



THE FUTURE OF WHISTLEBLOWING

FIVE KEY THEMES AND QUESTIONS

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INTRODUCTION

The landscape of whistleblowing in organisations is rapidly changing. New laws are emerging worldwide. We see changes to organisational policies and practices, new technologies supporting these changes, and a growing public awareness of whistleblowing.

The future of empirical whistleblowing research is critical to examine now. To date, whistleblowing studies are carried out in many different disciplines. Results are published in a wide variety of journals, hence debates are often disconnected. Yet some cross-cutting themes and questions emerge. Reflecting on these, this note suggests critical themes for the future of empirical research, and tentative research questions.

Comments and feedback welcome, please email: d.b.lewis@mdx.ac.uk

An essay based on a presentation given by Professor David Lewis at 'The Future of Whistleblowing Research', an event hosted at University of Galway, 30th March 2023. Attendees include scholars from South Africa, Norway, UK, Ireland, Italy, Austria, US, Sweden, and France.

See <https://www.whistleblowingimpact.org/news-and-events/> for more details.

1. DEFINING THE PROJECT

- **Define whistleblowing.** What is whistleblowing? This is still contentious! There are lots of **legal and non-legal definitions**, with examples ranging from ISO's 2021 definition that extends whistleblowing beyond organisations, to Near & Miceli's well-known concept from 1985 tending to restrict whistleblowing to something only workers do. For some scholars, whistleblowing must involve reprisal to be recognised as such.
 - **Suggestion:** It is critical scholars are clear about the definition they are working with.
- **Recognise whistleblowing as a multi-disciplinary research area.** A wide variety of disciplines address questions relating to whistleblowing, from industrial relations, law, business ethics, social sciences, psychology and management to name just some. Because of this, **debates can proceed in isolation** in discipline-specific journals, without knowledge or consideration of what is occurring in related areas.
 - **Suggestion:** Researchers should ensure where possible that they are building on prior theory and knowledge. What sources and databases are most suitable for this work?
- **Acknowledge different terminology.** For some, whistleblowing has negative connotations and they prefer to use other terms. For others, it is an important tag and label that should be retained.
 - **Suggestion:** For scholars researching the field, when searching note also the following keywords: raising concerns, 'speak up,' confidential reporting, protected disclosures, public interest disclosures, and others.
- **Consider the aims of research.** For some, e.g. Brown et al., p522, "The strategic goal for researchers and practitioners should be to make whistleblowing successful." On this view, the aim of research is to provide empirical evidence that can inform the actions of managers, trade unions, actual and potential whistleblowers, advice and support agencies, investigators, judges, and policymakers. For example, best practice might be embodied in national legislation, codes of practice, international standards, and handbooks aimed specifically at whistleblowers. [See ISO 2021, Transparency International 2022, Council of Europe recommendations, OECD, UNODC, ILO, Whistleblower Survival Guide, and others].

- Another aim of empirical research is to enhance understanding of this complex area so that workers, managers, whistleblowing supporters and disclosure recipients, can learn more about the nuances of organisational practices, legal frameworks, and other areas relating to their lived experience.
 - **Suggestion:** Scholars might clarify up-front the precise aims of their project.
- **Determine the focus of research.** Since the early years of whistleblowing research, scholars asked ‘who blows the whistle and why?’ These questions have long been studied. In some cases, including the measuring of intention to whistleblow via hypothetical vignettes, empirical methods did little to shed light on the questions asked.
 - **Suggestion:** Rather than ‘who’ and ‘why’, it is more productive to ask ‘how’. For example, to examine how people raise concerns, how these are received by others, and how the worker’s experience is shaped by different aspects of disclosure landscape.

2. INSIDE ORGANISATIONS: EXAMINING THE MANAGEMENT OF THE WHISTLEBLOWING PROCESS:

- **Consider how to account for differences in sectors.** Sector-specific differences in how whistleblowing processes are handled are important to consider. Questions include: How does whistleblowing differ across specific sectors? Is whistleblowing more common in certain sectors and why? How do external sectoral factors impact on the likelihood and experiences of whistleblowing, including for example: deregulation, emphasis on ‘managerial’ private-sector logics in public sector settings, growth in precarious employment, and other factors?
 - What is the impact of an employer operating in more than one country? For example is the need to comply with international best practice in order to compete a benefit or hindrance?
 - **Suggestion:** Consider carefully how access might be arranged for research in different sectors, e.g. is research in the public sector easier to conduct, while other sectors are more challenging to access?

