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Whistleblowing, Virtue and Accountability in an Age of Precarious Employment

Whistleblowing, Virtue, and Accountability in an Age of Precarious Employment

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Introduction

In recent decades there has been a strikingly large increase in the proportion of the workforce employed in casual positions, compared with their more securely-employed colleagues. Australia has been at the forefront of moves towards casualisation, and there has been much discussion here about the impact that being employed more precariously may have on the lives of current employees and on those looking for work.[2] In this paper, we consider some broader implications of casualisation for the community overall. We focus on whistleblowing as one important way of keeping organisations accountable to the community. We examine whether casualisation plausibly leads to a decrease in whistleblowing, and so whether this employment trend undermines organisational accountability by discouraging whistleblowing. The paper also briefly considers the significance for the community if it is thereby deprived of the virtuous behaviour commonly exhibited by whistleblowers.

The actions of whistleblowers in exposing corruption are an important means of maintaining the accountability of organisations to the broader community. While there are various institutional mechanisms designed to keep both public and private organisations accountable to us, whistleblowers' inside knowledge of an organisation enables them to identify and draw attention to organisational wrongdoing that other mechanisms may fail to pick up. Disclosures by high-profile public sector whistleblowers have prompted governments to set up inquiries or royal commissions, which often report problems with the culture of an organisation, and the closing of ranks around those accused of wrongdoing. A common consequence of these findings is a loss of public confidence in the organisations concerned and, sometimes, in the profession to which the wrongdoer belongs.[3] Indeed, many organisations, both public and private, have expressed concern about declining levels of public trust in them. If casualisation does undermine organisational accountability by discouraging the reporting of corrupt behaviour by those who observe it, that would raise new concerns about this employment trend – particularly in a country such as Australia, where casualisation is especially high, and where the reporting of corruption may already be somewhat inhibited by what some whistleblowers call a 'culture of mateship'.

In our discussion we use the term 'whistleblowing' to refer to an employee's disclosure of unethical behaviour by a member of their organisation, to someone (internal or external to the organisation) who is able to take steps to intervene. The term whistleblowing (sometimes called public interest disclosure or ethical informing) is widely used in Australia and internationally. Unlike some, we do not stipulate that whistleblowing only counts as such if done from a particular motivation, such as altruism (rather than, say, resentment). We leave this question fairly open, partly because the empirical studies of whistleblowing we discuss do not rule out disclosures prompted by, for example, resentment of a superior, as genuine instances of whistleblowing. Nevertheless, our later comments about whistleblowing as virtuous behaviour are confined to acts of whistleblowing prompted by morally admirable motives, such as altruism or a sense of professional responsibility. We want to demonstrate that in deterring would-be whistleblowers, casualisation seems to undermine in an important way the accountability of organisations to the community. We also argue that in creating a further situational obstacle to employees reporting workplace corruption, casualisation deprives the community of significant acts of virtue which enrich us all and strengthen community bonds.

As William De Maria argues, whistleblowing is a passionate topic that 'deserves a passionate analysis' (1999, p. xiii). Whistleblowers are regarded by some as heroes, others regard them as idealists, some view whistleblowers as calculating and defensive, and whistleblowers can be considered as the vengeful employee (Lewis, 2001, p. 5).

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Whistleblowing Research and Casualisation

In this section we consider what sort of impact the casualisation of the workforce might have on whistleblowing. It might seem, before looking at the relevant empirical studies, both that casualisation could plausibly be thought to increase whistleblowing, and that casualisation could plausibly be thought to produce a decrease in whistleblowing (supposing, in each case, that the extent of organisational corruption remained constant). Casualisation might increase whistleblowing, as casuals may feel that they have little to lose by reporting corrupt behaviour, if they are not hoping to remain with the organisation anyway. However, casualisation could lead to a decrease in whistleblowing, as casuals might feel reluctant to jeopardise their chances of being retained. So, what can empirical studies of whistleblowing tell us about this question?

