifted total responsibilities to the states to mitigate against the virus and directed them to acquire the necessary equipment, as his administration is not a 'shipping clerk' for these supplies.[153] Managing the coronavirus pandemic in the US was problematic and more complex as a strained relationship between the federal and state' rights and responsibilities became apparent.[154] To exemplify, the federal government left the onus on the states to implement guidelines to slow the spread of the coronavirus. The initial denial by President Trump about the scale of the coronavirus crisis slowed the coordination and the federal response to curtail the spread of the virus. President Trump's obfuscation of the virus's severity hindered the introduction of proper policy recommendations for social distancing and the closing of non-essential businesses.[155]

There was coordination among Member States in providing PPE and medical supplies. The EU Commission provided 90 per cent of the funding for the procurement of face masks, ventilators, laboratory supplies, medical equipment, and PPE.[156] European industries were contacted and advised to maintain their production capacity for the necessary supplies of PPE in the EU Member States. On the other hand, Member States objected to the export of PPE to ensure sufficient supply within Member States. The Emergency Response Coordination Centre (ERCC) managed the process.[157] Moreover, 25 EU Member States responded positively to the Commission's request to supply medical equipment to the healthcare sectors of other Member States. In addition, manufacturers supplied more PPE for patients, healthcare workers, and the public after the request of the European Commission in a coordinated effort.[158]

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[152] Z. Z. Lal and others, 'Redeployment and Changes in Working Patterns of Healthcare Workers During COVID-19 in the UK: A Qualitative Study' (2025) 25 British Medical Journal Health Services Research 1, 2.

[153] C. L. Atkinson and others, 'Supply Chain Manipulation, Misrepresentation, and Magical Thinking During the COVID-19 Pandemic' (2020) 50 American Review of Public Administration 628, 630.

[154] B. A. Cigler, 'Fighting COVID-19 in the United States with Federalism and other Constitutional and Statutory Authority' (2021) 51 The Journal of Federalism 673, 683.

[155] K. J. Deere, 'Governing by Executive Order During the Covid-19 Pandemic: Preliminary Observations Concerning the Proper Balance Between Executive Orders and More Formal Rule Making' (2021) 86 Missouri Law Review 721, 725.

[156] European Parliaments, 'Preventive and Sanitary Measures in Parliaments, Spotlight on Parliaments in Europe, Directorate for Relations with Parliaments' (European Parliament, March 2020) <https://www.europarl.europa.eu> accessed 2 September 2025.

[157] S. M. Markose and S. Soyyiigit, 'EU27 Regional Trade Networks for Medical Products in fight Against Covid-19 Pandemic: Quantifying Vulnerability and Self Sufficiency in Critical Inputs' (2024) 19 Public Library of Science 1, 3.

[158] P. Torkki and others, 'Increasing the Role of Sustainability in Public Procurement of Personal Protective Equipment' (2024) 455 Journal of Cleaner Production 1, 4.

2.2.7. The COVID-19 Vaccination Policies Across the Three Jurisdictions

COVID-19 vaccination was the most effective measure adopted by governments globally to curtail and contain the spread of the coronavirus pandemic. The vaccinations lessen the number of hospitalisations and deaths resulting from the SARS-CoV-2 virus.[159] The option to vaccinate depends not only on the effectiveness of vaccines but also on religious beliefs, societal attitudes, personal experience[160] and, more importantly, policy intervention to encourage general immunisation. By September 2021, there had been a global COVID-19 vaccination distribution effort with varied levels of success. Developed countries focused on people who would first receive the vaccine because of its scarcity.[161] Most governments mandated COVID-19 vaccination for healthcare workers, emergency first responders, and school staff. Despite government efforts to keep the population safe from the virus with COVID-19 vaccination, there were objectors in many countries who argued about undue encroachment on individual liberty.[162]

The resistance to COVID-19 vaccination was higher than that to other vaccination mandates.[163] Concerns about the COVID-19 vaccines relate to their speed of production, ingredients in the vaccines, adverse effects, safety, political, and financial interest.164 Another serious issue concerning COVID-19 vaccination is misinformation and conspiracy beliefs that connect to vaccine hesitancy.[165] Governments' imposition of mandatory vaccination policies was a necessary measure to prevent the spread of the virus.[166] However, the propagation of vaccine scepticism by traditionalist media and political polarisation has encouraged anti-vaccine sentiment among a high proportion of the population.[167]

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[159] F. Gibelli and others, 'COVID-19 Compulsory Vaccination: Legal and Bioethical Controversies' (2022) 9 Policy and Practice Reviews 1, 7.
[160] Y. Wang and others, 'State COVID-19 Vaccine Mandated and Uptake Among Health Care Workers in the US' (2024) 7 JAMA Network 1, 2.
[161] M. M. Mello and others, 'Effectiveness of vaccination mandates in improving uptake of COVID-19 vaccines in the US' (2022) 400 Lancet 535, 535.
[162] Y. Feng, K. Li and Z. Wang, 'Controlling COVID-19 Rumors Through Administrative Punishment: Empirical Evidence from Zhejiang, China' (2024) 19 Asian Journal of Criminology 487, 488.
[163] Q. Liao and others, 'Motivators and Demotivators for COVID-19 Vaccination Based on Co-Occurrence Networks of Verbal Reasons for Vaccination Acceptance and Resistance: Repetitive Cross-Sectional Surveys and Network Analysis' (2024) 10 JMIR Public Health and Surveillance 1, 2.
[164] R. Piltch and others, 'COVID-19 Vaccine Concerns about Safety, Effectiveness, and Policies in the United States, Canada, Sweden, and Italy among Unvaccinated Individuals' (2021) 9 Vaccines 1, 2.
[165] E. L. S. Camargo and others, 'Belief in Conspiracy Theories about COVID-19 Vaccines among Brazilians: A National Cross-Sectional Study 518, 524.
166 Mello and others (n 161) 535.
[167] L. Singh and others, Understanding the Rationales and Information Environments for Early, Late, and Nonadopters of the COVID-19 Vaccine' (2024) 9 UTMB Health Sealy Institute for Vaccine Sciences 1, 7.

Given the above concerns, governments had leeway to restrict population movement by introducing the COVID-19 vaccine passport. The purpose of the passport was to allow people to travel, attend large gatherings, and return to work without compromising personal and public health.[168] Arguably, vaccine passports avert health and socioeconomic trauma resulting from the restrictions amassing from individual and collective economic, health and social benefits.[169] Ethical concern was that such a vaccine passport could warrant coercive and stigmatising in the workplace.[170]

a) The COVID-19 Vaccination Policies Adopted in the US

The Occupational Safety and Health Administration (OSHA) encouraged vaccination in the US. OSHA released the vaccine-or-test emergency temporary standard (ETS) to protect unvaccinated employees from the coronavirus infection. Employers were allowed to develop and enforce a compulsory COVID-19 vaccination policy.[171] The ETS was cancelled in January 2022 after a judicial stay by the Supreme Court.[172] Subsequently, individual state-level mandates were introduced to mandate vaccination. New York State took a proactive step to launch a public marketing campaign encouraging individuals to get vaccinated. New Yorkers were incentivised with US$100 to persuade individuals who were apprehensive but required external influence to get vaccinated.[173] Free tickets to sporting events and free memberships to various museums resulted in moderate increases in the vaccination rate in New York. As a result of high transmission risk, a proof-of-vaccination requirement was introduced in New York for restaurants, gyms, bars, and theatres.[174] The COVID-19 vaccination legislation mandate was not passed in Missouri, while 23 other states in the US have already legislated for healthcare workers to be vaccinated or undertake frequent testing. However, some Missouri

[168] O. Ali and others, 'Epidemiological Passport System Requirements: A Roadmap for International Travel and Tourism Recovery' (2024) 10 Cogent Social Sciences 1, 2.
[169] T. Osama, M. S. Razai and A. Majeed, 'Covid-19 vaccine passports: access, equity and ethic' (2021) 373 British Medical Journal 1, 1.
[170] J. Dewar and others, 'Hidden Behind a Cloak of Silence and Exclusion: A Qualitative Study of Healthcare Professionals and Mandated COVID-19 Vaccinations' (2025) New Zealand Journal of Social Sciences 1, 2.
[171] S. Moore and others, 'Understanding Vaccine Hesitancy in US and UK Frontline Workers – The Role of Economic Risk' (2024) 170 Safety Science 1, 4.
[172] Occupational Safety and Health Administration, 'Statement on the Status of the OSHA COVID-19 Vaccination and Testing ETS' (*OSHA, 26 January 2022*) <https://www.osha.gov/coronavirus/ets2> accessed 2 September 2025.
[173] F. H. Schneider and others, 'Financial Incentives for Vaccination do not have Negative Unintended Consequences' (2023) 613 Nature 526, 530.
[174] E. Cohn and others, 'The effect of a proof-of-vaccination requirement, incentive payments, and employer-based mandates on COVID-19 vaccination rates in New York City: a synthetic-control analysis' (2022) 7 Lancet Public Health 754, 760.

hospitals and health systems mandated for COVID-19 vaccination. The Alabama state governor signed legislation barring vaccine mandates.[175]

b) The COVID-19 Vaccination Policies Adopted in EU Member States

In response to the rapid progress of the fourth wave in Europe, the debate on compulsory vaccination became intense among governments due to the surge in mortality. On 8 January 2022, the Italian government introduced the first mandatory vaccination for everyone over 50. The Italian government later extended the mandate to healthcare workers in April 2021 and then to school staff, police and armed forces in December 2021.[176] The Greek and Austrian governments followed suit by introducing similar obligations on 16 January 2022 for the population over 60 and from February 2022 for all age groups. Overall, the government's policies in their respective Member States aimed to protect the assumed higher-risk segment of the population from COVID-19-related hospitalisation and mortality.

In Sweden, the authority adopted a voluntary approach to the vaccination programme based on non-mandatory compliance. Sweden is globally renowned for its high voluntary compliance with vaccination uptake among children.[177] On that premise, the permissive approach encouraged the population's motivation for COVID-19 vaccination. Unlike most EU Member States, Sweden had neither a vaccine passport nor compulsory vaccinations.[178] Public authorities in Sweden encouraged all individuals aged 16 and above to be vaccinated. Several municipalities and healthcare providers collaborated with civil society organisations to create awareness of the significance of vaccination with targeted campaigns in all sections of society, including immigrant communities. The Swedish healthcare system assigned vaccination programmes at the county level. However, it is essential to note that vaccination uptake was lower in municipalities with a higher density of first-generation immigrants and where the anti-establishment political party had a higher share of votes.[179]

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[175] D. R. Reiss, 'Laws Prohibiting Vaccine Mandates: An Overview' (2022) 23 North Carolina Journal of Law & Technology 788, 809.
[176] Gibelli and others (n 159) 1.
[177] E. C. Larsson, E. Wittberg and S. W. Lundasen, 'Variations in Vaccination uptake: COVID-19 Vaccination rates in Swedish Municipalities' (2022) 12 PLOS Global Public Health 1, 2.
[178] Ibid
[179] C. Nwaru and others, 'Neighbourhood Immigrant Density and COVID-19 Infection and Hospitalisation among Healthcare Workers in Sweden: A Register-based Observational Study' (2025) 3 British Medical Journal Public Health 1, 3.

c) The COVID-19 Vaccination Policies Adopted in the UK

At the beginning of November 2021, home care workers in the UK, except those exempted, were required to receive two doses of the approved COVID-19 vaccine.[180] The UK government mandated that unvaccinated workers be assigned to non-frontline employment or left on unpaid leave until vaccinated with two COVID-19 vaccines. All frontline healthcare and social workers were expected to take the two doses of the approved COVID-19 vaccines in April 2022, but this was rescinded on 31 January 2022[181] as most restrictions were lifted in the interval of February and March 2022. The following section compares the mortality rates across three jurisdictions during the COVID-19 pandemic to provide a clearer analysis.

d) Comparative Analysis of the Death Rates in the Three Jurisdictions

Outlining the recorded death rates in the three jurisdictions is essential as a lesson for future crisis management. The UK's death rate was considered moderate for the general population. Still, it was higher amongst the elderly and individuals with chronic underlying conditions during the first outbreak of the virus.[182] In the EU Member States, a higher proportion of deaths from the coronavirus was recorded in Italy, Spain, and France compared to other EU Member States at the initial outbreak due to ineffective management and a lack of resources. Italy is known to be one of the EU Member States that supports the medical sector more. However, the management of the healthcare system lacked central coordination, thereby exposing many people over 65 years to the virus.[183] The Spanish government's underinvestment in the healthcare sector impaired its capacity to cater to the patient's needs when the outbreak occurred. The healthcare system became unresponsive to the surge in demand for intensive care unit beds, protective equipment, diagnostic test kits and mechanical ventilators.[184] The demand overburdened the French healthcare system and could not meet the needs of coronavirus patients. The French government sought assistance from the German government

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[180] M. J. Smith, 'The Ethics of Firing Unvaccinated Employees' (2024) 50 Journal of Medical Ethics 1, 1.
[181] R. Hodgkin, 'COVID-19: Mandatory Vaccine Guidance' (*Institute for Government April 2022*), <https://www.instituteforgovernment.org.uk> accessed on 2 September 2025.
[182] Y. E. Lo, D. M. Mitchell and A. Gasparrini, 'Compound Mortality Impacts from Extreme Temperatures and the COVID-19 Pandemic' (2024) 15 Nature Communications 1, 3.
183 M. Kraus and others, 'Management of Hospital Care During the COVID-19 Pandemic: Lessons Learnt from Five European Countries' (2025) 4 SSM – Health Systems 1, 8.
[184] M. P. Faggioni, F. J. Gonzalez-Melado and M. L. Di Pietro, 'National health system cuts and triage decisions during the COVID-19 pandemic in Italy and Spain: ethical implications' (2021) 47 Journal of Medical Ethics 300, 302.

to cater for hundreds of coronavirus patients. The Spanish and Italian governments received medical support from Turkey, Cuba, Russia, China, and Qatar.[185]

An unprecedented number of deaths from the coronavirus put the US government under immense pressure during the outbreak. Deceased bodies were piled in refrigerated trucks as hospital morgues were overwhelmed. Furthermore, disproportionate deaths and infections were recorded in nursing homes, Veteran's facilities, and prisons. New York State recorded one of the highest levels of mortality from the coronavirus pandemic in the US. There was an average of 2149 cases per day, with a total of 518431 in November 2020.[186] Missouri recorded an average of 2686 cases per day, a total of 198252 cases and 3136 mortality at the beginning of the pandemic.[187] The subsequent section employed the PESTEL (Political, Economic, Social, Technological, Environmental, and Legal) model and the SWOT (Strengths, Weaknesses, Opportunities, and Threats) analysis to critically examine the measures implemented by the governments of the three jurisdictions.

2.3 The PESTEL AND SWOT Model Evaluation of Macro Factors During the Coronavirus Era.

The acronym SWOT is derived from the terms strengths (S), weaknesses (W), opportunities (O), and threats (T). The S and W pertain to internal factors, whereas the O and T relate to environmental influences. Opportunities represent external factors that positively interact with the system, while threats denote negative impacts on the system. The SWOT analysis was employed to evaluate how internal capacities and weaknesses shaped governments' ability to mitigate the spread of COVID-19, linking external pressures (identified through PESTEL) with internal responses. In critically analysing the external influencing factors (PESTLE) identified by the spread of the coronavirus, the SWOT analysis seeks solutions from the internal strengths and weaknesses by evaluating how the government policies functioned in mitigating the virus.[188] In the analysis, the SWOT model considers whether each PESTEL factor presents an opportunity, a threat, or both. The governments devised appropriate responses, considering

[185] R. M. Baydag and R. V. Ulgard, 'Populist Narratives and Personalized National Role Conception in Middle Powers: The cases of Mexico and Turkey During the COVID-19 Pandemic' (2025) 53 Politics & Policy 1, 10.
[186] G. Maduro and others, 'Descriptive Study of Causes of Death and COVID-19-Associated Morbidities from the New York City Electronic Death Record: First Wave of the Pandemic March-July 2020' (2024) 14 British Medical Journal 1, 2.
[187] D. S. McKinsey and others, 'Optimizing Missouri's Preparation for the Next Pandemic: Lessons Learned from COVID-19: Part 1' (2024) 121 Missouri Medicine 424, 429.
[188] J. Jiang, 'A SWOT Analysis of Smart Governance Applications Amid the COVID-19 Pandemic' (2023) 28 Information Polity 377, 380.

their existing internal strengths and weaknesses. The governments maintained an appropriate equilibrium between their strengths and weaknesses, subsequently leveraging opportunities and addressing threats.[189]

2.3.1. Application of the PESTEL Model to Critically Analyse the Policies Adopted During the Coronavirus Era

Using the strategic management tool that focuses on Political, Economic, Social, Technological, Environmental and Legal (PESTEL)[190] external factors will help analyse the implications of the measures adopted by the governments of the UK, the US and the EU Member States. The PESTEL model allows for a more holistic view of the coronavirus pandemic. The findings from the PESTEL analysis highlight the benefits and pitfalls that need to be considered when identifying appropriate solutions. PESTEL provides a more accurate and extensive analysis of the complex and multidimensional environment associated with the coronavirus pandemic. The model complements the socio-political structures of the three jurisdictions as it was able to critically examine the characteristics (Political, Economic, Social, Technological, Environmental and Legal). Notably, this study has pioneered using the PESTEL model to analyse the legal framework. This section of the chapter examined the common policies adopted across the three jurisdictions of this study by using the PESTEL model to evaluate measures taken by the governments to curtail and contain the spread of the coronavirus pandemic.

2.3.2. The Political Impact During the Coronavirus Era

The acronym "P" emphasises the crucial role of politics in business. The political influence requires organisations to weigh various threats and opportunities prior to expanding their business scope. Thus, political factors directly impact the organisation and other stakeholders involved in decision-making. There is a direct correlation between government regulation and free markets, which often guides businesses in making long-term plans. In the context of the coronavirus pandemic, the global political disruption was enormous, as the spread of the virus

[189] J. Wang and Z. Wang, 'Strengths, Weaknesses, Opportunities and Threats (SWOT) Analysis of China's Prevention and Control Strategy for the COVID-19 Epidemic' (2020) 17 International Journal of Environmental Research and Public Health 1, 2.
[190] A. Chhabra and others, 'Medical Tourism in the COVID-19 Era: Opportunities, Challenges and the Way Ahead' (2021) 13 Worldwide Hospitality and Tourism Themes 660, 661.

was on an upward trajectory, resulting in the adoption of various political measures.[191] Governments enacted legislation, enforced policies and drafted guidelines for the population to curtail the virus's rapid spread. The indefinite postponement of legislative activities occurred during the initial outbreak, and numerous politicians' deaths were reported around the globe. Elections were postponed due to fears of further spreading the deadly virus in most parts of the globe. Notwithstanding, there were issues of public trust in the political systems in relation to policies before the outbreak of the coronavirus pandemic.

2.3.3. The Political Measure Adopted in the UK to Curtail the Impact of the Coronavirus

The UK government took necessary measures to mitigate the spread of the coronavirus and reduced the demand for Intensive Care Unit (ICU) beds. To curtail the spread of the virus, the UK government allocated financial resources, implemented policies and provided guidelines to protect healthcare workers and safeguard risk groups and communities.[192] The coronavirus pandemic cast a shadow on the effectiveness of underfunded healthcare sectors, consequently reducing their capacities to the minimum.[193] Various inadequacies, such as the PPE procurement predicament, existed before the coronavirus pandemic, as the national stockpile reached critical levels during the pandemic.[194]

2.3.4. The Outcome of the Political Measures Adopted in the UK

Unquestionably, the measures adopted by the UK government to mitigate the spread of the coronavirus consequently resulted in both negative and positive outcomes. In sieving through each measure, one can quickly identify that some policies were not rigorously thought through before implementation. There was an alleged misappropriation of financial resources and a high level of cronyism during the contract allocation for the procurement of the resources needed to mitigate the spread of the virus.[195] Contracts awarded were often not documented, which left the government open to charges of cronyism of £17.3 billion allocated for such

[191] D. Kubler,' Varieties of Democracies in the COVID-19 Pandemic in Covid-19 Containment Policies in Europe (eds) *International Series on Public Policy* (Palgrave Macmillan 2024) 83.
[192] P. Wanke and others, 'Performance Evaluation and Lockdown Decisions of the UK Healthcare System in Dealing with COVID-19: A Novel Unbiased MCDM Score Decomposition into Latent Vagueness and Randomness Components' (2024) 7 Decision Making: Applications in Management and Engineering 473, 475.
[193] P. J. Fleming and others, 'The Public Health Funding Paradox: How Funding the Problem and Solution Impedes Public Health Progress' (2021) 136 Public health Reports 10, 11.
[194] J. Oehmen and others, 'Risk, Uncertainty, Ignorance and Myopia: Their Managerial Implications for B2B Firms' (2020) 88 Industrial Marketing Management 330, 334.
[195] E. Stamouli, M. Gasparinatou and C. Kouroutzas, 'Corruption and Public Procurement in Health Sector: The Challenges of Pandemic Era in Greece' (2025) 6 Journal of White Collar and Corporate Crime 17, 20.

contracts. In periods of emergency, governments are known for their shortcomings in procurement proficiency, as accountability measures are often downgraded. However, the UK government appeared much worse than other Western countries in awarding contracts to cronies during the coronavirus pandemic. The government fell short of following the due process for competitive tendering as only 38 percent of contracts were awarded through the existing structure designed for government procurement of goods and services. The remaining 62 percent was awarded directly to cronies without the usual contract vetting.[196]

The 'track and trace' system procured to curtail the spread of the coronavirus failed to meet the highly anticipated result. The government awarded the contracts to inexperienced private companies with no track record on similar projects. Most of the contractors were closely connected to politicians of specific political parties, which primarily attributed to the palaver. The government ought to have used Public Health England's expertise to procure the medical equipment and PPE.[197] Another negative outcome was the constant changes and U-turns in the policy decisions made by the government. For instance, the data analysis stream revealed the continuous changes in the national Public Health England PPE guidance, reported daily in early April 2020. Such inconsistency in the policies often led to confusion and lack of confidence in managing patients with coronavirus without appropriate PPE.[198]

2.3.5. The Political Measures Adopted in the EU Member States During the Coronavirus Era

EU Member States adopted various political measures to contain the spread of the coronavirus pandemic. Unlike other Member States, the Swedish government adopted a distinctive approach in shifting crisis management to the hands of experts rather than politicians. The government handled economic aspects such as unemployment and support for businesses, and the Public Health Agency of Sweden (PHA) was empowered with the duty of making policies about restrictions and, more importantly, handling epidemiological issues.199 Many EU Member States relied on existing laws before the emergency or adjusted pre-existing legislation to mitigate the spread of the virus.[200] The reoccurring traits noticed across the 25

[196] L. Jones and S. Hameiri, 'COVID-19 and the Failure of the Neoliberal Regulatory State' (2021) 10 Review of International Political Economy 1, 15.
[197] P. Rogers, 'Economic Policies and the Coronavirus Crisis in the UK' (2021) 33 Review of Political Economy 414, 420.
[198] Public Health England, 'Considerations for Acute Personal Protective Equipment (PPE) Shortages, 2020.' (*Government of UK, 17 April 2020*), <https://www.gov.uk> accessed 2 September 2025.
[199] K. Elvbakken and f. Veggeland, 'The Roots and Routes of Public Health Institutes in Scandinavia' (2024) 47 Scandinavian Political Studies 601, 610.
[200] M. Crego and S. Kotanidis, 'States of Emergency in Response to the Coronavirus Crisis' (2020) European Parliamentary Research Service, <http://www.europarl.europa.eu> accessed 2 September 2025.

Member States regarding containment measures were restrictions, closure of businesses, compulsory quarantine, testing obligations and travel bans.[201] Coordinated efforts were agreed upon concerning support for businesses and the healthcare sector by the Commission.[202]

The EU Member States Parliaments were directly involved in managing the coronavirus pandemic by adopting budgetary, legislative and oversight powers as measures accorded by their legislation (newly formulated or existing) to contain the virus. For instance, Austria, Croatia, Denmark, France, Germany, Ireland, Malta, and Poland enacted new legislation. The new legislation has amended existing laws to strengthen the government's powers to adopt the measures needed to curtail the spread of the virus. National Parliaments adopted ordinary oversight to gather fresh information on prevailing situations and the measures used to deal with the pandemic.[203]

Many EU Member States took unilateral measures to close their national borders to foreigners for fear of transmitting the coronavirus if entry was permitted.[204] The closure of the borders provided a pretext for national populists and Eurosceptics to encourage public fear. Centralised emergency powers in the larger political sphere of anti-immigration were experienced more by Eastern European leaders, such as Viktor Orbán of Hungary, who asserted that foreigners were to blame for the coronavirus spread.[205] At the same time, the Romanian president, Klaus Iohannis, made remarks to dissuade Romanians living abroad from returning home during the lockdowns to avert the spread of the coronavirus.[206] These statements were intentionally aimed to serve political purposes and legitimise intolerance.

2.3.6. The Outcome of the Political Measures Adopted in the EU Member States

The pandemic brought concerns among the EU Member States, especially in countries hit hard by the virus. A poll conducted in Italy yielded a negative political impact, as participants consented that the EU was less helpful in assisting the country to contain the virus during the

[201] Crego and Kotanidis (n 200).
[202] European Commission, 'Public Procurement of Medical and Protection Equipment' (2020), <https://www.ec.europa.eu> accessed 2 September 2025.
[203] F. B. Jacobs and M. Roos, 'The European Parliament and the COVID-19 Crisis' (2024) 10 The Journal of Legislative Studies 1, 4.
[204] A. Jacobs and M. Kabata, 'Covid-19 and the Collective Securitisation if Schengen: An Analysis of EU and National Responses to Border Control' (2024) 10 Journal of Contemporary European Studies 1, 2.
[205] A. Batory, 'More Power, Less Support: The Fidesz Government and the Coronavirus Pandemic in Hungary' (2024) 59 Government and Opposition 1017, 1022.
[206] A. Martinescu and A. Balatchi-Lupascu, Understanding the Romanian Diaspora: Diaspora Mobilisation During COVID-19' (Foreign Policy Centre, 8 October 2020), < https://fpc.org.uk/understanding-the-romanian-diaspora-diaspora-mobilisation-during-covid-19/> accessed 2 September 2025.

first waves of the outbreak, with the highest death rates across the EU Member States.[207] Other Member States condemned the French and German governments for blocking the export of crucial medical supplies.[208] Those actions raised the question of the basis on which the solidarity of EU Member States is formulated.

Electoral processes were suspended to avert the spread of the virus across the EU Member States.[209] However, postponing elections gave rise to the growth of repressive regimes as authoritarian governance recommended in some Member States. For instance, Viktor Orbán in Hungary suspended the national Parliament and pronounced a state of emergency for an unstated time. Draconian laws were introduced to inhibit the freedom of speech soon after the suspension of elections in Hungary by Viktor Orbán.[210] The coronavirus affected the political and socio-economic fabric of all EU Member States. As a result, some Member States began looking inward and prioritising their interest and forewent the solidarity of the Union. Despite shortages in other Member States, such as Germany, France, and the Czech Republic decided to introduce limited exports to protect the supply of medical equipment, there are also shortages of face masks.[211] Nonetheless, the EU Member States needed continuous cohesiveness in their responses to obtain and supply medicines and equipment to countries that were struggling to prevent the spread of the virus across their borders.

2.3.7. The Political Measures Adopted in the US During the Coronavirus Era

During the coronavirus outbreak, apart from the US federal policies to mitigate the spread of the coronavirus, there were variations across the states on how measures were adopted to contain and curtail the virus.[212] Public health in the US is the responsibility of the state governments as set out in their constitutions or reticent to states under the 10th of the US Constitution.[213] In the past decades, the Centers for Disease Control and Prevention (CDC) has

[207] G. Vicentini and M. T. Galanti, 'Italy, the Sick Man of Europe: Policy Response, Experts and Public Opinion in the First Phase of Covid-19' (2022) 27 South European Society and Politics 459, 475.
[208] M. Maulaya and N. Jasuma, 'Cosmopolitanism's Criticism and Proposals' (2021) 9 Preventing Chronic Disease Journal 1, 8.
[209] T. Plumper and E. Neumayer, 'The Politics of Covid-19 Containment Policies in Europe' (2022) 81 International Journal of Disaster Risk Reduction 1, 5.
[210] B. Kelly, 'If the EU Cannot Rein in Hungary's Dictator Viktor Orban, I Will Rot from the Inside' *The Telegraph* (London, 31 March 2020), < https://www.telegraph.co.uk/politics/2020/03/31/eu-cannot-reinhungarys-dictator-viktor-orban-will-rot-inside/> accessed 2 September 2025.
[211] E.S. Nicolas, 'Coronavirus: EU Ministers Urge Members to share Supplies' (*EUobserver, 8 March 2020*) <https://www.euobserver.com> accessed 2 September 2025.
[212] E. Baird and others, 'County-Level Mandates Were Generally Effective at Slowing COVID-19 Transmission' (2024) 43 Health Affairs 433, 434.
[213] P. C. Erwin, K. W. Mucheck and C. Brownson, 'Different Responses to COVID-19 in Four US States: Washington, New York, Missouri and Alabama' (2021) 111 Journal of Public Health 647, 647.

provided resources, guidance and support to local health departments and states.[214] However, the CDC displayed an untypical response to the coronavirus pandemic, allowing cities and states to play prominent roles. The usual federal response anchored by the CDC for administering pandemic outbreak was left to be ineffectively managed by the White House.[215] After the change in President Donald Trump's government, the Biden administration adopted new policies on the coronavirus pandemic. President-elect Joseph Biden immediately announced the Coronavirus Task Force and quickly appointed reputable medical and public health professionals with relevant experiences.[216] There was more coordination and a science-based federal approach in dealing with the coronavirus pandemic, and the CDC was reinstated to handle its epidemic responsibilities, including the coronavirus pandemic.[217] The federal and state governments recognised the severity of the coronavirus pandemic as the number of deaths increased and the whistleblowers unrelentingly reported misconduct. President Biden's administration implemented a robust cross-institutional response involving all levels of government, together with private industry.[218] Numerous actions were taken by the federal government, including restrictions on immigration into the US, as well as non-pharmaceutical measures such as social distancing and the closing of schools after the first reported case in January 2020 in Washington state.[219] The federal and state governments took proactive measures to improve the level of protection accorded to whistleblowers as they continued to report misconduct that was occurring.

2.3.8. The Outcome of the Political Measures Adopted in the US

The government allowed everyone, including cottage industries of small manufacturers and home sewers, to make face masks for everyday use to mitigate against the spread of the virus. Meanwhile, universities and pharmaceutical companies collaborated to develop and test products and potential vaccines. However, managing the coronavirus pandemic in the US was

[214] D. C. Classen and others, 'Healthcare-associated Infections and Conditions in the Era of Digital Measurement' (2024) 45 Infection Control & Hospital Epidemiology 1, 7.
[215] L. Gostin, 'Science, Leadership and Public Trust in the COVID-19 Pandemic' (Milbank Organisation *December 2020*), <https://www.milbank.org> accessed 2 September 2025.
[216] Y. Abutaleb and L. McGinely, 'President-elect Biden Announces Coronavirus Task Force Made Up of Physicians and Health Experts' *Washington Post* (9 November 2020), <https://www.washingtonpost.com/health/2020/ 11/09/biden-coronavirus-task-force> accessed 2 September 2025.
[217] R. Guharoy and E. P. Krenzelok, 'Lessons from the mismanagement of the COVID-19 Pandemic: A Blueprint to Reform CDC' (2021) 78 American Society of Health-System Pharmacists 1739, 1740.
[218] N. Knauer, 'The COVID-19 Pandemic and Federalism: Who Decides?' (2022) 23 Legislation and Public Policy 1, 7.
[219] Ibid.

problematic and more complex, as there was a strained relationship between federal and state rights and responsibilities. To exemplify, the federal government left the onus on the states to implement guidelines to slow the spread of the coronavirus. In April 2020, the federal government issued three-phased reopening guidelines, which were rescinded and left to states to implement.[276] The initial denial by President Trump about the scale of the coronavirus crisis slowed the coordination and the federal response to curtail the spread of the virus. President Trump's obfuscation of the virus's severity hindered the introduction of proper policy recommendations for social distancing and the closing of non-essential businesses.[220] The next section analyses the coronavirus pandemic's economic impact in the three jurisdictions examined. It also assesses the measures taken by governments to mitigate the spread of the virus and the outcomes of those measures.

2.4. The Economic Impact of the Coronavirus

The first "E" in PESTEL refers to the economic metrics that influence an organisation's success or failure. The economic factor is pivotal to organisational survivability as global economies are constantly adjusting to the macro and micro-environment.[221] In relation to the coronavirus pandemic, the restrictions on local and global movements caused by the pandemic created a degree of economic shock across the globe. The impact of the pandemic resulted in the immediate contraction of global Gross Domestic Product (GDP), low investment, widespread inflation, fragmentation of global trade and recession in many countries.[222] The governments of the three jurisdictions adopted different strategies to counter the pandemic.

2.4.1. The Economic Measures Adopted in the UK During the Coronavirus Era

The UK government proffered stimulus plans of over 20 percent of GDP as a safety net designed to prevent the economy from collapsing.[223] Financial support was given to businesses, including Value Added Tax (VAT) deferrals, business loans, and business rate holidays. The stimulus included increased welfare payments, government-subsidised wages, and profit

[220] Deere (n 155) 725.
[221] N. Abigail and J. Zheng, 'Consumers Reaction and Response to Covid-19' (2021) 8 Open Access Library Journal 1, 3.
[222] S. Schaltegger, 'Sustainability Learnings from the COVID-19 Crisis. Opportunities for Resilient Industry and Business Development' (2020) 12 Sustainability Accounting, Management and Policy Journal 889, 893.
[223] S. Tabish, 'Covid-19 Pandemic: The Crisis and the Longer-term Perspectives' (2020) 13 Journal of Cardiology & Current Research 39, 42.

guarantees for the self-employed.[224] Another measure implemented by the government to stimulate demand was the 'Eat Out to Help Out' campaign. Participating businesses gave a £10 discount per person on food and non-alcoholic drinks consumed on the restaurant premises from Monday to Friday. Over £350 billion was committed to paying over 80 percent of all private sector wages up to a minimum of £2,500 to prevent employers from discharging workers.[225]

However, His Majesty Revenue and Customs reported on the Public Accounts Committee that approximately 5 to 10 percent of furlough cash was erroneously awarded. It was suggested that more than £3.5 billion in claims were paid out.[226] The UK government pledged a sum of £330 billion for the coronavirus pandemic. Business Interruption Loan Scheme (CBILS) was designed to support small and medium-sized businesses. To ensure the scheme runs smoothly, the government introduced the Quantitative Easing (QE) programme through the Bank of England to expand over £200 billion in borrowing and relaxed free lending for businesses. However, fewer loans were granted by the banks under the CBILS scheme as some banks were reluctant to borrow where the risk of repayments was probable, irrespective of the government guarantees.

The Self-Employed Income Support Scheme (SEISS), introduced by the government, provided grants to self-employed individuals or partnerships who could use a tax return from 2018-2019 and self-employment as proof of their primary income. Self-employed individuals were protected with a profit guarantee worth up to 80 per cent of their average monthly profits (or £2,500, whichever was the lowest) that reflected the tax payment in previous years. Additionally, the self-employed, such as small shop owners or taxi drivers, who had a record of tax payment, were also supported by the government in a similar approach adopted by the US government.[227] However, those who commenced self-employment (7 per cent of the self-employed workforce) in April 2019 were excluded from the scheme. Furthermore, the scheme did not cover those who used self-employment (8 per cent or 329,900) as a top-up income.[228]

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[224] C. Berry and others, 'The Covidist Manifesto: Assessing the UK state' emergency enlargement (2020) 9 Future Economies Research and Policy 1, 9.

[225] R. Partington, 'UK Government to Pay 80% of Wages for Those Not Working in Coronavirus Crisis' *Guardian* (London, 20 March 2020), <http:// https://www.theguardian.com/uk-news/2020/mar/20/government-pay-wagesjobs-coronavirus-rishi-sunak> accessed 2 September 2025.

[226] M. Sawyer, 'Economic Policies and the Coronavirus Crisis in the UK' (2021) 33 Review of Political Economy 414, 418.

[227] Partington (n 225).

[228] Enterprise Research Centre, '750,000 self-employed miss out on UK coronavirus support' (*Enterprise Research Centre, 16 April 2020*), <https://www.enterpriseresearch.ac.uk> accessed 2 September 2025.

2.4.2. The Outcome of the Economic Measures Adopted in the UK

Those stimulus policies and schemes resulted in escalated borrowing, which increased the budget deficit, complementing a decline in investment. Some household savings increased due to the closures of entertainment and service establishments because of the lockdowns.[229] Approximately 1.8 million households claimed Universal Credit. Unemployment increased by over 2 million in the second quarter of 2020. The Gross Domestic Product (GDP) declined by 35 per cent in that quarter, marking the most substantial annual contraction in over 300 years. The resilience of public finances and the ability to fund public services, including the NHS, were severely tested as the government worked to curb the spread of the pandemic. The government could not generate sufficient revenue through taxation to invest in the economy and prevent the sectors from collapsing. The gross domestic product plummeted by over 7 per cent in March 2020 and 19 per cent in April 2020.[230]

2.4.3. The Economic Measures Adopted in the EU Member States During the Coronavirus Era

To mitigate the economic meltdown, the European Central Bank (ECB) raised the level of asset purchases by €870 billion. The ECB terminated the limit set on bond purchases in EU Member States,[231] and Corona bonds were created to encourage low-cost borrowing. The intention was to economically stimulate Member States, such as Italy, Spain, and France, which were hit worse by the coronavirus pandemic. The coronavirus crisis resulted in internal economic differences between the government and private finance. The government deficit increased in some Member States dependent on tourism revenues, and government surpluses evaporated.[232] Policymakers across the EU needed to consider the trade-offs between supporting economic activity and public health. To dampen the impact of the Coronavirus, a rescue package of €1.7tn was pledged to support the economic activities of the EU Member States.233 To stabilise and strengthen EU Member States through the pandemic, the ECB purchased €750 billion worth

[229] Sawyer (n 226) 418.
[230] Ibid, 417.
[231] F.M. Ferrara, D. Masciandaro and M. Moschella, 'Political voice on Monetary Policy: Evidence from the Parliamentary Hearings of the European Central Bank' (2021) 10 European Journal of Political Economy 1, 6.
[232] European Commission, 'Communication on the Economic Governance Review' (*European Commission 18 October 2021*), <https://www.europa.eu> accessed 2 September 2025.
[233] M. Nicola and others, 'The Socio-economic Implications of the Coronavirus Pandemic (COVID-19): A Review' (2020) 78 International Journal of Surgery 185, 190.

of assets. The Commission provided a €25 billion investment fund to support affected businesses through their government and, in this way, encourage public spending.[234]

2.4.4. The Outcome of the Economic Measures Adopted in the EU Member States

Overall, the economic measures introduced by the European Commission and executed by the national governments caused economic division and put pressure on EU solidarity. Restrictions on movements to prevent national health systems from collapsing caused a sharp shock on EU Member States' economies. State expenditures pledges and tax holidays to stimulate business created fiscal deficits in all Member States, which inevitably put pressure on future budget negotiations due to economic disparity in revenues and contributions.[235]

EU Member States implemented job retention schemes in line with global economies to continue paying employees even when economic activities ceased due to the lockdown.[236] For example, the German government spent over €822 billion to save businesses, pay employees wages, and give the self-employed grants. The German government made provisions of €500 billion in loans to support companies affected by the pandemic.[237] The governments of France, Spain and Italy pledged €345 billion, €200 billion, and €25 billion, respectively, to assist impacted businesses.[238] The French government postponed corporate tax and worker payments as part of the exceptional measures implemented.

2.4.5. The Economic Measures Adopted in the US During the Coronavirus Era

Congress speedily enacted legislation that led to the passage of four laws signed by the US President on 6 April 2020.[239] To prevent the economy from collapsing, the Committee for a Responsible Federal Budget approved the release of $6 trillion by the US Central Bank. The Bank cut the federal funds rate by half a per cent and announced $700 billion of quantitative easing. The US government purchased $1.9 trillion in assets and provided more than $2 trillion

[234] T. Buck and others, 'Coronavirus Declared a Pandemic as Fears of Economic Crisis Mount' *Financial Times* (London, 11 March 2020), <http://www https://www.ft.com/content/d72f1e54-6396-11ea-b3f3fe4680ea68b5> accessed 2 September 2025.
[235] V. Anghel, 'Together or Apart? The European Union's East-West Divide' (2020) 62 Survival – Global Politics and Strategy 179, 190.
[236] Buck and others, (n 234).
[237] Nicola and others (n 95) 187.
[238] European Commission, 'Policy Measures Taken Against the Spread and Impact of the Coronavirus – 14 April 2020' (European Commission, 30 June 2020), <https://www.europa.eu> accessed 2 September 2025.
[239] R. Lindmayer, 'The Liquidity Pandemic: A Recent History of the Federal Reserve and Economic Implications of Historically Aggressive Actions During the COVID-19 Pandemic' (2021) 71 Syracuse Law Review 20, 24.

in loan programs to cushion the blow to many businesses.[240] The Federal Reserve lowered the interest rates to make borrowing easier, as money pumped into the economy provided necessary business support. Those steps were required for the survival of companies and banks that desperately needed liquidity to facilitate business credit.[241] The government provided extra funding to assist the unemployment programme that was under pressure as over 30 million workers lost their jobs within two months.[242]

2.4.6. The Outcome of the Economic Measures Adopted in the US

The economic stimulus introduced by the US government yielded numerous positive outcomes as it averted the monetary system from failing. The direct one-time cash payments of $1,200 to adult Americans helped alleviate their immediate financial needs. Furthermore, the business loan package available to specific types of companies, such as airlines and cruise lines, helped reinvigorate the sectors and contributed positively to the economy. The $100 billion funding for the healthcare sector has reignited efforts to build more capacity.[243] However, the US stock market index (S&P 500) plummeted to its lowest level during the coronavirus outbreak. The Dow Jones and Nasdaq Industrial Average were down until the US government secured the Coronavirus Aid and the Economic Security (CARES) Act 2020, increasing market confidence.[244]

The following section explains the social impact of the coronavirus pandemic in the three jurisdictions. It then assesses the measures taken by the governments to mitigate the spread of the virus and the outcomes of those measures. However, the government's restrictions on employees' work-from-home obligations and the self-imposed isolation policy resulted in declined economic activities, including transportation, fast food, hospitality, and leisure activities.[245]

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[240] P. G. Joyce and A. S. Prabowo, 'Government Responses to the Coronavirus in the United States: Immediate Remedial Actions, rising Debt levels and Budgetary Hangovers' (2020) 32 Journal of Public Budgeting, Accounting & Financial Management 745, 746.

[241] M. D. Bordo and J. V. Duca, 'An Overview of the Fed's New Credit Policy Tools and Their Cushioning Effects on the COVID-19 Recession' (2021) 3 Journal of Government and Economics 1, 6.

[242] T. S. Bernard and R. Lieber, 'F.A.Q. on Stimulus Checks, Unemployment and the Coronavirus Plan' *The Times* (New York, 3 March 2020), <http://www https://www.nytimes.com/article/coronavirus-stimulus-packagequestions-answers.html> accessed 2 September 2025.

[243] C. M. Grogan, Y. Lin and M. K. Gusmano, 'Unsanitized and Unfair: How COVID-19 Bailout Funds Refuel Inequity in the US Health Care System' (2021) 46 Journal of Health Politics, Policy and Law 785, 787.

[244] D. Bora and D. Basistha, 'The Outbreak of COVID-19 Pandemic and its Impact on Stock Market Volatility' (2020) 10 Journal Public Affairs 1, 3.

[245] A. Khan and others, 'COVID-19 and sectoral employment trends: assessing resilience in the US leisure and hospitality industry' (2021) 24 Current Issues in Tourism 952, 954.

2.5. The Social Impact of Coronavirus

The "S" in PESTEL denotes the societal influence in purchasing behaviour that is crucial in determining the success or failure of businesses.246 These factors include, but are not limited to, population, education, accommodation, transportation, food, and employment. The implications are enormous for organisations, especially in periods of economic crisis where social indicators try to establish when an economy might respond to specific changes in consumer behaviour.[247] The social implications of the coronavirus pandemic include profound outcomes beyond the exponential infection rate that has scourged across countries and continents. For example, quarantine restrictions were necessary for the effectiveness of the government's efforts to control public health.[312] Structural inequalities became evident during the outbreak of the coronavirus pandemic as income, education and access to medical care made minorities vulnerable to a higher risk of infection and death.

2.5.1. The Social Measures Adopted in the UK During the Coronavirus Era

The UK government adopted different policies to manage patients' suffering. Those infected by the coronavirus who were not in a recognised risk group but presented mild symptoms were managed at home with clear instructions to get a follow-up only if symptoms worsened. This was the case even though patients with respiratory distress needed oxygenation and hospitalisation for proper treatment.[248] Additionally, to mitigate the spread of the virus, the government suggested that property sellers and buyers halt any negotiations that were in progress during the lockdown periods. A three-month 'mortgage or rental holiday' was given to those experiencing financial difficulties due to the coronavirus pandemic. The government passed legislation to cease evictions and eviction proceedings for the period.[249] The government further supported the less privileged by changing the welfare payments, particularly Statutory Sick Pay was paid to those who tested positive for coronavirus and were advised to self-isolate. Furthermore, the Universal Credit standard allowance was temporarily increased by £20 per week and the minimum income floor for self-employed was lifted.[319] The

[246] R. Mostaghel and K. Chirumalla, 'Role of Customers in Circular Business Models' (2021) 127 Journal of Business Research 35, 36.
[247] R. Palalic and others, 'Social Media and Consumer Buying Behaviour Decision: What Entrepreneurs Should Know?' (2021) 59 Management Decision 1249, 1250.
[248] M. Craven and others, 'COVID-19: Implications for Business in 2020' (McKinsey & Company, 16 December 2020), <https://www.mckinsey.com> accessed 2 September 2025.
[249] J. Duncan, 'The death of neoliberalism? UK responses to the pandemic' (2022) 26 The International Journal of Human Rights 494, 506.

varying degrees of measures adopted by the UK government were intended to reduce society's hardship resulting from the pandemic and encourage the public to comply with the guidance to reduce mortality rates.

2.5.2. The Outcome of the Social Measures Adopted in the UK

Remote working was redundant in most employment sectors as physical presence was necessary. For example, many employees in retail, construction, logistics, and food production were required to be physically present at work.[250] People often take employment in these industries purely because of financial compulsion considering the precarious nature of the jobs and low payments.[251] Socio-economic differences in the UK's educational achievement were more accentuated during the school shutdowns. Privately educated children from affluent families were provided with learning materials and equipment, such as laptops, and the engagement between students and teachers was more active than in the case of children in deprived families.[252]

More so, the lockdown increased the level of domestic violence, such as physical and sexual abuse. Records from Refuge Charities indicated a 25 per cent increase in helpline calls for domestic abuse during the lockdown.[253] There was also a high level of depression associated with the lockdown measures introduced by the UK government to curtail the spread of the coronavirus.[254] However, it is noteworthy that the lockdown resulted in unintended positive changes for some population groups. The lockdown afforded people time in nature or outdoors and increased physical activities.[255]

2.5.3. Social Measures Adopted in the EU Member States

The measures undertaken by the EU Member States included restricting movements, teleworking, reinforcing the message of cleaning and disinfection, and providing protective

[250] D. G. Sanchez, N. G. Parra and C. Ozden, 'Which Jobs Are Most Vulnerable to COVID-19? What an Analysis of the European Union Reveals' (2020) 32 World Bank Research and Policy Briefs 1, 2.
[251] Berry and others (n 224) 26.
[252] Blundell and others, 'COVID-19 and Inequalities' (2020) 41 Fiscal Studies 291, 308.
[253] Refuge Charity, 'Domestic Violence Help' (*Refuge Charity 7 April 2020*), <https://www.refuge.org.uk> accessed 2 September 2025.
[254] L. M. Dettman, S. Adams and G. Taylor, 'Investigating the Prevalence of Anxiety and Depression During the First COVID-19 Lockdown in the United Kingdom: Systematic Review and Meta-Analyses' (2022)61 British Journal of Clinical Psychology 757, 758.
[255] C. J. Wood, J. Barton and N. Smyth, 'A Cross-sectional Study of Physical Activity Behaviour and Associations with Wellbeing During the UK Coronavirus Lockdown' (2022) 27 Journal of Health Psychology 1432, 1436

equipment.[256] There was coordination among Member States in delivering PPE and medical supplies. The EU Commission provided 90 per cent of the funding for the procurement of face masks, ventilators, laboratory supplies, medical equipment, and PPE. European industries were contacted and advised to maintain their production capacity for necessary supplies of PPE in the EU Member States. On the other hand, the export of PPE was regulated to ensure sufficient supply to all Member States. The Emergency Response Coordination Centre (ERCC) managed the process.[257] Member States were encouraged to admit their citizens and residents, and transit was permitted for EU citizens returning to their countries from abroad.[258]

2.5.4. The Outcome of the Social Measures Adopted in the EU Member States

During the coronavirus outbreak, government efforts were tilted towards supporting economic activities and ensuring that political institutions remained formidable. In contrast, less attention was given to social systems, which resulted in reactive crisis management. Late decisions favouring public health in many EU Member States contributed to more significant loss of life.[259]

2.5.5. Social Measures Adopted in the US During the Coronavirus Era

State Governors in the US mitigated the spread of the virus by imposing stay-at-home orders in their territories. California issued the first stay-at-home order in March 2020; other states emulated this, increasing to 42 states by 20 April 2020.[260] Residents were compelled not to leave their homes except for essential work, food, and medical shopping. Many employees were persuaded to work remotely by the US government to mitigate the spread of the virus. Schools and day-care centres were forced to close in line with the government guidelines. For instance, the Governor of Pennsylvania ordered the closure of all nonessential businesses. The consequence of the stay-at-home policy resulted in a decline in the demand for many economic

[256] European Parliaments, (n 156).
[257] M. Broadbent, 'Covid-19 Demand Shock and Preparedness Response' (2020) 94 Centre for Strategic and International Studies 1, 23.
[258] S. Mantu, 'EU Citizenship, Free Movement, and Covid-19 in Romania' (2020) 2 Frontiers in Human Dynamics' 1, 2.
[259] V. Pham and others, 'Policy Response, Social Medica and Science Journalism for the Sustainability of the Public Health System amid COVID-19 Outbreak: The Vietnam Lessons (2020) 12 Sustainability 1, 2.
[260] Joyce and Prabowo (n 189) 749.

activities.[261] Businesses struggled to pay their rent and wages, and many were forced to close due to a lack of business.

