

WHISTLEBLOWING ANALYSIS

"To Whistle or Not to Whistle, That is the Question"

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WHAT DOES WHISTLEBLOWING MEAN?

Whistleblowers are typically employees (insiders), or even third-parties such as suppliers or customers (outsiders) that report unethical or unlawful acts and behaviours of an organization that is violating the ethical principles and the current legislations, such as financial impropriety, data falsification, corruption, low working conditions, sexual harassment and so on, by informing supervisors or disclosing it to the media, government authorities or specialized procurers.

4 DIMENSIONS OF WHISTLEBLOWING

1. The Whistleblower



2. The Wrongdoing

3. The Complaint Receiver



4. The Organization

INTERNAL WHISTLEBLOWING

Internal whistleblowing report misconduct on a co-worker or superior within the company

An internal whistleblower is someone who notices illegal behaviour in the workplace and decides to inform a supervisor. The supervisor then follows company protocol to deal with the alleged misbehaviour.

EXTERNAL WHISTLEBLOWING

External whistleblowing involves reporting misconduct to outside parties such as lawyers, the media, law enforcement or watchdog agencies, or other local, state, or federal bodies.

If they have little faith in their organization's investigation or reporting method, have tried speaking up internally with no success, or if there is no whistleblowing system in place, people frequently choose to go public with their complaints.

ADVANTAGES OF WHISTLEBLOWING

- Personal Honor
- Encourage other people to act honestly
- Expose Unhethical Behaviour
- Promised Protection
- Incentives: Financial Rewards
- The Friendship with like-minded individuals will grow stronger
- The law is in your side

DISADVANTAGES (RISKS) OF WHISTLEBLOWING

- Prospects of future employment might be reduced
- May face retaliation
- Negative notoriety, Labeled for life
- Unnecessary complications
- Your finances will suffer (legal actions, unemployment)
- Outside Threats
- Stress and anxiety
- The Lawsuit might take forever

HOW INSTITUTIONS REACT TO WHISTLEBLOWING: REWARD SYSTEM

Whistleblowing is encouraged by **monetary incentives** with connected risks and negative consequences such as more false claims, the development of a "snitching culture," and/or a loss of group identity.

In US, the False Claims Act was created in 1863 also to encourage whistleblowers to report misconduct, guaranteeing high financial rewards for this.

Whistleblower incentives: 15% to 30% if the whistleblower pursues a case that the government has refused to prosecute.

If the government decides to pursue the matter, the whistleblower can only receive a maximum of 25%.

HOW INSTITUTIONS REACT TO WHISTLEBLOWING: REGULATION/PROTECTION

In reaction to previous scandals, in 2019 the EU passed the Directive **2019/1937 on the protection of whistleblowers, which became law for all the EU countries by 17 December 2021.**

Whistleblowers will be protected if they follow this procedure:

- They have previously reported (internally and externally), but no action has been taken;
- they reasonably feel that there is an imminent or clear danger to the public interest, a risk of retaliation, or that their concern will not be effectively addressed.

HOW INSTITUTIONS REACT TO WHISTLEBLOWING:

EU DIRECTIVE 2019/1973

According to the EU DIRECTIVE, all organizations with more than 50 employees will be expected to adopt a whistleblowing strategy and mechanism, and those who seek to disclose wrongdoing would be offered legal protection once EU countries implement the regulation

Whistleblowers:

- are protected from reprisal in any manner, including dismissal, demotion, intimidation, and blacklisting;
- have access to appropriate support measures;
- have access to appropriate remedy, such as interim relief and immunity from responsibility if non-disclosure agreements in their contracts are violated.

HOW INSTITUTIONS REACT TO WHISTLEBLOWING: EU DIRECTIVE 2019/1973 (2)

EU countries must:

- make sure there are adequate internal and external reporting mechanisms in place;
- take the necessary steps to protect a whistleblower from retaliation;
- Persons affected by the allegations in the reports have the right to an efficient remedy, a fair trial, the presumption of innocence, and the opportunity to defend themselves;
- establish effective, proportionate, and deterrent sanctions for violations of particular directive requirements, including as those who obstruct reporting or retaliate against whistleblowers.

MOTIVATIONAL AND SOCIO-PSYCHOLOGICAL DETERMINANTS OF WHISTLEBLOWING

- **Selfishness and malice**, motivated solely by greed and self-interest: *snitches who think of only attaining personal glory and fame*
- **Altruistic motivations**, as whistleblowers only take this task at personal cost to do good and stop the wrongdoing for which they will get retaliation (self-sacrifice): *they are viewed as selfless martyrs and Heroes*
- In some cases, blowing the whistle on an organization might be considered a dissident act, similar to civil disobedience: **act of rebellion**

MOTIVATIONAL AND SOCIO-PSYCHOLOGICAL DETERMINANTS OF WHISTLEBLOWING (2)

The conflict between whistleblowing and the requirements of loyalty and obedience is a classic example of **moral ideals clashing**.

