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Codes of Conduct - Managing the Contradictions between Local and Corporate Norms

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DOI: https://doi.org/10.1108/13632541011090455

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Citation

Codes of conduct: managing the contradictions between local and corporate norms

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Abstract

Purpose – The purpose of this paper is to find out whether, which and how international corporations use their codes of conduct to guide employees double-bound by contradicting cultural norms.

Design/methodology/approach – The paper draws on integrative social contracts theory to content-analyse the codes of conduct of the "Fortune Global 500" and the "UNCTAD 100".

Findings – The vast majority of international corporations' codes either does not acknowledge contradictions between equally binding norms, or lacks priority rules for employees to resolve them. Nonetheless, several codes of conduct describe how norms might contradict, give clear priority to one set of norms (local or corporate) and provide specific examples to employees of when and how to apply a priority rule.

Practical implications – The paper identifies the 33 codes of conduct which can serve as best practices for international corporations' employee and corporate communication.

Originality/value – Contradictions between cultural norms are unacknowledged or unresolved in communication practice and little explored in corporate communication research. This paper assesses the scope of this caveat in communication practice and offers solutions in the form of an existing normative theory and of newly identified best practices.

Keywords Employee behaviour, Employees communications, Cross-cultural management, Globalization

Paper type Research paper

Introduction

International corporations' employees often face a double-bind dilemma (Bateson *et al.*, 1956), i.e. an impasse between contradicting, but equally valid and simultaneous demands: Their business conduct and decisions can easily breach local values, customs, practices or even laws while conforming to the norms set by corporate headquarters. At the same time, respecting locally upheld norms can place employees at conflict with expectations from corporate headquarters.

The UBS manager in Singapore during the Lunar New Year celebrations is faced with a contradiction between norms of conduct: Should she politely accept the traditional Ang Pow (literally "red packet", an envelope with cash) from her law firm which would smack of corruption at corporate headquarters? The same dilemma of gift-giving entangles the Singapore Airlines' regional sales director in Japan when offered an Oseibo (a gift at the year's end) by a travel agent. The Shell representative in Dubai is expected by London/The Hague headquarters to make non-discriminatory hiring decisions, but his local market expects him to not make staff report to managers younger than themselves.

Refraining from conduct not being an option for employees in a double-bind dilemma, they justifiably turn to their corporations for guidance. If these fail to communicate their expectations, ethical and reputational crisis may follow. It was the contradictory interpretation of accounting practices that led to accusations of fraudulence against Adecco in 2003 (sending its share price plummeting). The European industrial giant Siemens (with operations in practically every country in the world) is facing the largest scandal in its 160-year history over its widespread system of bribery. Expatriate Siemens managers lament (in private conversations with this author) that in many markets, this was the only way of acquiring business, and that by extending "welcoming money" to foreign government clients, they demonstrated culture-sensitivity.

Globalisation increases the instances in which employees are culturally double bound thus exposing the corporation's reputation to greater risk from conduct deemed ethically deviant (Ni, 2007). Cross-border trade as a percentage of world production, the number of joint ventures as well as foreign investment relative to gross fixed capital formation is rising in the long run (albeit contracting for 2009). The 100 largest corporations (excluding banks) generate on average half their sales overseas where half their employees as well as assets are based (UNCTAD, 2007). This raises the number of technology- and communication-enabled cross-border interactions between information and manpower, and with them, the instances of contradicting norms (particularly during downturns of the highly interdependent global economy) (Swenson, 2000). Ghemawat (2007) disproves with lucid empirical detail the popular globalisation myth that these interactions make cultural differences less important. Rather – in what he calls semi-globalisation – the increase in cross-border interactions makes differences more vivid, and their management pivotal to business success. Precisely because markets are not fully globally integrated (but maintain, among other things, cultural distance) global corporations must develop truly global, i.e. multilateral approaches. More specifically, foreign direct investment establishes legal entities of corporations abroad, thus making them accountable to diverse cultural and legal systems, while global communication technology makes breaches within those systems instantly known around the "flat world" (Friedman, 2005). This study therefore focuses on contradicting norms for business conduct in corporations that are exposed to the coterminous pressures to diverge and converge in globalisation (Stohl, 2001). Decision diffusion within corporations has put theses pressures squarely on the plate of the employee, while a multipolar and networked structure determines "the way decisions are made in the multinationals as well as in their locations. The balance between the uniqueness of local needs and the uniformity of the network is determined by the local manager" (Tavis, 2000, p. 17).

