Conspiracy of Silence versus Moral Freedom: Applying the Concept of Structure of Sin to the Phenomenon of Whistleblowing

Philippe Jacquinot
Université d'Evry Val-d'Essonne, Litem

Arnaud Pellissier-Tanon
Université Paris 1 Panthéon Sorbonne, Prism

When Pope John Paul II constructed the concept of *structure of sin*, he introduced a term to the field of moral and political theology to refer to the conditioning by which social groups predispose their members toward vice. This concept mainly concerns the collective dynamics through which the agent fails to fulfill his duty, and it draws particular attention to the *conspiracy of silence* that is instituted due to the complacency of certain agents and the indifference of others. It raises the question of the agent's moral freedom and, more specifically, the act of intelligence through which the agent calls into question those practices that seem to cause such conditioning. This article examines the collective dynamics at work in business settings and the moral freedom of employees through a closer examination of *whistleblowing*, a phenomenon in which these dynamics are of particular importance.

Introduction

Companies are careful to maintain the license to operate accorded to them by societal authorities. To this end, they introduce business ethics policies that strongly encourage *whistleblowing*, a process intended to promote surveillance by all its members. In reality, far from being considered loyal members of the organization, whistleblowers are often perceived as traitors by their superiors and colleagues. In such cases, the practices of the companies have strayed from societal values, often without management being aware of the phenomenon or having intentionally desired it—or at the least, no one at the companies could possibly conceive of behaving differently than anybody else. Each individual

receives reinforcement through collective dynamics that give the company culture a certain independence from societal culture. The conditioning of the companies' members has rendered them blind, with the added risk of losing their licenses to operate if a whistleblower should decide to take action.

This article examines the conditioning that leads a company, its management, and its employees to behave in a manner that strays from societal expectations. It acknowledges the existence of these expectations without critiquing their contents from a moral and political theology perspective. It examines the behavior of the agents involved and the underlying phenomenology, making use of concepts from both disciplines. One such concept is the *structure of sin* that Pope John Paul II introduced in the encyclical letter *Sollicitudo Rei Socialis* in explicit reference to the concept of *social sin*, which he defined in the apostolic exhortation *Reconciliatio et Paenitentia* as the "influences and obstacles" introduced in the world through failure to observe the Ten Commandments: "Not to observe these is to offend God and hurt one's neighbor … far beyond the actions and brief life span of an individual."[1]

This article employs the concept of structure of sin to analyze social pressure at work in organizations. It attempts to determine to what extent the company, its management, and its employees could act in such a way that this pressure would foster virtue instead of resulting in a structure of sin. The article focuses on the act of intelligence by which the agent questions the collective practices at work to condition the agent not to pursue this same line of questioning. It explores how the agent may exercise prudence to regain his moral freedom when subjected to such conditioning, thereby creating an opposition between social pressure and prudential reflection. This opposition is illustrated by the disturbing fact that, in many cases, whistleblowers are excluded from their companies. The article then describes the collective dynamics of social pressure that legitimize this exclusion and uses the structure of sin concept to analyze these dynamics. Finally, it takes a closer look at the prudential reflection of whistleblowers that liberates them from social pressure for the benefit of the company.

Whistleblowing: Risking Exclusion to Disclose Wrongdoing

The Sarbanes–Oxley Act of 2002 requires publicly traded companies and all of their subsidiaries to implement an ethics policy, which includes in particular a whistleblowing procedure. Other companies are compelled to follow their lead in order to gain legitimacy in the eyes of their stakeholders.[2] This procedure defines a disclosure process, defined by Near and Miceli as "the disclosure by organization

members of illegal, immoral or illegitimate practices under the control of their employers, to persons or organizations that may be able to effect action."[3] This procedure shifts the power of surveillance from the hands of senior management into the hands of all company employees. The practice of whistleblowing is based on the belief that spontaneous regulation, supplemented by or in parallel with regulation by competent authorities, can be effective.

A certain mindset underlies whistleblowing: employee loyalty to company management when confronted with the shortcomings of the company's agents, and most notably in cases of occupational fraud. This type of behavior may be considered to be pro-social.[4] But in the case of organizational crime, where senior management is directly or indirectly involved, the representative authority to which the whistleblower demonstrates loyalty is society as a whole, which has granted the company its license to operate. At this point, the internal procedures of the company have reached their limits and must be replaced by external procedures, whether it be those of a regulatory authority or simply of a court of law. Studies show that the extent to which a disclosure will produce the effects expected by the whistleblower depends on the amount of power in the hands of each protagonist.[5]

Only the most spectacular cases reach the general public, due either to the seriousness of the violation or the involvement of executives at the highest level. In such instances, an exceptional status is conferred on whistleblowers, even though the whistleblowers were not generally considered to be exceptional people before they took action.[6] They were simply witnesses to work violations and demonstrated their loyalty to company management or to society as a whole, depending on the case. The studies show that there are almost no socio-demographic characteristics to distinguish between a whistleblower and a bystander who turns a blind eye. They note that the decisive factor for whistleblowing in 79 percent of the 1,102 cases studied was personal values.[7]

As these figures show, whistleblowers are convinced that the actions they have chosen to disclose are unethical and have no other intention but to demonstrate their loyalty to their superiors. But if ever their superiors should not share their opinion about the disclosed actions or should cover them up even though they are aware of their unethical nature, the whistleblowers' disclosure will be perceived as an act of disloyalty to the unwritten codes of the group, or at the least as harmful to the interests of their colleagues. The whistleblowers then run the risk of being excluded from the company and suffering *emotional sequelae*[8]—both from the group's violent reaction and from the loss of those privileges reserved for the members of the group.[9]

In the opposite case, when the agent is heavily influenced by a culture favorable to the apparent or material interests of the company's members, the agent will not disclose unethical acts, in particular if it may result in the collapse of the company.[10] The literature[11] refers here to the stages of moral development first defined by Kohlberg, who showed that people with an advanced level of moral development were quicker to detect wrongdoing and more inclined to remedy the problem.[12] If the organization considers whistleblowing to be pro-social[13] behavior and encourages it, it will develop a value-based management system offering its members advice and coaching to encourage them to be courageous.[14]

We will now present the case of a whistleblower who provided us with a personal account.[15] We will cite this case throughout the article to illustrate our reasoning.