The **sense of loyalty or commitment to the organisation** can turn both *in favour of and against* whistleblowing:

- In the first case, the devotion is such that the whistleblower cannot accept wrongdoing;
- in the second case, the devotion is considered absolute and the observer will not blow the whistle by finding it unfair.

MOTIVATIONAL AND SOCIO-PSYCHOLOGICAL DETERMINANTS OF WHISTLEBLOWING (3)

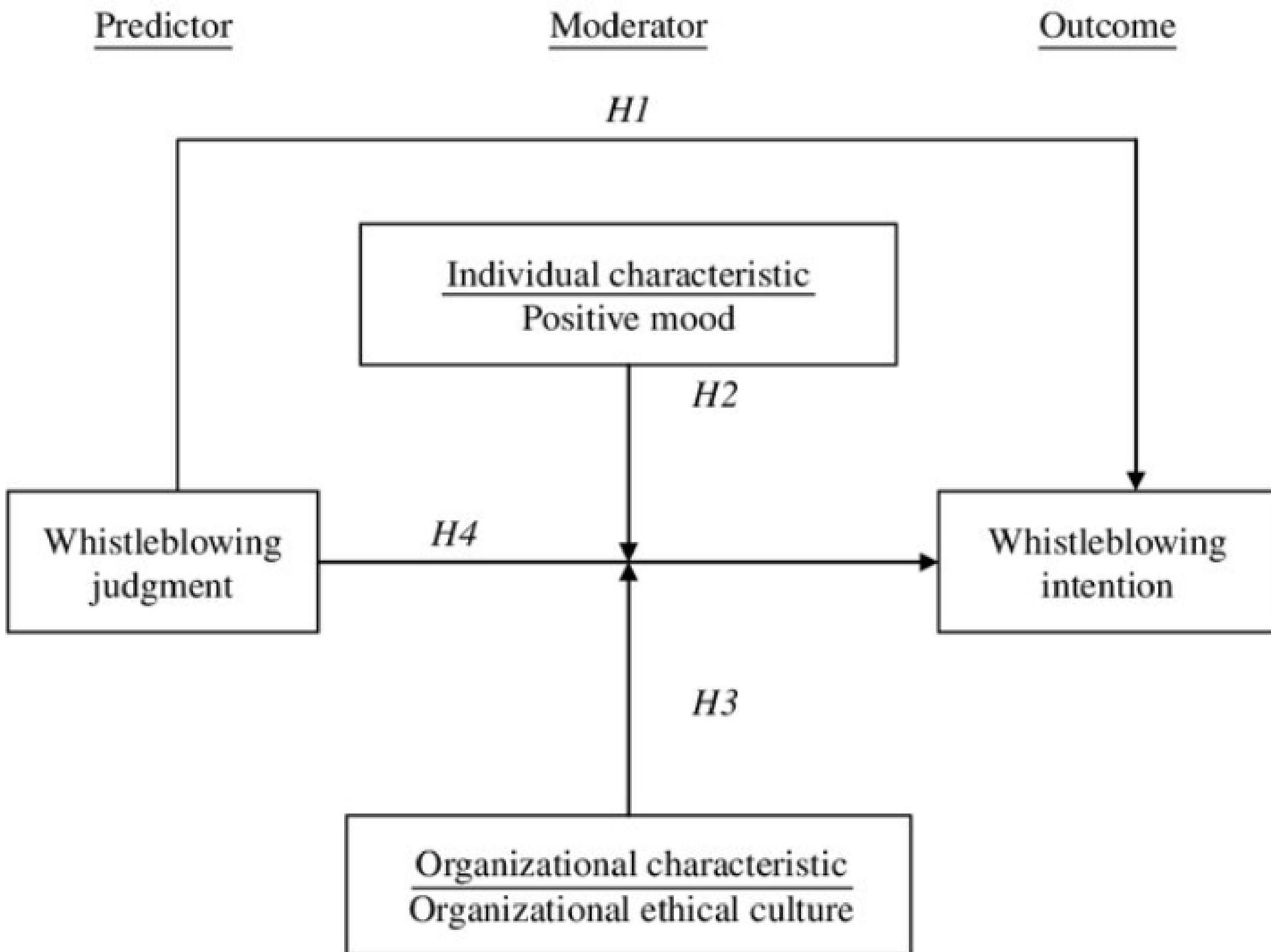
- The **defensive motivation**: they are afraid that if they do not report the wrongdoing and it is later revealed, they will be blamed
- **Seeking of self-gratification and publicity**
- Taking **revenge** for a past affront or injustice
- **Feeling obligated to follow particular ethical norms as professional** in their job: sometimes it also depend on the type of wrongdoing and its gravity.