2.5.6. The Outcome of the Social Measures Adopted in the US

Social distancing mandates by the government disrupted work, school, social and family relationships. The physical and organisational structures, dependent on health care, social services, education, faith-based organisations, government, and many other interpersonal interactions, adjust their practices by moving online, postponing their activities, or closing.[262] Employees with healthcare plans from their employment were impacted when they lost their employment because of the coronavirus pandemic. Over 25 million people lost their jobs during the first waves of the pandemic in March 2020, resulting in the loss of medical insurance.[263] The following section looks at the technological impact of the coronavirus pandemic in the three jurisdictions. In addition, the section assessed the measures governments took to mitigate the spread of the virus and the outcome of those measures.

The coronavirus pandemic exposed pre-existing norms, patterns and the level of income disparities in the US that permit particular groups privilege over others.[264] The healthcare system is funded through a mixture of private and public spending and is designed to make a profit for shareholders with limited government intervention. Most healthcare facilities are owned and operated by private businesses. The government was forced to pay for coronavirus tests for those patients who could not afford them, as the hospitals refused free tests.[265] Compared to other advanced capitalist countries, the US welfare system is renowned for being ungenerous, and governments have traditionally been reluctant towards social spending.[266]

2.6. The Technological Impact During the Coronavirus

The "T" in the PESTEL emphasises the technology-related opportunities and threats to every organisation. The global shift in businesses to more technological and scientific solutions has

[261] K. M. Barai and S. Dhar, 'COVID-19 Pandemic: Inflicted Costs and Some Emerging Global Issues' (2021) 10 Global Business Review 1, 4.
[262] Joyce and Prabowo (n 240) 745.
[263] A. Nguyen and others, 'The Impact of Job and Insurance Loss on Prescription Drug Use: A Panel Data Approach to Quantifying the Health Consequences of Unemployment During the Covid-19 Pandemic' (2022) 52 International Journal of Health Services 312, 313
[264] E. Dickson, 'New Map Shows COVID-19 is hitting People of Color Hardest' (2020) 45 Journal of Health Politics, Policy and Law 905, 908.
[265] M. Goede (n 15) 325.
[266] A. Moos, 'The Historical Evolution of the Cost of Social Reproduction in the United States' (2021) 79 Review of Social Economy 51, 56.

become prominent as organisations try to gain a competitive advantage.[267] For example, global healthcare organisations leverage technological advancement to improve clinical care and telehealth services.[268] The coronavirus pandemic has accelerated the global transformation of digital technology in various ways. As a result of digital technology dynamism, human behaviour, such as shopping, learning, working, meeting, and entertaining, has shifted from offline to online.[269] Technology trends like Artificial Intelligence (AI), robotics, drones and webinar platforms (zoom) have evolved beyond comprehension. Their adoption quickly led to the refocus of business goals so that companies could cope with the challenges of coronavirus on a global scale. Countries that maintained low per-capital mortality rates from the pandemic adopted and integrated digital technologies for testing, contact tracing, quarantine, and health care in general.[270]

2.6.1. Technological Measures Adopted in the UK During the Coronavirus Era

Access to the internet proved essential for individuals, corporations, and the government during the lockdown. The internet was prominent in the UK educational system as teaching and learning were conducted remotely. In the public sector, the technology revolution was immense and became commonplace as courts started operating remotely using Skype and Microsoft Teams, and trials were held via video technology. New technologies were invented for businesses, and their use varied considerably, such as electronic filing, zoom meetings and other online processes, as employees were compelled to work from home.[271]

2.6.2. The Outcome of the Technological Measures Adopted in the UK

The Coronavirus Act 2020 permitted technology for remote court hearings and allowed video for legal proceedings. Prior to the enactment of the Act, this would have been a criminal offence under section 41 of the Criminal Justice Act 1925.[272] Evidence shows how the coronavirus

[267] R. U. Attah and others, 'Strategic Frameworks for Digital Transformation Across Logistics and Energy Sectors: Bridging Technology with Business Strategy' (2024) 12 Open Access Research Journal of Science and technology 1, 3.
[268] S. Srivastava and R. Singh, 'Exploring integrated Supply Chain Performance in Healthcare: A Service Provider Perspective, Benchmarking' (2021) 28 An International Journal 106, 130.
[269] R. Al-Maroof and the others, 'Fear from COVID-19 and Technology Adoption: The Impact of Google Meeting During Coronavirus Pandemic' (2020) 10 Interactive Learning Environments 1, 3.
[270] N. Eum and S. Kim, 'The Role of Information and Communications Technology Policies and Infrastructure in Curbing the Spread of the Novel Coronavirus: Cross-Country Comparative Study' (2022) 8 JMIR Public Health and Surveillance 1, 12.
[271] Coronavirus Act 2020, s 34.
[272] *R(Spurrier) v Secretary of State for Transport* [2019] EMLR 16.

affected people differently based on their socio-economic status.[273] The coronavirus outbreak exposed social inequalities and digital illiteracy as 10 percent of the adult population in the UK did not have internet access.[274] The apparent predicaments of digital exclusion are affordability and lack of digital skills and education, which are familiar to the less privileged. However, embracing technology in the coronavirus era has long-term effects that can lead to a slippery slope for surveillance, as history has shown that short-term measures often end up lasting longer than initially intended.

2.6.3. Technological Measures Adopted in the EU Member States During the Coronavirus Era

Some EU Member States used anonymised phone location data to accurately describe people's movements, including density and direction. The Italian government strengthened the lockdown measures when data was provided from telecoms showing that people were not adhering to restrictions.[275] Similarly, the Belgian government used location data to ensure that 80 percent of the citizens remained within their zip code area. The Latvian government gathered data from local telecom to anonymise locations, which provided knowledge of crowded places. The government used the data to enforce the law by preventing people from gathering.[276] However, it is argued that location accuracy depends on the density of antennas and the availability of the GSM protocol technique.[277] The French government was more in favour of drone technology as the most effective measure to contain the spread of the coronavirus.

2.6.4. The Outcome of the Technological Measures Adopted in EU Member States

One of the best strategies implemented by EU Member States was the adoption of digital technologies to contain the spread of the coronavirus. The technologies provided data for policymakers to make appropriate and timely decisions regarding outbreak tracking, infection treatment, and vaccine manufacturing.[278] Using technologies has helped governments address

[273] A. Aziz, M. M. Islam and M. Zakaria, 'COVID-19 Exposes Digital Divide, Social Stigma, and Information Crisis in Bangladesh' (2020) 47 Media Asia 144, 145.
[274] G. Watts, 'COVID-19 and The Digital Divide in the UK' (2020) 2 The Lancet Digital Health 395, 396.
[275] A. R. Fahey and A. Hino, 'COVID-19, digital privacy, and the social limits on data-focused public health responses' (2020) 55 International Journal of Information Management 1, 2.
[276] A. Nikiforova, 'Smarter Open Government Data for Society 5.0: Are Your Open Data Smart Enough? (2021) 21 Sensors 1, 20.
[277] A. Klimburg and others, 'Pandemic Mitigation in the Digital Age' (2020) Austrian Institute for European and Security Policy, <https://www.aies.at> accessed 2 September 2025.
[278] Pham and others, 'Artificial Intelligence (AI) and Big Data for Coronavirus (COVID-19) Pandemic: A Survey on the State-of-the-Arts' (2020) 8 Open Access Journal 130820, 130823.

the societal and economic implications of the coronavirus pandemic. The acceleration of technological measures by Member States to curtail the spread of the coronavirus reinforced the ongoing debate on protecting users' privacy. The EU has recently set limitations on the unfair use of personal data, such as indiscriminate data sharing with US corporations.[279] The General Data Protection Regulation (GDPR) 2016 set a data protection standard.[280]

2.6.5. Technological Measures Adopted in the US During the Coronavirus Era

The US government used numerous technologies to contain and prevent the spread of the coronavirus. For instance, machine learning models were developed to predict the dynamism of regional transmission of the coronavirus, border checks and surveillance. The US government adopted digital technologies to collate real-time data to contain and prevent the spread of the coronavirus. The dashboard technology was utilised for time-series charts, geographic maps, clinical trials, contact tracing and community surveillance.[281] The US government pioneered digital technology to provide remote care to patients with mild or moderate coronavirus illness in their homes,[282] and anonymous data are used on mobile device locations to monitor the population.[283] Each US county used GPS data to ping mobile phone applications to determine pedestrian traffic patterns in specific locations, such as restaurants, cinemas, hospitals and retail stores.[284]

2.6.6. The Outcome of the Technological Measures Adopted in the US

Digital technology was used to quarantine individuals infected or exposed to someone infected with coronavirus. Despite all the technological measures adopted to mitigate the spread of the coronavirus, digital health interventions, such as those used for tracking individuals and enforcing quarantine rules, undermined privacy. The surveillance by the government created fear and threatened civil liberties.[285] The AI prediction and contact tracing applications had

[279] I. Rubinstein and P. Margulies, 'Risk and Rights in Transatlantic Data Transfers: EU Privacy Law, U.S. Surveillance, and the Search for Common Ground' (2022) 54 Connecticut Law Review 391, 397.
[280] European Parliament, 'General Data Protection Regulation Implementation, Enforcement and Lessons Learned' (*Committees European Parliament March 2021*), <https://www.europa.eu> accessed 2 September 2025.
[281] J. Budd and others, 'Digital Technologies in the Public-Health Response to COVID-19' (2020) 26 Nature Medicine 1183, 1185.
[282] S. Whitelaw and others, 'Application of Digital Technology in COVID-19 Pandemic Planning and Response' (2020) 2 Viewpoint 435, 436.
[283] H. Allcott and others, 'Polarization and Public Health: Partisan Differences in Social Distancing During the Coronavirus Pandemic' (2020) 191 Journal of Public Economics 1, 2.
[284] Whitelaw and others (n 282) 436.
[285] K. Eck and S. Hatz, 'State Surveillance and the COVID-19 Crisis' (2020) 19 Journal of Human Rights 603, 604.

their pitfalls as well.[286] The next section explains the environmental impact of the coronavirus pandemic in the three jurisdictions. Then, assess the measures taken to mitigate the spread of the virus by the governments and the resultant outcome of those measures.

2.7. The Environmental Impact During the Coronavirus Era

The other "E" in the PESTEL represents the "Environment" and includes the ecological factors that require organisations to make policies that directly impact the ecosystem.[287] The effect of environmental factors on business is reflected in the intensity of their Corporate Social Responsibility (CSR) activities, eco-friendly Research and Development (R&D) investment, and the level of commitment to ethical practices.[288] The global lockdown measures enforced by governments as a result of the coronavirus pandemic gave respite to the environment from pollution. The coronavirus indirectly contributed positively towards the UN 2030 Sustainable Development Goals by reducing greenhouse gas emissions, outdoor air pollution and environmental noise levels.[289] However, the coronavirus pandemic increased the use of single plastics (including PPE) due to a change in the pattern of shopping from in-store to home delivery. In addition, waste management shifted from recycling to incineration, which impacted the environment. Furthermore, the pandemic impacted wildlife to the extent that conservationists were required to work day and night to monitor and protect endangered species.[290]

2.7.1. Environmental Measures Adopted in the UK During the Coronavirus Era

Since the outbreak of the coronavirus pandemic, the UK government has opted for green investment in renewable technology and energy efficiency as a means of delivering jobs in comparison to traditional stimulus measures.[291] The new environmental priorities make such measures attractive as they can create skilled jobs that are geographically distributed. This is

[286] A. Soltani, R. Calo and C. Bergstrom, 'Contact-Tracing Apps Are Not a Solution to the COVID-19 Crisis' (Tech Stream 27 April 2020), <https://www.brookings.edu> accessed 2 September 2025.
[287] K. L. Olofsson and others, 'Effective Stakeholder Engagement in Environmental Problem-solving though Group Model Building: An Oklahoma Case Study' (2023) 13 Environmental Challenges 1, 2.
[288] P. Anzola-Roman, T. Garcia-Marco and F. Zouaghi, 'The Influence of CSR Orientation on Innovative Performance: Is the Effect Conditioned to the Implementation of Organisational Practices?' (2024) 190 Journal of Business Ethics 261, 263.
[289] K. Ukhurebor and others, 'Greenhouse Gas Emission: Perception During the COVID-29 Plastic' (2022) 10 BioMed Research International 1, 3.
[290] R. Manenti and others, 'The Good, The Bad and The Ugly of COVID-19 Lockdown Effects on Wildlife Conservation: Insights from the First European Locked Down Country' (2020) 249 Biological Conservation 1, 6.
[291] His Majesty Government, 'The Government Response to the Committee on Climate Change's 2020 Progress Report to Parliament, (*HM Government October 2020*), <https://www.assets.publishing.service.gov.uk> accessed 2 September 2025.

supported by the experience of numerous green recovery policies that were considered in the aftermath of the 2008 financial crisis and required considerable time to be implemented.[292] The government announced further measures to encourage green skills by launching the Lifetime Skills Guarantee, which was intended to assist adults in gaining engineering qualifications. The government also encouraged private investment in offshore wind turbines that could eventually domesticate part of the energy supply chain.[293]

The government provided over £95 million in support of the scheme for two years for short courses designed to enable people to retrain for new career paths. It is argued that the availability of the scheme that was guaranteed for those without A-levels or equivalent qualifications, in fact, more than a million paid workers.[294] To maintain the lower emission standards experienced during the lockdown, the government took measures to support local authorities in installing Electric Vehicle (EV) infrastructure for On-Street Residential Charge Points; this was a scheme of £20 million.[295] The government increased the amount of funding after concerns were raised over high grid connection costs for charging points. Compared to other countries, the UK government offered minimum support to persuade people to transition to EVs. Even after setting high goals of phasing out petrol and diesel cars by 2030, the government has yet to put the road map on how to achieve the goal of delivering the infrastructure.[296] It is argued that the government's initial commitment of £2 billion for EVs and £27 billion for roads strongly indicates that EVs are of less importance. The government's investment in the low-carbon economy would generate employment opportunities, allow the UK government to achieve the Paris Accord's commitments, and encourage sustainable economic recovery from the coronavirus pandemic.[297]

2.7.2. The Outcome of the Environmental Measures Adopted in the UK

From an environmental perspective, the coronavirus outbreak had a positive impact in the UK, ascribed to limited mobility, which led to the improvement of air quality and a reduction in

[292] F. W. Geels, G. I. Pereira and J. Pinkse, 'Moving Beyond Opportunity Narratives in COVID-19 Green Recoveries: A Comprehensive Analysis of Public Investment Plans in France, Germany and United Kingdom' (2022) 84 Energy Research and Social Science 1, 4.
[293] J. Allan and others, 'A Net-Zero Emissions Economic Recovery from Covid-19' (Oxford Smith School 5 May 2020), <https://www.lse.ac.uk> accessed 2 September 2025.
[294] Department for Work and Pension, 'Hundreds of Free Qualification Offer to boost Skills and Jobs' (DWP 1 April 2020), <https//www.gov.uk> accessed 12 March 2025.
[295] L. Marix, 'Local Authority and the Sixth Carbon Budget' (Climate Change Committee December 2020), <https://www.theccc.org.uk> accessed 2 September 2025.
[296] House of Commons Committee of Public Accounts, 'Low Emission Cars: First Report of Session 2021-22' (*House of Common 13 March 2021*), <https://committees.parliament.uk> accessed 2 September2025.
[297] Berry and others (n 224) 40.

CO2 emissions.[298] Air pollution is one of the biggest threats that exacerbate the effects of respiratory diseases such as coronavirus, which are faced by global public health and reduce the average life expectancy. However, the UK government's policy also had negative environmental consequences. Measures to curtail the spread of the virus increased the volume of non-recyclable waste and large-scale quantities of organic waste generated because of diminished agricultural exports due to the lockdown.[299] Every household in the UK experienced extra heating costs during the lockdown. UK homes remained energy inefficient and draughty, resulting in further costs as people stayed and worked from home, including children who were home-schooled. For the UK government to meet its climate targets, improvement in insulation will help alleviate extra heating costs.[300]

It is important to note that the UK government failed to address measures to maintain the significant reduction in air emissions experienced during the coronavirus pandemic. Furthermore, the UK government failed to consider the economic impact on individual households, which was necessary to support environmental policies. Notably, the coronavirus pandemic's positive impact on the environment came indirectly from the abrupt limiting or closure of economic sectors such as hospitality businesses, transportation, and heavy industries that contributed toward lowering pollution levels during the lockdown.[301] Reduced commuting and flying resulted in staycation that boosted the local economy. Additionally, active travelling, such as cycling and walking, doubled during the weekdays and tripled at the weekends compared to pre-pandemic standards.[302]

2.7.3. Environmental Measures Adopted in the EU Member States During the Coronavirus Era

EU Member States introduced a series of measures to reduce pollution levels after the coronavirus outbreak. A recovery plan was extended from 2021 to 2027, which requires Member States to commit 30 percent spending on the transition to net zero.[303] The German government pledged €11bn (0.32% GDP) reduction in its renewable energy levy and a further

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[298] S. Chavel, 'Observed and Potential Impacts of the Covid-19 Pandemic on the Environment' (2020) 17 International Journal of Environmental Research and Public Health 1, 5.

299 United Nations Conference on Trade and Development, 'Impact of the COVID-19 Pandemic on Trade and Development' (*UNCTAD 2020*), <https://www.unctad.org> accessed 2 September 2025.

[300] C. Hepburn and others, 'Will COVID-19 Fiscal Recovery Packages Accelerate or Retard Progress on Climate Change?' (2020) 4 Oxford Review of Economic Policy 359, 369.

[301] I. Khan, D. Shah and S. S. Shah, 'COVID-19 pandemic and its positive impacts on environment: an updated review' (2021) 18 International Journal of Environmental Science and Technology 521, 527.

[302] J. Robinson, 'Cycling has Increased 200% Since Lockdown, Government Reports' (Cyclist UK, June 2020), <https://www.cyclist.co.uk> accessed 2 September 2025.

[303] European Commission, 'The EU's 2021-2027 Long-Term Budget and Next Generation EU' (*European Commission 29 April 2021*), <https://www.op.europa.eu> accessed 2 September 2025.

€7bn (0.2% GDP) for the country's hydrogen strategy. The French government set aside €30bn (1.24% GDP) of the country's recovery plan for climate transition, including retrofits and low-carbon transportation provisions.[304] Additionally, the French government attached environmental conditions in its support of €1.5bn (0.06% GDP to Air France to develop low-carbon aircraft.[305] EU Member States also imposed restrictions on international travel to combat the spread of the coronavirus. Regional quarantines and lockdown measures were introduced in several parts of EU Member States.

2.7.4. The Outcome of the Environmental Measures Adopted in the EU Member States

Restrictive measures to prevent the spread of the coronavirus by EU Member States on transportation, businesses and closing of industries contributed immensely to a reduction in GHG emissions compared to the pre-coronavirus years.[306] In the first quarter of 2020, the International Energy Agency (IEA) recorded 25 percent decline in energy demand in countries with complete lockdown and an average of 18 percent in countries with partial lockdown.[307] The lockdown from coronavirus also improved water quality, notwithstanding the huge amount of medical waste inappropriately disposed of in the environment. The Copernicus Sentinel-5P satellite showed a reduction in NO2 concentrations over Rome, Madrid and Paris: the first cities in the EU to introduce strict lockdown measures.308

The quarantine policies introduced in many countries created a new culture of greater demand for online shopping and home delivery. This resulted in an increased generation of organic waste per household as food bought online was shipped packed.[309] Inorganic and organic waste generation created a broader environmental problem, such as air and water pollution.[310] The most effective way to prevent pollution, save energy and conserve natural resources has been through recycling.[311]

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[304] French Government, 'France Relance: Recovery Plan' (3 September 2020), <https://www.economie.gouv.fr> accessed 2 September 2025.
[305] Ibid.
[306] K. Shehzad, M. Sarfraz and S. G. M. Shah, 'The Impact of COVID-19 as a Necessary Evil on Air Pollution in India during the Lockdown' (2020) 266 Environmental Pollution 1, 2.
[307] International Energy Agency, 'The Impacts of the COVID-19 Crisis on Global Energy Demand' (2020), <https://www.iea.org> accessed 2 September 2025.
308 J. Douros and others, 'Comparing Sentinel-5P TROPOMI NO2 Column Observations with the CAMS Regional Air Quality Ensemble' (2023) 16 Geoscientific Model Development 509, 510.
[309] M. Zambrano-Monserrate, M. A. Ruano and L. Sanchez-Alcalde, 'Indirect effects of COVID-19 on the Environment' (2020) 13 Science of the Total Environment 1, 3.
[310] M. Massoud and others, 'Review on Recycling Energy Resources and Sustainability' (2023) 9 Heliyon 1, 1.
[311] M. S. Anderson and others, College Openings in the United States Increase Mobility and COVID-19 Incidence' (2022) 17 Public Library of Science 1, 2.

2.7.5. Environmental Measures Adopted in the US During the Coronavirus Era

The lockdown measures enforced by the US government inhibited movement, prevented international and local travel, and closed schools, colleges, and universities.[312] The international travel ban cut the number of flights and lowered the consumption of fossil fuels, which in turn lessened GHG emissions, helping in the combat against pollution.[313]

2.7.6. The Outcome of Environmental Measures Adopted in the US

There were increased volumes of medical waste in the US. At the same time, the focus on plastic restrictions and pollution regulations changed towards controlling and preventing the spread of coronavirus.[314] Several states ceased their recycling programmes, as authorities were concerned about the risk of spreading the virus in recycling centres thus prioritising incineration and landfilling. Such precautionary measures resulted in inappropriate waste management as PPE were discarded with empty bottles of hand sanitisers and organic solid waste.[315] The next section focuses on the legal impact of the coronavirus pandemic in the three jurisdictions. The section also evaluates the measures governments took to mitigate the spread of the virus.

2.8. The Legal Impact During the Coronavirus Era

The "L" in the PESTEL acronym represents the legal factors and rules which aim to control and regulate business activities.[316] The legal aspect of a business is centred on compliance and enforcement of legislation, such as antitrust law, patent infringement, employment regulations, and employee health and safety regulations, which set the parameters according to which businesses operate. Legal measures played an important role in containing and preventing the spread of coronavirus globally. Governments resorted to reviving their healthcare legislation or promulgated new legislation to restrict the movement of their population in order to halt the

[312] A. Wilder-Smith and D. Freedman, 'Isolation, Quarantine, Social Distancing and Community Containment: Pivotal Role for Old-style Public Health Measures in the Novel Coronavirus (2019-nCoV) outbreak' (2020) 27. Journal of Travel Medicine 1, 3.
[313] P. Rupani and others, 'Coronavirus Pandemic (COVID-19) and its Natural Environmental Impact' (2020) 17 International Journal of Environmental Science and Technology 4655, 4662.
[314] H. Yu and others, 'Reverse Logistics Network Design for Effective Management of Medical Waste in Epidemic Outbreaks: Insights from the Coronavirus Disease 2019 (COVID-19) outbreak in Wuhan (China)' (2020) 17 International Journal of Environmental Research and Public Health 1, 4.
[315] M. S. Haque and others, 'SARS-CoV-2 Pandemic-induced PPE and Single-use Plastic Waste Generation Scenario' (2021) 39 Waste Management and Research 1, 4.
[316] E. B. Agyekum and others, 'Review of the Marine Energy Environment – A Combination of Traditional Bibliometric and PESTEL Analysis' (2024) 10 Heliyon 1, 19.

spread of the coronavirus. Government measures in response to the coronavirus highlighted the difficulties that involved trade-offs between civil liberties and the need to protect the general public.[317] During the coronavirus outbreak, most governments decided to use technology for mass surveillance as a primary means of monitoring the movement and behaviour of citizens.[318] Arguably, the severity of the virus demanded that public health trump civil liberties.

2.8.1. Legal Measures Adopted in the UK During the Coronavirus Era

The Coronavirus Act 2020, promulgated during the outbreak of the pandemic, transformed the legislative paradigm in various ways. There was immense revolutionary change as technology was allowed in court during proceedings, which facilitated witnesses' appearance by live link rather than in person.[319] The coronavirus pandemic expedited the digitisation process that courts in England and Wales have been seeking since 2016.[320] The Act empowered ministers, including the devolved administrators, to limit or prohibit gatherings or events and restrict access or close premises.

Due to the promulgated Act, retired NHS employees were permitted to return to work and help alleviate the labour shortage. The government intended to encourage retired health professionals to return and assist with their impeccable skills.[321] The Act also permitted the registration of medical students nearing the completion of their training, social care professionals and those who recently left their profession. The restriction on the hours that NHS staff had to work normally was abolished, and the Act also facilitated emergency volunteering.[322] Ministers were able to use the Act to close schools or registered childcare providers temporarily.

2.8.2. The Outcome of the Legal Measures Adopted in the UK

Concerns were raised in the UK about the emergency measures taken by the government in promulgating the Coronavirus Act 2020 since it created room for a clash between freedom, privacy and public health measures. The Act empowered the authorities to detain individuals

[317] Orzechowski, Schochow and Steger, (n 6) 149.
[318] R. Kitchin, 'Civil Liberties or Public Health, or Civil Liberties and Public Health? Using Surveillance Technologies to Tackle the Spread of COVID-19' (2020) 24 Space and Polity 362, 365.
[319] J. Townend and P. Magrath, 'Remote Trial and Error: How COVID-19 Changed Public Access to Court Proceedings' (2021) 13 Journal of Media Law 107, 108.
[320] Coronavirus Act 2020, s 53-57.
[321] Coronavirus Act 2020, s 45 – 47.
[322] Ibid, s 2 – 9.

they suspected to be infectious and was within their power to take samples of their saliva by force. Individuals changed the pattern of their movement when they became aware of the surveillance and tracking efforts of the government to try to curtail the spread of the virus.[323]
On a positive note, the lockdown measures introduced by the UK government encouraged local tourism and what was called staycation. The coronavirus pandemic caused financial challenges for many people due to job losses. International travel restrictions, the added complexity in the required documentation, and the compulsory testing before travelling acted as a strong deterrent. However, staycation was very expensive compared to travelling to other holiday destinations.[324] Even local restriction measures such as social distancing of 2 meters and the likelihood of getting infected by the coronavirus locally did not encourage staycation. Notably, the UK government's approach in the first outbreak of the coronavirus pandemic differed from other countries' guidance to international travel.

2.8.3. Legal Measures Adopted in the EU Member States During the Coronavirus Era

The Parliaments in all Member States played a prominent role in managing the coronavirus crisis by promulgating legislation based on policy directives from their governments. Many countries had to pass new legislation or amend existing laws to enable governments to adopt measures required to contain the spread of the virus. Temporary measures were sometimes adopted, such as quarantine or lockdowns in areas where the virus was evolving rapidly. Promulgated coronavirus legislation made it easier to expend resources to procure equipment and PPE to mitigate the spread of the coronavirus.[325]
The 27 EU Member States implemented four types of legislative measures (constitutional state of emergency, statutory regimes, measures adopted under special legislative powers, and measures adopted almost exclusively under ordinary legislation) to mitigate the spread of the coronavirus pandemic.[326] Ten Member States adopted the constitutional state of emergency, four used the statutory regime, and five resorted to special legislative powers to prevent the spread of the virus.

[323] R. Fry and others, 'Real-time Spatial Health Surveillance: Mapping the UK COVID-19 Epidemic' (2021) 149 International Journal of Medical Informatics 1, 4.
[324] H. Moon and H. Chan, 'Millennials' Staycation Experience During the COVID-19 era: Mixture of Fantasy and Reality' (2021) 34 International Journal of Contemporary Hospitality Management 2620, 2623.
[325] Moon and Chan (n 324) 2623.
[326] European Parliament, 'States of Emergency in Response to the Coronavirus Crisis' (December 2020), <https://www.europa.eu> accessed 2 September 2025.

2.8.4. The Outcome of the Legal Measures Adopted in the EU Member States

Some lockdown measures created resentment amongst the population, as many were economically disadvantaged. Many members of the society believed the lockdown to be scientifically unsupported and that the restrictions were unjust. People felt strongly about the violations of their civil liberties, such as the freedom of peaceful assembly (Article 20 of the Universal Declaration of Human Rights).[327] In contrast, some Member States deemed that the early lifting of the restrictions was at the expense of human life in pursuit of reopening business activities.[328] In general, restriction of movement could be accounted for as one of the best measures to control the spread of the virus. However, it prevented mass gatherings and suppressed political opposition, as witnessed in Spain.[329]

2.8.5. Legal Measures Adopted in the US

The Coronavirus Preparedness and Response Supplementary Appropriations Act[330] was signed in March 2020. It was the first bill passed by Congress to give financial support to the Federal Reserve for actions aimed at mitigating the coronavirus. The financial allocation was to increase domestic discretionary spending by $8 billion to support the development of vaccines and other epidemiological requirements.[331] In March 2020, the Families First Coronavirus Response Act433 was signed by the US President, and approximately $192 billion was given as a further measure to mitigate the urgent financial needs resulting from the pandemic. The Act included spending on unemployment benefits, with the federal government covering the total cost rather than the normal 50 per cent. The legislation relaxed the need to receive the Supplemental Nutrition Assistance Programme) (food stamp) benefits but created alternative ways for the States to supply meals to children impacted by school closures.[332]

In March 2020, President Trump signed the Coronavirus Aid, Relief and Economic Security (CARES) Act.[333] It was the most extensive legislative measure Congress took to mitigate

[327] United Nations Human Rights, 'COVID-19: States Should not Abuse Emergency Measures to Supress Human Rights' (*OHCHR 16 March 2020*), <https://www.ohchr.org> accessed 2 September 2025.
[328] G. W. Warren, R. Lofstedt and J. K. Wardman, 'COVID-19: the winter lockdown strategy in five European nations' (2021) 24 Journal of Risk Research 267, 272.
[329] Amnesty International, 'Spain's Conviction for Sedition of Jordi Sanchez and Jordi Cuixart Threatens Rights to Freedom of Expression and Peaceful Assembly' (*Amnesty International 19 November 2019*), <https://www.amnesty.org> accessed 2 September 2025.
[330] Public Law 116–123.
[331] Congressional Budget Office, 'The Budgetary Effects of Laws Enacted in Response to the 2020 Coronavirus Pandemic, March and April 2020' (16 June 2020), <https://www.cbo.gov> accessed 2 September 2025.
[332] Congressional Budget Office, 'Paycheck Protection Program and Health Care Enhancement Act' (April 2020), <https://www.cbo.gov> accessed 2 September 2025.
[333] Public Law 116–136.

coronavirus expenditures. The estimated spending of $1.7 trillion was aimed to cover 10 years, with most of the spending occurring in the first two years. This financial assistance was intended to alleviate the economic burden experienced by individuals, businesses and governments. Small companies were allocated a total of $377 billion under the Paycheck Protection Program (PPP), while a total of $170 billion in funding for medical care responses and a refundable tax credit of $1,200 per qualifying adult and $500 per dependent child.[334] The Paycheck Protection and Health Care Enhancement Act[335] was the fourth bill passed by Congress and signed by the President in April 2020. The bill was narrow in scope, with discretionary expenditure under $500 billion, one-third available when necessary and two-thirds for increasing direct spending. $75 billion was provided to reimburse healthcare providers for lost revenues, and $25 billion was allocated to several nutritional and rural programs. A further sum of $62 billion was provided for salaries and expenses, and a total loan of $377 billion was made available for the Small Business Administration.[336] Apart from the direct financial stimulus provided by the US government to mitigate the spread of the coronavirus, the Treasury Department extended the federal tax filing deadline from 15 April to 15 July 2020 and cut interest rates by 0.5 per cent.

2.8.6. The Outcome of the Legal Measures adopted in the US

Expansive financial leverage was provided by the CARES and Families First Acts, mainly to the low-earning populations. The Acts allowed for two weeks' job-protected sick days pay (strictly for coronavirus-related absence) for approximately 65 million private-sector and 22 million public-sector workers. The money was often used for childcare.[337] Before the coronavirus outbreak, the US government rarely considered expanding job protection or paid leave. However, the coronavirus outbreak made the US government consider such measures a financial cushion for the population.[338] In precluding firms with more than 500 employees

[334] R. Hovey, 'A Road to Recovery: Why the Expansion of the Child Tax Credit Should be Permanent' (2024) 57 UIC Law Review 589, 592.
[335] Public Law 116–139.
[336] D. Zaring, 'The Government's Economic Response to the COVID Crisis' (2020) 40 Review of Banking & Financial Law 315, 343.
[337] National Partnership for Women and Families, 'Fact Sheet: New Emergency Legislation Provides Paid Sick Days and Paid Leave for Child Care for Millions' (April 2020), <https://www.nationalpatnership.org> accessed 2 September 2025.
[338] H. Brian and others, 'Caring Under COVID-19: How the Pandemic Is – and Is Not – Changing Unpaid Care and Domestic Work Responsibilities in the United States' (Oxfam 2020), <https://www.oxfamamerica.org> accessed 2 September 2025.

from paid leave in the provisions, 59 million workers were automatically denied protection, a disproportionate number of whom were women of colour.[339]

In conclusion, most governments underfunded their healthcare systems, thereby impeding them from actively managing the coronavirus pandemic due to shortages in material and human resources. The disparity in the mortality rates from the pandemic gave a clear indication to governments around the globe that they should shift from the current paradigm that disenfranchises certain groups or members of their population. Governments need to implement economic policies that will emancipate the marginalised in society, as pervasive structural and systemic issues have impacted the well-being of the disadvantaged.340 The subsequent section examines the adoption of the SWOT model by the governments of the three jurisdictions in their efforts to mitigate the coronavirus pandemic.

2.9. The Strengths Element in the SWOT Model as Applied in the Jurisdictions

The SWOT model, a multi-criteria decision-making instrument, was employed to evaluate measures by the governments meticulously. The SWOT framework facilitates a thorough assessment of the measures undertaken by the governments of the three jurisdictions. This methodology aims to provide a more accurate and holistic analysis of the complex, multifaceted environment associated with the coronavirus pandemic. The subsequent section analyses the use of the SWOT analytical tool in the three jurisdictions.

The strengths demonstrated by governments across the three jurisdictions during the COVID-19 pandemic encompassed decisive actions such as the enforcement of public health protocols, including lockdowns, and the provision of economic support through initiatives like furlough schemes. Additional strengths included fostering public trust and legitimacy, which facilitated citizen cooperation via voluntary compliance, as well as devising effective communication strategies to inform the public about the virus's severity and progression, thereby promoting coordinated responses. Non-Governmental Organisations were permitted to participate in local crisis management initiatives.[341] The policies enacted by these governments significantly contributed to the successful mitigation of the coronavirus pandemic. Nevertheless, despite the mentioned strengths regarding the containment of the coronavirus, it was imperative

[339] N. R. Cahn and L. C. McClain, 'Gendered Complications of COVIF-19: Towards a Feminist Recovery Plan' (2021) 22 The Georgetown Journal of Gender and the Law 1, 5.
[340] F.Z. Belgrave and J.A. Abrams, 'Reducing Disparities and Achieving Equity in African American Women's Health' (2016) 71 American Psychologist 723, 724.
[341] A. Kover, 'The Relationship Between Government and Society in the Era of COVID-19' (2021) 12 Non-profit Forum 1, 3

for governments to implement measures substantially earlier than the eventual timeframe of their enforcement.

The UK government has a labour force that was ready to be trained and re-trained, as shown by the unemployment levels following the coronavirus pandemic outbreak.[342] These workers, who were made redundant after returning from the furlough scheme due to businesses going into liquidation, were re-skilled in other sectors. Reduced commuting and international holidays led to a rise in staycations that boosted the local economy. The UK government can capitalise on the pandemic circumstances and develop the local tourism industry across the country.

Fiscal stimuli implemented by the EU Member States during the pivotal period of the coronavirus pandemic distinctly exemplified the resilience of the European Union. The reserve fund established when the Member States maintained a trading surplus facilitated this prompt response. Moreover, the pandemic presented an occasion for the EU Member States to enhance their capabilities in innovation and to rejuvenate their economies through the creation of employment opportunities in green sectors. With the dedication of all Member States, sufficient economic and human resources for Member States to exploit.[343]

The US government had the financial and human resources to refocus on developing all sectors of the economy. The outbreak of the coronavirus accelerated the need for the US government to transform these sectors in order to maintain its global dominance. The US government needed to distinguish between 'physically interactive' and 'physically disjointed' production and consumption activities, as there appeared to be a growing disparity between rising demand in the latter sectors and a complete decline in demand in the former. While companies such as Amazon or Netflix flourished and sought more employees, other sectors like hospitality and travel were redundantly laying off workers. The government had no choice but to take a leading role in restructuring the labour force.[344]

2.9.1. Weaknesses Element in the SWOT Model as Applied in the Jurisdictions

The coronavirus pandemic exposed shortcomings within the structure and administration of the UK's welfare system, which was designed to support the most disadvantaged members of

[342] D. Houston, 'Local Resistance to Rising Unemployment in the Context of the COVID-19 Mitigation Policies Across Great Britain' (2020) 12 Regional Science Policy & Practice 1189, 1192.
[343] European Commission, 'Evaluation Support Study on the Impact of the CAP on Sustainable Management of the Soil' (25 March 2020), <https://www.ec.europa.eu> accessed 2 September 2025.
[344] D.J. Snower, 'The Real Economic Fallout of Covid-19' (Project Syndicate 8 April 2020), <https://www.project-syndicate.org> accessed 2 September 2025.

society.[345] Economic challenges affected the housing sector, as increases in unstable, low-wage employment rendered rental payments unaffordable. With some demographic groups experiencing income loss and the welfare state underperforming, many individuals relied on government financial assistance through Universal Credit (UC). The UK government historically under-taxed certain segments of the population, thereby hindering adequate funding for the welfare system through sufficient financial resources.[346]

Cross-border cooperation in data sharing and coordination proved challenging among some EU Member States due to differences in national legislation. Nonetheless, there remains a need for collaboration between the private and public sectors to develop effective mechanisms for data use while protecting individual rights, privacy, and security.[347] The health care policies implemented by the US government authorised market forces to dictate the provision of healthcare services to the population.[348] Healthcare providers, including Medicare, Medicaid, and others, were significantly affected by the outbreak of the coronavirus pandemic, as they were unable to meet the demand from their patients sufficiently. The government failed to properly regulate the operations of these healthcare providers in delivering services to their insured members.[349] Conversely, direct governmental investment in the healthcare sector would have facilitated greater control over resource coordination to mitigate the pandemic effectively.

2.9.2. Opportunities Element in the SWOT Model as Applied in the Jurisdictions

The UK government can leverage the situation created by the coronavirus pandemic to enhance its human resources by investing in apprenticeship programmes aimed at training unemployed youth and low-wage workers. This strategy will aid in restoring the economy to support unemployed and low-income employees as an immediate measure to facilitate economic recovery and reduce the unemployed dependency on governmental assistance. Absent

[345] J. Booth, 'Empowering Disadvantaged Communities in the YK: Missing the Potential of Co-production' (2019) 49 Social Change 276, 279.
[346] K. Jones, 'The Impact of Welfare Conditionality on Experiences of Job Quality' (2024) 38 Work, Employment and Society 1658, 1660.
[347] S. Kalogiannidis, 'Analysing the Challenges of Cross-Border Disaster Response and Management: A European Perspective' (2024) 14 Journal of Risk Analysis and Crisis Response 178, 183.
[348] S. T. Kumbhar and M. Bhatia and V. Patel, 'Health-Care Systems around the World: Diversity, Challenges, and Innovations' (2025) 13 Archives of Medicines and Health Sciences 95, 96.
[349] R. S. Wright, 'TAVR and the US Public Health Emergency: A Critical Evaluation of Care Delivery and the Importance of Public-Private Partnerships During the COVID-19 Pandemic' (2024) 99 Mayo Clinic Proceedings 1206, 1208.

government investment, skill disparities are likely to intensify as corporations persist in reallocating resources away from development and training.[350]

EU Member States can enhance coordination during crises to prevent the duplication of relief efforts, as the coronavirus outbreak has revealed existing deficiencies. Resources such as medical supplies, equipment, and personnel were not efficiently organised, which impeded the capacity to meet the needs of Member States. Effective resource coordination necessitates ongoing cooperation and solidarity.[351] EU Member States can learn from this experience and refine their preparedness strategies for future infectious disease outbreaks. Furthermore, there exists significant potential for better utilisation of existing technology, such as artificial intelligence, which can assist in diagnosis and model the spread of infectious diseases.[352]

The coronavirus has generated opportunities for the US government to enhance healthcare policies aimed at mitigating the impact on marginalised groups, which have experienced higher mortality rates.[353] Implementing a new healthcare policy can address the fundamental causes of profound socio-economic and health-related issues that significantly affect these underserved sectors of American society.[354] Failure by the US government to capitalise on this opportunity and to promptly enhance the healthcare sector will inevitably lead to ongoing reactive measures rather than proactive strategies, thereby compromising preparedness for future health crises.

The UK government, the US, and EU Member States can progress towards decarbonisation following the positive environmental impact of the measures they have adopted. Governments need to pursue a green industrial policy and avoid environmentally harmful economic practices. Contracts awarded to companies by the governments must include a sustainability element that maintains pollution levels as those experienced during the lockdown periods. The governments must stay focused on investing in green stimulus projects to ensure a sustainable recovery, rather than pursuing short-term and non-environmental initiatives.

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[350] E. Boeren, 'Participation in Adult Education and the Pandemic: Who is Missing Out?' (ELM Magazine 17 April 2020), <https://www.elmmagazine.eu> accessed 2 September 2025.

[351] K. Sovig, 'Special Issue on Legal Landscape concerning the Coronavirus Outbreak' (2020) 2 European Association of Health Law 2, 50.

[352] B. McCall, 'COVID-19 and Artificial Intelligence: Protecting Health-Care Workers and Curbing the Spread' (2020) 2 Lancet Digital Health 166, 167.

[353] S. H. Golden, 'Coronavirus in African American and other People of Color' (Johns Hopkins Medicine 20 April 2020), <https://www.hopkinsmedicine.org> accessed 2 September 2025.

[354] C. E. Hostinar and G.E. Miller, 'Protective Factors for Youth Confronting Economic Hardship: Current Challenges and Future Avenues in Resilience Research' (2019) 74 American Psychologist 641, 643.

2.9.3. Threats Element in the SWOT Model as Applied in the Jurisdictions

Individuals aspiring to enter the labour market encountered stagnation and a reduction in vacancies both before and during the coronavirus pandemic. A portion of the issue is attributable to the UK government's deficiencies in formulating industrial policies capable of engendering employment opportunities. This deficiency was particularly evident during the pandemic, as the UK was unable to produce ventilators, testing kits, and protective equipment for the healthcare sector. The government became excessively dependent on international supply chains to satisfy immediate demands, while failing to establish initiatives for sustained local manufacturing plans.[355]

During the outbreak of the coronavirus, EU Member States experienced waves of Euroscepticism and nationalism.[356] This evident threat necessitates further consolidation, as the coronavirus has inflicted a substantial human toll across national borders. The COVID-19 pandemic compelled Member States to contemplate decentralising councils at local and regional levels in anticipation of future crises. In similar emergencies, citizens at the local council level can participate in the decision-making process, thereby facilitating quicker and more effective decisions.[357]

The US government overexposed itself by heavily relying on foreign supplies for essential commodities, such as medical equipment and PPE, during the coronavirus outbreak. To address this issue, the US government needs to explore various ways to incentivise local companies to produce essential products, especially in times of crisis.[358] Local production can reduce dependence on international suppliers, even though some locally produced goods might be more expensive due to higher labour costs compared to cheaper imports. The following section evaluates the rationales for adopting the PESTEL and SWOT models in this research.

[355] F. Foster and M. Pooler, 'Muddled Thinking Punctures Plan for British Ventilator' *Financial Times* (London, 17 April 2020), < https://www.ft.com/content/5f393d77-8e5b-4a85-b647-416efbc575ec> accessed 2 September 2025.
[356] V. Hlousek and V. Havlik, 'Eurosceptic Narratives in the Age of COVID-19: The Central European States in Focus' (2024) 40 East European Politics 154, 155.
[357] M. Angelici and others, 'Divided We Survive? Multilevel Governance During the COVID-19 Pandemic in Italy and Spain' (2023) 53 The Journal of Federalism 227, 227.
[358] C. Ngo and H. Dang, 'Covid-19 in America: global Supply Chain Reconsidered' (2022) 46 World Economic 256, 257.

2.9.4. Justification for the Adoption of PESTEL and SWOT Analyses in this Study.

The COVID-19 pandemic put the world economy in an unprecedented position and protecting society from the infection was the core of all measures.[359] The policy framework for targeting political, legal and environmental issues was the immediate concern for the governments and health officials. Consequently, the health emergencies exerted an exceptional burden on routine activities and commercial businesses.[360] The outcomes from the implementation of the models showed that the significant challenges faced by governments in controlling the spread and containing the virus were formidable, especially as the virus continued to mutate. The PESTEL analysis, an analytical tool proposed by Francis Aguilar in 1967 for strategic planning, examined the macro-environmental factors.[361] The model has become one of the most valuable tools that help to highlight the challenges of the macro-environment. The PESTLE analysis considers the following factors: Political, Economic, Social, Technological, Environmental, and Legal.

2.9.5. Evaluation of the Significance of PESTEL and SWOT Analyses

The combined use of PESTEL and SWOT is particularly significant for this study because each framework captures a different dimension of the COVID-19 response. PESTEL highlights the external pressures shaping government action, such as political decisions on lockdowns, economic disruptions to labour markets, and the legal frameworks introduced to enforce restrictions. SWOT, by contrast, assesses how governments' internal capacities and limitations affected their ability to respond to these pressures. For example, while PESTEL identifies the external challenge of disrupted supply chains, SWOT reveals whether domestic production capacities or policy weaknesses allowed governments to mitigate or exacerbate that challenge. The integration of the two models thereby offers a comprehensive analytical perspective. It mitigates the risk of overemphasising either external factors, often a limitation inherent in PESTEL, or internal organisational dynamics, which pose a challenge when SWOT is employed in isolation. This combined approach proves particularly advantageous during the pandemic, where the efficacy of policy responses was contingent upon the interplay between external shocks and internal institutional resilience. Furthermore, the comparative application

[359] V. Thakur, 'Framework for PESTEL Dimensions of Sustainable Healthcare Waste Management: Learnings from COVID-19 Outbreak' (2021) 287 Journal of Cleaner Production 1, 1.
[360] J. L. Fernando, 'The Virocene Epoch: The Vulnerability Nexus of Viruses, Capitalism and Racism' (2020) 27 Journal of Political Ecology 636, 659.
[361] R. Salek, 'PEST Macro-Environment Impact Analysis as A Strategic Management Tool for Weigh-In-Motion System Implementation' (2024) 30 Polish Journal of Management Studies 244, 245.

of these models across the UK, EU, and US enables the research to not only delineate the responses of each jurisdiction but also identify overarching patterns and discrepancies in their crisis management strategies.

Utilising the PESTEL framework to analyse external factors has facilitated a comprehensive understanding of the evolution of the coronavirus and its impacts across various sectors and demographic groups. To further illustrate the significance of the PESTEL model, the SWOT framework was employed to critically assess the measures implemented by governments to mitigate the coronavirus pandemic.[362] The SWOT model examined internal factors, such as strengths and weaknesses, related to measures implemented by governments within the jurisdictions studied. The SWOT model was also used to identify each country's key physical and human resources and their preparedness to fight the coronavirus pandemic.[363] Similarly, the model helped identify the challenges faced by governments in controlling and containing the spread of the pandemic as anticipated. Potential opportunities and threats that emerged in each jurisdiction because of the coronavirus outbreak were identified through the application of the SWOT model.