Among the steps to "global communication heaven" Mounter (2003, p. 268) identifies: "evaluation/research of issues, both local and global" and "empowerment of local management and the communication network to deliver the messages and control feedback on them". Left un- or ambiguously managed, transaction and opportunity costs of staff handling dilemmas case by case will rise as well as their self- or locally interested resolution attempts (Ferris, 1991; Hsee, 1995). Local managers might also conceal information from their corporate headquarters to protect their operational autonomy even if it were beneficial to the corporation's efficiency of resolving contradictions between corporate and local norms (Sethi, 2000).

In the light of recurring workplace dilemmas (Maddox, 1993; Lewis, 2006) and corporate scandals, we ask: How successfully do corporations communicate their

policies to staff on how to handle contradicting norms in international business? Integrative social contracts theory (ISCT) (Donaldson and Dunfee, 1999a) provides a measure of that success. The theory is a guideline for the "global manager [who] often must navigate the perplexing gray zone that arises when two cultures – and two sets of ethics- meet" and where neither unmitigated relativism nor photocopy home-country ethics would suffice (Donaldson and Dunfee, 1999b, p. 45). Even though ISCT is a normative theory of business ethics, it is not an ethical, but a procedural theory which has been applied to a variety of managerial issues, like marketing, human resources, corporate social responsibility and labour standards (Dunfee *et al.*, 1999; Hartmann *et al.*, 2003; Lucas, 2001; Reisel and Sama, 2003). It acknowledges the experiential nature of globalisation and insists that local as well as translocal agreements about norms often both matter and might thus situationally contradict.

ISCT considers these contradictions and their resolution to be relevant to the individual (rather than just to the corporation). It makes the efficiency of economic interactions its focal point and prescribes the necessary ethical frameworks to be communicated in and by international corporations. "World level rational contractors, recognizing both their strongly bounded rationality and the frequency of conflicts occurring among norms in various economic communities, would want a means to arbitrate and resolve such conflicts" (Donaldson and Dunfee, 1994, p. 268).

ISCT expects corporations to adhere to hypernorms (like fundamental human rights) and to additionally agree on own norms. These then form the corporations' macrosocial contracts that are based on the consent of the economic/moral agents and are codified in a shared common device or mechanism. However, a community often also expresses "unique, but strongly held, cultural beliefs" (Donaldson and Dunfee, 1999a, p. 53), i.e. microsocial contracts. The macrosocial contracts should thus incorporate moral free space where norms are allowed to be "inconsistent with at least some other legitimate norms existing in other economic cultures" (Donaldson and Dunfee, 1999b, p. 53).

When the norms of the micro- and the macrosocial contract contradict, employees should be able to identify and solve these contradictions by applying priority rules. These priority rules also need to be established by the macrosocial contract. ISCT therefore expects moral free space to be acknowledged, enabled, limited and communicated by the macrosocial contract of an economic community like an international corporation. This contract's main function is contributing to the community's efficiency by providing the conditions for moral free space as well as priority rules.

Codes of conduct are such shared common devices that codify corporations' macrosocial contracts. They are a strategic communication tool "through which companies enter a discourse about themselves" (Bethoux *et al.*, 2007, p. 78). These key organisational documents are the most visible agreements of a corporation's norms and – as the product of multi-party deliberation – generally bind all employees of the international corporation through auto-communication, i.e. where the message is primarily internal but the existence of an external audience makes the difference (Cheney and Christensen, 2001). Fisher (2001, p. 145) warns against the "dialogic tension in people's understanding of ethical codes [...]. For every view a person takes on an issue a counterview immediately comes into focus". If a code of conduct were to guide through situations of contradicting norms, it should therefore incorporate both local interactions and cross-border interactions. Also, instead of blending

contradictions into general values – creating what Post (2000) has called the translation problem between the code's text and its operationalisation – international codes of conduct must retain specificity. A truly functional global code of conduct will therefore be a communication tool that guides staff in managing the contradictions between local and translocal norms. Taulalicar's (2006), Sobzack's (2002) and Stevens' (1996) meta-analyses of research on codes of conduct show that no study has yet included this aspect.

The research questions asked here are therefore:

RQ1. Do the codes of conduct of international corporations firstly acknowledge moral free space in which the norms of local microsocial contracts might contradict those of the corporate macrosocial contract?

