**What motivates internal whistleblowing?**

**A typology adapted to the French context**

[AUTHOR INFO TO ADD]

**Abstract**

Transparency and ethics are nowadays often cited as a way to remedy various difficulties faced by companies. However, whistleblowing employees who are an example of this are potentially confronted with silence or reprisals. Understanding what motivates them, therefore, is a complex issue. Although some studies have tried to create profiles of whistleblowers, they have been in cultural and legislative contexts where the whistleblower may be internal or external to the company, act out of revenge, or be financially rewarded for the information reported, none of which the Sapin II law in France permits. Using a qualitative method based on ten life stories from French employees who have whistleblown, our article seeks to understand their primary motivations for taking this action. The research will first present the French definition of a whistleblower and the motivations identified in the Anglo-Saxon context from which most studies originate. Following the detailed presentation of the methodology, we will explain the typology of four profiles obtained from the analysis of our results and discuss similarities/differences with the Anglo-Saxon work. In a context where many organizations are promoting the establishment of a genuine ethical and democratic spirit, this typology will aim to identify the arguments that can be used upstream to encourage the process. It can also be used as a tool for training managers and employees to better understand whistleblowing, explaining to them that it is part of a predominantly positive approach, thereby limiting reprisals and stimulating the feedback on dysfunctions within the organization.

**Keywords** Whistleblowing, Organizational dysfunction, France

# Introduction

In a context of business criticism where scandals have threatened the reputation and economic stability of certain organizations (Cohn et al. 2014), governance methods and the management of internal dysfunctions are a real managerial challenge. Cambridge Analytica, Danske Bank, and UBS, for example, have had their names associated with scandals revealed by employees. While companies want to be more “*responsible*”, “*ethical*”, or “*civic-minded*” (Bazin 2016), employees participating in the reporting of illegal or immoral acts at their management level become icons of corporate democracy, ensuring the good health of the organization by limiting dysfunctions and better managing potential disputes (Stubben and Welch 2018).

The idea of a whistleblower (an individual raising the alarm to defend the public interest and justice) dates back to very ancient times and has been present in very different societies. In Confucian morality, “*a noble man is a virtuous and courageous man, a man who speaks loudly in the name of justice*” (Park et al. 2005, p. 388). In ancient Greece, there was a protected position for those who told the truth or spoke without fear in order to protect the city (Mansbach 2011). In the 13th century, the *Qui Tam* rule was adopted in England, allowing a citizen to act on behalf of the king when his interests were at stake. In the United States, a similar approach was adopted in 1863 during the Civil War through the *False Claims Act*, which encouraged the denunciation of facts that were not in the interests of the state in exchange for a financial reward, as in the *Qui Tam* procedure.

In France, this approach was be encouraged by several kings. In 1584, for example, Henri III encouraged the populace to denounce those benefitting from “*misdeeds committed in our finances by our officers & others*” in the name of “*the* *public interest”*;this approach was also adopted by various successive regimes (Lemny 2012). During the French Revolution, a form of civic denunciation was encouraged that urged citizens to take advantage of their freedom to report problems to the authorities. To demonstrate the positive, altruistic nature of this act, it had to be free (no remuneration in exchange for information), disinterested (action taken in the name of the public interest only), and spontaneous (the reporting individual must not be a “professional whistleblower”).

The figure of the whistleblower has even inspired playwrights who have sought to portray those who face danger in the name of the public interest (e.g. Ibsen’s *Un Ennemi du Peuple* in 18821; see Brinkmann 2009). Although this approach was therefore pre-existing in very different societies and in many socio-political fields, it was not until the 1960s in the United States that a debate was initiated on the value of such warnings in private organizations.

For a long time, the company was considered as a black box where the employee had to be loyal to his/her employer. The classical school (Taylor, Fayol) sees organization as a machine that must function through centralized authority, clear hierarchical lines, a strong division of labour, rules, control, and standardization (Celik and Dogan 2011). This strict discipline prevents employees from disclosing to the public any dysfunction or misdeed they may observe in their work environment, even if they are aware of the potential risks to the company or the public interest. Loyalty to the organization is the expected norm, as employees should not disclose information that could harm their employer (Heumannet al. 2013).

Changes in the socio-economic environment and changes in managerial practices contributed to the advancement of labour standards and loyalty issues in the 1960s and 1970s. By moving towards greater autonomy and delegation of power, employees were expected to strengthen their involvement with the company, even if it meant challenging the administrative authority when teams or management were involved in selfish behaviour or behaviour detrimental to the public interest (Perrow 1973). It seemingly became possible, therefore, for employees to be disloyal to their organization in order to protect the public interest. The term “whistleblower” was first officially used in 1963 to describe the behaviour of a U.S. Department of Defense employee who allegedly leaked information about people he perceived as a risk to national security (Peters and Branch 1972). The term was later popularized by lawyer Ralph Nader.

