

Gift giving, bribery and corruption: Ethical management of business relationships in China

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GIFT GIVING is a prevalent social custom in China in all areas of life: in family and in significant relationships (*guanxi*), as well as in dealing with political authorities, social institutions and business people. For all that, from an ethical perspective, it is very difficult to know when it is proper to give or receive a gift, what sort of gift is appropriate, or what social obligations gift giving imposes (de Menthe, 1990).

Anyone who has lived in a foreign culture knows how difficult it is to successfully adapt to the local way of doing things. One can spend many months learning how to behave, only to find it all too easy to still commit tremendous *faux pas*. For foreigners, the cultural logic and social practices of gift giving present one of the most difficult lessons in learning how to “do business right” in China. Not surprisingly, many Westerners unfamiliar with Chinese culture often make the easy identification of gifts with bribes and allege that the Chinese are promiscuously corrupt in their business practices (*Economist*, 1995a, 1995b). Such an easy identification is, however, incorrect. The Chinese themselves are well aware of the differences. There is hardly an issue that has so preoccupied the Chinese media and incited debate over the past years as bribery and corruption (Levy, 1995). Within Chinese culture itself, there are, indeed, moral parameters to distinguish morally proper gift giving from bribery and corruption.

In this paper I assess the cultural and moral differences between gift giving, bribery and corruption and set forth guidelines for managing business relations in China. I begin with a cultural framework of analysis and then proceed to analyze transactions based upon reciprocity in terms of 1) the action itself and 2) the moral intention of the agents. I conclude with moral

guidelines for ethical management.

Developing a cultural framework for reciprocity

John Noonan (1984, p. 3) observes: “Reciprocity is in any society a rule of life, and in some societies at least it is *the* rule of life.” China is one of those societies where reciprocity is a foundational pillar of social intercourse. To approach another and bring nothing is unusual, to say the least. To accept a gift and not reciprocate is perceived as morally wrong.

A social custom such as gift giving expresses deeper socially embraced behavioral ideals and norms of mutuality and “right relationships” between people. Practices of gift giving in China include visual behavioral patterns (*organizational artifacts*), which are enshrined in *rites (li)* of proper conduct. Such rites themselves are rooted in normative and prescriptive canons of righteousness (*yi*) and benevolence (*ren*), which express why such actions are culturally meaningful or logical. In general terms, *cultural logic* underscores the numerous socio-cultural values and beliefs that are embedded within organizations and function as a sort of internal gyroscope, which governs the social behavior of people. It is, nonetheless, difficult to discern when it is proper to give a gift, what its nature should be and to whom it should be given. Such discernment is ultimately a matter of *social knowledge*. Proper social knowledge represents the ability to align behavioral patterns with cultural logic.

In the area of business, a manager needs to gather and correlate such cultural information and its supporting ethical data in ways that make sense and render it usable. The three principal aspects of the cultural data base — artifacts, social knowledge and

cultural logic — are summarized in Table I. In daily practice companies require a concrete understanding of acceptable business behavior patterns and an appreciation of why people do things in a certain way. To be successful business practices must be grounded in an accurate reading of these three levels of social meaning (Hofstede, 1980).

While cultural logic represents the transcendental values and worldview that underlie a culture, such as harmony, justice and right relations, artifacts represent the empirically observed behavior of people as they interact with one another, such as exchanging gifts, taking a certain place at table, or greeting a visitor at the airport. Social knowledge mediates between these two levels in determining what is appropriate. For example, if a visitor is coming from abroad, who is the proper person to meet him or her at the airport and what type of gift would be correct.

While the underlying traditional Chinese cultural logic provides the fundamental ethos of business practices, social knowledge provides a clearer map of “the rules of the game,” through the mechanisms of routinely expected behavior patterns. The “rules of the game” reflect what people collectively, through social consensus and organizational will, find desirable. They provide specific ways of doing things within the overall structure of normative ethical parameters. Gift giving, for example, is expected behavior, which shows respect to another person and strengthens relationships. The practice is also bounded by rules of moral legitimacy, which may in the end lead to defining some gifts as illegitimate forms of corruption. Chinese sources themselves are well aware of this (He, 1994; Liu and Xiong, 1994).