RQ2. Do they define priority rules for business conduct *vis-à-vis* these contradictions?

Methodology

Content analysis was applied to the codes of conduct of the 500 corporations listed in 2008 as the "Fortune Global 500", i.e. the largest corporations worldwide. These documents have divergent names (mostly "code of conduct", but also "code of business conduct", "code of ethics"), while all address the employees of a corporation (as opposed to corporate governance documents that address officers and directors). All corporations' web sites were accessed and their codes of conducts downloaded; corporations without a downloadable code of conduct were contacted once per e-mail. This first step was completed in September 2008. In a second step, all available documents were binary coded on their acknowledgment of contradictions between local and corporate norms (laws, values, customs and practices). In a third step, the codes of conduct that acknowledged these possible contradictions were categorized according to the priority rules they defined for handling them:

(1) local norms supersede corporate norms;

(2) corporate norms supersede local norms; and

(3) neither are given clear priority but the code defines rules to guide conduct from case to case.

The coding occurred at the level of the text, based on the assessments of its overall characteristics. While general or introductory statements would thus have been understood to be more significant than examples or specific statements, no text showed incoherence between its introductory and more specific statements.

Codes of conduct were re-analysed from corporations that – next to being on the "Fortune Global 500"-list – were among the "UNCTAD 100" (the top 100 corporations on the UNCTAD globalisation-index that combines the ratios of foreign assets, sales and employment).

All coding was done by three coders (author and two graduate students) with different personal cultural contexts (Asian, European, North-American). Overall intercoder-reliability for "acknowledgement of contradictions" was 94.97 per cent and 100 per cent after rediscussion of coding categories. Intercoder-reliability for more specific "acknowledgement of contradictions between laws" was 100 per cent.

Intercoder-reliability for the priority rules of handling contradicting norms was 84.31 per cent and 92.15 per cent after rediscussion of coding categories. Intercoder-reliability for the priority rules of handling contradicting laws was 100 per cent.

Examples from the codebook

Coded as "acknowledgement of contradictions" were codes containing statements, like:

> We must recognize the global reality of our work. In some instances, there may be a real or apparent conflict between the laws of two or more countries (General Dynamics).

> Some national laws [...] prohibit the granting and the acceptance of an advantage by someone holding a public office. In some places, however, it is an accepted custom to show some form of appreciation (Roche).

Coded as "local norms supersede corporate norms" were codes with statements, like:

> [...] where appropriate our Code of Conduct will be modified by local laws and standards (Henkel).

> The granting of an advantage to someone holding a public office is acceptable for a Roche employee, provided all of the following requirements are met: it is not prohibited by applicable national laws, it is appropriate and in conformity with local custom, it is properly entered into the company's books and the payment is made in the country in which the services are rendered (Roche).

Coded as "corporate norms supersede local norms" were codes with statements, like:

> The Company acknowledges that there are differences in local laws and practices between countries. In some instances, the Code establishes policies and/or requirements that would not otherwise be required in some countries. In keeping with the Company's commitment to meet the highest standards of business conduct wherever we do business, all employees must comply with all aspects of the Code, even if it is not required by local laws (The Gap).

> [...] even if local laws allow Honeywell to employ people who are younger than sixteen, the Company will not do so (Honeywell).

Companies that did not give clear priority to their corporate norms nor to local norms applied one of two meta-rules. Their codes of conduct either called for assessing the stricter of two contradicting norms or for their resolution by higher management or the legal department. These meta-rules were expressed in statements, like:

> Wolseley recognizes that observing a local custom or practice may have a different effect to that envisaged by this code. Local management's advice should be sought in such cases to resolve the dilemma (Wolseley).

> Where the code or company guidelines differ from local laws or regulations we must always follow the higher standard. If you believe the requirements of the Code conflict with local law, consult Intel Legal (Intel).

Results

Of the 500 global corporations studied, 67.5 per cent had an accessible code of conduct. The remaining corporations either did not have one or did not wish to make it externally accessible. This reduced the number of codes of conduct analysed to 338.

The majority of the available codes of conducts do not acknowledge the contradictions between local and corporate norms in international business. While 76.9 per cent (260, Siemens among them) do not mention contradictions of norms, 23.1 per cent (78) refer to the contradictions between laws, values, customs and/or practices of the corporation on the one hand and local markets' norms on the other (Figure 1).