Although no empirical studies of whistleblowing seem to examine the impact of casualisation as such, it is reasonable to infer from the available major studies that casualisation most likely leads to a decrease in whistleblowing. Casual status seems to be one of several disincentives to reporting colleagues' wrongdoing. Indeed, the evidence suggests that casual status, or at least, the nature of the employment relationship more generally, may be one of the most important factors in determining whether an employee blows the whistle. A consistent finding in empirical studies of whistleblowing is that those in an insecure employment relationship are less likely to whistleblow than are those who have more secure employment (see eg. Miceli & Near 1984, 1985; Miethe 1999)

Thus, consider what features were found to characterise employees who do not report wrongdoing by colleagues. In a pioneering quantitative study of whistleblowing, Marcia Miceli and Janet Near (1984) analysed responses by 3,614 US public sector employees to a survey asking about employees' reactions to unethical behaviour by colleagues, such as stealing state funds or property, accepting bribes, unfairly favouring certain contractors, or tolerating a practice that endangers public health or safety. They found that these 'inactive observers' are

> likely to be young, high potential, low seniority employees…'fast trackers'… Because their employers could easily replace them, their relative power in the situation was quite low… [and] they may not have wished to jeopardise their good but fragile reputations or begin again to gain favor in other organisations (Miceli & Near 1984, pp. 699-700).

Similar features were found to characterise inactive observers in a major study of whistleblowing in the private sector. That is, Miceli, Near & Schwenk (1991) studied 653 Directors of Internal Auditing employed in the private sector, and found

that 'Persons who observe wrongdoing do not report it when… they earn somewhat lower salaries than persons who report wrongdoing' (pp. 125-6). Inactive observers 'are…not highly committed to their organizations' (p. 128), and 'had lower salary levels' (p. 123).

By contrast, the characteristics and situation of employees who do or would report colleagues' unethical behaviour differed markedly from those of inactive observers. Miceli and Near's large (1984) study of US public sector employees found that whistleblowers tend to have higher levels of pay, seniority, and education than do inactive observers (p. 698). In a subsequent study, these researchers found that whistleblowers typically have more years of service, and higher levels of professional status than do inactive observers (Miceli & Near 1988, pp. 275-6): 'These findings suggest that employees who feel relatively powerful or respected will be more likely to report perceived wrongdoing' (Miceli & Near 1988, pp. 278). Similarly, in his recent book-length survey of empirical research on whistleblowing, Terance Miethe (1999) found that workers employed for over 5 years and in supervisory positions are more likely to report observed wrongdoing. As Miceli and Near (1985, p. 11) put it, 'Whistleblowers are likely to be less dependent on their employers, relative to other employees'. In other words, we can expect 'whistleblowing to occur with greater frequency when employment alternatives are perceived to be available and acceptable than when they are not' (Miceli and Near 1985, p. 9).

What explanations might be offered for these findings? Miceli & Near (1988) suggest that 'newcomers may be reluctant to acquire reputations as "complainers", or they may be less sure that what they have witnessed is considered wrongdoing by the organization' (p. 279). These researchers also hypothesise that those in more senior (and so less likely to be casual) positions may have a greater opportunity to observe wrongdoing (and perhaps especially, more serious wrongdoing). Thus, casuals might not see as much wrongdoing in the first place as may non-casuals, such as employees in continuing positions. Another plausible explanation for these findings is that, far from feeling they have little to lose, many casuals may be working in positions which they hope will become more permanent, and so have an added major disincentive to appear 'troublesome' by reporting on a corrupt colleague. Further, even if negative personal consequences were unlikely (where, for instance, an employee whistleblows anonymously), people who work as casuals may feel less involved in the organisation in the first place, and so may (other things being equal) be less likely to be prompted to blow the whistle by any sense of complicity at failing to prevent avoidable harms perpetrated by a colleague. (We discuss this notion of complicity in more detail later.)

