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Organisational Whistleblowing Policies: Making Employees Responsible or Liable?

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ABSTRACT. This paper explores the possible impact of the recent legal developments on organizational whistleblowing on the autonomy and responsibility of whistleblowers. In the past thirty years numerous pieces of legislation have been passed to offer protection to whistleblowers from retaliation for disclosing organisational wrongdoing. An area that remains uncertain in relation to whistleblowing and its related policies in organisations, is whether these policies actually increase the individualisation of work, allowing employees to behave in accordance with their conscience and in line with societal expectations or whether they are another management tool to control employees and protect organisations from them. The assumptions of whistleblower protection with regard to moral autonomy are examined in order to clarify the purpose of whistleblower protection at work. The two extreme positions in the discourse of whistleblowing are that whistleblowing legislation and policies either aim to enable individual responsibility and moral autonomy at work, or they aim to protect organisations by allowing them to control employees and make them liable for ethics at work.

KEY WORDS: whistleblowing, moral autonomy, ethical distance, moral agency

Introduction

The increased focus on ethics and ethical behaviour in organisations has led to greater concerns about whistleblowers and their protection. In the early 1970s, Ralph Nader was the most prominent representative of a growing movement which aimed to offer legal protection to whistleblowers. Nader et al. (1972, p. vii) define whistleblowing as “an act of a man or woman who, believing that the public interest overrides the interest of the organisation he

serves, blows the whistle that the organisation is involved in corrupt, illegal, fraudulent or harmful activity”. Nader’s activism pointed to a conflict between the ethos of the ‘organisation man’ and growing public criticism of organisations’ separation from society’s ethics. In this sense, the call for whistleblower protection must be seen as an exponent of the call for more accountability of organisations to society.

Research on whistleblowing covers its psychological and social dimensions (e.g. Miceli and Near, 1984, 1985, 1991), legal aspects (e.g. Miceli and Near, 1992; Miceli et al., 1999), cultural aspects of the phenomena (e.g. Park et al., 2005; Rashid and Ho, 2003; Tavakoli et al., 2003), conceptual delineations (e.g. Elliston, 1982; Jubb, 1999) organisational responses to legislation (e.g. Hassink et al., forthcoming; Near and Dworkin, 1998) and analysis of the different moral arguments used for defending whistleblowing protection (e.g. Vandekerckhove, 2006). There is, however, no consensus whether whistleblowing policies in organisations actually increase the individualisation of work, allowing employees to behave in accordance with their conscience and in line with societal expectations (e.g. Berry, 2004), or whether they are another management tool to control employees and protect organisations from them (e.g. Alford, 2001; Martin, 2003).

The increased protection of whistleblowers that legislation offers in the U.S., has been challenged by an increase in court cases where judges are asked to enforce secrecy agreements against whistleblowers (Dworkin and Callahan, 1998). Such agreements, Dworkin and Callahan argue, offer employers extra protection. An important aspect of this protection offered to employers is that employees are required to

first report wrongdoing internally. In Europe, where discussions about whistleblowing legislation have recently commenced in most parliaments and corporations have started to draw up and implement organisational whistleblowing policies in order to comply with the Sarbanes–Oxley Act, diverse stances have been adopted regarding the obligatory or optional status of disclosing organisational wrongdoing. Commenting on the U.S. context, Tippett (2006) notes that state and federal law requires some professions to report suspected child abuse and that New Jersey and Florida require attorneys to reveal a client's intent to commit a future crime, but that overall statutes that force employees to blow the whistle are exceedingly rare. With regard to Europe, Hassink et al. (2007) comment that the majority of the European organisational whistleblowing policies adopted a tone that was "at least moderately authoritative", with codes speaking of "a requirement or duty to report violations", and employees who 'must', 'should' or 'are expected to' report them. More importantly, Hassink et al. found that in 30 percent of the policies reviewed, "it was made clear that failing to report a violation (remaining silent about a breach or concealing information about one) is a violation in itself." In France, the 'Commission Nationale de L'Informatique et des Libertés' (CNIL), in its recommendation dated 10 November 2005, on the implementation of whistleblowing policies, cites a letter from the French Minister for Labour and Social Affairs stating that "the use of whistleblowing systems must not be compulsory, but be merely encouraged," and that a compulsory reporting requirement would be out of proportion with its objective (CNIL, 2005). Similarly, the Belgian privacy commission in 2005 issued a recommendation stating that whistleblowing schemes may not impose mandatory reporting on employees, and therefore, use of the reporting scheme must be optional (Privacy Commission, 2006). Meanwhile, the whistleblowing policy of the European Commission, implemented after the Cresson crisis, maintains a mandatory disclosure procedure (Art 22a of the Staff Regulations of Officials of the European Communities, see OLAF, 2005).