More precisely, 7.4 per cent (25) refer narrowly to contradicting laws, while 15.7 per cent (53) have a broader understanding of these contradictions and also include extra-legal norms like values, customs and practices (Figure 2).

How then do corporations that acknowledge the contradictions of norms guide their employees to solve these dilemmas of international business? Of the corporations narrowly acknowledging only contradictions between laws, 68 per cent (17) offer a meta-rule to their employees when encountering them: employees are instructed to either apply the stricter law available or to forward the contradiction to their supervisor or legal department. All others, 32 per cent (8), instruct their employees to give local law priority over the foreign laws referred to in the corporations' code of conduct (Figure 3).

Those corporations that refer to a broader range of possible contradictions (i.e. include values, customs and practices) also have a wider range of instructions for their employees to handle them: 37.74 per cent (20) revert to a meta-rule and expect employees to either seek guidance from supervisors or to determine and apply the stricter of two contradicting values, customs or practices; 32.07 per cent (17) instruct that the norms expressed in the code of conduct supersede contradicting local norms; 30.19 per cent (16) state that local norms supersede the corporate norms in such cases (Figure 4).

Do the codes of conduct of the most global among the largest corporations stand out? Of the "UNCTAD 100" corporations, 90 are also among the "Fortune Global 500". These 90 were re-analysed. Of these corporations, 78.9 per cent (71) have an accessible code of conduct. The majority, 63.4 per cent (45), also makes no mention of possible contradictions between norms. A larger portion compared with the "Fortune Global 500",
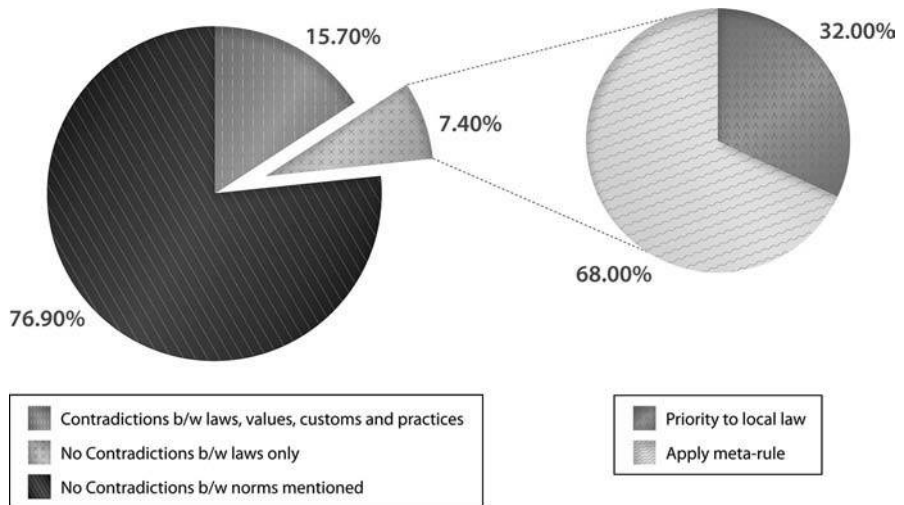