This model underscored each jurisdiction's innovative approaches in mitigating the spread of the pandemic. Furthermore, the SWOT analysis demonstrated that government policies effectively contained the proliferation of the coronavirus.[364] Most significantly, the SWOT model facilitated the identification of prospective strategies for future crisis containment. The integration of the PESTEL model,[365] which encompasses external factors, with the SWOT[366] analysis that deals with internal factors comprehensively, revealed the impact of the coronavirus. The combined application of these models facilitated tactical planning and strategic interventions to address the challenges presented by the pandemic. Remarkably, the integration of the PESTEL and SWOT models facilitated the identification of contributing factors behind the deficiencies in the legislative framework aimed at safeguarding whistleblowers. In addition, the combination of PESTEL and SWOT analyses enabled a

[362] R. Vivek, 'A Systematic Review of the Consequences of Covid-19 Pandemic and Expansion of Pestle Framework: Time to Perceive Health Environment as a Separate Dimension' (2022) 2 International Economic Policy 55, 62.
[363] M. E. Demirkol and others, An Evaluation of Hospital Practices using SWOT Analysis During Covid-19' (2020) 6 Journal of Academic Research in Nursing 341, 342.
[364] H. Jiang, 'A SWOT Analysis of Smart Governance Applications Amid the COVID-19 Pandemic (2023) 28 Information Polity 377, 383.
[365] Thakur, (n 359) 2.
[366] L. Y. Filobokova and S. I. Bogatyrev, 'Methodological Approaches to Strategic Management of Small and Medium-sizes businesses in the Context of the Negative Impact and Continuing Nature of the COVIDV-19 Pandemic' (2023) 10 Implementation of the Sustainable Development Goals 119, 120

critical examination of implemented measures, the identification and prioritisation of macro-environmental risks and how policymakers formulated effective risk mitigation strategies during the coronavirus pandemic.[367]

Furthermore, the PESTEL and SWOT models helped shape the research objectives and structure, as the study focused on the three jurisdictions with their shared characteristics, such as the political and economic conditions. By combining both models to analyse the internal and external environments, the research confirmed the socio-economic factors that supported the governments' capacity to make strategic decisions that mitigated the pandemic.[368]

It was crucial to examine the macroenvironment surrounding the commonalities of the governments of the three jurisdictions by using the PESTEL and SWOT analyses as key tools in defining the roles of the governments in responding to the COVID-19 outbreak. The interrelations among governments were identified through these models, as they highlighted the short-term and long-term objectives of governments that aided in managing scarce resources effectively during the COVID-19 crisis.

2.9.6. Evaluation of the Relevance of PESTEL Analyses

This research has highlighted the significant impact of the COVID-19 pandemic on various external factors that required prompt governmental response. The PESTEL model provided a robust framework for collecting and analysing information about the external macro-environment, helping governments and organisations to make informed strategic decisions, identify and mitigate potential risks, and seize emerging opportunities to achieve their goals.[369]

The PESTEL model supported a structured approach to the investigation, allowing a practical assessment of these impacts.[370] The PESTEL analysis demonstrated its relevance to this research in various ways, as outlined.

The PESTEL model helped evaluate how governments in the three jurisdictions rapidly developed policies to contain the spread of the virus. As delineated in section 1.2.0, the PESTEL model illustrated how governments promptly regulated lockdown measures,

[367] M. J. Anwar and others, 'PESTLE+ Risk Analysis Model to Assess Pandemic Preparedness of Digital Ecosystems' (2022) 5 Security Privacy 1, 3.

[368] S. Ullah and others, 'Modelling Key Strategies for Reducing Socio-Economic and Health Crisis: Perspective from COVID-19 Pandemic (2022) 19 International Journal of Environmental Research and Public Health 1, 3.

[369] M. I. Noor, S. B. Abd-Karim and F. A. Rahim, 'A Review on PDM Decision-Making for Public Sector Construction Projects Using PESTEL Analysis Framework' (2024) 4 Journal of Project Management Practice 1, 12.

[370] E. Iacovidou and others, 'A Parameter Selection Framework for Sustainability Assessment' (2017) 9 Sustainability 1, 3.

implemented vaccination initiatives, and introduced economic stimuli. Legislations were enacted, policies enforced, and guidelines drafted to curb the rapid dissemination of the virus. To this end, governments allocated financial resources, enacted policies, and provided guidelines to protect healthcare workers and safeguard vulnerable groups and communities.[371] The PESTEL model was relevant in facilitating a systematic assessment of the economic measures implemented across the three jurisdictions to prevent economic collapse. Section 1.3.0. delineated the economic strategies employed to avert supply chain disruptions, and furlough schemes were instituted to incentivise employers to retain their employees in order to ensure sectoral continuity.[372] Furthermore, the governments extended direct financial support to citizens by increasing the welfare payments, subsidising wages, and providing profit guarantees for the self-employed.[373] Various forms of financial assistance, such as Value Added Tax relief and business loans, were provided to businesses. Policymakers across the three jurisdictions needed to consider the trade-offs between supporting economic activity and public health.[374] The PESTEL model proved instrumental in critically evaluating these symmetrical measures implemented by the governments to mitigate the impacts of the coronavirus pandemic.

To critically assess the societal impact of the coronavirus, the PESTEL model was pivotal for the accurate assessment of the social inequities embedded in society. The model aided the research to highlight mental health challenges resulting from the sporadic lockdown and its impact on families. The inequalities between the class system became transparent during the lockdown, as the social level. Professional employees were able to work from home, and their children were provided with additional educational support, including laptops, which enhanced their learning compared to children from less privileged families. The social factor was analysed adequately due to the use of the PESTEL model, which critically examined all the external factors as detailed in section 1.4.0. The various measures implemented by governments were designed to mitigate the hardships experienced by society due to the pandemic and to promote public adherence to the guidance to reduce mortality rates.

This PESTEL model was crucial in accurately highlighting the rise in technological progress during the coronavirus outbreak. Using the PESTEL framework helped gather relevant data

[371] Wanke and others (n192) 475.
[372] K. Abba and others, 'Community Groups, Organisations, and Employers Respond to the Challenges of the Covid-19 Pandemic: A Story of Resilience and Continued Vulnerability' (2025) 25 British Medical Council Public Health 1, 12.
[373] Berry and others (n 224) 9.
374 M. Pangallo and others, 'The Unequal Effects of the Health-Economy Trade-Off During the COVID-19 Pandemic' (2022) 8 Nature Human Behaviour 264, 270.

from external sources and analyse it to produce a comprehensive report. As detailed in section 1.5.0, technology played a positive role in reducing the spread of the coronavirus pandemic. Most employees worked remotely, and there was a shift from in-person to online shopping, enabling most consumers to order items from the comfort of their homes. Face-to-face medical appointments moved to digital healthcare, allowing patients to consult via telephone or Zoom calls.[375] The governments implemented legislation permitting court hearings to be held remotely, and the education system transitioned from classroom to online teaching. Additionally, during the coronavirus pandemic, technology contributed to shortening the time needed to develop vaccines.

To critically evaluate the external environmental impact during the COVID-19 era, the PESTEL model proved essential in analysing the data collected from the three jurisdictions involved in this research. The model offered insights into the significant environmental changes directly attributable to the lockdown measures.[376] The reduced movement of the population markedly improved environmental conditions in several aspects.[377] Pollution levels decreased notably, and wildlife was observed roaming freely in the streets. Beaches were significantly cleaner of litter. However, the coronavirus pandemic led to increased use of single-use plastics (including PPE) due to a shift in shopping from in-store to home delivery.[378] The outbreak of the coronavirus pandemic prompted governments to enhance investments in renewable technologies and energy efficiency as a strategic approach for job creation, in contrast to conventional stimulus measures.

Finally, the legal framework during the coronavirus era was appropriately assessed using the PESTEL model, which examined the enacted legislation to mitigate the pandemic. The model is relevant in critically analysing how the emergency legislation was implemented as the virus continued to spread, and the needed steps taken by the governments to introduce measures with legislative support to facilitate enforcement.[379] Consequently, governments were able to restrict movement, enforce social distancing, and mandate vaccination through the promulgation of legislation.

375 T. O. Wolthers and O. D. Wolthers, 'Telephone Consultation as a Substitute for Face-To-Face Consultation During the COVID-19 Pandemic' (2020) 67 Danish Medical Journal 1, 2.
376 Z. G. Khanzad and A. A. Gooyabadi, 'Development of Strategic Resilience Framework for Small Businesses Post-COVID-19' (2021) 1 Businesses 127, 128.
377 Ukhurebor and others, (n 289) 3.
378 X. Hu and others, Single-use Plastic and COVID-19 IN THE NHS: Barriers and Opportunities' (2022) 11 Journal of Public Health Research 1, 2.
379 S. Vogler, 'Tackling Medicine Shortages During and After the COVID-19 Pandemic: Compilation of Governmental Policy Measures and Developments in 38 Countries' (2024) 143 Health Policy 1, 3.

2.10. Extent of Threats and Retaliation Faced by COVID-19 Whistleblowers

The coronavirus outbreak altered all global activities from March 2020 onwards, propelling whistleblowers to prominence as they shed light on misconduct during the spike of the pandemic. Many whistleblowers experienced threats, victimisation, and retaliation when they reported misconduct, which partly explains why organisations around the globe have called for better protection of whistleblowers.[380] The government's positive response to the coronavirus crisis was partly driven by whistleblowers, who constantly flagged new outbreaks and reported insufficient PPE, unsafe working conditions, excessive mandatory overtime, and breaches of infection prevention and control protocols.[381] Whistleblowers took the risk of disclosing public health matters with little regard for the negative consequences for themselves. The following section analyses the legislative efforts adopted by the UK government to mitigate the spread of the coronavirus and the steps whistleblowers took to report misconduct.

2.10.1. Analysis of the Role of Whistleblowers During the Coronavirus Era in the UK

The increased number of reported misconducts during the outbreak of the coronavirus pandemic made it pertinent to ascertain whether employers in both the public and private sectors adhered to appropriate legal obligations to protect employees who blow the whistle.[382] In the UK, the Health and Safety at Work Act 1974 and the Management of Health and Safety at Work Regulations 1999 constitute a well-developed legal framework that obligates employers to protect the health and safety of employees, which existed before the coronavirus outbreak. The UK government enacted the Coronavirus Acts 2020, which, together with regular guidance provided, aimed to assist in enforcing the policies that would reduce the spread of coronavirus. As in other countries, measures such as social distancing[383] were also introduced to protect the health and safety of the population. Information disclosed by the whistleblowers amounts to protected disclosures where there is a reasonable belief that the organisation has failed, is failing, or is likely to fail to comply with section 43(1)(b) ERA 1996. For example, a complaint by a key worker, such as an NHS or a supermarket employee, that insufficient PPE is being provided could have been a protected disclosure relating to Health

[380] V. Abazi, 'Truth Distancing? Whistleblowing as Remedy to Censorship During COVID-19' (2020) 11 European Journal of Risk Management 375, 380.
[381] Gagnon and others (n 20) 4142.
[382] L. Rodgers, 'Whistleblowing Protection and Raising Health and Safety Issues in the Pandemic: A Legal Analysis' (2024) 3 Japan Work Health Safety Regulation 40, 42.
[383] J. Wu, X. Font and C. McCamley, 'COVID-19 Social Distancing Compliance Mechanisms: UK Evidence' (2022) 205 Environmental Research 1, 2.

and Safety failures under the above-mentioned legislation.[384] The onus is on the whistleblower to ensure that said information leads to a qualifying disclosure to be protected under the legislative framework outlined in section 43B of the 1996 Act. In the UK, NHS medical professionals were gagged[385] and threatened with disciplinary action for highlighting serious misconduct that occurred in their organisations.[386] Restrictions on the whistleblowers' right to freedom of speech through intimidation, social media monitoring, and disciplinary action may have contravened Article 10 ECHR.[387]

Some restrictions on the right to freedom of speech may legitimately be permissive based on the duty of loyalty that employee has towards their employer, but not all such restrictions were, in fact, illegitimate. In the case of *Heinisch v Germany*[388], the Court of Human Rights discussed the termination of the plaintiff's employment contract after she complained to the employer about alleged deficiencies in care services for older people due to inadequate staff. The ECtHR ruled that the approval by German labour courts of the dismissal violated the plaintiff's freedom of expression under Article 10 of ECHR. The German labour court emphasised the employer's business reputation and commercial interests. It thus deemed the plaintiff's disclosure to the public authority a breach of the duty of loyalty towards the employer. The provision of equipment, such as PPE, to employees by their employers was fundamental to the level of preparedness in which protection was accorded to whistleblowers during the coronavirus outbreak.

Employees in England and Wales have the right to appropriate PPE under section 4(1) of the Personal Protection Equipment at Work Regulations 1992. The legislation compels employers to provide protective equipment to ensure employees are not exposed to health or safety risks at work. The government's inability to fulfil its legal obligations to provide PPE to frontline healthcare employees was a substantive operational failure.[389] This systemic failure to provide equipment was highlighted in the case of *Long v Secretary of State for Defence.*[390] In this case,

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[384] A. Mayhew, S. Nicholls and J. Platts-Mills, 'Whistleblowing in a Coronavirus (COVID-19) World' (*Devereux, 9 April 2020*), <http://www.devereuxchambers.co.uk> Accessed 2 September 2025.

[385] D. Campbell, 'NHS staff 'gagged' over coronavirus shortage' *Guardian* (London, 31 March 2020), <https://www.theguardian.com/society/2020/mar/31/nhs-staff-gagged-over-coronavirus-protective-equipment-shortages> accessed 2 September 2025.

[386] R. W. Law, S. Kanagasingam and K. A. Choong, 'Sensationalist Social Media usage by doctors and dentists during Covid-19' (2021) 7 Digital Health 1, 2.

[387] G. Letsas and V. Mantouvalou, COVID-19 and free speech: 'gagging' NHS staff is not proportionate and lawful' (2020) British Politics and Policy at LSE 1, 1.

[388] Article 626 § 1 of the Civil Code.

[389] H. Y. Chan, 'Hospitals' Liabilities in Times of Pandemic: Recalibrating the Legal Obligation to Provide Personal Protective Equipment to Healthcare Workers' (2020) 42 Liverpool Law Review 186, 187.

[390] *Long v Secretary of State for Defence* [2014] HRLR 17.

the plaintiff was the mother of a British soldier who was killed in Iraq during his patrol duty in June 2003. Before the killing, the commander of the Battle Group issued a warning that patrols should be equipped with satellite phones. Similarly, the employer's failure to provide adequate PPE for employees to undertake their duties effectively during the coronavirus pandemic breaches the Provision and Use of Work Equipment Regulations 1998 (PUWR), amended in January 2021 after Brexit.

To secure protection under ERA 1996, whistleblowers are prescribed under section 43C (1) to disclose misconduct to their employer in good faith through internal reporting channels.[391] However, during the coronavirus outbreak, front-line workers initially made internal disclosures to their line managers and requested equipment, such as gloves and PPE, when they experienced shortages. The inaction of the employers was partially attributed to the global shortage, which resulted in difficulty in meeting these requests, thereby forcing employees to highlight such problems externally. Healthcare professionals were silenced and threatened with disciplinary action for reporting to third parties, such as media outlets.[392] Some NHS Trusts sent an e-mail forbidding all staff from making statements to the media, and there were instances where staff social media accounts were monitored.[393]

Arguably, protection for whistleblowers in the UK needs to be adjusted to be fit for purpose when challenges, such as the coronavirus crisis, arise. A system must be put in place to support and protect whistleblowers who come forward to report flaws in their organisations. PIDA is a rather reactive legislation that deals with reported misconduct only when matters are escalated to court before any action is taken to address the concern. PIDA's provisions were not helpful during the coronavirus era, as employees could not follow the stipulated process of reporting misconduct. The next section analyses the impact of the coronavirus pandemic in the US and the critical roles played by whistleblowers in reporting misconduct during the crisis.

2.10.2. Analysis of the Role of Whistleblowers in the US During the Coronavirus Era

The US government had an elaborate set of response plans before the report of suspected human-to-human coronavirus transmission in January 2020.[394] Challenges faced during the

[391] D. Kostakopoulou, 'J'accuse: Whistleblowing, Critical Citizenship and the EU Directive on Whistleblowers' Protection' (2024) 46 Journal of European Integration 477, 479.
[392] S. Johnson, 'NHS staff forbidden from speaking out publicly about coronavirus' *Guardian* (London, 9 April 2020), < https://www.theguardian.com/society/2020/apr/09/nhs-staff-forbidden-speaking-out-publicly-about-coronavirus> accessed 2 September 2025.
[393] Ibid.
[394] N. Knauer, 'The Federal Response to COVID-19: Lessons from the Pandemic' (2022) 73 Hastings Law Journal 49, 89.

coronavirus pandemic included a lack of diagnostic testing kits, a shortage of PPE for healthcare workers, and the provision of vaccines.[395] The Trump administration was slow to respond to the public health crisis or implement any of the plans despite all the national security warnings. Valuable time was lost as federal officials downplayed the coronavirus risk and repeatedly assured the citizens that the virus would 'go away.'[396]

There was a relentless effort by whistleblowers in the US to expose serious flaws regarding insufficient resources in the health system to manage the spread of the coronavirus. However, whistleblowers were pressured to remain silent or disciplined for reporting inadequacies in their organisations. Many whistleblowers were dismissed for speaking out during the coronavirus outbreak. For example, in Seattle, an emergency room physician was fired after giving an interview to a newspaper about inadequate protective equipment.397 Also, a nurse in Chicago was dismissed after her request for better equipment.[398] Every major private hospital in New York, the epicentre of the coronavirus crisis in the US, sent memos to employees, ordering them not to speak with the media.[399] Apart from constraining the employees' freedom to speak about the coronavirus pandemic, workers were dismissed for expressing their concerns about working conditions. The federal and state governments took proactive measures to improve the level of protection accorded to whistleblowers as they continued to report misconduct.

Section 741 of New York Labour Law was passed in October 2021, which expanded protection for whistleblowers in reaction to the rise in retaliation. This new law prohibited retaliatory action statute of limitation and obliged employers to inform employees about whistleblower protection.[400] Protection was accorded to private and government contractors who reported fraud, misuse of power and other misconduct relating to coronavirus funds. The Act prohibited employers from dismissing, demoting, or discriminating against employees who disclose misconduct to the appropriate authorities.[401] Healthcare workers who blew the whistle on their

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[395] A. Khazaei and others, 'Exploring the Challenges of Emergency Medical Service Providers in the Initial Phase of the COVID-19 Pandemic: A Qualitative Content Analysis' (2024) 24 BMC Emergency Medicine 1, 6.

396 D. Wolfe and D. Dale, 'It's Going to Disappear' A Timeline of Trump's Claim that Covid-19 Will Vanish' (*CNN 31 October 2020*), <http://www.cnn.com> accessed 2 September 2025.

[397] R. Judd, 'Bellingham hospital confirms firing ER doctor who criticized its coronavirus response' *The Seattle Times* (Seattle, 6 April 2020), <https://www https://www.seattletimes.com/seattle-news/health/bellingham-hospital-confirms-firing-er-doctor-who-criticized-its-coronavirus-response> accessed 2 September 2025.

[398] R. Nelson, 'Lack of Protective gear disrupts oncology care' (2020) 21 The Lancet Oncology 631, 632.

399 N. Scheiber and B Rosenthal, 'Nurses and Doctors Speaking Out on Safety Now Risk Their Job' *The Times* (York Times, 27 April 2020), <http://www https://www.nytimes.com/2020/04/09/business/coronavirus-health-workers-speak-out.html> accessed 2 September 2025.

[400] Section 740 New York Labour Law.

[401] Ibid.

employers before the amendments to sections 740 and 741 of the New York Labour Law were only protected from retaliation on the condition that their complaints presented a substantial and specific danger to the public health and safety, healthcare fraud, or improper quality care for patients.[402] The next section analyses the impact of coronavirus and the role played by whistleblowers who reported misconduct in the EU. The new reporting channels the new law outlines will offer better protection for whistleblowers when reporting misconduct. The next section analyses the role played by whistleblowers during the coronavirus era and the legislative efforts to protect them.

2.10.3. Analysis of the Role of Whistleblowers in the EU During the Coronavirus Era

The protection accorded to whistleblowers in EU Member States has been fragmented with uneven policies, leading to insufficient protection.[403] Harmonising whistleblower protection across the EU is necessary as fragmentation prevents effective protection for whistleblowers. To qualify for protection under the EU Whistleblower Directive, whistleblowers should report misconduct internally and externally if they have reasonable grounds to believe that the breach of EU law may constitute an imminent or manifest danger to the public interest.[404] It is worth noting that whistleblower's freedom of speech was curtailed in some EU Member States in their efforts to report necessary information pertaining to insufficient resources to contain and manage the spread of the coronavirus. For example, a medical professional in Poland was dismissed for reporting missing masks and equipment.

Whistleblowers who reported their concerns about the lack of PPE during the coronavirus outbreak ought to be protected under Article 3 of the PPE Directive. Equipment is essential to safeguarding public health, improving safety at work and ensuring users are protected against injuries and illness.[405] Most EU Member States failed to meet the deadline for the transposition of the Whistleblower Directive. France transposed the Whistleblower Directive in March 2022, making the country a leading Member State that has fully incorporated it into local law. This is the reason for placing more emphasis on discussing France compared to other Member States, which have yet to transpose the Whistleblower Directive into their local law.

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[402] Abazi, (n 380) 379.
[403] H. C. Scheu, 'Pitfalls in Implementing the EU Whistleblowing Directive' (2024) 14 Wroclaw Review of Law, Administration and Economics 52, 55.
[404] Article 15(1)(b) EU Whistleblower Directive.
[405] L. Pecchia and others, 'The Inadequacy of Regulatory Frameworks in Time of Crisis and in Low-Resource Settings: Personal Protective Equipment and COVID-19' (2020) 10 Health and Technology 1375, 1376.

On 21 March 2022, the French legislators enacted a Whistleblower Protection law called Loi Waserman[406], which aimed to improve whistleblowers' protection and enhance the role of the Human Rights Defender in whistleblowing.[407] This part of the new law will increase transparency in the fight against corruption and will facilitate the modernisation of the economic life of EU citizens. The new law defines the whistleblower as a "natural person who reports or discloses, without direct financial compensation and in good faith, information relating to a crime, misdemeanour, threat or damage for the general interest."[408] The new law offers appropriate safeguards that cover the secrecy of national defence, medical secrecy and judicial deliberations. Anti-retaliatory measures to protect whistleblowers are extended to include, amongst other things, exemption of whistleblowers from criminal liability for disclosing information containing confidential information as well as protection against civil liability for the damage inflicted on an organisation due to the disclosure. Furthermore, whistleblowers who report anonymously can be afforded protection.[409]

Firstly, the new law intends to further improve the protection of whistleblowers by introducing new anti-retaliation measures that prohibit coercion, intimidation, harassment or ostracism, discrimination, disadvantageous or unfair treatment, and improper referral for psychiatric or medical treatment. The new law also extended certain protections to "facilitators," defined as individuals associated with the whistleblowers. The new law strengthened whistleblower protection in the case of judicial proceedings. The judge can grant an advance for the cost (plaintiff expense) of proceedings to whistleblowers who present evidence showing the reason for their prosecution hinged on the public disclosure of misconduct. Whistleblowers can also seek financial assistance when their finances have severely worsened due to the disclosure, and the judge can grant an advance over their maintenance. The provision attracts a higher civil fine under ordinary law of €60,000 to prevent whistleblowers from criminal prosecution for defamation.

Additionally, the new law changes the reporting procedure by removing the hierarchy of reporting channels and requires companies to update their internal whistleblowing system. Whistleblowers can now report immediately through internal and external channels set up by competent authorities comprising judicial institutions, bodies and agencies of the EU. Organisations must diversify their reporting channels by providing an online whistleblowing

[406] Law No. 2022-401.
[407] Law No. 2022-400.
[408] Law No. 2022-401, Art (6)(I).
[409] Law No. 2022-401, Art (6) (II).

system and a physical post box. Companies with over 50 employees, administrations with more than 50 agents, and municipalities that have over 10,000 residents are required to have procedures for reporting misconduct. With the new law, whistleblowers can report misconduct anonymously through internal channels or externally.

2.11 Conclusion

This chapter starts with an analysis of the common policies adopted to contain the spread of the coronavirus. After examining the common policies endorsed by the governments of the three jurisdictions, the chapter proceeded to compare the political, economic, technological, environmental, and legal measures implemented in each jurisdiction that mitigated the spread of the coronavirus pandemic. In the analysis, the chapter discussed retaliation faced by whistleblowers. Some countries responded quickly and effectively contained the virus, while others were slower due to various reasons. It is fair to acknowledge that initial carelessness by governments and their failure to recognise the severity of the coronavirus pandemic promptly played a role. The most effective measure implemented during the outbreak, which significantly slowed or reversed the spread, was the immediate isolation of infected individuals. Testing, contact tracing, social distancing, and consistent handwashing also contributed to reducing infections. However, the most effective policy that eventually curtailed the spread of the virus was the introduction of the coronavirus vaccination.

Given the circumstances that led to the lack of pandemic preparedness, governments must enact proactive policy measures aimed at upgrading the healthcare sector globally to prevent future health crises. Many governments have allocated insufficient funding to their healthcare systems, thereby impeding their capacity to manage the coronavirus pandemic effectively due to shortages in material and human resources. The disparity observed in mortality rates during the pandemic has distinctly suggested to governments worldwide that a transition from the current paradigm, which marginalises certain groups within their populations, is necessary. Governments are required to implement economic policies that will empower marginalised members of society, as pervasive structural and systemic issues have adversely affected the well-being of disadvantaged populations. The next section defines the concept of whistleblowing from both the theoretical and legislative perspectives. The definition is essential in determining the level of protection that may be accorded to whistleblowers.

Chapter 3: Defining Whistleblowing

3.1 Introduction

The discourse about whistleblowing continues to be a dominant and arduous theme in business ethics for organisations, governments, and society.[410] There are numerous definitions of whistleblowing, but no universally accepted one exists.[411] Nonetheless, the commonality of the definitions hinged on the fact that whistleblowing entails disclosing entrusted information that would otherwise not be revealed by an organisation.[412] To avert something deplorable, whistleblowers risk facing reprisal for reporting unethical behaviour.[413] According to the standard theory, "People have a moral obligation to prevent serious harm to others if they can do so with little cost to themselves".[414] The standard theory postulates the concepts of ethics and moral obligation to prevent harm to others when the cost to oneself is minimal, thus guiding the determination of what is morally permissible and morally required.

The following explanation delineates the concept of standard theory. The organisation to which the potential whistleblower is employed will, through its product or policy, cause serious and significant harm to the public, including users of its product, innocent bystanders, or the general public. The potential whistleblower has identified this threat of harm, reported it to their immediate superior, and explicitly articulated both the nature of the threat and their objections to it, concluding that the superior will not undertake effective action. The potential whistleblower has exhausted other internal procedures within the organisation, such as advancing through the management hierarchy to the extent permitted and utilising all reasonable internal channels, considering the danger to others and her own safety. According to standard theory, whistleblowing is morally obligatory when, additionally, the potential whistleblower possesses or has access to evidence that would persuade a reasonable, impartial observer of the correctness of her view of the threat, and she has sound grounds to believe that disclosure of the threat will likely prevent the harm at a reasonable cost.[415]

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[410] A. Quayle, 'Whistleblowing and accounting for the public interest: a call for new directions' (2021) 34 Accounting, Auditing & Accountability Journal 1555, 1562.
[411] N.O. Okafor and others, 'Deployment of whistleblowing as an accountability mechanism to curb corruption and fraud in a developing democracy' (2020) 33 Accounting, Auditing, and Accountability Journal 1335, 1337.
[412] P. Arroyo, L. Berger and N. Samili, 'Navigating Between Control and Trust: The Whistleblowing Mindset' (2024) 10 Journal of Business Ethics 1, 2.
[413] J. Khan and others, 'Examining Whistleblowing Intention: The Influence of Rationalisation on Wrongdoing and Threat of Retaliation' (2022) 19 Internal Journal of Environmental Research and Public Health 1, 3.
414 I. M. Mkheimer and others, 'Can hotel employees arise internal whistleblowing intensions? Leader ethics, workplace virtues and moral courage' (2023) 32 European Journal of Management and Business Economics 203, 206.
[415] M. Davis, 'Some Paradoxes of Whistleblowing' (1996) 15 Business and Professional Ethics Journal 1, 7.

This asserts that adequate conditions are presumed to be cardinal to the justification for whistleblowing. One of those conditions concerning would-be whistleblowers is that the organisation's policy could cause serious and considerable harm to the public. Furthermore, would-be whistleblowers have taken a proactive step in reporting the identified threat of damage to the management, by indicating the extent of the threat and the opposition to the fact that the management would not make any change. Finally, would-be whistleblowers have expanded the internal procedures to deal with the misconduct that is dangerous to the organisation and the public.[416]

In seeking to analyse various definitions of whistleblowing, it is paramount to understand the premise under which a whistleblower is protected. Therefore, defining whistleblowing creates a formidable basis for this research, as the clarification determines the acceptable level of protection to whistleblowers. Equally, from the definitions, one can extrapolate the extent of reprisals whistleblowers face and the level of legal protection. From an organisational perspective, most organisations consider whistleblowing a significant threat to their operations. However, with increased government regulation[417] to mitigate high-profile misconduct reported by whistleblowers,[418] many organisations have embraced whistleblowing as a system for improving self-regulation.[419] The contrast between organisations that object to whistleblowing and those that accept it is embedded in the organisations' concern about either external (timidity) or internal (accepting) whistleblowing.[420] Notably, whistleblowing can be an overwhelming self-regulatory instrument in the principal-agent[421] relationship for identifying, developing, encouraging and supporting whistleblower alignment to organisational objectives. Nevertheless, in the absence of a structure to deal with misconduct swiftly and satisfactorily, it would be challenging for organisations to accept and support whistleblowers.[422]

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[416] H. K. Duong and others, 'Can Whistleblowing Improve Organisational Effectiveness? Evidence from Financial Reporting Misconduct' (2025) 0 Journal of Accounting Auditing & Finance 1, 3.
[417] H. Khemakhem and others, 'Whistleblowing regulations and the role of audit committees: insight from interviews' (2023) 27 Journal of Management and Governance 131, 143.
[418] T. J. Roulet and R. Pichler, 'Blame Game Theory: Scapegoating, Whistleblowing and Discursive Struggles Following Accusations of Organisational Miscount' (2020) 1 Organisation Theory 1, 3.
[419] V. Brand, 'Corporate whistleblowing, smart regulation, and regtech: The coming of the whistlebot?' (2020) 43 The University of New South Wales Law Journal 801, 804.
[420] Ibid.
[421] M. Masyhuri, 'Can the Behavioural Agency Model Refine a Standard Agency Theory' (2024) 6 Journal of Enterprise and Development 300, 301.
[422] D. R. Clark, 'Embracing whistleblowing for enhanced firm self-regulation' (2023) 66 Business Horizons 817, 818.

This chapter analysed the definitions of whistleblowing by legislators and theorists to determine how whistleblowers are protected. Apart from the theoretical definition of whistleblowing, the concept is also a potent system for disclosing misconduct that has motivated governments to promulgate legislation that protects and financially incentivises whistleblowers to share in recovered fines.[423] The legal definition of whistleblowing elucidated how legislators promulgate laws that protect whistleblowers when they report inappropriate activities in organisations with privileged information. This chapter not only defined whistleblowing but also explains the relevance of the legislative systems that protect whistleblowers in the UK, the US, and the EU Member States. Both definitions clearly set out the scope, outline what constitutes a protected disclosure, the person who can be protected, and the prescribed channel of reporting misconduct through internal or external reporting.

Recurring incidents of retaliatory actions against whistleblowers during the coronavirus era have shed further light on whistleblowing. Making the role of whistleblowers socially acceptable due to their involvement in revealing important information that otherwise would not have been available in the public domain.[424] From the definitions, the research identified relevant gaps in the literature, which in turn, offer opportunities for future research. This chapter of the thesis is divided into seven parts. Section 1 defines whistleblowing, Section 2 discusses the theorists' definition, and Section 3 looks at the legislative definition of whistleblowing. Section 4 distinguished between whistleblowing and leaking, and Section 5 discussed the stories of COVID-19 Whistleblowers in the three jurisdictions. Section 6 compares the analysis of the scope of the definitions. Section 7 examines the factors that incentivise whistleblowers to blow the whistle.

3.2. The Definition of Whistleblowing

The term 'whistleblowing' has proliferated and gained prominence in headlines, making its use acceptable in diverse contexts in which unethical behaviours are exposed. Several researchers have enunciated whistleblowing's characteristics, theoretical concepts, and processes[425] to concretise ethicality as part of legislative constructs and corporate policy. There is a clear distinction in the definitions by theorists and legislators for whistleblowing

[423] Andon and others, 'The Impact of Financial Incentives and Perceptions of Seriousness on Whistleblowing Intention' (2018) 151 Journal of Business Ethics 165, 167.
[424] U. Radulovic, 'Motives and Identities: Why South African Whistleblowers Spoke Out About State Capture' (2024) 32 Administratio Publica 50, 52.
[425] M. Segon, C. Booth and A. Roberts, 'Are HRM Practitioners required to possess Competence in corporate ethics? A content analysis of qualifications in Australia and Asia' (2024) 13 Asian Journal of Business Ethics 21, 30.

protection. Some theorists have focused on moral judgment in whistleblowing, which is bound in the philosophical concept of utilitarianism[426], altruism and justice. This research analyses the definitions from legislators and theorists to determine the ambit of how whistleblowers are protected.

3.1.1. Theorist's Definition of Whistleblowing

The earlier definitions of whistleblower positively shaped the narrative of subsequent definitions by scholars, as they concurred with some elements. However, in 1992, Miceli and Near put forward another definition of whistleblowing that has proven to be very influential and widely recited because it covered whistleblowers' behaviours and has become widely accepted. Miceli and Near opined that whistleblowing is a convoluted process by which members of the organisation (present or former) report information about inappropriate practices (which the employer is cognizant of) to persons or organisations that can take steps to remedy the misconduct.[427] The scholarly definitions crystallised several views, such as the employee's relationship with the employer, the level of trust to report misconducts internally or externally for changes to occur, growing awareness of inherent dangers when misconducts are reported, and, most importantly, the desire to protect the general public.

3.1.2. Analysis of the Definitions

The analysis is based on the five scholarly definitions of whistleblowing as outlined in section 1.2 of the thesis. The definitions are segmented into four core areas, namely, disclosure, employee, public interest and wrongdoing. This is done merely for critical analysis in order to ascertain their similarities and dissimilarities. All the definitions essentially embraced reporting of wrongdoing either internally or externally.[428]

When the employee, as an insider who is entrusted with sensitive information of the organisation, blows the whistle on the employer, some consider the action as a betrayal of trust and loyalty to their organisation.[429] In consensus, whistleblowers are caught between complying with the morality of principle versus the morality of loyalty; regardless, they usually

[426] U. Iyioke, Appraising Utilitarian and Deontological Ethics for Public Policy Framers' (2024) 12 Journal of Languages, Linguistics & Literature 93, 105.
[427] Miceli and Near (n 27*)* 15.
[428] S. Liu, J. Liao and H. Wei, 'Authentic Leadership and Whistleblowing: Mediating Roles of Psychological Safety and Personal Identification' (2015) 131 Journal of Business Ethics 107, 109.
[429] N. Ben-Yehuda, *Betrayals and Treason: Violations of Trust and Loyalty* (Routledge 2018), 13.

conform to the former with the notion of acting in the best interest of the public.[430] Researchers further asserted that the reporting of misconduct is a determinant of its various types. The likelihood of non-reporting increases when employees perceive that no remedial action will be undertaken. Moreover, when misconduct appears to be more systemic and involves senior management, the probability of reporting diminishes considerably.[431] The fundamental element of all the above definitions is the general agreement to disclose organisational wrongdoing to those capable of effecting action.[432] Wrongdoing within the organisation may encompass various forms of misconduct, including, but not limited to, criminal activity, miscarriage of justice, misuse of public funds, maladministration, and pose risks to the health or safety of individuals.[433]

In essence, organisational misconduct encompasses any illegal or unethical conduct within a professional environment. Numerous authors on whistleblowing advocate for the restriction of wrongdoing disclosures to prevent unauthorised dissemination of information.[434] The allegation of treachery against the whistleblower predominantly pertains to an unauthorised disclosure. Three principal criteria have been identified whereby disclosure may be deemed unauthorised: First, the sensitive nature of the information, particularly where confidentiality or secret clauses are involved. Second, if the employee involved is not considered sufficiently senior to make such disclosures. Third, if the employee neglects to follow the correct reporting channels to the appropriate recipient, the disclosure may be regarded as unauthorised.[435]

Another commonality among the definitions is the employee or former employee who can report organisational misconduct. The requirement for former members and members of an organisation to make a disclosure is extended by many authors.[436]

Individuals such as volunteers, unpaid trainees, subcontractors, and consultants who provide services to an organisation are excluded from certain definitions of whistleblowing, as they are not employees and therefore are not recognised as whistleblowers. However, there is a

[430] T. Uys and A. Senekal, 'Morality of Principle versus Morality of Loyalty: The Case of Whistleblowing' (2008) 3 African Journal of Business Ethics 38, 40.
[431] J.P. Near and others, 'Does Type of Wrongdoing Affect the Whistle-blowing Process?' (2004) 14 Business Ethics Quarterly 219, 227.
[432] T. Uys, 'The Politicisation of Whistleblowers: A Case Study' (2000) 9 Business Ethics: A European Review 259, 262.
[433] D. Z. Nayir, M. T. Rehg and Y. Asa, 'Influence of Ethical Position on Whistleblowing Behaviour: Do Preferred Channels in Private and Public Sectors Differ?' (2018) 149 Journal of Business Ethics 147, 148.
[434] M.P. Glazer and P.M. Glazer, *The Whistleblowers: Exposing Corruption in Government and Industry* (Basic Books 1989), 286.
[435] T. Uys, 'Challenges in the Sociology of Business Ethics: Researching Whistleblowing' (2011) 5 African Journal of Business Ethics 50, 52.
[436] Miceli and Near (n 27) 332.

consensus among theorists that a whistleblower could be an individual who has previously been affiliated with an organisation.[437] One of the authors refers to ‘‘a person who has or had privileged access to data or information of an organisation’’.[438] Similarly, employees can come forward and disclose information about unethical activities of other employees that may not be known or supported by the organisation. While there is a positive intention to encourage reporting of misconduct within an organisation, some executives demand “submissiveness and obedience” and “do not want to hear any more bad news”.[439] Organisations may implement whistleblowing policies; however, their effectiveness hinges on whether employees are aware of these policies and believe that senior management supports them.[440]

Additionally, in the context of employees, some authors define a whistleblower.[441] As an individual whose professional responsibilities necessitate the disclosure of information pertaining to misconduct. It becomes problematic to distinguish between what constitutes a functional requirement and what qualifies as whistleblowing. To reduce the complication, other authors[442] have argued that the definition of whistleblowing should be limited to individuals who bypass prescribed channels to report misconduct. Conversely, additional studies have indicated that role-prescribed whistleblowers are often subjected to victimisation similar to that experienced by non-role-prescribed whistleblowers.[443]

Although all the agreed-upon elements are outlined, differences exist regarding definitions. The main distinction among the definitions is between internal and external whistleblowing. Internal disclosure is excluded in some of the author’s definitions. [444] Other authors include both internal and external channels for reporting organisational misconduct. Many organisations view the inclusion of direct external reporting negatively. It is argued that initial internal reporting by whistleblowers allows the organisation to address the issue.[445] Whistleblowing continues to occur when the individual preceding the designated internal or external channels of communication opts to approach an external agency, such as the media.

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[437] J. Young and others, ‘The Impact of anonymous, two-way, computer-mediated communication on perceived whistleblower credibility’ (2021) 34 Information Technology & People 1119, 1120.
[438] Jubb (n 30) 84.
[439] L. Hugh, *The Oxford Handbook of Practical Ethics* (Oxford University Press 2003) 542.
[440] G. Vega and D.R. Comer, ‘Sticks and Stones May Break Your Bones, but Words Can Break Your Spirit: Bullying in the Workplace’ (2005) 58 Journal of Business Ethics 101, 107.
[441] Miceli and Near (n 27) 332.
[442] J. Rothschild and T.D. Miethe, ‘Whistle-blower Disclosures and Management Retaliation: The Battle to Control Information about Organization Corruption’ (1999) 26 Work and Occupations 107, 120.
[443] T. Uys, ‘Rational Loyalty and Whistleblowing: The South African Context’ (2008) 56 International Sociological Association 904, 906.
[444] Jubb (n 30) 84.
[445] H. Hosain, ‘Unethical Pro-organisational Behaviour: Concepts, Motives and Unintended Consequences’ (2019) 15 Asia-Pacific Journal of Management Research and Innovation 133,134.

The expectation is that whistleblowers will initially utilise internal reporting procedures for illegal or immoral activities before disclosing misconduct externally. Additionally, studies have indicated that external reporting channels are likely to be considered when there is a compelling indication that internal reporting would not result in a favourable outcome.[446]

In conclusion, most definitions emphasise the importance of disclosure of information in the interest of the public. De Maria's definition of whistleblowing describes it as a deliberate act aimed primarily at protecting public interest, consistent with other theoretical definitions. Reporting instances of misconduct, such as environmental violations like illegal dumping of toxic waste or corruption within public institutions, serves to advance public interest.[447]

Nevertheless, the issue arises when employers do not consider the disclosure to serve the public interest or perceive the disclosure as confidential.[448] The primary distinction in De Maria's definition pertains to the motive behind whistleblowing. Additionally, Bowie and Duska concur within their definitions and statements that "whistleblowing is carried out with an appropriate moral motive…".[449] However, some argue that the motive for whistleblowing is open to interpretation and cannot be solely attributed to personal interest as a justification for whistleblowing.[450] The term 'whistleblowing' is merely an informal expression that is often used interchangeably with the term 'disclosure',[451] and there is no universally accepted definition. However, the definition provided by Near and Miceli encompasses many aspects of the topic, so it will be adopted for this thesis. Therefore, further scrutiny of the definition will be conducted to establish its relevance to the thesis. Near and Miceli's definition of whistleblowing identifies four key processes: the whistleblower, the wrongdoing, the organisation, and the recipient of the complaint.

According to the definition, a former or current employee may choose to disclose misconduct within an organisation for various reasons. Loyalty can serve as a fundamental motivation to act in accordance with the organisation's mission, goals, values, and codes of conduct, ensuring organisational effectiveness.[452] Importantly, whistleblowing can also be regarded as an act of

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[446] R.L. Sims and J.P. Keenan, 'Predictors of External Whistleblowing: Organizational and Intrapersonal Variable' (1998) 17 Journal of Business Ethics 411, 413.
[447] A. Mansbach, 'Political Surplus of Whistleblowing: A Case Study' (2007) 16 Business Ethics: A European Review 124, 127.
[448] Ibid 125.
[449] Jubb (n 30) 88.
[450] Jubb (n 30) 90.
[451] Oireachtas Library and Research Service, '*Spotlight: Disclosure of Information: Duty to Inform and Whistleblowing*' (L&RS 2011) 2.
[452] T.D. Miethe and J. Rothschild, 'Whistleblowing and the Control of Organizational Misconduct' (1994) 64 American Journal of Industrial and Business Management 322, 347.

pro-social behaviour, with a clear intention of benefiting others, such as colleagues and the general public. A whistleblower may choose to report misconduct due to their perceived inability to influence organisational change. Conversely, endorsing whistleblowing within an organisation can potentially have negative implications. For instance, challenging established authority structures could disrupt the control system, thereby undermining management's authority to delegate, which may result in disorder.[453] A whistleblower can utilise anonymous reporting to prevent retaliation. However, it may impact the credibility of the disclosure. The responsibilities of a whistleblower might require them to report misconduct, yet they can also be pressured not to reveal any wrongdoing.

Another significant aspect of the definition pertains to the nature of the misconduct and the potential repercussions, which largely influence the decision to report such actions. The characteristics of the misconduct can substantially affect the choice to disclose any wrongful behaviour.[454] Before whistleblowing, the perceived gravity of the misconduct may influence the decision to report, considering available options. Common types of wrongdoing encompass, but are not limited to, violations of criminal law, regulatory breaches, actions leading to physical harm, and financial damage.[455] Violations of significant magnitude would probably attract whistleblowing. While some members of the organisation could tolerate the prevalence of illegitimate acts, whistleblowers would oppose such occurrences. A further fundamental element of the definition is the type of organisation in which the misconduct is reported. Responding to whistleblowing in an organisation varies considerably, as responses in the private sector differ from those in the public sector, which can be attributed to sector-specific culture.[456]

Organisational effectiveness[457] can be assessed by the way it addresses whistleblowing; reported misconduct that is responded to promptly can rectify wrongdoings swiftly and foster employee confidence. However, an unfavourable working environment characterised by a dismissive attitude may discourage whistleblowing. Consequently, employees may face restrictions and remain silent in reporting misconduct, particularly when an organisation is

[453] J.P. Near and M.P. Miceli, 'Organizational Dissidence: The Case of Whistle-blowing' (1985) 4 Journal of Business Ethics 1, 10.
[454] J.R. Mesmer-Magnus and C. Viswesvaran, 'Whistleblowing in Organizations: An Examination of Correlates of Whistleblowing Intentions, Actions, and Retaliation' (2005) 62 Journal of Business Ethics 277, 282.
[455] Roulet and Pichler (n 418) 4.
[456] Miceli and Near (n 27) 4.
[457] Rothschild and Miethe, (n 442) 339.

intolerant of dissent. Conversely, organisations that promote whistleblowing are likely to enhance their operational effectiveness.[458]

The final component in evaluating the definition pertains to the way misconduct is reported internally within the organisation, whether to a supervisor, colleagues, or a designated entity such as an ombudsperson. On some occasions, when disclosures are made to external bodies such as government agencies, the media, or law enforcement, this process is referred to as external whistleblowing. This aspect of the whistleblowing procedure is of paramount importance, as the recipient of the complaint determines the subsequent course of action.[459] The response to a complaint may vary depending on whether it is received internally or externally. External recipients are typically expected to conduct a comprehensive investigation to ensure a positive resolution.

3.1.3 Criticisms associated with the Definitions

The authors identified crucial issues that can promote reporting of misconduct in an organisation; however, several other challenges were not acknowledged. Near and Miceli ignored moral ethics[460] view of whistleblowing. The scholars also referenced theories of motivation, power, and dependency in the study, but failed to emphasise the importance of financial rewards. Furthermore, defining whistleblowers as 'people without authority or legitimate power' who must rely on other informal bases of power to alter certain activities considered illegal, unfair, or inappropriate within their organisation is inaccurate, as senior auditors, board members, ombudsmen, or top management officials may themselves whistleblow on their own companies or employers, whether internally or externally.[461]

Near and Miceli discovered that whistleblowing predominantly transpires when employees or former employees possess evidence of organisational misconduct. This finding dismisses the notion that disclosures concerning perceived or actual misconduct are inappropriate for further investigation. Additionally, Near and Miceli observed that employers frequently exert pressure on employees, employing explicit or implicit threats of retaliatory actions to dissuade them from disclosing information to external authorities. Nonetheless, certain legal provisions

[458] J. P. Keenan, 'Whistleblowing and the First-level Manager: Determinants of Feeling Obliged to Blow the Whistle' (1995) 10 Journal of Social Behavior and Personality 571, 582.
[459] W. Vandekerckhove and A. Phillips, 'Whistleblowing as a Protracted Process: A Study of UK Whistleblower Journeys (2019) 159 Journal of Business Ethics 201, 203.
[460] W. M. Hoffman and M. S. Schwartz, 'The Morality of Whistleblowing: A Commentary on Richard T. De George' (2014) 127 Journal of Business Ethics 771, 772.
[461] K. Kenny, *Whistleblowing: Towards a New Theory* (Harvard University Press 2019), 296.

within whistleblower protection statutes address situations where an employee reports directly to external agencies, even if such actions contravene internal policies, provided that such laws are applicable.[462] Nonetheless, the scholars emphasised the importance of institutionalising hotlines to enable anonymous reporting.[463]Their work is fundamentally flawed for asserting that 'whistleblowing is an act of dissidence' and describing it as 'somewhat analogous to civil disobedience.[464]

In conclusion, whistleblowing is situated within a cultural and social context, where differences are rooted in values, beliefs, and social norms. Consequently, understanding the factors that influence whistleblowing decisions is of paramount importance. For instance, an individual may choose to proceed with whistleblowing following a cost-benefit analysis, considering potential retaliation if the perpetrator of the misconduct holds a high-ranking position within the organisation. Furthermore, this choice may be influenced by the organisation's attitude towards dissent or its provisions for employees in such circumstances. The subsequent section of this chapter explores the legislative definitions of whistleblowing in the three comparative jurisdictions analysed in this thesis.

3.3. Legislative Definition of Whistleblowing

With the legal definition of whistleblowing, the legislators promulgate laws that protect whistleblowers when they report inappropriate activities in organisations where they have privileged information. There is an increasing tendency to situate whistleblowing systems and policies through legislation to provide an array of lawful disclosure of information.[465]

As the punitive measures taken against whistleblowers, such as harassment, dismissal and persecution, become more imminent, it is only right to understand the legal definition of whistleblowing. This section deals with comparative analyses of legal definitions of whistleblowing that originated from the laws enacted by legislators, which formed the basic definitions that set out the scope that outlines what constitutes a protected disclosure, the person who can be protected, and the prescribed channel of reporting misconduct, either through internal or external reporting. The following section differentiates between the definitions of

[462] M. Kaptein, 'From Inaction to External Whistleblowing: The Influence of the Ethical Culture of Organizations on Employee Responses to Observed Wrongdoing' (2010) 98 Journal of Business Ethics 513, 517.
[463] R. Young, *An Empirical Examination of Psychological Climate and Internal Disclosure Policy Compliance* (Emerald Group Publishing Limited 2016), 135.
[464] M. H. Hamid and Z. Othman, 'Whistleblowing and Voicing Dissent in Organizations' (2015) 6 International Journal of Management Science 8, 12.
[465] T. Olesen, 'Democracy's Autonomy Dilemma: Whistleblowing and the Politics of Disclosure' (2021) 39 Sociological Theory 245, 259.

whistleblower and leaker as it determines whether a reported misconduct is a protected disclosure. More details of the legislative definition of whistleblowing are delineated in section 2.6.

