

Whistles as Loud as their Recipients? A Framework for Analyzing Complaint Recipients

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ABSTRACT

Tax avoidance, fraud, endangerment of public safety - whistleblowers are crucial for making organizational misconduct transparent. Unsurprisingly, whistleblowing is a commonly researched subject (e.g. Brown, 2008). Yet, only few studies systematically focus on the recipients of whistleblowers' reports. This lack of attention is striking in light of the decisive role which complaint recipients play in the whistleblowing process (e.g. Lewis, Brown, & Moberly, 2014; Read & Rama, 2003). Drawing on existing literature, this study develops and applies a comparative framework which allows for a comprehensive analysis of whistleblowing recipients. Findings confirm the framework's utility for answering questions concerning recipients' involvement and responses. Hence, this study paves the way for the application of a novel analytical focus within whistleblowing research¹.

Keywords

Whistleblowing, complaint recipients, analytical framework, case study

INTRODUCTION

Tax avoidance, fraud, endangerment of public safety – these are only three of many organizational wrongdoings which came to light in Europe over the past years. Whistleblowers are crucial for making misconduct transparent, thereby enabling the public to hold organizations accountable (e.g. Lewis et al., 2014). The recipient² of a whistleblower's report is a decisive actor, determining how a complaint is dealt with (e.g. Mazerolle & Brown, 2008; Mesmer-Magnus & Viswesvaran, 2005). Despite some whistleblowing studies attributing attention also to particular complaint recipients (e.g. Annakin, 2011; Andrade, 2015; Callahan & Dworkin, 1994), it seems that none of the existing studies analyse and compare these recipients in an exclusive manner.

However, this focus is vital for developing a more comprehensive understanding of whistleblowing. Thus, this study develops and applies an analytical framework for systematically assessing complaint recipients. Insights on relations between different elements related to recipients may not only inform the academic debate but also future whistleblowers, future recipients or policy makers (e.g. Miceli, Near, & Dworkin, 2009; Olsen, 2014; Vandekerckhove & James, 2013).

This paper is structured as follows. The first chapter briefly defines whistleblowing and introduces the developed framework. The second presents the methodology used for applying the framework. The last chapter outlines results, discusses implications for the framework's use and provides suggestions for further research. This paper concludes by summarizing its main findings and contribution.

COMPLAINT RECIPIENTS – A FRAMEWORK

Whistleblowing has been prominently defined by Near and Miceli (1985) as “the disclosure by organization members (former or current) of illegal or illegitimate practices under the control of their employer to persons or organizations that may be able to effect action” (p. 4). In other words, while the whistleblower discloses and reports a wrongdoing, it is the recipient of this report who usually has the ability to correct or terminate the wrongdoing (King, 1997; Near & Miceli, 1985). It is important to note that the disclosure of the wrongdoing may be reported to both, persons internal or external to the organisation.

Introducing the Framework

Method

The basic frame of the analytical framework has been developed based on a review of existing literature. This frame reflects the whistleblowing process, reconstructed into four stages. Next, previous studies were consulted in order to select elements which potentially have important interconnections and relations with respect to the complaint recipient. These elements were then grouped under the respective whistleblowing stage and constitute the substance of the developed framework. See Figure 1 for a graphical depiction.

Basic Frame & Substance

In the first stage, the whistleblower perceives a wrongdoing. The wrongdoing's type and seriousness are here two important elements possibly influencing who the complaint recipient is and how he responds to the whistleblowing situation (e.g. Dworkin & Baucus, 1998; Smith & Brown, 2008). Moreover, an assessment of the wrongdoer's position enables a later assessment of different recipients' behaviour in light of their relative proximity or distance to the wrongdoer.