Australian Whistleblowing Studies

We know of no Australian studies that investigate whether there is a relationship between casualisation and whistleblowing. An extensive study of whistleblowers in Queensland found that whistleblowers are 'mostly model employees' who are 'extremely conscientious' and 'highly valued employees' in their organisation. 'They are invariably educated, experienced, efficient, hardworking, honest and perceptive of how their organisation functions' (Commonwealth of Australia 1994, p. 62). The study also found that despite the 'overwhelming personal costs', paradoxically, these people of high moral fibre would do it all again (Commonwealth of Australia 1994, p. 65). But despite the apparent absence here of any large-scale quantitative studies comparable to those in the US, there is much anecdotal information about Australian whistleblowers, who exhibit characteristics which are consistent with the findings of the US studies mentioned above. Jean Lennane, President of Whistleblowers Australia (a national network of whistleblowers and their supporters), explains that, 'whistleblowers are usually above average employees – until they blow the whistle' (2000, p. 5). In the same lecture she later states, '…the majority of whistleblowers these days are very conventional people. They're not dissenters by nature….I have been a little concerned over the last year or so that we are almost respectable and people are wanting to talk to us, which certainly wasn't the case a few years ago. This is both good and bad' (2000, p. 9). Lennane believes that whistleblowers are starting to be viewed as 'worthy people rather than ratbags and trouble-makers'. She adds that it is now possible for people to 'keep their jobs' but says that 'you need a lot of support' (2000, p. 12). A number of studies in Australia and the US have also found that in the overwhelming majority of cases, the whistleblower chooses to make the concern known internally to the correct authority and through proper channels, before going outside the organisation (Dawson 2000, p. 3).

These points are illustrated well by a recent high-profile case. In 2003, Andrew Wilkie, a Senior Transnational Issues Analyst who worked for the Office of National Assessments resigned in protest over the Australian governments handling of the war in Iraq – particularly over the spin about supposed weapons of mass destruction. In his story of the decision to betray his long-standing employer, the Australian government, he explains:

> Blowing the whistle on your government isn't for everyone. It can turn your life upside-down, especially if you were a senior intelligence officer. But it can also leave you remarkably at peace, especially if you're sure of your concerns and self-confident enough to ride the roller-coaster that inevitably ensues.
> (Wilkie 2004, p. 186).

One quantitative study of whistleblowing in Australia worthy of note was undertaken in 2004 by professional services consultant Ernst and Young's Compliance Advisory Practice division in association with the Australian Compliance Institute (Ernst and Young, 2004). The study was a cross-industry examination of whistleblowing policies in Australia, based on 132 respondents with varying levels of seniority in a variety of Australian workplaces. Some of the key findings were as follows: 77% of respondents that worked for organisations with whistleblowing policies believed that management understood the real cost of unethical behaviour; 80% of respondents also believed that staff would be more inclined to notify management of wrongdoings if their report could be provided anonymously; yet on the subject of anonymity, a significant 43% of respondents from organisations which had implemented whistleblowing policies felt that the promise of anonymity could not be relied upon. This study indicates some scepticism amongst Australian employees about the effectiveness of whistleblowing policies and procedures.

Two further factors suggest that organisational accountability is particularly at risk from casualisation in Australia. First, Australia has a relatively high rate of casualisation. Second, many Australian whistleblowers have described a culture of 'mateship' as pervading their organisations, where the act of 'dobbing on a mate' may also be regarded by some as 'unAustralian'. Kim Sawyer argues that, 'in Australia, tightly controlled networks dominate. Mateship, not merit, is often the determinant of acceptability. By blowing the whistle, the whistleblower ceases to be a mate' (2004, p. 15).

Casualisation and Whistleblowing in Higher Education

Our argument can also be illustrated in the case of higher education. There has been a gradual casualisation of a significant proportion of academic positions in higher education, and this could be seen to threaten the accountability of universities through deterring whistleblowing by academics. In the United Kingdom, the Dearing Report (1997) warned of the 'shrinking of the core of permanent academic staff in universities' and the 'concomitant dangers to freedom of speech. For those who are on short-term contracts cannot easily risk speaking out when what they have to say may fall on unwelcoming ears in their institutions' (Evans 1999, p. 117). Evans concludes that in the UK Higher Education system at least, it is those with either 'nothing to lose' or those with a conscience, who decide to blow the whistle; and that 'a whistleblower is [regarded as] dangerous because he cannot easily be "bought off"' (1999, p. 118).

While there have been some prominent cases that attracted media attention,[4] there do not appear to be any large scale studies in Australia that examine the issue of whistleblowing in relation to job security. Brian Martin, who has produced a number of publications examining case studies of

whistleblowers, acknowledges the popular argument that tenure provides a necessary basis for academic freedom. However, he also recognises that the argument which runs counter to this is that academics have diligently learnt *not* to be speak out by the time they finally achieve the often long-awaited status of a continuing position (Martin 2002, p. 8).