Recent developments at work such as the changes in the employment relationship, the psychological contract to short term, no long-term commitment and life long employment (Sennett, 1998) and the

extinction of the organisation man (Werhane, 1999), who would override other concerns for the benefit of the organisation, may also affect whistleblowing, its purpose and process. This matter is part of a bigger web of questions that relate to ethical behaviour at work, raised in the organisational context. They include the issues of moral agency, personhood of persons and organisations, autonomy and responsibility (Tsahuridu and McKenna, 2000).

This article outlines the developments in whistleblowing legislation and organisational whistleblowing policies. It examines the assumptions of whistleblower protection with regard to moral autonomy, in order to clarify the purpose of whistleblower protection on people at work. The clarification of the purpose of whistleblowing legislation and related organisational policies is important because it will inform the appropriate means to achieve the protection of whistleblowers. The two extreme positions in the discourse on whistleblowing appear to be that whistleblowing legislation and organisational policies either aim to enable individual responsibility and moral autonomy at work, or protect organisations by allowing them to control employees and make them liable for ethics at work. It is, however, possible for such policies to enable both moral autonomy and responsibility of employees and the protection of organisations in varying degrees. We believe that insight into the assumptions about autonomy and individuation at work underlying the call for whistleblower protection is beneficial for successfully developing and implementing whistleblower legislation and organisational whistleblowing policies.

This article briefly outlines the developments in the research, legislation and scope of whistleblowing policies. It examines how moral agency and autonomy are conceptually linked, and develops the reasoning for the notion of moral responsibility in organisations, by employing the notion of 'ethical distance' (Bauman, 1993; Mellema, 2003). It then develops the impact of whistleblowing policies on ethical distance and moral autonomy. Finally, the article develops the thesis that, while whistleblowing policies can find their justification as an organisational mechanism enhancing the moral autonomy of people in an organisational context, the effect of implementing these policies is susceptible to turning responsibility into liability for people at work.

Whistleblowing and whistleblowing legislation

An act constitutes whistleblowing if it has the following characteristics: First of all, it must involve an intentional disclosure of information to which the whistleblower has privileged access. In general, employees have such a privileged access. They know what is going on at work, and specific jobs entail handling specific information about what an organisation is doing. Not only permanent, core employees but also temporary or contract staff and some self-employed workers have privileged access to information. Second, the disclosed information must be about a perceived malpractice or wrongdoing in the organisation, or under the responsibility of the organisation. Third, the disclosure's aim is to rectify that malpractice or wrongdoing.

While some authors restrict the term whistleblowing to concerns that are raised outside the organisation (Chiasson et al., 1995; Jubb, 1999), many others assert that the term can be used for any disclosure about wrongdoing in an organisation that does not follow the normal hierarchical lines (Callahan et al., 2002; Kaptein, 2002; Vandekerckhove and Commers, 2004; Vinten, 1994). Miceli and Near (1992) have argued that empirically, there is a conceptual distinction to be made between internal and external disclosure because internal disclosure commonly precedes external disclosure. However, both internal and external disclosures of organisational wrongdoing are consequences of a concern being voiced by an insider aimed at rectifying the wrongdoing.

The assertion that whistleblowers are 'rats' or 'sneaks' has been refuted by empirical research on the psychological and sociological dimensions of whistleblowing. Research (see e.g. Chiu, 2003; Dozier and Miceli, 1985; Miceli and Near, 1984, 1989, 1991) shows that employees who have blown the whistle are loyal to the organisational goals and would rather have the wrongdoing corrected by raising the issue inside their organisation than cause a scandal by blowing the whistle externally. More important factors leading to acts of whistleblowing were found to be the perceived organisational disposition towards people raising concerns internally, and the perceived seriousness of the malpractice (Callahan and Dworkin, 1994; Miceli and Near, 1985; Near and Miceli, 1987).