A Whistleblower Case: Inès de Jumières

Inès de Jumières came from an upper-class French family in which it was important to maintain social status and excel in one's studies. After graduating from the University of Paris-Dauphine, one of France's most prestigious universities, she was hired as a financial analyst by a bank. It was her job to make sure that the entities that borrowed money from the bank could pay their debts. She analyzed the activities, profitability, and solvency of these companies and assigned them a score (rating), along with a credit limit for each counterparty. Her work was guided by prudential considerations, the goal being to safeguard the long-term interests of the bank. The independence of financial analysts is essential, as they may be subject to pressure to attribute overly favorable ratings and higher limits. This pressure may come from the sales staff, keen on developing new business, and from management, which has a direct interest in the bank's profits. Pressure may also be exerted by senior management, which must answer to shareholders who may focus on short-term profitability and be blind to potential risks.

Inès de Jumières would change branches as the banking group developed its activity, in particular on financial markets, through new mergers and acquisitions. She remained a financial analyst and worked both in retail banking and investment banking. She enjoyed her work and was proud to be a member of her company. She did however notice certain deviations in company practices, compared with those she had experienced some ten years earlier. She gradually came to realize that the mindset at the bank had changed: the goal was no longer to inspire confidence among investors through "irreproachable behavior," but to show the boss that "you were a bad boy determined to make a lot of money." In her domain, financial analysis, it was no longer a question of justifying the

risks that the bank may take, but, on the contrary, of justifying the exactitude of a negative rating assigned to a counterparty. Later on, she would talk about a "reversal in the burden of proof" and would denounce "reckless risk-taking."

At the time, she did not cave under constant pressure from her boss to consider the bank's commercial interests when establishing her ratings. He became overbearing, withdrew her bonus, and even expressed anger when she refused to inflate her ratings. He eventually denounced her to his superiors for insubordination. She was summoned to answer the charges by her superior two management levels higher, and then three levels higher. Each time, she was forced to endure a lengthy "browbeating," but insisted on expressing her doubts about her boss, "who was too obsessed by business considerations and neglected the risks." They ignored her complaint. She then wrote to her superior four management levels higher, expressing her doubts and asking for a meeting. Ten days later, the human resources department summoned her to attend an interview to terminate her employment. She was dismissed for misconduct, without advance notice. The reason was "having made serious accusations against her superiors." She felt that her behavior had been irreproachable, as she had exercised her rights as stipulated in the collective bargaining agreement and fulfilled her duty of loyalty to the company. She filed a grievance with the commission of the French banking association, but in vain. She filed a complaint with the French labor court. During the mediation phase, she asked to be reinstated in her job, without seeking any compensation. Her employer refused. She then began legal proceedings in a criminal court for intent to corrupt.

Conspiracy of Silence as Source of Exclusion for Whistleblowers

We can see the psycho-sociological mechanisms involved when whistleblowing occurs: Literature on the subject shows how whistleblowing may shatter the apparent unity of a collective work group, and the specific dynamics of exclusion the group will employ in its attempt to reestablish it.[16]

When welcoming a new colleague to the work group, each member expects the new arrival to demonstrate loyalty to the group—that is, to be committed to their work, to be faithful to their employer, and to show integrity when tempted by corruption. The newcomer agrees to adopt such behavior in exchange for the expected benefits of belonging to the work group. A psychological contract, more or less explicit, is established. It specifies the expected loyalty on the one hand and the expected benefits on the other. A relationship of trust gradually emerges as each party sees the other party demonstrate ability, integrity, and goodwill

while honoring the contract.[17] As the newcomer is assimilated over time, he will eventually identify with the group. The notion of an *Us* emerges through a composition effect, an *Us* with its own unique history and its own common projects—as opposed to its surrounding environment, which neither shares this history nor participates in its projects.[18] The group culture will define the *Us* and develop its specific routines. A boundary sets the group apart, separating it from other groups that neither share this culture nor share its routines.

This group may oppose other groups, thereby affirming its own norms and values. It cannot, however, oppose the company or the society in which it exists. It has no recognized legitimacy to do so: It cannot uphold any norms or values that deviate from those of the groups that encompass it. If any conflicts in norms and values should arise, it must keep them hidden.[19] However, this collective whole is not completely homogenous; unity can only be maintained as long as the conflicting norms and values remain hidden from outsiders. If no one is aware that higher standards of norms or values have been violated, or if everyone decides to turn a blind eye, the unity of the *Us* is not threatened. The apparent sense of group unity that prevails only hides the fact that "its values and norms are not uniformly shared, assimilated or enforced" by the members of the group; "the traitor or renegade is perceived as a much greater threat to the *Us* than any antagonist or external enemy,"[20] whom the group will always be able to unanimously oppose.