MOTIVATIONAL AND SOCIO-PSYCHOLOGICAL DETERMINANTS OF WHISTLEBLOWING (4)

- Individuals in organizations with good team, friendship climates or democratic cultures are more likely to engage in whistleblowing when they detect wrongdoing
- Whistleblowing is discouraged in certain organizational cultures with strong anti-dissent norms



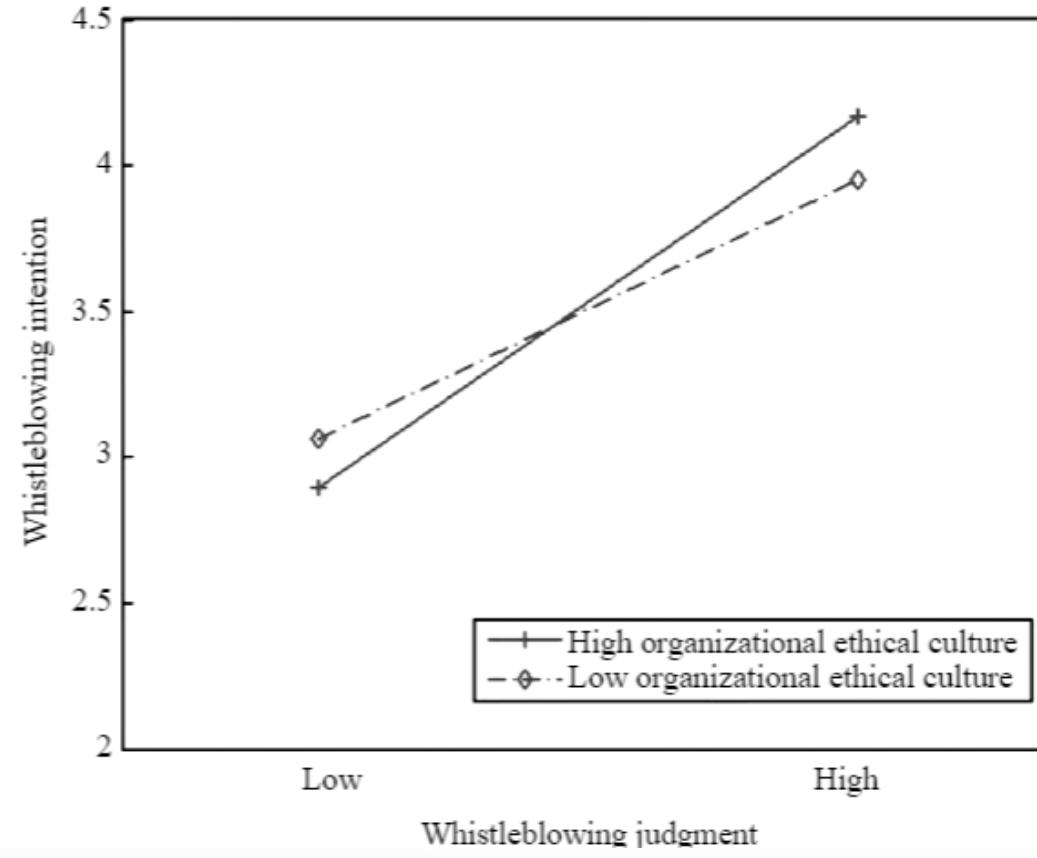
WHISTLEBLOWING JUDGEMENT AND INTENTION MODEL (ORGANIZATIONAL CULTURE)