Miceli and Near (1992) argue that organisational retaliation against (internal) whistleblowers encourages further (external) whistleblowing, while Mathews (1987) and Keenan (1990) claim that having internal whistleblowing procedures encourages internal disclosures but not external whistleblowing. Further, Sims and Keenan (1998) show that formal organisational policies that support external whistleblowing are not a significant predictor of its occurrence. Informal elements, however, such as supervisory support to do so, are more likely to lead to external whistleblowing. Vandekerckhove (2006) suggests that the research undertaken on whistleblowing has had an impact on policy making, and a salient trend, since the mid 1990s, is that whistleblowing legislation makes protection of individuals conditional on raising the concern inside the organisation prior to external whistleblowing. Hence, the current usage of the term whistleblowing also covers internal disclosures.

In addition to this disagreement, there is also the unresolved issue of whether blowing the whistle is an obligation or not. Jubb (1999), in order to distinguish between whistleblowing and informing, asserts that a disclosure has to be non-obligatory for it to qualify as an act of whistleblowing. Current usage of the term whistleblowing, however, refers to both obligatory and non-obligatory disclosure. This apparent confusion stems from the assumptions regarding the level of individual autonomy and individuation, and the shifts that occur with regard to these assumptions while implementing an organisational whistleblowing policy, which will be developed in this article.

In the past 30 years, numerous pieces of legislation have been passed in many countries, offering whistleblowers protection from retaliation for disclosing organisational wrongdoing. In 1978, the US Civil Service Reform Act (amended in 1989 to the Whistleblower Protection Act) was the first statutory legislation explicitly offering protection for whistleblowers. Michigan, in 1981, was the first state to offer protection to whistleblowers in the U.S. Today, in addition to the statutory laws at federal level, every state in the U.S. has legislation protecting whistleblowers, and many federal laws have parts that address whistleblowing. In the early 1990s, some Australian states passed whistleblowing legislation. These were South Australia in 1993, and the Australian Capital

Territory, Queensland and New South Wales in 1994. Around the turn of the century, similar legislation was enacted in the U.K. in 1998, in New Zealand and South Africa in 2000, and in the remaining Australian States of Victoria in 2001, Tasmania in 2002 and Western Australia in 2003. The Sarbanes–Oxley Act passed by US Congress in 2002 is primarily concerned with restoring investor confidence, and also contains some whistleblower provisions. Similarly, the Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Act (CLERP9 Act), passed in 2004 in Australia, includes provisions protecting whistleblowers in the Australian private sector. In Japan, a law was passed at the end of 2004, offering whistleblower protection that covers the private and public sectors. Finally, in 2005, the Flemish Parliament in Belgium enacted whistleblower protection. Meanwhile, proposals for legislation to protect whistleblowers, have been tabled in Ireland, Canada, India and Netherlands, while in many other countries, discussion and lobbying are ongoing in order to protect whistleblowers in organisations.

Moral agency: autonomy or determinism

In order to examine the responsibilities of people at work, and the moral status of whistleblowing policies, it is important to look at moral agency. Moral agency is important for the determination of moral behaviour and attribution of blame and praise. The central concept of moral agency is responsibility, which is closely related to moral cognition, motivation, and autonomy, and virtue, moral weakness, self-esteem, shame and guilt (Wren, 1997). Moral agency enables the moral evaluation of the agent's behaviour. An agent in ethics is any entity that acts and is subject to ethical rules, is a rational being, and is not an agent for anyone or anything else (De George, 1992). The point that moral agents are not acting for anyone else makes them an end in themselves, worthy of respect and never to be used as a means by others, De George comments. This point is also important because it allows moral responsibility and accountability to be attributed to individuals. Moral agency is accepted as a characteristic of human beings, which enables persons to live their own life and be responsible for their

actions. The same agreement does not exist, however, in accepting the possibility of moral autonomy of people, especially at work, despite the fact that moral autonomy leads to moral agency. People at work are held responsible for their moral behaviour, even if they are not or considered not to be morally autonomous, since organisations usually prescribe the means (systems/processes) and ends (goals/objectives) of behaviour.

