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Whistleblowing and Complicity in Normative Theorizing on Political Corruption

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Abstract
In their work "Political Corruption: The Internal Enemy of Public Institutions," Ceva and Ferretti defend a conception of corruption as a breach of the duty of accountability for officeholders. I address two key aspects of their proposal. First, I contend that whistleblowing disclosures should be limited to acts of last resort, rather than as a common practice of ensuring answerability. Second, I argue that their account does not adequately distinguish between degrees of involvement in corrupt activities. Within hierarchical organizations, not all officeholders possess the same capacity and power to counteract unjust practices. Different contributory roles entail varying degrees of responsibility within the normative structure of answerability defended by the authors.

Keywords
Whistleblowing, complicity, many hands problem, degrees on institutional responsibility, practices of answerability

Introduction

In *Political Corruption. The Internal Enemy of Public Institutions*, Ceva and Ferretti defend an original and sophisticated account of corruption as a violation of the officeholders' duty of accountability. Their normative perspective insists on evaluating

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corruption from the point of view of the practices of answerability for conduct officeholders are engaged in as part of their institutional role. Within this practice of answerability, the authors identify a distinctive moral duty of office accountability. A distinctive feature of this view lies in the distinction between two aspects of the officeholders' responsibility for anticorruption: The positive first-person duty the officeholder has to respond to their conduct, which requires engaging "practices of answerability" for the various kinds of responsibilities they have against charges of corruption.

Along with it, they envisage a second personal duty "to engage in practices of reciprocal control of their institutional action." (Ceva and Ferretti, 2021: 184) This second duty is part of what is required of officeholders to be vigilant of their fellows' conduct.

In the last part of the book, these two aspects merge in the discussion of corruption detection, specifically in the analysis of whistleblowing. As the authors define it, whistleblowing is "the practice of reporting some alleged organizational wrongdoing by the member of an organization who has access to information concerning such wrongdoing" (2021: 184). While it is often considered a conscientious act of reporting wrongdoing, the authors believe that its role is crucial within practices involving public offices. It is, indeed, "an ordinary institutional practice of answerability that calls officeholders to answer for their conduct when a deficit of office is suspected" (2021: 186) and thus can integrate the standard view of whistleblowing as an act of last resort.

The justification for a more comprehensive view of the practice of whistleblowing lies in another intrinsic element of institutional practices, their being prone to corruption and deficits of accountability. Whistleblowers have, in this regard, a privileged role of "insiders" (2021: 187) by having access to information that would otherwise be kept secret and thus can contribute to exposing wrongdoing. Moreover, since blowing the whistle usually initiates a process of investigation, it sustains practices of answerability that officeholders should contribute to as part of their public duty.

The argument defended in the book is both deontological (it insists on the duty, rather than the right of blowing the whistle) and interactive (such duty is not strictly one of speaking the truth, but of holding each other, *qua* officeholders, accountable for the wrongdoing). Given these premises, it is just another step to conclude that these standard practices of official accountability are not just permissible but obligatory (2021: 188).

I agree with the general picture defended in the book, and I find this work the most convincing philosophical account to date on political corruption. My perplexities are rather limited to the scope of the view, not its internal coherence.

In particular, I want to elaborate on two interrelated aspects of their account. The first aspect concerns how fitting whistleblowing is as a standard practice of answerability.

Whistleblowing as a practice of answerability

A standard practice, on their account, requires that each member of an organization takes up the duty of answering to their conduct in virtue of their role within said organization. Since acts of whistleblowing are rather extraordinary, making them "ordinary" implies that every member should be ready to blow the whistle if they come across serious wrongdoing (I am assuming that minor wrongs are excluded from this process). Here they seem

to insist on the idea that extraordinary acts of professional or civic courage should, in fact, be protected under safeguard procedures, clear guidelines that take into account possible counter-effects, and thus, under this protective umbrella, every officeholder should not only be permitted but an obligation to blow the whistle. There are two standard cases here to blow the whistle: Internally, if said procedures are in place, or externally, if they do not, or if circumstances do not allow addressing the wrongdoing through proper internal channels first.

The view is normatively coherent but rests—in my understanding—on an account of the notions of practice and circumstances that invite more elaboration. A feature of any ordinary practice is the rational expectation that others will behave according to a shared norm of conduct. If whistleblowing is to be treated (or integrated) into a practice of answerability, we should conceive of it along these terms as one among the other demands of answering for one's action.

My first doubt is that whistleblowing can hardly fit into a practice of such a kind. For one thing, the object of an act of whistleblowing is to disclose wrongdoing, and that alone would suffice to fulfill its normative requirement (say, discharge one's duty). We can, of course, have a more comprehensive view of whistleblowing as a practice that *also* advances demands to answer for wrongdoing, but this second requirement does not necessarily rest with the whistleblower. A whistleblower may signal[1] a purported wrongdoing even without having full knowledge of the illicit nature of the facts disclosed, and yet offering them to the public for open scrutiny. In some cases, it could disclose information that it is wrong to disclose, such as in the case of national security disclosures. Paradoxically, on the interactive-based account defended by Ceva and Ferretti, the very act of blowing the whistle on legally classified information would constitute a violation of a duty of office.

