Business ethics and social responsibility in contemporary China

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ABSTRACT

With China emerging as a power player in international business, the ramifications of conducting business ethically and legally have changed for Chinese as well as Western, and specifically, United States (U.S.) businesses operating in the region. This article contrasts the Chinese ideological and cultural framework within which Chinese and U.S. businesses negotiate, with the legal requirements of the Foreign Corrupt Practices Act (FCPA) that legislates U.S. business ethics. Specifically, the FCPA views the Chinese business practice of favor and reciprocity (Guanxi) as corruption and bribery. However, given the Chinese government's recent efforts to curb corruption and corporate malfeasance, and the emergence of a "Confucian firm," it is evident that the Chinese business landscape is changing. Further research is necessary however, to determine how these developments will affect the global business model, future FCPA legislation, and contemporary business ethics.

Keywords: Business ethics, Foreign Corrupt Practices Act, China, Guanxi, International business

INTRODUCTION

In recent decades, the People's Republic of China (PRC) has become a pivotal player in the global economy. The economic reform process initiated by Deng Xiaoping and the switch to a market-based economy combined with the nearly double-digit growth sustained over the past fifteen years has attracted an enormous amount of foreign investment. The country that was once a low-cost production base has not only become the second largest economy in the world, it is also the second largest recipient of foreign direct investment (FDI) in the world.

Doing business in China, however, has been difficult for Western corporations since it presents some unique challenges. On one hand are the problems intrinsic to companies steeped in capitalist culture conducting business in a socialist economy in a state of transition and reform (Ghauri and Fang, 2001). On the other is the paradoxical personality of Chinese businesspeople who can be both cooperative and competitive in their business dealings. In addition, the lack of a stable legal and regulatory environment has elevated the requirement for trust-based personal relationships in order to obtain protection and/or resources. Finally, China is one of the oldest cultures in the world, which also informs and affects its political, economic, and social interactions with the rest of the world.

For their part, U.S. citizens have to work within legal constraints applicable to their conduct overseas. Specifically, The Foreign Corrupt Practices Act (FCPA) of 1977 prohibits the offer, promise to pay, payment, or gift of money or anything of value to a foreign government official. This legislative limitation also places a competitive disadvantage on U.S. businesses doing trade with China.

Although the notion of business ethics is gaining popularity in China (Ip, 2009a; Lu, 2009), U.S. companies still have to contend with a flawed and ambiguous business environment with respect to the FCPA. In order to successfully and ethically conduct business in China, one must first have a baseline understanding of the ideologies, beliefs, cultures, and psychological characteristics that form the bedrock of Chinese business culture. As Hofstede (1994) said, while explaining the economic success of East Asian countries, "The business of international business is culture" (p. 1).

PHILOSOPHICAL FOUNDATIONS OF CHINESE CULTURE

Chinese culture has been, and continues to be, shaped by three primary philosophies: Confucianism, Taoism, and Buddhism. Of these, Hofstede and Bond (1988) correlated Confucianism specifically, to economic prosperity in East Asian countries. In 1979, in an attempt to eliminate Western bias from the previous IBM study, and to identify universal human behavioral traits, Hofstede and Bond (1988) administered the Chinese Values Survey worldwide. While the study confirmed Hofstede's cultural dimensions were universal, it also revealed a Confucian dimension characterized by a pragmatic, entrepreneurial worldview, unique to East Asia. Hofstede and Bond also discovered that this *Confucian Dynamism* dimension was positively correlated to economic growth between 1965 and 1985, in all 22 countries covered in the study. Thus, Hofstede and Bond were able to establish a causal link between economic development and Confucianism.

In his study of countries as cultural clusters, Schwartz (2010) demonstrates a similar reciprocal influence between culture and economic development. Schwartz used data from the Schwartz Value Survey to map countries into cultural clusters based on their value orientations. The Confucian cluster (China, Hong Kong, Japan, South Korea, Taiwan, Thailand) emphasizes hierarchy, pragmatism, entrepreneurship, mastery, and embeddedness, values consonant with Confucianism.