Moral philosophy has a long tradition from Plato to Kant recognising that to be a moral agent is to be autonomous or self-directed (Rachels, 1997). Dodson (1997) assigns the fundamental attribute of moral agency on autonomy, the self-legislation or the capacity of a will to give laws to itself. The moral agent must then be bound by the self-legislated laws. Autonomy appears more problematic, however, when the moral agent is examined not in isolation but in society, since society provides the moral code instead of the individual. Dodson (1997), however, explains that the social contract allows people to live in societies, and yet remain autonomous. The idea of the social contract is contingent on the fact that persons come in contact with each other, and the social contract determines the laws and conditions that ought to govern this interaction. Persons are moral agents, and they legislate the laws that govern social life, so each one is obeying the laws one has legislated for oneself. These laws are thus universal because they command universal agreement and apply universally. The Kantian reconciliation of authority with autonomy, is through the social contract. Each person is an autonomous agent, and his autonomy, provided it is consistent with that of all other agents, must be respected. This argument can be applied to organisations as social systems or communities. People in organisations can be morally autonomous if they are able to legislate the rules that govern organisational life, the life at work. This can be accomplished by allowing people to participate in the legislation of the rules and policies they are called to obey. Interestingly, in 2005, the German Employment Court in Wuppertal ruled that some internal whistleblowing procedures were illegitimate, precisely because the employee representatives have had no input in designing and implementing the procedures (Hewson, 2005).

The opposing position is that persons are not autonomous in the Kantian sense, that is, they do

not develop their own morality, rather they are determined or formed by society. This view perceives ethical choices in human behaviour as a consequence of value judgements. Due to the pervasive causation there is no free will or voluntarism, rather determinism (Gordon, 1988). Determinism, rather than agency, is the assumption of social learning theory (Waterman, 1992), which holds that a person's moral formation and involves the acquisition of rules or norms of behaviour from the person's external environment (Crittenden, 1990). Accepting determinism, however, does not free people from responsibility. Shriver (cited in Walton, 1997) views humans as largely responsible for their acts, even if they are not fully responsible for their character, because training, parental care, economic circumstances etc. affect character. The adherents of this view hold individuals responsible for their actions (Gordon, 1988) because the survival of any human collective depends on holding its members responsible for their individual actions. Responsibility, for Gordon (1988, p. 37), is ethically judging actions and providing penalties if necessary, and it is important because the understanding of responsibility provides a psychological feeling that becomes a causal factor of future behaviour. "The individual's feeling of responsibility or accountability is an indispensable link in the causal chain. It is due to the fact that an individual cannot be aware of the causes and connections of his or her decisions and behaviours, he or she acts 'as if he or she had free will'".

People in organisations that blow the whistle are moral agents, and are responsible for their behaviour. Miceli and Near's (1984) research has shown that what whistleblowers hope and believe their speaking out will achieve, is the correction of what they perceive as an organisational wrongdoing. This research also found that not everyone who perceives a wrongdoing, acts upon that perception. In fact, only 42% stated in the research that they were ready to blow the whistle. In a more recent poll by Time/CNN (Time, 2002), taken at the end of 2002, when Cooper, Rowley and Watkins became the new whistleblower heroes for raising their concerns about WorldCom, FBI and Enron respectively, 73% of the participants reported that they were prepared to blow the whistle. It must be noted that this high percentage indicates intention and not readiness to blow the whistle. Nevertheless, it represents a large

majority of the population that has such intentions. More importantly, as an illustration of Shriver's feeling of responsibility as a causal factor of future behaviour, is that Miceli and Near (1984, pp. 698–699) have shown that those who observe wrongdoing, yet would not speak up about it, say that they would not do so because of the 'retaliatory climate' in their organisation. In contrast, those who say they would speak up, were confident that they "would not experience managerial retaliation if they blew the whistle".

Whether it be free will/voluntarism or determinism, whistleblowing requires an individual to be a moral agent who is responsible, able and willing not to be fully determined by the organisational means and ends, and having a belief that speaking up will cause the correction of an organisational wrongdoing. Moreover, whistleblowing regulations attempt to protect individuals, when they behave responsibly towards society. They endeavour to protect people from the organisations which they are members of, when these organisations behave against the good of society. The acknowledgement of the need for such protection, however, implies that moral agency, autonomy and responsibility are problematic in organisations, or at the very least, that they do not come naturally and are not welcomed when they arrive.

Responsibility in organisations

Moving to the organisation and the organisational context, Elliston (1982) notes that responsibility has two dimensions. The descriptive dimension refers to a causal relationship between one's actions and an outcome, whereas the normative dimension identifies who should do what about it. Kaler (2002) distinguishes similar dimensions of responsibility. The causal dimension – Elliston's descriptive dimension – exists when people can be said to have brought something about. The second dimension – Elliston's normative dimension – Kaler calls responsibility in a sense of 'duties owed'. In this sense, people 'have responsibilities', they have certain duties or obligations.

