Sebastian Starystach and Kristina Höly

Silence and Deviance in Organizations

Abstract Our contribution analytically differentiates between individual and organizational deviance on the one hand and individual and organizational silence on the other. The combination of both analytical categorizations offers the possibility of building archetypes or idealtypes as to how silence and wrongdoing can be interconnected. Based on this heuristic, we analyze the case of the "German Transplant Scandal". The analysis supports our assumption that it is central to understand silence in organizations not as isolated but always in the context of the kind of wrongdoings it covers up. The case analysis shows that the informal norms which structured the organizational deviance also influenced the corresponding dynamic of silence. Against this background, we argue that the current research focusses too heavily on identifying case independent factors with the help of quantitative research designs and that a qualitative case perspective is needed to understand more deeply the phenomenon of silence in organizations.

Keywords organizational silence, organizational deviance, hospital, White Wall of Silence, informal norms

Starystach, Sebastian, and Höly, Kristina: Silence and Deviance in Organizations, in: Starystach, Sebastian and Kristina Höly (eds.) (2021): Silence of Organizations: How Organizations Cover up Wrongdoings, Heidelberg: heiBOOKS, S. 69–84.
https://doi.org/10.11588/heibooks.592.c11617

Introduction

Despite increasing legal regulation of organizations in almost all areas of society, the scandals are not abating. Whether it is child abuse in the Catholic Church, the VW Diesel scandal, maltreatment in the military, manipulations of transplant lists or patient killings in hospitals—the responsible organizations are silent, look away, cover up. Only few members of the respective organization in question try to actively prevent the wrongdoing. Instead, it is more a norm than the exception that wrongdoings are swept under the carpet. Only in the face of overwhelming evidence and public outcry do the Catholic Church, the militaries, automobile manufacturers, and hospitals hesitantly begin to address these problems directly. Apart from the immense damage to the victims, organizations often also harm themselves through this behavior. The consequences range from the extensive loss of social trust to state sanctions, threatening the very existence of the organization.

However, no organization can stick to all rules all the time, without collapsing. Organizations and their members must walk a fine line between useful illegal behavior (Luhmann 1964), necessary to attain the organizational goals, and external societal norms and state law, necessary to obtain legitimacy. As a result, deviant behavior is to a certain extent a necessary evil in organizations (Kühl 2020) and therefore, some forms of covering up, tabooing or silence, are also a normal part of organizations. Organizational silence answers to the dilemma that on the one hand, rule-breaking is necessary to achieve even mundane organizational goals, but on the other hand, cannot be addressed or admitted openly without endangering the legitimacy of the respective organization.

Moreover, although doing something illegal or morally reprehensible typically goes hand in hand with keeping quiet about these ongoings, perpetrators are often not the only members of the organization who keep silent. Take, for instance, the case of child abuse in the Catholic Church: priests who regularly molested children were covered by high church officials who did not directly take part in any form of abuse (Doyle 2017). This points to the fact that silence and crime in organizations refer to one another, but are two distinct forms of organizational behavior.

Against this background, the question arises as to why deviant behavior is protected by mechanisms of silence, which is morally reprehensible or not even useful for the respective organization. And why do members who are not directly involved in crimes in organizations protect the perpetrators by covering up the wrongdoing? Therefore, it seems to be paramount to understand how organizations develop such forms of self-regulation which are characterized by covering up even the most excessive forms of deviance.

To address this issue, we will provide a conceptual framework on how to categorize silence in organizations in reference to deviance in organizations, with the main goal of instructing empirical analysis. Based on the example of the "German Transplant Scandal", we show that it is, from a sociological point of view, central to

understand silence in organizations not as isolated but always in the context of the wrongdoings it covers up.

1 State of Research

Organizations in all areas of society are affected by cover-up dynamics, which in turn has stimulated an extensive interdisciplinary and international research interest. Under the umbrella term "Wall of Silence", silence in organizations has been researched for decades. Phenomena like the "White Wall of Silence" in hospitals (Gibson and Singh 2003) and the "Blue Wall of Silence" of the police (Chin and Wells 1998, Kleinig 2001, Benoit and Dubra 2004, Rothwell and Baldwin 2007, Nolan 2009, Conway and Westmarland in this volume) are especially thoroughly investigated. To explain these phenomena, reference is made to perpetrator biographies (Beine 2009), their environment or a "sick system" that silences organization members (cf. Gibson and Singh 2003, Beine and Turczynski 2017). In this vein of thinking, silence in organizations is the outcome of employee silence, i.e. the absence of voice behavior, which can have a plethora of reasons or motives (Brinsfield 2013). Here, silence in organizations is understood as an organizational climate of silence, the extent of the existence or absence of "speaking up norms".