However, Schwartz appears to take a contrary view of Confucianism's influence on economic growth, opining, "cultures that persist in emphasizing embeddedness and hierarchy stifle the individual initiative and creativity needed to develop economically" (2010, p. 140). China is thus an anomaly in this regard, since Confucianism not only provides the moral justification for Chinese business practices, but Confucian ideals of family, pragmatism, and interpersonal relationships are at the core of its economic life and success (Crawford, 2000).

Therefore, a thorough understanding of Confucianism and Taoism is imperative for strong successful business relationships with the Chinese. This is reiterated by the literature, which indicates Confucianism and Taoism as the primary ideologies that influence Chinese business practices; no reference was found on Buddhism's role in the Chinese business construct (Fang, 1999; Ip, 2009b; Crawford, 2000).

Confucianism

As a 2500-year-old philosophical tradition, Confucianism is the fundamental belief system of the Chinese. With its emphasis on morality, interpersonal relationships, and social order, Confucianism also serves as a code of ethics for the Chinese. Confucianism encompasses six core values: moral cultivation; importance of interpersonal relationships; family orientation; respect for seniority and hierarchy; pursuit of harmony and avoidance of conflict; and the concept of face (Fang, 1999). Of these, interpersonal relationships are the lynchpin of Chinese business practices, especially in the context of trust and reciprocity.

Confucius' version of the golden rule of reciprocity as espoused in world scriptures is "Do not do to others what you do not want them to do to you"(Ip, 2009a, p.465). The central idea in Confucius' version is altruism (shu), which encapsulates the concept of interpersonal care between real and concrete individuals in a community (Wang, 1988). This distinguishes the Confucian outlook from the "more detached, impartial and disinterested agents in Mill's Utilitarianism and the Kantian categorical imperatives as well as the hypothetical construct in Rawls' 'justice as fairness' approach (Chan, 2008, p. 353).

Another accepted Confucian truth is filial piety, which is acknowledged as the first among all virtues of human relationships. In Confucian society, this governs the five cardinal relationships (wu lun): emperor–officials, father–son, older brother–younger brother, husband–wife, and between friends. Even friends are guided by this relationship hierarchy, as is reflected in the popular Chinese adage "people are brothers within the four seas" and the gift of trust is strictly restricted to those within these familial attachments (Ip, 2009b, p. 466).

Guanxi

The principles of reciprocity, trust, and hierarchy espoused in Confucianism have manifested in the practice and concept of Guanxi. Termed a second currency that pervades through the economic systems, Guanxi can be the key to corporate success in China. (Luo, 1997, p. 52) Within this high-context culture (Ip, 2009a) trust is guaranteed via the potential damage to one's face (mainzi) that would result from failing to honor an exchange obligation. The preservation of one's face and the gathering of favors owed (renqing) are the basis of the concept of Guanxi. This differs from the Western practice of networking mainly by this focus on the utilitarian reciprocation of favors and an emphasis of fulfilling role obligations instead of solely pursuing one's own self-interest (Yi & Ellis, 2000).

This generates a never-in-balance ledger of favors debited and credited that each party must adhere to in order to avoid any loss of face. Within these confines, if someone does a favor for you, there will be an expectation that you, at some point in the future, will return the favor. The hierarchical basis of relationships comes into play here, in that your place and

role in society will determine the size of the favor needed to balance the ledger. In other words, a significant favor given by a subordinate can be repaid by a much smaller favor by the individual in power.

Taoism

Where Confucianism focuses on relationships, Taoism is a strategic philosophy that calls on the individual to find the path of least resistance through life, in harmony with the natural order of the universe. Taoism is best understood through its three key tenets: Tao, Wu Wei, and Yin Yang. Tao or Way refers to the universal laws of nature, while Wu Wei translates to "noninterference" or "letting-go" (Fang, 1999).

Yin Yang is one of the most distinctive icons of Chinese culture and represents the quintessential Taoist principle of dualism or interacting opposites. Yin and Yang are not opposing forces, rather they complement each other so that events are created, developed, and maintained in a harmonious manner. In the traditional symbol, the black dot in the white area and vice versa suggests that opposing elements can contain seeds of the other within themselves. This ability to embrace the paradox in which opposites are interdependent rather than mutually exclusive (Chen, 2001, p. 97) is a critical element of Chinese worldview. It also explains why Chinese businesspeople often confound their Western counterparts as their negotiation tactics and strategies can appear both sincere and deceptive at the same time.