Of course, not all acts of whistleblowing count as a dutiful act of office responsibility, and I am not implying that the authors are committed to this view. However, they are committed to the related claim that all acts (or the practice itself) of whistleblowing should be judged from the standpoint of the duty of office. This view restricts the legitimacy of disclosures to the scope of the organizational *raison d'être*, thus leaving outside crucial instances of whistleblowing that seek justice in the name of public interest. This is especially the case of external disclosures of public sector agencies motivated by political reasons when they appeal to the general public to *reveal* wrongdoing or even the illicitness of the very institutional *raison d'être.*

Moreover, an ordinary practice of such a kind does not look like a demand of answerability in the second person but a third personal practice involving independent bodies in charge of investigation, assessment, and decision.

For another, I find the idea that such a practice should be 'ordinary' problematic. Under one understanding of the ordinary, the idea seems to be that every officeholder involved in an organization should be ready to blow the whistle, and the whistle to be blown on them if they come across wrongdoing or are responsible for it. Leaving aside the well-known criticism of the idea that such an environment might turn a practice of answerability into one of suspicion, the doubt is that blowing the whistle is not extraordinary because it requires great effort at high personal risk (in this first sense, this is

extraordinary because we do not expect from people to do this on a recurrent basis), but also because the circumstances invoking it are extraordinary. That whistleblowing should not be conceived as an ordinary practice is a requirement of feasibility. If it were, one should conclude that circumstances of pervasive and serious wrongdoing are so common that the institution is beyond repair. At that point, no minimal conditions for office accountability would seem to hold. An organization of such a kind, tainted with such wrongdoing, could not discharge its function properly.

On a different understanding of "ordinary," we might say that the *access* to whistleblowing procedures should be ordinary, that is, implement readily available and sufficiently protected channels to incentivize reporting of wrongdoing. But access to those channels does not equate to engaging in an ordinary whistleblowing practice. This second reading of "ordinary" seems correct and corresponds to general, yet insufficient, attention from lawmakers on this subject. Yet, under this reading, whistleblowing cannot be a practice on par with others to report violations and wrongdoing (in this sense cannot be "ordinary"). Other procedures should be exhausted, especially when the information disclosed is inconclusive, before resorting to it. Since blowing the whistle occurs in an environment of distrust, and anonymity is often guaranteed, it hardly fits with other, more conventional measures. In this sense, it is an act of "last resort," at least within a sufficiently healthy organization, because it might have a weightier impact on both the accuser and the accused.

There is a more general point to this discussion that I want to briefly mention: The notion of a practice has a dual nature, one descriptive—in the sense of referring to a factual occurrence of norm-regulated behavior—and one normative—in the sense of a description of how agents would behave under given idealized norms. In the first sense, a practice can help to identify which constraints a normative practice of institutional answerability should fulfill to count a feasible model of institutional design. Ceva and Ferretti provide an insightful understanding of how a normative model (of interactive justice) can serve to design non-ideal institutions. I doubt that whistleblowing cannot perform the capacious role they assign to it because it would not fit into a common understanding of how non-ideal institution works, including a baseline of trust that normalizing acts of last resort would taint. In this sense, the idea of whistleblowing as a common practice of office accountability rests in tension with the non-ideal setting in which they situate their analysis. Feasibility constraints limit the ordinary resort to whistleblowing disclosures, which should be rather confined to last attempts and, although strongly protected, remain a remedial—not ordinary—practice.

To conclude on this point, I wonder whether a more articulated understanding of whistleblowing practices (in the plural) can accommodate cases that span from political dissent to exposure of corruption since not all conditions for the permissibility of disclosure under the former are met under the latter. I also wonder whether the variety of these practices also suggests that the justification of whistleblowing rests on a plurality of reasons, sometimes based on deontological principles and sometimes consequentialist considerations. For instance, the deontological approach rules out acts of whistleblowing motivated by reasons other than the duty of office, such as financial incentives in the

so-called *qui tam* actions, which yet uphold the purpose of the institution in virtue of their effectiveness in exposing fraud.[2]

Complicity and the "many hands" problem

The book does not explicitly address the role of complicity in political corruption, but the discussion in Chapters 2 and 4 provides several insights on the account of responsibility Ceva and Ferretti defend. The authors deny that a corrupt institutional practice is reducible to a matter of complicity (2021: 149). The matter becomes more clear in the interesting discussion of the "many hands" problem within the context of systemic corruption. The "many hands" problem arises when responsibility for the outcome of a collective action cannot be traced back to the individual responsibility of the agents involved.[3] Cases of this sort vary from man-caused natural disasters such as the Deep Horizon drilling rig in 2010[4] to cases of widespread institutional corruption, such as the Berlin Brandenburg Willy Brandt Airport described by Ceva and Ferretti (2021: 71–77).