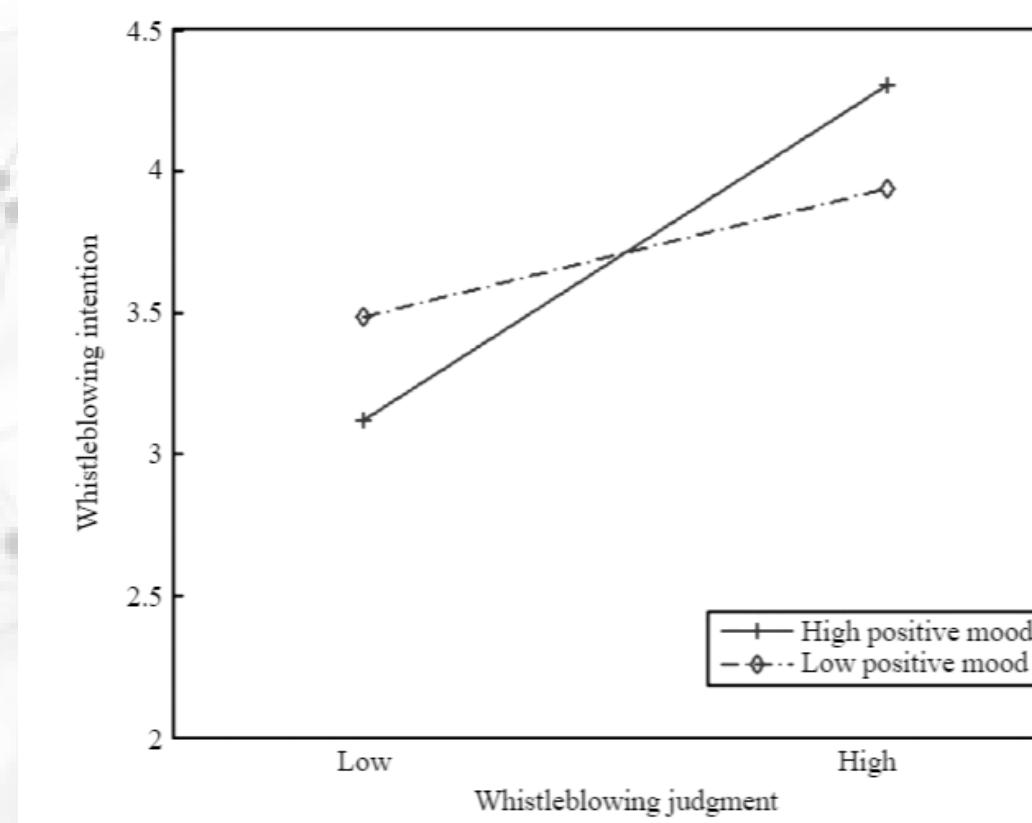
WHISTLEBLOWING JUDGEMENT AND INTENTION MODEL: HYPOTHESIS

- H1:** Whistleblowing Judgement (WBJ) will be positively related to Whistleblowing Intention (WBI)
- H2:** The relationship between WBJ and WBI will be mediated by Positive Mood (PM), with persons with high PM having a greater relationship than people with low PM.
- H3:** Organizational Ethical Culture (OEC) will regulate the relationship between WBJ and WBI, making it stronger for those who view the organization culture to be highly ethical and weaker for those who believe the organization culture to be low ethical.
- H4:** The interaction between PM and OEC will be moderated by the interaction between WBJ and WBI, making it stronger for individuals with high PM who perceive a highly ethical organizational culture than for those with low PM who perceive a low ethical organizational culture.