In China, gift giving forms part of a larger picture: belonging to a network of personal relationships (*guanxi*). That these relationships be “right” is a matter of utmost moral and practical concern. Gift giving is one of the ways of nurturing such

relationships and strengthening the trust, caring, reciprocity and commitment between the parties. In practical terms, the quality of such relationships emerges as a universal primary reference point in judging what one ought to do. In day to day business, these realities lead to patterns of choice and the determination of priorities that are expressed in concrete deeds, such as favoring in commercial deals those people with whom one has close relationships or *guanxi*.

Interacting with others in China

Chinese culture exhibits a very nuanced social philosophy of *relationships*. These embody both the *respect* one person owes another in terms of face (*myan dz*) as well as obligations of mutual rights and duties (*quanli yu yiwu*), which bind people together. The predominant social structures of Chinese society are found in the web of significant relationships (*guanxi*), based upon family, geographic origin, school mates and so forth. A person’s *guanxi* outlines who matters and how much they matter and provides the primary basis of moral claims for one person upon another (Gargan, 1996).

Such relationships in China are not unidimensional. In fact, they embrace many different levels of intensity. Most generally, they are ranked in order of importance as follows: family, friends or fellows (school mates, colleagues, distant relatives, friends of friends), other Chinese, and the outside world. This ordering is also reflected within a business enterprise: the business itself is a quasi-family and evokes primary loyalties, followed by ties with the enterprises’s principal alliances (with banks, suppliers, traders, customers), other Chinese businesses and economic agents, and then the outside world. The principal challenge for a foreign corporation is to insert itself as closely as possible within the inner circles. In dealing with the Chinese, it is very important to be aware of such things as practices of gift giving and receiving, the proper role for host organizations and guests, correct ways to handle introductions, etiquette in eating and

drinking, proper decorum with superiors, peers and inferiors in the workplace, how to handle and express disagreements, proper dress and so forth.

Chinese social behavior has traditionally been quite prescriptive in terms of rites (*li*) and forms of courtesy, manners, politeness, and correct decorum (*li mao*). “*Li*” is highly ritualistic and expresses the proper public manner of relating to a superior, an equal or inferior in extending greetings, speaking, taking a seat, drinking or any expression of self towards another. As pointed out in the previous section, “*Li*” rests upon a broader normative ethic of “right relations,” which, for instance, express the heart of ethical concerns in the Confucian tradition (de Bary, 1991, pp. 332ff.). In China, position within the group, rather than over the group or in distinction to it, is far more important than independence from the group. Likewise, respect for others (“face”) is of paramount importance and is manifested through gift giving, deference, not publicly disagreeing, public honors within a group, and so forth. Both relationship networks (*guanxi*) and the social stature of face (*myan dz*) are enshrouded in public rituals (*li*), which express status, respect and bonding in formal terms.

Attention must first be paid to instrumental organizational dynamics of structure, control, incentives and time. Chinese organizations tend to emphasize high-status definition and follow the rules of *guanxi* and familial structures. U.S. organizations are more low-status and more rule-based, closely following formal rules and regulations rather than “following relationships.” Control mechanisms in the former tend to be more cooperative and based on personal trust, and incentives take forms that emphasize loyalty and security. In the West, control is often more conflictive and regulatory, with incentives based upon individual achievement and merit. In the West, time is a precious commodity as the slogan “time is money” suggests; in China time is put to the service of relationships.

Further, one must consider a central dynamic of personal organizational interaction that stands out: individualism versus group identity. In the West people often define themselves as standing out from the group, emphasizing individual creativity, achievement, reward and status. In China people are more at pains to define their place within a group. This becomes more evident when applying the cultural process to doing business in China.