Some organizations set up mechanisms in the 1980s to facilitate whistleblowing procedures (procedures that may be internal *vs.* external, formal *vs.* informal, anonymous *vs.* nominative). Miceli and Near (1985), leading authors on this subject, defined professional whistleblowing as “*the disclosure by members of the organization (past or present) of illegal, immoral or illegitimate practices under the control of their employers to persons or organizations likely to take action*” (p. 525).

In view of various financial scandals that have had an impact at the international level (e.g. Enron or WorldCom), the United States Government considered that this voluntary approach was ineffective and insufficient to stop criminal acts and adopted the Sarbanes-Oxley Act (SOX) in 2002, which required companies listed on the New York Stock Exchange to set up a whistleblowing system. This law has impacted many countries because companies of different nationalities were listed in New York. This was also the case in France following the adoption in 2016 of the Sapin II law, which deployed a specific system to legally define whistleblowing employees and the procedure to be followed. It was therefore only after a certain delay that France has engaged with the subject, since it was associated by many with “*la délation*” (delation) et “*la dénonciation*” (denunciation), which have cultural resonance with inglorious periods in French history. Debates were lively about the French translation of the term “whistleblower”, with the press ironically proposing pejorative terms to explain the concept [“*cafteur*”(snitch), “*corbeau*” (crow), and “*mouchard*” (informer); see Raynaud et al. 2018]. In the end, the term now used was inspired by the sociologists Chateauraynaud and Torny (1999), who coined the term “*lanceur d’alerte*” (literally “alert issuer” or “alarm raiser” but most commonly translated in this context as “whistleblower”) in reference to the scientific field where people will relay a problem they have detected related to health, food, or technological risks. At present, many managerial questions remain in France about whistleblowing management and in particular about the motivations for such actions.

Although this approach can be considered positive by drawing attention to harmful behaviour that threatens the company’s future (Miceli and Near 1985), and even if protections have been put in place by the legislator, the whistleblower often encounters organizational silence or, worse, retaliation with a desire in both cases to “cover up” the case rather than stimulate this type of behaviour, which is perceived more as treason (Uys and Smit 2016). Consequently, an employee who has detected a dysfunction is confronted with a moral dilemma between silence and speaking out (Charreire Petit and Surply 2012). For companies wishing to develop their employees’ ethical practices, it is important to know when and why they would be motivated to whistleblow, given the potentially serious consequences of an internal dysfunction not being revealed as quickly as possible. The motivations for internal whistleblowing are complex. As reported by a participant in a study by Heumann et al. (2013), the views of employees who do internally whistleblow vary widely, from the most positive to the most negative image: “*20%* [of alerting employees] *are heroes, 20% are fools, and I am not sure of the remaining 60%*” (p. 38). Some Anglo-Saxon studies have tried to define the main profiles of whistleblowers, but in different legislative contexts where the employee can take an internal or external approach, act out of revenge, or be financially rewarded for the information reported, none of which the Sapin II law permits in France.

Using a qualitative method based on ten life stories from French employees who have whistleblown, our study seeks to understand their primary motivations for taking this step. The article will first present the French definition of a whistleblower in the professional context and the motivations identified in the Anglo-Saxon context from which most studies originate. Following the detailed presentation of the methodology, we will explain the typology obtained following the analysis of our results and discuss the similarities/differences with the Anglo-Saxon works.

# Literature Review

## Whistleblowing in the French context: a legally defined definition and approach

In France, although there was pre-existing reflection on the reporting of criminal practices, organizations and legislators had to reflect further following the implementation of SOX and its appropriation in the French context. There were many debates, from the translation of the term to the concrete legal protection of “whistleblowers” (Raynaud et al. 2018). In 2016, the French legislator adopted a broad definition of whistleblower (not limited to the professional context) by considering it as “*an individual*2 *who reveals or reports, in a disinterested manner and in good faith, a crime or misdemeanour, a serious and manifest violation of an international commitment duly ratified or approved by France, a unilateral act of an international organization taken on the basis of such an undertaking, law or regulation, or a serious threat or injury to the public interest, of which he/she has personal knowledge*” (Article 6, Sapin II Law). In concrete terms, in France, an employee reporting a misdemeanour is not *a priori* a whistleblower but can be recognized as such “*during the procedure he/she will initiate by respecting each of the elements contained in the reporting procedure in order to benefit from the related protections*” (Chaltiel Terral 2018); specifically:

* the person issuing the alert must be an individual working, or having worked, for the organization concerned and have personal knowledge of the facts;
* the alert must relate to misdemeanours or unethical behaviour that could be considered a violation of a law, rule, regulation, or a threat to the public interest; and
* it must be done in good faith, in a disinterested manner, and with no desire to harm the company or discredit a member of the organization with whom the individual has a poor relationship.