It is true that Australian universities have recently started to implement policies relating to the public disclosure of information by staff that is deemed to be in the public interest. However while it might be good in theory for universities to have whistleblowing and whistleblower protection policies, staff who are not convinced that their privacy and rights will be protected and respected, or who feel the University may not take their concerns seriously, may be inclined to leak damaging information outside the organisation. The stories of whistleblowers in Australia's higher education system make for interesting (and sometimes depressing) reading.

As at April 2005, of all Australian universities, only two—Monash University and Victoria University—mentioned whistleblower policies on the front page of their websites. Possible explanations as to why these two universities have chosen to link whistleblower information to the front page of their websites can only be determined by speaking to the individuals who contributed to this process. Certainly, Monash University was the subject of significant media coverage in 2002 when Vice-Chancellor Professor David Robinson resigned from the position following allegations of plagiarism. The Robinson case came to light after a concerned academic blew the whistle internally. Victoria University was also the subject of media coverage in 2004 when it was revealed that ongoing cases of internal financial deception over a period of many years had resulted in around $30 million worth of fraud. The fraud fiasco was also brought to light by a whistleblower. While there is certainly a strong case for all universities in Australia to make prominent the link to their whistleblowing policies if they are going to be seen to be taking this issue seriously, perhaps these two institutions are more aware than some of their role as responsible corporate citizens due to the attention these cases attracted.

Although searching for the correct information on university websites might not always lead to an accurate assessment, currently it appears that less than half of Australia's universities have put in place formal protection for those who decide to come forward and blow the whistle. Possibly the most helpful example of the explanation of the sometimes complex whistleblower policies and procedures has been put in place by the University of Western Sydney where the process is explained with a useful flowchart.

Character and Situational Factors in Whistleblowing

We have argued that, by introducing an additional significant deterrent to the reporting of unethical behaviour, casualisation seems to undermine in an important way the accountability of organisations to the community. What steps could be taken to meet this concern? Should one focus on the character of casual employees failing to report corrupt behaviour, or should one concentrate on the situational barriers to the reporting of such behaviour? An important body of research in social psychology provides substantial evidence that the variations in behaviour displayed by different individuals in a given context are often better explained by minor situational variations than by the assumptions we commonly make about differences in character-traits between those individuals. Summarising this research, John Doris comments that 'Circumstance...often has an extraordinary influence on what people do, whatever sort of character they may *appear* to have' (2002, p. i). A key focus of this research has been the influences on beneficent actions, or helping behaviour, although (somewhat surprisingly) whistleblowing as a type of helping behaviour does not appear to have been the subject of much experimental study by social psychologists interested in the relative influence of character and situation on helping behaviour.

The very existence of whistleblowers could be taken as indicating that character is a powerful determinant of helping actions in that context, as the actions of whistleblowers suggest that at least *some* people have very robust characters in this context, and will expose corrupt practices, at risk of significant situational obstacles and personal cost. However, the empirical research we discussed earlier, comparing whistleblowers and inactive observers, suggested that a variety of situational factors – such as the nature of an employee's position – can help predict whether an individual will report unethical behaviour, and it seems plausible to regard casual status as another significant situational factor here. Thus, a permanent employee and a casual may both have strong altruistic dispositions, but their employment status can lead them to react quite differently to serious wrongdoing in their respective organisations – one will blow the whistle while the other will remain silent. Indeed, in considering much empirical research into whistleblowing, Terance Miethe (1999) says that:

> contrary to claims that whistleblowers are more principled and ethical employees, there are no major differences between whistleblowers and non-whistleblowers on these psychological beliefs... [This] suggests that whistleblowers cannot be adequately explained by reference to the personal characteristics themselves... we must look for other factors to account for the likelihood and type of whistleblowing (pp. 53-4).

Given the role that situational factors can play in determining whether an employee observing unethical behaviour decides to report this, employees with sufficiently strong altruistic dispositions to go through with whistleblowing might be rarer than we perhaps like to think. But, contrary to what some philosophers suggest, this would not undermine the plausibility of taking steps to help employees develop more robust dispositions towards altruistic behaviour. It may, however, tell us that the task of getting people to act virtuously in a whistleblowing situation is harder than it may first appear. It also serves to emphasise the importance of removing various obstacles to altruistic behaviour. And it is natural to see this step as complementing rather than undermining attention to developing more robust dispositions to altruistic behaviour.