- **What is Best Practice in Management Process Design?** Initial design considerations are critical when implementing whistleblowing processes. Questions include: to what extent are whistleblowing procedures **negotiated with trade unions**? What will the relationship be between whistleblowing procedures and **other workplace procedures**, for example, on grievances, health and safety, bullying, and harassment?
 - How common is it that those unhappy with the outcome of the whistleblowing procedure are then allowed to raise a grievance? Is there any evidence that **open or confidential reporting** is likely to be more successful than anonymous reporting? Do employers take anonymous reports as seriously? Does the **reporting mechanism** (in person, by phone, online, social media, etc.) affect the 'success' of whistleblowing? To what extent is reporting via a 'hotline' (for example, an external company is contracted to receive concerns) promoted or used as a backstop?
 - It would be interesting to examine the methods used by 'hotline' providers but will researchers be welcomed? Is a **duty to report** wrongdoing imposed widely by employers? Is there any evidence that such a duty affects the behaviour of employers, workers, and their representatives?
 - **Suggestion:** It may be useful to consider research in organisations with long-standing experience in this area. Sometimes one finds speak-up systems have been longest established in sectors and organisations that have been the focus of public scandals (e.g. corruption, or systemic wrongdoing, as per financial services)
- **What is Best Practice in Management Process Implementation?** What communications methods are used and which work best? Apart from the internet and intranet, how do employers communicate their whistleblowing arrangements: (a) to their workers, (b) to contractors/suppliers, etc., (c) members of the public? Are these methods effective? How are multiple languages and skills catered for in communications planning? What indicators are used to monitor effectiveness, prevalence of whistleblowing reports, reprisal hotspots in organisations, and other critical data points? Best practice advice is available from e.g. Council of Europe, etc., but are these agencies helpful? How often are whistleblowing arrangements **reviewed and revised** if appropriate?

- **How do workers involved in the management of the whistleblowing process experience it?** How do **whistleblowing champions/guardians** interpret their role? To what extent are they supported and resourced? How well do **non-executive directors** with a whistleblowing remit function in practice? What are the opportunities and challenges with this role? How widespread are **employer reward systems**? In what sectors is there evidence that they encourage the reporting of concerns? What **forms of training** are provided by employers, and how often does it take place? Is it provided by external experts or internally? If the latter, is the training done by general managers and/or specialist managers, jointly with worker representatives? How is the training received by people?
 - **Suggestion:** The actual day-to-day practice of managing whistleblowing procedures is a critical area that can be overlooked. Studies focusing on people in these roles will be valuable.

3. OUTSIDE ORGANISATIONS: THE ROLE OF EXTERNAL PARTIES

- **How do the Official Channels work in Outside Organisations:** How do **regulators and local authorities** understand their role as prescribed persons under legislation? How do they perform this role, and are they resourced sufficiently to carry it out? How well do **trade unions** function as negotiators, advisers, and/or representatives on whistleblowing issues?
- **What are the challenges for Public Disclosures where Official Channels fail?** How do journalists respond as recipients of concerns? What are the challenges for journalists in terms of legal liability, resourcing, deadline pressures and the need to follow the news cycle? When disclosing to journalists or other 'outside supporters', what **secure communication channels** exist and what are the weaknesses of these? What is the role of **other 'external parties'** including: informal networks of whistleblowers, ICT-enabled information networks like Wikileaks, other colleagues whistleblowing within the organisation, activists and social movements?
- **What alternative routes exist for resolving whistleblowing disputes? What is the extent of mediation and arbitration** in whistleblowing disputes? Is alternative dispute resolution more prevalent in particular countries or sectors and why? How do experienced parties perceive the advantages of these dispute resolution mechanisms?