Although in principle, with the term "Organizational Silence" (Morrison and Milliken 2000, Knoll and van Dick 2013, Knoll in this volume, among others) a genuinely organizational approach to the topic was created and structural factors were thus also considered as important influencing factors for cover-up dynamics. This research is characterized by the dominance of psychological approaches. In this view, silence in organizations is regularly considered as the outcome of aggregated individual behavior based on personality traits, beliefs, and perceptions. To explain organizational behavior, this strain of research concentrates on factors like beliefs concerning the effectiveness of voice, forms of detachment, perceptions of powerlessness or dynamics of loyalty, the MUM-effect, etc. In addition, contextual factors are taken into account to explain silence in organizations, such as a climate of fear and distrust, an instrumental organizational climate, the deaf ear syndrome, and spirals of silence (Blackman and Sadler-Smith 2009, Whiting et al. 2012, Brinsfield 2013, Knoll and van Dick 2013, Mannion and Davies 2015, among others).

Despite all these advances in understanding, why employees keep silent and how a climate of silence is formed, we argue that a key for understanding this phenomenon from a sociological standpoint lies in understanding the dynamics and structural effects of subcultures and informal norms. The formation of subcultures that operate based on tacit agreements and informal norms are already known contributing factors to explain the extent of silence in organizations (Muehlheusser and Roider 2008). The main research interest from a sociological perspective lies in trying to find answers to the following questions: How do they develop and how are

they reproduced in the organizational setting? We believe that part of the answers to these questions is rooted in the commonly shared, underlying informal structures of silence *and* wrongdoing in organizations and the effects of their interconnectedness.

2 Conceptual Framework

Rule-breaking, deviance and (petty) wrongdoing are ubiquitous in organizations. No organization can stick to all formal requirements and at the same time fulfill their operative goals (Kühl 2020). This is why "service by the book" is easily capable of paralyzing organizations. Therefore, organizations are necessarily and to a large extent characterized by informal structures and useful illegality (Luhmann 1964, Pohlmann et al. 2016, Kühl 2020). This is, for instance, the case when organizational members of a multinational organization bribe a public official to win a contract. However, wrongdoing can also benefit individual members of the organization. This is the case for the public official who requests a bribe. In this case, the organization is instrumentalized by the member(s), and the organization becomes their prey. Against this background, there is a well-established differentiation between (a) individual deviance which serves particularistic interests at the cost of the organization and (b) organizational deviance which serves the (shared) interest of the organization (Pinto et al. 2008, Pohlmann et al. 2016). Although there are regularly cases which fit into both categories, the distinction between both types proved to be a productive framework for empirical research (Pohlmann et al. 2016). We propose that the current research concerning silence in organizations would profit from a similar differentiation between (a) individual silence and (b) organizational silence.

a) In the case of individual silence, the members of the organization decide on their own or are forced to stay silent about wrongdoings in or by an organization; mainly to protect themselves from retaliation. The current research is primarily concerned with this type of silence. The focus lies on personality traits or contextual factors which make speaking up a poor option for each member of the organization individually. Not speaking up is in this perspective regularly an individual rational choice.
b) However, organizational silence focusses on cases in which the actions of the organizational members are based on shared norms for the benefit of the organization. This type of silence is mostly researched when it comes to professional walls of silence, for example of policeman and physicians. Like in the case of organizational deviance, acting towards the common good of protecting the organization requires at least a partly shared frame of reference (Starystach 2018), a system of informal norms, and an organizational subculture in which

these norms are reproduced. These systems provide an overarching structure of meaning and enable deviant behavior and their cover-up. The aim of the framework lies in differentiating different combinations of deviance and silence.

		Silence in Organizations	
		Individual	**Organizational**
Deviance in Organizations	**Individual**	Workplace Harassment	Child Abuse in the Catholic Church
	Organizational	Exploitative Working Conditions in Low-wage Sectors	VW Diesel Scandal

Table 1 Deviance and Silence in Organizations

To grasp individual silence, you can take the case of workplace harassment. Unwanted sexual advancements of a colleague to another do not serve the benefit of the organization but satisfy the desires of the perpetrator. Typically, these forms of harassment do not come to light due to a climate of silence, in which victims of such behavior are not heard (deaf-ear syndrome) (Hershcovis et al. 2021). There might be some fringe benefit to the organization, but in most cases, it depends on power structures in organizations, due to which perpetrators cannot be prosecuted internally, i.e. they acquired a certain position (Hartmann-Tews in this volume). Individuals not speaking up or helping is to be understood as not wanting to be involved. There is not an organized effort of covering up for the perpetrator, rather the climate of silence prevents the victim as well as other individuals from speaking up. Therefore, the transgression as well as the silence can be explained by personality traits and context factors, such as opportunity structures and a climate of silence.