There is also a point about complicity which is worth emphasising here. Whistleblowers often say that *not* reporting the wrongdoing they observe in their organisation would lead them to feel (or be) complicit in this wrongdoing. However, being employed as a casual can perhaps make it psychologically easier to 'wash one's hands' of one's colleagues' wrongdoing, because one feels less integrated into the organisation than do more senior employees (who generally seem somewhat less reluctant to blow the whistle). Casual employees may therefore be less likely than other employees to feel complicit in the wrongs perpetrated by their colleagues. In that case, casualisation would deter whistleblowing not only by increasing (or being perceived to increase) the personal risks involved, but also by reducing the likelihood that employees will feel complicit in organisational wrongdoing if they fail to blow the whistle. The complicity point also brings out how the factors determining such helping actions as whistleblowing can depend on a complex interplay of situational factors – such as the nature of the employment relationship and the level of organisational integration – and personal factors – such as the robustness of an individual's altruistic dispositions and the strength of their sense of responsibility to the community.

Another consequence of additional deterrents to whistleblowing is the potential loss of certain moral exemplars, and the effect of this loss on the community. The weight of situational factors is already heavily against those who are inclined to expose workplace corruption. Casualisation 'ups the ante' in the level of self-sacrifice necessary to prevent harms to the community, and so such acts of virtue as whistleblowing become even rarer in a more casualised workforce. (Presumably, situational factors could rise yet further and deter all but moral saints from whistleblowing.) This impoverishes us as a community, by concealing from us people who while perhaps not quite moral saints are nonetheless very virtuous (in that respect). Rothschild and Miethe (1999, p. 119) found that 79% of the 210 US whistleblowers they interviewed said it was their own 'personal values' – their sincere personal belief in the wrongness of the behavior observed – that motivated their reporting it (as distinct from reporting out of fear of being blamed for the wrongdoing

themselves, or out of hostility to management). The actions of whistleblowers are not only reassuring and inspiring, but also strengthen community bonds. People who blow the whistle help others who are often strangers to them, commonly at great personal risk to themselves. Such disinterested altruism strengthens community ties, in a manner comparable to the case of altruistic blood donation (apart from the value of the blood given), which has been much-discussed by sociologists and economists (see eg. Titmuss 1970). (It can also have consequential benefits in inspiring others to whistleblow, as witnessing acts of altruism tends to foster further acts of altruism by others.) This strengthening of community ties is undermined by an unwillingness to whistleblow on observed corruption. Given that workplace corruption is a perennial problem, casualisation deprives us of acts of virtue that enrich us as a community: we are all the poorer, in various ways, if employees turn a blind eye to corruption.

What Measures Could be Taken to Address These Concerns?

If casualisation does undermine organisational accountability through deterring whistleblowing, what sorts of measures might be taken to address this problem? Our arguments might seem to support a complete abolition of casual positions, by legislating to ensure all employees were employed more securely. But while we would support moves to create more secure employment conditions for casual staff in many cases, we think it is neither realistic nor desirable to abolish casual positions altogether. For one thing, some individuals prefer casual to non-casual employment, because they plan to remain with a particular employer for only a short time, or they prefer to maintain some distance from the political issues in a given organisation. (For example, there is evidence that casual employment is not altogether unpopular in the nursing profession: see Underhill 2005)

In any case, some might question whether reversing casualisation is the most appropriate way of maintaining accountability. Taking steps to ensure anonymity for whistleblowers and doing more to protect them from possible retaliation may be regarded by some as more appropriate solutions. However, such measures have not proven to be very effective so far. Empirical studies of whistleblowers and individual case studies suggest that employers could do much more to protect the identities and welfare of whistleblowers in their organisations. Also, whistleblower legislation in Australia has unfortunately taken a long while to come about. What currently exists is some limited protection under the *Public Services Act* for federal government workers. The states and territories have led the way for the federal approach. South Australia was the first state to introduce whistleblower legislation in 1993. The Australian Capital Territory,