23.10%

76.90%

Contradictions b/w norms mentioned
No Contradictions b/w norms mentioned
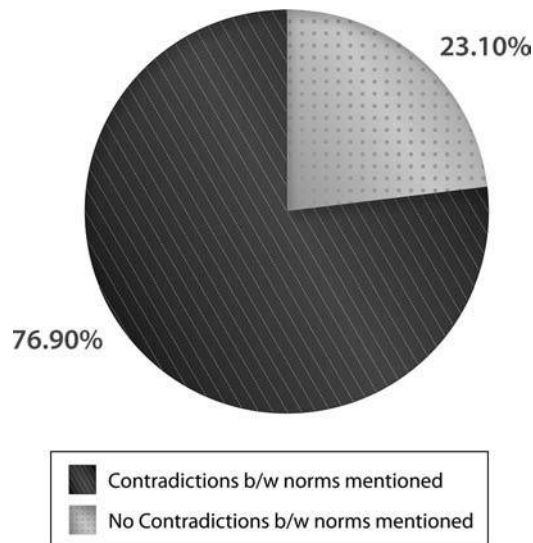
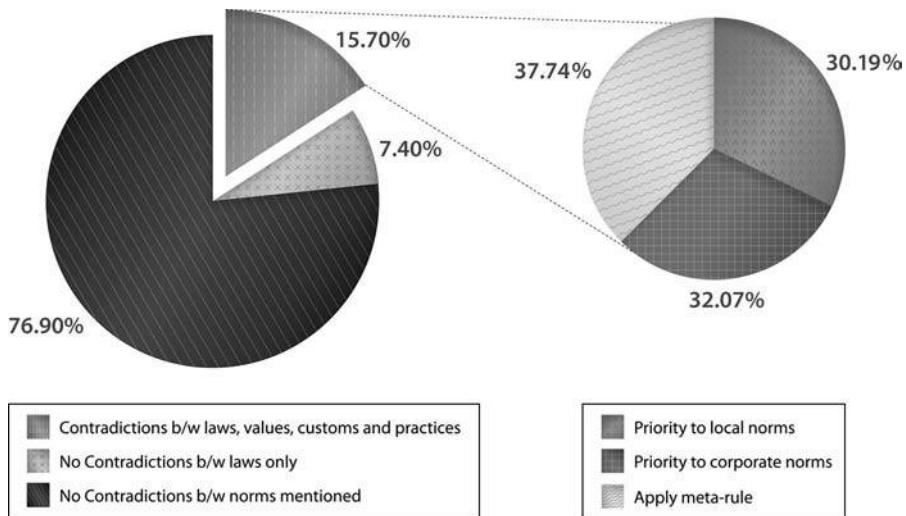**Figure 1.**
Acknowledgement of contradictions between norms
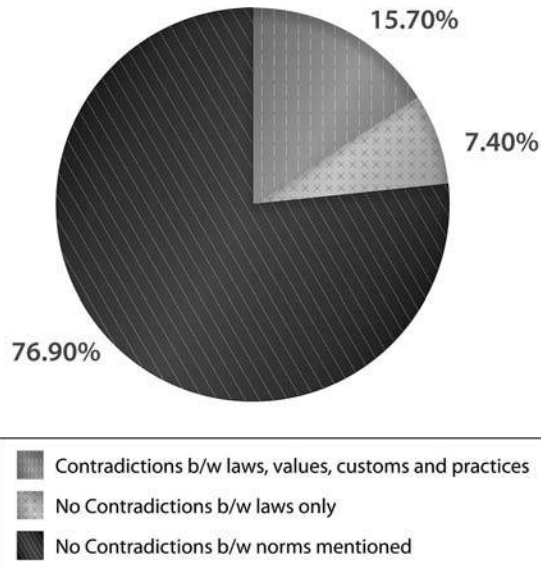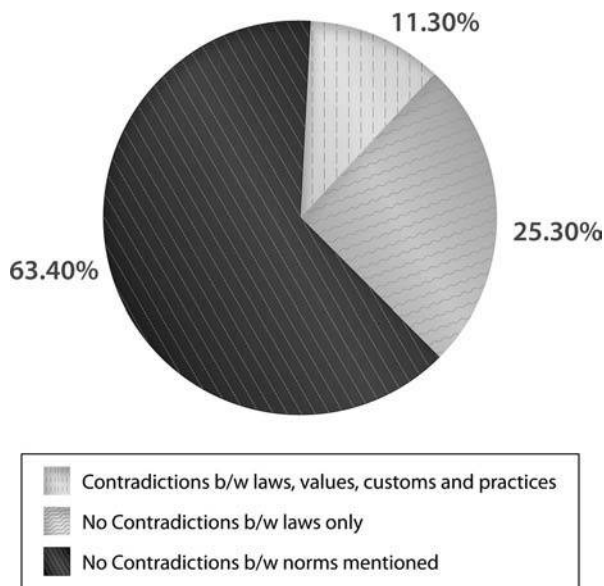
Figure 2.
Types of contradicting
norms

Figure 3.
Priority rules between
contradicting laws

36.6 per cent (26) – but still a minority – acknowledge possible contradictions, 25.3 per cent (18) broadly acknowledge contradictions between laws, values, customs and practices; 11.3 per cent (8) narrowly refer to contradictions between laws only (Figure 5).

The subsequent subsets become too small for meaningful quantification, but the general directions are: codes of conduct acknowledging only that laws might contradict will give priority to local law or contain a meta-rule; codes of conduct with a broader understanding of contradictions are fairly evenly distributed between giving priority to local norms, giving priority to corporate norms and applying a meta-rule.