If an act of whistleblowing should occur that threatens the group's unity, it will react with a defense mechanism. The whistleblower must be excluded, and any future disclosures of this kind must be prevented by "teaching the whistleblower a lesson and issuing a warning" to all the members of the group:

> the revelation that is brought forth by the whistleblower is generally perceived by the other members of the organization (colleagues, managers, director) as a betrayal—i.e., a major violation of conventions relating to trust and loyalty. This qualification is not without consequences for an offender: it justifies and legitimizes, from the point of view of the organization, the application of sanctions that aim to discredit the one who "lets the cat out of the bag," and forewarns any potential "informers."[21]

Thus rejected by the group, the whistleblower attempts to justify the transgression by giving the reasons behind the act, and by explaining how the act was essentially selfless. The whistleblower appeals to others within the company or to public opinion, revealing a conflict of norms and values.[22] When the norms and values of a group deviate from those of the encompassing group, its members then become witnesses to violations. They will have conflicting feelings about

their sense of belonging, and their loyalties will be divided between the group that commits the violation and the encompassing group that rebukes it. Problems of this sort may at first glance appear to be a conflict when, in reality, they only result from ignorance concerning the acceptable norms and values, or how they are to be applied. An explanation may then be sufficient to resolve the problem. But if the conflict is real, or, at the least, if the agent sincerely believes a violation has been committed, he cannot remain neutral. He must choose between remaining silent or blowing the whistle, thereby running the risk of shattering group unity and being excluded from the group.

This process of exclusion can be observed in the case of Inès de Jumières. When she first began working at the bank, she did her best to fit in at the company, and adopted the values that were then being promoted. She is still proud of the bank she remembers from back then, and of its irreproachable conduct. As the years passed, she felt increasingly estranged from the pack of voracious "ruffians" working at the company, of which her last boss was the ultimate example. She was forced to deal with conflicting values and chose to demonstrate loyalty to the long-term interests of the bank and its account holders. She showed her resistance, silently at first, by refusing to sign off on analyses that she felt were unacceptable. She adhered to what she considered to be superior values, and to a larger, encompassing culture (societal culture in this case) and its established code of conduct for the analysis of risks of a counterparty. Adhering to these outside values was construed by her superiors as a betrayal of the new values of the bank and of the culture that they had introduced over time as the banking group developed through mergers and acquisitions. They would try coercion, harassment, and intimidation to make her come around to their point of view. She resisted yet again, this time explicitly. For her superiors, she no longer had a place in the group. She was discreetly dismissed from her job.

We have spoken about the *group*, but not about the hierarchy that may exist within it. In a company, the ultimate power is in the hands of the employer, although each employee has a certain degree of power conferred on his position. This power may be exercised as expected by his hierarchical organization, or in opposition to his superiors. The process of exclusion, whether initiated at the top or bottom rung of the ladder, cannot be implemented throughout the organization without the accord of each of its members—whether it be their complicit agreement or, at the very least, their indifference. It is easy to understand why the whistleblower's superiors generally prefer not to draw attention to the exclusion and remain intentionally vague on the subject. All they need do is pass along the message that the whistleblower has left the company, without specifying why. Those who do not know the "inside story" will seek no further

information, and those who are aware of the real circumstances will understand that it is not in their best interest to "step out of line." Senior management has conditioned its personnel not to ask questions. To remain silent has become the law, so that none will call into question the company's practices. We may refer to this phenomenon as the *conspiracy of silence*, as did Pope John Paul II when he constructed the concept of structure of sin.

Conspiracy of Silence as a Structure of Sin

We have described the collective dynamics through which a group that feels threatened by a whistleblower will exclude the whistleblower in order to reestablish an apparent sense of unity. We have also introduced the concept of *conspiracy of silence*, in which the threat of exclusion makes each member of a group an accomplice to the wrongdoing that the whistleblower would disclose. We will now employ the concept of *structure of sin* to explore how a conspiracy of silence may take root in an organization.

Pope John Paul II defined *structure of sin* in *Sollicitudo Rei Socialis* as the "concrete acts of individuals" that "become the source of other sins, and so influence people's behavior."[23] Here, he builds on his analysis of *social sins* from the apostolic exhortation *Reconciliatio et Paenitentia*, where he singled out individuals for whom "the accumulation and concentration of many personal sins" lead to a structure of sin: "those who cause or support evil or who exploit it; … those who are in a position to avoid, eliminate or at least limit certain social evils but who fail to do so out of laziness, fear or the *conspiracy of silence*, through secret complicity or indifference; … those who take refuge in the supposed impossibility of changing the world and also … those who sidestep the effort and sacrifice required, producing specious reasons of higher order. The real responsibility, then, lies with individuals."[24] By concluding that "the real responsibility, then, lies with individuals," Pope John Paul II has thus identified four possible sources for all structures of sin. The first category applies more to the wrongdoer in general than to the agent who refuses to blow the whistle, but the other three categories describe the hidden motives that condition individuals to remain silent.

We will first examine negligence shown by leaders and those in positions of authority. When they themselves are the wrongdoers, they will of course attempt to protect themselves. In this case, their negligence is not only a means of covering up their complicity, but even more importantly, of covering up their responsibility. When they are not the wrongdoers, they do nothing to prevent the act and convince themselves that the problem is out of their hands, speciously claiming to obey "reasons of higher order" or expressing defeatism by affirming

that "it's just the way of the world." They may choose to remain indifferent, but are in fact accomplices to the act. Their own actions clearly demonstrate that, as far as they are concerned, deviant norms will prevail over societal norms until further notice. They implicitly promote the wrongdoing. It has now been legitimized and the wrongdoer has been redeemed, even if he would once have been scorned. The person in charge sets an example that encourages negligence in those with less authority: if his subordinates should have a guilty conscience, they can always tell themselves that "it's a problem for the people upstairs," that "they know more about it than I do," that "I'm only supposed to follow orders," and so on. Little by little, they too become accomplices, and eventually become indifferent as well. A consensus emerges in favor of the wrongdoing—not through deliberate choice, but due to complacency when confronted with the conspiracy of silence. Norms begin to change as the group culture liberates itself from societal expectations. A latent conflict of values runs the risk of being exposed if any would-be whistleblowers should fail to behave like all the others by not demonstrating complacency when confronted with the conspiracy of silence. Everyone has become an accomplice, or, in the end, is simply indifferent.