Once the whistleblower reports a complaint, the initial recipient becomes part of the process. Both the geographical region in which the concern was raised (e.g. Messer & Shriver, 2009; Dworkin & Baucus, 1998) as well as the depth of evidence provided for (Smith & Brown, 2008; Miceli, Near, Rehg & Van Scotter, 2012) may be relevant elements with respect to who initial recipients are and how they respond. Moreover, the initial recipient's behaviour and response to both the wrongdoing and the whistleblower may be influenced by whether he is internal or external to the organization in which the wrongdoing occurred (e.g. Vandekerckhove & James, 2013), whether he is female or male (e.g. Bjørkelo, Einarsen, & Matthiesen, 2010) and how close or distanced

¹ An extended version of this paper enhancing the scope of the research, will be published in the Maastricht University MaRBLe Journal, Volume 4(2018).

² For the purpose of readability this study uses masculine pronouns when

mentioning ‘the recipient’. However, both sexes are equally referred to.

his position is towards the wrongdoer. Next, it is important to assess the involvement and chain of subsequent recipients (Donkin, Smith, & Brown, 2008; Vandekerckhove, Brown, & Tshuridu, 2014). All these elements serve a thorough comparison of who recipients generally are and which role the different elements may play in determining recipients' behaviour and responses.

When assessing recipients' responses, not only the type and timeliness of responses towards the wrongdoing and the whistleblower are important (e.g. Miceli, Near, & Dworkin, 2009; Smith & Brown, 2008; Rehg, Miceli, Near, & Van Scotter, 2008; Vandekerckhove et al., 2014), but also the recipient's responsibilities (e.g. Ponemon, 1994). Assessing these elements and bringing them in conjunction can provide an in-depth description and comparison of how and why recipients' responses may differ.

Last, initiated corrective actions or organizational consequences, as well as the extent of the wrongdoing's termination need to be analysed. In light of the foregoing elements, these two elements may provide valuable insights on potential relations between recipients, their responses and the overall outcome of the whistleblowing process.

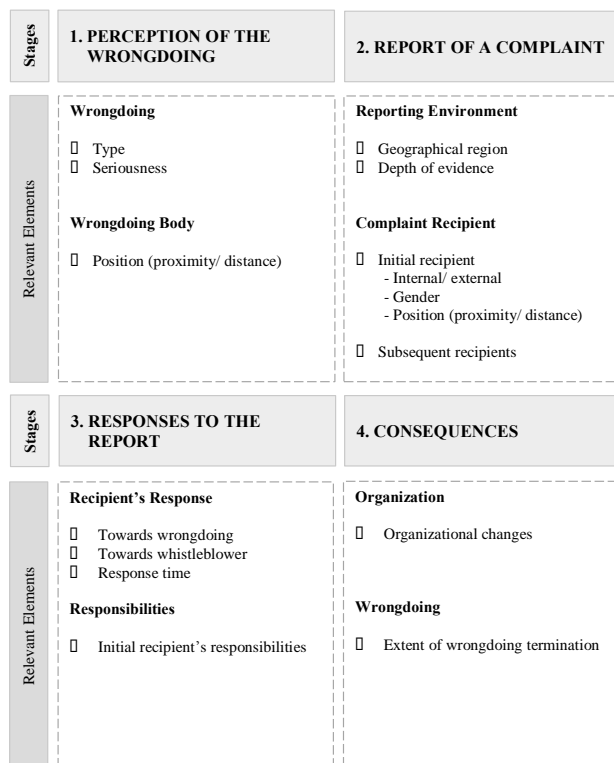


Figure 1: Analytical framework (source: author)

A NOTE ON CASES AND SOURCES

The application of the developed framework is limited to two cases. These cases differ in time period (2016 and 2001) and sector (private and public) in which the wrongdoing appeared. Differing cases were selected in order to test whether the framework can hold for various cases, no matter how different. In the *Alte Apotheke* case, the merchant of a pharmacy uncovered that the pharmacist and owner secretly dosed patients' individual cancer medicines too low (Hesse, 2017). In the *Finanzamt* case, tax investigators reported a heavy obstruction to their work, which moreover had the potential to cause economic harm to Germany's public treasury in the long term.