In addition to these criteria, Article 8 of the Sapin II law specifies the procedure to be followed for an employee wishing to issue an alert, or “whistleblow”, applicable as of 1 January 2018 in organizations with at least 50 employees (Figure 1)3.

<INSERT FIGURE 1 ABOUT HERE>

Initially, the process is carried out internally: the report is brought to the attention of a superior, direct or not, of the employer or a referent designated by the company (and who may be external to it). Although the employee must identify himself or herself, his/her identity must be treated confidentially. To support the alert, the employee must provide the facts, information, and/or documents at his/her disposal and facilitate exchanges with the addressee of the alert. However, if the danger is serious and imminent, or there is a risk of irreversible damage, it is possible to proceed directly to the second or third step. If, within a reasonable time, no action is taken, the whistleblower may turn to the administrative, judicial, or professional authorities. Communication of information to the public sphere (including through the media) should only be used as a last resort, no earlier than three months from the initial reporting date.

By following these steps, the employee can be considered as a whistleblower and should benefit from protective measures. The whistleblowing philosophy therefore varies between the French and Anglo-Saxon context (Table 1).

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Unlike the Anglo-Saxon context, where the alert can be reported “*to anyone who is likely to take action*” (Near and Miceli 1985) and therefore potentially lead to public denunciation, the French approach requires objective elements and the reporting of the problem through internal mechanism (unless there is a serious and imminent danger). The French approach is intended to be confidential, anonymous, disinterested, in good faith, and voluntary. Indeed, while the law requires companies to provide a professional whistleblowing system, the employee remains free to whistleblow or not (Charreire Petit and Cusin 2013), which raises the question of loyalty towards the company and what may motivate the reporting of an internal dysfunction.

## Whistleblowing within organizations: the result of a voice/loyalty dilemma

Numerous studies have examined the genesis of the whistleblower and his/her motivations (Alford 2007; Near and Miceli 1996; Rothschild and Miethe 1999; Soeken 1986). If employees witness dysfunctions or harmful practices in their work environment, they face a dilemma between protecting either the public interest or the organizational interest. For an employee, loyalty to the company, his/her superior or his/her team requires an obligation of discretion that may lead him/her not to report reprehensible acts committed within the organization. Whistleblowing can therefore be considered incompatible with loyalty and morally irrelevant in the professional environment unless it protects an overriding public interest (Masaka 2007). The whistleblowing would be a violation of ethical principles (although the employee would be promoting morality) such as confidentiality, with clauses prohibiting the disclosure of information, and loyalty, because the whistleblowing involves a conflict of trust in the employer–employee and employee–colleague relationship (Tavani and Grodzinsky 2014). This explains why, despite the disinterested nature of his/her action, the whistleblower’s behaviour may be judged by some members of the organization as deviant and, by others, as loyalty to the company and the public interest.

The decision to whistleblow is therefore the result of a “*moral paradox*” (Cailleba and Charreire Petit 2018) between the need for justice in the face of an act deemed by the employee to be immoral or illegal and his/her loyalty to the company. This approach, following Hirschman (1970), is a “*‘subjectively rational’ ‘voice’*/‘*loyalty’ decision-making process*”. Silence or the “*blue code*” consists of keeping information from colleagues or superiors for emotional reasons or for fear of reprisals. In the first case, silence can be justified by the phenomenon of the “*mum effect*” (Miliken et al. 2003), where the employee refuses to report bad news or organizational dysfunctions in order not to be perceived as conveying bad news. The approach is emotional, as the organization is a contextual factor that favours silence and, paradoxically, is a potential “*victim*” of that silence (Cailleba 2017). The second mechanism is the fear of social reprisals (Dasgupta and Kesharwani 2010), with silence being a human construct created and maintained through learning and punishment within a group. Remaining silent is a response to the fear of being stigmatized and socially excluded (Pershing 2003). The employee may break this silence and violate the duty of loyalty when the company compromises a specific public policy or is involved in illegal or prohibited actions that could jeopardize public health, safety, or well-being. In the French context, where the approach must follow the internal system, the possibilities offered to the employee have been summarized by Charreire Petit and Surply (2012) (see Table 2).