The concept of structure of sin helps to explain how deviant behavior may become institutionalized and end up conditioning all the involved individuals: Their own negligence or their failure to act encourages deviant behavior. This concept also helps to identify the individual responsibility of each agent for allowing a conspiracy of silence to develop whereby the whistleblower is excluded and anyone who may be sympathetic to his cause is silenced. Much like an emerging effect,[25] this conditioning relies on the complacency or the indifference of group members. The literature from management sciences has revealed the moral silence that may at times become prevalent at a company.[26] It has been noted that business leaders may be reticent about describing their actions in moral terms, even when these actions were based on moral grounds. Managers with even the best intentions may simply wish to preserve harmony within the organization or avoid adding to the complexity of decision-making. The "moral muteness" of managers may give their employees the impression that doing business is an amoral activity. The deviant behavior will then persist, protected by "organizational silence."[27] Less scrupulous managers may even subtly reshape the corporate culture through their attitudes, expressed beliefs, forms of expression, and behavioral patterns in order to obtain the tacit cooperation of the employees in unethical operations.[28] They may also take more direct action, intimidating the employees by making them understand that, if they break the silence, they're no longer "part of the team" (as occurred at Fanny Mae), or seeking to obtain the silence of external auditors by paying them high commissions

and cultivating a "buddy-buddy" relationship to encourage "groupthink" (as was the case at Enron).[29]

Organizational Culture Change in the Case of Inès de Jumières

Inès de Jumières noticed that the bank's culture had gradually changed, placing less emphasis on irreproachable analysis and greater emphasis on greedy practices, without meeting any resistance from employees. Many never even realized what had taken place. The complacency of certain employees and the indifference of others resulted in changes in the rating committees. She explains,

> When I began my career, we were always having committee meetings with superiors two or three management levels above us.… We were scared to death.… You better have done your homework.… People were more aware of risks. An analyst would present a financial analysis to the committee, would give a project a favorable or unfavorable credit score, and propose lending limits.… And if his work wasn't complete enough, he would have to present the whole project again at another meeting.… It was all the analyst's responsibility.… Now, for about the past ten years, I have to constantly provide proof to justify any unfavorable scores.… A lot of different people now attend the committee meetings and no one knows who's in charge.… There's an enormous amount of pressure for you to say: *oh well, why not bump up the credit limit a bit?* There's been a reversal in the burden of proof.… I was never sanctioned if I gave a favorable score [even when it proved to be wrong].

In this way, the analysts shirk their responsibility under pressure from colleagues. A structure of sin takes hold. "People don't give scores anymore," she continues. "They don't give a favorable or unfavorable score.… They avoid the problem by simply saying: *the limit will be such-or-such,*" so that the greedy agents can increase the credit limits and the indifferent ones can pretend they aren't aware of the situation.

Here, it becomes evident that great moral courage is required for the whistle-blower to follow through with his act: He assumes the risk of being excluded in order to remain faithful to the psychological contract which he feels bound to honor and, more precisely, to the underlying societal values. Some may speak of *integrity* to describe this act of upholding one's word and in particular the act of upholding a system of shared values[30] and the moral idea forged from them.[31] Others may speak of *benevolence* to emphasize that, in order for a person to

show moral courage, he must know what is right. He must keep in mind the specific circumstances of the situation to avoid wavering when he must violate the strict sense of the psychological contract in order to adhere to its true intent. Whether it be integrity or benevolence, all will concur that the whistleblower demonstrates his moral autonomy in the face of social pressure: He considers what is good for all the parties under the current circumstances and engages in prudential reflection.

A company that takes care to maintain its license to operate not only will acknowledge the existence of dynamics of exclusion but also will look for a way to limit their effects or even to transform them into dynamics of inclusion by encouraging its members to ask the right questions. Companies may simply decide that the dynamics of inclusion and exclusion found in all social groups will be sufficient to entrench company values and encourage the affective commitment of their employees. In this case, the employees will not uphold the values promoted by their company through a conscious decision but will only do so in response to social pressure that tolerates no recalcitrant behavior. There will then be no internal checks at the company to guarantee the morality of the shared company practices, or at the least their conformity to societal values. If information asymmetry should exist between the company and societal authorities, all or part of the company would be outside the authorities' control and may, when the opportunity arises, stray from their expected norms. A cause for whistleblowing would then arise, and the employee who realizes the situation will face the risk of exclusion from the company.

Companies may also attempt to foster moral freedom in their members and encourage prudential reflection. Of course, dynamics of inclusion and exclusion would still be at work in this case and remain preponderant in the acculturation of the company's dominant values. Such dynamics would be curbed, however, by the prudential reflection of the employees, to the point where any consensus on company values would ultimately be obtained through discussion, and would only be valid until new lines of questioning were pursued. The dynamics through which these consensual values are transmitted would not guarantee their soundness; it would be guaranteed by the fact that these values are the fruit of reflection by each member of the group. Group unity would be ensured through likeminded reasoning to the point that, if there were cause for whistleblowing, the potential whistleblower would only face the possibility of conflicting views in a debate, but not of being excluded. He would not be perceived as someone who has betrayed the psychological contract, but as an eminently loyal employee. We will now take a closer look at the makings of prudential reflection.