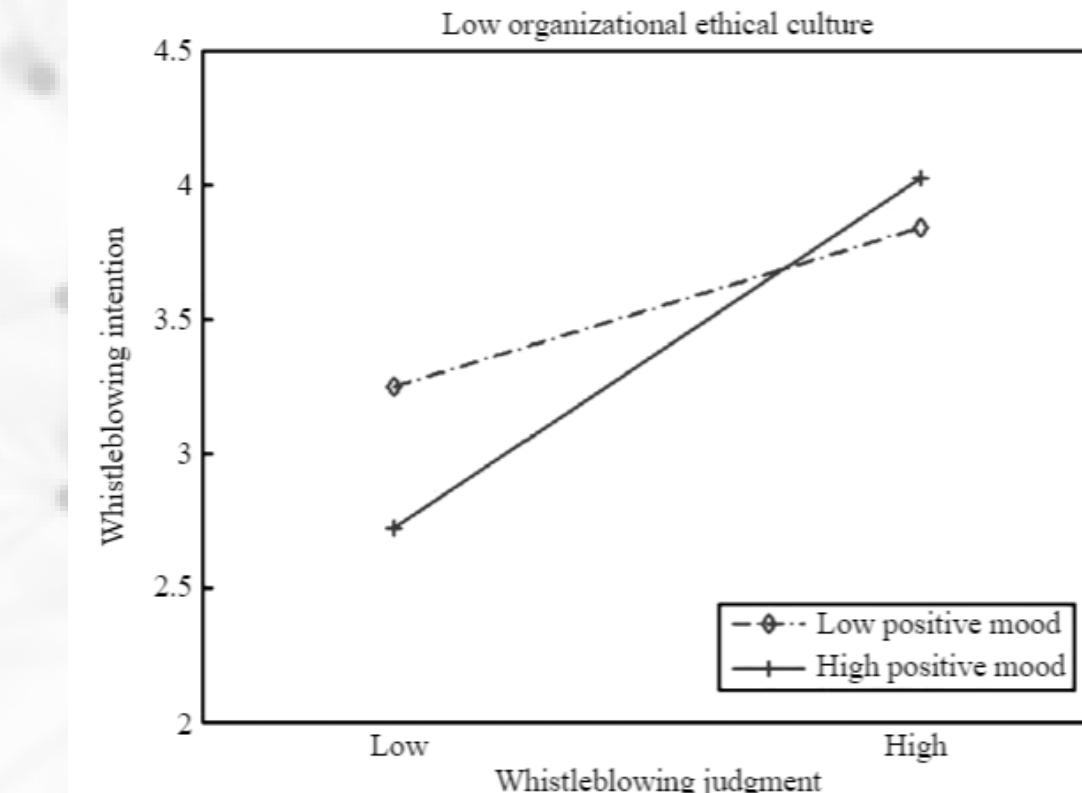
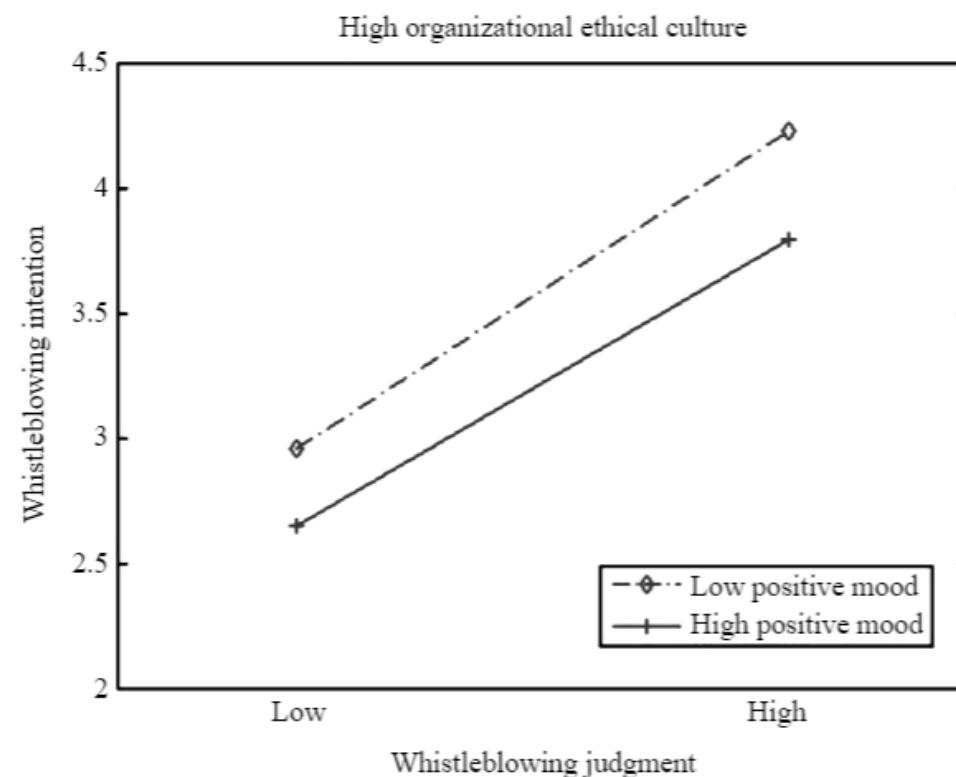
WHISTLEBLOWING JUDGEMENT AND INTENTION MODEL: INTERACTIONS