However, there are very similar phenomena of transgression, but they are deeply connected with a form of silence which is decisively protecting the organization. The child abuse in the Catholic Church is a prime example of this. The perpetrators again use their position of power to gain personal benefits, in this case of a sexual nature. The covering up on the other hand focusses primarily on protecting the perpetrators to prevent the de-legitimation of the Catholic Church. In this case, the abuse can be explained in terms of personality traits and context factors, but the organizational silence is based in the norm of eternal servitude to the goals of the Catholic Church. This creates a climate of silence, but its main purpose is to protect the organization. In other words, it is normalized and rationalized by appealing to a higher goal. The main result is that organizational members do not only keep silent but some of them also actively protect the perpetrator and help them to get away with their transgression (Dölling in this volume; Pohlmann in this volume).

We can further differentiate this analytical approach by looking at cases in which the transgression benefits the goal of the organization, but the silence is in-

dividualized. A good example for this are exploitive working conditions which violate state set standards for good work. In this case, the transgression benefits the company by reducing manufacturing costs. However, the reasons why employees do not speak up against this are mostly due to a climate of fear induced by the management. The problem is individualized and efforts of joint representation of interests via unions are prevented. Therefore, the silence of the employees can be explained via personality traits and context factors, while the transgression consists of an informal rule set of the management with the goal of improving the return on investment at all costs. The silencing of the employees is in this case part of the wrongdoing.

From a sociological perspective, a very interesting combination is when both the transgression and the silence benefit the organization and rely on an informal understanding of a common good. Take, for instance, the recent VW Diesel Scandal. Here, the invention and proliferation of defeat devices were for the benefit of the company and relied on a shared corporate identity. In addition, also the attempts of covering up were not mainly undertaken to protect the organizational members but to protect Volkswagen from prosecution. In this constellation, both the transgression as well as the covering up appealed to the higher value of the organization. Unlike in the case of poor working conditions, employees who kept silent were not victims of the wrongdoing and kept silent to keep the wrongdoing going for the sake of the company (Pohlmann and Klinkhammer 2018).

Of course, all these cases are archetypes, in reality, such a strict analytical differentiation can never be made. For instance, in the VW Diesel Scandal, many workers kept silent, not because they were acting for the company but rather because they were afraid of the management, especially in the Volkswagen case. Volkswagen was famous for its notoriously strong grip on management (Pohlmann and Klinkhammer 2018).

But what these archetypes show is that the key to understanding the role of informal rules to explain certain forms of silence in organizations lies in the understanding of the standards of justification and legitimation to cover up wrongdoings and if they also contribute to the justification of the transgression to be covered up. Therefore, the framework helps to understand which explanatory factors are relevant, by first understanding the underlying standards of justification.

To show the usefulness of focusing on the standards of justification and legitimation, we take the example of the "German Transplant Scandal" and ask what the informal standards which led to the manipulation of transplant lists are and how are these also connected to the corresponding covering-up dynamic.

3 Methodology of the Case-Analysis

This analysis draws on data collected and analyzed as part of a larger research project at Heidelberg University led by Prof. Pohlmann, Prof. Dannecker, Prof. Dölling, and Prof. Hermann in 2013–2017. The "German Transplant Scandal" is not to be understood as one single case but rather as a complex of several cases that occurred often in a similar systematic way in various transplant centers in Germany. The research question at that time focused on the background of rule deviations and to which extent these deviations could be classified as organizational deviance. To answer this question, structural data were systematically collected and quantitatively analyzed. This was supplemented by systematic qualitative research and a collective mindset analysis (CMA; see Pohlmann et al. 2014) of interviews with physicians, nursing staff, administrative staff, and lawyers, as well as organizational case studies and participant observations. However, although the question of silence in organizations was not the focus of the research conducted, both the structural data and in particular the interviews provided the opportunity to conduct initial exploratory analysis on reconstructing interpretative frames of silence and corresponding standards of justification and legitimation.

With the help of the guiding questions below, we aim to make our theoretical approach empirically concrete and show which organizational factors are in effect. It is important to emphasize that we do not reconstruct organizational factors as formal structures of the organization. Rather we understand them as collective norms of interpretation and action which can influence the actions of organizational subcultures and are therefore central to the analysis of different forms of deviance and silence in organizations. First, we investigate the structure of conduct to reconstruct the wrongdoing as well as the cover-up in an analytical manner, to be able to differentiate between both. Secondly, we uncover contextual factors which facilitated both the wrongdoing and the cover-up dynamic. Thirdly, we want to understand what the standards of justification and legitimation of the wrongdoing were on the one hand and the cover-up on the other and how they are interconnected. For illustration of the interconnectedness, a few particularly striking passages from the empirical material are cited and corresponding interpretative frames and rules of action are formulated.