3.3.1. The Distinction Between Whistleblowing and Leaking

The terms "whistleblower" and "leaker" are often used interchangeably, but each conveys distinct connotations, and their definitions[466] differ significantly. Understanding each definition is necessary to evaluate the stories of the COVID-19 whistleblowers discussed in this study. The definitions explored the constitutional considerations arising from whistleblowing or leaks. A whistleblower discloses wrongdoings to someone to stop the misconduct; thus, whistleblowers are legally protected. According to Björn Fasterling and David Lewis, "leaks refer to the situation where an insider gives ("leaks") an organisation's confidential or unpublished information to an outsider"[467] without necessarily disclosing wrongdoing. However, since whistleblowers also give outsiders inside information, there seems to be an inevitable overlap between the two terms.[468]

It is paramount to emphasise that, in the three jurisdictions of this study, there is no legislative protection for leakers if they disclose classified documents that can damage national security. For instance, in the UK, members of the security and intelligence agencies who make an unauthorised disclosure are subject to legal prosecution irrespective of whether their disclosure was harmful to national security.[469] At the same time, other government employees or even journalists may be penalised only when they make a 'damaging disclosure.[470] The ultimate question or the grey area is whether leakers should be characterised as heroes or traitors. In a dissimilar view, whistleblowers are lauded as heroic and courageous, while the latter are portrayed as traitors, informers, spies and snitches.[471] Evidence has shown how wrongly the terms 'whistleblower' and 'leaker' are used interchangeably, and this is a source of confusion for laymen and non-expert audiences.[472]

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[466] J.R. Arnold, *Whistleblowers, Leakers, and Their Networks: From Snowden to Samizdat* (Rowman & Littlefield 2020), 13.
[467] B. Fasterling and D. Lewis, 'Leaks, Legislation and Freedom of Speech: How can the Law Effectively Promote Public-Interest Whistleblowing?*'* (2014) 153 International Labour Review 71, 73.
[468] T. Olesen, 'The Birth of an Action Repertoire: On the Origins of the Concept of Whistleblowing' (2022) 179 Journal of Business Ethics 13, 15.
[469] I. Kampourakis, 'Protecting National Security Whistleblowers in the US and in the ECtHR: The Limits of Balancing and the Social Value of Public Disclosure' (2021) 46 Yale Journal of International Law 241, 244.
[470] Section 1(3), Official Secrets Act (1989).
[471] B. K. Richardson and J. McGlynn, 'Constructing the Heroic Whistleblower: A Social Scientific Approach' (2021) 6 Heroism Science: An Interdisciplinary Journal 1, 2.
[472] A. Kasner, 'National Security Leaks and Constitutional Duty' (2015) 67 Stanford Law Review 241, 242.

Arguably, one can applaud exemplary leakers acting in defence of the public interest without any financial motive, as employees in private and public establishments must stand against organisational wrongdoings.[473] Notwithstanding the underlying motives, the widening misconception of the term whistleblower or leaker arises, which proves that the definitions of 'public interest' differ hugely. Releasing information that would have otherwise been unknown to the public caused serious debates worldwide. Nonetheless, "officials, reporters, and publishers do not have the knowledge or the legitimacy to decide whether unauthorised disclosures are in the public interest".[474] The argument by governments in defence of national security can be asserted even when secrecy is illegal. However, contrary to the argument, the assertion will place the executive's national security determination beyond the law.[475] The exceptional focus on internal loyalty and trust disregards the loyalty public servants owe to society as a whole and their country's Constitution.[476]

Conclusively, whistleblowers are those who a) adhere to the designated procedures for reporting and b) whose disclosures refer to illegality and wrongdoing, as designated by the legislation. While leakers go beyond the boundaries of the institutional framework to expose misconduct that is not content-specific, they do not necessarily reveal wrongdoing. However, in the case of national security, the reporting mechanism is very restrictive and inefficient, making it necessary for individuals to take the risk of non-designated reporting. Leakers risked their lives like whistleblowers by disclosing unethical organisational activities that could impact society. The next section of the chapter is focused on the experience of the COVID-19 whistleblowers in connection with the protected disclosure and retaliation faced due to revealing important information about the coronavirus pandemic.

3.4. Stories of COVID-19 Whistleblowers from the Three Jurisdictions

Governmental agencies at all levels and civil servants have strived to serve the public with timely information and policies aimed at mitigating the spread of the COVID-19 pandemic from the onset of the outbreak. Informing the public about the appropriate and accurate COVID-19 data was critical, since the information helped individuals to make informed

[473] B. Scott, "Everyone freaks out when the leaks are made": data leaks, investigative journalism and intelligence practice (2024) 31 Journal of Financial Crime 545, 546.
[474] T. Stoco, 'National Security Whistleblowing, Reflections on the Rationale for Exempting from Criminal Liability the Unauthorised Disclosure of Classified Information for the Purpose of Exposing State Wrongdoing' (2024) 35 Criminal Law Forum 383, 388.
[475] Kampourakis (n 469) 343.
476 E. Ceva and M. Bocchiola, *Is Whistleblowing a Duty?* (John Wiley & Sons, 2019), 5.

decisions to save their lives and those of fellow citizens.[477] As mentioned earlier, the classic definition of whistleblowing that is appropriate for this study is the one proposed by Near and Miceli.[478] The definition has all the necessary attributes, such as a complaint receiver, external and internal whistleblowing channels, a public or private organisation, and disclosing wrongdoing.[479]

It is worth mentioning that whistleblowers often challenge the authority structure of an organisation, but it is essential to recognise that the challenges by whistleblowers are not an act of deviance or a breach of loyalty per se; the seriousness of the wrongdoing usually triggers the questioning and can indeed offer valuable information to improve organisational effectiveness and public safety.[480] Studies have identified five situations that may result in whistleblowing: unsafe working conditions, deviations from practice standards, unprofessional and harmful behaviours, failure to uphold customers' rights and management and organisational issues.[481]

The first-hand impact of COVID-19 misconduct experienced by healthcare employees created unprecedented moral distress,[482] resulting in increased whistleblowing and many experienced reprisals for their reports.[483] Disclosure by Doctor Li Wenliang, the primary COVID-19 whistleblower who reported about the nature of the virus on the Chinese messaging platform, WeChat, on 30 December 2029, and later died of COVID-19,[484] gave a strong indication that whistleblowing in the health care sector was not limited to geographical boundaries.[485] Employers made policies to prevent employees from making external disclosures to the media or posting on social media and warned of sanctions such as suspension and dismissal.[486] The essence of whistleblowing became imperative during the coronavirus era because of the

[477] S. H. Jeon and P. C. Exmeyer, 'Public Service in Times of Politicized Crisis: How Combatting COVID-19 Reveals Threats to Merit Principles' (2024) 26 Public integrity 98, 98.
[478] Miceli and Near (n 27) 15.
[479] P. Arroyo and N. Smaili, 'Whistleblowing academic research: historical perspective' (2025) 32 Journal of Financial Crime 117, 118.
[480] Gagnon and others (n 20) 4136.
[481] Ibid.
[482] P. Riedel and others, 'A Scoping Review of Moral Stressors, Moral Distress and Moral Injury in Healthcare Workers during COVID-19' (2022) 19 International Journal of Environmental Research and Public Health 1, 3.
[483] Rodgers (n 382) 45.
[484] Z. Li and others, 'Improving the Communication and Credibility of Government Media in Response to Public Health Emergencies: Analysis of Tweets from the WeChat Official Accounts of 10 Chinese Health Commissioners' (2022) 10 Frontiers in Public Health 1, 2.
[485] Gagnon and others (n 342) 4136.
486 F. D. LoMonte, 'What a Leak Becomes a Lifeline: Reinvigorating Federal Labor Law to Protect Media Whistleblowing About Workplace Safety' (2021) 19 Seattle Journal for Social Justice 693, 695.

immense pressure to silence employees. Still, the mortality rate continued to increase, and misconduct never ceased to occur.[487]

This section examines the stories of the COVID-19 whistleblowers within the context of protected disclosure. The section delves into the challenges and complexities inherent in conceptualising the reporting of misconduct by whistleblowers through the lens of whistleblowing definitions. The section aims to achieve a dual purpose: firstly, to offer a comprehensive understanding of the legal analysis and interpretation of the whistleblowing definition, and secondly, to elucidate the evolving legal standards and criteria governing whistleblowing in the context of protected disclosure.

3.4.1. Story of a UK COVID-19 Whistleblower

After a successful whistleblowing claim against the Department of Health and Social Care (DHSC), Doctor Rosalind Ranson was awarded a record claim of £3.2 million by the Isle of Man Employment and Equality Tribunal in May 2023. Dr Ranson was contracted as the medical director for the Isle of Man DHSC for a two-year term starting in January 2020.[488] There was agreement to transfer Dr Ranson service to Manx Care after the organisation would take over from the island's health service in April 2021 but she continued in her role with DHSC and moved into a "shell" job because she made numerous alleged protected disclosures relating to health and safety of the public during the coronavirus outbreak.[489] Subsequent to Dr Ranson's appointment in January 2020 as chief medical officer, she raised concerns about the Isle of Man's approach to handling of COVID-19. The Public Health England (PHE) underlying policy was to stop COVID-19 community testing and focus on delaying the spread of the virus[490], which Dr Ranson could not comprehend. She advocated for an early lockdown before any cases got to the island to avert the predicament of choosing who would be ventilated in the island's only hospital with an intensive care bed.

In part of the disclosure made, Dr Ranson warned that with an unmitigated spread of infection, the island hospital's Intensive Care Unit would reach capacity within six weeks of the first case. Dr Ranson communicated the view to close the borders through Kathryn

[487] T. Sharkawi and N. Ali, 'Acts of Whistleblowing: The Case of Collective Claim Making by Healthcare Workers in Egypt' (2020) Journal for and about Social Movement 139, 147.
[488] *Dr Ranson v DHSC*: [2022] ORD22/016
489 C. Dyer, 'Former Isle of Man Medical Director Wins Whistleblowing Case against Health Department' (2022) 377 British Medical Journal 1, 1.
[490] A. Martindale and others, 'Perspectives on COVID-19 Testing Policies and Practices: A Qualitative Study with Scientific Advisors and NHS Health Care Workers in England' (2021), 21 British Medical Council Public Health 1, 3.

Magson, the interim chief executive for the DHSC, to relay to the ministers. It became apparent that Magson was not passing her advice on to ministers making policies to mitigate the coronavirus pandemic. To be assured of the passage of the information, Ranson emailed Magson to ascertain that her six items of advice from the doctors had been passed on to the ministers. However, Magson's reply did not confirm the passage of the information; rather, her daybook itemised Rason as questioning her credibility. Dr Ranson reasonably believed the health or safety of the public is likely to be endangered from inaction if the concerns are not dealt with promptly.

The senior medical team of DHSC called to reverse the decision to cease community testing and close all borders except for essential travel from 22 March 2020 in compliance with Public Health England's policy.[491] When questioned during the press conference why the border was not closed earlier, the minister responded that he had not yet received advice from medical experts to go into lockdown. With other disclosures, Dr Ranson highlighted that changing the policy of Testing Pathway 2 for essential healthcare workers going into the Isle of Man to undertake a PCR (polymerase chain reaction) test on arrival date was unsafe. Furthermore, Dr Ranson forewarned that the graph adopted for the press briefings presents a delusive impression of the risk of an unstoppable virus spread.

In December 2020, Dr Ranson was notified that the medical director job with Manx Care would no longer be confirmed, but she would be left in the role with the DHSC, which the employment tribunal described as an "empty shell.[492] Dr Ranson was dismissed in January 2021, and she filed for unfair dismissal in April 2022. In evidence, Dr Ranson alleged that part of the reason for her ill treatment was because of the series of protected disclosure statements, under whistleblowing legislation. Dr Ranson asserted that her protected disclosures led to her being transferred to Manx Care, tantamount to automatic unfair dismissal.[493] With all the evidence, Dr Rason felt vindicated as a doctor. Her duty was to prioritise her patients and the public, but the campaign against her made it impossible for her to perform this duty, as her credibility and professionalism were undermined.[494]

Dr Ranson suffering from health issues, her reputation ruined, and her career destroyed. The reputational damages occurred from December 2020 until March 2021, which impacted Dr Ranson's image with her peers and damaged her career progression. She was given a

[491] P. W. Edge, 'A National Emergency or a Public Health Crisis? Reflecting on the 2020 and 2021 Manx Responses to the Global Pandemic' (2021) 3 A National Emergency or a Public Health Care 60, 65.
[492] Dyer, (n 489) 1.
[493] *Dr Ranson v DHSC*: [2022] ORD22/016
[494] Ibid,

different office with a broken chair, computer screen, and telephone, and the nameplate ceased appearing on the door. Dr Rason's personal belongings were moved to storage, and her personal assistant was transferred to another office without her being informed. She was never told to be under performance management, nor did she have performance-related problems.

The Manx employment and equality tribunal unanimously decided that Dr Ranson was dismissed for making "protected disclosure" when she attempted to advise the politicians that the island would be overwhelmed if lockdown and the closing of borders were not introduced immediately. A tribunal has ruled that Dr Ranson was unfairly dismissed and suffered detriments after raising whistleblowing concerns about health and safety in line with Section 71 Employment Act 2006. The employment tribunal decided it was "a fundamental breach and repudiation of her employment contract". The employment tribunal also concluded that Magson had "entirely misled" the Chief Executive Officer (CEO) designate, and chairman designate for Manx Care, by saying that Dr Ranson was unsuitable for the position. Magson also asserted that Dr Ranson was under a performance management procedure and concurred that she was unfit for the Manx Care role.[495] Dr Ranson was awarded a record £3.2 million settlement over her unfair dismissal for whistleblowing.[496] The severity of this case led the Tribunal to order a special hearing to investigate the disclosure issues that had occurred before the hearing on remedies. With all its characteristics, this case indicates the definition of whistleblowing from both the legislative and theoretical perspectives. Dr Ranson successfully established that her disclosures related to public interest.

3.4.2. The Story of a US COVID-19 Whistleblower

During the coronavirus era, Rebekah Jones, a Florida Department of Health scientist, spent almost two months building a dashboard platform used by the state to mitigate the spread of the coronavirus pandemic. The dashboard enabled the state to provide daily updates to the media and public on the COVID-19 pandemic, such as the number of tests, confirmed cases, hospitalisations, and deaths.[497] Rebekah monitored the dashboard for over 16 hours daily,

[495] N. Hallows, 'Medical director unfairly dismissed after raising whistleblowing' (*BMA* 17 May 2022), < https://www.bma.org.uk/news-and-opinion/medical-director-unfairly-dismissed-after-raising-whistleblowing-concerns> accessed 2 September 2025.

[496] H. Pidd, 'Former Isle of Man chief medic sacked for whistleblowing is awarded £3.2M' *The Guardian* (9 May 2023), < https://www.theguardian.com/uk-news/2023/may/09/former-isle-of-man-chief-medic-sacked-for-whistleblowing-is-awarded-3m> accessed 2 September 2025.

[497] J. Lingwall and T.J. Bliss, 'A thousand Views of the Cathedral: The Law, Politics and Statistics of Pandemic Dashboards' (2023) 33 Health Matrix 393, 396.

covering six maps and half a million lines of data. Deborah Birx, White House coronavirus response coordinator and the state surgeon general, commended the functionality and transparency of the dashboard. Apart from the invention of the dashboard, Rebekah was involved in other areas of crisis management; she helped coordinate hurricane response by organising hospital patients' movement across the country.[498]

The dashboard was pivotal for mitigating the spread of the coronavirus in the US. Initially, it was adopted locally and then extended to Washington state public health agencies after the first confirmed case of COVID-19. The US encountered various challenges in mitigating the coronavirus. President Trump's officials impeded the release of the Centres for Disease Control (CDC) reports and removed public data on the COVID-19 spread[499] despite increased cases. Therefore, information provided by the dashboard to give the public and the health sector the necessary data to reduce the spread of the virus was required. Governor Ron DeSantis of Florida was swayed to reopen from lockdown by using manipulated data to initiate the move. However, Ms Jones disagreed to change the test rate of certain counties to align with the state's maximum threshold for reopening, which was the beginning of her problem with the government.[500]

Ms Jones's employment contract was terminated on 18 May 2020, and the Florida Department of Health (DOH) stated it was for "insubordination" because she modified the dashboard without the epidemiological team's or her supervisors' approval. In addition, Ms Jones was charged with a felony for purportedly accessing the state emergency message system. Ms Jones would have served five years in prison with a fine of US$5,000 if convicted. However, Ms Jones alleged that she was dismissed for refusing to manipulate data in adherence to the governor's intention to use the data to reopen from the lockdown. According to Ms Jones, she had asked her manager on Friday before her dismissal on Monday how to submit an anonymous whistleblower complaint about the state's misinformation. In July 2020, Ms Jones filed a whistleblower complaint in which she accused the Florida DOH of punishing her because she refused to manually change the data to support reopening. The Florida Office of Inspector General granted Ms Jones formal whistleblower protection in May 2021 while investigating her claim.

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[498] S. Blaskey, 'What Rebekah Jones Saw behind the Scenes at the Florida Department of Health' Miami Herald (10 November 2022), < https://www.miamiherald.com/news/politics-government/state-politics/article251838913.html> accessed 2 September 2025.

[499] N. Fareed and others, 'U.S. COVID-19 State Government Public Dashboards: An Expert Review' (2021) 12 Applied Clinical Information 208, 210.

[500] Blaskey, (n 498).

In May 2022, the Florida Office of Inspector General exonerated officials of DOH from any misconduct as Ms Jones's claims were unsubstantiated and lacked ample evidence. In March 2023, Ms Jones took legal action against the Florida Department of Law Enforcement (FDLE) for numerous reasons, including violating her right to free speech and due process. Ms Jones asserted that she had been betrayed in her effort to keep the public informed about the growing public health crisis. An investigation by the Florida Auditor General revealed that the state mismanaged COVID-19 data, resulting in an undercount of cases and deaths during the pandemic. It was recorded by the Florida Commission on Human Relations that Ms Jones reported a violation of law that jeopardises public health, safety and welfare.[501]

Ms Jones argued that she suffered victimisation from Governor Ron DeSantis of Florida due to her commitment to data transparency and government accountability. Ms Jones went further to allege that the governor of Florida defamed her and sent state police to raid her home at gunpoint without a warrant. The legal reasoning for the raid was that someone "illegally hacked into the Florida DOH's emergency alert messaging system. Ms Jones was also targeted by a coordinated online defamation campaign allegedly orchestrated by the then-governor's "secret Twitter army."[502] Mrs Jones affirmed that the campaign had real-life consequences, and she was subjected to "stalking, harassment and threats daily. She claimed reporters were stationed in front of her house, and after numerous pleas with politeness for them to leave her property, they objected. Ms Jones claimed she was forced to hire a bodyguard and then moved her family to Washington, D.C., hoping to start over again.

Judge Angela Dempsey decided that the evidence unequivocally demonstrates that Plaintiff's termination was based on documented insubordination, including unauthorised communications with external entities that violated Department policies, and unauthorised disclosures that disrupted the Department's ability to maintain data integrity and public trust during a critical public health crisis.[503] More importantly, several pieces of evidence indicated that Jones did not meet the requirements for protection under the Florida Public Whistleblower's Act based on investigations initially conducted by the Florida Commission

[501] C. Persaud, 'Florida missed deaths, fumbled testing data early in COVID' Palm Beach Post (7 June 2022), < https://eu.palmbeachpost.com/story/news/2022/06/07/florida-missed-thousands-deaths-cases-fumbled-testing-data-early-covid-pandemic/7543641001/>accessed 2 September 2025.

[502] L. Jarvis, 'How Ron DeSantis Is Taking a Page Out of Nixon's Playbook' (*archive* 12 April 2023), < https://archive.is/4ahqc> accessed 2 September 2025.

[503] *Rebekah Jones v Florida Department of Health, Joseph Ladapo and Shamarial Roberson* [2023] CA 430.

on Human Relations and the Office of the Inspector General.[504] Ms Jones had published misleading COVID data and raised hundreds of thousands of dollars by fraudulently claiming that it would force Governor Ron DeSantis to testify at a trial. However, the governor's name was never on the witness list. Furthermore, Jones falsely claimed that the governor of Florida was targeting her, but later admitted guilt for the felony that she had committed.

The judgment further emphasised that the plaintiff failed to meet the requirement of making a written disclosure under the Florida whistleblowing regulation to claim retaliation within 60 days of termination of employment, which cannot satisfy the first element of a prima facia case of retaliation.[505] From the theorists' and legislative definition of a whistleblower, Ms Jones did not meet the threshold of protected disclosure according to the court judgment, despite the evidence of victimisation.

3.4.3. The Story of the EU COVID-19 Whistleblower

Doctor Francesco Zambon, a former World Health Organisation (WHO) researcher, wrote a report on various flaws in Italy's pandemic preparedness during the early stages of the COVID-19 outbreak. The report suggested that Italy's pandemic prevention plan fell short of international guidelines.[506] The report was intended to help assess the pandemic preparedness of various countries, as Italy suffered more devastation from the COVID-19 pandemic than other EU Member States. Before publication, Doctor Zambon made a protected disclosure to Assistant Director, Doctor Ranieri Guerra, about the report and enquired about the process for publishing. Instead of advising Dr Zambon, Guerra pressured him to modify the findings before publication because the report contained serious lapses in the plans of the Italian Ministry of Health for the pandemic.[507]

As a former Ministry of Health official from 2013 to 2017, Guerra was responsible for updating Italy's pandemic plan, which had been untouched since 2006 despite periodic review. The WHO published the report online in May 2020 but withdrew it the following day. Through internal channels, Zambon initially reported his concerns about Doctor Guerra's potential

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[504] J. Scheckner, 'Judges tosses Rebekah Jones' whistleblower lawsuit, siding with Department of Health' (Florida Politics 28 February 2025), < https://floridapolitics.com/archives/723686-judge-tosses-rebekah-jones-whistleblower-lawsuit-siding-with-department-of-health/> accessed 2 September 2025.

[505] Fla. Stat. § 112.3187.

[506] Transparency International, 'Whistleblower Stories: 12 Inspiring Individuals Who Safeguarded Public Interest by Exposing Misconduct' (*Transparency International Italia 23 June 2023*), <https://www.transparency.org/en/blog/whistleblower-stories-individuals-safeguarded-public-interest-exposing-misconduct> accessed 2 September 2025.

[507] E. H. Morsay, *Corruption in Society*: *Multidisciplinary Conceptualizations* (edn, Lexington 2023) 103

conflict of interest. Zambon's complaints about retaliation and disclosures to WHO were met with delays and eventually denied recognition as a whistleblower, which would have provided him with protection. For several months after his disclosure, Zambon faced retaliation and mistreatment, leading him to make an external disclosure in December 2020.[508] Instead of being offered protection and the concerns of wrongdoing being addressed, Zambon faced continuous retaliation and mistreatment. In March 2021, following the unsatisfactory response, professional isolation, and demotion that made his working conditions intolerable, Zambon resigned three months later. When his request was dismissed, he wrote to the WHO's Global Board of Appeal in September 2021. In April 2022, the board awarded him moral damages and legal fees and recommended a full investigation of the report.

In December 2022, Zambon filed an appeal to the Administrative Tribunal of the International Labour Organisation, the labour court for international civil servants, defending his rights after Dr Tedros decided to reject his appeal. The appeal to the tribunal was made possible because of joint efforts from organisations, such as the Government Accountability Project, Transparency International, Transparency International Italy, Whistleblower Aid and the Whistleblowing International Network. The collaborative effort was to advance the support for whistleblowers' protection and accountability for international organisations, specifically the United Nations, because of the reputational damage it can cause.

It is noteworthy that employment law protection for employees of the United Nations and its agencies is atypical, as they have their own processes of handling disputes through internal procedures and do not fall within national legal jurisdiction. In the case of the WHO, against which Zambon brought his claim, the human resources department carries out the first review. The subsequent appeal goes through the Global Board of Appeal, and the International Labour Court undertakes the third appeal. Zambon's case against the WHO is still under review by the International Labour Organisation's Administrative Tribunal (ILOAT), with the anticipated decision in 2025.[509]

Conclusively, from both definitions of whistleblowing, the main characteristics, such as complaint receiver, reporting channels, organisation, and protected disclosure, were present in the mentioned cases. Nevertheless, the court only awarded Dr Ranson's claim for protected disclosure, despite all the evidence of victimisation presented by Ms Jones; her claim for

[508] Transparency International (n 506).

[509] A. Demred, 'Francesco Zambon: A whistleblower's fight for transparency in Italy's COVID-19 response' (Whistlelink 14 February 2025), < https://www.whistlelink.com/blog/francesco-zambon-a-whistleblowers-fight-for-transparency-in-italys-covid-19-response/> accessed 2 September 2025.

whistleblowing failed the test, while Dr Zambon is still waiting for a hearing of the case. These whistleblowing cases illuminated the immense political pressures public employees encountered as they carried out their duties and responsibilities during the coronavirus pandemic. Understandably, governments were under extensive constraints to implement public policy measures to balance the virus's public health menace with social and economic stability. The following section analyses the promulgated whistleblowing legislations that define whistleblowers' rights in the three jurisdictions when they report unethical behaviour in organisations.

3.5. Legislative Definition of Whistleblowing by the Public Interest Disclosure Act 1998

The United Kingdom's government enacted the Public Interest Disclosure Act 1998 (PIDA), which defines and protects the right of individuals who disclose specific information in the public interest,[510] thereby enabling whistleblowers to commence litigation concerning victimisation.[511] Prior to the enactment of the PIDA, the Employment Rights Act 1996 was already established as part of UK employment law. Several scandals prompted the reversal of the Employment Rights Act 1996 in favour of the development of PIDA. Notable incidents include the Clapham Rail disaster in 1988, which injured 500 individuals and resulted in 35 fatalities;[512] the Piper Alpha explosion of the same year, causing the deaths of 167 persons; and the financial scandal leading to the collapse of the Bank of Credit and Commerce International (BCCI) in 1991.[513] These events underscore the necessity of enhancing protections for whistleblowers within the UK,[514] highlighting the inadequacy of existing protections for employees who disclose misconduct.

The PIDA applies broadly to employees across all sectors, including both public and private domains. The Act does not explicitly incorporate the term 'whistleblowing'. Part IVA of the amended legislation introduces Sections 43A through 43L, designated under the title 'Protected Disclosures'. Furthermore, Section 2 of the Act adds Section 47B, which explicitly prohibits detriments against individuals who make protected disclosures. Additionally, Section 3 of the

[510] K. Calitz, 'The Plight of South African Whistleblowers: Searching for Effective Protection' (2023) 44 Obiter 828, 831.
[511] Public Interest Disclosure Act 1998.
[512] A. Adeyemo, 'Rebutting the Presumption: Are Whistleblowers really Protected Under PIDA and in the Case of the UK Banking Industry' (2020) 8 Journal of Business 607, 623.
[513] D. Lewis, 'Whistleblowing at Work: On What Principles Should Legislation be Based?' (2001) 30 Industrial Law Journal 169,170.
[514] J. Ashton, '15 Years of Whistleblowing Protection under the Public Interest Disclosure Act 1998: Are We Still Shooting the Messenger? (2015) 44 Industrial Law Journal 29, 51.

Act inserts Section 103A, concerning unfair dismissal related to protected disclosures. Amendments to Sections 4 and 5 provide provisions for compensation to workers who file claims of unfair dismissal resulting from such disclosures.

The legislation in the UK concerning whistleblower protection has been lauded as among the most exhaustive globally. Over time, various jurisdictions have emulated the UK's approach by incorporating some of its provisions into their own whistleblowing statutes. The UK explicitly encourages internal disclosures by whistleblowers to protect organisational reputation and allow employers to address misconduct privately. Such internal regulation is regarded as instrumental in cultivating a robust corporate culture. The PIDA outlines conditions that need to be satisfied when individuals report misconduct: it must be a qualifying disclosure. Since its promulgation, PIDA has enabled individuals to secure damages for detriment and dismissal. Undoubtedly, PIDA has also recently created more awareness and debate about the protection of whistleblowers in the UK. A closer examination is given to the sections of the legislation.

3.5.1. Nature and Scope of Protection Under the PIDA 1998

The principal features of the PIDA include its provision for safeguarding a broad spectrum of individuals by expanding the definition of 'workers' in Section 43K (1) of the Act beyond the scope outlined in Section 230 (3) of the Employment Rights Act 1996. For the purposes of the Employment Rights Act 1996, as amended by PIDA 1998, the term ‘worker’ encompasses agency workers, home workers, NHS doctors, dentists, and trainees engaged in vocational or work experience. This expansion extends the Act's applicability beyond current employment law, as prior to the enactment of PIDA, only employees were entitled to pursue unfair dismissal claims. Nevertheless, the amendment introduced a broader category of workers. An additional advantageous aspect of PIDA is its lack of geographical restrictions concerning where misconduct occurs.[515] The Act acknowledges its extraterritorial jurisdiction, remaining applicable regardless of whether the misconduct specified in Section 43B (1) took place within the UK or abroad, and whether it contravenes UK law or legislation of another jurisdiction.[516]

[515] Gavin Mansfield, ’The Public Interest Disclosure Act’ (1999) 149 New Law Journal 1, 2.
[516] Section 43B (2) PIDA (1998).

3.5.2. Qualifying Disclosure Under the PIDA

To qualify for protection under the provisions of the PIDA, a disclosure of information must be recognised as a 'qualifying disclosure'. This relates to matters that are eligible for protection when a worker 'reasonably' believes and discloses information concerning a range of specified subjects[517] related to: (a) the commission or likely commission of a criminal offence; (b) failure or likely failure to comply with any legal obligation; (c) a miscarriage of justice that has occurred or is likely to occur; (d) danger or likely danger to the health and safety of an individual; (e) damage to the environment that has taken place or is likely to occur; (f) deliberate concealment or likely concealment of issues outlined in (a) to (e). It is not necessary for the disclosure of information to be in written form; all that is required is that the worker effectively communicates the information through the relevant channels. The qualifying disclosure must be a protected disclosure, and the employee must have been dismissed or suffered a detriment as a result of the disclosure.

To establish a protection for qualified disclosure, the employee must initially notify their manager or an employer's representative through internal channels within the organisation.[518] Should this attempt prove unsuccessful, and the misconduct persists, the employee may then report the matter to a designated regulatory authority authorised under the PIDA.[519] If this also does not yield a resolution, the employee may make a broader disclosure,[520] provided that they reasonably believe there is a risk that evidence of the misconduct will be concealed or destroyed by the employer.[521] This is particularly pertinent if the issue was previously raised through the appropriate channel and with the designated authority, yet remains unresolved.[522] It is essential that the employee ensures the disclosure pertains to the same information previously communicated to the employer and the designated authority.[523]

When an employee is dismissed for making a protected disclosure, they will be regarded as unfairly dismissed, and there is no cap on the compensation available in a whistleblowing unfair dismissal claim.[524] Furthermore, Section 105(6A) of the Act stipulates that it is unlawful to terminate an individual's employment on the grounds of redundancy due to their having made a protected disclosure. Nonetheless, pursuant to Section 230(2) of the Act, an employee

[517] Section 43B (1) PIDA (1998).
[518] Section 43C PIDA (1998).
[519] Section 43F (1) PIDA (1998).
[520] Section 43G PIDA (1998).
[521] Section 43G (2B) PIDA (1998).
[522] Section 43G (3) PIDA (1998).
[523] Section 43G (2C) PIDA (1998).
[524] Section 47B (1) PIDA (1998).

is explicitly defined as an individual operating under an employment contract. Consequently, the expansive definition of a worker under Section 43K(1) does not apply in this context; hence, workers who are not classified as employees are only permitted to pursue a whistleblowing unfair dismissal claim pursuant to Section 47B of the Act.

According to the Act, a whistleblowing claim is contingent upon causation. This indicates that no claim under PIDA may be initiated before the Employment Tribunal unless there has been evidence of detriment or unfair dismissal resulting from protected disclosures made in accordance with the Act.[525] It must be explicitly demonstrated that the disclosure influenced the employer's conduct, leading to detriment or dismissal. Establishing this causal link is often a pivotal issue in whistleblowing cases before the Employment Tribunal. Furthermore, the Act affirms that an employee possesses the right to be protected from any form of retaliation by their employer for making a protected disclosure in accordance with the Act's provisions.[526] Pursuant to Section 48 of the PIDA, any worker experiencing detriment from their employer for making a protected disclosure has the right to enforce their rights by submitting a complaint to the Employment Tribunal.

3.5.3. Reasonable Belief Under the PIDA

The subject matters eligible for protection pursuant to Section 43B (1) of the Act are itemised, with key terms such as 'reasonable belief' and 'likely to' having been interpreted variably. The Employment Tribunal has adopted a restrictive approach, whereas the Employment Appeal Tribunal has applied a broader, case-by-case interpretation. It is hereby recommended that the legislative intent is to promote workers' disclosures, and the assessment of whether a disclosure is reasonable or likely should be based on the information available at the time, even if the disclosure subsequently proves to be erroneous.[527] Additionally, certain circumstances may exist where the worker reasonably believes there is a likelihood of concealment, thereby rendering it essential to report the matter to a regulatory authority.

A specific circumstance may arise in which an employee might reasonably believe that there is a likelihood that the disclosure could be concealed. Consequently, the employee may consider it essential to make disclosures to a regulatory authority. This situation was

[525] Catherine Hobby, Public Interest Whistleblowin:12 Years of the Public Interest Disclosure Act 1998 (The Institute of Employment Rights, 2010) 13.
[526] Section 47B (1) PIDA (1998).
[527] John Bowers QC, Martin Fodder, Jeremy Lewis, Jack Mitchell Whistleblowing; Law and Practice (2nd edn, OUP 2012)399.

exemplified in *ALM Medical Services v Bladon*,[528] where Bladon, a registered nurse, made a disclosure regarding a patient's wellbeing via telephone to the personal assistant of the managing director. He was instructed to submit his concerns in writing, which he subsequently did. Thereafter, he made a disclosure to the Nursing Home Inspectorate, a designated regulatory authority, leading to an investigation. Following this, Bladon was dismissed and subsequently initiated a claim for unfair dismissal on the grounds of having made a protected disclosure. The Employment Tribunal determined that he was dismissed on the grounds of making a protected disclosure and awarded him £10,000 for the detriment suffered, as well as £13,075.06 for his automatically unfair dismissal. However, during a preliminary hearing, the Employment Appeal Tribunal declined to permit ALM Medical Services' appeal to proceed to a full hearing due to its limited prospects of success. While the appeal predominantly concerned the Employment Tribunal's conclusion that Bladon possessed a reasonable belief in the concerns he raised with the prescribed body, the Court asserted that the Employment Tribunal had committed an error in ruling that the disclosure to the Nursing Home Inspectorate was substantially equivalent to the written disclosure made to the employer. The case was consequently remitted to a different tribunal for a new hearing.

The fundamental aspect to consider regarding reasonable belief is that, at the time the employee made the protected disclosure, they possessed justifiable reason to believe that the information, from their own perspective, was accurate. In *Darnton v University of Surrey*,[529] Mr. Darnton asserted that he experienced a detriment as a result of making a protected disclosure. He served as a full-time lecturer at the university and had a disagreement with the head of school regarding working hours. He agreed to a severance arrangement to continue as an 'associate lecturer,' which included additional paid duties. He submitted a letter containing allegations about the head of school, demanding his suspension and further compensation. He was subsequently informed that his services had been terminated, and he thereafter initiated a claim under Section 103A of the PIDA. The Employment Tribunal concluded that there was no qualifying disclosure, as the allegations detailed in the letter were not grounded in factual evidence. The Employment Appeal Tribunal remanded the case to the Employment Tribunal, clarifying that a qualifying disclosure is any disclosure which, in the reasonable belief of the worker, indicates that misconduct has occurred, even if this belief is reasonably mistaken. Additionally, in evaluating whether there was a reasonable belief in the disclosure, the Employment Tribunal

[528] ALM Medical Services v Bladon [2002] IRLR 807.
[529] Darnton v University of Surrey [2003] ICR 615.

should have assessed the case from the perspective of the reasonable belief held by Mr. Darnton concerning the allegations at the time they were made, considering how he understood the facts at that moment.

The Employment Appeal Tribunal, however, deviated from its approach of adopting a broad exposition of Section 43B (1) of the Act in *Kraus v Penna Plc*.[530] In that case, Kraus asserted that the human resources services he rendered under a contract had been terminated due to advice he gave about proposed redundancies that could breach employment legislation. The Employment Tribunal determined that no qualifying disclosure had been made and dismissed his claim. The Employment Appeal Tribunal's decision was upheld by the Employment Tribunal, which stated that the phrase 'likely to' in Section 43B (1B) of the PIDA must demonstrate a probability beyond a reasonable doubt that the employer will fail to abide by the legal obligation.

This limited exposition regarding the determination of whether there was a reasonable belief in a disclosure was overturned in *Babula v Waltham Forest College*,[531] where the employee contested the Employment Appeal Tribunal's decision to uphold the Employment Tribunal's striking out of his claim for making a protected disclosure. As a result, he was unfairly dismissed. The Employment Appeal Tribunal assigned the case to a new tribunal, emphasising that, for the purpose of assessing whether a qualifying disclosure had been made, the critical factor was whether the disclosure was made in the worker's reasonable belief, rather than whether that belief was mistaken. Furthermore, the court clarified that the use of the term 'likely' in the relevant provision of the Act did not imply that the worker must be correct in their disclosure, but rather that the disclosure was made in good faith based on their reasonable belief.

3.5.4. Protected Disclosure Under the PIDA

While employment rights in various countries seek to balance the interests of employers and individual workers, the PIDA distinguishes itself by reconciling an employer; s interest in maintaining their organisation with the broader societal interest in preventing misconduct and protecting the community. The legislation recognises the duty of confidentiality but also highlights a significant public interest in disclosures, which can sometimes take precedence.[532] The Act endeavours to balance these competing interests by explicitly defining the scope of

[530] *Kraus v Penna Plc* [2004] IRLR 260.
[531] *Babula v Waltham Forest College* [2006] EAT/0635/05.
[532] Ashton (n 514) 32.

information eligible for disclosure and establishing procedures for such disclosures,[533] offering increased protection for internal disclosures while limiting the circumstances under which external disclosures may occur.[534]

PIDA establishes a three-tiered framework for disclosures.[535] With the Act, a worker must fulfil three conditions to qualify for protection: firstly, the disclosure must be a qualifying disclosure; secondly, this disclosure will be protected if it was made in accordance with the procedures specified in the Act; thirdly, the worker must have suffered a detriment or dismissal as a result of the qualifying and protected disclosure. Protection under the PIDA mainly concentrates on internal disclosures; however, the legislation also permits external reporting of issues. Emphasising internal reporting underscores, the obligation of employers to address any misconduct reports within their organisations. Section 43A of the Act defines ' protected disclosure' as a qualifying disclosure made in accordance with Sections 43C to 43H. Upon examining the scope and function of the PIDA, it is now appropriate to evaluate some of the limitations inherent in the legislation.

The Act delineates the types of disclosures that may safeguard employees and the circumstances under which such protections are applicable.536 It further elaborates on the procedural steps that whistleblowers, who are dismissed or subjected to detriment, must take to seek redress through judicial avenues. A disclosure is rendered ineligible for protection if the employee commits an offence under the Official Secrets Act 1989 or if the information is privileged by legal professional privilege.[537] Nonetheless, when organisations are scrutinised in detail, challenges emerge in distinguishing what constitutes a protected disclosure. This issue becomes evident when an employer is unaware of the occurrence of a protected disclosure, leading to unfair dismissal, as exemplified in the case of *Fernandes v Netcom Consultants (UK) Limited.*[538] The case exemplifies wrongful termination for gross misconduct; however, the employee's conduct was in accordance with the organisation's policies and the internal disclosure requirements stipulated by PIDA.

[533] Ashton (n 514) 32.
[534] Section 43C and 43F PIDA (1998).
[535] Section 43G and 43H PIDA (1998).
[536] E. Duan, 'Whistleblowing: How should Canadian organisations effectively manage Whistleblowing' (2024) 45 Windsor Review of Legal and Social Issues 136, 156.
[537] Stoco (n 474), 387.
[538] *Fernandes v Netcom Consultants (UK) Limited* [2000] IRLB 648.

3.5.5. Limitations of the Public Interest Disclosure Act 1998

Undoubtedly, the PIDA has had a positive impact, evidenced by the increase in whistleblowing claims following the enactment of the Act.[539] Nevertheless, legislation must continually undergo reforms and updates as time progresses. When the PIDA was introduced, its primary objective was to foster an open culture within the workplace while safeguarding and compensating employees who suffer detriment because of disclosures. Although the PIDA was enacted with commendable intentions by the Parliament to enhance accountability and transparency in the workplace, certain loopholes have arisen since the Act has been in effect. The spectrum of misconduct deemed essential within a workplace environment are excluded from PIDA, such as gross public mismanagement, abuse of public authority, financial mismanagement within corporations, bribery, and corruption. For instance, in circumstances where abuse of authority transpires, potentially affecting public interest due to the actions or inactions of an employer, such issues are not encompassed within the list of subjects mandated for disclosure under the Act. It is recommended that PIDA expand to include a broader range of qualifying disclosures.

3.5.6. Mandatory Internal Whistleblowing Procedure Requirement

The PIDA does not require organisations to implement internal whistleblowing procedures. It is recommended that future reforms include an amendment to establish a statutory requirement for mandatory internal whistleblowing procedures within organisations.[540] This can be supported by providing authoritative guidance and best practices on the contents of such procedures in legislation. The procedures may emphasise a zero-tolerance approach to wrongdoing and include disciplinary actions against employers and employees who retaliate against colleagues making disclosures. They can also mandate organisations to clearly outline internal reporting channels, response plans, evaluations, staff awareness campaigns, and feedback mechanisms for disclosures.[541]

[539] A. Savage and R. Hyde, 'The Response to Whistleblowing by Regulators: A Practical Perspective' (2015) 35 Legal Studies 408, 421.
[540] D. Lewis 'A global Approach to Public Interest Disclosure' (Edward Elgar, 2010) 160
[541] J. Bowers et.al, 'Whistleblowing; Law and Practice' (OUP, 2nd edn, 2012) 351.

3.5.7 Provision of Gagging Clause

Gagging clauses, incorporated within the PIDA provision, underscore a notable weakness. An employee can no longer be compelled to relinquish their rights to make protected disclosures through contractual agreements.[542] This is significant because 'gagging clauses' are frequently employed in settlement and severance agreements to prevent employees from making disclosures in the public interest during or after their employment. It is essential to note that Section 43J of the PIDA does not invalidate agreements, such as non-disclosure or settlement agreements, that restrict a whistleblower from disclosing information. Essentially, the use of gagging clauses within the National Health Service attracted public attention through the case of Mr. Gary Walker, who was the chief executive of the United Lincolnshire Hospitals NHS Trust. Mr. Walker was dismissed in 2010 for using inappropriate language. He allegedly signed an agreement containing a gagging clause that prohibited him from discussing details related to his disclosures; nonetheless, he proceeded to speak about his experiences at the NHS.[543] The issue of gagging clauses emerged during the coronavirus pandemic, as outlined in chapter of the thesis.

3.5.8 Pre-Retaliation Protection

A notable shortcoming of PIDA is the lack of pre-retaliation protection. The Act primarily aims to protect workers after they have experienced a detriment or unfair dismissal due to making a protected disclosure.[544] In contrast, other jurisdictions, such as the US, include whistleblower protection laws that prohibit 'threatened' retaliation.[545] However, PIDA states that workers must suffer a detriment before seeking protection under the Act.[546] This lack of early protection to shield whistleblowers before retaliation may discourage workers from raising concerns.
The employee's only option is to seek provisional relief while awaiting the resolution of the complaint within seven days,[547] and the only order the Employment Tribunal can issue in this context is to extend the worker's employment. Furthermore, under the Act, the Employment

[542] D. Lewis, A. D'Angelo and L. Clarke 'Industrial relations and the Management of whistleblowing after the Francis report; what can be learned from the evidence?' (2015) 46 Industrial Relations Journal 312, 321.
[543] BBC, 'Ex-NHS Chief Gary Walker 'being gagged' (BBC 29 June 2012), https://www.bbc.com/ https://www.bbc.co.uk/news/uk-18639088 accessed 2 September 2025.
[544] David Lewis, 'Providing Rights for Whistleblowers: Would an Anti-discrimination Model be more effective?'' (2005) 34 Industrial Law Journal 239, 247.
[545] 5 U.S.C. § 2302(b)(8)-(9).
[546] Section 48 (1A) PIDA (1998).
[547] Section 48 (1A) PIDA (1998).

Tribunal does not have the authority to address misconduct or to order an investigation into the protected disclosures made. A protected disclosure serves merely as a basis upon which the tribunal can decide if a worker is eligible for compensation due to unfair dismissal under section 103A of the Act.[548] The PIDA does not offer any administrative or regulatory recourse for a worker to seek protection before their claim is decided, nor does it impose criminal or civil penalties to deter employers from retaliating against whistleblowers within their organisations.

3.5.9 Stand-Alone Legislation

Acknowledging that the PIDA offers a three-tiered disclosure framework, which has been favourably received internationally and is regarded as a model for others due to its capacity to foster internal reporting and motivate organisations to establish whistleblowing procedures that enhance lucidity and accountability in the workplace.[549] These provisions might have been more effectively enforced had the Act been enacted as separate legislation rather than as an amendment to the Employment Law. Adopting a pragmatic perspective, employment rights primarily concern the employee and the employer. Nonetheless, the PIDA broadens this scope to encompass the employer, the employee, and the public interest, potentially leading to conflicts.

The rationale behind this proposition is that certain provisions within the Employment Rights Act 1996 have conferred an unwarranted advantage upon employers, particularly in circumventing claims related to unfair dismissal arising from protected disclosures. According to Section 103A of the PIDA, an employee may be deemed to have been unfairly dismissed if one of the reasons, or the principal reason, was the making of a protected disclosure. The intent of this provision to afford protection to employees against unfair dismissal for making protected disclosures can be undermined by Section 98 of the Employment Rights Act 1996, which imposes the burden of proof on the employer to demonstrate that a protected disclosure was not the cause of the termination.[550] This section grants employers an undue advantage by enabling them to introduce other issues that might damage the employee's reputation and justify dismissal, thus diverting attention from the core issue of dismissal related to protected

[548] D. Lewis, 'Resolving Whistleblowing Disputes in the Public Interest: Is Tribunal Adjudication the Best That Can Be Offered?' (2013) 42 Industrial Law Journal 35, 53.
[549] K. Bouloy 'The Public Interest Disclosure Act 1998: Nothing More Than a Cardboard Shield' (2012) 1 Manchester Student Law Review 1, 3.
[550] Lewis (n 544) 12.

disclosures. Employers may also rely on an employee's past or present conduct to justify their decision to dismiss.

Considering the above, the effectiveness of whistleblower disclosures under PIDA is contingent upon employees' awareness of these mechanisms and the support of organisational management in their enforcement. The settlement initiative offers monetary compensation to whistleblowers, yet PIDA does not provide a legal framework for addressing the illegal or unethical activities disclosed. Moreover, whistleblowers may be encouraged to sign a Non-Disclosure Agreement (NDA) post-settlement, which could discourage future disclosures.[551] PIDA does not grant regulators additional authority to protect whistleblowers from retaliation. Numerous designated entities at the national and local levels address concerns inconsistently, reflecting a lack of cohesion as indicated within the provisions.[552] This variability poses a risk of sectoral imbalance due to the differing approaches and procedures implemented by various designated entities.

The protection afforded to whistleblowers under PIDA remains inadequate due to ambiguous legislative provisions; individuals who report misconduct often face dismissal, lack opportunities for promotion, or miss out on salary increases.[553] The legal system has encountered difficulties in protecting certain employees who disclose misconduct. The designation of whether a disclosure falls within the scope of PIDA is determined by the employment tribunal.[554] Before the advent of the coronavirus pandemic, PIDA permitted employees to seek redress for detrimental treatment or dismissal through employment tribunals; however, it has arguably failed to comprehensively address concerns of public interest. The status of prescribed persons assigned to regulators does not inherently guarantee protection for whistleblowers, nor does it obligate regulators to respond to individual disclosures. According to Section 43F of PIDA, whistleblowers often find it challenging to obtain protection via the prescribed status, even when legislation designates a prescribed person for reporting misconduct. An effective legislative and regulatory framework could encourage whistleblowing, despite the limited scope of current legislation, particularly regarding the categories of individuals covered and the extent of the protections offered.[555]

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[551] Section 42B PIDA (1998).

[552] P. Bergemann and B. Aven, 'Whistleblowing and Group Affiliation: The Role of Group Cohesion and the Locus of the Wrongdoer in Reporting Decisions' (2023) 34 Organisation Science 1243, 1246.