In the organisational setting, the responsibilisation of employees encompasses both the descriptive and normative dimensions. Duties are ascribed to people,

and people are held accountable. People are 'given' responsibilities that create duties, and for those duties they are both rewarded and 'held' responsible. It is 'holding' someone responsible that leads to accountability. Employees are asked to 'give account' for what they have done to fulfil the responsibilities given to them, and the duties laid upon them. It needs to be noted, however, that generally the process of accountability in organisations refers to the responsibilities attributed to members by the organisation. To the extent that these responsibilities are imposed in the absence of or with limited consultation with the employees, these responsibilities will lead to employees who are heteronomous, that is, they follow externally imposed laws, and not autonomous moral agents. It is this conflict between the organisationally imposed duties and the self-authored obligations, that leads to whistleblowing at work, where people believe that their duties extend beyond the organisation to society or that the organisationally imposed duties, whether implicit or explicit, are not acceptable to people. The increase in whistleblowing may, in fact, be a consequence of the increased realisation of what an organisation is for and for whom. An apparent shift is evident where organisations are less accepted as ends in themselves, and are increasingly perceived as entities that exist to serve society. This realisation is fuelled by the demise of the organisation man, and the increased moralisation of business, which aims to overcome the separation of the economic from the rest of social activity (McKenna and Tsahuridu, 2001).

Understanding personal and organisational responsibility and behaviour at work is more convoluted than personal responsibility and behaviour. The organisational context may influence employees, because it can shape what is perceived as rational by them (Vaughan, 1998). This phenomenon is attributed by Vaughan to the specialisation and division of labour, which may render the sum of legitimate acts illegitimate, and also promote the ignorance of the individual decision maker of the total act, performed by the indistinguishable contributions of numerous other people. Secrecy is also built into the structure of organisations, continues Vaughan, because, as organisations grow, actions in one part of the organisation are not visible in others, which lead to the segregation of knowledge, tasks

and goals. Knowledge becomes specialised, which further inhibits knowing and promotes secrecy, and the development of language associated with different tasks can conceal rather than reveal knowledge, even between sections of the same organisation. Vaughan, in her analysis of the Challenger accident, concludes that it was a mistake and not the result of misconduct. The reasons for this conclusion are that employees did not violate any laws or rules in their pursuit of organisational goals, and there was no intentional wrongdoing. Mellema (2003), more recently, explains that the investigations into recent scandals involving firms such as Enron, Arthur Andersen, and WorldCom have shown the difficulties of identifying particular individuals to blame – responsibility in the causal sense for particular events. Mellema argues that within the context of highly complex situations – situations brought about by organisational practices tend to be highly complex – the notion of 'ethical distance' might shed some light on how collective the 'collective responsibility' for organisational outcomes is. Mellema's characterisation of ethical distance in terms of moral responsibility is important because it steers away from two extremes on the question of who bears responsibility for organisational outcomes. One extreme is 'organisational scapegoating', referring to groups or corporations "pointing the finger of blame at individuals as a means of focusing the responsibility with an individual (scapegoat), even though some responsibility accurately resides with the group" (Wilson, 1993, cited in Bailey, 1997). The opposite extreme is 'individual scapetribing', referring to individuals "pointing the finger of blame at organisations (or groups, institutions and systems) as means of excusing, or ascribing responsibility for their personally enacted behaviours" (Bailey, 1997, p. 47).

'Ethical distance' refers to the distance between a moral agent and a state of affairs which has occurred. It is created by bureaucracy and rule following (Bauman, 1989) and limits the responsibility that creates the ethical proximity of another person. In the case of organisational crime or scandal, people belonging to the organisation might try to distance themselves from that crime or scandalous outcome by arguing that their involvement in the events leading up to the crime or outcome was significantly less extensive than that of others. Equally, others

may endeavour to reduce ethical distance by attributing blame.

Mellema (2003) argues that there is an inverse correlation between ethical distance and degrees of responsibility – in Elliston's (1982) descriptive sense. In general, the more involvement someone has in bringing about an outcome, the less the distance between that someone and the outcome, and hence the more responsible that person has. One of Mellema's criteria is whether there are defined institutional roles to play that require specific types of behaviour. If there are such roles, and if behaviour according to those roles (heteronomous behaviour) leads to a scandalous outcome, then the ethical distance is to be considered greater than when such behaviour is pursued free of such institutional constraints (autonomous behaviour).