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However, the employee’s behaviour is not always as rational as the traditional model seems to suggest. Classically, the decision to whistleblow would be the result of a cost–benefit analysis (individual cost for the whistleblower *vs.* collective benefit in the terms of public/general interest; see Miceli and Near 1985) concerning loyalty and potential retaliation, but the reality is more complex. Nadisic and Melkonian (2016) considered that the decision to whistleblow should be interpreted within a double circle of justice, distinguishing what is fair in the organization from what is fair in society.

Different streams of research have tried to describe the thinking of whistleblowing employees, but the descriptions in the studies are as divided as they are among the general public. According to the current view that they are “*saints*” (Watts and Buckley 2017), the term whistleblower should only be applied to individuals whose decision to report a malfunction is motivated by moral reasons, discounting therefore any whistleblowing stimulated by a desire for revenge or financial incentives that distort its moral nature. The negative counterpart of the current view is that the whistleblower can be considered a “*snitch*” who puts the company at risk (Jos et al. 1989). A third view, however, considers whistleblowers as a mixed category, i.e. some are motivated by moral reasons alone while others are motivated by morality as well as other interests (the “opportunist” takes the opportunity to gain a financial reward, the “avenger” seeks revenge, and the “henchman” is simply doing his/her job as prescribed; see Watts and Buckley 2017). Despite the identification of push and pull factors facilitating or limiting speech (individual and contextual characteristics, specificities of the dysfunction/misdemeanour, and links with the person denounced), it emerges above all from the research that there are in reality no typical features and that whistleblowers form a very heterogeneous group (Henik 2015). Employees do not act identically when confronted with the same type of dysfunction; however, initial profiles can be specified, providing a better understanding of the motivations for whistleblowing.

## Initial typologies of whistleblowers according to their motivation

To clarify the main motivation for whistleblowing, various authors have sought to develop a typology of employees that goes beyond the moral dilemma to report a dysfunction or misdemeanour.

Glazer (1983), the first, defined three types of whistleblowers, based on a literature review of ten cases:

1. *Inflexible resistance fighters* warn of unethical or illegal behaviour they may have observed. They maintain a strict commitment to their moral principles, immune to flattery or coercion. They usually start with internal whistleblowing but can progress to external whistleblowing if the matter remains unresolved.
2. *Involved protesters* expose the problem internally but fear the legal consequences. They are flexible in their approach and willing to give up if forced to do so. They sometimes find themselves drawn into the behaviour denounced if they fear that their responsibility could be legally challenged.
3. *Reluctant employees* are sometimes deeply involved in the behaviour they condemn in private. They may seek to remedy this through public or personal atonement after leaving the organization. As long as they work in the company, however, they remain silent.

While this typology has the merit of being the first to question the passage to action and to highlight thevoice/loyalty debate, it only takes into account the unifactorial dimension of potential reprisals and adopts a rather traditional approach.

Heumann et al. (2013) more recently proposed another typology combining the personality of the whistleblower, his/her objectives and motivations, the cause of the whistleblowing, and the success of the approach. Five standard types emerged from their work:

* *The altruist* sees wrongdoing, fiercely opposes it, and fights valiantly within and even outside the company for the good of justice and reparation. He/she acts as the conscience of the organization and hopes for nothing more for than to rectify the misdeed. He/she acts mainly for ethical reasons. Although he/she may sometimes be promoted, he/she may also be subject to strong reprisals. Morality is fundamental for such individuals. However, as there are many morals, their actions can be glorified by one part of the society and vilified by another.
* *The avenger* reports fraud, management problems, illegal activities, or personal claims in order to extract revenge on an individual, team, or organization that has offended or humiliated him/her. The reason is therefore associated with individual anger and dissatisfaction and is not based on a genuine interest in risk to the company even, if the company may indirectly benefit from his/her information.
* *The organization man* [woman] describes an employee who is deeply imbued with the organizational culture and mission. He/she reports what he/she considers to be illegal or improper conduct due to a fear for the company. This employee considers his approach to be pure and protective of the company by pointing out the consequences of illegal or improper conduct. He/she acts in relation to what he/she perceives to be the organization’s mission related to its technical, procedural, and ethical issues. He/she is often negatively described as a “know-it-all”. Managers or senior management may see him/her as an obstacle to achieving their objectives or gaining support for their policies. They often consider such whistleblowing unwelcome as it in opposition to their managerial prerogatives, which may explain some reprisals.
* *The alarmist is* an employee who constantly complains about the moral risks to the public sphere of one or more of the policies. Often not based on evidence, his/her statements are therefore unreliable, and he/she is almost always wrong. In the long term, he/she may lose all credibility because the acts denounced are neither illegal nor inappropriate and pose no threat or the public/general interest. In fact, no one usually takes any action to manage such whistleblowing, which is problematic if some of their information turns out to be correct.
* *The bounty hunter* is motivated mainly by the money he/she can obtain since, in some countries, there is financial compensation from governments to offset the risk his/her career and exposing himself/herself to potential reprisals by disclosing illegal practices.