Discussion and outlook

The vast majority of the world's largest corporations' codes of conduct are unsuitable communication devices for guiding staff through the double bind cultural dilemmas of international business. This also counts – albeit to a slightly lesser degree – for the most global among these largest corporations.

Most codes of conduct do not acknowledge the contradictions in the first place. While many corporations do have a written code (i.e. a macrosocial contract in the

sense of ISCT), only a minority of these acknowledges that local norms can contradict the corporate code of conduct. Among these, about one third expects contradictions only to arise between local and foreign laws. The majority of these legalistic codes, in turn, do not empower employees to take a decision when laws conflict but instead revert the dilemma back to the employee ("establish what the stricter norm is") or to the organisation ("seek advice from supervisor or from legal").

There are 33 exceptions, though. The following international corporations have codes of conduct that guide staff through the contradiction of norms: Ahold, BP, Conoco Philips, Westpac, Nokia, Enel, Caterpillar, Deutsche Post, Cisco, Lafarge, Linde, Loews, Accenture, Bristol Myers Squibb, Compass Group, OMV, Woolworth, GM, Nissan, Hitachi, Komatsu, Lockheed Martin, Roche, Gaz de France, BHP Billiton, John Deer, Honeywell, Bunge, DuPont, Plains All American, Old Mutual, Alcatel Lucent and The Gap. Their codes of conducts are all publicly available as downloadable documents on the corporations' web sites.

In their codes of conduct they first acknowledge that sets of norms might contradict, second give clear priority to one set of norms (local or corporate) and thirdly provide specific instances and/or examples of how and when to apply the priority rule. They are particularly precise about gift-giving, facilitating payments, employment of relatives and the entertainment of public servants. In sum, therefore, most of the corporations that express a broad, cultural understanding of conflicting norms also empower their employees better in their codes of conduct to take decisions. This might well be a globalisation-effect: These exceptional corporations make up a larger portion of the world's most globalised corporations ("UNCTAD 100") than of the world's largest corporations ("Fortune Global 500").

But in most corporations the codes of conduct are not deployed as a communication device to manage the cultural dilemmas of globalisation. This can create a modern Antigone-dilemma for staff. Sophocles captured the dilemma faced by anyone caught between own norms held locally and those held by remote leaders. Any action taken will break a taboo, but so will not acting altogether. Antigone sought to bury the body of her slain brother, as she felt was the moral duty in her city. The new king Creon however, prohibited her from doing so since her late brother was seen as a traitor to a larger cause. Antigone proceeded nonetheless and was imprisoned, but Creon confusingly downplayed her crime and thus avoided crafting universal rules in his kingdom or having to punish trespassers. In the end, as in most ancient tragedies, all protagonists ended up dead, heartbroken or mad and the ruling power with its legitimacy damaged.

The results of the content analysis naturally do not rule out the possibility that global corporations – particularly with a high-context culture (Hall, 1976) – have alternative (or even more suitable) communication and managerial tools for handling these dilemmas while their code of conduct simply has an external, reputational function. Also, the texts give no clue for the next, admittedly more interesting question: why do most of the world's largest international corporations have this ambiguity in their codes of conduct? On the one hand, it might be ethnocentricity (the belief that home country's norms are good enough to be extended to foreign markets), particularly in what Munshi (2005) calls neo-colonial organisations that primarily seek to control cultural diversity from a so-called Western standpoint. But on the other hand, it could also be a communication strategy to maintain ambiguity (Eisenberg, 2007; Leitch and

Davenport, 2002), because – among other things – the corporation may wish to avoid the transaction costs of assuming universal legal responsibility, may wish to change the organisational culture or may see a benefit in its intercultural tensions.

Here future research will need to employ alternative methods, like qualitative in-depth interviews (with staff of the 33 exceptional corporations as well as of those corporations that have been entangled in a dilemma, like Siemens) or participant observation of coping mechanisms in the 33 corporations. Analysis will ultimately also need to depart from integrative social contracts theory (critics like Frederick, 2000, opine that ISCT's weakness is its imposition of moral abstractions on individuals and organisations) and seek guidance from a theory of global corporate communication yet to emerge at the crossroads of intercultural communication, organisational communication and corporate communication (Monge, 1998).

Meanwhile, in practice, corporations that wish to communicate their expectations for handling intercultural dilemmas would be well advised to learn from their peers and consider the 33 exceptional codes of conduct identified here to be best practices.

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