Levels of Analysis	
Structure of Conduct	Which types of actors are involved in the wrongdoing and the cover-up and how were their actions structured?
Contextual Factors	On which organizational structures or environmental factors did the wrongdoing and the cover-up rely on?
Standards of Justification and Legitimation	What (collectively shared) norms of interpretation and action underlie the wrongdoing and the cover-up dynamic?

Table 2 Research Approach

Given our existing prior research on the structure of the wrongdoing concerning the "German Transplant Scandal" (Pohlmann and Höly 2017, Pohlmann 2018), the focus of this article will be on investigating the corresponding dynamics of silence.

4 Case Analysis: The "German Transplant Scandal"

In 2013, Dr. Aiman O., then senior physician in transplant surgery at the University Medical Center Göttingen, was accused by the public prosecutor's office in Braunschweig of bodily harm with fatal consequences in three cases, and of attempted homicide in 11 cases (LG Göttingen 2015). The accusation was that he had manipulated medical data to accelerate his patients' liver organ allocation, and thereby violated the allocation guidelines of the German Medical Association. For example, Aiman O. was accused of having reported incorrectly on the use of dialysis therapy, on data of the alcohol waiting period, on the size of carcinomas, and additionally of having manipulated blood tests—all with the intention, as can be read in the revision of the judgment, to increase his patients' prospects of organ allocation (BGH 2017, 8f.). He was therefore accused of attempted homicide because other patients were displaced on the waiting list due to the manipulations and thus had to wait longer for the vitally important organ. On May, 6th 2015, Aiman O. was acquitted by the district court of Göttingen for factual and legal reasons (LG Göttingen 2015, 18ff. and 22ff.) and this judgment was confirmed on June, 28th 2017 by the German Federal Court of Justice (BGH 2017).

This case is one of the most prominent cases in the "German Transplant Scandal" that went public in 2012, as Aiman O. became the first physician to be officially prosecuted. However, comprehensive investigations by the examination und surveillance commission *(Prüfungs- und Überwachungskommission)* of the German Medical Association have shown that the manipulations in Göttingen were not isolated incidents. Instead, the nature and scope of the acts gave reasonable grounds to believe, according to the examination and surveillance commission, that systematic violations were taking place at several centers throughout Germany (see annual reports of the *Prüfungs- und Überwachungskommission* beginning in 2013). In this context, both judicial assessment and our own research have shown that explanations of the acts that focus on individual enrichment fall short (BGH 2017, 10). Moreover, the unwritten norms of interpretation and action, which were used to justify and explain deviance, turned out to be shaped by the medical profession itself. Although they could be reconstructed as organizationally contributory, they appeared to be shaped in particular by medical competition, by medical professional authority, by the professional ethos, and the claim to the mandate for autonomous problem solving. Even with a general rejection of the manipulations, rationalizations took place among the interview partners that foregrounded the medical benefit and medical context of the deviations and provided professionally oriented and ethical reasons

for legitimacy. This professionally justified form of deviance can therefore be described as "professional deviance" (see Pohlmann and Höly 2017, Pohlmann 2018).

Although neither in all nor in the majority of transplant centers in Germany the guidelines of the German Medical Association have been violated, it also became apparent in the course of the (judicial) reappraisal as well as in our research that the violations cannot be said to be accidental or negligent individual acts (see Pohlmann and Höly 2017, Pohlmann 2018). Instead, the frequency of the incidents (per center with violations), bundled with their complexity, give us reasonable grounds to believe that many actors in the respective transplant centers were involved, or at least were aware of the guideline violations (Pohlmann and Höly 2017, 198).

This becomes even more obvious when one considers the organizational complexity surrounding transplant coordination, administration, and documentation which requires the involvement of multiple actors. Primarily medical staff is involved, such as transplant surgeons who direct the procedure, but also anesthetists and assistant physicians. Auxiliary staff, such as transplant coordinators, their assistants as well as nursing staff and others also take on important tasks by maintaining contact with the relatives, for example, and regularly complying with the bureaucratic requirements for patient listing. It is thus common for patient files to pass through several hands and to be reviewed numerous times before a report to Eurotransplant is made. However, in the context of the investigation surrounding the manipulations in transplant medicine, investigators have reported on the following experience with regard to witness interviews:

> "You will hardly find a nurse, or an anesthesiologist, who has been present and who gives you a clear statement. (...) When they come into the main trial (...) then everything is being relativized, then everything is withdrawn somehow. (...) So, if you only rely on verbal statements, so on testimonies, then you are lost."