Hence, causal responsibility is to be considered greater when behaviour is autonomous rather than when it is heteronomous. Organisations, however, in order to retain their freedom to pursue their interests, attempt to limit individual autonomy. They attempt to protect themselves from internal "conscience heroes" (Smith and Carroll 1984, p. 98), and limit individual variability. Individuality is not coercively removed from people, rather, is socialised out of them. It is converted to commitment to the organisation, and makes people freely adopt the organisational imperative and substitute personal values with organisational values (Scott and Hart, 1980). This occurs whether they are compatible with societal values or not. Such commitment also provides security to the members of the organisation, because it enables them to surrender the organisations' determination of values to top management (Smith and Carroll, 1984). A certain degree of compliance is something that organisations require, and people in organisations readily and willingly provide.

The causes for the abdication of individual moral autonomy at work have been recognized as both a result of the characteristics of people and work organisations. Barnard (1938) identified the zone of indifference, the range within which people at work are willing to incontestably accept authority. He, however, characterises this phenomenon irresponsible, because people in organisations do not effect their morality in their conduct. They are thus, not morally autonomous persons and do not behave as

moral agents. The nature of the employment relationship is such that it grants a certain degree of control to employers over the behaviour of their employees, resulting in the relinquishment of some of the employees' autonomy (Radin and Werhane, 1996). Jackall (1988) attributes the abdication of personal responsibility and autonomy to the imperatives of the work place. The paradox in organisations is that individuals relinquish varying degrees of autonomy in them, but remain responsible for their morality, despite the absence of autonomy to effect their morality. Responsibility remains with the individual because, even under determinism, moral agency cannot be relinquished nor reassigned, but rationality, cognition, judgement and behaviour can be affected.

Whistleblowing policies

Organisational whistleblowing policies aim to identify channels and procedures so as to raise concern about organisational practices. They also aim to identify how these practices are brought about by the discretionary powers of the organisation's members. Whistleblowing policies and their aims reiterate the notion of ethical distance between people in organisations and organisational outcomes, in two contradictory ways. They increase ethical distance from an outcome, since people who know about unethical and/or illegal organisational practices distance themselves by raising concern. They also decrease ethical distance by increasing collective responsibility, and making knowing equivalent to doing. The second possibility makes it necessary to look at whistleblowing policies in terms of the likelihood of a moral slippery slope.

First, a whistleblowing policy allows individuals to increase their ethical distance from an outcome. Individuals having knowledge of practices leading to a criminal or scandalous organisational outcome, and not having the power to alter or prevent those practices, can distance themselves from the practices and the outcome by raising concern. In this sense, whistleblowing policies can allow individuals to shed off causal responsibility by taking up normative responsibility and act out a 'duty owed'. To the extent that the responsibilisation of employees is a call upon the moral agency of individuals, the

assumption of autonomy of the individual exists, in Kantian terms. However, as Lovell (2002) has shown, the autonomy of an individual is highly vulnerable to contextual factors. These factors are consequences of exercising autonomy; consequences in terms of employment, remuneration, colleague support, and personal reputation. Lovell shows that the experienced dissonance between what responsibility suggests and allows, results in a diminution of autonomy, and hence "moral agency becomes the victim of autonomy's frailty" (Lovell, 2002, p. 63). Increased decision-making powers suggest heightened levels of autonomy, but both the gained power and the suggested autonomy will be constrained if they are not supported by an institutional medium such as a whistleblowing policy. These constraints are at least partly self-imposed by the individual, but Lovell sees this as a reason to regard the suppression of moral agency more worrying than overt repression, because the suppression is invisible – "it is not really happening, but it is" (Lovell, 2002, p. 65). Thus, though the assumption is that moral autonomy of individuals in organisations is weak, whistleblowing policies can structurally strengthen the exercise of that autonomy and lead to more responsible employees. Such was the argument of the Nolan Committee in the U.K. (Nolan 1996), which had to make recommendations to improve 'Standards in Public Life'. In its second report, the Nolan Committee expressed itself in favour of whistleblower policies that "enable concerns to be raised confidentially inside and, if necessary, outside the organisation" (Nolan, 1996, p. 22) based on the argument that "placing staff in a position where they feel driven to approach the media to ventilate concerns, is unsatisfactory for both the staff member and the organisation" (Nolan, 1996, p. 22).