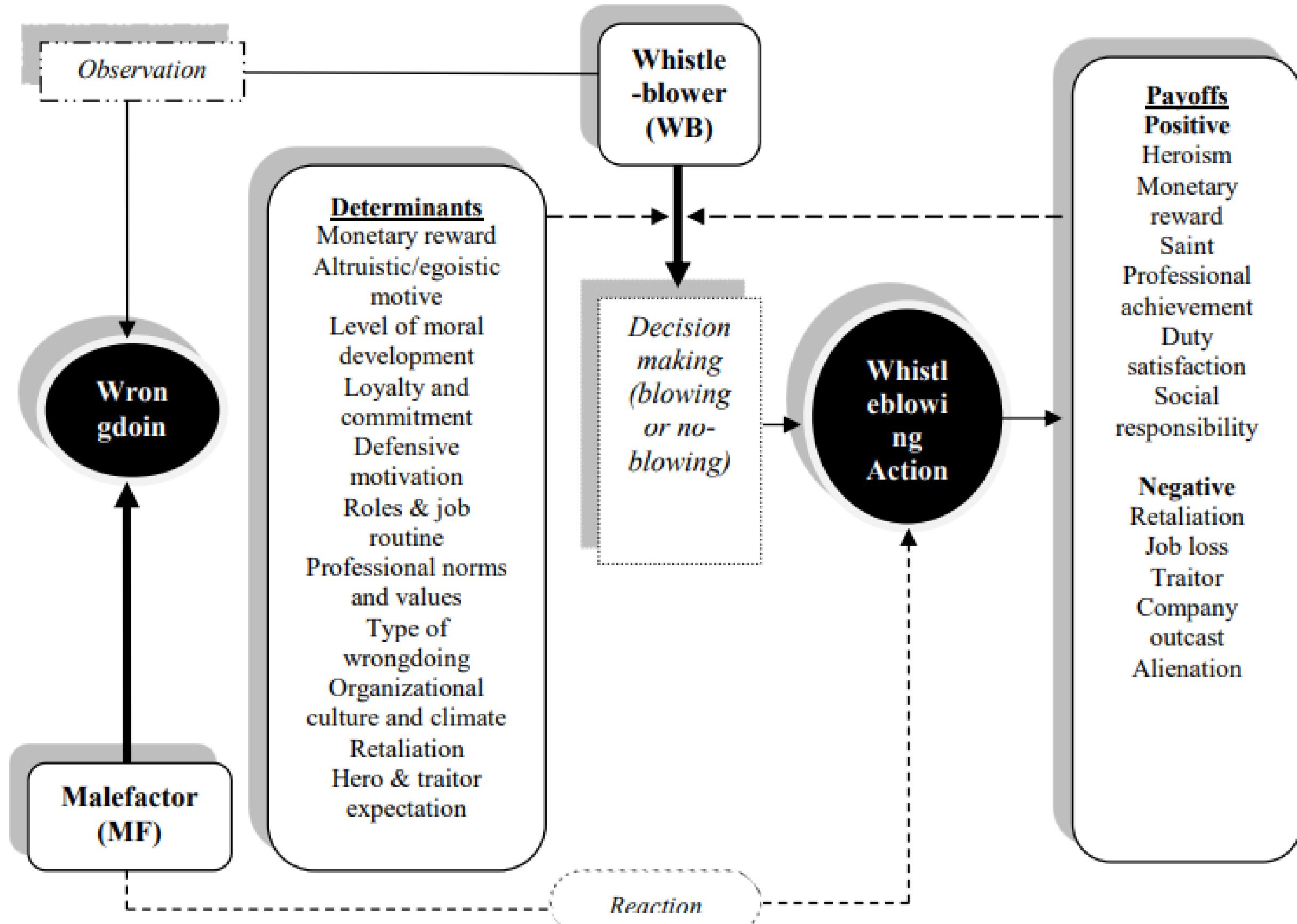
2-WAYS



3-WAYS



CONCEPTUAL WHISTLEBLOWING DECISION MAKING PROCESS MODEL



BLOWING-NO-BLOWING GAME (Game Theory)

ELEMENTS OF THE GAME:

- the whistleblower (WB)
- the malefactor (MF)
- players' probable strategies (set of options for how to behave);
- and payoff(s) from each choice of player's strategy.

BLOWING-NO-BLOWING GAME (Game Theory)

(2)

		MF	
		No reaction	Reaction
		0,0	$2x, -2x$
WB	No-blowing	$x, -x$	0,0
	Blowing		

It shows that **there is no Nash equilibrium** where either player would use pure strategy.

The whistle-blower and the malefactor have to randomize their unpredictable intentions.

MIXED STRATEGY EQUILIBRIUM: BLOWING-NO-BLOWING GAME

R = probability that the whistleblower do not blow

S =probability that the malefactor do not react to not whistleblowing

1) WB Point of View

Assuming MF choose a probability for s to not react to no blowing strategy for WB, then the Expected payoff for WB if he/she chooses No-Blowing is

$$(0)(s) + (2x)(1-s) = 2x - 2xs$$

While the Expected payoff for WB if he/she chooses Blow is

$$(x)(s) + (0)(1-s) = xs$$

Equilibrium: to make WB indifferent between his/her decisions (blowing or no-blowing), set:

$$2x - 2xs = xs$$

$$s = 2/3$$

MIXED STRATEGY EQUILIBRIUM: BLOWING-NO-BLOWING GAME (2)

2) MF Point of view:

Assuming WB choose a probability for r to not blow, then the Expected payoff for MF if he/she chooses No Reaction is

$$(0)(r) + (-x)(1-r) = xr - x$$

While the Expected payoff for MF if he/she chooses React is

$$(-2x)(r) + (0)(1-r) = -2xr$$

Equilibrium: to make MF indifferent between his/her decisions (reaction to no blowing or Reaction to blowing), set:

$$xr - x = -2xr$$

$$r = 1/3$$

MIXED STRATEGY EQUILIBRIUM: $s = 2/3$ and $r = 1/3$

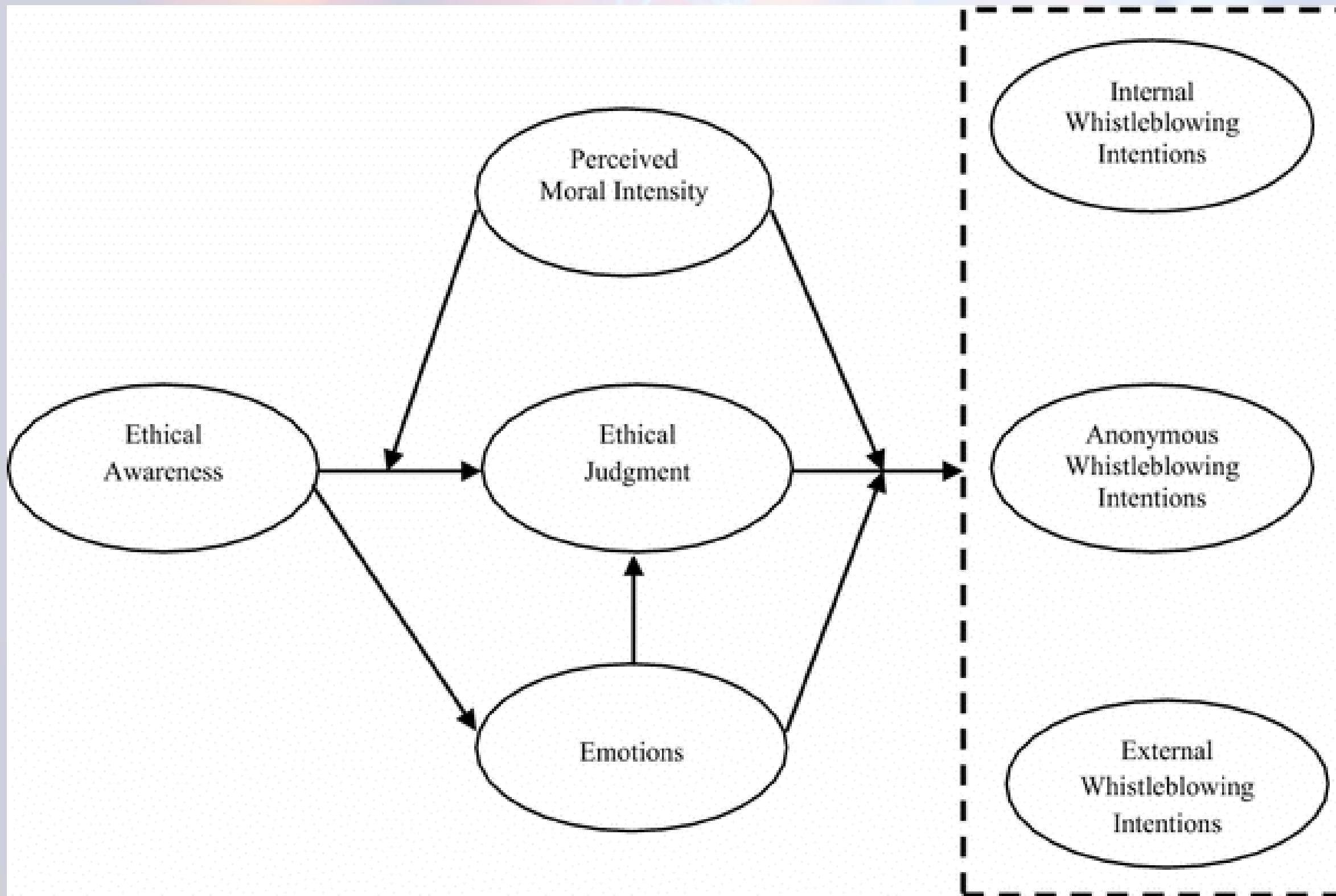
MIXED STRATEGY EQUILIBRIUM: BLOWING-NO-BLOWING GAME INTERPRETATION

As a result of the asymmetric structure of the payoffs, the probabilities that appear in the mixed-strategy equilibrium are not balanced.

Specifically, despite the fact that the **no-blowing technique is WB's most dominating defence** because of the payoffs, the strategy is used fewer than half of the time. **If r would increase, then MF's best response would always be to No-React.** Blowing the whistle has just a $r=1/3$ chance of being successful, according to WB.

Whistleblowers blow the whistle because they expect powerful, positive effects from their possible act of whistleblowing, such as the occurrence of positive outcomes and the avoidance of negative events.

ETHICAL DECISION-MAKING MODEL OF WHISTLEBLOWING



EDM MODEL INTERPRETATION

Ethical Decision-Making (EDM) model assumes that Non-Rationality elements impact whistleblowers' ethical judgement to determine the final decision to blow the whistle.

Whistleblowing intention is influenced by ethical awareness (EAW) and ethical judgment (EJW), as well as mediation-moderation by emotion (EMT) and individuals' perceived moral intensity (PMI).

According to the results of the study:

- Emotion (EMT) can modulate the link between EAW and EJW
- EMT and PMI improved the connection between ethical perceptions and whistleblowers' intentions
- Internal whistleblowers (ideally anonymous) are more likely than external whistleblowers to reveal misconduct

SOME FAMOUS SCANDALS RELATED TO WHISTLEBLOWING: FACEBOOK CASE

Frances Haugen was a data engineer, data scientist, product manager at Facebook. In September 2021, she gave the Securities and Exchange Commission and the Wall Street Journal access to tens of thousands of internal Facebook documents and she disclosed her identity as the whistleblower when she appeared on "60 Minutes" the 3rd October 2021.