The quotation suggests that there were dynamics of silence or concealment at work here, which resulted in a "White Wall of Silence" in the course of the criminal prosecution. There are already explanations for this form of silence in literature, which seems to be the result of individual (fear-guided) calculations.

However, we are interested in the silence before the effects of possible criminal prosecution came into play: the (judicial) review of the manipulation cases has shown that, in addition to the defendant, several others at least knew about the manipulation cases or had to tolerate them so that they could take place to the extent that they were judicially proven in Göttingen. How was it possible, nevertheless, in several centers to repeatedly, even systematically, violate the allocation guidelines of the German Medical Association?

Hierarchical effects certainly play a significant role here. The transplant process is embedded in the organizational structure of hospitals where usually clear relationships of superiority and subordination come into play. Hierarchies not only become valid along the official authority but particularly also along the medical

professional authority (see Wilkesmann and Jang-Bormann 2015, 227ff., Vogd 2017). This especially becomes relevant in transplant centers, as they work in a (former) pioneer field of medicine. Thus, the behavior of subordinate personnel prior to prosecution was possibly influenced by obedience to superiors as well. It is conceivable that people did not go public with potential suspicions for fear of losing their jobs or in order to protect themselves from prosecution. Against the background of our conceptual framework, silence could thus be explained as a form of *individual silence* whose causes are possibly rooted in a climate of fear.

Explanations that focus on the goals of the organization can also be mentioned here. Thus, for the context "hospital", the well-being of patients is considered to be the primary reference point. Transplant medicine takes on a special role in this regard as transplantation is often considered the only life-saving option when other therapies have failed to achieve sufficient medical improvement. This often life-saving hope might have been taken away from the patients by criticizing the practices of usually highly subspecialized transplant physicians. Furthermore, the bureaucratic requirements to keep the patients listed, once they were listed, were very high. One had to regularly report medical data, and with non-reporting, one risked the patient being taken from the list or placed further down. For example, by entering medical values into the database without a corresponding data basis, the requirements of the abstract bureaucratic system were met, allowing the quite real patients to remain listed. Moreover, it should be mentioned that the judicial assessment of the cases of manipulation was accompanied by a heated debate of medical and legal specialists as well as the public concerning the concrete content of the guidelines and the competence of the German Medical Association to issue guidelines in general (for a short summary see Richter-Kuhlmann 2017). Thus, from the outset, those responsible for rule-making were faced with the dilemma that in the event of organ shortage, regardless of how one regulates organ allocation, patients would highly likely die. If the guidelines favor those patients who are more likely to still be helped by a transplant, the most seriously ill will have a higher risk of dying. If, on the other hand, the most seriously ill are given priority, the risk of dying on the waiting list increases for the "less" seriously ill (see Pohlmann 2018). This is a decision-making situation on a tragic basis, on which controversial opinions were already circulating in the medical profession in the run-up to the manipulations. Against this background, it is conceivable that the primary purpose of the organization provided orientation in an environment characterized by ambivalence, and that the toleration of the manipulations thus appeared to be justified and legitimated for the patients' well-being. Thus, drawing on our conceptual framework, elements of *organizational silence* directed towards the higher value of the organization—the patient well-being—can also be found.

It becomes obvious that both approaches that focus on personality traits and context factors, and approaches that emphasize orientation to the organizational goal make an explanatory contribution to the silence, toleration, and concealment of rule deviations in transplant centers.

But is that really the end of the story? If one analyzes the empirical material more closely, it becomes clear that obedience to the superior or to the organizational goal cannot sufficiently represent the cognitive reference point. The following quote of a transplant assistant can be only an example of this:

> "I was expected once to list a patient 'T' [transplantable, note of the authors], where hardly any documents were available. (...) I do not question anything and just do it. I am not a physician either. (...) And in case of problems, he [the chief physician, note of the authors] would have to be liable for that."

During our research, it was sometimes openly addressed by actors that decisions made by medical leaders are adopted even when they deviate from formal rules. In this context, a cognitive framework of justification can be reconstructed which in the first place stresses the *professional* authority of the physicians instead of the official authority. If wrongdoings are noticed as such, there could still be the possibility that they result from medical considerations concerning the patient's well-being. And sovereignty in medical matters is assigned exclusively to physicians. It can even be observed a cognitive decoupling of the wrongdoing from one's own area of responsibility and competence and its externalization to the other, higher organizational sphere, where it can be accounted for. Against such a framework of justification, interpretations can evolve in which rule deviations are no longer considered as such but are reinterpreted as medical decisions. Following this, silencing and covering up can thus be interpreted as medically necessary. In addition, in an organizational context, where the operational procedure—often under time pressure—is programmed to be curative and life-sustaining, ethically accepted values (such as, for example, the patients' well-being) lent themselves to both the deviation from rules and their covering-up.