This typology, by combining different factors to identify profiles, is more complete and provides a “*kaleidoscopic*” approach (Heumann et al. 2013) for understanding whistleblowers. It highlights the debate between attachment to the company, professional ethics, and/or individual moral principles. It also focuses not only on the motivation for the alert, but also on the approach taken. However, it is founded on qualitative research based on nine interviews with professionals (employees, managers, lawyers), only two of whom had actually whistleblown. Moreover, not everything seems to be applicable to the French context. For example, anti-social “whistleblowers” who act with the intention of harming the company or their colleagues are not recognized as such in France, because there must be no intent to harm. The financial motivation is also incompatible with French law. Drawing on these initial studies, this article seeks to complete the analysis of the motivations for (internal) whistleblowing in the French context.

# Research Method

## Data collection

To better understand the motivations that lead a French employee to whistleblow (internally) after observing a dysfunction, we implemented an exploratory qualitative approach. The choice of the method chosen was carefully considered, as studying the population of whistleblowing employees is a complex matter. Indeed, in general, research related to dysfunctions, misdeeds, or unethical behaviour within companies is difficult to conduct (Chiu 2003). In addition, the population of employees who have whistleblown within their company is often hidden (especially if the whistleblowing has been well managed), difficult to access (for those excluded from their organization), or has received too much media coverage (making the researcher’s objectivity problematic). Those who agree to testify may also fear for their anonymity or self-censorship, requiring specific precautions on the part of the researcher.

To counter these difficulties and study the motivations to alert, it is also possible to propose scenarios to employees or students to find out what decisions they would make in the event of a dysfunction within a company. However, since the behaviour and situation remain hypothetical and far from reality, the reported whistleblowing rates are often higher than in reality because the fear of reprisals is only fictitious (Mesmer-Magnus and Viswesvaran 2005) and the link is weak between the intention to act and the actual behaviour, particularly for whistleblowing behaviour highly associated with subjective norms. To profile whistleblowers, we therefore preferred to start from real situations. We chose to utilize life stories, which are “*discourses with a precise sequential order that connect events in a meaningful way for a defined audience and thus offer lessons about the world and/or the experience that individuals have of it*” (Hinchman and Hinchman 1997, p. 16). This method is particularly suitable for analysing a category of social situations encountered by individuals, facilitating their reflexivity and explaining their logic of action in context. *“The value of life stories, if they are collected in this perspective, is that they constitute precisely a method that makes it possible to study action over time*” (Bertaux 2016, p. 8) and to obtain rich content, allowing us to move from the particular case to the general case. While the method makes it possible to understand individuals’ experiences and memories of events, it is not free of bias since the data obtained may contain omissions, distortions, self-justifications, and rationalization *a posteriori* (Bah et al. 2015) but remains closer to the actual reality than the scenario method. The initial question asked was “*Can you tell me about your career path since you whistleblew?”* Several follow-up questions were possible depending on the difficulty of respondents in explaining their progress on their own. In most cases, follow-up questions were not utilized, as the chronological sequence of the whistleblowing and its consequences were very clear in the minds of the interviewees.

In the life story method, sampling is a major step since each respondent is considered an expert. Diversity among the profiles is therefore sought to ensure theoretical development (Yin 2003). To get in touch with the participants, we sent an email through an association of whistleblower employees to solicit volunteers to participate in a study while ensuring their anonymity. From among the replies, having followed a protocol similar to that adopted by the French legislator in order to recognize the status of whistleblowing employees, we sought respondents with different characteristics [sex, age, training (from bac+2 to bac+8), sector of activity, seniority in the company and position, and type of reported dysfunction]. The sample size was not determined *a priori*, but collection was stopped when we obtained a theoretical saturation, i.e. ten interviews (Glaser and Strauss 1967). Half of the respondents are women, the average age at the time of the alert was 44 years. The interviews were conducted between June and December 2018 and lasted between 1h and 3h with an average of 2h15 (see Table 3 for more information on the sample4).

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