Philippe Jacquinot /
Arnaud Pellissier-Tanon

Prudential Reflection as a Source of Moral Freedom

By prudential reflection, we mean an agent's ability to determine what is truly good in the parties involved. Before the whistleblower can act on his will to do good, which fortifies him against social pressure, he must first have the wisdom to comprehend what is truly good for himself and for others. This type of questioning and wisdom forms the basis of the virtue of prudence, as developed in the Aristotelian-Thomistic tradition. In his moral and political philosophy, Aristotle investigates human action and concludes that the most noteworthy of men's actions are performed freely—whether it be for their own good or harm. The agent becomes conscious of his own good through the happiness he experiences by performing actions that contribute to his own wellbeing and the wellbeing of those who depend on him. He makes judgments about these actions on his own behalf and on behalf of those under his responsibility. He tries to distinguish between what is right or wrong, fair or unfair, based on the sadness or happiness experienced by himself and those around him. Through further reflection or by force of will, he then takes action as he sees fit. Here, philosophy attempts to explain how humans may govern their actions by looking beyond social conditioning to focus on what is specifically human in the individual—namely, his practical wisdom, which Aristotle referred to as prudence.[32] Prudential reflection proceeds by questioning the ends and means.

We will now take a closer look at this process, following the order provided by Thomas Aquinas in his anthropological view of prudence: deliberation, judgment, and command.[33] We will focus on the "integral parts" of prudence or, in more contemporary terms, on its underlying psychology: imagination, foresight, and vigilance.[34] We will then find the three antecedents of trust as defined by Mayer, Davis, and Shoorman—ability, integrity, and benevolence[35]—and we will look at how prudential questioning can ensure the dynamics of inclusion.

If we consider human actions as a relationship between means and an end, with the ultimate end being happiness, we may then, for our analysis, consider prudence to be knowledge of the relationship between the means and the end. In the business world, where people constantly perform services for one another and use common means to achieve their ends, prudence will then focus on human relationships in particular, and this knowledge will be a source of further insight.

- Prudence takes into consideration the available means, in particular the services that people can perform for one another, and engages the imagination to consider these means through deliberation.
- Prudence takes into consideration the probable circumstances surrounding the action, in particular the consent or possible involvement

of those who may perform a service for us, and uses foresight to assess which means to implement.

• Prudence takes into consideration the circumstances as they occur, and uses vigilance to astutely command the employment of the selected means, in particular to request, at the appropriate time, the right service from the right person.

The anthropological view of prudence therefore identifies the trio *deliberation*, *judgment*, and *command*, for which the psychological equivalent is *imagination*, *foresight*, and *vigilance*.

The agent's action will be even more worthy of confidence when he acts with prudence. He will be all the more trustworthy because he has demonstrated his ability, integrity, and benevolence.

Deliberation concerns the means for obtaining a given end, and in particular the services people may perform for one another. The agent asks if the available means contribute to obtaining the end: if they can make it happen, produce it, or bring it about. He considers their effectiveness. In fact, the more the agent searches in his memory for effective means, and the more effective these means prove to be, the more competent he will appear to be to others.

Judgment concerns the circumstances surrounding the action. The agent considers whether the means as conceived will truly obtain the desired end under the circumstances that are most probable during the implementation of the means. In particular, he considers the support he expects from those who are to provide a service, the reasons behind their consent or involvement, and, ultimately, the legitimacy of their expectations. In fact, the better the agent, based on his experience, is able to foresee the effective value systems of the persons involved, and the better he conforms his plans to them, the more acceptable his action will appear to others. He will then be more successful in fulfilling the expectations he has raised and in proving that he is a man of integrity.

Command concerns the occurrence of the circumstances foreseen by the agent, who takes care to only command the execution of his act if the foreseen circumstances occur. He considers the opportunities for employing the means he has conceived, such as which service to request, from whom, and under which circumstances. In doing so, the agent ensures his own wellbeing and, by the same token, the wellbeing of the others involved. In fact, the more vigilance shown by the agent, who is conscious of his responsibilities, before deploying his means, the more benevolent he will have proven himself to be.

By reflecting on the effectiveness, legitimacy, and opportunities for occurrence of the action he has conceived, the agent demonstrates ability, integrity, and

benevolence, and thereby shows that he is trustworthy. He adopts a pro-social attitude, as opposed to the indifference or guilty complacency that allows a conspiracy of silence to develop in a company. By questioning his acts and taking the necessary time to ensure the effectiveness, legitimacy, and opportunities of his behavior, he demonstrates both concern for others and his own objectivity. He prepares an argument that can then be used to convince others, and he will have even greater influence as he has shown himself to be trustworthy. A consensus emerges through debate, based on reason, and is reexamined when necessary as each person continues to develop their imagination, foresight, and vigilance. A *structure of virtue* emerges, giving rise to what we might call a "law of speaking out" that promotes the inclusion of all those who want to benefit, through healthy debate, from the progress of reason.