In summary, a professional barrier appears to be at work on the backstage that shows clear limits to interference, especially in ambiguous situations (e.g., the medically controversial debate about the guidelines of the German Medical Association). This barrier seems to have become a cognitively normalized and unquestioned point of reference. Accordingly, an interpretive rule with respect to deviations from the guidelines could be as follows: 'It's none of my business'. A rule of action that follows from this could be: 'It is for the good of the patient, I continue in the usual way[1]'. Silence is the result.

---

1 Certainly, counterexamples can also be found: "Patients who still have any findings pending, no matter how insignificant they are, I do not give approval (...), even if the boss has a different practice there" (quote from a transplant assistant). Nevertheless, the above analysis has shown that in the case of manipulations in transplant medicine, a form of silence is active whose cognitive justifications refer to a professional barrier within the organization hospital.

Just as it could be shown for the form of deviance, the justifications in the context of silence could also be located within the horizon of the profession. We can therefore speak of *professional silence* in this case. Although the reference is not based on the goal of realizing professional claims, the profession's claims to validity nevertheless form the central point of reference.

With regard to the guiding questions presented at the beginning, the results of the analysis can be summarized as follows:

Empirical Research Approach		**Deviance**	**Silence**
Structure of Conduct	Which types of actors are involved in the wrongdoing and the cover-up?	Chief and senior physicians*	Chief, senior and assistant physicians, transplant coordinators and assistants, nursing staff etc.
Contextual Factors	On which organizational structures or environmental factors did the wrongdoing and the cover-up rely?	Hierarchy characterized by both official and medical professional authority, organ shortage, tragic decision-making situation, complex processes, a high level of bureaucracy, controversial professional discussion about the validity and definition of the guidelines, life-saving mission in operational procedures	
Standards of Justification and Legitimation	What (collectively shared) norms of interpretation and action underlie the wrongdoing and the cover-up dynamic?	Medical competition, medical professional authority, professional ethos (especially patients' well-being), the mandate of autonomous problem solving	"Professional barrier", patients' well-being

* Most common chief and senior physicians are in the sights of the investigating authorities. One of the reasons for this is that they are able to sign orders and documents more frequently, making them more easily legally responsible.

Table 3 Summary Case Study

Conclusion

The "German Transplant Scandal" points towards the importance of understanding the interconnectedness between the type of wrongdoing and the type of silence. The analysis has shown that the informal standards of justification and legitimation underlying organizational deviance and organizational silence overlap in the case of manipulations in transplant medicine. The manipulation of the transplant list was primarily not a case of individual wrongdoing but rather organizational deviance based on medical professional standards. The reason for covering up the wrongdoings by the confidents can also be located within the scope of professional authority and autonomy of the physicians, which points towards the interconnectedness at the cognitive level of both phenomena. Against this background, the well-being of patients represents a value of reference in both rule deviance and its silencing.

From the perspective of a sociology of organizations, the emergence of professional silence as a subtype of organizational silence can be explained by the specific type of the organization "hospital": the particular bundling of official and professional authority, which in the present case increases the distance between the medical management level and the lower-level personnel, provides opportunity structures that have promoted a cognitive decoupling of the medical decision-making area from the broader organizational setting—even in the case of deviations. Such decoupling processes are usually anchored in the many years of socialization of personnel in the organization, in which corresponding problem-solving patterns often gain validity and are passed on unquestioned. The example of manipulations in transplant medicine has thus shown that the existence of such "parallel worlds" in organizations can be relevant not only for the emergence of deviance but also for the emergence of silence.

Our example shows that a qualitative case perspective is needed to understand more deeply the phenomenon of silence in organizations. No case of organizational silence can be fully understood if it is not put into perspective with the (type) of wrongdoing it covers up.

Literature

Ashforth, Blake, and Vikas Anand. 2003. "The Normalization of Corruption in Organizations." *Research in Organizational Behavior* 25: 1–52. https://doi.org/10.1016/S0191-3085(03)25001-2.

Beine, K. (2011): Krankentötungen in Kliniken und Heimen Aufdecken und Verhindern. Freiburg: Lambertus Verlag.

Beine, Karl H., and Jeanne Turczynski. 2017. *Wie ein kaputtes System Misshandlungen und Morde an Kranken fördert.* München: Droemer.

Benoit, Jean-Pierre, and Juan Dubra. 2003. "Why do Good Cops Defend Bad Cops?" *SSRN Journal* CV Starr Working Paper No. RR 03-01. http://dx.doi.org/10.2139/ssrn.426762

Bigo, Vinca. 2018. "On Silence, Creativity and Ethics in Organization Studies." *Organization Studies* 39, no. 1: 121–133. https://doi.org/10.1177/0170840617717553.