[553] L. Vickers, *Freedom of Speech and Employment*, (Oxford University Press 2002), 153.

[554] Ibid.

[555] G. Onyango, 'Whistleblower protection in developing countries: a review of challenges and prospects' (2021) 1 Business and Economy 1, 6.

The PIDA has been used as a global template for whistleblowing legislation, primarily due to its broad coverage, which extends to both the public and private sectors. The Act broadens the definition of misconduct to include various issues and offers protection against them; however, its focus has been on disclosures and compensating workers after reprisals. Over time, loopholes have emerged, making the PIDA less effective in meeting its goals; hence, reforming it to stay relevant has become necessary. Evidently, PIDA needs urgent reform, but the question of whether the legislation has had a positive impact can be answered affirmatively, and the Act remains an essential tool in encouraging disclosures and promoting accountability within organisations. For comparative purposes, the next section of this chapter analyses the US legislative instruments that protect whistleblowers using financial incentives.

3.6. Whistleblowing Regulator Regimes in the United States

The United States is among the pioneering jurisdictions that have instituted legislative measures to safeguard whistleblowers who disclose illegal or unethical conduct. The country has numerous federal statutes that incorporate provisions aimed at protecting whistleblowers who make legitimate disclosures concerning various forms of misconduct across multiple sectors. These protections are embedded within several federal legislations governing both public and private sectors.[556] Although somewhat fragmented, whistleblower protection legislation has markedly expanded in the United States since the 1970s. The core of that whistleblowing legislation is clearly outlined for relative comparison with the UK PIDA and the EU Whistleblowing Directive.

3.6.1 The False Claims Act

The False Claims Act (FCA), also known as 'Lincoln Law,' was enacted in 1863 during the American Civil War. The Act, codified at 31 U.S.C. §§ 3729-3733, was introduced to tackle and prevent fraudulent profiteering by suppliers providing goods to the Union Army at that time.[557] Since its original passage, the FCA has experienced several amendments. The first took place in 1943, which stipulated that private individuals could only file false claims lawsuits concerning issues previously unknown to the government. Additionally, the 1943 amendments lowered the bounty award from 50 to 25 per cent of any recovered funds and prevented relators

[556] 31 U.S.C. §3729-3733
[557] J. B. Helmer and R. C. Neff, 'War Stories: A History of the Qui Tam Provisions of the False Claims Act, The 1986 Amendments to the False Claims Act, and Their Application in the United States ex rel. Gravitt v General Electric Co. Litigation' (1991) 18 Ohio Northern University Law Review 35, 36.

from participating in lawsuits where the government had decided to become involved and prosecute the claim.[558] False claim actions can be initiated regarding a variety of federally funded programmes. These programmes encompass Healthcare, Government procurement contracts, federal mortgages, federal housing programmes, assistance loans, agricultural subsidies, and additional initiatives.[559] Nonetheless, the FCA does not apply to tax claims, records, or statements made pursuant to the Internal Revenue Code of 198612.[560]

The Financial Crimes Authority (FCA) enforces civil liability on individuals who intentionally submit false claims or induce others to assent to false claims submitted to the Government.[561] The FCA further delineates 'knowingly' as encompassing situations where a person possesses actual knowledge of the information, acts with deliberate ignorance, or engages in reckless disregard concerning the truth or falsity of the information.[562] Judicial authorities have endeavoured to clarify the definition of 'knowingly' through case law, notably by excluding instances of negligence. In the case of *United States ex rel Complin v North Carolina Baptist Hospital*,[563] the relator alleged that the hospital knowingly submitted fraudulent reports to Medicare. The court dismissed the relator's claim and determined that he had not sufficiently demonstrated the requirement of 'knowingly' pursuant to the False Claims Act (FCA), which stipulates that hospitals must have knowingly submitted false reports with knowledge of their falsehood. Furthermore, the court argued that the FCA excludes claims of negligence arising from honest mistakes. Additionally, the FCA defines a claim as a request for money or property made to the government or to a recipient authorised to expend funds on the government's behalf.[564] The Department of Justice is the regulatory agency delegated by the Attorney General to intervene and prosecute false claim suits initiated by private individuals.[565]

3.6.2 Qui Tam Action Under the False Claims Act

The notion of a Qui Tam action permits a private individual, referred to as a 'relator,' to initiate legal proceedings on behalf of the United States Government against entities that have

[558] V. R. Park, 'The False Claims Act, Qui Tam Relators, and the Government: Which Is the Real Party to the Action?' (1991) 43Stanford Law Review 1061, 1066.
[559] C. L. Martin, 'Reining in Lincoln's Law: A Call to Limit the Implied Certification Theory of Liability Under the False Claims Act' (2013) 10 California Law Review 227, 229.
[560] 31 U.S.C. § 3729 (3) (d)
[561] 31 U.S.C. § 3729 (a) (1A)-(G)
[562] 31 U.S.C § 3729 (b) (1)
[563] *United States ex rel. Complin v North Carolina Baptist Hospital., 818 Fed. App'x 179 (4th Cir. 2020)*
[564] 31 U.S.C § 3729 (b) (2)
[565] D. F. Engstrom, 'Public Regulation of Private Enforcement: Empirical Analysis of DOJ Oversight of Qui Tam Litigation Under the False Claims Act' (2013) 107 North Western University Law Review 1689, 1709.

fraudulently claimed federal funds.[566] The False Claims Act (FCA) further stipulates that such Qui Tam actions must be filed under seal. Additionally, the relator is required to serve the United States Attorney General with the complaint and a written statement detailing the relevant false claim. Following service, the false claim action remains under seal for a period of 60 days, during which the DOJ is obligated to investigate the allegations made by the relator.[567] If the DOJ is unable to complete its investigations within the prescribed 60 days, an extension of the seal period may be requested to allow additional time for investigation. Furthermore, the DOJ is mandated to inform the court of its decision regarding whether to proceed with the false claim action or to decline to take over the case.

In the event that the DOJ elects to proceed with a false claim action, it bears the exclusive responsibility for prosecuting the case.[568] During the course of the prosecution, the DOJ also has the authority to request that the court impose restrictions on an individual's participation in the litigation.[569] This authority further empowers the DOJ to dismiss or settle the case, regardless of the plaintiff's (the realtor's) intentions. Nonetheless, in such instances, the realtor is allowed to be heard in court before the court's determination on whether the DOJ's decision to settle the case is equitable and just.[570] It is also well-established that the False Claims Act (FCA) does not specify the circumstances under which the government is mandated to intervene in a false claim suit, and the DOJ has not clarified the criteria it considers before deciding to intervene in such actions.[571]

The government's intervention has generally led to a high success rate in false claims litigation under the FCA.572 If the DOJ rejects intervention in the false claim action, the relator can proceed independently with the case. When the relator chooses to proceed alone, the government can request copies of all court documents filed in the suit. The DOJ may also decide to intervene at a later stage if there is a valid reason to do so.[573] The relator may opt to settle the case if they decide not to continue with litigation. In such cases, the government and the court must approve the settlement before the case is discharged.[574] The FCA also establishes

[566] 31 U.S.C. § 3730 (b).
[567] 31 U.S.C. 3730(b) (1994).
[568] 31 U.S.C § 3730 (c) (1).
[569] 31 U.S.C. § 3730 (c) (2C).
[570] 31 U.S.C § 3730(c) (2A) – (B).
[571] M. Rich, 'Prosecutorial Indiscretion: Encouraging the Department of Justice to Rein in Out-of-Control Qui Tam Litigation Under the False Claims Act' (2008) 74(4) University of Cincinnati Law Review 1233, 1244.
[572] M. Lockman, 'In defense of a Strict Pleading Standard for False Claim Act Whistleblowers' (2015) 82 University of Chicago Law Review 1559, 1564.
[573] 31 U.S.C § 3730 (c) (3).
[574] B. Depoorter, 'Whistle Blowing: An Economic Analysis of the False Claims Act' (2006) 14 Supreme Court Economic Law Review 135, 143.

provisions for certain circumstances that would prevent a relator from filing a *Qui Tam* action. These include situations where the relator is found to be complicit in the FCA violation;[575] where a *Qui Tam* action of a similar nature has been previously filed; and where the government is already involved in a civil or administrative money penalty action regarding the same claim.[576] It also includes a public disclosure bar, meaning that the Qui Tam action has already been made public through other channels.

When the relator is the original source of the information, the exception to the public disclosure bar shall apply exclusively.[577] The Federal Civil Act (FCA) further clarifies the definition of an original source within the scope of the Act.[578] In the case of *United States ex rel. Banigan v. PharMerica Inc*,[579] the relator initiated a qui tam action under the FCA and corresponding state laws, alleging that the defendant had engaged in fraudulent conduct against the government. The district court dismissed the case, determining that under the public disclosure bar, qui tam actions based on publicly disclosed allegations in civil hearings are excluded. The United States Court of Appeals for the First Circuit reversed this decision, asserting that although an earlier FCA proceeding involving the same issue could activate the public disclosure bar, the relator was an insider who became aware of the misconduct during his employment and independently acquired relevant documents. Consequently, the relator qualifies for the exception to the public disclosure bar as an ‘‘original source of information’’.

The Financial Conduct Authority (FCA) aims to balance the interests of competing parties in legal proceedings by promoting the disclosure of legitimate whistleblower reports, while simultaneously discouraging unfounded claims. The concept involves providing financial incentives to individuals who play a critical role in uncovering fraudulent activities in the public interest.[580] Additionally, there is a statutory limitation period for initiating civil actions under the FCA, which ranges from a minimum of six years to a maximum of ten years, depending on the date the fraudulent activity was committed,[581] in the case of *Cochise Consultancy, Inc v United States ex rel. Hunt*,[582] the Supreme Court clarified the implications of the limitation period, ruling that the maximum of ten years applies to all FCA cases, irrespective of whether the government has intervened. Consequently, relators should be aware

[575] 31 U.S.C § 3730 (d) (3).
[576] 31 U.S.C § 3730 (e) (3).
[577]31 U.S.C. § 3730 (e) (4) (A).
[578] 31 U.S.C § 3730(e)(4) (B).
[579] *United States ex rel. Banigan v PharMerica, Inc, 950 F.3d 134 (1st Cir. 2020)*
[580] C. M. Alexion, ‘Open the Door, Not the Floodgates: Controlling Qui Tam Litigation Under the False Claims Act’ (2012) 69 Washington and Lee Law Review, 365, 401.
[581] 31 U.S.C § 3731(b).
[582] *Cochise Consultancy Inc. v United States ex rel. Hunt, 139 S. Ct. 1507 (2019).*

that the ten-year maximum applies in instances where the government has opted not to be involved.

Moreover, the relator submitting the false claim is required to adhere to Federal Rule of Civil Procedure 9(b), which mandates that the individual initiating the FCA lawsuit explicitly state the circumstances constituting the fraudulent claim.[583] It is argued that compliance with Rule 9(b) may pose potential challenges for whistleblowers attempting to initiate a qui tam action for several reasons. Firstly, whistleblowers may hold a genuine and reasonable belief but lack access to specific facts regarding the misconduct. Secondly, this requirement could be exploited by defendants to seek court orders dismissing the suit if, in the court's judgment, the whistleblower has not sufficiently met the criteria. This issue might have been alleviated by including provisions that allow for a reasonable belief that fraudulent activity, within the scope of the FCA, has occurred, thereby justifying the disclosure to the authorities.

A stringent interpretation has also been adopted by the courts regarding Rule 9(b) in False Claims Act (FCA) suits. In *Bingham v HCA, Inc,*[584] the relator alleged that HCA violated the FCA by paying inappropriate subsidies to a medical office building developer, which led to unsuitable rental charges with physician tenants at the Aventura facility. The government refused to intervene in the case. The relator amended the false claim, utilising information obtained during discovery. The court dismissed the claim, holding that establishing a lack of fair market value must be consistent with Rule 9(b) concerning the specific details necessary to substantiate the allegation of improper subsidies. The court expressed the view that it was essential to deter relators from exploiting the discovery process to pursue unfounded lawsuits and exert undue pressure on defendants to secure settlements. The issue presented in this case frequently arises in circumstances where courts opt not to stay discovery, allowing the relator to obtain discovery and subsequently amend their false claim to meet the requirements of Rule 9(b). Defendants are likely to leverage this ruling to file motions to dismiss false claim suits, contending that the relator failed to comply with Rule 9(b) by not providing sufficient detailed information regarding the alleged fraudulent activity.

3.6.3 The Whistleblower Bounty System Under the False Claims Act.

There exists a financial incentive to initiate a false claim action against a defendant. With the False Claims Act, private individuals, known as relators, may receive between 15 to 25 per

[583] Depoorter (n 574) 160.
[584] *Bingham v HCA, Inc, 783 Fed. Appx. 868 (11th Cir. 2019).*

cent of the proceeds from a successful false claim litigation if the US government intercede in the Qui Tam action.[585] If the government declines to intervene and the relator chooses to proceed independently, they can receive up to 30 per cent of the proceeds. Since its inception, the FCA whistleblower bounty programme has historically facilitated the US government in recuperating billions of dollars over the years.[586] In 2018, the government recovered approximately $2.1 billion through settlements and judgments filed under the FCA and disbursed.[587] Similarly, in 2024, the government recovered $2.9 billion from suits filed under the FCA and paid $349 million to whistleblowers who exposed fraud through such filings.[588] This pattern demonstrates that the whistleblower bounty system under the FCA has been instrumental in urging the disclosure of fraudulent conduct by incentivising whistleblowers.

3.6.4 Anti-Retaliation Protections Under the False Claims Act

The duty of loyalty to employers and the fear of reprisal for reporting misconduct are the reasons why individuals often refrain from participating in filing qui tam cases, especially when the misconduct occurs within their organisation. The FCA provides protection against retaliation for any employee, contractor, or agent who has been dismissed, suspended, harassed, or demoted for making disclosures regarding violations of the Act.[589] The abatement granted for such persons includes reinstatement, back pay, including interest and compensation for special damages. This also considers any legal fees incurred during litigation. The FCA further empowers such persons to initiate action for relief in any appropriate district court of the US.[590] The Courts have also asserted the role of the FCA in providing a panacea for whistleblowers by recognising that a qui tam relator can incur enormous financial damage for making disclosures.[591]

[585] 31 U.S.C § 3730 (d) (1).
[586] 31 U.S.C. § 3730 (d) (2).
[587] Department of Justice, 'Justice Department Recovers over $2.8 Billion from False Claims Act in Fiscal Year 2018 (December 2018) Available at < https://www.justice.gov/opa/pr/justice-department-recovers-over-28-billion-false-claims-act-cases-fiscal-year-2018> Accessed 2 September 2025.
[588] Ibid
[589] 31 U.S.C § 3730 (h) (1).
[590] 31 U.S.C. § 3730 (h) (2).
[591] J. D. Hesch, 'Breaking the Siege: Restoring Equity and Statutory Intent to the Process of Determining Qui Tam Relator Awards Under the False Claims Act' (2012) 29 Thomas Cooley Law Review 217, 226.

3.6.4 Limitations of the False Claims Act

The FCA has made valuable contributions to the identification of fraudulent activities. Furthermore, the FCA has played a crucial role in facilitating the recovery of substantial funds by the government since its establishment. However, certain procedural aspects within the standards for initiating a false claims action may present potential challenges for relators aiming to file such suits.

The compliance standard for Rule 9(b) presents a significant challenge for whistleblowers seeking to initiate a false claim action. It has been proposed that this standard is grounded in the objective of safeguarding the defendant's reputation from being undermined by meritless lawsuits. Additionally, it has been suggested that this pleading requirement exists to discourage vexatious and frivolous litigation.[592] The requirement for whistleblowers to specify the details of fraudulent activity might deter accurate disclosures and result in the dismissal of false claims suits filed.[593]

The probability that a whistleblower will be able to provide concise details about the Rule 9(b) requirement will persist in being strictly interpreted by the judiciary until an amendment is enacted to alleviate this impact on whistleblowers. Moreover, it is argued that the strict interpretation requiring the specific details of false claims will undermine the intent of the False Claims Act FCA), which aims to combat fraud directed against the United States government. The rigorous standards demanding that whistleblowers specify the who, what, where, and how prior to initiating a false claim action are not necessarily achievable under all circumstances; therefore, a more lenient interpretation regarding what constitutes sufficient evidence to support a false claim is warranted. A proposed approach to address this matter involves adopting a standard of reasonable belief as a more lenient interpretation of Rule 9(b). The presumption of a reasonable belief that the defendant engaged in fraudulent conduct against the US government would provide whistleblowers with substantial grounds to initiate a False Claims Act action. Additionally, this would enable whistleblowers to proceed with the case and leverage the discovery process to substantiate their allegations. Courts must remember the fundamental purpose of initiating an FCA claim, which is to address potentially fraudulent activities against the United States government with serious repercussions.

[592] Lockman (n 572)1566.
[593] S. Long, 'Controlling Contracting Fraud: The False Claims Act Pleading Standard and Its Implication for Fraud in the New Health Care System' (2015) 44 Public Contract Law Journal 777, 783.

3.7. Whistleblower Protection Under the Sarbanes-Oxley Act 2002

The Sarbanes-Oxley Act.[594] is a regulatory whistleblowing structure that applies to publicly listed companies that offer securities for sale on the Stock Exchange.[595] The Act has extraterritorial jurisdiction and applies to foreign companies listed on the Stock Exchange.[596]

The Sarbanes-Oxley Act was enacted in response to numerous corporate scandals at the start of the twenty-first century, following the Enron and WorldCom financial crises, which were uncovered through disclosures made by employees who were whistleblowers within these organisations.[597] The enactment of the Sarbanes-Oxley Act was also a response to public outcry regarding the extent of misconduct over the years. The legislative response was designed to communicate to corporations that the government is committed to safeguarding whistleblowers from retaliatory actions for making legitimate disclosures of misconduct within their organisations.[598] The promulgation of this legislation has inspired whistleblowers to submit legitimate disclosures by actively fostering corporate transparency and accountability within corporate structures and the corporate workplace following corporate scandals. In the context of the Sarbanes-Oxley Act, it is regarded as a very comprehensive legislative initiative with far-reaching effects. The Act is also referred to as the Public Company Accounting Reform and Investor Protection Act of 2002, and it was finally signed into law on July 30, 2002, by President George W. Bush, who described the legislation as the most far-reaching reforms in the US.[599]

The primary objectives of statutorily implementing the Sarbanes-Oxley Act were to enhance corporate governance regulations within publicly listed companies. This was accomplished through provisions within the Act that aim to increase accountability, transparency, and disclosure needs for publicly traded entities, as well as to bolster protections for whistleblowers to promote legitimate disclosures. Additionally, the Act established penalties for organisations that breach its provisions and notably created the Public Company Accounting Oversight Board (PCAOB), serving as an oversight body to monitor compliance.[600] Following the enactment of the Sarbanes-Oxley Act, it was anticipated that its provisions would influence corporate

[594] 18 U.S.C. § 1514A
[595] P. Lanois, 'Between a Rock and a Hard Place: The Sarbanes-Oxley Act and its Global Impact' (2007) 5 Journal of International Law and Policy 1,2.
[596] Ibid
[597] Robert. G. Vaughn, 'America's First Comprehensive Statute Protecting Corporate Whistleblowers' (2005) 57 Administrative Law Review 1, 2.
[598] S. M. Boyne, 'Whistleblowing' (2014) 62 American Journal of Comparative Law 425, 436.
[599] J. Lee, 'Whistle with a Purpose: Extending Coverage under SOX to Employees Discharging Their Duties' (2016) 93 Washington University Law Review 1613, 1624.
[600] Sarbanes-Oxley Act 2002 §. 101

conduct, given its comprehensive coverage of misconduct and its extraterritorial effects. The Act actively promotes the disclosure of misconduct and the protection of whistleblowers, thereby impacting organisational behaviour both directly and indirectly.

3.7.1. The Scope of Protection under the Sarbanes-Oxley Act of 2002

The protections granted under the Act provide extensive coverage, encompassing employees, officers, and agents of publicly listed organisations. Additionally, the scope extends to employees of subsidiaries or affiliates of a public corporation, as well as employees of private entities engaged as contractors or subcontractors for public organisations, including accountants and attorneys who prepare findings for the Securities and Exchange Commission on behalf of these organisations. Concerning the Sarbanes-Oxley Act and the debate over whether the Act applies solely to public companies, thereby permitting private companies to act without penalty for retaliating against employees, the Supreme Court ruled in Lawson v FMR LLC[601] that Sarbanes-Oxley provides whistleblower protections to employees of privately held contractors performing services for public companies.

A similar decision clarifies that private companies are obliged to adhere to the compliance programmes and policies established by public companies pursuant to the Sarbanes-Oxley Act. Consequently, to mitigate the risk of lawsuits under the Sarbanes-Oxley Act, specific proactive measures should be undertaken. Among the most crucial is the implementation by private companies, which contract with public entities, of internal compliance programmes and employee hotlines that facilitate reporting of any misconduct, including but not limited to suspected flouting of federal securities laws.

3.7.2. Extra-Territorial Effect of the Sarbanes-Oxley Act 2002

The Sarbanes-Oxley Act possesses a comprehensive scope, extending its applicability to organisations beyond the United States. It encompasses international corporations that have registered equity or debt securities with the U.S. Securities and Exchange Commission (SEC) as well as any third-party or accounting entities providing financial services to such international firms. Essentially, this implicitly indicates that international organisations registered with the SEC are required to comply with its provisions, which include the mandate

[601] *Lawson v FMR LLC [2014] 134 S. Ct. 1158*

to establish internal whistleblowing procedures to facilitate the anonymous reporting of misconduct.[602]

3.7.3. Reasonable Belief in the Sarbanes-Oxley Act 2002

A distinctive aspect of the Sarbanes-Oxley Act is that it does not mandate disclosures to be made in good faith. The advantage of this approach is that 'good faith' is inherently subjective and often diverts attention from the misconduct itself to the motive of the whistleblower providing the disclosure. The Sarbanes-Oxley Act anticipates that a whistleblower must possess a reasonable belief that the employer is engaging in misconduct by violating federal securities laws.[603] It was crafted with the understanding that employees may not be fully acquainted with the intricacies of securities law and might base their disclosures on a reasonable belief that, in accordance with their understanding, misconduct has occurred. Consequently, employees should be safeguarded when making such disclosures. From this perspective, it can be deduced that employees are entitled to protection if they issue a disclosure based on a reasonable belief that, even if mistaken, is such that a retaliatory action occurs consequently.[604]

3.7.4. Procedures and Remedies Under the Sarbanes-Oxley Act 2002

The Sarbanes-Oxley Act affords protection to employees by establishing a civil cause of action on behalf of whistleblowers who face retaliation following a disclosure. Any employee who files, participates in, or provides testimony regarding a violation of mail, banking, wire, or securities laws benefits from Section 806 of the Sarbanes-Oxley Act.[605] Moreover, it also safeguards employees who supply legitimate information or assist in investigations concerning any misconduct, provided they reasonably believe it constitutes a violation. To promote disclosures, the Sarbanes-Oxley Act protects employees if they make legitimate disclosures either internally, to a federal regulatory or law enforcement agency, to any committee or member of Congress, or to any person with the authority to investigate and promptly terminate the wrongdoing.[606] Additionally, this section stipulates that employees who make legitimate

[602] D. C. Dowling, 'Sarbanes Oxley Hotlines Across Europe: Directions Through the Maze' (2008) 42 The International Lawyer 1, 7.
[603] Dowling (n 602) 7.
[604] K. Rubinstein, 'Internal Whistleblowing and Sarbanes-Oxley Section 806: Balancing the Interests of Employee and Employer' (2008) 52 New York Law School Law Review 638, 647.
[605] Sarbanes Oxley Act 2002, § 806.
[606] M. A. Cherry, 'Whistling in the Dark? Corporate Fraud, Whistleblowers and the Implications of the Sarbanes Oxley Act for Employment Law' (2004) 79 Washington Law Review 1029, 1064.

disclosures under the protections of the Act cannot be subjected to retaliation. Dismissal, demotion, suspension, bullying, harassment, or discrimination are all categorised as retaliation, from which employees who make legitimate disclosures are protected.

To benefit from a retaliatory claim, a whistleblower must initiate action under the Sarbanes-Oxley Act, with the Occupational Safety and Health Administration (OSHA) through the Department of Labour within 180 days of the occurrence of the retaliatory act.[607] This body has been endowed with full adjudicatory and investigative authority regarding any retaliatory claims made under Section 806 of the Sarbanes-Oxley Act. In assessing retaliatory claims, OSHA is permitted to dismiss any complaint concerning retaliatory actions without conducting an investigation, except in cases where the whistleblower demonstrates that the legitimate disclosure made was a contributing factor that led to retaliatory conduct.[608] Conversely, if the employer can provide evidence that the alleged inaction or action was not a consequence of the whistleblower's legitimate disclosure, OSHA is obliged not to proceed with an investigation. The rationale behind implementing such a requirement for processing retaliatory action claims is to balance the interests of both the employer and the employee.[609]

3.7.5. Enhance the Implementation of the Sarbanes-Oxley Act 2002

Despite encouraging whistleblowers to report internally, the SEC has explicitly indicated that it is actively seeking agreements that offer benefits to employees in exchange for their commitment not to report concerns to the SEC or other regulatory authorities. On that premise, organisations ought to ensure internal whistleblowing policies facilitate employees to report their concerns while expressly discouraging any form of incentivisation that would dissuade employees from submitting their concerns externally. This clearly demonstrates that external reporting is esteemed and strongly encouraged and attempts to hinder such disclosures are futile.

3.7.6. Enhancement of the Regulatory Body Responsible for the Oversight of Retaliatory Claims (OSHA)

[607] V. Watnick, 'Whistleblower Protections Under the Sarbanes Oxley Act: A Primer and Critique' (2007) 12 Fordham Journal of Corporate and Financial Law 831, 840.
[608] B. H. Earle and G. A. Madek, 'The Mirage of Whistleblower Protection Under Sarbanes Oxley: A Proposal for Change' (2007) 44 American Business Law Journal 1, 8.
[609] R. Beller, 'Whistleblower Protection of the East and West: Can it really reduce Corporate Fraud and Improve Corporate Governance- A Study of the Successes and Failures of Whistleblower Protection Legislation in the US and China (2011) 7 New York Journal of Law & Business 873, 904.

Whistleblowers are required to submit a complaint through the Department of Labour to initiate a claim for retaliatory action, which obligates the Occupational Safety and Health Administration (OSHA) to oversee such claims. The management of retaliatory claims concerning disclosures related to securities law violations by OSHA has elicited concerns, as it appears perplexing that OSHA is responsible for handling these claims. OSHA's primary objective is to foster a healthy workplace environment, with a key focus on preventing workplace-related health issues.[610] This situation prompts consideration of whether this agency is the most appropriate entity to address and process claims related to retaliatory actions.

Arguably, the SEC 's approach to processing claims under the Dodd-Frank Act may constitute a more advantageous option for receiving and managing retaliatory claims pursuant to the Sarbanes-Oxley Act. It was identified that, within the first three years of the Sarbanes-Oxley Act's implementation, the success rate for whistleblower claims stood at 3.6 per cent, attributable to the inadequate handling of retaliation claims by the OSHA.[611] A study examining OSHA's progress in managing retaliation claims suggests that OSHA lacks the necessary expertise to effectively address such whistleblower retaliation complaints. As previously noted, OSHA is primarily an agency specialising in labour-related matters, rather than in violations of securities laws or in retaliatory claims associated with legitimate disclosures of violations of financial legislation.

Following the 2008 financial crisis, it became evident that the provisions implemented under the Sarbanes-Oxley Act contained ambiguities that compromised the Act's effectiveness. There was no significant impact on deterring financial misconduct, which was the primary motivation for its enactment by Congress. The 2008 crisis highlighted this shortcoming, prompting Congress to address the inadequacy through amendments to the Securities and Exchange Act of 1934, notably by introducing the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, to improve the Sarbanes-Oxley Act.[612]

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[610] Occupational Safety and Health Administration, 'All About OSHA' (2016) http://www.osha.gov/Publications/all_about_OSHA.pdf Accessed 2 September 2025.

[611] M Khan, 'Whistling in the Wind: Why Federal Whistleblower Provisions Fall Short of their Corporate Governance Goals?' (2018) 26 University of Miami Business Law Review 57,75.

[612] L. Labriola, 'Paying too Dearly for a Whistle: Properly Protecting Internal Whistleblowers' (2017) 85(6) Fordham Law Review 2839, 2850.

3.8. Whistleblowing Provisions in the Dodd-Frank Wall Street Reform and Consumer Protection Act 2010

It was evident that the implementation of the Sarbanes-Oxley Act aimed to prevent the 2008 financial crisis, which had a devastating impact on the US markets.[613] To avert the recurrence of such crises, the United States government recognised the necessity for comprehensive reforms to address existing deficiencies and to enhance the strength of corporate governance structures within the country. In response to this financial crisis, Congress enacted additional legislation to promote greater transparency and accountability within the corporate governance systems of financial institutions. Furthermore, the imperative to overhaul the financial system's foundations was a significant factor in the adoption of the Dodd-Frank Act.[614] A report issued by the Department of the Treasury emphasised that the primary objectives of these reforms were to establish a resilient financial regulatory framework and to foster international cooperation.[615]

Employees were encouraged to make legitimate disclosure after the financial crisis of 2008 due to their proximity to information in their organisation, in which they can detect misconduct. This also strengthened the requirement for stronger whistleblower protection and raised relevant questions about how to prevent fraudulent activities in these organisations effectively.[616] The Dodd-Frank Wall Street Reform and Consumer Protection Act was implemented to bridge the loopholes in the Sarbanes-Oxley Act. It was passed into law in 2010 with the insertion of a new provision titled Section 21F codified in the Securities and Exchange Act of 1934.[617] Whistleblower protection is outlined in sections 922 and 929A of the Dodd-Frank Act. The Dodd-Frank Act[618] defines a whistleblower as any individual or two or more individuals acting jointly who provide information of a wrongdoing related to the violation of securities law to the SEC in a manner established by the SEC's rules.[619]

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[613] U. Desai, 'Crying Foul: Whistleblower Provisions of the Dodd-Frank Act of 2010' (2012) 43 Loyola University of Chicago Law Journal 427, 446.
[614] S. C. Leifer, 'Protecting Whistleblower Protections in the Dodd-Frank Act' (2015) 113 Michigan Law Review 121, 130.
[615] E. C. Chaffee, 'The Dodd-Frank Wall Street Reform and Consumer Protection Act: A Failed Vision for Increasing Consumer Protection and Heightening Corporate Responsibility in International Financial Transactions' (2011) 60 American University Law Review 1431, 1435.
[616] S. Osbourne, 'Dodd-Frank Whistleblower Provision: Determining Who Qualifies as a Whistleblower' (2017) 41 Delaware Journal of Corporate Law 903, 924.
[617] 15. U.S.C. 78u-6.
[618] Dodd-Frank, 2010, §.922a (6).
[619] Ibid.

The Dodd-Frank Act, enacted in 2010, is a comprehensive financial reform legislation that was designed to prevent another financial crisis. One of its key provisions is the whistleblower protection, which is the focus of this analysis. Congress sought to bridge the loopholes in creating the Sarbanes-Oxley in enacting the Dodd-Frank Act as an amendment to reinforce the importance of corporate transparency and accountability.[620] To forge for whistleblowers to make legitimate disclosures of wrongdoing in providing original information associated with violations of securities law.[621] To increase the efficacy of disclosure, provisions were included by congress for retaliatory actions, confidential reporting and monetary reward programme for providing financial incentives to whistleblowers who make legitimate disclosures on wrongdoing related to the violations of securities law.[622] For the information to be deemed as 'original' it must be given directly by the whistleblower and it must be derived from the independent belief or knowledge of the said whistleblower. On this premise, the authentic information ought to be independent knowledge or analysis directly from the whistleblower and that the commission must not previously know the information from another source. Additionally, the approach for making the disclosure is dependent on condition that the whistleblower had a genuine reasonable belief that there was a possible violation given the reason for the reporting misconduct to the SEC.[623]

The Dodd-Frank Act extended the protection provision to cover employees of subsidiaries and affiliates of public companies.[624] Furthermore, any person performing duties related to the provision or offering of a consumer service or financial product is included in the provision. Also included is the mandate for the SEC to provide an annual report on the progress of the Act to Congress, as a feature of the Dodd-Frank provision.[625] The number of whistleblower tips received, the monetary reward made to whistleblowers and the funds available in the investor protection fund from which the monies for the award are paid are mandated to be included in the report.[626] This gave a clear indication of the reason for acknowledging the significance of re-evaluating whistleblowing legislative measures to assess their efficacy to evolve with

[620] Osbourne (n 616) 924.
[621] C. E. Keen, 'Clarifying What is Clear: Reconsidering Whistleblower Protections Under Dodd- Frank' (2015) 19 North Caroline Banking Institute 215, 216.
[622] J. Ernst, 'The Dodd-Frank Whistleblower Provision: Throwing Fuel on the Fire for the Foreign Corrupt Practices Act Compliance' (2011) 42 Arizona State Law Journal 1313, 1327.
[623] T. J. Fitzmaurice, 'The Scope of Protected Activity under Section 806 of SOX' (2012) 80 Fordham Law Review 2041, 2070.
[624] Dodd-Frank, 2010, § 929A.
[625] Dodd-Frank, 2010, §. 922g (5).
[626] M. Foscaldi, 'Whistleblower Provisions of the Dodd-Frank' (2012) 31 Review Banking and Finance Law 486, 493.

changing times. Whistleblower protection legislation, which is expected to provide whistleblowers with protection and encourage legitimate disclosures, must effectively consider the importance of reforming previous legislative provisions in line with their performance to accomplish its purposes in recent times.

3.8.1. Anti-Retaliation Protection in the Dodd-Frank Act 2010

There are, similarly, provisions in the Dodd-Frank Act and the Sarbanes-Oxley Act addressing retaliatory claims. Employees are entitled to back pay for a retaliatory discharge under the Sarbanes-Oxley Act, while employees bringing a claim for retaliation under the Dodd-Frank are entitled to double back pay for a retaliatory discharge. More so, whistleblowers are required to file a claim within 180 days through OSHA, under the Dodd-Frank Act, which provides a right of action for whistleblowers to file a retaliatory claim directly to the federal courts. The Dodd-Frank Act aims to enhance the ability of whistleblowers to report wrongdoing and extend the statute of limitations for claims of reprisal. The Dodd-Frank Act allow whistleblowers to make a retaliatory claim for protection after six years of retaliation, but no longer than three years since the whistleblower action resulted in retaliation.[627]

This indicates that, as an additional safeguard, whistleblowers protected under the Act are granted a maximum of ten years in total to file a claim for retaliatory actions. This provision is commendable when compared to the Sarbanes-Oxley Act, which stipulates a 180-day statute of limitations for filing a retaliatory claim with OSHA. Since the enactment of the Dodd-Frank Act, the Securities and Exchange Commission (SEC) has received over ten thousand tips containing information and complaints. It is anticipated that these figures will continue to rise; consequently, it is prudent to advocate for the ongoing protection of whistleblowers against retaliatory actions stemming from legitimate disclosures. Moreover, the Dodd-Frank Act allows for anonymous whistleblowing. However, the Act mandates that individuals seeking to remain anonymous must be represented by legal counsel and disclose their identity at the stage when the financial reward is to be issued or disbursed.[628]

[627] M. Elizabeth King, 'Blowing the Whistle on the Dodd-Frank Amendments: The Case Against the New Amendments to Whistleblower Protection in Section 806 of Sarbanes-Oxley' (2011) 48 American Criminal Law Review 1457, 1465.
[628] Osbourne (n 616) 924.

3.8.2. Financial Reward Programme for Whistleblowers in the Dodd-Frank Act 2010

The Dodd-Frank Act established a bounty programme that offers financial incentives to whistleblowers whose disclosures lead to a judicial or administrative action. Whistleblowers are eligible to receive between 10 per cent and 30 per cent of the monetary sanctions imposed on the organisation as a result of the wrongdoing under the Act.[629] Judicial or administrative action, as any case initiated by the SEC that results in financial sanctions exceeding one million dollars, is defined by the Act. It also describes a related action as one initiated by regulatory bodies or agencies such as the foreign securities authority, the Attorney General, and the Public Company Accounting Oversight Board.[630]

Since the inception of the financial reward programme established under the Dodd-Frank Act, the Securities and Exchange Commission (SEC) has awarded approximately $111 million to thirty-four whistleblowers, as documented in a 2016 publication by the SEC.[631] Moreover, a recent report analysing the progress of the Dodd-Frank whistleblower programme, released in 2018 by the SEC, indicated that from the commencement of the award programme until the conclusion of the 2018 fiscal year, the SEC had disbursed in excess of $326 million to 59 whistleblowers.[632] The same report also observed that from the programme's inception through 2018, the SEC had received over 28,000 tips, with 2018 recording the highest number at over 5200 tips related to misconduct. It is evident that the Dodd-Frank Act has substantially enhanced the protections afforded to whistleblowers who make legitimate disclosures.

It also functions as a disincentive against organising illegal or unethical conduct. It is widely recognised that whistleblowers frequently encounter retaliation, which can be severe and may result in termination of employment. In organisations where significant financial and corporate scandals emerged at the beginning of the 21st century, whistleblowing has been considered a career-ending action in such organisations. The Dodd-Frank Act provides a protective shield for whistleblowers. It may constitute the most effective means to encourage potential whistleblowers to come forward with legitimate disclosures.

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[629] L. M. Hartman, 'Whistle While You Work: The Fairytale-Like Whistleblower Provisions of the Dodd-Frank Act and the Emergence of ''Greedy,'' the Eighth Dwarf' (2011) 62 Mercer Law Review 1279, 1288.
[630] J. Ernst, (n 622) 1327.
[631] U.S Securities and Exchange Commission, '2016 Annual Report to Congress on the Dodd-Frank Whistleblower Program' pg. 10 (15 November 2016) http://www.sec.gov/files/owb-annual-report-2016.pdf Accessed 2 September 2025.
[632] U.S. Securities and Exchange Commission, '2018 Annual Report to Congress Whistleblower Program pg.8-9 (15 November 2018) http://www.sec.gov/sec-2018-annual-report-whistleblower-program.pdf Accessed 2 September 2025.

The Dodd-Frank Act seeks to implement financial incentives equitably by withholding rewards from whistleblowers who current or former members of regulatory agencies are, the Department of Justice, law enforcement, or members or affiliates of the Public Accounting Oversight Board. The SEC will also deny rewards in specific circumstances, including when the whistleblower is associated with or has been convicted of the misconduct reported, when the misconduct is discovered during an audit conducted in accordance with SEC regulations, or when whistleblowers fail to adhere to the SEC's prescribed reporting procedures.[633] These provisions serve as safeguards to prevent misuse of the programme. Furthermore, to deter malicious claims, the SEC stipulates that whistleblowers will forfeit any awarded amount if it is established that they made false claims, whether verbally or in writing, submitted fraudulent documentation, or made false retaliatory allegations.[634]

Some contend that providing financial incentives to whistleblowers diminishes the necessity for robust internal compliance and whistleblowing mechanisms. This perspective arises because the Act permits whistleblowers to circumvent internal reporting channels by reporting directly to the SEC and obtaining financial awards if successful judicial or administrative proceedings result in penalties exceeding one million dollars. Although these concerns appear justified, an improved strategy would involve offering multiple avenues for initial disclosures, thereby encouraging whistleblowers to report genuine violations of securities law. A potential enhancement to this legislation could be to permit whistleblowers to initially report their concerns internally; if these concerns remain unaddressed within a designated period, such as 60 days, they may then report directly to the SEC and be eligible for financial rewards. Such an approach would facilitate organisations in investigating and rectifying misconduct swiftly, thus aiding in the prevention of retribution.

The implementation of financial incentives, which offer monetary rewards, is argued by some to encourage a lottery and bounty hunting mentality, thereby diminishing moral responsibility. There is also a need for individuals to make sacrifices to do the right thing. Currently, whistleblowers often face retaliation, highlighting an urgent need to promptly halt wrongdoing and foster a corporate culture that values transparency and accountability. The key point is that illegal or unethical acts must be reported for actions to be taken, and this is where whistleblowers play a vital role. This suggests that the emphasis should be on the message conveyed rather than the motive of the person delivering it. To promote such legitimate

[633] Dodd-Frank Act, 2010, §922b (2)
[634] Dodd-Frank Act, 2010, §.922h (3) (i).

disclosures, proactive incentives such as financial rewards can serve as effective mechanisms for detecting misconduct and cultivating a corporate culture. Organisations genuinely committed to avoiding penalties for wrongful acts must adopt proactive measures to prevent illegal and unethical behaviour within their workplaces. The question of whether the Dodd-Frank Act has been a positive development and has elevated the standards for whistleblower programmes has been answered affirmatively. While this legislation is generally regarded as a positive advancement, it is important to acknowledge that, like any legal framework, over time, ambiguities and gaps are often identified, thereby necessitating reforms.

3.8.3. Proposals for Enhancing the Dodd-Frank Act 2010

As previously suggested, the Dodd-Frank Act has been a positive addition to the Sarbanes-Oxley Act. Nevertheless, as whistleblowers seek protection under the Act's provisions, it has become evident that reform measures may be necessary due to the emergence of loopholes in the Act's interpretation in specific circumstances. These identified loopholes and potential measures to address these discrepancies.

a) Complex Patchwork of Amendment Provisions in the Dodd-Frank Act 2010.

The enactment of legislation or provisions, or an alteration to an existing Act, is a longstanding practice within numerous jurisdictions and is unlikely to change in the near future. Nonetheless, considering the serious and sensitive nature of whistleblower protection and anti-retaliation measures, which profoundly influence the lives of potential whistleblowers, it would have been preferable for the whistleblower provisions of the Dodd-Frank Act to be articulated in a clear and concise manner. Section 922 of the Dodd-Frank Act amends section 21F of the Securities and Exchange Act of 1934, which established the SEC whistleblower programme. A thorough examination of section 922 and its amendments within the Dodd-Frank Act indicates that potential whistleblowers may easily become perplexed due to the intricate array of prior amendments and subsections under sections 922 to 924 that encompass the whistleblower provisions.

Undoubtedly, whistleblower provisions were implemented to address the regulatory framework of the financial system, with wrongdoing being reported through disclosures of violations of securities law due to their industry-specific nature. The SEC may need to consider reformulating this whistleblower provision, alongside the provisions of the Sarbanes-Oxley Act, as a standalone legislation that governs whistleblowing in the financial sector and in both

public and private organisations, as already contained in these legislations. It is also worth noting that the interchangeable use of section 21F of the SEC rules of 1934 and section 922 of the Dodd-Frank Act. The issues arising from this are that an 'individual' as defined in the whistleblower provisions of Dodd-Frank, considering that the term 'individual' broadens the scope of persons who may be whistleblowers, may not be clearly and unambiguously informed on how to proceed with reporting anti-retaliation claims, making legitimate disclosures, including understanding the guidelines and conditions for claiming a financial award. This could create uncertainty for employees working in these organisations, who lack a legal background and who are also trying to interpret the provisions of the legislation, considering amendments to prior laws. The placement of whistleblower provisions within select sections of the Dodd-Frank Act may limit the effective utilisation of such channels by potential whistleblowers seeking to report misconduct related to securities law violations. It has been acknowledged that the SEC whistleblower programme has achieved notable success; however, its effectiveness could potentially be enhanced by addressing this issue.

b) Rigorous Judicial Interpretation of the Anti-Retaliation Provision within the Dodd-Frank Act

A notable loophole within the Dodd-Frank Act pertains to the judicial interpretation of the narrow scope of the anti-retaliation provision concerning individuals who choose to report retaliatory conduct. A whistleblower is defined as an individual or two or more individuals who furnish information regarding violations of securities laws to the Securities and Exchange Commission (SEC) in accordance with the rules or regulations established by the SEC under the Dodd-Frank Act. This interpretation could suggest that protections against retaliation are exclusively available to whistleblowers who make disclosures externally to the SEC. Such an interpretation may lead to the perception that whistleblowers utilising internal reporting procedures within their organisations are not protected under the Act. Additionally, Section 21F-2 of the Act states that, in relation to the anti-retaliation protections provided herein, an individual qualifies as a whistleblower if the disclosure is made in good faith with a reasonable belief that a securities law violation has occurred, utilising procedures described under Section 21F of the Act. Furthermore, section 21F-2 clarifies that the anti-retaliation protections apply irrespective of whether the whistleblower qualifies for financial incentives.

The appropriate question here is to ascertain whether an agreement exists that Dodd-Frank amends Sarbanes-Oxley, and since the Sarbanes-Oxley Act established a mandatory

requirement for the enactment of internal whistleblowing procedures allowing employees to report internally, does the provision that mandates whistleblowers to report directly to the SEC initially undermine the purpose of including such mandatory internal procedures under the Sarbanes-Oxley Act? This can be affirmatively addressed, considering the Sarbanes-Oxley Act's objective to promote internal reporting, enabling organisations to remedy violations of securities law promptly. The SEC endeavoured to address concerns regarding a two-tiered approach by issuing interpretative guidance in 2015 to clarify this ambiguity. The SEC's stance in this guidance was that, to resolve any uncertainty, there would be two distinct definitions of a whistleblower, applicable in different situations. The first, in section 21F, pertains to whistleblowers seeking monetary awards who report directly to the SEC with original information. The second, under section 21F-2, relates to anti-retaliation protections, where reporting directly to the SEC is not obligatory.[635]

Recent judicial decisions have also subjected varied interpretations of the anti-retaliation provision to scrutiny. In 2013, the Fifth Circuit ruled in favour of the defendant in the case of *Asadi v G.E. Energy LLC*,[636] stating that the 'whistleblower' had no claim under the whistleblower provision of the Act, which strictly applied the text of the Act defining a 'whistleblower' as an individual who made disclosures directly to the SEC. The court adopted a narrow interpretation of the Act's text, holding that, based on this definition, to qualify as a whistleblower under the anti-retaliation provision, the disclosure must be made directly to the SEC. In a contrasting judicial decision in 2015, in the case of *Berman v Neo@Ogilvy LLC*,[637] the Second Circuit relied on the interpretative guidance of the SEC, which held that the anti-retaliation provision in the Act protects employees who make disclosures with a reasonable belief that the disclosure was internal. The court also noted that, although Dodd-Frank's anti-retaliation provision seemed ambiguous enough to warrant a strict interpretation, this was the reason for the Second Circuit's decision to adopt the SEC guidance, extending anti-retaliation protections to individuals who report internally, to governmental bodies, or directly to the SEC.

A Supreme Court decision about an anti-retaliation provision has reignited debate on the judiciary's role, limits that court rulings place on promoting the disclosure of misconduct and protecting whistleblowers. In March 2017, in the case of *Somers v Digital Realty Trust*,[638] the

[635] Securities and Exchange Commission, 'Interpretation of the SEC's Whistleblower Rules under the Section 21F of the Securities Exchange Act of 1934' pg 6-7 (4 August 2015) http://www.sec.gov/rules/interp/2015/34-75592.pdf Accessed 2 September 2025.
[636] *Asadi v G.E Energy [2013] 720 F.3d 620 (5th Circ.)*
[637] *Berman v Neo@Ogilvy LLC [2015] 801 F.3d No. 14-4626 (2nd Circ).*
[638] *Somers v Digital Realty Trust [2017] 805 F.3d 1045 (9th Circ).*

plaintiff submitted internal reports regarding securities law violations by a senior vice president. The plaintiff was dismissed before submitting a direct claim to the Securities and Exchange Commission (SEC). Later, he filed a lawsuit claiming anti-retaliation protection under the Dodd-Frank whistleblower provision after being dismissed for internal disclosures. The defendant filed a motion to dismiss, arguing that the plaintiff was not considered a 'whistleblower' under the Dodd-Frank Act because his disclosure was made internally rather than directly to the SEC. The Ninth Circuit Court rejected the defendant's motion, deciding that the plaintiff was eligible to pursue a claim for anti-retaliation protection since he had made a protected disclosure through internal reports. Furthermore, the court, like the Second Circuit, reasoned that the protections under the Dodd-Frank Act apply to individuals who make disclosures either internally or directly to the SEC.

Nevertheless, in a notable departure from previous interpretations of this whistleblower provision within the Dodd-Frank Act, the United States Supreme Court, in the case of *Digital Realty Trust v Somers*,[639] ruled in favour of the defendant (Digital Trust). The Court resolved the split of decisions among circuit courts by asserting that the definition of a whistleblower under the Dodd-Frank Act should be narrowly construed in accordance with the statutory language. Consequently, the Supreme Court determined that only claims submitted to the Securities and Exchange Commission (SEC) are protected by the anti-retaliation provisions of the Dodd-Frank Act. This ruling substantially narrows the scope of protection against retaliation under the Act, as it stipulates that only employees who make claims directly to the SEC are entitled to such protection, as per the Court's judgment. This decision effectively overturned the interpretative guidance issued by the SEC, which previously indicated that Section 21F also extends to whistleblowers who make internal disclosures.