Coincidentally, Confucianism and Taoism themselves reflect the paradox and dualism inherent in Chinese culture. Confucianism is a pragmatic doctrine that focuses on the hereand-now, whereas Taoism is idealistic and focuses on the mystical and spiritual sides of life. This quintessential dualism is eminently visible in modern-day China where capitalism rules along with Communism.

CHINESE BUSINESS CULTURE | D

Chinese business culture is a combination of its socio-political system; its philosophical ideologies, specifically Confucianism and Guanxi; and the strategies and tactics the Chinese employ in business negotiations (Fang, 2006). It is important to note here that unlike the U.S.—or the Western world in general—China has no formal culture or system of business ethics for private enterprise. According to Lu (2009), "Although there were social ethics and ethics in business, business ethics arose from domestic economic reforms" (p. 454).

Sociopolitical System

China's sociopolitical construct is unique in that it has a Communist ruling government that emphasizes a socialist, free-market economy. Transition and reform notwithstanding, centralized decision-making, internal bargaining, and bureaucratic red tape are still the norm (Fang, 2006). On the other hand, economic reforms have also led to decentralization in many industries, the growth of consumerism, and a shift in fundamental economic interests (Fang, 2006; Gannon and Pillai, 2010; Lu, 2009).

Additionally, since its induction into the World Trade Organization (WTO) in 2001, China has significantly modified its legal system to ensure businesses operate within WTO regulations (Lu, 2009). This could be attributed in part to the series of scandals it has experienced in recent years related to product safety including tainted pet food, toxic toys, and contaminated toothpaste (Lu, 2009), as well as environmental pollution and worker exploitation related to coal mining and consumption (Ip, 2009b). These have generated local public outrage, and damaged China's image as the factory to the world.

This crisis of credibility has led the Chinese government to reformulate its ideology and initiate policies that stress supervision, regulate trade and industry, and establish high standards of production. Finally, there appears to be a return to Confucian ethics with the emergence of the notion of a Confucian Firm that incorporates the concepts of the moral person (junzi), core human morality (ren-yi-li) and relationships (Guanxi) (Ip, 2009b).

Business Strategies

Chinese business negotiators view the marketplace as a battlefield and the ultimate goal is to "capture the market without destroying it" (McNeilly, 1996, p. 9). The intent is to gain psychological and material advantage over one's adversary, creating a favorable situation to manipulate a counterpart into doing business your own way (Ghauri and Fang, 2001). To this end, the Chinese—and East Asians in general—draw from ancient literature that includes Sun Tzu's *The Art of War*, *36 Stratagems*, *The Three Kingdoms*, and *The Book of Five Rings*.

Twelve distinct themes emerged from Tung's (1994) analysis of these texts as follows:

- The importance of strategies.
- Transforming an adversary's strength into weakness.
- Engaging in deception to gain a strategic advantage.
- Understanding contradictions and using them to gain an advantage.
- Compromising.
- Striving for total victory.
- Taking advantage of an adversary's or competitor's misfortune.
- Flexibility.
- Gathering intelligence and information.
- Grasping the interdependent relationship of situations.
- Patience.
- Avoiding strong emotions.

Chinese businesses employ myriad combinations of these tactics to gain strategic advantage. While some of these tactics might be countenanced as unethical by Western standards, it is important to understand that the Chinese view the marketplace as a battlefield, and therefore, will employ any ruse, subterfuge, or strategy that ensures their victory in the marketplace (Gannon and Pillai, 2010).

Guanxi in Business

During the 1970s, right after the Cultural Revolution, Guanxi was used to gain advantage over others, to secure a good job, get adequate housing, or gain access to a reputable hospital. Most of these deals were practiced in secret through houmen or "dealing through the back door (Ip, 2009b, p. 469)", and while publicly viewed with disdain by society, people did it anyway to further their own interests. As the economy exploded during the prosperous years of the 1990s, both local and foreign firms began to bribe state and local officials in order to gain advantages over their competitors.