Both cases occurred in Germany. This selection bias

aims to counterweigh the predominance of American and Australian whistleblowing case studies (Miceli, Near, & Dworkin, 2009, p. 381). In light of a lack of academic or secondary literature on selected cases, this study relied on articles from investigative newspapers and the website *AnsTageslicht*³ in order to reconstruct and analyse the cases. The website is managed by whistleblowing researcher Prof. Dr. Johannes Ludwig who publishes extensive summaries, chronologies and in part primary sources of German whistleblowing cases. All articles are written either by Ludwig himself or students of the Hamburg University of Applied Sciences. The retrieved articles can be provided upon request.

GERMAN WHISTLEBLOWING RECIPIENTS

Alte Apotheke Case, 2016

Perception of the Wrongdoing & Report of a Complaint

The wrongdoing in the *Alte Apotheke*, endangerment of public health, can be classified as very serious. Further, the wrongdoing body, pharmacist and owner, had a high-status position within the organization. The wrongdoing was reported in Bottrop, a city in western Germany. The depth of evidence was very profound, including detailed expense reports and an unopened infusion bag. The initial recipient, the whistleblower's lawyer, was external and male and his position vis-à-vis the wrongdoer very distanced since both actors did not share any closer ties. The public prosecutor's office for economic crime in Bochum and Essen and the police were subsequent external recipients.

Responses to the Report & Consequences

The initial recipient did not initiate direct corrective action himself but nevertheless enabled such action by filing a complaint to the public prosecutor's office. Responses of subsequent recipients were then expedient for terminating the wrongdoing. While the initial recipient responded immediately to the report, responses by subsequent recipients were delayed by five months. The initial recipient followed his role-prescribed responsibilities as a lawyer, however, these do not cover whistleblowing situations specifically. Throughout the process, the pharmacy underwent management as well as structural changes and to date, the wrongdoing has been terminated.

Finanzamt Case, 2001

Perception of the Wrongdoing & Report of a Complaint

The wrongdoing in the *Finanzamt* case is less but still moderately serious, causing economic harm and ethical concerns. As head of the tax office, the wrongdoing body had a high-status position within the organization. The wrongdoing was reported in the central western city of Frankfurt am Main. The depth of evidence was sufficient, including relevant hard-copy documents. The initial recipient was the tax office's head himself, hence an internal and male recipient. As evident in this particular case, the initial recipient can also be the wrongdoer, since the whistleblower arguably approached him nevertheless as someone being able to effect action. Hence, this situation refers to the early, and in this case internal phase of the whistleblowing process. Since initial recipient and wrongdoer are the same person, the element of proximity can be suspended. The subsequent internal recipients, which got involved due to the inaction of the initial recipient, included the head of the department, the internal chief financial president and the Hessian Ministry of Finance. Later external recipients were the Frankfurt am Main public prosecution office, politicians and media representatives.

³ <http://www.anstageslicht.de/home/>

Responses to the Report & Consequences

Responses of internal recipients resulted in retaliatory measures against the whistleblower and not in any corrective action. Only subsequent external recipients supported the whistleblower and took corrective action by triggering the dissolution of the tax office. Both initial and subsequent recipients' responses followed directly and timely after receiving the report. It did not become evident that the initial recipient had any specific role-prescribed responsibilities with respect to responding to the whistleblower's complaint. In the course of the process, the organization underwent staff changes and was later fully dissolved. Consequently, the wrongdoing has been terminated for the time being.

DISCUSSION

Initial Recipient

Findings seem to confirm that type and seriousness of the wrongdoing affect who the initial recipient is (e.g. Lewis, 2006, p. 81). In the *Alte Apotheke* case, the wrongdoing was very serious, involving health safety concerns and the initial recipient was external and distant from the wrongdoer. In the *Finanzamt* case where the wrongdoing was less serious, the initial recipient was internal and the wrongdoer himself. Even though findings are limited in generalizability, it seems logical that in cases of more severe wrongdoings a distanced and external recipient is consulted.