This indicates that the SEC clarification, along with the interpretative guidance, has exerted limited influence on the manner in which courts adjudicate whistleblowing cases pursuant to the Act. What is now necessary is a more thorough appraisal of the judiciary that recognises the challenges faced by whistleblowers when subjected to retaliation for their disclosures. It is also argued that, despite noticeable efforts by policymakers and regulators to encourage and protect whistleblowers in order to cultivate a culture of transparency and accountability, and to prevent financial scandals, certain judicial decisions in this domain, particularly in light of the recent Supreme Court's narrow interpretation of anti-retaliation protections, exhibit a hesitance to fully endorse these initiatives. This judicial decision also bears specific implications. Firstly,

[639] *Somers v Digital Realty Trust [2017] 805 F.3d 1045 (9th Circ).*

as the ruling explicitly states that only employees who report directly to the SEC will be shielded under the Act, there exists a significant likelihood that employees will circumvent internal whistleblowing procedures within their organisations. Furthermore, such a stance may impede an organisation's capacity to address issues internally in a timely manner prior to escalation to relevant regulatory authorities and the SEC.

The Securities and Exchange Commission (SEC) acknowledged the necessity for additional guidance subsequent to the Supreme Court ruling and has put forward amendments concerning anti-retaliation protections in its 2018 annual report to Congress regarding the progress of the Dodd-Frank Act. These suggested modifications seek to establish a uniform definition of a whistleblower applicable throughout all aspects of the whistleblower provisions, including the financial reward programme, confidentiality mandates, and employment anti-retaliation protections.

To genuinely motivate whistleblowers to come forward, adequate resources must be provided, and time will show the impact of this proposed amendment on encouraging disclosures. In this context, this could be seen as offering alternative channels for making legitimate disclosures. When revealing misconduct, it does not matter whether the whistleblower chooses to raise concerns internally or externally if the disclosure is legitimate. Whistleblowers should be protected from retaliation when they make a valid disclosure, notwithstanding the channels used for reporting. This thesis acknowledges the importance of mandatory internal whistleblowing procedures to help organisations foster a transparent and accountable environment, while also encouraging and safeguarding whistleblowers. However, the reality remains that, for any whistleblowing legislation or internal procedure to be effective, it must prioritise protecting whistleblowers from retaliatory actions, regardless of the channels they use to make legitimate disclosures.

It is evident from the numerous revisions to the False Claims Act that the government intends to deter fraudulent misconduct by offering financial incentives to motivate whistleblowers to come forward. The question of whether the FCA has fulfilled its objective can be largely answered, considering the evidence of recoveries outlined above. It can also be appropriately asserted that the Sarbanes-Oxley Act established standards for providing comprehensive protection to whistleblowers who make legitimate disclosures, and that the Dodd-Frank Act elevated the standards previously set by its predecessor. Moreover, when the Sarbanes-Oxley Act did not effectively encourage disclosures concerning violations of securities laws, the Dodd-Frank Act responded by incorporating a financial reward for whistleblowers whose disclosures resulted in successful penalties. It is indisputable that the implementation of the

Sarbanes-Oxley Act and the Dodd-Frank Act prompted a surge in regulatory compliance efforts within organisations, with the acknowledgement that whistleblowing serves as a crucial mechanism for fostering transparency and accountability.

The significant risks faced by whistleblowers when making disclosures are underscored by the anti-retaliation provisions within these legislations, thereby highlighting the necessity for more robust whistleblowing protection mechanisms through legislative initiatives. Notwithstanding the commendation these Acts have received, it is crucial to acknowledge that ongoing adaptations and reforms are essential to reinforce these statutes and to effectively safeguard potential whistleblowers in the workplace. Accordingly, the SEC has endeavoured to fulfil this objective by submitting an annual report to Congress detailing the progress of the Dodd-Frank Act, which encompasses suggested changes aimed at strengthening the whistleblower provisions within the Act.

3.9. The Whistleblowing Definition by the EU Whistleblowing Directive

The EU Directive defines whistleblowers as "an individual and/or group of workers" reporting violations in public procurement, financial services, product safety, environmental protection, food safety, animal welfare, public health, consumer protection, personal data protection and more. The Whistleblower Directive protects persons who report breaches of European Union law.[640] Precluded from the Directive are national security, provisions on the health and safety of workers and their working conditions, the energy industry, except for nuclear safety and the protection of classified information.[641] The explicit influencing factor that supported the drafting of the EU Whistleblowing Directive is to enhance the enforcement of Union law and protection to whistleblowers who would report breaches.[642] The whistleblowing laws in Europe are currently fragmented, and the level of protection accorded to whistleblowers in many Member States hinders voluntary reporting of violations of Union law, as exemplified in their enforcement.

The EU legislator has, therefore, geared all efforts towards a comprehensive harmonisation of whistleblowing law with the primary legal basis for internal market competence and reduction of enforcement deficits in the future.[643] To attain the objective, interlocking provisions that are important to the regulatory structure are split into four elements. The first and most crucial

[640] Articles 1-5, EU Whistleblower Directive.
[641] Article 3(3)(a), EU Whistleblower Directive.
[642] Articles 1-5, EU Whistleblower Directive.
[643] V. Abazi, 'The European Union Whistleblower Directive: A 'Game Changer' for Whistleblowing Protection? (2020) 49 Industrial Law Journal 640, 642.

element of this legal instrument is the wide-ranging provision of anti-discrimination. In accordance with the article, whistleblowers are protected to enhance the enforcement of the union law. Particularly to hinder and detect procurement-related fraud and corruption.[644]

Secondly, the Directive made it necessary for legal entities in the private and public sectors to provide internal reporting channels on breaches of EU law. This aims to enable whistleblowers to access the appropriate internal complaint recipients.[645] The scope covered a broad range of entities with 50 or more workers.[646] However, with regards to the public sector, Member States can make a unilateral decision to exempt municipalities with less than 10,000 residents from the duty to enforce internal reporting in accordance with Article 8(9) of the whistleblower Directive. As a result of the diversity and structure of the entities, the Directive is hesitant to be too prescriptive with the specific requirements for the complaint recipient of internal reporting, thus allowing for different organisational initiatives, such as a whistleblowing unit, external counsel or an employee with dual responsibilities within the reporting process. Despite all those obligations placed on organisations, the Directive still compelled legal entities to perform several procedures when dealing with internal reporting. For example, entities are required to make all reporting confidential, record all the meetings with whistleblowers and follow up on every incoming report.[647]

Significantly, organisations must give whistleblowers all the necessary feedback on actions taken as follow-ups within no more than three months.[648] Thirdly, there is a proposition for external reporting channels to special whistleblowing authorities. The authority would function as a professional administrative link between investigative authorities and the whistleblowers.[649] Essentially, the procedural requirement of the authorities will mirror the duties of the internal reporting recipient officer in an organisation. However, there is an exception of six months for the authorities to offer feedback on justified cases, for example, if there is complexity in the subject of the reporting.[650] The Member States must provide adequate resources to those authorities to ensure professionalism, independence and efficiency.[651] This will enable the authorities to train competent staff to handle reports of misconduct disclosed by whistleblowers. In addition, whistleblowing authorities can raise awareness among the

[644] Article 6, EU Whistleblower Directive.
[645] Ibid, Art 7.
[646] Ibid, Art 8(1).
[647] Article 18, EU Whistleblower Directive.
[648] Ibid, Art 9(11).
[649] Ibid, Art (10-14).
[650] Ibid, Art 11 (2),
[651] Ibid, Art 11(1).

general public about their framework of whistleblower protection and their procedure for dealing with external reporting.[652]

Finally, the Whistleblower Directive makes it compulsory for the Member States to provide reasonable, practical and dissuasive punishment relevant to a person for retaliatory action taken against whistleblowers and persons who make false reports. The intention of making the provision for specific whistleblowing criminal law appears to be far-reaching. Proving retaliatory intent beyond a reasonable doubt has proven problematic in whistleblowing cases.

The Directive solely covers areas with anticipation for effective enforcement of union law, and the legislators have firmly held that uniform minimum standards are particularly essential. On that note, the Directive can meet the set objective of overcoming the difficulties of the fragmentation and legal uncertainty about whistleblowing legislation in the Member States to a certain extent. However, the Directive has made provisions to extend the whistleblowing Directive to overcome legislative limitations in the future.[653] The Directive has indicated the likelihood of widening the material scope to national legislators.[654] Nonetheless, the challenge to overcome is how effectively the Directive's legal framework could extend to include breaches of national laws.

Several rules of reporting misconduct existed in EU law before adopting the EU Whistleblower Directive. However, the EU Whistleblower Directive has allowed whistleblower protection to be extended to other specialised sectors, such as money laundering or competition law.[655] Nevertheless, other Directives, such as the Transparency Directive[656] and the Markets in Financial Instruments Directive[657], are not forthcoming in offering appropriate protection to whistleblowers when reports are made for the public interest. Under Article 5(b) of the EU Whistleblowing Directive, civil redress is not available to trade secret holders for exposing misconduct, regardless of whether the disclosure is in the public interest.

With Article 4 of the EU Whistleblower Directive, former and current employees and job applicants are protected against retaliation.[658] However, various changes are anticipated in national laws during the transposition, particularly concerning the directors' fiduciary duties

[652] Article 13, EU Whistleblower Directive.
[653] Ibid, Art 27 (3).
[654] Ibid, Art 2 (2).
[655] Article 3(1), EU Whistleblower Directive.
[656] Ibid, Art (4-7).
[657] Ibid, Art 24
[658] Ibid, Art 4(2).

of loyalty and confidentiality. The concept of loyalty between employee and employer is completely omitted from the Directive's definition of whistleblowing. The fact remains that employees might decide not to report irregularities of European Union law as a result of their loyalty to their organisation and their colleagues. There are occasions when the Directive ought to compel employees to waive loyalty to the organisation when the interest of the European Union is at stake.[659] However, by virtue of Article 3(3)(b) of the Whistleblower Directive, lawyers and doctors cannot rely on the Directive as they would violate their professional duty of confidentiality. The same applies to those employees in the legal and health sectors who are contractually bound by national rules and professional privilege.

Legal entities are accorded protection by Article 4(4)(c) of the EU Whistleblower Directive. This includes legal entities with 50 or more workers, and the Directive regulates contractual relationships between companies. The term 'legal entity' can be unambiguous with respect to the national legal systems, but it is very different when translated from other languages. A uniform European interpretation is to be adopted due to the principle of equal multilingualism, as the use of specific national terms does not have any binding effect on the interpretation of the EU Whistleblower Directive.[660] Therefore, laying down the common standard of the term 'legal entity' should be considered and not conform to the laws of the Member States, as it will prevent gaps in the protection of whistleblowers.

Additionally, the protection of legal entities serving as facilitators to whistleblowers ought to be considered for protection by the Member States since Article 5 of the Whistleblower Directive mentions natural persons as facilitators without any suggestion for the preclusion of legal entities. Non-Governmental Organisations (NGO) that provide whistleblowers with support and advice as part of their non-profit mission can benefit from protection.

Several provisions protect whistleblowers under the EU Whistleblower Directive when they report the misconduct occurring in an organisation. Article 7 explicitly protects internal reporting, while external reporting is mentioned in Article 10, and public disclosure is detailed in Article 15. Then, Article 6 (1)(a) guaranteed legal protection to whistleblowers if they report misconduct internally in the organisation or externally to the competent authorities on the condition that the information reported is accurate at the time of reporting. Notably, Article 6 (1)(a) of the Directive does not refer to the scenario when a whistleblower's belief is deemed

[659] L. Kobron-Gasiorowska, 'European Union model of whistleblowing' (2022) 48 Review of European and Comparative Law 191, 193.

[660] S. Van Der Jeught, 'Current Practices with Regard to the Interpretation of Multilingual EU Law: How to deal with Diverging Language Versions?' (2018) 11 European Journal of Legal Studies 6, 9.

'reasonable'. However, it was intended to safeguard against those who intentionally and knowingly report misleading information.[661] In contrast, the Directive still seeks to protect those who report incorrect information on breaches by honest mistake. It is crucial for legislators to clearly define the conditions for protection when transposing the Directive into national law to have a uniform legal application amongst the Member States, which can permit citizens to make informed decisions on whistleblowing.

Priority is not specified in the Directive for internal and external reporting to the competent authorities. However, Article 10 of the Whistleblower Directive stated that the reporting person shall report information on breaches using the channels and procedures referred to in Articles 11 and 12 after reporting through the internal or external channels. Nevertheless, the German and French governments are both critical of the external reporting channel, and this stance can be attributed to the European Court of Human Rights (ECtHR) ruling in *Heinisch v Germany.*[662] The ruling from the case has supposedly deduced that internal reporting has priority over external reporting for whistleblowing under the ECtHR. Nevertheless, the Court did not indicate any hierarchy between internal whistleblowing or whistleblowing to a competent authority or body. However, the German Federal Labour Court limited employees' direct external reporting rights.

In conclusion, the EU definition of whistleblowing as provided in the Directive lacks direction and purpose aside from being an acceptable legal document that stipulates rules and regulations and outlines coverage areas of whistleblower protection. This explains why whistleblowers in those transposed EU Member States suffer different retaliatory actions from employers who are rarely questioned for coercing employees out of their jobs or firing them without legal consequences. Also, the fragmented and cumbersome nature of the EU Member States' national laws means potential misconduct cases are never reported.[663] Nonetheless, individuals making disclosures are granted free access to legal advice. It is noteworthy that EU Member States can fill some of the legislative gaps in their national law to protect whistleblowers more effectively and efficiently following the transposition of the EU Whistleblower Directive. The next section critically examines the scope contained within the definition and the extent to which the three jurisdictions of this study afford whistleblowers protection.

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[661] Article 6(1) (a), EU Whistleblower Directive.
[662] *Heinisch v Germany* [2011] 28274 ECHR 08.
[663] B. Berceanu, 'New Legal Standards for Whistleblowers in the Light of the Directive (EU) 2019/1973 on the Protection of Persons Who Report Breach of Union Law. Case Study: Romania' (2020) 7 Filodiritto Editore 38, 42.

3.9.1. Comparative Analysis of The Scope of the Definitions with COVID-19 Disclosures

For many years, diversity has become prevalent, which characterises how countries developed national laws by defining ways for whistleblowers to report misconduct. Countries ensure that channels for reporting misconduct are available for whistleblowers, and they are protected from reprisals when illegal activities are disclosed. The introduction of the EU Whistleblower Directive has altered the perspective of the global whistleblowing characteristics since its provisions offer wider protection than existing legislation, such as SOX and PIDA. This section of the chapter provides a comparative assessment of the scope of the definitions mentioned in the three jurisdictions of the study. The section undertakes the following evaluations: Nature of the wrongdoing, the person that is protected, internal reporting, external reporting, protection against retaliation and financial rewards.

3.9.2. Nature of the Wrongdoing Included in the Scope

In the UK, Section 43B (1) PIDA provides six types of significant failures that an employee must reasonably believe is either occurring or likely to occur: Breach of any legal obligation, Miscarriage of justice, Danger to the health and safety of any individual, Damage to the environment and the deliberate concealing of information concerning above. Under Section 43B(2) of ERA, those disclosing a breach of either UK law or the law of another country are protected.[664] Those mentioned wrongdoings defined by the legislation (PIDA) occurred during the coronavirus era. Still, whistleblowers in the UK had no recourse to legal protection until after the decision from the employment tribunal. At that point, the whistleblowers would have suffered all sorts of reprisals, as evident in the case of Dr Ranson detailed in section 2.3.1.
As previously noted, whistleblowing protections in the United States are specific to particular sectors; accordingly, in accordance with the definitions established under the Sarbanes-Oxley Act and the Dodd-Frank Act, such protections are exclusively applicable when the misconduct concerns securities within the financial sector. In these instances, pursuant to the Sarbanes-Oxley Act, employees who make legitimate disclosures are permitted to do so through internal channels, to federal regulatory or law enforcement agencies, to any parliamentary committee or member, or to any individual endowed with investigative authority capable of promptly addressing and halting the misconduct. Whistleblowers are required to submit genuine

[664] L. Kierans, 'Whistleblowing Litigation and Legislation in Ireland: Are There Lessons to be Learned? (2024) 53 Industrial Law Journal 173, 174.

disclosures of misconduct, providing original information related to violations of securities law. Only employees who directly report to the Securities and Exchange Commission (SEC) under retaliation provisions specified in Section 21F-2 of the Dodd-Frank Act are eligible for such protections.

During the coronavirus pandemic, nurses at Providence Saint John's Health Centre were suspended for reporting misconduct related to the issuance of inappropriate face masks by their employer. The hospital administrators suspended the nurses despite being aware that the surgical masks provided offered less respiratory protection.[665] Under US law, the WPA of 1989, employees must reasonably believe that a violation of law, regulation, or rule, gross mismanagement, substantial waste of funds, abuse of authority, or a significant and specific threat to public health or safety has occurred.[666] Additionally, the Whistleblower Protection Act (WPA) prohibits the agency from taking personal action against employees who, based on the following, engage in protected activities: a) cooperating with or disclosing information to the Special Counsel, the agency's Inspector General, or other internal investigation authorities; or b) refusing to comply with an order that would require them to violate a law, regulation, or rule.[667]

Under the EU Whistleblower Directive, for a whistleblower to be protected, the person must disclose breaches of the following areas of EU laws: public procurement, financial services, products and markets, and prevention of money laundering and terrorist financing, product safety and compliance, transport safety, protection of the environment, radiation protection and nuclear safety, food and feed safety, animal health and welfare, public health consumer protection, protection of privacy and personal data, and security of network and information systems, breaches affecting the financial interests of the EU and breaches relating to the EU internal market.[668] It can be argued that the whistleblower protection laws and prosecution mechanisms across the globe have failed whistleblowers, as evident in the case of Dr Zambon, who reported on the inadequacies of the Italian government's crisis preparedness.

[665] S. Karlamangla and A. Chabria, '10 nurses at Santa Monica hospital suspended for refusing to work without coronavirus protection' *Times* (Los Angeles, 16 April 2020), < https://www.latimes.com/california/story/2020-04-16/nurses-suspended-coronavirus-n95-masks> accessed 2 September 2025.
[666] 5 U.S.C. § 2302(b)(8).
[667] 5 U.S.C. § 2302(b)(9).
[668] Article 21(7), EU Whistleblower Directive.

3.9.3. The Person that is Protected

The protection afforded to whistleblowers by PIDA against detriment or dismissal covers both the private and public sectors. The protection also extends to shareholders apart from employees. Under the ERA, the definition covers the following persons: homeworkers, whether the work is to be done by them or not, non-employees undergoing training or work experience as part of a training course, otherwise than at an educational establishment, self-employed doctors, dentists, ophthalmologists and pharmacists in the NHS, agency workers, police officers, student nurses and student midwives.[669] The protection accorded to whistleblower as defined by PIDA is evident in the case of Dr Rason during the coronavirus outbreak. Dr Ranson, an employee doctor under the Isle of Man Department of Health and Social Care, was accorded protection because of her protected disclosure.

The protection accorded to whistleblowers in the US ranges from the Federal employee statutes that protect job applicants to incumbent and former employees.[670] Protection is also extended to federal contractors, subcontractors, and grantees. The following groups are not afforded protection: volunteers, shareholders, interns, fellows, Legislative and Judicial. Under the Dodd-Frank Act, any individual who discloses potential wrongdoing to the SEC must be protected by the Sarbanes-Oxley Act.[671]

The EU Directive includes workers, not only employees, but any individual who performs services for and under the direction of another person, in return for remuneration. Protection will therefore cover workers in non-standard employment relationships, including fixed-term workers and agency workers. The definition goes further to include self-employed individuals, including freelance workers, contractors and subcontractors, shareholders, members of an undertaking's administrative, management or supervisory body, volunteers, trainees (paid or unpaid), those working under the supervision/direction of contractors, sub-contractors and suppliers, new recruits who have not yet commenced work, facilitators (someone who assists a person in the reporting process in a work-related context), third persons connected with a reporting person who could suffer work-related retaliation (e.g. colleagues or relatives), and legal entities that the reporting person is connected to in a work-related context.[672]

[669] Section 43k, ERA (1996).
[670] 10 USC 2409; 41 USC 4712.
[671] 15 USC § 78u-6(h)(1).
[672] Article 4, EU Whistleblower Directive.

3.9.4. Internal Reporting

The internal channels of reporting misconduct in the US protect whistleblowers differently, as each Act designates a specific agent to whom a disclosure should be made.[673] Whistleblowers are protected if disclosures are made in court, to Inspectors General, law enforcement agencies, Congress or other designated agencies. Public disclosures are protected from classified information or the release of information prohibited by statute.

When an employee discloses in good faith internally to the employer (manager or director), protection is afforded where the whistleblower reasonably suspects that malpractice has occurred, is occurring, or is likely to occur.[674] As mentioned earlier, a tiered system in the UK is applied to encourage internal reporting of misconduct. Similarly, whistleblowers in the public sector (e.g., NHS and many 'quangos') can report misconduct directly to the sponsoring Department.

The Whistleblower Protection Directive obliged companies to be responsible for setting up internal reporting channels appropriate to their size and the extent to which their activities lead to the public interest. According to the EU Directive, companies that recruit over 50 employees must set up internal reporting channels.[675] Meanwhile, under their discretion, the Directive permits national legislators to offer stronger protection by requiring companies that employ fewer than 50 workers to set up internal reporting channels.[676]

3.9.5. External Reporting

External reporting channels for whistleblowers are favoured more in the US than in the UK and EU Member States. Under SOX, an individual might decide to report directly to the SEC irrespective of whether initial internal reporting was made. The other legislation that protects whistleblowers for external reporting of misconduct is the *qui tam* lawsuit.[677] Specific criteria must be met before an external disclosure under PIDA for protection to be accorded. Such disclosure must meet a heightened standard of suspicion, whereby the allegations made are significantly factual.[678] The whistleblowers must disclose in good faith; they need to show the substantive basis for the belief, and broader public disclosures to the regulator must be made

[673] 138 S. Ct. 767 (2018).
[674] Section 43C, ERA (1996).
[675] Article 8(3), EU Whistleblower Directive.
[676] Ibid, Arts 8 (7).
[677] U.S.C. section 3730(h)(1).
[678] Section 43(B), ERA (1996).

before reporting externally (to the media or the authorised regulator).[679] Whistleblowers are protected under Article 10 of the EU Whistleblower Directive when misconduct is reported externally. The whistleblower can also report externally under Article 9 if the effort to report the misconduct internally failed to yield any positive outcome. Under Article 11, EU Member States are encouraged to set up designated competent authorities and autonomous external reporting channels that are bound to provide feedback to whistleblowers within three months.

3.9.6. Protection against Retaliation

In the US, federal law[680] protects federal contractors, subcontractors, grantees and subgrantees. Government personnel services contractors are also protected. They are protected from demotion, discharge or discrimination for making protected disclosures. SOX[681] protects employees of publicly traded companies from discharge, demotion, suspension, threaten, harassment or discrimination against in terms and conditions of employment for lawfully reporting misconduct.

The PIDA incorporates whistleblower protection against retaliation under UK law. The Act prohibits any detriment by the employer on the ground that the employee made a protected disclosure.[682] In the event that a whistleblower suffers detriment (e.g., victimisation, harassment, bullying), legal action can be brought against the employer. The Act focuses on the whistleblower's right to make a 'protected' disclosure, with remedies available after the fact about the misconduct has been provided.

Certain protected disclosures are granted by the EU Whistleblower Directive against detriment, whether indirect or direct, such as retaliation, dismissal and demotion by the employer. The Directive imposes criminal, civil or administrative penalties on those organisations that retaliate against whistleblowers. A protected disclosure is extended to termination of employment, negative impact on promotion or salary, unjustified negative performance assessments, transfers and workplace changes.[683] The Directive also provides whistleblowers with access to advice and required information on procedures for protection against any likely legal action to be taken against them. There is a provision in the EU Whistleblower Directive

[679] Section 43(G), ERA (1996).
[680] 41 U.S.C. 4712.
[681] 18 U.S.C. §1514A.
[682] Section.47A, ERA (1996).
[683] Article 19, EU Whistleblower Directive.

for free legal aid, and financial and psychological support for whistleblowers in the event of any legal proceedings.[684]

3.9.7. Financial Rewards

Various laws in the US provide financial incentives for whistleblowers who report misconduct, and the amount awarded directly correlates with the successful contribution that leads to prosecutions. The False Claims Act provides for payment of monetary rewards between 15 and 30 percent of the money that the government collected when whistleblowers assist with claims connected to government contracts and other government programmes.[685] These US reward programmes that can be seen as pioneers in creating a protective and motivating financial reward environment for whistleblowers is explained further in section 2.8.2.

PIDA does not stipulate the provision of financial rewards for disclosing illegal, immoral or illegitimate practices. The only reward to whistleblowers comes after successful litigation for reprisal by the Employment Tribunal for wrongful dismissal or harassment for an uncapped amount. The PIDA provision expects misconduct to be reported in 'good faith' and 'public interest'.[686] While the UK legislative framework covers both the private and public sectors, the US equally covers both sectors, but the range of protection afforded to whistleblowers is restricted to disclosure that is protected under specific Acts.

There is no provision in the EU Whistleblower Directive to incentivise whistleblowers through financial rewards. However, Member States are empowered to introduce and reward whistleblowers reporting EU law breaches. The EU Whistleblower Directive has a broader scope and offers more extensive protection to persons reporting misconduct. The Directive also provides free legal assistance to those who cannot afford legal representation in the event of legal action. Evidently, the scope of the protection afforded to whistleblowers differs considerably between the three jurisdictions. The next section of this chapter examines the constituents that motivate individuals to blow the whistle.

3.10. Examining the Factors that Incentivise Whistleblowers to Blow the Whistle

The fundamental reason for a whistleblower to report misconduct is their desire to correct mistakes that can impact others, such as colleagues, organisations, or the general public.[687]

[684] Article 19, EU Whistleblower Directive.
[685] 31 U.S.C. § 3730 (d)(1), (2) (2006).
[686] Section 43B (1), ERA (1996).
[687] M. Naufal and others, 'Whistleblower Dilemma: Individual and Situational Factors in Whistleblowing Intention' (2020) 11 International Journal of Innovation, Creativity and Change 43, 49.

Efforts to fully comprehend whistleblowing's motivational drive can be complicated but grasping them is essential. As a result, the discourse about professional ethics, loyalty to an organisation, individual moral principles and financial motives for whistleblowing will create a better understanding of the motivational drive.[688] A whistleblower can be inspired by ethics, but at the same time needs a monetary reward to compensate for the precariousness, financial damage and other costs associated with blowing the whistle.[689] The motivation to bring wrongdoers to justice and safeguard the public, and at the same time be rewarded for taking the risk, is not unrelated.[690] The motive to report misconduct correlates with a financial reward and the severity of the wrongdoing. In most cases, the whistleblower's desire to report misconduct depends on the perceived seriousness of the offence. In some instances, the higher the level of the misconduct, the greater the chances of a whistleblower reporting the misconduct, regardless of any financial reward.[691] However, when the assumed level of misconduct is lower, the intention to report misconduct could be disregarded. Therefore, the intention to blow the whistle is moderated by the perception of the severity of the misconduct.[692]

3.10.1 Organisational Culture can Incentivise Individual to Report Misconduct

An organisational culture that accommodates reporting misconduct could foster whistleblowing in an organisation.[693] Many employees do not understand the process of reporting misconduct or know what constitutes a protected disclosure. Worse, many employees distrust the legal system's effectiveness in protecting them from retaliation when they report misconduct. Notwithstanding, some whistleblowers are committed to reporting misconduct and are prepared to suffer any outcome due to their action.[694] Both private and public sector regulators have already imbibed the culture of reporting misconduct as part of their action to

[688] F. Pangestu and D. K. Rahajeng, 'The Effect of Power Distance, Moral Intensity, and Professional Commitment on Whistleblowing Decisions' (2020) 35 Journal of Indonesian Economic and Business 144, 146.
[689] K. Kenny and M. Fotaki, 'The Costs and Labour of Whistleblowing: Bodily Vulnerability and Post-disclosure survival' (2023) 182 Journal of Business Ethics 341, 345.
[690] US Securities and Exchange Commission, 'The Importance of Whistleblowers to Reduce Fraud Against Federal Government and Recovering Funds for Taxpayers' (*sec.gov 11 April 2023*), <http://www.sec.gov/whistleblower> accessed 2 September 2025.
[691] H. Latan, C. J. Chiappetta Jabbour and A. B. Lopes de Sousa Jabbour, 'To Blow or Not to Blow the Whistle: The Role of Rationalization in the Perceived Seriousness of Threats and Wrongdoing' (2021) 169 Journal of Business Ethics 517, 520.
[692] Khan and others, (n 413) 5.
[693] D. W. Irawanto and K. R. Novianti, 'Exploring the Nature of Whistle Blowing in Organizations in Asia: An Integrative Perspective' (2020) 7 Journal of Asian Finance, Economics and Business 519, 526.
[694] A. Klofstad and others, 'When is "time's up"? The influence of severity and costs/benefits on perceptions of whistleblowing' (2022) 25 International Public Management Journal 413, 414.

encourage whistleblowing. For instance, the UK Bribery Act 2010 excuses corporations from liability for bribery if procedures are in place and sufficient steps have been taken before the occurrence of any wrongdoing.[695] Furthermore, sections 43C to 43H of ERA require employees to initially report misconduct internally to protect a qualifying disclosure. In the event of any litigation, the Employment Tribunal would want to ascertain whether the whistleblower endeavours to follow the internal reporting process.[696]

Employees committed to institutional regulations would take it upon themselves to protect the organisation from any inherent reputational damage.[697] Employees with such a disposition are likely to feel strongly towards protecting the public interest by reporting misconduct in their organisation, and they would have no remorse for any reprisal. Employees of that category usually attempt to disclose misconduct internally to remedy the wrongdoing. On the account that the reported misconduct is left unresolved internally, and any retaliation might force the potential whistleblowers to report externally to secure protection.[698] Employees reporting misconduct do not see themselves as whistleblowers but rather as employees with a genuine concern to draw their employer's attention to it. In their firm belief, they presume that their employer will commend them for highlighting the misconduct. The importance of their reporting only becomes apparent when the employer and their colleagues sever their relationship with them.

A conducive reporting channel where the prospect of reprisal is absent can encourage whistleblowing in an organisation. An overwhelming majority of whistleblowers are committed to first reporting misconduct internally.[699] One can attribute this initiative to employees' loyalty towards their employer. Alternatively, employee employment contracts might oblige them to report misconduct, and employees are more likely to report misconduct when their organisation has a credible reporting system.[700] Internal reporting allows organisations to initially address any misconduct before escalating it externally. Resolving the matters internally will better serve the organisation's employees' interests. It will be

[695] N. Lord, 'Prosecution Deferred, Prosecution Exempt: On the Interests of (In)Justice in the Non-Trial Resolution of Transnational Corporate Bribery' (2023) 63 The British Journal of Criminology 848, 850.
[696] I. Saeed and others, 'Linking Ethical Leadership to Followers' Knowledge Sharing: Mediating Role of Psychological Ownership and Moderating Role of Professional Commitment' (2022) 13 Frontiers in Psychology 1, 2.
[697] O. Ogbanufe, D. J. Kim and M. C. Jones, 'Informing cybersecurity strategic commitment through top management perceptions: The role of institutional pressures' (2021) 58 Information & Management 1, 4.
[698] D. Asaoka, A behavioural analysis of whistleblowing at Japanese firms' (2020) 10 Humanities and Social Sciences Communications 1, 3.
[699] S. R. Stubben and K. T. Welch, 'Evidence on the Use and Efficacy of Internal Whistleblowing Systems' (2020) 58 Journal of Accounting Research 473, 477.
[700] Stubben and Welch (n 698).

counterproductive if such an opportunity is used to prevent or destroy evidence or silent whistleblowers. In most instances, whistleblowers report misconduct externally due to a lack of trust that the issue will be resolved, the misconduct still occurs, or the whistleblower encountered reprisal after the initial disclosure.[701] Anonymous reporting permitted by Acts, such as the Dodd-Frank programme that allows whistleblowers to submit tips through an attorney without revealing their identity, can encourage internal reporting.[702]

3.10.2. Financial Rewards Can Incentivise Whistleblowing

The financial scandals at the beginning of this millennium have led regulators around the globe to take further steps to protect whistleblowers by promulgating relevant legislations.[703] The US government adopted several whistleblower programmes, such as SOX, Dodd-Frank, the Internal Revenue Services (IRS)[704] and Anti-money Laundering (AML)[705] to incentivise whistleblowers to report misconducts. Whistleblowers are only rewarded when the tips result in enforcement action against organisations.[706] Proactive steps to incentivise whistleblowers to report misconducts date back to over 150 years.[707] Section 922 of the Dodd-Frank Act provides financial rewards to whistleblowers who report information to the SEC. On the condition that the allegations are proven to be accurate, and the monetary sanction is more than $1 million, the SEC is legally compelled to pay between 10 and 30 per cent of any collected penalties, fines or repayments to the whistleblowers.[708] Whistleblowing tips to the SEC increased since the passage of Dodd-Frank from 3000 tips in 2012 to 12,322 in 2022.[709]

Another financial incentive programme introduced by the US government to encourage whistleblowing is the Internal Revenue Services' Programme (IRS).[710] This programme targets whistleblowers that give tips about individuals that avoid their US tax obligations. The IRS

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[701] M. Stein, 'The Lost Good Self: Why the whistleblower is hated and stigmatised' (2021) 42 Organisation Studies 1167, 1178.
[702] 15 U.S.C § 78u-6(d)(2)(A).
[703] C. Uhlmann, 'The Americanization of Whistleblowing? A legal-Economic Comparison of Whistleblowing Regulation in the US and Germany Against the Backdrop of the New EU Whistleblowing Directive' (2021) 27 U.C. Davis Journal of International Law & Policy 149, 155.
155.
[704] 26 USC 7623, Public Law 109-432.
[705] 31 USC §§ 5311.
[706] Andon and others (n 423) 165.
[707] J. Tutton and V. Brand, 'Corporate Whistleblowers and Financial Incentives' (2024) 47 University of New South Wales Law Journal 1219, 1254.
[708] 15 U.S.C.§ 78u-6(b)(i).
[709] U.S. Securities and Exchange Commission, 'SEC Awards More Than $37 Million to Whistleblower' (*sec.gov, 19 December 2022*), <https://www.sec.gov> accessed 2 September 2025.
[710] 26 USC 7623, Public Law 109-432.

whistleblower programme guarantees a whistleblower between 15 and 30 per cent of the tax recovered if the amount exceeds $2 million, which includes interest and penalties. A total of $6.4 billion was collected between 2007 and 2021 due to such whistleblowing tips.[711] In 2021, the US government espoused the Anti-Money Laundering (AML) whistleblower programme to combat financial fraud. The new whistleblower programme is part of the Anti-Money Laundering Act 2020 (AMLA). The programme rewards whistleblowers with 30 per cent of monetary sanctions that exceed $1 million.[712] Furthermore, the US Department of Treasury's Financial Crimes Enforcement Network (FinCen) provides financial incentives to whistleblowers that disclose information about breaches of the US Bank Secrecy Act of 1970 (BSA) as a measure to combat money laundering in the US and globally.[713]

It can be argued that whistleblowing reward programmes have been effective, as verifiable evidence suggests that using financial incentives has immensely contributed to whistleblowers divulging information.[714] Also, the vital information disclosed by whistleblowers has helped the US government recover substantial taxpayers' money. The US Supreme Court[715] and the Department of Justice[716] have long recognised the crucial role of whistleblowers in preventing crime and the recovery of funds. The Act allows individuals to assume the role of private prosecutors and initiate lawsuits on behalf of the government. However, it is essential to point out that the reward system is equally embedded with flaws. There is always the risk that employees will be reluctant to report misconducts early and instead wait until the misconduct escalates to a point when the qualified financial rewards are substantial. For instance, the $1 million threshold would be the reason for employees not to report any misconduct until the amount reaches that level. On such occasions, the monetary reward schemes will yield a contrary outcome, as the unscrupulousness will undermine the objective of the programmes.[717]

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[711] IRS Whistleblower Office, 'Annual Report of Congress' (irs.gov 1 October 2021), <http://www.irs.gov> accessed 2 September 2025.

[712] WhistleblowersUK, 'International Whistleblower Reward Programmes: Is There A Place for Them in the UK? (*wbuk, May 2023*), < http://wbuk.org> accessed 2 September 2025.

[713] WhistleblowersUK (n 711).

[714] Andon and others (n 423) 167.

[715] L. F. Eisentadt and J.M. Pacella, 'Whistleblowers Need Not Apply' (2018) 55 American Business Law Journal 655, 678.

[716] J. Heese, R. Krishnan and H. Ramasubramanian, 'The Department of Justice as a gatekeeper in whistleblower-initiated corporate fraud enforcement: Drivers and consequences' (2021) 71 Journal of Accounting and Economics 1, 2.

[717] A. Rose, 'Calculating SEC Whistleblower Awards: A Theoretical Approach' (2019) 72 Vanderbilt Law Review 2047, 2067.

The US model of incentivising whistleblowers to report misconducts has been denounced as protecting those fabricating ferocious assertions or reporting purely to extract money.[718] The US system of rewarding whistleblowers is in variance with the UK culture and beliefs. In the UK, it is strongly held that individuals should disclose wrongdoings because this is "the right thing to do"; therefore, financial rewards diminish the ethics of whistleblowing.[719] Under the UK model, whistleblowers are assured legal protection when they report misconducts that safeguard the public interest and protect the interest of those that are intimidated or abused.[720] In the UK, it is common to believe that rewarding a whistleblower is not a replacement for legal protection, therefore, it is an improper tool for motivating whistleblowers.[721]

The moral stance of a genuine whistleblower could be undermined by accepting financial incentives, which can subsequently result in the negative portrayal of the whistleblower.[722] It is argued that, in the absence of legislation for financial incentives for whistleblowers, employers can reward employees through remuneration and promotion. Also, it is necessary to have a system that can give the society an opportunity to acknowledge whistleblowers effort report misconducts that is of public interest.[723] Already, there is high expectation from the civil society in the UK for whistleblowers to focus on reporting misconducts without any underline motive to be financially rewarded. Such expectations account for the ever-increasing demand for the protection of whistleblowers as they take risks to expose misconducts in organisations. More importantly, in the UK, ethical culture in organisations is embedded in their policies and procedures. It originates from promulgated legislation that prescribes no monetary rewards or extra incentives (virtue may be its reward) for whistleblowers. Therefore, the culture of ethics within an organisation detects the organisational position to which employees are expected to adhere. Employees are not expected to rely on their perspective about ethics, but rather a commitment from the organisational perspective.[724] The legislation indicates the moral and ethical path that the organisation pursues. It shows responsibility by creating an ethical culture that does not financially incentivise whistleblowers.

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[718] M. Alvesson and S. Sveningsson, *Changing Organizational Culture: Cultural Change Work in Progress* (2nd edn, Routledge 2016) 40.
[719] Andon and others (n 423) 167.
[720] Section 43B (1) PIDA (1998).
[721] Alvesson and Sveningsson (n 717) 40.
[722] J. Wright, 'Encouraging Whistleblowers of Corruption in South Africa: A Critical Evaluation of Money Rewards' (2024) 8 Journal of Anti-Corruption Law140, 149.
[723] A. M. Bushnell, 'Reframing the whistleblower in research: Truth-tellers as whistleblowers in changing cultural contexts' (2020) 4 Wiley Journal 1, 2.
[724] J. Mitonga-Monga and others, 'Ethical leadership in relation to employee commitment in a South African manufacturing company' (2023) 23 Acta Commercii 1, 4.

3.10.3. The Level of Ethical Premise Can Incentivise an Individual to Report Misconduct

Individuals with positive ethical conduct in an organisation can avert perverted conduct and deter fraudulent activities. To that effect, employees can take discretionary action to report misconduct to promote socially accepted behaviours that can invigorate colleagues to emulate and strengthen governance practices.[725] Employees with ethical values would strive to attain organisational goals, but still perpetuate their individual moral beliefs in ethical decision making.[726] However, disparity occurs when the ethical climate is weak, which can signify that the organisation's norms are guided by rather egotistic individuals who make decisions which direct organisational behaviour.[727] Nonetheless, when unethical behaviours are punished, employees are persuaded to internalise those values and disclose wrongdoing within the organisation.[728]

Unethical behaviour in an organisation destroys the reputation of the employees and the organisation itself. On that note, improper behaviour may dampen the collective self-esteem of employees with a positive organisational recognition. For that reason, any employee with a positive inclination for the organisation is highly likely to report any misconduct.[729] Generally, when an organisation conducts its activities ethically, this does have an impact on the employees' attitude as well as their commitment towards achieving organisational objectives.[730] Employees concerned about reputational damage might only consider reporting misconduct internally.[731] More so, employees at the top of the organisation's hierarchy might be contractually compelled to report misconduct internally, because external reporting can contravene their employment contract.[732]

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[725] H. A. Shih, T. V. Nguyen and Y. H. Chiang, 'Perceived HPWP, presence of creative coworkers and employee innovative performance' (2020) 50 Personnel Review 1820, 1824.
[726] F. Juliati, 'The Influence of Organisational Culture, Work Ethos and Work Discipline on Employee Performance' (2021) 1 Jurnal Mahasiswa Ekonomi & Bisnis 34, 35.
[727] H. Harmen, M. Hanif and A. Ariyanto, 'Analysis of Employee Voice Mediation towards Industrial Relations Climate: An Empirical Study on BSM Banda Aceh' (2021) 4 Budapest International Research and Critics Institute-Journal 9363, 9365.
[728] Y. Liu and others, 'The relationship between organizational identification and internal whistle-blowing: the joint moderating effects of perceived ethical climate and proactive personality' (2018) 12 Review of Management Science 113, 118.
[729] Latan and others (n 3) 894.
[730] F. Wang and W. Shi, 'Inclusive leadership and pro-social rule breaking: the role of psychological safety, leadership identification and leader-member exchange' (2021) 124 Psychological Reports 2155, 2160.
[731] R. Palumbo and R. Manna, 'Uncovering the relationship between whistleblowing and organizational identity: some preliminary evidence from Italian publicly owned universities' (2019) 33 International Journal of Public Sector Management 94, 96.
[732] F. Anvari and others, 'The social psychology of whistleblowing: an integrated model' (2019) 9 Organizational Psychology Review 41, 53.

A strong relationship between the employer and the employee can encourage employees to speak up without fear of retaliation.[733] For the organisational culture to be effective, employees must be allowed to speak about disputable organisational issues without fear of reprisal. More importantly, those issues raised must be listened to by the prescribed persons in the organisation, and the arising matters must be dealt with promptly. Such an effort will encourage whistleblowers to report misconduct, knowing fully well that they will be accorded protection after these disclosures. At present, employees are provided with inadequate protection by their organisations, and their freedom of expression is limited.[734]

Evidence has shown that men and women significantly differ in ethics, beliefs, values, and behaviour. The method through which women approach ethical issues is dissimilar to that of men.[735] It is argued that women are more likely to blow the whistle because they are ensconced in an organisation, just like their male colleagues, and women are regarded as outsiders with less loyalty to the organisation.[736] Furthermore, there is a fear that women are afraid of losing their job if they report misconduct, which can cause a financial constraint on their family, to which they have more loyalty than the organisation. However, the argument is refuted, when Cynthia Cooper of WorldCom, Collen Rowley of the Federal Bureau of Investigation (FBI) and Sherron Watkins of Enron were recognised, in 2002, for taking a stance for what they morally and ethically believed and reported corporate wrongdoings.[737] Irrespective of their courage, women face much prejudice as they are not considered to be members of the informal men's club. When women blow the whistle, they are regarded as troublesome, unlike men who are applauded for the same behaviour.[738]

The nature of the wrongdoing can be a determining factor for an employee to decide whether to report misconduct.739 When the misconduct can result in public harm, a whistleblower with moral values might be obliged to report misconduct to a person who can take action. Serious misconducts, such as price fixing and health and safety violations, are often reported externally. In contrast, the least serious wrongdoings, such as creating emotional stress or

[733] S. Andreadakis, 'Enhancing Whistleblower Protection: It's all about the Culture' (2019) 30 European Business Law Review 859, 871.
[734] Ibid 872.
[735] A. Beldad and S. Hegner, 'Determinants of Fair-Trade Product Purchase Intention of Dutch Consumers According to the Extended Theory of Planned Behaviour' (2018) 41Journal of Consumer Policy 191, 195.
[736] N. S. Chaudhary, K. P. Gupta and S. Phoolka, 'A Study of whistleblowing intentions of teachers working in higher education sector' (2018) 61 International Journal of Law and Management 106, 109.
[737] M. Krambia-Kapardis, 'An exploratory empirical study of whistleblowing and whistleblowers' (2020) 27 Journal of Criminal Law 755, 759.
[738] Krambia-Kapardis (n 736) 759.
[739] M. Kwon, S. H. Jeon and Y. Ting, 'The Impact of Predisposed Traits and Organisational Factors on the U.S. Federal Employee Perception of Whistleblowing' (2021) 50 Public Personnel Management 258, 262.

damage, sexual harassment and discrimination, are reported internally.[740] However, when reported internally, a whistleblower who fears reprisal or believes that the organisation would not take any steps to amend misconduct might decide to use the external channels.[741]

Furthermore, conflicts of interest exist between top management and employees with high moral values. In some cases, top management demands "submissiveness and obedience" and "does not want to hear any more bad news".[742] In such organisations, employees with moral and ethical values would be reluctant to step forward and disclose any misconduct perpetrated by colleagues.[743] In contrast, if organisations provide a safe internal environment for whistleblowers, they will be unwilling to report misconduct externally.

3.11 Conclusion

The effective implementation of whistleblower protection legislation serves as a vital instrument in promoting whistleblowing disclosures and protecting whistleblowers. The three jurisdictions have enacted whistleblower legislation; however, the effectiveness of these laws remains a subject of ongoing assessment. Clearly, the legislators' intent in enacting such legislation is to encourage the reporting of misconduct and to protect whistleblowers; accordingly, organisations adopt policies and procedures to uphold these protections.

It has become evident why organisations and countries acknowledge that whistleblower protection significantly influences accountability and transparency within any organisation. Civil society has been instrumental in advocating for legislative measures, and these institutions have also supplied the most effective principles across various domains to be considered during the implementation of whistleblower protection legislation. The existing framework for safeguarding whistleblowers within organisations across the three jurisdictions will be examined in the subsequent chapter.

Whistleblowing issues have recently received more public attention for various reasons. The disclosure of misconduct about the coronavirus pandemic, which would otherwise be concealed from society by governments and organisations, has been made possible by whistleblowers. Scandals in many countries have presented information about significant

[740] G. Lee and X. Xiao, 'Whistleblowing on accounting-related misconduct: A synthesis of the literature' (2018) 41 Journal of Accounting Literature 22, 32.
[741] H. Park and D. Lewis, 'The motivations of external whistleblowers and their impact on the intention to blow the whistle again' (2019) 28 Business Ethics 379, 380.
[742] Krambia-Kapardis (n 736) 760.
[743] K. Loyens, R. Borst and L. Heres, 'Understanding the moral myopia and ambiguity of post-employment conflicts of interest: comparing police to other public and private organisations' (2023) 10 Public Management Review 1, 4.

shortcomings in the protection and support of whistleblowers. This chapter thoroughly analysed the definitions of the PIDA, the Dodd-Frank Act, the SOX, the False Claims Act, WPA 1989 and the EU Whistleblowing Directive. The chapter also looked at factors that incentivise the decision to blow the whistle. At the same time, it also clarified the difference between 'whistleblowers' and 'leakers.

Despite all the intention to protect whistleblowers, as indicated in their definitions, there is clear evidence of failures, as shown in this chapter. Furthermore, there is no universally acceptable definition of whistleblowing, but Near and Miceli's definition was adopted for this study because of its attributes. Meanwhile, PIDA has failed holistically in its definition of not including financial rewards as a motivational drive for whistleblowing. Instead, it concentrates on the moral obligation to 'do what is right for the general good.' On the other hand, all definitions found in US legislation (SOX, False Claims Acts, WPA 1989) focused on financial incentive as a motivational drive and failed to consider other factors. Finally, the EU Whistleblowing Directive highlighted financial rewards in its definition, but lacks purpose and direction, as the regulation is cumbersome.

Whistleblowers are not adequately protected, as evidenced by the continuously reported cases in all three jurisdictions. The study has shown that PIDA has failed to protect whistleblowers against employer reprisals in the United Kingdom. The US government has been unable to provide adequate protection or introduce strict laws that can discourage attacks on whistleblowers. Equally, the EU Whistleblower Directive also failed to protect whistleblowers since the emergence of the coronavirus pandemic. The definitions have been unable in their scope; therefore, the whistleblowing protection legislations in the UK, the US and EU Member States need to be reformed to achieve their purpose.

This chapter explained how the definitions encompassed crucial terms, including misconduct, protected disclosure, whistleblower, channels of reporting, prescribed person, and protection. Defining whistleblowing establishes a solid foundation for this research, as it clarifies the keywords. There is a clear dissection in the definitions by theorists and legislators for whistleblowing protection. Some theorists have focused on moral judgment, in whistleblowing, which is bound to the philosophical concepts of utilitarianism, altruism and justice. The chapter has shown how the term 'whistleblowing' is merely an informal term that is used interchangeably with the term 'disclosure', and there is no universally accepted

definition amongst academics.[744] If organisations properly adhere to the definition, they can have a significant impact on the level of protection accorded to whistleblowers. All the examined definitions essentially embraced reporting of wrongdoing either internally or externally, and the disclosure must be made to those who can effect changes.[745]

The definition of 'whistleblower' in this chapter enables a focused examination of the experiences of COVID-19 whistleblowers across the three jurisdictions, particularly regarding protected disclosures and the retaliatory actions undertaken against them for revealing vital information regarding the coronavirus pandemic. The chapter delves into the challenges and complexities inherent in conceptualising the reporting of misconduct by whistleblowers through the lens of whistleblowing definitions. Whistleblowers typically exhaust the internal procedures for reporting illegal or immoral activities before exposing the misconduct externally. For a whistleblower to be accorded protection, many legal provisions specify that the whistleblower must either report internally or externally for the reporting to be considered a protected disclosure.