The "many hands" problem can be formulated in causal and moral terms. Given the difficulty of tracing back the outcome to the individual contributory role of each agent involved, the attempt is to establish the moral responsibility for collective actions of this sort independently of the causal responsibility. Ceva and Ferretti argue that this is, in fact, the case. According to their approach, to establish individual moral responsibility, "it is sufficient to indicate that officeholders participated in a practice that fails to uphold office accountability" (2021: 136–137).

Here they bring another example of a newly appointed professor who refuses to be involved in investigating favoritism in the university hiring practices because he was not directly involved in the procedure under investigation.

According to them, interactive justice requires one to assume moral responsibility "even if he did not contribute to establish [the practice]" (2021: 138). Why is it so? Because of his new role as a member of the institution, he is part of an institution that has failed to live up to its standard of academic integrity. Notice that they not only require the professor to assume prospective responsibility (we agree) but retrospective responsibility for the practice of an institution he was not part of until recently.

I find this puzzling for two reasons. First, the "many hands" problem does not amount to exclude causal responsibility from the account of who is morally responsible for a bad outcome. It questions the possibility of tracing back collective responsibility to individual actors. But this difficulty does not rule out causal responsibility as a condition for attributing moral responsibility. The "many hands" problem highlights the fact that the attribution of moral responsibility does not rest on the possibility of tracing back a causal path to the outcome, but this claim does not imply that a causal path is irrelevant to establish it.

The second reason I find puzzling is what should count as *participa*ting in practice. An actor can be a passive participant in corrupt practice and do nothing even when she is aware of what's going on. She can also be unaware of what's happening but could have done something to be informed. In both cases, it is the capacity of a rational and responsible officeholder to act toward addressing the wrong. But the view the authors

defend is stronger than this. Their formulation is so broad as to include officeholders who not only are causally unrelated to the outcome in question but who *could not have done* anything to object to that corrupt practice because they were not part of it. Here the boundaries of institutional responsibility start to get blurry. I agree that direct causal contribution may not be necessary to attribute moral responsibility, but the contributory role of an agent also includes forms of counterfactual responsibility for actions she could have performed. I believe the attribution of retrospective responsibility must rest on such a precondition.

A consequence of dispelling the role of causal responsibility (in the broad sense I just qualified) is that we cannot distinguish between degrees of complicity in corrupt practices. For instance, the authors argue that " … any individual officeholder who partakes in a corrupt system can be held morally responsible for that interactive injustice irrespectively of the size, quality, and impact of her individual contributions to the wrong deriving from the joint work of 'many hands' (2021: 160, emphasis mine)."

I find this view problematic because complex organizational structures are hierarchical, and not every act participating in the role of an officeholder has an equal capacity and power to counteract practices that she may find unjust. Thinking the contrary would be counter-intuitive, in my opinion.

Conclusion

To conclude, I would like to return to the first point I discussed. The debate around the degree of responsibility of officeholders shows an interesting connection with the early discussion on whistleblowing. Here the authors refer just in passing to the idea that whistleblowing can also be viewed as an act of disassociation from corrupt practices aimed at preserving personal integrity (p. 186, ft). Ceva and Ferretti clearly distinguish their view from these "self-centered" accounts. I question whether the integrity view has something to say about those very institutional practices so tainted with corruption that the only option is to opt-out. I agree that dissociating oneself from a corrupt practice may be, in some cases, a way to escape one's responsibility (retrospective and prospective) as a member of that practice. But sometimes, it is the only way to live up to personal moral standards when institutions cannot be reformed.

Political Corruption is a remarkable book. It is clear, wonderfully argued, and a landmark contribution to the literature on political corruption. It is a worthy addition to any reader's bookshelf, even beyond the academic circles. In these brief comments, I raised some issues around the role of whistleblowing and the account of responsibility Ceva and Ferretti defend in the book. Many more issues could be discussed, which testify to its intellectual richness and the opportunity the authors offer for reflection and analysis.

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Notes

1. The original coin of the term, both in English and in French (*lanceur d'alerte*), refers to the act of signaling an infraction or danger.
2. See National Whistleblowing Center. False Claims Act (Qui Tam) Whistleblower FAQ. Available at: https://www.whistleblowers.org/faq/false-claims-act-qui-tam/. (accessed 20 March 2023).
3. "Because many different officials contribute in many ways to decisions and policies of government, it is difficult even in principle to identify who is morally responsible for political outcomes" (Thompson, 1980: 905).
4. See van de Poel et al. (2015: 1–5).

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