This argument concurs with works in management science that stress the crucial role of top-level management in introducing a policy of integrity based on "breaking the silence." One example is the measures taken by the directors of General Electric to prevent, as was the case at Boeing, a "culture of silence" from taking hold. They are then able to establish extremely effective top-down communication to drive home the point that higher performance must not be obtained by compromising integrity; to launch specific audits in targeted areas; to periodically conduct company-wide surveys; and to show inflexibility when dealing with any member of the company, at any level, who lets deviant behavior take root—whether it be directly or indirectly.[36]

Introducing the means for employees to report deviant behavior should not only be portrayed as a regulatory requirement; it should also result in any reported cases being handled impartially and in a highly visible manner, without any of the obstructions or filters that would give credibility to the "norms of silence."[37] The organization must be open to discussions and disagreements. It must encourage behavior demonstrating integrity, for which the archetype is the whistleblower. This behavior consists in discerning what is right and what is wrong and acting on that discernment, and also explaining it openly.[38] Employees may be encouraged, through learning programs organized by ethics officers, to discuss cases of exemplary integrity—that is, cases of people who took actions to uphold the principles of the organization.[39] What is most important is that the employees understand the spirit of a rule rather than blindly following it to the letter, and that they base their decisions on the virtue of prudence.[40]

Moral Freedom in the Case of Inès de Jumières

Inès de Jumières stood up to the structure of sin that encouraged her to heedlessly take risks which, in her opinion, placed the bank and its account holders in jeopardy. She found the strength to resist by asking the right questions: She would never follow one of her boss's orders without first asking herself if it were legitimate, and in particular when it concerned the code of conduct for analyzing the risks of a counterparty. "Take for example my employee evaluation in 2012," she notes,

> where [my superior] wrote that I should calculate the ratings for counterparties *based on commercial interests, even if the notion of risk is still the main criterion*. I find it interesting that he … freely admits that he defends the interests of the sales departments. I've talked about this concept before: the *Chinese wall*. The salesmen are supposed to get a bonus. And we analysts are supposed to be independent.… He asked me to inflate the rating. And every day it was the same with him. He would always bump the rating up a notch. The colleague gets a better bonus. Everybody scratches each other's back.

Inès de Jumières expressed her concerns to her boss, but the structure of sin that prevailed at the bank prevented her from speaking out.

We have now seen how an agent may reflect on the effectiveness, legitimacy, and opportunities for occurrence of an action in order to act prudently—that is, with imagination, foresight, and vigilance. We have seen how, in so doing, he shows that he is capable, benevolent, and a person of integrity—in a word, trustworthy. We can then conclude that, by showing prudence and using prudential reflection, the agent contributes to the emergence of the "law of speaking out," which, as a "structure of virtue," encourages each individual to examine his behavior and acknowledge the underlying values. In this case, the consensus of values that ensures company cohesiveness is based on reason and not on social pressure, meaning that each individual can blow the whistle without being labeled a traitor. The person who is called out by the whistleblower for committing the violation can then judge the effectiveness, legitimacy and opportunity for occurrence of his action in light of the license to operate. He will call on his own imagination, foresight, and benevolence. He will in turn have demonstrated prudence and will realize how trustworthy the whistleblower truly is.

Conclusion

When Pope John Paul II constructed the concept of structure of sin, he introduced a term to the field of moral and political theology to refer to the conditioning by which social groups predispose their members toward vice. This concept mainly concerns the collective dynamics through which the agent fails to fulfill his duty, in the form of a conspiracy of silence. It raises the question of the agent's moral freedom and, more specifically, the act of intelligence through which the agent calls into question those practices which would appear to have resulted in such conditioning. We have chosen to focus on the phenomenon of whistleblowing, starting from the premise that, too often, whistleblowers are excluded from their company. We have identified the cause: social pressure exerted through the conspiracy of silence. To explain the force behind such social pressure, we have employed the structure of sin concept: Much like an emerging effect, it results from the complacency or indifference of the persons involved. We have proposed a means to counter this social pressure and to instill a structure of virtue, which does not condition people but instead relies on their moral freedom—that is, prudential reflection, whereby each individual examines his acts and gains the trust of his partners. We believe that this form of reflection is capable of bringing about, through debate founded on reason, a consensus of values. We therefore propose that companies should rely on the moral freedom of their members rather than the dynamics of social pressure to ensure company cohesiveness. They will then be able to benefit from the prudence and practical wisdom of their most loyal members, in particular whistleblowers, rather than excluding them.

Notes

1. Pope John Paul II, Encyclical Letter *Sollicitudo Rei Socialis* (December 30, 1987), no. 36.

2. See Esther Pittroff, "Whistleblowing Systems and Legitimacy Theory: A Study of the Motivation to Implement Whistleblowing Systems in German Organizations," *Journal of Business Ethics* 124, no. 1 (2014): 399–412.

3. This is the famous definition of Janet P. Near and Marcia P. Miceli, who first introduced research on whistleblowing to the field of business administration. The authors then endeavored to describe the realities of the phenomenon and in particular the exclusion of the whistleblower. See Janet P. Near and Marcia P. Miceli, "Organizational Dissidence: The Case of Whistleblowing," *Journal of Business Ethics* 4, no. 1 (1985): 1–16. In 2016, the authors used the same definition when discussing whistleblowing literature from the past thirty years on whistleblowing. They stressed how important it is for a company to seriously consider internal whistleblowing means to avoid damage to their reputation when external whistleblowing means are employed. See Janet P. Near and Marcia P. Miceli, "After the Wrongdoing: What Managers Should Know about Whistleblowing," *Business Horizons* 59, no. 1 (2016): 105–14.

4. Marcia P. Miceli, Janet P. Near, and Charles R. Schwenk, "Who Blows the Whistle and Why?" *Industrial and Labor Relations Review* 45, no. 1 (1991): 11–30.

5. Janet P. Near and Marcia P. Miceli, "Effective Whistleblowing," *Academy of Management Review* 20, no. 3 (1995): 679–708. See also Marcia P. Miceli and Janet P. Near, "What Makes Whistleblowers Effective? Three Field Studies," *Human Relations* 55, no. 4 (2002): 455–79.