She stated that Facebook is aware that its product causes significant harm to children (mentally), create division, spread misinformation and threatens democracies, but has not made any significant changes to solve these problems, interested only in its main mission: to pursue "growth and profit".

The disclosures, according to Facebook, were misleading and ignored the company's good studies.

While many Facebook employees have spoken out against the corporation anonymously or internally, just a few — especially at the highest levels — have ever spoken out publicly against the firm, as Frances Haugen did.

SOME FAMOUS SCANDALS RELATED TO WHISTLEBLOWING: FACEBOOK CASE (2)

Frances Haugen



Ms. Haugen said she left Facebook in 2021 because she was fed up with it. She copied a number of messages and internal documents before departing.

"During my time at Facebook, I came to realize a devastating truth: almost no one outside of Facebook knows what happens inside Facebook," Haugen told Congress. Internal Facebook study indicated that Instagram was having an influence on teenagers' mental health, but the company did not share its findings when they suggested that the network was a "toxic" environment for many kids.

SOME FAMOUS SCANDALS RELATED TO WHISTLEBLOWING: ENRON CASE

In August 2001, **Sherron Watkins, former Vice President of Enron, wrote a letter to Kenneth Lay (Chairman and former CEO), trying to warn him that company's books were being manipulated** with an agreement between Jeffrey Skilling (CEO), the CFO, the CAO and the auditor's company. **She discovered Enron's accounting manipulations were hiding massive debt from investors and creditors, while overinflating how much money the company was actually making.**

It was revealed then that **Enron's financial status was really sustained by an institutionalized, systematic, and ingeniously planned accounting deception,** which became known as the Enron scandal at the end of 2001.

Despite everything she accomplished, Watkins' biggest regret is that she did not report her concerns outside of the firm because she was naive enough to believe that management would act in the best interests of the company.

SOME FAMOUS SCANDALS RELATED TO WHISTLEBLOWING: ENRON CASE (2)

Sherron Watkins



She declared that she faced also a huge cost: she lost friendships and the trajectory of her career was forever altered.

"Power Failure: The Inside Story of Enron's Collapse", published in 2004, is a book on her experiences with Enron and the problems of American corporate culture.

Watkins now teaches Business Ethics and Corporate Governance and Leadership at Texas State University and North Carolina University, respectively.

SOME FAMOUS SCANDALS RELATED TO WHISTLEBLOWING: NSA CASE

Edward Snowden is a former American contractor who worked in the Business Intelligence Department for the National Security Agency (NSA). Thanks to his employment and the access to private information, **he made public top-secret NSA data in 2013, revealing that the US government was listening to Americans' phone calls, emails, and webcams.**

His revelations exposed a number of global surveillance programmes, many of which were run with the help of telecommunications companies and European governments by the NSA and the Five Eyes intelligence alliance, and sparked a cultural debate about national security and personal privacy.

SOME FAMOUS SCANDALS RELATED TO WHISTLEBLOWING: NSA CASE (2)

Edward Joseph Snowden



Snowden's leaks of secret information to journalists exposed violations of privacy by government intelligence agencies. He saw himself as a whistleblower, however, the US government saw him as a national traitor who had violated the Espionage Act.

Snowden had planned to seek asylum in Ecuador, but he was stopped in Moscow, since the US government itself cancelled his passport.

He spent 40 days in the airport negotiating with 27 states, only Russia granted him asylum where he still lives in 2021 with his wife and child.

OTHER RELEVANT WHISTLEBLOWERS



Source: <https://www.theguardian.com/us-news/2017/sep/29/mark-felt-the-man-who-brought-down-nixon-peter-landesman>

Mark Felt, "Deep Throat" Case, 1972

Linda Tripp, Clinton-Lewinsky Affair, 1998



Source: <https://www.imdb.com/name/nm1036937/>

Daniel Ellsberg, Pentagon Papers, 1971

Source: <https://www.colorado.edu/cwa/daniel-ellsberg>

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Chelsea Manning, WikiLeaks Case, 2013



Source: <https://www.spyshop.pl/blog/w-blasku-plutonu-tragiczna-historia-karen-silkwood/>

Jeffrey Wigand, Brown & Williamson Case, 1996



Source: <https://www.france24.com/en/20180830-whistleblower-chelsea-manning-be-barred-australia>

Karen Gay Silkwood, Kerr-McGee Nuclear Plant, 1974



Source: <https://www.odt.co.nz/news/national/smoking-initiatives-will-save-lives-says-industry-whistleblower>



THANK YOU FOR YOUR ATTENTION!

Do you have any question?

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