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Is Whistleblowing a Moral Act?

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The Motive to Blow the Whistle Underlies its Morality

I have always been intrigued by the philosophy of whistleblowing. Today's blog explores the philosophical underpinnings of whistleblowing as a moral act -- one of conscience and not motivated by self-interest.

A broad view of whistleblowing is the disclosure by organization members (former or current) of illegal, immoral, or illegitimate practices under the control of their employers, to persons or organizations that may be able to effect action. This definition includes whistle-blowers who use internal channels (e.g., a hot line or ombudsperson) or external channels (e.g., the external auditors or the SEC) to blow the whistle.

There are four elements of the whistleblowing process: the whistleblower, the whistleblowing act or complaint, the party to whom the complaint is made, and the organization against which the complaint is lodged. The act might be labeled as

one of “dissidence,” somewhat analogous to civil disobedience. It may be seen as disloyal by some but in the public interest by others.

Given that the act of whistleblowing is a personal choice, the key to whether an individual will blow the whistle on wrongdoing is whether the whistle-blower perceives organizational policies are designed to encourage moral autonomy, individual responsibility, and organizational support for whistle-blowers.

Moral agency is important for the determination of moral behavior and it enables the moral evaluation of the agent’s behavior. The basic characteristic of the philosophical concept of moral agency is autonomy and is viewed in the context of the ability or will to be one’s own person. Autonomy plays an important role in conceptions of moral obligation and responsibility.

Autonomous will means to act according to reasons and motives that are taken as one’s own and not the product of organizational policies and external forces such as whistleblowing legislation. Autonomous will is the central value in the Kantian tradition of moral philosophy that moral requirements are based on the standard of rationality he called the “Categorical Imperative.”

The Categorical Imperative in Kant’s ethical system is an unconditional moral law that applies to all rational beings and is independent of any personal motive or desire. Therefore, we could say that even if pressure exists in an organization to not report wrongdoing, a rational, moral person will withstand such pressure, regardless of perceived retaliation, because it is a moral requirement to do so. Kant argued that conformity to the Categorical Imperative, and hence to moral requirements themselves, is essential to rational agency.

Researchers (<http://philpapers.org/rec/TSAOWP>) have posed the question of whether workplace whistleblowing is a right, and thus allows for responsible behavior, or whether it is an imposed corporate duty thus resulting in liability of workers. If an organization institutes an internal whistleblowing policy it is because it perceives moral autonomy to be weak. When businesses then implement the policy, it leads to the conclusion that moral autonomy is strong, and employees are expected to blow the whistle. Therefore, if employees do not blow the whistle in accordance with corporate policy they then become liable for not doing so, rendering the policy a tool that controls employee behavior. Responsibility for misdeeds then shifts from the organization to the individual and employees are further stripped of the right to moral autonomy.

Research (https://www.jstor.org/stable/255873?seq=1#page_scan_tab_contents) has shown that what whistleblowers hope and believe their speaking out will achieve, is the correction of what they perceive as an organizational wrongdoing (e.g., fraudulent financial statements). This research also found that not everyone who perceives a wrongdoing, acts upon that perception. In fact, only 42 percent stated they were ready to blow the whistle.

Those who observe wrongdoing but would not do so identify a ‘retaliatory climate’ in their organizations as the primary barrier to blowing the whistle on corporate wrongdoing while those who say they would speak up about it, were confident that they “would not experience managerial retaliation if they blew the whistle.” The National Business Ethics Survey (<http://www.ethics.org/nbes/>) found that 46 percent of employees did not blow the whistle for fear of retaliation while 21 percent that reported misconduct said they faced some form of retribution (ERC 2013).

Whistleblowing regulations attempt to protect individuals when they behave responsibly towards society in light of irresponsible behavior by their organizations. This certainly is the motivation for the anti-retaliation provisions of both the Sarbanes-Oxley Act and the Dodd-Frank Financial Reform Act. The acknowledgement of the need for such protection, however, implies that moral agency, autonomy and responsibility are problematic in organizations, or at the very least, that they do not come naturally and are not welcomed when they arrive. When organizations establish an ethical culture and anonymous channels to report wrongdoing, they create an environment that supports whistleblowing and whistle-

blowers while controlling for possible retaliation.

Whistleblowing always involves an actual or at least declared intention to prevent something bad that would otherwise occur. It always involves information that would not ordinarily be revealed. Most ethicists agree whistleblowing is an ethical action. According to the “standard theory” (<http://philosophia.uncg.edu/media/phi361-metivier/readings/Davis-Paradoxes%20of%20Whistle-Blowing.pdf>) on whistleblowing, whistleblowing is morally required when it is required at all; people have a moral obligation to prevent serious harm to others if they can do so with little costs to themselves.

The morality of whistleblowing might be viewed from the perspective that corporations have a moral obligation not to harm. De George (<https://www.bentley.edu/centers/sites/www.bentley.edu.centers/files/2014/11/05/The%20Morality%20of%20Whistleblowing%20A%20Commentary.pdf>) identifies five criteria when whistleblowing is morally permitted. Briefly, (1) the firm's actions will do serious and considerable harm to others; (2) the whistleblowing act is justifiable once the employee reports it to her immediate supervisor and makes her moral concerns known; (3) absent any action by the supervisor, the employee should take the matter all the way up to the board, if necessary; (4) documented evidence must exist that would convince a reasonable and impartial observer that one's views of the situation is correct and that serious harm may occur; and (5) the employee must reasonably believe that going public will create the necessary change to protect the public and is worth the risk to oneself.

De George's criteria establish the foundation for moral behavior to occur when contemplating whistleblowing. He rejects the position that external whistleblowing is *always* morally justifiable, and also rejects the position that external whistleblowing is *never* morally justifiable. Basically his position is that the whistleblower should have a moral motivation to engage in the act (i.e., to expose unnecessary harm, and illegal or immoral actions).

Ethics and morality go hand in hand. If you face an ethical crisis in the workplace, consider first whether real harm may be done to others if you don't do everything in your power to correct the situation. Then, commit to acting ethically; first considering the consequences of your actions on others including yourself. No one is obligated to take actions that might harm one's own interests. However, our moral obligation to society does obligate us to right a wrong when we see one that has occurred.

Blog posted by Dr. Steven Mintz, aka Ethics Sage, on July 14, 2015. Professor Mintz teaches in the Orfalea College of Business at Cal Poly San Luis Obispo. He also blogs at: www.workplaceethicsadvice.com (<http://www.workplaceethicsadvice.com>).

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