Queensland and New South Wales followed in 1994, and Victoria and Tasmania followed some years later. Northern Territory was the last territory to enact legislation while Western Australia has an *Official Corruption Commission Act*. Whistleblower legislation exists in the United Kingdom and New Zealand. James Rose explains that 'Whistleblowers are not encouraged in Australia. There is no federal law' (2004, p. 9). Yet despite legislation, whether at state or federal level, there are very few (if any) instances where the whistleblower has obtained any protection as a result of the existence of these laws. In 2002, the Senate Report began:

> Whistleblowing or public interest disclosure schemes rest on the premise that individuals who make disclosures serve the public interest by assisting in the elimination of fraud, impropriety and waste. An effective whistleblower scheme is a necessary part of maintaining a good public administration framework (Commonwealth of Australia, p.1).

The rights of whistleblowers need to be better protected in the public arena, but particularly in the private arena – where corporate reputations are often held in high esteem by stakeholders. As Grace and Cohen explain, 'In Australia at present there are no explicit protections for whistleblowers in the private sector' (2005, p. 162). Lennane states, '...if you blow the whistle in the private sector, you're out the door that day whereas, in the public sector, owing to various protections for a start, it may take them two or three years to get rid of you – which is not actually good healthwise' (2000, p. 12). However an Australian Standard (AS8004) entitled 'Whistleblower Protection Programs for Entities', released in 2003, is designed to go some way towards protecting whistleblowers (Bowden 2004, p. 4).

Another measure worth considering is reducing incentives for employers to use casual labour in the first place. Multinational corporations are especially concerned about declining levels of public trust in them, and many have begun to look more carefully at their broader social and ethical responsibilities. As BHP Billiton states in their 2004 Guide to Business Conduct '...we care about obtaining good results and equally how those good results are obtained' (BHP Billiton 2004, 3). Multinational corporations may be shown how casualisation could be perceived by the community as undermining accountability. The ethics of an organisation may well be able to be evaluated by how it treats its genuine whistleblowers. Lennane argues, 'If you just use the whistleblowers as the indicator of how the organisation is, whistleblowers should be able to blow the whistle and be OK in their organisation, and, if they're not, there's something wrong' (2000, p. 6). Further, while it is difficult to estimate the cost of fraudulent behaviour to the community, Sawyer recently estimated that the financial cost to Australians could be around $20 billion annually (Rose 2004, p. 9)

Conclusion

We have argued that casualisation is detrimental to the community in two important ways, neither of which have figured prominently in discussions of this employment trend. First, in deterring would-be whistleblowers, casualisation seems to undermine the accountability of organisations to the community. This is a loss to us all, not only to the casual employee themselves. By creating more jobs with insecure conditions, we make ourselves as a community less secure, by undermining the accountability of organisations to us. In other words, creating more precarious employment makes us *all* more precarious as a community. Second, in creating a further incentive for individuals to overlook workplace corruption, casualisation deprives the community of significant acts of virtue which enrich us all and strengthen community bonds. Gerald Vinten argues that the way a society treats its whistleblowers may be a measure for how 'genuinely ethical and civilised' that society is (1994, p. 19). Ironically, the brave and ethical who carefully weigh up their options and decide to 'blow the whistle' often find that they move from a secure employment position to a more precarious future.[4]

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Notes

[1] Of course, there may be – for various reasons – some precariousness about the positions of contract and continuing staff within an organisation, and conversely, casuals who are continually re-employed by the same organisation may not *feel* especially precarious in their positions; but casual staff,nonetheless,represent a key example of precarious employment.

[2] A good example of this is the significant drop in public confidence in the UK medical profession and the National Health Service after the scandal concerning paediatric heart surgery at the Bristol Royal Infirmary in the 1990s. See the Bristol Inquiry (2001).

[3] Including Ted Steele (University of Wollongong), Sydney Orr (University of Tasmania), Clyde Manwell (Adelaide University), Jeremy Evans (Australian National University), Frank Knopfelmacher (University of Melbourne), Michael Spautz (University of Newcastle), David Rindos (University of Western Australia), and Bruce Hall and Margaret Love (both from University of New South Wales), to name a few of the cases examined by Brian Martin and others.

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