6. Janet P. Near and Marcia P. Miceli, "Whistleblowing: Myth and Reality," *Journal of Management* 22, no. 3 (1996): 507–26.

7. Joyce Rothschild and Terance D. Miethe, "Whistleblower Disclosures and Management Retaliation," *Work and Occupations* 26, no. 1 (1999): 107–28.

8. Kath Peters et al., "The Emotional Sequelae of Whistleblowing: Findings from a Qualitative Study," *Journal of Clinical Nursing* 20 (2011): 2907–14. See also Heungsik Park and David Lewis, "The Negative Health Effects of External Whistleblowing: A Study of Some Key Factors," *The Social Science Journal* 55, no. 4 (2018): 387–95.

9. Rothschild and Miethe, "Whistleblower Disclosures and Management Retaliation." See also Park and Lewis, "Negative Health Effects."

10. David B. Greenberger, Marcia P. Miceli, and Debra J. Cohen, "Oppositionists and Group Norms: The Reciprocal Influence of Whistleblowers and Co-Workers," *Journal of Business Ethics* 6, no. 7 (1987): 527–42.

11. Janet P. Near and Marcia P. Miceli, "Organizational Dissidence: The Case of Whistleblowing," *Journal of Business Ethics* 4, no. 1 (1985): 1–16.

12. Lawrence Kohlberg, "Stage and Sequence: The Cognitive-Developmental Approach to Socialization," in *Handbook of Socialization Theory and Research*, ed. David A. Goslin (Chicago: Rand McNally, 1969), 347–480.

13. See Miceli, Near, and Schwenk, "Who Blows the Whistle and Why?"

14. On the issue of management by values, see Lynn S. Paine, "Managing for Organizational Integrity," *Harvard Business Review* 72, no. 2 (1994): 106–17. On the relationship between management by values and whistleblowing, see Benisa Berry, "Organizational Culture: A Framework and Strategies for Facilitating Employee Whistleblowing," *Employee Responsibilities and Rights Journal* 16, no. 1, (2004): 1–11.

15. One of the authors found this case of whistleblowing in an article published by a weekly magazine in wide circulation. The whistleblower was clearly distraught and wanted to talk about her experience. This provided us with an opportunity to take an in-depth look at a case of integrity and improve our understanding. We began by performing a documentation review, which included five articles published by the press about this case of whistleblowing, and the whistleblower's participation in a labor union seminar and a television show that lasted 32 minutes. We then conducted 7 hours and 34 minutes of nondirective interviews. The whistleblower talked about her past experience, mainly since she started working. In response to our request, she also talked about her education and her values. We then obtained the self-referential narrative of the whistleblower.

   The interviews were recorded and fully transcribed with the consent of the whistleblower, with the expressed intent that they would be used for research purposes. We promised to change all the names to so that the whistleblower would not have to worry about the information gathered in these interviews interfering with any legal proceedings.

   The whistleblower gave us a copy of the dossier she filed with the board of appeals of the French banking association (80 pages, including electronic correspondence and various documents). It was possible to cross-check the data, establish a chronology of events, and confirm the testimony of the whistleblower. We found no contradictions between the facts and believe that we have gathered the data for the account as rigorously as possible.

16. Group decision-making has been studied in social psychology—in particular the phenomenon of quashing dissent when group cohesion is threatened by conflicting points of view. See Marlene E. Turner et al., "Threat, Cohesion, and Group Effectiveness: Testing a Social Identity Maintenance Perspective on Groupthink," *Journal of Personality and Social Psychology* 63, no. 5 (1992): 781–96. The decision may be damaging. See Clark McCauley, "The Nature of Social Influence in Groupthink:

Compliance and Internalization," *Journal of Personality and Social Psychology* 57, no. 2 (1989): 250–60. Sébastien Schehr, who based his work on the sociology of deviance as developed by Malin Akerstrom, reached the same conclusions. See Sébastien Schehr, "L'alerte comme forme de déviance: les lanceurs d'alerte entre dénonciation et trahison," *Déviance et Société* 32, no. 2 (2008): 149–62. See Malin Åkerström, *Betrayal and Betrayers: The Sociology of Treachery* (New Brunswick: Transaction Publishers, 1991).

17. Essig, Soparnot, and Abraham modeled the process of socialization by which the newcomer identifies with the company through its goals and values. See Elena Essig, Richard Soparnot, and Jocelyne Abraham, "The Influence of the Relationship with the Superior on Newcomer's Organizational Identification and Affective Commitment," *Revue de Gestion des Ressources Humaines*, no. 102 (2016): 17–41. Their study highlights the three qualities attributed by the *trustor* to the *trustee* in relationships of trust, competence, integrity, and benevolence. See Roger C. Mayer, James H. Davis, and F. David Schoorman, "An Integrative Model of Organizational Trust," *The Academy of Management Review* 20, no. 3 (1995): 709–34.

18. Schehr, "L'alerte comme forme de déviance."

19. For Mark Gosling and Heh Huang, the norms of the encompassing group are the legitimate norms. Acting based on contradictory norms is considered to be a lack of integrity, whereas acting in compliance with these norms is considered to be acting with integrity. See Mark Gosling and Heh J. Huang, "The Fit Between Integrity and Integrative Social Contracts Theory," *Journal of Business Ethics* 90, no. 3 (2009): 407–17.