Within a strict Western viewpoint, this can be interpreted as unethical, but in China, these obligations are simply a promise to do something at a later date, and as long as you fulfill this obligation, you are considered ethical. It is this relationship-focus nuance that sets Guanxi apart from corruption; it is considered an honor for a Chinese person to show off

power and win face by rendering assistance to members of a Guanxi network (Weltzien Hoivik, 2007, p. 460).

Corporations, therefore, need to be cognizant of the practice of Guanxi, as well as emerging Chinese business norms and their legal ramifications. Otherwise, not only can they run afoul of Chinese authorities, they can also be accused of corruption or non-compliance with the FCPA. It thus behooves all U.S. corporations seeking to expand internationally to be familiar with the FCPA and limit the risk of non-compliance (Johnstone, 2008; Richardson, Booher and Phillips, 2009).

FOREIGN CORRUPT PRACTICES ACT

Enacted in the environment of post-Watergate America, the Foreign Corrupt Practices Act (FCPA) was intended to force ethical behavior by U.S. corporations in their global dealings via legislative action (Koehler, 2007). The FCPA primarily addresses bribery and record keeping with the following provisions:

Anti-bribery -- These provisions make it illegal to provide anything of value (money, meals, travel, gifts, etc.) to officials of foreign governments or political parties with the corrupt intent to obtain or retain business.

Recordkeeping -- These provisions require companies to maintain corporate books and records that accurately and fairly reflect transactions involving foreign officials and appropriate internal controls to ensure the integrity of such records. (Johnstone, 2008, p. 1)

The first FCPA conviction was in 2005 when InVision Technologies, Inc., a manufacturer of explosive detection systems for airports, funded \$95,000 in foreign travel for government-owned airport employees. More recently, Lucent paid for a number of trips allowing Chinese officials to inspect Lucent's factories and to train the officials in the use of equipment. However, the amount of time spent at company facilities was limited to one or two days, while the remainder of the two weeks in the U.S. was spent at various tourist destinations such as Disney World, New York City, and Las Vegas (Koehler, 2007).

As these enforcement actions demonstrate, the greatest FCPA compliance risk for U.S. corporations doing business in China is not just cash bribes among business partners, but also includes foreign officials with cash and other gifts. Since there is a strong possibility that the Chinese government will either own or control some part of the business venture, making it a *foreign official* under the FCPA (Pedersen, 2008), U.S. corporations run a high risk of non-compliance. Additionally, U.S. businesses incur a competitive disadvantage against other foreign ventures in China, whose countries do not enforce anti-corruption or anti-bribery policies as rigorously as the U.S. (Pedersen, 2008).

DISCUSSION

In this paper, the authors have examined the philosophical and sociopolitical dynamics of Chinese business ethics and their ramifications for U.S. corporations operating under, and accountable to, Western ethical and legal systems. The charge for the U.S. is competing in a global economy, and specifically China where local business practices are construed as corruptive, while operating within the constraints of Western ethics and the laws that govern them. Concurrently, literature review and analysis reveals that the Chinese business community is grappling with attendant issues of capitalization and commercialization including a too-strong profit motive, an incomplete understanding of the governmental role, and the absence of a proper corporate culture (Lu, 2009). Additionally, this construct can be seen as artificially created as a result of free market economic opportunities and power in today's Chi-

na, which is layered over centuries-old social norms and traditions. Confucian principles of favor reciprocity and social expectations can lead a Western businessperson to misconstrue this interplay as corruption.

China's challenge, therefore, is twofold: to establish regulations and policies that curb unethical behavior, and to develop a corporate culture that is founded in traditional Chinese ideology and its ethical teachings. While the Chinese government is already working on the former, the impetus for the latter has to emerge from the Chinese business community. Emergent literature on the concept of a "Confucian Firm" (Ip, 2009b; Lu, 2009) lends credence to progress in this area. The U.S., for its part, has to determine how to balance its commercial interests in China with FCPA compliance.