Blackman, Deborah, and Eugene Sadler-Smith. 2009. "The Silent and the Silenced in Organizational Knowing and Learning." *Management Learning* 40, no. 5: 569–585. https://doi.org/10.1177/1350507609340809.

Brinsfield, Chad. 2013. "Employee silence motives: Investigation of dimensionality and development of measures." *Journal of Organizational Behavior* 34, no. 5: 671–697. https://doi.org/10.1002/job.1829.

Brinsfield, Chad. 2014. "Employee voice and silence in organizational behavior." In *Handbook of Research on Employee Voice,* edited by Adrian Wilkinson, Jimmy Donaghey, Tony Dundon, and Richard Freeman, 114–131. Edward Elgar Publishing. https://doi.org/10.4337/9780857939272.00015.

Bundesgerichtshof. Judgement from June 28, 2017. File number 5 StR 20/16. Accessed January 21, 2021. http://juris.bundesgerichtshof.de/cgi-bin/rechtsprechung/document.py?Gericht=bgh&Art=en&nr=79359&pos=0&anz=1.

Chin, Gabriel, and Scott Wells. 1998. "The 'Blue Wall of Silence' and 'the Blue Curtain of Secrecy' as Evidence of Bias and Motive to Lie. A New Approach to Police Perjury." *University of Pittsburgh Law Review* 59, no. 2: 233.

Doyle, Thomas P. 2017. "The Australian Royal Commission into Institutional Responses to Child Sexual Abuse and the Roman Catholic Church." *Child Abuse & Neglect* 74, 103–106. doi: 10.1016/j.chiabu.2017.09.019.

Dupret, Katia. 2019. "Performative Silences: Potentiality of Organizational Change." *Organization Studies* 40, no. 5: 681–703. https://doi.org/10.1177/01708406187 59816.

Gibson, Rosemary, and Janardan Prasad Singh. 2003. *Wall of Silence. The Untold Story of the Medical Mistakes That Kill and Injure Millions of Americans.* Washington, D.C.: LifeLine Press.

Hershcovis, M. Sandy, Ivana Vranjes, Jennifer L. Berdahl, and Lilia M. Cortina. 2021. "See no evil, hear no evil, speak no evil: Theorizing network silence around sexual harassment". *Journal of Applied Psychology.* Advance online publication. https://doi.org/10.1037/apl0000861.

Kleinig, John. 2001. "The Blue Wall of Silence. An Ethical Analysis." *International Journal of Applied Philosophy* 15, no. 1: 1–23. https://doi.org/10.5840/ijap2001 1515.

Knoll, Michael, and Rolf van Dick. 2013. "Do I Hear the Whistle…? A First Attempt to Measure Four Forms of Employee Silence and Their Correlates." *Journal of Business Ethics* 113, no. 2: 349–362. https://doi.org/10.1007/s10551-012-1308-4.

Kühl, Stefan. 2020. *Brauchbare Illegalität. Vom Nutzen des Regelbruchs in Organisationen.* Frankfurt am Main: Campus Verlag.

Landgericht Göttingen. Judgement from May 06, 2015. File number 405 Js 1933/12 and 6 Ks 4/13. Accessed January 21, 2021. https://www.jura.uni-mannheim.de/media/Lehrstuehle/jura/Buelte/Dokumente/Examensvorbereitung/_anonymisierte_Fassung_6_KS__4_13.pdf.

Luhmann, Niklas. 1964. *Funktionen und Folgen formaler Organisation.* Berlin: Duncker & Humblot.

Mannion, Russell, and Davies Huw. 2015. "Cultures of Silence and Cultures of Voice. The Role of Whistleblowing in Healthcare Organisations." *International Journal of Health Policy and Management* 4, no. 8: 503–505. doi: 10.15171/ijhpm.2015.120.

Morrison, Elizabeth. 2014. "Employee Voice and Silence." *Annual Review of Organizational Psychology and Organizational Behavior* 1, no. 1: 173–197. https://doi.org/10.1146/annurev-orgpsych-031413-091328.

Morrison, Elizabeth, and Frances Milliken. 2000. "Organizational Silence. A Barrier to Change and Development in a Pluralistic World." *The Academy of Management Review* 25, no. 4: 706–725. https://doi.org/10.2307/259200.

Morrison, Elizabeth, Sara Wheeler-Smith, and Dishan Kamdar. 2011. "Speaking Up in Groups. A Cross-Level Study of Group Voice Climate and Voice." *Journal of Applied Psychology* 96, no. 1: 183–191. https://doi.org/10.1037/a0020744.