More importantly, the definitions placed great emphasis on the disclosure of information being made for the public interest. However, the problem arises when employers fail to regard the disclosure as being in the public interest. The academic definitions have focused on four areas: disclosure, public interest, wrongdoing, and employee. On the other hand, it is the legislative framework of each country that determines the level of protection that can be afforded to whistleblowers. Once legislation is enacted, it must be effectively implemented and enforced to protect whistleblowers from retaliation. The definitions found in academic works and legislative documents are inherently linked to how organisations implement policies and procedures to protect whistleblowers. This chapter distinguishes between whistleblowing and leaking, as these words are often used interchangeably, but each has its distinct definition.

Chapter 2 explained each country's legislative definition of whistleblowing and the extent to which the legislation protects whistleblowers.

[744] K. Apadore and others, 'Factors Affecting Whistleblowing Intention: An Empirical Study' (2018) 15 South East Asia Journal of Contemporary Business, Economics and Law 108, 109.
[745] Liu, Liao and Wei (n 428) 109.

Chapter 4: Comparison of the Legal Protections for Whistleblowers in the Three Jurisdictions During the Pandemic Era

4.1 Introduction

An internal whistleblowing system within an organisation offers guidelines on the proper channels for reporting misconduct. It fosters an ethical culture, transparency, and trust among stakeholders. Historical cases demonstrate that whistleblowers frequently encounter reprisals and damages when their organisation lacks an effective internal mechanism.[746] As exemplified in Section 232, through accounts of COVID-19 whistleblowers and their activities within their respective organisations, these narratives underscore the failure of organisations to adequately address employees seeking to report irregularities internally. Despite the recognised benefits of implementing a robust internal whistleblowing system, many organisations appear to neglect its potential advantages and remain reluctant to establish such a system that encourages the reporting of misconduct.[747] Empirical studies and practical experience reveal that an internal whistleblowing system can be exceedingly advantageous.[748] It assists organisations in complying with regulatory requirements. The development and implementation of a clear whistleblowing policy, the identification of designated contacts for complaints, and the articulation of measures to protect whistleblowers are essential components for enhancing organisational effectiveness.[749] The inability of organisations to cultivate an internal whistleblowing culture, or those that establish whistleblowing policies but do not execute them properly, has led to a considerable increase in whistleblowing incidents during the COVID-19 pandemic era.

Whistleblowers played a crucial role in exposing shortcomings within organisations despite the absence of a culture that encourages misconduct reporting. During the initial public health emergency, whistleblowers reported numerous instances of misconduct that later escalated into a broad socio-economic crisis. The coronavirus pandemic initially emerged as a public health emergency but quickly evolved into a socio-economic crisis. Governments intervened

[746] N. Smaili, 'Building an Ethical Culture by Improving Conditions for Whistleblowing' (2023) 44 Journal of Business Strategy 37, 38.
[747] O. Budak and M. Filiz, 'The Moderating Role of Work Experience in the Effect of Ethical Culture on Whistleblowing in Healthcare Professionals and the effect of Organisational Trust on Whistleblowing' (2024) 34 Enfermeria Clinica 357, 359.
[748] K. Akio, 'The Role of the Whistle-Blowing System in Relation to Other Objection making Systems in Japan' (2025) 9 Policy and Governance Review 250, 253.
[749] P. Kagias and others, 'Whistleblowing Based on the Three Lines Model' (2024) 14 Administrative Sciences 1, 5.

extensively in the economy, unemployment rose, public debt expanded, and supply chains were disrupted.[750] The pandemic placed immense strain on public health systems, resulted in repeated lockdowns, disrupted educational institutions, and restricted personal freedoms, thereby exacerbating social inequalities.[751] The rapid increase in infections led to the overburdening of Intensive Care Units (ICUs) beyond their capacity. In response, countries enacted measures such as export bans and border closures, and many economies faced shutdowns.[752] These policy responses to the COVID-19 emergency differed among nations, with most organisations responding swiftly, proactively, and efficiently to new policies or guidelines introduced by governments as the number of coronavirus infections surged daily.[753] As a result of these wider policy measures, communication was issued promptly.[754]

The need for policies and guidelines arose as it was claimed that a severe pandemic would infect up to 80 per cent of the population, resulting in a reduced workforce and continued increased pressure on health services.[755] On that premise, the governments enacted emergency legislation of various kinds, with some operational only for a limited period. While several ad hoc legislative measures were repealed after the crisis passed, many of the temporary provisions became permanent.[756] The legislation contains temporary measures designed to either amend existing legislative provisions or introduce new statutory powers which are designed to mitigate these impacts. The coronavirus policy guidance and regulations promulgated by governments provided an opportunity for employees and individuals to raise concerns about misconduct witnessed in organisations.[757]

Although whistleblowers could report misconduct, some governments acted against professionals and healthcare workers, failing to protect freedom of expression during the pandemic. Ultimately, these exceptional measures hindered effective communication about the

[750] L.Veselovska, 'Supply Chain Disruptions in the Context of Early Stages of the Global COVID-19 Outbreak' (2020) 18 Problems and Perspectives in Management 490, 491.
[751] M. Marmot and J. Allen, 'COVID-19: Exposing and Amplifying Inequalities' (2020) 74 Journal of Epidemiology & Community Health 681, 682.
[752] C. Riley, B. Xie and A. Khurshid, 'Challenges Encountered in Comparing International Policy Responses to COVID-19 and their Effects' (2021) 19 Health Research Policy and Systems 1, 10.
[753] J. You, 'Lessons from South Korea's Covid-19 Policy Response' (2020) 50 American Review of Public Administration 801, 801.
[754] T. T. Le and others, 'Policy Responses to the COVID-19 Pandemic in Vietnam' (2021) 18 International Journal of Environmental Research and Public Health 1, 1.
[755] K. D. Ewing, 'Covid-19: Government by Decree' (2020) 31 King's Law Journal 1, 10.
[756] Cormacain (n 52) 247.
[757] X. Hu and others, 'Creating a Safe Haven During the Crisis: How Organisations can achieve Deep Compliance with COVID-19 Safety Measures in the Hospitality Industry (2021) 92 International Journal of Hospitality Management 1, 2.

outbreak of the disease and eroded confidence in government actions.[758] The government's initial proactive step to mitigate the coronavirus could have reduced the number of deaths during the first wave of the pandemic if citizens had been given the necessary information about the nature of the virus's threat. Governments were more concerned about protecting themselves from criticism than allowing people to share information, learn about the outbreak, and know what officials were or were not doing to protect them.[759] The next section critically examines how policies and procedures were implemented during the coronavirus outbreak in the three jurisdictions, before assessing the level of protection afforded to whistleblowers in the subsequent section.

4.2 Policies and Procedures Implemented Across the Three Jurisdictions to Curtail and Contain the Spread of the Coronavirus

Prior to ascertaining the level of legal protection afforded to whistleblowers across the three jurisdictions during the coronavirus pandemic era, it is imperative to comprehend the policies and guidelines introduced by governments for employers and employees to follow in order to mitigate the spread of the coronavirus.[760] More importantly, it is necessary to evaluate how governments advance policies and procedures to promulgate coronavirus legislation. Contrary to concerns that some of the policies and procedures that led to the promulgation of legislation served as a blanket justification for extreme and arbitrary interventions in civil liberties.[761] Policy responses to coronavirus outbreaks varied fundamentally, with different approaches adopted by governments and organisations towards their employees. Against the backdrop of the policies and guidelines, this section examines the extent to which the introduced legislation was designed to protect whistleblowers during the era of the coronavirus pandemic. This section examines the causes of the structural gap in the protection of whistleblowers, stemming from precarity in employment rights. Though whistleblowing legislation promulgated globally during the coronavirus outbreak emphasises the need for employers to protect whistleblowers.

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[758] S. Mannan, J. Alam and M. H. Rahman, 'Human Rights Dimensions of COVID-19 Responses in Bangladesh: Challenges and Recommendations' (2022) 15 International Journal of Human Rights in Healthcare 351, 354.
[759] Office of the High Commissioner for Human Rights, 'COVID-19 pandemic exposes repression of free expression and right to information worldwide, UN expert says' (OHCHR, *10 July 2020*), <http://www.ohchr.orgaccessed> 2 September 2025.
[760] F. Golbabaei and S. Kalantary, 'A Review of the Strategies and Policies for the Prevention and Control of COVID-19 at Workplaces' (2020) 12 International Journal of Occupational Hygiene 60, 62.
[761] L. O. Gostin and L. F. Wiley, 'Governmental Public Health Powers During the COVID-19 Pandemic: Stay-at-home Orders, Business Closures, and Travel Restrictions' (2020) 323 Journal of American Medical Association 2137, 2138.

4.2.1. Policies and Procedures Implemented in the EU Member States to Curtail and Contain the Spread of the Coronavirus

The EU established a comprehensive framework within which Member States could collectively respond to the pandemic crisis.[762] The coronavirus crisis catalysed momentum for collective action and fast decision-making, although the legitimacy of some of these actions was subject to limited public scrutiny. The EU had two main governance frameworks through which it organised an immediate response to the coronavirus public health crisis. The first was the health security framework established by the 2013 Decision on Serious Cross-Border Threats to Health, referred to as the Health Threats Decision, which sets up structures for emergency planning, preparedness, and response. The second was the Civil Protection Mechanism (CPM), which facilitates cooperation between member states in the event of a disaster. Both performed as intended and expected in the first phase of the coronavirus crisis, but reflecting the EU's limited health-related powers, their capacity and reach were inevitably insufficient.[763]

National governments have gradually reduced the EU's role in healthcare by preserving authority over their own health policies and systems.[764] The advancement of EU public health policy can be evaluated based on the frequency of crises and subsequent responses. The COVID-19 pandemic emerged in Europe through multiple waves, with differing impacts across member states, as not all faced identical challenges simultaneously. For example, in countries such as Italy, the initial wave was significantly more severe than in others.[765] Conversely, in nations like Germany, the fourth wave proved substantially more detrimental. During the early months of 2020, many of the Member States continued with business as usual and failed to take the threat of the virus seriously. From January 2020, the EU Commission issued a warning concerning the novel coronavirus and advocated for coordinated responses.[766] However, without the participation of all Member States, its influence was severely limited. By the time attention shifted towards the virus, it was far too late. By the end of the first quarter,

[762] L. Quaglia and A. Verdun, 'The COVID-19 pandemic and the European Union: politics, policies and institutions' (2023) 30 Journal of European Public Policy 599, 599.
[763] E. Brooks and R Geyer, 'The development of EU health policy and the Covid-19 pandemic: trends and implications' (2020) 42 Journal of European Integration 1057, 1058.
[764] V. Burau and others, 'Post-COVID Health Policy Responses to Healthcare Workforce Capacities: A Comparative Analysis of Health System Resilience in Six European Countries' (2024) 139 Health Policy 1, 4.
[765] W. Immonen, J. Ketola and H. Vogt, 'Cyclical Europeanisation During the COVID-19 Crisis' (2024) 46 Journal of European Integration 1215, 1220.
[766] I. Camisao and P. V. Maior, 'A Convincing Narrative to Control the Crisis Response? The Role of the President of the European Commission During the COVID-19 Pandemic' (2025) 63 Journal of Common Market Studies 821, 828.

COVID-19 had spread to most countries in Europe, forcing decision-makers to implement reactive measures in their policy responses.[767]

National policies primarily shape health-care programmes in the EU, and some transboundary emergency response capabilities have been increasingly delegated to EU bodies over the last decade.[768] Article 168 of the Treaty for European Union (TFEU), referring to 'normal' non-emergency situations, stipulates that a 'high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities' (Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union, 2012). EU actions could include 'monitoring, early warning of and combating serious cross-border threats to health. Furthermore, the Directorate-General for Health and Food Safety (DG-SANTE) monitors national compliance with laws and policies. However, it is the responsibility of national, regional, and local governments to implement the rules, recommendations, and policies formulated by the DG-SANTE in the area of public health.[769] Evaluating the legal framework in which the following institutions are situated, as well as the challenges posed by transboundary health threats, is essential for an appropriate consideration before examining the initial COVID-19 response. The following section examines the fundamental bases of the US emergency policies that were adopted to mitigate the spread of the coronavirus pandemic.

4.2.2. Policies and Procedures Implemented in the US to Mitigate the Spread of the Coronavirus

In the US, preliminary measures were taken to declare a state of emergency, thereby activating both federal and state emergency response measures.[770] While the federal government plays a crucial role in assisting states during crises, the authority to manage such emergencies primarily resides with the states, as delineated in the Tenth Amendment of the US Constitution. Governors, functioning as chief executives of their respective states, possess jurisdiction over emergency management, including the containment of infectious diseases that transcend jurisdictional boundaries.[771] Power is concentrated in the state executive office rather than the

[767] R. Forman and E. Mossialos, 'The EU Response to COVID-19: From Reactive Policies to Strategic Decision-Making' (2021) 59 Journal of Common Market Studies 56, 59.
[768] P. Becker, 'Agreeing on the European COVID-19 budget Package-Multiple Streams in the European Union' (2025) 10 Journal of Contemporary European Studies 1, 8.
[769] T. D'Amore and others, 'Chemical Food Safety in Europe Under the Spotlight: Principles, Regulatory Framework and Roadmap for Future Directions' (2025) 14 Foods 1, 2.
[770] N. Glass, 'Partisan Emergencies' (2025) 111 Virginia Law Review 379, 381.
[771] S. Hildenbrand and M. Malone, 'Representative Bureaucracy and COVID-19 Among Local Emergency Response Professionals' (2025) 16 Risks Hazards Crisis Public Policy 1, 2.

legislature to enable rapid responses. These powers are articulated within state constitutions, often further codified and explicitly outlined through state statutes.[772]

During the coronavirus pandemic, governors declared a state of emergency. Subsequently, they enacted policies and legislation addressing a wide range of issues that affected the entire state population, including the requirement to wear masks in public places.[773] Other policies are narrowly tailored to, or targeted at, a specific service or group. Due to unforeseen and unprecedented circumstances addressed through emergency actions, these actions are time-limited by mandate or prescription.[774] The actions ignited a policy debate that extends past the conclusion of the emergency declarations. If the impact is positive, it can be used to bring about a permanent post-crisis shift in the regulatory environment. On a federal level, the Centres for Disease Control and Prevention (CDC) publishes guidance for health officials and citizens, indicating that the need to respond promptly to coronavirus conditions rests with the states and their governments.[775] The basis for policies and guidelines adopted in the UK to combat the spread of the coronavirus is critically appraised in the following section.

4.2.3. Policies and Procedures Implemented in the UK to Limit and Control the Spread of the Coronavirus

Under the Civil Contingencies Act 2004, 'emergency regulations' can be made if there is an emergency, the regulations are necessary, and the need for making them is urgent. Consequently, regulations can only be made for the purpose of dealing with the emergency.[776] Individual provisions must be tailored to specific aspects of the crisis. Emergency regulations automatically lapse after 30 days (although they can be remade).[777] They must be laid before Parliament as soon as reasonably practicable. They lapse 7 days after they are laid, unless Parliament approves them.[778] The Public Health (Control of Disease) Act 1984 also grants the government the power to make regulations to protect public health. The regulations may only be made to prevent, protect against, control or provide a public health response to infection or contamination.[779] Depending upon the content of those regulations, the restriction or

[772] Q. Yeargain, 'State Executive Branches Under Moore V Harper' (2025) Wisconsin Law Review 593, 600.
[773] M. Alexander and others, 'United States Response to the COVID-19 Pandemic, January-November 2020' (2022) 17 Health Economics, Policy and Law 62, 63.
[774] Cormacain (n 52) 246.
[775] N. Abad and others, 'Strengthening COVID-19 Vaccine Confidence & Demand During the US COVID-19 Emergency Response' (2024) 42 Vaccine 1, 2.
[776] Civil Contingencies Act 2004, s 22.
[777] Ibid, s 26.
[778] Ibid, s 27.
[779] Public Health (Control of Disease) Act 1984, s 45C.

requirement must be proportionate to what is sought to be achieved by imposing it and must be in response to a serious and imminent threat to public health.[780]

The Coronavirus Act 2020 includes a provision that it automatically expires after two years.[781] The Secretary of State is mandated to report bi-monthly to Parliament regarding the continued appropriateness of the Act's provisions. Additionally, the Act provides for parliamentary reviews at six-month and one-year intervals.[782] Parliament's approval is required for regulations; however, in urgent cases, regulations may be enacted and implemented immediately without prior Parliamentary consent.[783] If the urgent procedure is employed, such regulations lapse after 28 days unless ratified by a Parliamentary resolution. This Act applies solely to England and Wales, yet similar safeguards and limitations are incorporated within the corresponding legislation for Scotland[784] and Northern Ireland.[785] The social distancing regulations across all parts of the UK contain nearly identical restrictions concerning their use, scope, and duration.[786] Following the World Health Organisation's declaration of the COVID-19 outbreak as a Public Health Emergency of International Concern on 31st January 2021, UK regulations were enacted in February 2020 under the Public Health (Control of Disease) Act 1984, establishing procedures for screening and detaining individuals reasonably suspected of being infected with SARS-CoV-2.

In March 2020, the UK underwent a swift and extensive policy transformation in response to COVID-19, reminiscent of wartime efforts. Throughout the pandemic, UK government ministers consistently asserted that their policies are "guided by the science".[787] In practice, this phrase predominantly refers to "our scientists," and the initial policies enacted by the UK government were aligned mainly with scientific advice. Ministers established close relationships with principal scientific advisors, relied heavily on evidence from the Scientific Advisory Group for Emergencies (SAGE), and overlooked or excluded numerous other sources.[788] They relied on their scientific advisors to identify the policy issues and propose viable solutions during this period, with the advisors supporting the government's policy

[780] Public Health (Control of Disease) Act 1984, s 45D.
[781] Coronavirus Act 2020, s 89.
[782] Ibid, s 98.
[783] Public Health (Control of Disease) Act 1984, s 45R.
[784] Coronavirus Act 2020, Schedule 19.
[785] Coronavirus Act 2020, s 48.
[786] S. N. Williams and others, Public Perceptions and Experiences of Social Distancing and Social Isolation During the COVID-19 Pandemic: A UK-based focus Group Study' (2020) 10 British Medical Journal 1, 6.
[787] P. Cairney, 'The UK Government's COVID-19 Policy: What Does "Guided by the Science" Mean in Practice?' (2021) 3 Frontiers in Political Science 1, 3.
[788] Cairney (n 786) 3.

directives and the Ministers' prerogative to implement them. Conversely, critics contended that ministers disregarded critical evidence and responded inadequately and belatedly.[789]

The British Prime Minister, Boris Johnson, announced measures aimed at mitigating the impact of COVID-19. These include empowering the police to enforce public health policies, implementing new regulations concerning behaviour, and enacting budgetary measures to support businesses and workers during periods of economic inactivity. Ensuring the complete closure of schools, and significantly expanding healthcare capacity through investments in technology, increased discharge to care homes, and the consolidation of national, private, and emerging health services.[790] Devolved governments in Northern Ireland, Scotland, and Wales, responsible for public health, introduced similar measures as part of a coordinated national response.[791]

A commitment to policy change does not guarantee execution or desired outcomes. Additionally, policies frequently designed as they are executed tend to overlook potential unintended consequences. Swift policy modifications on paper lack significance without empirical evidence of their results. Firstly, legislation concerning social regulation relates imperfectly to outputs, such as police capacity dedicated to fostering compliance, and to outcomes, such as infection rates. The duration for which the UK government was willing and able to sustain its regulations was uncertain, and reliable information regarding compliance was unavailable. At this point, it is crucial to determine how policies were introduced and implemented, thereby facilitating whistleblowers' reports of misconduct during the coronavirus pandemic. The subsequent section analyses the measures undertaken by governments to enact policies and promulgate legislation intended to curtail the spread of the coronavirus.

[789] M. A. Imran and Z. Ahmed, 'We are in this together' – COVID-19 Statements by Boris Johnson: A Discourse Analysis' (2024) 10 Media International Australia 1, 5.
[790] B. Colfer, 'Herd-immunity across Intangible Borders: Public policy Responses to COVID-19 in Ireland and the UK' (2020) 6 European Policy Analysis 203, 205.
[791] A. Paun, 'The Coronavirus Crisis Has Required a Co-ordinated Response between the UK and Devolved Governments' (Institute for Government, 6 May 2020), <https://www.instituteforgovernment.org.uk>accessed 2 September 2025.

4.2.4 Legislation of Policies and Procedures to Curtail and Contain the Spread of the Coronavirus.

Some of the policies and guidelines introduced by governments were legislated for organisations to use as a measure to contain and curtail the spread of the coronavirus pandemic. Several organisations and countries published recommendations and guidelines regarding preventive measures against COVID-19 in the workplace.[792] Some of these measures include training employees, sending employees home who are sick, facilitating teleworking, reducing unnecessary trips, and avoiding social gatherings. These measures resulted in beneficial outcomes, including the implementation of physical distancing rules in the workplace, which was associated with a reduction in employee physical absence and a decrease in infections among employees.[793] This, in turn, led to a reduction in employee ssss absences, improved morale, and provided additional benefits for employers. These guidelines and policies provide a framework for creating a safe working environment for employees. They outlined the responsibilities of both employers and employees, as well as the necessary changes in workplace structure and programmes.[794]

Furthermore, the guidelines encompass provisions concerning facilities and equipment, workplace hygiene, and specific measures for designated groups. These guidelines serve as an invaluable resource for both employers and employees in preventing the spread of COVID-19 within the workplace. More critically, employees are empowered to report any misconduct within their organisation under the legislative framework designed to provide protection. Employers have implemented specific COVID-19 workplace policies in accordance with enacted legislation, and employees are mandated to adhere to these policies. It was expected that employees would be consulted over a designated period regarding such policies. Nonetheless, employers were expected to uphold fairness by applying transparent principles that foster equity in the workplace. The government requires employers to ensure employees follow the testing policy, including regular testing, to confirm the test result is negative before reporting to work. This helps prevent the virus from spreading and protects colleagues from infection. Some employees were disciplined by their employers for not complying with the

[792] L. Cirrincione and others, 'COVID-19: Prevention and Protection Measures to Be Adopted at the Workplace' (2020) 12 Sustainability 1, 6.
[793] Z. Voko and J. G. Pitter, 'The Effect of Social Distance Measures on COVID-19 Epidemics in Europe: An interrupted Time Series Analysis' (2020) 42 GeroScience 1075, 1076.
[794] A. P. Indrianto and H. F. Adityaningrat, 'We Need Protection: Reviewing Corporate Responsibilities and Strategies in Protecting Employees During the COVID-19 Pandemic' (2021) 5 Journal Health and Science; Gorontalo Journal Health & Science Community 278, 281.

government policies and procedures.[795] Employers retained the right to hold their employees accountable if they failed to comply with these policies.[796]

4.2.5 Adherence with Policies and Procedures to Prevent the Dissemination of the Coronavirus

The responsibilities of employees and employers to comply with established enacted policies and guidelines served as the foundational basis for legislation to mitigate the transmission of the coronavirus.797 In this context, the health and safety of employees were prioritised. Employers are mandated to provide a work environment devoid of known hazards that could potentially lead to death or serious injury among employees.[798] The adherence to infection control protocols, notably the proper utilisation of PPE and the practice of hand hygiene, contributed to a reduction in weekly infection rates and fatalities.[799] The oversight of policy implementation ensured that compliance was maintained throughout the pandemic, which is attributable to the accountability shared by both employees and employers.[800] For instance, the monitoring of PPE usage was conducted with vigilance, resulting in a decline in the incidence of weekly infections and mortality.[801]

The pandemic highlights the significance of taking prompt action during a crisis period, despite high ambiguity and uncertainty, as well as insufficient government control. The government used trial-and-error strategies to adapt, which led to unequal consequences for different social groups. COVID-19 prompted nearly unprecedented policy changes towards state intervention, at a speed and magnitude that were previously unimaginable before 2020. Incorporating these policymaking limitations and the unequal socioeconomic effects into future pandemic responses will be essential. The following section illustrates the extent of legal protection

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[795] M. T. Bodie and M. McMahon, 'Employee Testing, and Disclosure as a Response to the Coronavirus Pandemic' (2021) 64 Washington University Journal of Law and Policy 31, 35

[796] C. Kooli, M. L. Son and I. Beloufa, 'Business Ethics in the Era of COVID-19: How to Protect Jobs and Employment Rights Through Innovation' (2022) 2 Avicenna 1, 2.

[797] U. Sommer, J. Parent and Q. Li, 'Opportunistic Under a Natural Emergency: Grabbing Government Power in a Democracy During COVID-19' (2024) 18 Regulation & Governance 270, 273.

[798] J. Gaitens and others, 'COVID-19 and Essential Workers: A Narrative Review of Health Outcomes and Moral Injury' (2021) 18 International Journal of Environmental Research and Public Health 1, 11.

[799] Y. Mo and others, 'The Effect of Hand hygiene Frequency on Reducing Acute Respiratory Infections in the Community: A Meta-analysis' (2022) 150 Epidemiology & Infection 1, 3.

[800] M. M. Ghayen and others, 'Learning from An Experience, challenges and Approaches in the Workplace During COVID-19 Pandemic: A Content Analysis of International Documents' (2024) 24 British Medical Council Public Health 1, 14.

[801] L. Lipsitz and others, 'Stemming the Tide of COVID-19 Infections in Massachusetts Nursing Homes' (2020) 68. Journal of the American Geriatric Society 2447, 2448.

granted to COVID-19 whistleblowers, as it follows from the preceding chapters that focused on the definition of whistleblowing.

The enactment of whistleblowing legislation advanced the basis on which organisations formulate their whistleblowing policies and procedures.[802] With such legislation, organisations can calibrate their policies and procedures with the legal framework to offer protection to whistleblowers. In essence, the law advocates procedures for organisations to adhere and implement policies to protect employees when they report misconduct. However, there are variances and discrepancies in the procedures for reporting misconducts across organisations and countries. Nevertheless, the legal framework to some extent has encouraged the setting up whistleblowing procedures globally. For example, in the US, section 404 of the SOX Act mandates audit committees of listed companies to implement procedures for internal reporting by employees. At the same time, the EU Directive requires organisations in the Member States to set up procedures for internal or external reporting that can protect whistleblowers. More specifically, it obliges companies with over 50 employees, public sector institutions and municipalities with more than 10,000 residents to set up internal reporting channels.[803] However, in the UK, PIDA makes no provision for organisations to set up procedures to report misconduct.

4.3. A Comparative Analysis of Legal Protections Afforded to Whistleblowers Across Three Jurisdictions During the Pandemic

In the latter part of the 20th century, the significance of whistleblower protection began to increase, with whistleblowers now regarded more favourably than in previous years. Whistleblowers provide crucial information about misconduct, helping organisations improve efficiency and reduce legal risks. [804] Not only do they advocate on behalf of the public interest, but their disclosures can also prevent reputational and financial harm to their organisations if misconduct is addressed promptly.[805] The acknowledgement of individuals' desire to report wrongdoing has prompted organisations to establish internal procedures and policies that provide safeguards for potential whistleblowers.[806] The vital role of whistleblowers has

[802] G. Lee and N. Fargher, 'Companies Use of Whistle-Blowing to Detect Fraud: An Examination of Corporate Whistle-Blowing Policies' (2013) 114 Journal of Business Ethics 283, 284.
[803] Directive (EU) 2019/1937, Rec. 47.
[804] L. Eisenstadt and J. Pacella, 'Whistleblowers Need Not Apply' (2018) 55 American Business Law Journal 665, 669.
[805] K. Kenny, M. Fotaki and S. Scriver, 'Mental Health as a Weapon: Whistleblower Retaliation and Normative Violence' (2019) 160 Journal of Business Ethics 801, 802.
[806] N. W. Pathiranage and others, 'Beyond Compliance: The Role of Corporate Governance in Shaping Whistleblower Protection Policies' (2025) 10 Regulations & Governance 1, 3.

prompted governments worldwide, particularly in the three jurisdictions examined in this study, to enact legislation that aims to protect whistleblowers. Legislation relating to whistleblowing enacted in the US, the UK, and certain EU Member States shares common objectives; nonetheless, legislative approaches regarding the disclosure of misconduct vary across these countries.

The next section examines how effective legislative measures were in protecting whistleblowers during the coronavirus pandemic and highlights their crucial role in reporting misconduct. Overall, this section aims to ascertain whether employers within both the public and private sectors complied with the relevant legal obligations to protect employees who reported misconduct. It discusses the extent of reprisals faced by whistleblowers for such disclosures and evaluates whether the protections provided during the COVID-19 era were adequate. Finally, the following section explores various strategies for enhancing whistleblowing legislation to ensure the necessary protections for whistleblowers.

4.3.1 An Analysis of the Impact of the Coronavirus Pandemic and the Role of Whistleblowers During the Coronavirus Era.

The outbreak of the coronavirus has significantly altered global activities since March 2020, elevating the role of whistleblowers who have brought issues of misconduct during the pandemic's peak to public attention. Many whistleblowers have encountered threats, victimisation, and retaliation in their efforts to report misconduct, which partly accounts for the numerous calls by organisations worldwide for enhanced protection for whistleblowers.[807] The government's proactive response to the coronavirus crisis was partly motivated by whistleblowers, who consistently identified emerging outbreaks, reported shortages of PPE, unsafe working conditions, excessive mandatory overtime, and violations of infection prevention and control protocols.[808] These individuals undertook substantial risks in disclosing matters related to public health, often without regard for the potential adverse consequences that might result. The subsequent section analyses the legislative measures implemented by the UK government aimed at curbing the spread of the coronavirus, alongside the steps taken by whistleblowers to report misconduct.

[807] Gagnon and others (n 20) 4142.
[808] R. Armitage and L. B. Nellums, 'Whistleblowing and Patient Safety COVID-19' (2020) 24 EC Clinical Medicine 1, 1.

4.3.2 Analysis of the Effectiveness of Promulgated Legislation and the Contribution of Whistleblowers During the Coronavirus Era in the UK

The increased number of reported misconducts during the coronavirus pandemic outbreak made it pertinent to ascertain whether employers in both the public and private sectors adhered to appropriate legal obligations to protect employees who blow the whistle. In the UK, the Health and Safety at Work Act 1974[809], together with the Management of Health and Safety at Work Regulations 1999, constitute a well-developed legal framework that obligates employers to protect the health and safety of employees, which existed prior to the outbreak of the coronavirus. The UK government enacted the Coronavirus Acts 2020, which, together with regular guidance, aimed to assist in enforcing policies that would reduce the spread of coronavirus. As in other countries, measures such as social distancing were also introduced to protect the health and safety of the population.

Information disclosed by whistleblowers qualifies as protected disclosures when there exists a reasonable belief that the organisation has failed, is failing, or is likely to fail in complying with section 43(1)(b) of the ERA 1996. For instance, a complaint from a key employee, such as an NHS or supermarket worker, regarding inadequate provision of PPE, could constitute a protected disclosure concerning health and safety violations in accordance with the aforementioned legislation.[810] The responsibility lies with the whistleblower to ensure that the information provided results in a qualifying disclosure to enjoy protection under the legislative framework stipulated in Section 43B of the 1996 Act. In the UK, medical professionals within the NHS were subjected to gagging orders[811] and threatened with disciplinary measures when they highlighted serious misconduct within their organisations.[812] Such restrictions on whistleblowers' rights to freedom of speech, including intimidation, monitoring of social media, and disciplinary sanctions, may have constituted a violation of Article 10 of the ECHR.[813]

Certain limitations on the right to freedom of speech may be justified based on the duty of loyalty owed by employees to their employers; however, not all such limitations are inherently

[809] D. Epstein, 'Does UK Health and Safety Legislation Rely Upon a Poorly-Resourced Enforcement Agency, A Limited Scheme for Employee Involvement, and a Misplaced Emphasis on Self-Regulation?' (2012) 41 Public Personnel Management 61, 62.
[810] Mayhew, Nicholls and Platts-Mills (n 384).
[811] Campbell (n 385).
[812] Law, Kanagasingam and Choong (n 386) 2.
[813] Letsas and Mantouvalou, (n 387) 1.

illegitimate.[814] In the case of *Heinisch v. Germany*,[815] the Court of Human Rights examined the termination of the plaintiff's employment contract following her complaints to the employer regarding alleged deficiencies in care services for the elderly, which were caused by insufficient staffing. The European Court of Human Rights (ECtHR) held that the German labour courts' approval of the dismissal constituted a violation of the plaintiff 's freedom of expression under Article 10 of the ECHR. The German labour court prioritised the employer's business reputation and commercial interests, thereby considering the plaintiff's disclosure to the public authority as a breach of her duty of loyalty towards the employer.

The provision of equipment, such as PPE, to employees by their employers was fundamental to the level of preparedness and protection afforded to whistleblowers during the outbreak of the coronavirus. Employees in England and Wales have the legal right to receive appropriate PPE under Section 4(1) of the Personal Protection Equipment at Work Regulations 1992. This legislation requires employers to provide employees with protective gear to prevent exposure to risks that could compromise their health or safety in the workplace. The government's failure to fulfil its legal obligations to supply PPE to frontline healthcare workers constitutes a significant operational shortcoming.[816] This systemic deficiency was exemplified in the case of *Long v Secretary of State for Defence*,[817] wherein the plaintiff was the mother of a British soldier killed in Iraq during patrol duties in June 2003. Prior to the incident, the commanding officer of the Battle Group issued instructions that patrols should be equipped with satellite phones. Similarly, the employer's failure to provide adequate PPE to enable employees to perform their duties effectively during the coronavirus pandemic constitutes a breach of the Provision and Use of Work Equipment Regulations 1998 (PUWR), as amended in January 2021 following Brexit.

To secure protection under the ERA 1996, whistleblowers are required, under Section 43C (1), to follow internal reporting channels when disclosing misconduct to their employer in good faith. However, during the coronavirus outbreak, front-line workers initially made internal disclosures to their line managers and requested equipment, such as gloves and PPE, when they experienced shortages. The inaction of employers was partially attributed to the global shortage, which made it challenging to meet these requests, thereby forcing employees to highlight such problems externally. Healthcare professionals were silenced and threatened

[814] Z. Adams, et al, *Deakin and Morris' Labour Law* (7th edn, Bloomsbury Publishing 2021) 3.
[815] Article 626 § 1 of the Civil Code.
[816] Chan (n 389) 187.
[817] *Long v Secretary of State for Defence* [2014] HRLR 17.

with disciplinary action for reporting to third parties, such as the media outlets.[818] Some NHS Trusts sent an e-mail forbidding all staff from making statements to the media, and there were instances where the social media accounts of staff were monitored.[819]

Arguably, protection for whistleblowers in the UK needs to be adapted to be fit for purpose, particularly in the context of challenges, such as those related to the coronavirus crisis. A system must be established to support and safeguard whistleblowers who come forward to report deficiencies in their organisations. PIDA is somewhat reactive legislation that addresses reported misconduct only when matters are escalated to court before any action is taken to resolve the issue. This is evident in the case of the UK whistleblower, as discussed in section 2.5.1. The Manx Employment and Equality Tribunal unanimously ruled that Dr Ranson was dismissed for making a protected disclosure. The courage of Dr Ranson in pursuing legal action against the reprisal led to the exposure of the misconduct. However, some whistleblowers would opt not to report or pursue legal remedies. PIDA's provisions were not generally helpful during the coronavirus era, as most employees were not physically present in the work environment to follow the stipulated process for reporting misconduct. The next section analyses the impact of the coronavirus pandemic in the US and the important roles played by whistleblowers in reporting misconduct during the crisis.

4.3.3 Analysing the Effectiveness of Promulgated Legislation and the Role of Whistleblowers During the Coronavirus Era in the US

The US government had an elaborate set of response plans prior to the report of suspected human-to-human transmission of the coronavirus in January 2020.[569] A coordinated response by federal, state and local authorities, including the private sector, had been devised in 2005 after the anthrax attacks and the Hurricane Katrina disaster.[820] The Challenges faced during the coronavirus pandemic included a lack of diagnostic testing kits, a shortage of PPE for healthcare workers, and the provision of vaccines.[571] The Trump administration was slow to respond to the public health crisis or implement any of the plans despite all the national security warnings. Valuable time was lost as federal officials repeatedly downplayed the risk of the coronavirus, assuring citizens that the virus would 'go away.'[821]

[818] Johnson (n 392).
[819] Ibid.
[820] E. Berman, 'The Roles of the State and Federal Governments in a Pandemic' (2020) 11 Journal of National Security Law and Policy 61, 65.
[821] Wolfe and Dale (n 396).

There was a relentless effort by whistleblowers in the US to expose serious flaws in the healthcare system, which lacked sufficient resources to manage the spread of the coronavirus.[822] However, whistleblowers were pressured to remain silent or face disciplinary action for reporting inadequacies in their organisations. A considerable number of whistleblowers were dismissed for speaking out during the COVID-19 pandemic. For example, in Seattle, an emergency room physician was fired after giving an interview to a newspaper about inadequate protective equipment.[823] More so, a nurse in Chicago was dismissed after she requested better equipment.[824] Every major private hospital in New York, the epicentre of the coronavirus crisis in the US, sent memos to employees, ordering them not to speak with the media.[825] Apart from restricting employees' freedom to speak about the coronavirus pandemic, workers were also dismissed for expressing concerns about their working conditions.

The federal and state governments recognised the severity of the coronavirus pandemic as the number of deaths increased and the whistleblowers relentlessly reported misconduct. In President Biden's administration, a robust cross-institutional response was initiated, involving all levels of government, as well as private industry and non-profit organisations.[826] Numerous actions were taken by the federal government, including restriction of immigration into the US, as well as non-pharmaceutical measures such as social distancing and the closing of schools after the first reported case in January 2020 in Washington state.[827] The federal and state governments took proactive measures to improve the level of protection accorded to whistleblowers as they continued to report misconduct that was occurring.

Section 741 of New York Labour Law was passed in October 2021, which expanded protection for whistleblowers in reaction to the rise in retaliation. The new law prohibited retaliatory action, imposed a statute of limitations and obliged employers to inform employees about whistleblower protection.[828] It provided safeguards for private and government contractors who reported fraud, misuse of power, and other misconduct related to coronavirus funds. The Act further prohibited employers from dismissing, demoting, or discriminating against employees who disclose misconduct to the appropriate authorities.[829] Healthcare workers who

[822] S. Ventegodt and J. Merrick, 'A Tribute to the Corona Virus COVID-19 (SARS-CoV-2) Whistle-blowers' (2020) 12 Journal of Alternative Medicine 1, 14.
[823] Judd (n 397).
[824] R. Nelson, 'Lack of Protective gear disrupts oncology care' (2020) 21 The Lancet Oncology 631, 632.
[825] Scheiber and Rosenthal (n 398).
[826] Knauer (n 218) 7.
[827] Knauer (n 825) 7
[828] Section 740 New York Labour Law.
[829] Ibid.

blew the whistle on their employers before the amendments to sections 740 and 741 of the New York Labour Law were only protected from retaliation, on the condition that their complaints presented a substantial and specific danger to the public health and safety, health care fraud, or improper quality of care for patients.[830] The next section analyses the impact of coronavirus and the part played by whistleblowers who reported misconduct in the EU.

4.3.4 An Examination of Legislative Measures to Protect Whistleblowers and the Role Played by Whistleblowers During the Coronavirus Era in the EU.

The protection afforded to whistleblowers within EU Member States has been fragmented, with uneven policies, resulting in insufficient protection.[831] Harmonising whistleblower protection across the EU is necessary as fragmentation prevents effective protection for whistleblowers. For whistleblowers to qualify for protection under the EU Whistleblower Directive, they should report misconduct both internally and externally if they have reasonable grounds to believe that the breach of EU law may constitute an imminent or manifest danger to the public interest.[832] It is worth noting that the freedom of speech of whistleblowers was curtailed in some EU Member States as they attempted to report necessary information regarding insufficient resources to contain and manage the spread of the coronavirus. For example, a medical professional in Poland was dismissed for reporting missing masks and equipment.

Whistleblowers who reported their concerns relating to a lack of PPE during the outbreak of the coronavirus ought to have been protected under Article 3 of the PPE Directive. Such equipment is essential for safeguarding public health, enhancing workplace safety, and protecting users against injuries and illnesses.[833] Most EU Member States failed to meet the deadline for transposing the Whistleblower Directive. France transposed the Whistleblower Directive in March 2022, making the country one of the leading Member States that has fully incorporated it into local law. This is the reason for placing more emphasis on discussing France compared to other Member States, as they have yet to transpose the Whistleblower Directive into their national law.

On 21 March 2022, the French legislators enacted a Whistleblower Protection law, known as Loi Waserman, aimed at improving the protection of whistleblowers and enhancing the role of

[830] Abazi (n 380) 379.
[831] E. Andreis, 'Towards Common Minimum Standards for Whistleblower Protection Across the EU' (2019) 4 European Papers 575, 577.
[832] Article 15(1)(b) EU Whistleblower Directive.
[833] L. Pecchia and others, (n 405) 1376.

the Human Rights Defender in the area of whistleblowing. This legislation is part of a broader framework intended to increase transparency in the fight against corruption and will facilitate the modernisation of the economic life of EU citizens. Essentially, the new law defines a whistleblower as a "natural person who reports or discloses, without direct financial compensation and in good faith, information relating to a crime, misdemeanour, threat or damage for the general interest." The new law provides appropriate safeguards that protect the secrecy of national defence, medical confidentiality, and judicial deliberations. Anti-retaliatory measures to protect whistleblowers are extended to include, among other things, exemption of whistleblowers from criminal liability for disclosing information that contains confidential information, as well as protection against civil liability for the damage inflicted on an organisation due to the disclosure. Furthermore, whistleblowers who report anonymously can be afforded protection.[834]

The new law aims to enhance the protection of whistleblowers by introducing new anti-retaliation measures that prohibit coercion, intimidation, harassment, ostracism, discrimination, and disadvantageous or unfair treatment, as well as improper referral for psychiatric or medical treatment. The new law strengthened whistleblower protection in cases involving judicial proceedings. An advance for the cost (plaintiff's expense) of proceedings can be granted by the judge to whistleblowers who present evidence showing that the reason for their prosecution hinged on the public disclosure of misconduct. A whistleblower can also seek financial assistance in situations where their finances have severely worsened as a result of the disclosure, and an advance for their maintenance can be granted by the judge. To deter the criminal prosecution of whistleblowers for defamation, the provision attracts a higher civil fine under ordinary law, amounting to €60,000.

Additionally, the new law modifies the reporting procedure by eliminating the hierarchy of reporting channels and mandates companies to update their internal whistleblowing systems. Whistleblowers can now report immediately through internal and external channels established by competent authorities, including judicial institutions, EU bodies, and agencies. Organisations are required to diversify their reporting channels by providing an online whistleblowing system and a physical post box for reporting. Companies with over 50 employees, administrative bodies with more than 50 agents, and municipalities with over 10,000 residents are required to have procedures for reporting misconduct. With the new law,

[834] Law No. 2022-401, Art (6) (II).

Whistleblowers are permitted to report misconduct anonymously through internal channels or externally.

During the coronavirus pandemic outbreak, whistleblowers reported unsafe working conditions in German meat processing plants.[835] Some of the meat plants were temporarily closed in response to coronavirus outbreaks, leading to workloads being shifted to those that remained open. This resulted in greater time pressure and longer working hours, at the expense of worker safety and health, contrary to EU Health and Safety Regulations.[836] To avoid closures and lockdowns, workers were put in labour quarantine. While upholding production in the meat-processing plant, EU mobile workers were allowed only in their living quarters, their workplace, or while commuting between the two. The employees reported inadequate protective equipment and haphazard handling conditions on-site, necessitating the implementation of preventive measures.[837] This undermines labour rights when employers fail to provide protective equipment.[838]

4.3.5. Highlighting the weaknesses in the legislation that failed to protect COVID-19 whistleblowers

Whistleblowing legislations are established to protect individuals from various forms of reprisal attacks under specified conditions, such as 'reasonable belief' and 'the public interest.' Generally, the whistleblowing legislation designed to protect whistleblowers has failed to adequately protect those reporting misconduct related to the coronavirus in all the jurisdictions studied. Examining how the legislation failed to provide adequate protection for whistleblowers and evaluating the inadequacies in existing legislation could help foster improvements in the legislation. This section highlighted the shortfall in the legislation to protect COVID-19 whistleblowers in the three jurisdictions.

Since the outbreak of COVID-19, many healthcare professionals in the US were assaulted, abused and ostracised. In New Mexico, nurses working under Fabiana Zepeda Arias, the Chief of Nursing Programs for Mexico's Social Security Institute that spearheads government

[835] C. Ban, D. Bohle and M. Naczyk, 'A Perfect Storm: COVID-19 and the Reorganisation of the German Meat Industry' (2022) 28 European Review of Labour and Research 101, 106.
[836] Article 153, European Union.
[837] Ghayen and others (n 799) 7.
[838] A. Watterson, 'COVID-19 in the UK and Occupational Health and Safety: Predictable not Inevitable Failures by Government, and Trade Union and Nongovernmental Organisation Responses' (2020) 30 Journal of Environmental and Occupational Health Policy 86, 88.

measures against COVID-19, were violently attacked at least twenty-one times.[839] The nurses were accused of deliberately spreading the coronavirus, but, despite their agonies and outcry, the US authorities failed to offer adequate protection or implement stricter laws to forestall further attacks. In Santa Monica, California, 10 nurses working at Providence Saint John's Health Centre were forcefully placed on administrative leave for protesting the use of surgical masks instead of N95 masks while treating COVID-19 patients. The nurses were suspended with full wages despite the hospital administrators knowing that surgical masks reportedly provided less respiratory protection.[840]

The Council of Europe's Group of States against Corruption (GRECO) expressed concern about the increased risk of corruption during COVID-19 and, in its response, published specific guidelines that underscored the need for improved whistleblower protection laws that would 'facilitate and protect whistleblowers irrespective of the reporting lines'[841] used in making disclosures. GRECO highlighted the crucial role played by whistleblowers in risking their lives to protect the public interest during the global crisis. This is evident in the case of DR Zambon, who made a protected disclosure to his Assistant after writing a report on various flaws in Italy's pandemic preparedness during the early stages of the COVID-19 outbreak. The report identified that Italy's pandemic prevention plan failed to meet international guidelines, as elaborated in Section 2.5.3.

The EU Whistleblower Directive did not make sufficient provisions to protect whistleblowers during the pandemic outbreak. Several doctors and nurses in Member States were disciplined or fired for expressing concerns about their work conditions during the COVID-19 pandemic.[842]

All 27 EU Member States have enacted legislation to transpose the EU Whistleblowing Directive in July 2024. Although some still exhibit significant shortcomings and need to enhance their laws to meet the minimum standards set by the directive. The European Commission has observed that while legislative adoption has been widespread, the quality of

[839] K. Semple, 'Health Workers Under Attack' *The Times (*New York, 27 April 2020), <https://www.nytimes.com/2020/04/27/world/americas/coronavirus-health-workers-attacked.html> accessed 2 September 2025

[840] Karlamangla and Chabria, (n 664).

[841] E. Schönborn, 'Anti-Corruption Compliance in Times of the Covid-19 Pandemic' (2021) 7 Compliance Elliance Journal 5, 8.

[842] Transparency International, 'Are EU Countries Taking Whistleblower Protection Seriously?' (*Transparency International, March 2021*), <http:/www./transparency.org>, accessed 2 September 2025.

transposition differs, with many countries still needing to address issues such as material scope, protection against retaliation, and the effective implementation of reporting channels[843].

The ECJ sanctioned five EU Member States on 6 March 2025 for either delaying the transposition of the Whistleblowers Directive too late or not at all. Among the sanctioned states are Luxembourg, Hungary, the Czech Republic, and Estonia for failing to transpose the Directive. The Czech Republic must pay a lump sum of €2.3 million, Hungary €1.75 million, and Luxembourg €375,000. The EU Commission initiated infringement proceedings against several Member States for not having transposed the Whistleblowers Directive in 2023. In its judgment of 25 April 2024, the European Court of Justice (ECJ) previously imposed sanctions on Poland for failing to implement the Directive.[844] The court levied fines proportionate to each country's GDP. German legislation was not enacted until 2023, two years after the stipulated deadline. Estonia, which has yet to implement the directive fully, is also subject to a daily penalty of €1,500 (£1,600) until it achieves compliance.

Germany is among the countries that transposed the Whistleblower Directive too late. The Federal Republic justified the delay by noting that it had to carry out complex technical and political discussions regarding the expansion of the scope beyond what the Directive specifies, in order to provide a high level of protection for whistleblowers. It also argued that the legislative process was delayed due to the parliamentary elections in 2021 and that the conciliation committee had to be involved during the process.

Nevertheless, these arguments were unsuccessful before the European Court of Justice (ECJ). The ECJ referred to its established case law, stating that a Member State cannot invoke provisions, practices, or situations within its domestic legal system to justify the failure to comply with obligations under EU law, such as the failure to transpose a directive within the prescribed period Failing to transpose the provisions of Directive 2019/1937 within the required timeframe undermines union law and its consistent and effective enforcement, as breaches of that law might not be reported if individuals aware of such breaches lack protection against potential reprisals.