20. Schehr, "L'alerte comme forme de déviance," 154.

21. Schehr, "L'alerte comme forme de déviance," 154, 149.

22. Schehr, "L'alerte comme forme de déviance."

23. John Paul II, *Sollicitudo Rei Socialis*, no. 36.

24. Pope John Paul II, Apostolic Exhortation *Reconciliatio et Paenetentia* (1984), no. 16.

25. The emerging effect that we describe may be analyzed as the "result of human action, but not of human design," to reuse the title of Friedrich Hayek's ground-breaking article introducing the theory of spontaneous orders. See Friedrich A. Hayek, "Results of Human Action, but Not of Human Design," in *Studies in Philosophy, Politics and Economy* (London: Routledge, 1967), 96–105. However, this does not mean that the emerging effect can be conferred the positive connotation that Hayek refuses for structured orders or organizations of any kind (for which the order is consciously and deliberately designed by those in charge) in order to bestow it on open orders, which are developed spontaneously through the generations based on past experience.

See Friedrich A. Hayek, *The Fatal Conceit: The Errors of Socialism* (London: Routledge, 1988). We will limit our work to the sociological approach based on the concept of *methodological individualism* introduced by Max Weber and developed by Raymond Boudon. See Raymond Boudon, *Effets pervers et ordre social* (Paris: PUF, 1977).

26. Morrisson and Milliken consider that there is organizational silence when "most employees know the truth about certain issues and problems within the organization yet dare not speak that truth to their superiors." See Elizabeth Wolfe Morrison and Frances J. Milliken, "Organizational Silence: A Barrier to Change and Development in a Pluralistic World," *Academy of Management Review* 25, no. 4 (2000): 706–25.

27. Frederick B. Bird and James A. Waters, "The Moral Muteness of Managers," *California Management Review* 32, no. 1 (1989): 73–88.

28. Lynn S. Paine, "Managing for Organizational Integrity," *Harvard Business Review*, March-April (1994): 106–17.

29. Richard E. Moberly, "Sarbanes-Oxley's Structural Model to Encourage Corporate Whlstleblowers," *Brigham Young University Law Review*, no. 2 (2006): 1107–80.

30. Lynn McFall, "Integrity," *Ethics* 98, no. 1 (1987): 5–20, which is used by Mayer, Davis, and Schoorman, "An Integrative Model of Organizational Trust."

31. Aline Giroux, "Aux confins des éthiques, la vertu d'intégrité," *Laval théologique et philosophique* 55, no. 2 (1999): 245–65.

32. Aristotle refers to prudence as practical wisdom to distinguish it from speculative intelligence, or science, the purpose of which is to improve knowledge of beings. For more on prudence, see *Nicomachean Ethics*, Book VI. For an erudite and critical review, see Pierre Aubenque, *La Prudence chez Aristote* (Paris: PUF, 1993). For an analysis of antecedents to the concept of prudence, see Marcel Détienne et Jean-Pierre Vernant, *Les Ruses de l'intelligence* (Paris: Flammarion, 1974). The authors highlight the importance accorded in Greek mythology to *Metis*, a sort of cunningness which enables one to emerge victorious from an inextricable situation by finding the points of reference that indicate the correct path. At first glance, *Metis* would seem to resemble skill, the ability to perform acts to accomplish a given goal (*Nicomachean Ethics*, 1144-a 24), which Aristotle opposes to prudence because skill may be used to serve all ends, regardless of their morality. But it should not be forgotten that prudence requires skill, which is used to achieve moral ends. *Metis* is not therefore inherently immoral, but must be guided by prudence so that cunning means are not used to bypass the correct procedure, but instead to make the pathway as straight as possible to the desired end.

33. For a review of the anthropological view of prudence (the description of man and his actions) as developed by Aristotle in *Nicomachean Ethics*, see Aubenque, *La Prudence chez Aristote*, 106–52. For a review of the anthropological view of human action as developed by Thomas Aquinas in *Summa Theologiae* (Ia IIae Q. 8 to 21), see Etienne Gilson, *Le Thomisme. Introduction à la philosophie de saint Thomas d'Aquin* (Paris: Vrin, 1989), 313–51. See also Servais Pinckaers, "Vue synthétique sur l'analyse thomiste de l'acte humain," in *Thomas d'Aquin, Somme théologique, Les Actes humains*, vol. 1 (Paris: Les Editions du Cerf, 1962), 405–50.

34. Thomas Aquinas developed his ideas on the psychology of prudence (the analysis of how man functions and the faculties he deploys to take action) in *Summa Theologiae* (IIa IIae Q. 47 to 56). He calls imagination *eubulia*, foresight *synesis* (IIa IIae Q. 51) and vigilance *sollicitude* (IIa IIae Q. 47, a. 9).

35. Mayer, Davis, and Schoorman, "An Integrative Model of Organizational Trust."

36. Ben W. Heineman, Jr, "Avoiding Integrity Land Mines," *Harvard Business Review*, Apr (2007): 1–8.

37. Deborah L. Seifert, John T. Sweeney, Jeff Joireman, and John M. Thornton, "The Influence of Organizational Justice on Accountant Whistleblowing," *Accounting, Organizations and Society* 35, no. 7 (2010): 707–17.

38. Wim Vandekerchove, "On the Notion of Organisational Integrity," *Philosophy of Management* 9, no. 1 (2010): 123–34.

39. Peter Verhezen, "Giving Voice in a Culture of Silence. From a Culture of Compliance to a Culture of Integrity," *Journal of Business Ethics* 96, no. 2. (2010): 187–206.

40. Reyes Calderon, Ricardo Pinero, and Dulce M. Redin, "Can Compliance Restart Integrity? Toward a Harmonized Approach: The Example of the Audit Committee," *Business Ethics: A European Review* 27, no. 11 (2018): 195–206.