Muehlheusser, Gerd, and Andreas Roider. 2008. "Black sheep and walls of silence." *Journal of Economic Behavior & Organization* 65, no. 3: 387–408. https://doi.org/10.1016/j.jebo.2005.11.004.

Nolan, Thomas. 2009. "Behind the Blue Wall of Silence: Essay." *Men and Masculinities* 12, no. 2: 250–257. https://doi.org/10.1177/1097184X09334700.

Pinto, Jonathan, Carrie R. Leana, and Frits K. Pil. 2008. "Corrupt Organizations or Organizations of Corrupt Individuals? Two Types of Organization-Level Corruption." *Academy of Management Review* 33, no. 3: 685–709. https://doi.org/10.5465/amr.2008.32465726.

Pohlmann, Markus. 2018. *Der Transplantationsskandal in Deutschland. Eine sozialwissenschaftliche Analyse der Hintergründe.* Wiesbaden: Springer VS. https://doi.org/10.1007/978-3-658-22785-2.

Pohlmann, Markus, Stefan Bär, and Elizângela Valarini. 2014. "The Analysis of Collective Mindsets: Introducing a new method of Institutional Analysis in Comparative Research." *Revista de Sociologia e Política* 22, no. 52: 7–25. https://doi.org/10.1590/1678-987314225202.

Pohlmann, Markus, Kristina Bitsch, and Julian Klinkhammer. 2016. "Personal gain or organizational benefits? How to explain active corruption." *German Law Journal* 17, no. 1, Special issue "Ethical Challenges of Corrupt Practices: Formal and Informal Conflicts of Norms and Their Moral Ramifications": 73–100. https://doi.org/10.1017/S2071832200019696.

Pohlmann, Markus, and Julian Klinkhammer. 2018. "Chapter 8: Corruption, organizational deviance and corporate compliance." In Handbook of the International Political Economy of the Corporation., edited by Andreas Nölke, and Christian May, 120–136. Handbooks of Research on International Political Economy series. https://doi.org/10.4337/9781785362538.

Pohlmann, Markus, and Kristina Höly. 2017. "Manipulationen in der Transplantationsmedizin. Ein Fall von organisationaler Devianz?" *Kölner Zeitschrift für Soziologie und Sozialpsychologie* 69, no. 2: 181–207. https://doi.org/10.1007/s11577-017-0436-3.

Richter-Kuhlmann, Eva. 2017. "Transplantationsmedizin II: Rechtssicherheit für die Ärzte." *Deutsches Ärzteblatt* 114, no. 49: A2328–A2330.

Rothwell, Gary, and Norman Baldwin. 2007. "Ethical Climate Theory, Whistle-Blowing, and the Code of Silence in Police Agencies in the State of Georgia." *Journal of Business Ethics* 70, no. 4: 341–361. https://doi.org/10.1007/s10551-006-9114-5.

Starystach, Sebastian. 2018. *Die soziale Praxis des Gerichtsverfahrens. Über die juristische Fallbearbeitung in Straf- und Zivilverfahren.* Wiesbaden: Springer VS. https://doi.org/10.1007/978-3-658-22818-7.

Prüfungskommission und Überwachungskommission der Bundesärztekammer, GKV-Spitzenverband und Deutsche Krankenhausgesellschaft. Tätigkeitsberichte 2013–2019. Accessed January 21, 2021. https://www.bundesaerztekammer.de/aerzte/medizin-ethik/transplantationsmedizin/jahresberichte/.

Vogd, Werner. 2017. "Management im Krankenhaus—Eine Fallstudie zur Bearbeitung der Innen- und Außenspannungen unter den Bedingungen des deutschen DRG-Systems." *Berliner Journal für Soziologie* 27, no. 1: 93–121. https://doi.org/10.1007/s11609-017-0332-8.

Whiting, Steven, Timothy Maynes, Nathan Podsakoff, and Philip Podsakoff. 2012. "Effects of message, source, and context on evaluations of employee voice behavior." *The Journal of Applied Psychology* 97, no. 1: 159–182. doi: 10.1037/a0024871.

Wilkesmann, Maximiliane, and Rim S. Jang-Bormann. 2015. "Führt Nichtwissen zu Unsicherheit in der Organisation Krankenhaus?" In *Organisation und Unsicherheit,* edited by Maja Apelt, and Konstanze Senge, 213–232. Wiesbaden: Springer VS.

Dr Sebastian Starystach, Research Associate at the Institute of Medical Sociology and Rehabilitation Science of the Charité—University Medicine Berlin.

Dr Kristina Höly, Research Associate at the Max Weber Institute of Sociology of the Heidelberg University.