Retaliatory actions against COVID-19 whistleblowers in the UK demonstrate that PIDA lacks a provision for an effective enforcement structure. The legislation failed to confer effective

[843] T. Wahl, 'ECJ Ordered Several Member States to Financial Penalties for Failing to Transpose Whistleblowers Directive' (*eucrim news* 17 March 2025), <https//www.eucrim.eu/ https://eucrim.eu/news/ecj-ordered-several-member-states-to-financial-penalties-for-failing-to-transpose-whistleblowers-directive accessed 2 September 2025.

[844] M. Quell, 'Five EU Countries fined millions for Delaying Whistleblower Protections' (Court house news service 6 March 2025), <https//www.courthousenews.com/five-eu-countries-fined-millions-for-delaying-whistleblower-protections> accessed 2 September 2025.

protection on whistleblowers. The vulnerability of NHS (National Health Service) staff and other frontline workers during the pandemic shows the cumbersome legal process of PIDA, which allowed further whistleblower reprisals. The PIDA arguably failed in its legislative power to protect whistleblowers during the coronavirus pandemic. Some frontline health workers also suffered different forms of retaliation for sharing grievances related to a lack of PPE.

4.4 Conclusion

This chapter underscores the ineffectiveness of whistleblowing legislation, which has failed to protect individuals who reported misconduct during the coronavirus pandemic outbreak. This chapter further delineates the prerequisite steps organisations must undertake to establish policies and procedures that conform to enacted legislation to safeguard whistleblowers. However, if organisations fail to implement these policies and procedures for employees, complying with the legal protections afforded to whistleblowers will be difficult. Legal frameworks to protect whistleblowers in most parts of the world are often inefficient, making the proper implementation of whistleblower protection challenging, as recent experiences have shown. Whistleblowing has become the predominant way of promoting accountability for the most pressing issues in our society. Although whistleblowing serves the public interest, whistleblowers frequently face harassment and reprisals.

Arguably, whistleblowing can save lives and influence global change; however, it is unreasonable and unrealistic to expect that whistleblowers possess the authority to safeguard the public when they are unable to safeguard themselves. This thesis therefore advocates for greater consistency in the legal thresholds and operational requirements outlined by whistleblower protection statutes within the United Kingdom, the United States, and the European Union Member States. To a considerable extent, this thesis evaluates the prospects for accelerating the transition towards more effective and less symbolic whistleblowing practices and legal frameworks that can ensure the safety of workers worldwide.

Legislating for an efficient system of whistleblowing has become a major challenge for national legislators since there is a lack of homogeneity in the method, the prevention processes are not uniform, and enforcement procedures differ globally. Regulators are not expected to interfere with the culture within organisations or with how they formulate their whistleblowing policies and procedures, but merely to give legal guidance to which they should adhere.[845]

[845] Loyens, Borst and Heres (n 742) 5.

Globally, many governments have introduced legislative frameworks for the protection of whistleblowers and several organisations has responded positively by creating reporting channels and procedures for disclosing misconducts.[846] However, there is no symmetry and cohesion between these legal frameworks concerning the nature of protection accorded to whistleblowers and the process of implementing the policies. This factor has created opportunities for the increase in the number of reprisals, discrimination and inadequate protection for whistleblowers.[847]

[846] J. R. Boles, L. Eisenstadt and J. M. Pacella, 'Whistleblowing in the Compliance Era' (2020) 55 Georgia Law Review 147, 178.
[847] I. Kampourakis, 'Whistleblowers as regulatory intermediaries: Instrumental and reflexive considerations in decentralizing regulation' (2021) 15 Regulation and Governance 745, 753.

Chapter 5: Synthesis of Arguments Supporting Whistleblower Protections

5.1 Introduction

Whistleblowers have historically played substantial roles in reporting misconduct before, during, and after the coronavirus pandemic.[848] In spite of whistleblowers' relentless efforts to disclose unethical conduct, the extent of reprisals faced by whistleblowers has not diminished, discounting the enactment of legislation intended to prevent retaliation.[849] Current legislation has proven insufficient in providing adequate protection to whistleblowers; therefore, reforms are necessary to ensure that the legislation evolves in line with changing circumstances.[850] This research primarily focused on investigating the extent to which whistleblowers are inadequately protected by the legal framework when their protected disclosures are subjected to reprisals by their employers. The study examines whether the current level of legal protection effectively serves as a mechanism to uphold whistleblower rights. In the absence of comprehensive legislation that explicitly obligates employers to protect whistleblowers from reprisals, employees remain vulnerable to retaliatory actions after reporting misconduct.[851] A reform proposal has been advanced to establish comprehensive protection for whistleblowers when making protected disclosures.[852]

Amid ongoing reprisals, it is imperative to evaluate the extent of protection provided to whistleblowers during the COVID-19 pandemic. The legal frameworks in place appear to be fundamentally flawed in their design, and their implementation has led to inconsistencies in the protection of whistleblowers.[853] Establishing a comprehensive legislative framework complemented by effective organisational policies and procedures constitutes a crucial step towards ensuring adequate protection for whistleblowers, given that the legislation in the UK, the US, and the EU Member States has not offered sufficient protection.[854] This study conducts a critical assessment of the deficiencies present in current whistleblowing legislation, highlighting the need for reform. To prevent improper handling of future crises, the research

[848] Rodgers (n 382) 42.
[849] Gagnon and others (n 20) 4137.
[850] Pathiranage and others (n 805) 2.
[851] J. Heese and G. Perez-Cavazos, 'The Effect of Retaliation Costs on Employee Whistleblowing' (2021) 71 Journal of Accounting and Economics 1, 2.
[852] G. Kontogeorgis, 'Whistleblowers and Their Role in The Fight Against Corruption. Problems in Protecting Whistleblowers and Suggestions for Improvement' (2025) 10 International Multilingual Journal of Science and Technology 8090, 8091.
[853] E.E. Dalkilic, 'Yo-Yo Back and Forth: Controversies in Ector's Whistleblower Judgments' (2024) 3 European Public Law Journal 223, 235.
[854] K. U. Schmolke, 'Clash of Culture: The EU Whistleblower Directive and National Company Law' (2025) 1 International Journal of Comparative Labour Law and Industrial Relations 57, 62.

identifies gaps in reported COVID-19 cases and proposes appropriate recommendations aimed at influencing future reporting behaviours related to misconduct. The subsequent section explores measures that organisations and governmental bodies can adopt to safeguard whistleblowers when reporting misconduct.

5.2 Measures to Enhance Protection for Whistleblowers Against Retaliation After the COVID-19 Pandemic.

To enhance protection for whistleblowers, it is essential to develop more comprehensive regulations that effectively safeguard individuals who report unethical conduct. Globally, current legislation falls short of providing adequate protection to whistleblowers.[855] The treatment of whistleblowers prior to and during the COVID-19 pandemic has revealed that existing protections for employees reporting misconduct are insufficient and that the legislative framework in place is ineffective.[856] However, employers are obligated to adhere to all relevant whistleblower legislation, which serves to shield them from retaliatory actions.[857] To that effect, organisations should demonstrate their commitment to implementing these legislative provisions and ensure that their employees receive protection, when necessary.[858]

It is also essential for organisations to formulate policies and procedures that will correlate with the government's promulgated legislation to protect whistleblowers. The law already prescribes steps that organisations must take to ensure whistleblowers are adequately protected when they report misconduct. However, if organisations fail to implement policies and procedures for employees to imbibe, it will be difficult for the organisation to adhere to the law that protects whistleblowers. Therefore, organisations need to establish procedures for reporting misconduct and identify the most effective channels for reporting.

More importantly, organisations should implement policies that will create awareness of their ethical cultures. For whistleblowers to be protected appropriately, organisations should cultivate a culture of accountability and openness[859] that creates an environment that

[855] M. Celestin, 'The Role of Whistleblower Protection Laws in Enhancing Corporate Accountability and Ethical Business Practices' (2924) 8 Brainae Journal of Business, Science and Technology 1046, 1047.
[856] J. Wright, 'Improving Legislative Protection for Whistleblowers of Corruption in South African Municipalities' (2025) 40 Southern African Public Law 1, 10.
[857] J. R. Boles, L. F. Eisenstadt and J. M. Pacella, 'Protecting the Protectors: Whistleblowing and Retaliation in the Compliance Arena' (2025) 62 American Business Law Journal 23, 25.
[858] I. Effendi, 'Legal Protection for Whistleblowers of Corruption Crime Bring to Fairness' (2024) 7 Sociological Jurisprudence Journal 31, 33.
[859] J. Pacella, 'Bounties for Bad Behaviour: Rewarding Culpable Whistleblowers under the Dodd-Frank Act and Internal Revenue Code' (2015) 17 University of Pennsylvania Journal of Business Law 346, 348.

encourages reporting and minimises the likelihood of retaliatory actions.[860] The primary responsibility for this initiative resides with senior management, who must demonstrate exemplary leadership.[861] Permitting employees to share their opinions within the boundaries established by the organisation's culture and core values would foster commitment.[862] This can happen when concerns are raised and dealt with productively, and when management teams lead by example, and any attempt to prevent individuals from reporting misconduct is prevented.[863] Employees should be adequately informed about the organisation's stance on whistleblowing and their responsibilities when reporting misconduct. They should strive to uphold both their ethical standards and the organisational ethics as outlined.[864]

To protect employees from reprisal, organisations should discourage employees from retaliating against whistleblowers and create a culture that promotes the reporting of misconduct.[865] Legislation explicitly outlines the procedures to be followed and delineates the protections available to whistleblowers. Efforts should also be made to inform employees about whistleblowing policies, with prompt and decisive action by senior management or designated officials being prioritised whenever misconduct is reported.

Whistleblowers have established a reputation as "problematic employees" due to their endeavour to highlight misconduct that might otherwise remain unreported.[866] Nonetheless, they are still recognised as legitimate contributors to the public interest and are entitled to protection from retaliation when reporting organisational illegalities.[867] The importance of whistleblowing became especially evident following the Enron scandal, as whistleblowers consistently report misconduct to prevent similar financial irregularities.[868]

To enhance the reporting of misconduct within organisations, governments worldwide are enacting legislation to safeguard whistleblowers. Likewise, many organisations are implementing codes of practice and guidance for their employees to ensure their activities align

[860] C. Lee and P. Liu, 'Employee Ethics and Corporate Governance: Evaluating Internal Whistleblowing Mechanisms' (2025) 15 Journal of Applied Finance & Banking 35, 49.
[861] M. Zakiy and J. Satyarini, 'Becoming a Whistleblower and the Role of a Leader: Desires and Barriers' (2025) 10 International Journal of Ethics and Systems 1, 3.
[862] H. Lee, 'Changes in workplace practices during the COVID-19 pandemic: the roles of emotion, psychological safety and organisation support' (2021) 8 Journal of Organisational Effectiveness People and Performance 97, 112.
[863] Andreadakis (n 732) 871.
[864] A. Arvanitis and M. Stichter, 'Why being morally virtuous enhances well-being: A self-determination theory approach' (2022) 10 Journal of Moral Education 1, 4.
[865] Boles, Eisenstadt and Pacella (n 856) 24.
[866] A. M. Rose, 'Calculating SEC Whistleblower Awards: A Theoretical Approach' (2019) 72 Vanderbilt Law Review 2047, 2067.
[867] Vandekerckhove and Phillips (n 459) 203.
[868] Uhlmann (n 702) 155.

with applicable legislation.[869] Generally, whistleblowers are not rebellious employees attempting to disseminate false information about their organisations. Conversely, they are concerned employees who have observed misconduct and are eager to halt it. On numerous occasions, they anticipate organisational support when reporting such issues.[870] Most employees will only report misconduct when they are assured that management will respond appropriately to the information provided. Whistleblowers who face reprisals often make their disclosures public, particularly when the misconduct is serious, and management fails to offer support.[871] The following section clarifies the distinction between compensation and rewards for whistleblowers, as these terms are often used interchangeably.

5.2.2. Distinction Between Compensation and Rewards for Whistleblowing Awards

Whistleblowing compensation seeks to remedy the financial and emotional the harm caused by retaliatory action for reporting misconduct.[872] Conversely, rewards are discretionary payments awarded for providing valuable information that leads to a successful outcome, such as the recovery of funds or the prevention of further harm.[873] In essence, compensation constitutes a right, whereas rewards serve as an incentive. Clarifying the definitions of reward and compensation in the context of whistleblowing fosters a better understanding of the appropriate nature and extent of the remuneration that a whistleblower should receive.

5.2.3. Implemented Regulations to Reward Whistleblowers for Reporting Misconduct.

Whistleblower reward programmes, also known as "bounty regimes," offer financial incentives to witnesses who report information on an infringement that helps authorities convict the perpetrators and recover or limit the damage they cause.[874] Financial incentives for whistleblowers are not common; the only country that has pioneered their implementation is the US. Other countries, such as Hungary and the UK, have introduced narrow reward programmes for witnesses reporting cartels, typically with very low rewards.[875] Whistleblower

[869] Krambia-Kapardis (n 736) 757.
[870] V. C. Burbano and B. Chiles, 'Mitigating Gig and Remote Worker Misconduct: Evidence from a Real Effort Experiment' (2021) 33 Organization Science 1273, 1276.
[871] T. M. Mansor, M. Ariff and H. A. Hasim, 'Whistleblowing intentions among external auditors: an application of the moderated multicomponent model of the theory of planned behaviour' (2022) 30 Meditari Accountancy Research 1309, 1315.
[872] A. Dey, J. Heese and G. Perez-Cavazos, 'Cash-for-Information Whistleblower Programs: Effects on Whistleblowing and Consequences for Whistleblowers' (2021) 59 Journal of Accounting Research 1689, 1700.
[873] M. Iwasaki, 'Environmental Governance and Whistleblower Rewards: Balancing Prosocial Motivations with Monetary Incentives' (2025) 50 Law & Social Inquiry 468, 469.
[874] T. Nyrerod, 'Myths and numbers on whistleblower rewards' (2021) 15 Regulation & Governance 82, 82.
[875] Nyrerod (873) 82.

rewards have been utilised in the US to combat procurement fraud and tax evasion, and since the 2008 financial crisis, their use has been expanded to tackle financial fraud. There is currently debate over their introduction in Europe, but authorities appear considerably less enthusiastic than their counterpart in the US.[876]

Under US federal law, the Securities and Exchange Commission (SEC), the Commodity Futures Trading Commission (CFTC), the Internal Revenue Service (IRS), and the Financial Crimes Enforcement Network (FinCEN) have whistleblowing programmes provided by statute and regulations, covering laws under their respective jurisdictions. Additionally, private parties who report fraud against the US government, such as those involving Medicare, Medicaid, or government contracts, can proceed under the *qui tam* framework. The False Claims Act (FCA) awards whistleblowers between 15 and 30 per cent of the recovery from lawsuits.[877] The Dodd-Frank Act of 2010 rewards individuals who provide original information that leads to successful enforcement actions resulting in monetary sanctions. Rewards were set between 10 and 30 per cent of the monetary sanctions collected, and an Investor Protection Fund was established to fund those rewards.[878] However, there are two caveats: the funds collected must exceed USD 1 million, and the information provided must result in the actual collection of these funds. These high-profile rewards only apply to a minimal pool of individuals who initially report wrongdoing. The Internal Revenue Service (IRS) awarded whistleblowers between 15 and 30 per cent of the collected proceeds.

US agencies widely praise reward programmes, as they claim that they are the most potent tool that Americans can use to protect the government from fraud.[879] However, there is currently a rift, as reward programmes, praised in the US, appear unwelcome in Europe. While there might be good reasons to be cautious about the ability of European agencies to import the method from the US successfully, the level of European debate on the relative costs and benefits of these programmes has been low.[880] There are currently only two programmes in the UK which provide incentives or financial rewards for whistleblowers.[881] The Competition and Markets Authority Act 2024 (CMA) offers a reward scheme for whistleblowers who report illegal cartel

[876] M. Grzeskow, 'Whistleblower Protection in Poland – Analysis of the Situation of Polish Officers and Professional Soldiers' (2023) 11 Societas Et Jurisprudential 67, 84.
[877] 31 U.S.C. §§ 3729.
[878] 15 U.S.C. sec. 78u-6.
[879] W. Potipiroon, 'Reward Expectancy and External Whistleblowing: Testing the Moderating Roles of Public Service Motivation, Seriousness of Wrongdoing, and Whistleblower Protection' (2024) 53 Public Personnel Management 309, 333.
[880] K. U. Schmolke and V. Utikal, 'Whistleblowing: Incentives and Situational Determinants' (2025) 95 Journal of Business Economics 725, 728.
[881] Tutton and Brand (n 706) 1249.

activity, and His Majesty's Revenue and Customs (HMRC) provides discretionary incentives to whistleblowers who report tax fraud. There are no other provisions that offer whistleblowers incentives more broadly for reporting wrongdoing.

The US system of rewarding whistleblowers is in variance with the UK culture and beliefs. In the UK, it is firmly held that individuals should disclose wrongdoings because this is "the right thing to do"[882] and, therefore, financial rewards diminish the ethics of whistleblowing. Under the UK model, the whistleblowers are assured legal protection when they report misconduct that protects the public interest and protects the interests of those who are intimidated or abused.[883] In the UK, it is common to believe that rewarding a whistleblower is not a replacement for legal protection; therefore, it is regarded as an improper tool for motivating whistleblowers.[884] It is opined that whistleblowing reward programmes in the US have been effective, as verifiable evidence suggests that the use of financial incentives has immensely contributed to whistleblowers divulging information.[885] Additionally, the vital information disclosed by whistleblowers has enabled the US government to recover substantial amounts of taxpayers' money. The US Supreme Court[886] and the Department of Justice[887] have long recognised the crucial role of whistleblowers in preventing crime and recovering funds.

On the other hand, the US model of incentivising whistleblowers to report misconduct has been denounced as protecting fabricated allegations or encouraging money-driven reports.[888] The practice of rewarding whistleblowing may have deleterious effects on trust and team spirit within organisations, features seen by many as critical to the success of organisations.[889] Reporting co-workers, associates or superiors to the authorities often has negative moral connotations, which have been powerfully reinforced by the frequent use of "informers" by totalitarian regimes, both left and right.[890] Furthermore, organisations are vulnerable to false claims made by opportunistic whistleblowers who may be motivated to force organisations into financial settlements to avoid the adverse reputational and related effects caused by ill-

[882] Andon and others (n 423) 167.
[883] Section 43B (1) PIDA (1998).
[884] Alvesson and Sveningsson (n 717) 53.
[885] Andon and others (423), 167.
[886] Eisentadt and Pacella (n 714) 678.
[887] Heese, Krishnan and Ramasubramanian, (n 715) 2.
[888] Alvesson and Sveningsson (n 637), 40.
[889] P. Ayagre and J. Aidoo-Buameh, 'Whistleblower Reward and Systems Implementation Effects on Whistleblowing in Organisations' (2014) 2 European Journal of Accounting and Finance Research 80, 83.
[890] A. Contu, 'Rationality and Relationality in the Process of Whistleblowing: Recasting Whistleblowing Through Readings of Antigone' (2014) 23 Journal of Management Inquiry 393, 401.

founded accusations.[891] Moreover, it is argued that rewarding external whistleblowing can frustrate efforts at internal compliance or act as a disincentive to "internal" whistleblowing.[892]

5.2.4. Implemented Regulation that Compensates Whistleblowers for Reporting Misconduct

Compensation is a means of redress for any harm or damage suffered by the whistleblower because of their report. In the UK and EU Member States, whistleblowers are awarded compensation following a legal proceeding that establishes their disclosures were made in the public interest and were lawful. Under the Public Interest Disclosure Act 1998 (PIDA), whistleblowers in the UK can receive uncapped compensation for financial losses and emotional distress caused by whistleblowing-related detriments if the reporting is made in 'good faith and in the 'public interest'.[893] The compensation award from Employment Tribunals can include loss of earnings, future losses of income, injury to feelings, and aggravated damages.[894] Unlike the US reward programmes, the whistleblower bears the risk that a court may find insufficient evidence of wrongdoing, thereby incurring further legal costs in addition to the harmful reputational effects that may result from having blown the whistle unjustly.

The EU Whistleblowing Directive (EU) 2019/1937 aims to protect persons[895] who report breaches of Union law. By December 17, 2021, the EU Member States were expected to transpose the EU Whistleblower Directive into national law. While the directive does not specify exact compensation amounts, it requires Member States to establish effective and proportionate penalties for retaliation against whistleblowers.[896] Compensation should be honest and practical, and can include financial compensation for lost income, legal expenses and other economic damages.[897] There is no upper limit on the compensation amount for whistleblowers who experience unfair dismissal or detriment due to their reporting.

The principal disincentive for whistleblowing is the fear of retaliation. However, existing statutory protections for whistleblowers (statutes that allow whistleblowers to sue for wrongful dismissal or that otherwise deter retaliatory conduct) have severe limitations.[898] Most

[891] L. L. Watts and M. R. Buckley, 'A Dual-Processing Model of Moral Whistleblowing' (2017) 146 Journal of Business Ethics 669, 671.
[892] D. Mrowiec, 'Factors Influencing Internal Whistleblowing. A Systematic Review of the Literature' (2022) 44 Journal of Economics and Management 142, 155.
[893] Section 43B (1), ERA (1996).
[894] Section 123 (1), ERA (1996).
[895] Article 4, EU Whistleblowing Directive.
[896] Article 5(11) EU Whistleblowing Directive.
[897] Abazi (n 642) 832.
[898] Boles, Eisenstadt and Pacella (n 856), 32.

whistleblower protection statutes do not provide remedies for retaliatory actions that fall short of dismissal, such as demotions, unwanted geographical transfers, failure to consider an employee for promotion, excluding an employee from a decision-making role consonant with their level of seniority, surveillance in and outside the workplace, and psychological pressure.[899]

Countries must have an adequate financial compensation scheme available to whistleblowers, which is distinct from a reward programme. Traditional employment law remedies for reprisal typically cover the financial loss a whistleblower has suffered, such as lost earnings and employment benefits, legal costs and expenses incurred while seeking a new position. Compensation schemes may also include future losses caused by the retaliation, but this is difficult to prove because it is inherently speculative.[900] These existing legal remedies often fail to account for 'the range and type of detriment that whistleblowers unjustly suffer, leading to damage, beyond traditional concepts of reprisal.[901]

This shortfall has led to reward programmes often being presented as a compensatory solution. However, this is a mischaracterisation, as the two mechanisms have vastly different objectives. Although, reward programmes aim to incentivise whistleblowers to come forward, compensation schemes are designed to restore all individuals who suffer detriment to their original circumstances. Conflating the two creates unrealistic expectations for whistleblowers. Furthermore, introducing rewards in isolation can expose whistleblowers to an increased risk of retaliation without the prospect of restitution. Therefore, before implementing a cash-for-information scheme, policymakers must assess the adequacy of existing anti-retaliation measures, confidentiality protections, and remedies for whistleblowers to identify any gaps that may need to be addressed.[902] The following section examines how rewards can improve protection for whistleblowers post the coronavirus pandemic.

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[899] R. Mustapha and others, Employee Perception of Whistleblowing in the Workplace: A Systematic Bibliometric Review' (2024) 22 Pakistan Journal of Life and Social Sciences 16, 25.

[900] Protect, 'Calculating damages in whistleblowing claims: compensation and remedies' (*Protect-advice*, April 2021), <https://protect-advice.org.uk/remedies-in-whistleblowing-cases/#1639418941824-5fb330d8-fab6> accessed 2 September 2025.

[901] Analysis and Policy Observatory, 'Clean as a whistle: a five-step guide to better whistleblowing policy and practice in business and government' (*APO,* August 2019), < https://apo.org.au/node/252191> accessed 2 September 2025.

[902] E. Lockhart, 'The Inside Track: The Role of Financial Rewards for Whistleblowers in the Fight Against Economic Crime' (2024) 31 Serious Organised Crime & Anti-Corruption Evidence 1, 43.

5.2.5. How Rewards Enhance Protection for Whistleblowers in the Post-Pandemic COVID-19 Era

Providing incentives to whistleblowers cannot necessarily enhance protection, but it can substantially act as a motivating factor that encourages individuals to disclose misconduct, thereby augmenting organisational responsibility and transparency.[903] Monetary rewards, when integrated with comprehensive whistleblower protection, can influence individuals to report illegal activities that might otherwise go unreported, ultimately fostering a safer and more ethical environment. Fear of reprisal is perhaps the most significant influence on a whistleblower's decision not to report wrongdoing; strong antiretaliation protections are fundamental to increasing rates of whistleblowing.[904] The US reward programmes address these concerns with wide-ranging anti-retaliation provisions, which make it unlawful to directly or indirectly intimidate, discriminate or retaliate against whistleblowers.[905] Notably, these protections apply regardless of whether the person making the disclosure qualifies as a whistleblower under the programme or receives a reward.[906]

The goals of a cash-for-information programme are to protect and compensate whistleblowers adequately; however, there will be instances where these policy purposes diverge. For this reason, rewards cannot be implemented in isolation or as a substitute for whistleblower remedies or protective measures.[907] To operate effectively as a strategy of combating illicit finance, rewards must form part of a comprehensive framework to ensure all whistleblowers are adequately compensated and protected. However, it is essential to note that financial rewards under a cash-for-information scheme do not always follow immediately. It can take years for a whistleblower's information to be processed, a case to be investigated and prosecuted, and any associated monetary sanctions settled, before the regulator then determines a financial reward.[908]

It is reasonable to argue that the prospect of reward is not solely responsible for the significant levels of reporting as evident in the UK and EU Member States. While financial rewards are essential, many whistleblowers use reward programmes because of the robust anti-retaliation protections, assurance of confidentiality, and belief that their disclosure will lead to meaningful

[903] Tutton and Brand (n 706) 1238.
[904] R. B. Jefferey, L. Eisenstadt and J. M. Pacella, 'Whistleblowing in the Compliance Era' (2020) 55 Georgia 147, 156.
[905] 17 CFR § 240.21F-2(d) (2020).
[906] 17 CFR § 240.21F-2(d)(2).
[907] Lockhart (n 901) 41.
[908] Dey, Heese and Perez-Cavazos (n 871) 1726.

action. Consequently, an empowered and well-resourced regulator must run a reward programme.[909] This is equally critical if a reward programme is to achieve a deterrent effect, as deterrence requires active enforcement. The effectiveness of the US reward programmes largely stems from the US regulators' ability to act on reports, preserve whistleblower confidentiality, and impose significant penalties for retaliatory behaviour.[910]

5.2.6. Diverse Justifications for Endorsing Incentives for Whistleblowers Following the COVID-19 Pandemic.

Rewarding the COVID-19 whistleblower for exposing a series of misconduct, especially the embezzlement of enormous government funds during the procurement process in the UK and EU Member States, could be argued to be reasonable, as some whistleblowers have faced retaliation.[911] Such rewards would provide whistleblowers with financial security in the event of job loss, rather than relying solely on compensation, which can only be determined by the court based on the merit of the disclosure. Financial incentives can play a crucial role in mitigating the risk of disclosing misconduct.[912] However, whistleblower rewards have encouraged individuals to report misconduct, even when they are motivated by a sense of ethics. Financial awards can also compensate for financial losses and other repercussions associated with whistleblowing.[913]

Given the distinction between reward and compensation outlined above, it is important to note that in the absence of financial reward, COVID-19 whistleblowers are still entitled to statutory protections under UK employment law when they make a protected disclosure.[914] However, through successful litigation in the Employment Tribunal, whistleblowers may be awarded compensation for detriment, which can include various unlawful conduct specified by PIDA.

The US government offers protections for whistleblowers under anti-retaliation laws, allowing them to report misconduct in order to benefit from these protections.[915] The EU Whistleblowing Directive provides legal protection for individuals who report wrongdoing

[909] Dey, Heese and Perez-Cavazos (n 907) 1691.
[910] E. Karpacheva and B. Hock, Foreign Whistleblowing: The Impact of US Extraterritorial Enforcement on Anti-Corruption Laws in Europe' (2024) 31 Journal of Financial Crime 1, 9.
[911] S. Sian and S. Smyth, 'Supreme Emergencies and Public Accountability: The Case of Procurement in the UK During the COVID-19 Pandemic' (2022) 35 Accounting, Auditing & Accountability Journal 146, 150.
[912] WhistleblowersUK (n 711).
[913] L. Barmes, 'Silencing at Work: Sexual Harassment, Workplace Misconduct and NDAs' (2022) 52 Industrial Law Journal 68, 75.
[914] Rodgers (n 382) 45.
[915] Kampourakis, (n 850) 747.

without any financial reward, ensuring they are not retaliated against by mandating member states to establish reporting channels.[916]

Arguably, the legal protection for whistleblowers against retaliation is insufficient to redress the imbalance between the disincentives and incentives for whistleblowing. There is a plausible *prima facie* case that additional incentives are needed to achieve a socially optimal level of whistleblowing. Therefore, compensation payments for protected disclosures can help whistleblowers overcome financial challenges.[917] However, reward alone is insufficient to protect whistleblowers, and a cultural change in the workplace is also necessary to ensure that whistleblowers are not stigmatised and do not suffer social, professional, and personal repercussions.[918] The next section critically analyses the thesis contribution to the knowledge.

5.2.7. Discourse on the Thesis's Contribution to Knowledge

The original contribution of this thesis is fourfold. This thesis contributed to the study of whistleblowing by highlighting the significant gap in current whistleblowing legislation that requires urgent reappraisal to provide whistleblowers with appropriate protection. The thesis offered suggestions for improving the position of whistleblowers in the three jurisdictions. It also bridged the gaps in the existing whistleblowing regulatory frameworks adopted by the UK, the US, and EU Member States, and made recommendations for future legislative reforms. The inadequacies in the existing legislation for the protection of whistleblowers are well discussed in Chapter Three of the thesis, as evidenced in the reported misconduct that occurred during the coronavirus pandemic.

Firstly, a significant finding and contribution to knowledge is the adoption of PESTEL and SWOT models to collate and analyse the impact of the coronavirus, the measures taken by governments and the outcome of those measures. Both models are clearly outlined in Chapter One of the thesis as a pivotal part of this research. The PESTEL and SWOT analysis models have greatly contributed to this research, as they offer a comprehensive understanding of the pandemic's various impacts. The PESTEL analysis allows for the assessment of external environmental factors (Political, Economic, Social, Technological, Environmental, and Legal) that influence the situation. In contrast, the SWOT analysis concentrates on internal strengths, weaknesses, opportunities, and threats. By combining these analytical tools, a deeper

[916] Andreis (n 830) 586.
[917] S. Abdulkerim-Osmanovic and E. Kazic-Cakar, 'Unlocking Whistleblower Protection: Legal Basis to be Aware of' (2024) 3 Law and Safety 67, 71.
[918] Stein (n 700) 1169.

understanding has been achieved regarding the societal impacts of the coronavirus and the strategic responses developed by different governments.

The SWOT analysis was used to accurately identify measures that governments adopted to reduce the spread of the coronavirus pandemic. In critically examining the external factors (PESTLE) influenced by the spread of the coronavirus, the SWOT analysis identifies solutions by assessing how government policies have been implemented to mitigate the virus, leveraging internal strengths and weaknesses. The analysis determines whether each PESTEL factor presents an opportunity, a threat, or both. Governments devised appropriate responses, taking into account their existing internal strengths and weaknesses. The model maintained a suitable balance between these strengths and weaknesses, then capitalised on opportunities and addressed threats as recommended after the assessment.

The primary and secondary empirical data, appropriately integrated within the PESTEL and SWOT frameworks as research methodologies, have set a precedent for future research approaches. The approach to collate and analyse the data diverged from previous research methods in the field of whistleblower protection, which had traditionally employed doctrinal methods. In the absence of any published studies conducting an in-depth investigation of this nature within the existing literature, characterised by comprehensive academic analysis, the adopted approach has notably contributed to understanding how governments or organisations can utilise the models in future crisis management scenarios.

Secondly, a significant contribution of this thesis follows from the study's focus, as discussed earlier, on exploring the inadequate protection afforded to whistleblowers during the coronavirus outbreak when they continued to report misconduct. This research principally concentrated on examining the extent to which whistleblowers are inadequately protected by the legal framework when their protected disclosures are subjected to reprisals by their employers. The study investigates whether the existing level of legal protection effectively functions as a mechanism to uphold whistleblower rights in relation to the Section 1.4 research question.

This study critically assesses the shortcomings in current whistleblowing legislation, emphasising the need for reform. To prevent mishandling of future crises, the research identified gaps in reported COVID-19 cases and offers suitable recommendations to influence future misconduct reporting behaviours. The legal frameworks currently in place appear fundamentally flawed in design, and their implementation has caused inconsistencies in whistleblower protection. The treatment of whistleblowers before and during the COVID-19 pandemic has shown that existing protections for employees reporting misconduct are

inadequate and that the legislative framework is ineffective. This study provides a comprehensive analysis of the strengths and limitations inherent in prevailing whistleblowing legislation, considering retaliation cases that occurred during the coronavirus pandemic, as discussed in Chapters 2 and 3, and taking into account the stories of whistleblowers who reported COVID-19 cases. This research contributes to the ongoing discourse on whistleblowing protection and underscores the critical necessity to revise provisions designed to protect whistleblowers.

The third area where the research contributes to knowledge is in facilitating a comparison among the three jurisdictions, as the study was conducted within the framework of the legal research paradigm. It adopts a multimethod approach, using multiple data forms, which provides an opportunity to gain an in-depth understanding of organisations' whistleblower protection in the three jurisdictions. This provided a relevant answer to the question concerning the reason for choosing these three comparator jurisdictions for a critical review of effective whistleblowing regulation within organisations. This choice is justified by the view that the whistleblowing regulatory frameworks in these comparator systems are socio-economically comprehensive. The thesis proposes policies and procedures for organisations to adopt that align with enacted legislation, offering proper protection for whistleblowers across the three jurisdictions due to similarities in corporate governance.

This research reveals the level of corruption related to procurement and exposes the cost implications of COVID-19-related malpractices in the three jurisdictions during the coronavirus pandemic. This thesis recommends that, in order to mitigate the effect of corruption, it is necessary to make procurement data and companies' ownership registers readily available to the public. That would prevent the government from awarding contracts to its cronies and make the procurement process more transparent.

Lastly, this research adds to existing literature by emphasising the need to improve specific aspects of PIDA. Notably, this thesis highlights the relatively limited academic literature on the impact of the legal requirements arising from PIDA. The Act must adapt to changes in organisational culture to effectively tackle challenges like the coronavirus crisis. PIDA should incentivise whistleblowers with rewards for reporting misconduct, rather than only allowing compensation through an Employment Tribunal after they suffer disadvantages. Since the reward programme (the Competition and Markets Authority) already exists in the UK and British citizens gain significant benefits from US whistleblowing programmes for reporting misconduct, a provision for rewards must be included in PIDA during the amendment.

Currently, the PIDA does not require all organisations within the UK to adopt whistleblowing policies. However, the primary purpose of PIDA was to provide a legal remedy for employees facing reprisals for whistleblowing, rather than to enforce the adoption of mandatory policies. This is a crucial consideration in regulating whistleblowing activities. It contrasts with the approach adopted by the US through the Sarbanes-Oxley Act, which enforced stringent legislative provisions and mandatory internal whistleblowing mechanisms aimed at preventing the recurrence of scandals. This research addresses the first research question by identifying the shortfall in the PIDA and recommending modifications to the legislation to adapt over time, following the reported COVID-19 reprisals.

This study empirically examines the Research Questions outlined in 1.4. The thesis also aims to enhance understanding of whistleblower protections across the three jurisdictions through a socio-political perspective. For this reason, this study differs from previous work in its methodology and research contribution and will significantly contribute to the literature and effective policy development by organisations and legislators.

5.2.8 Recommendations for the three Jurisdictions

The thesis has evaluated the approaches taken by the UK, the US and EU Member States in protecting whistleblowers, including the respective frameworks put in place to reinforce policymakers' intention to protect whistleblowers.[919]

a) Introduction of the Reward Programme

The UK government and EU Member States should contemplate incorporating a rewards programme within the Public Interest Disclosure Act (PIDA) and the Whistleblowing Directive, in line with the US government's reward programme, for the various reasons delineated in Chapters 2 and 4 of the thesis.[920] Verifiable evidence has shown that financial reward programmes help whistleblowers achieve financial security and have also contributed to an increase in reported cases in the US. On that note, the introduction of monetary rewards in PIDA and the EU Whistleblowing Directive might encourage more reporting of misconduct in organisations. A reward programme would constitute a constructive initiative and represents the most feasible approach to incentivise whistleblowing while offering financial security for whistleblowers, in addition to the compensation awarded by the employment tribunal following successful legal action.

[919] Promulgated Whistleblowing legislation discussed in Chapter 4 of the thesis.
[920] Whistleblowing reward programme discussed in Chapters 3 and 5 of the thesis.

b) Compulsory Internal Whistleblowing

The US government should make internal reporting mandatory before external reporting, especially for SOX requirements that must be submitted directly to the SEC. Including provisions for internal whistleblowing would encourage organisations to foster a compliant culture and provide employees with an opportunity to raise concerns internally before resorting to external reports of misconduct. This could eliminate the perceived incentive to pursue external reporting for financial gain.[921]

The requirement for initial internal whistleblowing systems in both the public and private sectors will provide employees with an opportunity to raise concerns. This serves as a good example that can be modelled after the US whistleblowing regulatory framework. The US Sarbanes-Oxley Act mandates publicly listed companies to establish compulsory internal whistleblowing procedures to receive disclosures from employees. These companies are also required to allow anonymous or confidential disclosures for employees who may not feel comfortable revealing their identity when reporting concerns.[922]

c) Whistleblowing Awareness Training Programme

To further enhance whistleblowing protection legislation, specialised programmes focusing on awareness and training should be organised across the public, private, and non-profit sectors. This initiative can raise societal understanding of whistleblowing and foster a shift in negative cultural perceptions related to whistleblowing within organisations. EU Member States have the capacity to promote whistleblowing, considering the cultural differences among countries and the societal perceptions ingrained within specific communities. A significant obstacle is the presence of a weak organisational culture, which hinders organisational change and the implementation of preventative measures. Generally, whistleblowers are often regarded as informants and may face retaliatory actions as a result of their disclosures. A prevailing culture of silence and concealment of wrongdoing exists, extending beyond the workplace into the broader social sphere.

Organisations should encourage, prepare, and publish guidelines for implementing internal whistleblowing systems when receiving whistleblowing disclosures from employees in the workplace. This would help allow the jurisdiction to evaluate the effectiveness of the

[921] Discussed in Chapter 3 of the thesis.

[922] J. Zhang, K. Pany and P. M. Reckers 'Under Which Conditions are Whistleblowing ''Best Practices'' Best? (2013) 32 Journal of Practice & Theory 171, 172.

whistleblower protection law and identify areas that need further reinforcement to promote disclosures and safeguard employees.

5.3 Areas for Future Research

This thesis advocates the inclusion of several recommendations into the proposed PIDA and SOX to enhance protection for whistleblowers. Certain aspects highlighted in the conclusion of this thesis remain insufficiently explored or have only been briefly addressed; nevertheless, these aspects may serve as a foundation for future research.

Further investigation concerning the EU Whistleblowing Directive should be conducted after the complete incorporation of the Directive into the national legislations of all Member States.

5.4 Summary of the Thesis

This research conducted a comprehensive assessment of the prevailing whistleblowing legislation and the extent of protection provided to whistleblowers during the coronavirus pandemic outbreak, when allegations of misconduct were reported. The thesis examined the existing legal frameworks for protecting whistleblowers within the UK, the US, and EU Member States. The research has demonstrated that whistleblowers who disclose information within organisations face a precarious position in the absence of comprehensive whistleblowing legislation. The thesis made a three-fold contribution in relation to the general regulatory framework of whistleblowing regimes in the UK, the US and EU Member States.

Furthermore, while critically analysing the best practices derived from the UK, the US, and EU Member States' whistleblowing frameworks, this thesis also identifies potential areas for future research in whistleblowing legislation within these jurisdictions.

The introductory chapter of the thesis provides a general overview, highlighting key themes such as the evaluation of selected literature in the whistleblowing debate, the research aims, the methodologies employed, and the thesis's originality and value. It also raised two major research questions. The first research question was to critically assess the effectiveness of current whistleblowing legislation in protecting whistleblowers across three jurisdictions.[923] The second research question was to evaluate the level of protection provided to COVID-19 whistleblowers.[924] The structure of the thesis is then outlined before the commencement of the first chapter.

[923] Discussed in Chapters 4 and 5 of the thesis.
[924] Discussed in Chapters 4 and 5 of the thesis.

Chapter 2 outlined the measures taken by governments to curb the spread of the coronavirus pandemic. At the same time, the chapter detailed reported misconduct that forced governments to take measures to contain and control the virus's spread. This chapter explained how the governments enforced existing legislation for disaster management or promulgated new legislation to contain the spread of the virus. The promulgated legislative measures adopted ranged from testing and treating patients, contact tracing, travel bans, quarantining, and the cancellation of large gatherings in sporting events, concerts, and schools. For example, the Coronavirus Act 2020 was enacted by the UK government to guide and facilitate the enforcement of policies aimed at reducing the spread of the virus. Measures such as social distancing were enforced to protect the health and safety of the population.

While in the EU Member States, four types of legislative measures (constitutional state of emergency, statutory regimes, measures adopted under special legislative powers and measures adopted almost exclusively under ordinary legislation) were implemented to curtail the spread of the coronavirus pandemic.[925] In addition, some Member States, such as Germany and Slovenia[926], have enabling laws that either pre-existed or were formulated ad hoc to reduce the spread of the virus. In the case of the US, from March 2020 to April 2020, the government enacted four pieces of legislation aimed at mitigating the spread of the coronavirus. The Coronavirus Preparedness and Response Supplementary Appropriations Act[927] was signed into law in March 2020, marking the first bill passed by Congress to provide financial support to actions aimed at reducing the spread of the coronavirus. In March 2020, the Families First Coronavirus Response Act[928] was signed by the US President. Congress signed the Paycheck Protection and Health Care Enhancement Act[929] in April 2020. The funding was directed towards helping health care providers offset expenses and lost revenue.

To critically assess the legislative measures implemented to slow the spread of the coronavirus, this chapter outlines how the strategic management tool, focusing on Political, Economic, Social, Technological, Environmental, and Legal (PESTEL) analysis, was employed for evaluation. The model assessed the impact of the coronavirus measures enacted by the governments of the three jurisdictions under review to curb the virus's spread and the outcomes of those measures. It offered insights into the decision-making processes of these governments. The research further validated the PESTEL analysis by applying the SWOT model, which

[925] European Parliament (n 326).
[926] Crego and Kotanidis, (n 200).
[927] Public Law 116–123.
[928] Public Law 116–127.
[929] Public Law 116–139.

critically analysed the information gathered concerning the coronavirus pandemic. This chapter gave the depth and richness of synthesising the PESTEL and SWOT models, which arguably exceed that of a doctrinal approach in addressing the research questions. Consequently, the chapter expands the understanding of the area beyond what is accomplished by the more conventional doctrinal approach, aiming to generate knowledge that refines and improves existing research methods. To answer the research questions, the reported misconduct in Chapters 1 and 3 during the coronavirus pandemic clearly demonstrates that whistleblowers were not provided with sufficient legal protection by their employers in both the public and private sectors when they blew the whistle.

Chapter 3 is pivotal in addressing the initial research inquiry regarding the efficacy of the legal frameworks and whistleblower legislation in the UK, the US, and the EU. The chapter elucidates the definition of whistleblowing from both academic and legislative viewpoints. In Chapter 3, the study outlined the definitions, which included essential terms such as misconduct, protected disclosure, whistleblower, channels of reporting, prescribed person, and protection. The clarification of these key terms was instrumental in determining the appropriate level of protection that can be extended to whistleblowers, given the absence of a universally accepted definition of whistleblowing within academic literature.

Academic definitions focus on four principal areas: disclosure, public interest, misconduct, and employees. Nonetheless, it is the legislative structure of each nation that establishes the extent of protection granted to whistleblowers. Upon enactment, legislation must be effectively implemented and enforced to protect whistleblowers from retaliation. The definitions found within scholarly literature and legal statutes are inherently linked to how organisations formulate and implement policies and procedures to protect whistleblowers.

The main difference is the inclusion of a financial reward for whistleblowers. Generally, US whistleblowing legislation, such as SOX, Dodd-Frank, and FCA, concentrates on reports made to the US government about financial fraud or related misconduct. These laws do not address the non-financial motives behind whistleblowing activities, unlike the UK PIDA, which highlights the concept of 'public interest.' Nonetheless, financial motivation remains a key factor in the effectiveness of US whistleblower legislation. The chapter highlights the necessity for PIDA to adapt and incorporate a reward for whistleblowers who make a protected disclosure, as recommended in Chapter 4.

This chapter also examines the regulatory framework governing whistleblowing in the three jurisdictions and the extent of protection afforded to whistleblowers. In this evaluation, the chapter discussed the rationale for whistleblowing protection by reviewing best practice

approaches adopted in the three jurisdictions, as well as the growing awareness of support from civil society groups. The legislation enacted in these jurisdictions acknowledged the crucial role played by whistleblowers. The objective is to promote disclosures and ensure the protection of whistleblowers by rendering the legislation effective in its current form.

Chapter 4 critically analysed the level of legal protection accorded to whistleblowers across the three jurisdictions during the coronavirus era. This chapter scrutinised policies and procedures implemented by the government to curtail the spread of the coronavirus pandemic. The chapter further examined the effectiveness of whistleblowing legislation across various jurisdictions, as whistleblowers continued to report misconduct during the pandemic, relying on such legislation for protection. Consequently, the chapter highlighted the inadequacy of existing legislation in protecting whistleblowers, who faced reprisals when reporting misconduct during the coronavirus pandemic. In the UK, the promulgated whistleblowing legislation, PIDA, failed to offer protection to whistleblowers when they made a protected disclosure during the coronavirus era. Evidence indicates there was a reasonable belief that organisations failed to comply with section 43(1)(b) ERA 1996 when whistleblowers disclosed information that would have been qualified as protected disclosures. For example, a complaint from the NHS or a key worker regarding insufficient PPE would have qualified as a disclosure relating to Health and Safety failures under the Health and Safety at Work regulations. Clearly, employers have failed in their duty to provide employees with the necessary equipment to perform their duties safely.

Additionally, NHS medical professionals were silenced and threatened with disciplinary measures for exposing serious misconduct within their organisations. This contradicts Section 103A of the ERA, which provides explicitly for actions related to victimisation, including the right to claim compensation. These disclosures qualify as protected disclosures, were made in good faith, and meet the conditions set for reporting misconduct. The unlawful detriment inflicted by the employers does not meet the requirements of section 47B of the ERA. This provision safeguards employees from being "subjected to any detriment by any act, or any deliberate failure to act" by their employer based on having made a protected disclosure. Common forms of detrimental treatment include being disciplined, overlooked for promotion, relocated, excluded from workplace decisions, and suffering damage to career prospects.

Chapter 4 highlighted how whistleblowers can be granted statutory protection under Section 43B (1) ERA1996 for making a "qualifying disclosure" as an employee who is under a reasonable belief to be making a protected disclosure in the public interest. Provided the misconduct falls into one or more of the following categories: failure to provide equipment for

employees to perform their jobs effectively, danger to the health and safety of any individual, **or** damage to the environment.[930] Whistleblowers were insufficiently protected during the coronavirus outbreak, even when they reported misconduct through the proper channels. Overall, during the coronavirus period, employees adhered to the specified PIDA internal reporting procedures for misconduct; however, whistleblowers had no means of addressing the issues of protected disclosure when they reported illegal activities during the coronavirus era.

This chapter further explains how the US whistleblowing regulatory approaches differ from those of other jurisdictions in this study in many respects. The Whistleblowing legislation in the US only protects certain sectors and for specific disclosures. The reprisals faced by whistleblowers in the US were widespread across the country during the coronavirus pandemic outbreak. Evidence showed that healthcare sector employees in the US faced retaliation for reporting misconduct in their organisations during the coronavirus pandemic outbreak. For example, in New York, medical employees were dismissed for raising concerns about their working conditions. Despite the prohibition in Section 230(b)(8) amended by the Whistleblower Protection Act of 1989 to dismiss, harass or discriminate against whistleblowers.[931] Additionally, SOX's Section 806 prohibits employers from retaliating against whistleblowers who report fraudulent activities. Whistleblowers were retaliated against for reporting several instances of fraud that occurred during the procurement processes to mitigate the spread of the virus.

Additionally, chapter 4 detailed the level of retaliation that whistleblowers in the EU Member States faced when they reported several instances of misconduct that occurred during the coronavirus era. Whistleblowers were retaliated against for requesting personal protective equipment, in violation of Article 3 of the PPE Regulation, which requires the provision of PPE in the workplace to ensure the health and safety of employees. The fragmentation of the EU Whistleblowing Directive is partly responsible for the reprisals faced by whistleblowers in EU Member States.

Finally, Chapter 5 reviewed various aspects of whistleblowing rewards, beginning with the argument in support of whistleblower protection and measures needed to prevent retaliation against whistleblowers following the COVID-19 pandemic. The chapter also addressed the

[930] Section 43B(ii) Enterprise and Regulatory Reform Act 2013.
[931] 5 U.S.C. **§** 2302 (1989).

whistleblowing reward programme, with justification for endorsing the incentivisation of whistleblowers. The chapter then tried to assess why countries are reluctant to adopt the US model of incentivising whistleblowers.

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