Moreover, it seems that responses of a more distanced initial recipient are more supportive for terminating the wrongdoing. The closer initial recipient and wrongdoer are, the more likely it arguably is that the recipient is very involved with the organization. Potential dependencies of an internal recipient on the wrongdoing organization may then determine the likelihood of action taken to terminate the wrongdoing (Miceli & Near, 2002). Last, the analysed initial recipients did not have role-prescribed responsibilities with respect to responding to whistleblowers' reports in a designated way. However, it also needs to be noted that it is rather difficult to access respective information on such responsibilities.

Subsequent Recipients and Recipients' Responses

Findings seem to support the notion that in most cases a chain of either internal or external recipients is involved (Donkin et al., 2008; Vandekerckhove et al., 2014). However, other cases may be resolved with only one initial recipient. Nevertheless, these cases are often unknown to the public (e.g. Lewis et al., 2014). For a truly balanced picture further research hence needs to pay attention also to these cases.

Moreover, it seems that subsequent and presumably external recipients are the ones eventually taking corrective action to terminate the wrongdoing. These findings support the proposition that recipients should always be persons "who are not part of the work unit to which the disclosure relates" (Brown, Meyer, Wheeler, & Zuckerman, 2014, p. 487).

It needs to be noted that it was not possible to derive any insights on the region-element since both analysed cases occurred in Central Western Germany. Consequently, this element needs further assessment on other regionally differing cases. Similarly, no patterns could be established with respect to the gender-element. Hence, further research should focus on more and other cases to assess whether these elements are really relevant with respect to complaint recipients, their behaviour and responses. Last, it seems that the depth of evidence is not directly related to either recipients' response time or type.

Implications for the Framework's Value

As demonstrated, the application of the framework facilitates an overall systematic analysis of different whistleblowing cases, shedding light particularly on complaint recipients.

The framework's values can be summarized as follows: First, it enables a comprehensive reconstruction of whistleblowing cases. This consequently allows for, second, a thorough comparison of cases, guided by the framework's different elements.

Third, the application of the framework enables to systematically identify initial and subsequent recipients. Thus, a highly important part of the whistleblowing process can be made more transparent. Closely connected to this is fourth, the possibility to draw a broader picture of the elements which are particularly relevant with respect to complaint recipients. The assessment and comparison of different individual elements across cases allows for an initial exploration of relations between elements. This, in turn, may help to not only answer but also to develop new and various research questions on whistleblowing recipients.

Nevertheless, the developed framework may not give precise answers as to how exactly elements relate to the type and timing of recipients' responses. This is arguably due to the non-inclusion of recipients' personal attitudes, preferences or knowledge as an element (e.g. Bjørkelo et al., 2010; Mazerolle & Brown, 2008; Smith & Brown, 2008). Further, the dependency between whistleblower and wrongdoer might be a relevant element affecting who the initial recipient is. Moreover, while the framework has proved useful for a qualitative analysis, a combination with quantitative methods may provide even more insightful findings.

To sum up, the developed framework clearly needs testing on more and different cases with various wrongdoings, sectors, industries and countries. Only then, it will become clear whether and how the framework needs modification or refinement.

CONCLUSION

In times where scandals of corporate misconduct are no longer rare, the need to increase transparency on organizations' actions becomes ever more pressing. The process of whistleblowing is here of great relevance. While much research focusses on the whistleblower, only little literature focuses on the, for this process highly decisive, complaint recipient (e.g. Vandekerckhove et al., 2014). This study fills this gap by developing and testing a comprehensive analytical framework for identifying and analysing complaint recipients, their responses roles and responsibilities.

While the developed framework proves useful to reconstruct and compare whistleblowing cases with a focus on the complaint recipient, it moreover allows to increase transparency on these recipients. This is of value not only to the academic debate but also to future whistleblowers and complaint recipients. Yet, this study's findings are limited in their generalizability due to the small number of cases analysed. Further application and testing of this framework is needed and may lead to an enriched and deeper understanding of complaint recipients. This, in turn, is highly important for an enhanced overall knowledge on whistleblowing.

ROLE OF THE STUDENT

Selina Rathke was an undergraduate student working under the supervision of Dr. Nico Randeraad when the research in this report was performed. The choice of topic, design and implementation of the research as well as the writing process were all developed and carried out by the student.

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