Although corruption and bribery is of concern to both the U.S. and China, it is a universal phenomenon manifest in other emerging economies such as Brazil and India as well. One criticism leveled at the FCPA is that it has not been able to engage the international community to enact similar laws against corruption and bribery (Kaikati, Sullivan, Virgo, J., Carr, & Virgo, K., 2000). Another critique of the FCPA is that by enforcing honesty, it puts U.S. businesses at a competitive disadvantage against competitors in a region who not only beat them to the lucrative deals, but also claim bribes as business expenses (Kaikati, Sullivan, Virgo, J., Carr, & Virgo, K., 2000). Thus, the efficacy of the FCPA in mitigating and eliminating corruption, and its retention for the same is being questioned.

However, retention of the FCPA is crucial for a number of reasons. First is the recognition on a global scale of the negative aspects of corruption and increased efforts to curtail corrupt international business practices. Even China acknowledges the adverse impacts of corruption on its own economy, with some estimates placing the cost as high as 13–16 % of total GDP (Hu, 2001), and now has greater incentive to implement new anti-corruption regulations and increase enforcement of those that currently exist.

Second, there are signs of increased interest internationally in fighting corruption. In October 2003, the UN General Assembly adopted the Convention against Corruption, imposing various requirements on the signatories to take aggressive action to criminalize corruption. This Convention was ratified by China in 2005, as a positive sign to the worldwide community of a change within the PRC concerning its attitude toward corruption (Pedersen, 2008).

CONCLUSION

Corruption interferes with the working of an efficient market system. It creates entitlement among those in power and adds unforeseen costs to the manufacturing and distribution of goods and services. While it would be naive to state that corruption has been eliminated in most of the developed world, it is certainly not tolerated when found by the U.S., as is evidenced by increased enforcement actions of the FCPA. In 2010, the U.S. Securities and Exchange Commission and the Department of Justice conducted a total of seventy-four FCPA enforcement actions, a two-fold increase from the previous year's total of forty enforcement actions (Keeler, 2001, 4).

With the U.S. and the international community also taking a more aggressive anticorruption stance, a deeper examination of the FCPA's role appears warranted at this time. Some areas of future research could include a study to identify if the advent of the FCPA has truly reduced or eliminated payments by U.S. corporations to foreign officials, specifically within the PRC. Whether the lack of prosecution within this Act is a matter of compliance or lack of enforcement is another issue. Also, how have so many large American corporations established their presence in China without violating the spirit of the FCPA, despite the systematic acceptance of Guanxi and expected practices within the PRC? In a survey conducted by the General Accounting Office in 1981 of the top 1000 businesses, a full 30% of the respondents claimed that the FCPA has negatively impacted their overseas business operations (as cited in Pedersen, 2008). In 1995, the John F. Kennedy School of Government at Harvard University revealed in a study that since the passage of the FCPA in 1977, there has been a significant decline in U.S. business operations in countries where corruption of this nature might exist. Meanwhile, the trend toward investing in countries with corruptive practices is shifting toward countries that are willing to participate in these environments. If either study were repeated today, would the data reveal a change in attitude toward the FCPA, or an increase in business operations to what were deemed corrupt companies?

However, the Chinese perspective also lends itself to further research. For instance, how will Guanxi manifest as China continues its ascent up the global economic ladder? Will a centuries-old cultural tradition be abandoned, or will it take on a new form aligned with a more Western worldview on ethical practices? In contrast, if the notion of a Confucian firm takes root in a global sense, will it emerge in another, more benevolent business model, founded in Confucian virtues of humanity and morality?

Finally, with the apparent success of the FCPA on legislating ethical behavior by U.S. corporations, what international accords can be put into place to accomplish the same worldwide? Certainly, the Convention against Corruption adopted by the U.N. in 2003 was a beginning towards this goal. However, how effective has the ratification of this convention been in curtailing corruption within those signatories? And what role do organizations such as Transparency International and the Organization for Economic Co-operation and Development play in this endeavor?

While regulatory processes can curtail corruption, they may not be sufficient to completely eliminate the implications and practice of Guanxi for Western businesspeople working in the PRC. Rather, it might require that Chinese businesses look beyond personal interests and recognize their responsibility to community, nation, and the world.

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