Second, it is in offering the possibility to raise concern about certain practices that one is given the power, albeit indirectly, to alter or stop these practices, and in this sense whistleblowing policies decrease the possible ethical distance in organisations. The existence of known and accessible whistleblowing procedures makes everyone, who has knowledge of practices leading to a certain outcome part of the collective, responsible for bringing about the outcome. It thereby expands 'collective responsibility' to include witnesses and bystanders. Knowing leads to responsibility just as doing does.

Hence, being able to blow the whistle under a whistleblowing policy makes it impossible to distance oneself from an outcome based on the claim that one knew what was happening, but did not have the power to alter or prevent it. It also makes it impossible to distance oneself by claiming that raising concern was not part of the defined institutional role. Those who knew but did not raise concern are at least, to some degree, responsible for the outcome. In this sense, whistleblowing policies can be an expansion of normative responsibilities – duties owed – on which causal responsibility can be attributed. Thus, where the assumption is that moral autonomy of individuals in organisations is strong, whistleblowing policies can structurally turn autonomy into an imposed obligation, which may in fact disable autonomy. Such was the effect of a change in the UK Health and Safety at Work Regulations in 2003, as the implementation of a European Directive. In October 2003, the Health and Safety at Work Regulations 1999 (SI 1999/3242) were amended by the Management and Safety at Work and Fire Precautions (Workplace) (Amendment) Regulations 2003 (SI 2003/2457), which were intended as an implementation of the EC Framework Directive on Health and Safety (89/391/EEC). The Directive made it necessary to adopt legislation, so that employers would have civil liability for failing to comply with health and safety regulations. The legislation did that but imposed a limited liability on employers, whereas employees held an unlimited liability. The only way to avoid this liability was to signal compliance failures. Not knowing is not a defence. The regulation implied that in cases, where it could be argued that it is reasonable that an employee would have known, then that employee has civil liability. Public Concern at Work, a London based charity, termed this flaw the 'Speak Up or Pay Up Regulation' and issued a report outlining the consequences in terms of extra administration and insurance costs such liability would bring about (PCAW, 2004). Meanwhile, the regulation got amended, and the civil liability of employees has been seriously restricted.

The two positions are summarised in Table I. However, the distinction between whistleblowing as a right or a way to increase ethical distance, and whistleblowing as a duty – decreasing the ethical distance, is gradual. What if there is a whistleblowing

TABLE I
Whistleblowing: right versus duty

Status of whistleblowing	Ethical distance	Autonomy assumption	Consequence
Right	Increased	Autonomy is weak	Responsible employees
Duty	Decreased	Autonomy is strong	Liable employees

policy in force, but an employee who knows about a malpractice does not disclose it? This implies that the employee had the opportunity to increase the ethical distance, but chose not to do so. Isn't the next step to hold that employee accountable for *not* disclosing? In other words, is *not* taking an ethical distance to a particular practice any different from approving the practice, hence complicity? Is there, then, still a difference with not fulfilling the duty of blowing the whistle?

Whistleblowing as a means to create ethical distance is not at the same time whistleblowing as a duty, but the latter seems possible to evolve from the former. This possibility raises the moral slippery slope concern. Whistleblowing policies are morally acceptable, as they enable employees to voice concern about organisational wrongdoing and offer protection to employees. If however, they are introduced through the process described above they are likely to lead to a responsibility to disclose organisational wrongdoing. Is the responsibilisation of employees for organisational wrongdoing moral? Is it acceptable to hold employees responsible for organisational wrongdoings?

In terms of autonomy in organisations, assuming that individual autonomy is weak, organisations introduce a whistleblowing policy to strengthen autonomy. Once the policy is implemented, we can no longer assume that autonomy is weak, rather, since a whistleblowing policy has been implemented, it must now assume that autonomy is strong. This assumption however, justifies holding employees accountable for not blowing the whistle, and hence turn autonomy into a liability, an instrument that exists to increase employee responsibility for what they have or have not done in relation to what they know or ought to know. In this sense a whistleblowing policy becomes another tool in the hands of organisations to control employee roles and behaviour. The policies can also

offer protection to the organisation by shifting responsibility of organisational behaviour to individual members.