- **How are legal routes experienced by those involved in them?** What are the **experiences of claimants** at ‘informal’ legal forums like employment tribunals? What are the costs of litigation and financial impacts on people taking claims? How important is it to litigants that wrongdoing has or has not been dealt with? Do power imbalances/intersectionality play a role: i.e. what is the role of gender, race, ethnicity and other characteristics on the outcome, and the experiences of people at such forums?
- **What role do specialist advice agencies play?** Do self-help organisations secure “better results” for whistleblowers? What are the challenges of operating **specialist advice services** in terms of resourcing, expertise and staffing? What forms of collaboration between existing advice agencies exist? [Note: From a research perspective, it might be argued that workers who contact specialist agencies are atypical/unrepresentative].

4. WHISTLEBLOWER RETALIATION

- **What is the overall landscape of whistleblower reprisal today?** How many whistleblowers suffer reprisals? Is there a **difference between experiences** of retaliation in different countries, sectors, and between the public and private sectors? What is the role of gender, race, ethnicity and other characteristics on whistleblowing reprisals: are **power imbalances/intersectionality** important in determining who might experience retaliation?
- Can **human-rights laws** and frameworks supporting freedom of speech be useful in challenging and redressing whistleblower reprisal? How are new **forms of information and communication technology** harnessed for preventing whistleblowing in organisations through chill effects, e.g. worker monitoring and surveillance, communications screening? How are **new forms of legal practice** including lawfare tactics like SLAPP suits used to deter and later retaliate against whistleblowers?

- **What are the specifics of whistleblower reprisal?** To what extent do those who experience detriments short of dismissal suffer **stress, anxiety, mental or physical ill health**? For what periods of time do whistleblowers who have been dismissed remain unemployed? Do **work colleagues, facilitators, family members** experience retaliation? What are the **effects on families** when a whistleblower suffers reprisals? Can speak-up procedures and other management processes encouraging whistleblowing be used as a form of reprisal, including discipline for not following processes, not waiting for outcome before escalating?
- **How might retaliation be effectively deterred, redressed?** Is there any evidence that either **criminal sanctions or punitive damages** deter reprisals? To what extent does **publicity** for an organisation's wrongdoing act as a shield against whistleblower retaliation, or alternatively as an exacerbator? What are the experiences of whistleblowers who are **reinstated, re-engaged, or re-deployed**?
- **How should the success of re-employment, etc., be measured?** [Note: Potential challenges in researching this question: Problem of getting people to speak to researchers if their employment relationship has been restored. Will employers cooperate in such research?] What measures do employers have in place to **help those who experience reprisals**, including for example: mediation, psychological therapies, apologies, financial compensation including interim relief pending court hearing? What measures do **specialist advice firms** have in place? How effective are such measures?

5. PUBLIC KNOWLEDGE ABOUT WHISTLEBLOWING:

- **What does the public know about whistleblowing laws and how they operate?** How do countries educate people about the value of whistleblowing and the protections offered? To what extent do 'famous' whistleblowing cases shape perceptions of whistleblowing? To what extent do such cases drive calls for legal changes?
- **Are power imbalances/intersectionality important** in determining public perceptions of whistleblowing: what is the role of gender, race, ethnicity and other characteristics in how whistleblowers are perceived?

- **How effective are current activities promoting whistleblowing awareness** e.g. campus tours, TV documentaries, podcasts, online campaigns? To what extent are the UN Sustainable Development Goals addressed by advances in whistleblowing knowledge and practice?

MOVING FORWARD



As noted above, these five themes and suggestions are indicative only, written from the perspective of academics working in this field for a number of years. Suggestions and comments are welcome.

For scholars interested in this area, it is useful to be aware of ongoing international and inter-disciplinary collaboration in research, in organisations including but not limited to: International Whistleblowing Research Network, Whistleblowing International Network, European Whistleblowing Institute.

Possible sources of funds include: University seedcorn funding, early career fellowships (national funding bodies), and Research Excellence Framework budgets; UK and overseas research councils; EU Commission: Horizon Europe research and innovation funding program; charities; national and multinational employers; 'hotline' and whistleblowing service providers.