Institutionalising the individual

Whistleblowing legislation and organisational whistleblowing policies are important tools to improve responsible behaviour by organisations. They can also lead to more responsible behaviour by people in organisations. However, as we argued in the previous section, implementing organisational mechanisms ensuring the right to blow the whistle implicitly impose the duty to blow the whistle. Hence, instead of enabling moral autonomy and responsible behaviour, organisational whistleblowing policies can be used for the institutionalisation of the individual rather than his individualisation.

The institutionalisation of the individual represents the obliteration of the conflict between the interests of the organisation and society, precisely in his ability to blow the whistle. An employee who fails to blow the whistle, is one who fails to safeguard the integration of organisation and society, the integration of the economic and social concerns. They turn the employee into a centaur – part human, part organisational being (Ahrne, 1994; McKenna, 2001), or a 'character' in MacIntyre's sense of the term. MacIntyre (1984) regards a character not as merely a role or function, but as the moral representative of a culture, because of the way moral ideas are embodied through the character in the social world. There might still be a distance between the role and the individual. Doubt, compromise or cynicism can mediate between the individual and the role – giving individuality a chance. This is different with regard to a 'character' because its requirements are imposed from outside, from the way others regard it and use it to under-

stand and evaluate themselves. “The *character* morally legitimates a mode of social existence” (MacIntyre, 1984, p. 29). When whistleblowing policies institutionalise the individual, rather than being merely an institutional safeguard for the individuation of the employee, they turn the employee into a ‘character’. The character of the employee – an empowered employee, for whom whistleblowing procedures and protection are available – represents the obliteration of the dissensus between organisation and society, precisely in his/her ability to blow the whistle. The individual is institutionalised into the character of the employee, meaning that every employee must understand and evaluate himself/herself in terms of that character. Hence, one who fails to blow the whistle, is an employee who fails to safeguard the integration of organisation and society.

Some professions consist of people with occupations that are considered as central institutions of our society, such as doctors (crucial when it comes to our health), lawyers (crucial when it comes to our rights and the rule of law) or auditors (crucial when it comes to our investments and pensions). These professions can be seen as ‘characters’ in MacIntyre’s sense. Doctors, lawyers and auditors indeed safeguard the integration of their occupation with the interests of society. But this is different from an employer imposing a duty to blow the whistle on its employees. Organisational policies that present whistleblowing as a duty – cf. the majority of European company policies in the research of Hassink et al. (2007) – thereby shift the organisation’s duty to abide by the law, the organisation’s requirement to be legitimate, and other corporate social responsibilities, to its employees. In this sense, organisational whistleblowing policies and whistleblowing legislation bear the threat of becoming a management tool for employee control, and thus limiting the possibility of people bringing their whole-selves to work, by increasing other-imposed responsibility and further limiting autonomy.

Conclusion

Whistleblowing policies are increasingly implemented in organisations, and whistleblowing legislation is introduced in more legal constituencies. These policies aim to enable people in organisations,

to raise concern about organisational wrongdoing so that such wrongdoing is rectified and protect whistleblowers when they raise such concerns. Generally, whistleblowing policies and legislation are recent phenomena, and their implications for people at work and organisation are under review without agreement and certainty.

In this article we developed the likely consequences of whistleblowing policies. It seems possible that organisational whistleblowing policies can be justified as an organisational mechanism enhancing the moral autonomy of persons in the organisational context. They are thus presented as institutional safeguards for the individuation of the employee. In this sense, they provide another tool for the destruction of the organisation man or woman, and for the introduction of the whole person at work. They enable people at work to be moral agents, who are responsible for their behaviour, and have the autonomy to behave as their conscience dictates them. However, implementing these policies may also turn responsibility into liability and increase the control of people by organisations, holding them responsible for what they do or fail to do, thus further institutionalising the organisation man or woman. This possibility makes whistleblowing policies a management tool to make people at work liable for what they do or fail to do. This second possibility also shifts responsibility of organisational behaviour to employees, making them responsible not only for reporting organisational wrongdoing but for organisational wrongdoing.

Whistleblowing policies, if they are to enable moral autonomy at work, that is, if they are going to enable people to live in accordance with their values, to author their lives, need to be developed by the people who are called to abide by them. They also need to be examined in terms of likely consequences, and effect on people’s and organisations’ moral behaviour and responsibility.

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