According to William de Bary (1991, pp. 3-4):

Reciprocity, then becomes the basis of self-cultivation. One defines ones “self” in relation to others and to the Way which unites them. Thus is constructed the web of reciprocal obligations or moral relations in which one finds oneself, defines oneself. Apart from these one can have no real identity. And yet these relations alone, it is equally important to recognize, do not define one totally.

. . . for Confucius the individual exists in a delicate balance with his social environment, reconciling his own self respect with respect for others, his inner freedom with the limiting circumstances of his own situation in life.

For Chinese, gift giving is a natural dynamic of any relationship: it shows a relationship is valued and is a means of expressing respect and honor for the other person. Gifts express good will and gratitude and, in many ways, can be considered a dynamic form of “social contracting.” The difficult aspects of gift giving have more to do with assessing the proper proportionality between persons and the implied sense of obligation or reciprocity that is entailed in giving or receiving a particular gift. For example, in dealing with a Chinese delegation, the leader should receive a better gift than subordinates. One often must proceed by trial and error; however, exchanging equivalent gifts is not a bad rule of thumb: a meal for a meal, a pen for a pen. To avoid bribery, it is important to focus upon whether, through the gift, one is asking one party or other to engage in behavior that

is not an integral or legitimate part of the set of transactions at hand, which form the backdrop for meeting in the first place (Clinard, 1995). For example, depositing 1% of a multi-million dollar transaction's value in a Swiss bank account in order to get an official to sign off on a deal could not be construed as a gift.

From gift giving to bribery and corruption: present practices within China

Gift giving is one of the most pleasant and also one of the most difficult of Chinese customs to understand; however, the lines between gifts and corruption are often blurred.

Business and political corruption are by no means unique to China (Jacoby et al., 1977; Borrus, 1995; Clarke, 1990; Husted, 1994; Kristoff, 1995; Melloan, 1995; Pearce and Snider, 1995). American business people are often wary, because the U.S. "Foreign Corrupt Practices Act" (FCPA) as well as company codes of conduct often prohibit any exchange of gifts between a company representative and a supplier or customer (Greanis and Windsor, 1982).

Originally set into law in 1977, the FCPA underwent significant legislative changes in 1988 (Bliss and Spak, 1989) in view of the practices of other countries. In 1994 the OECD (Organization for Economic Cooperation and Development) passed its own "Antibribery Recommendation" and urged member states to follow up with appropriate legislation (Earle, 1996).

One of the most famous business ethics cases of the seventies was the Lockheed payments scandal in Japan (Boulton, 1978). It involved major companies as well as political figures in staggering sums of money. Eventually it led to the United States' "Foreign Corrupt Practices Act" (Young, 1978; Greanis and Windsor, 1982) which focused attention on the practice of giving gratuities — a seeming necessity at every level of a transaction if one were to be successful at doing business in Japan.

It is important to realize that the Chinese

literature itself is full of condemnations of corruption on the part of officials, where alleged "gifts" are actually forms of extortion and bribery (Cheng, 1994; Kolenda, 1990; Gong, 1993; Hao and Johnston, 1995; Jiang, 1995; Liu, 1995). Chinese culture itself has a sense of proper proportionality and reciprocity between those who exchange gifts (Schwartz, 1985, pp. 109112; 322-327; Rocca, 1992; Legal Research Institute, 1994; Faison, 1995).

Many observers assert that one of the principal motives for the Tiananmen outburst in June, 1989, was the overriding disgust with the corruption of Party officials and their families (Chen, 1995). Since then, the Chinese themselves have been increasingly preoccupied with corruption, internally prosecuting over 167 000 cases from 1993 through September 1995 (Li, 1996; Cao, 1996; Tyler, 1994, 1995). Top officials, including the mayor of Beijing, and their families and cronies have been toppled from power. The word "power" sounds a note of caution, as anti-corruption drives have become intertwined with power struggles among leadership factions following the death of Deng Xiaoping (Barnathan, 1995; Engardio, 1995).

In response to pressure for vast political change, a number of reforms have been introduced to root out corruption and fraud and to stem the widening gap in economic development between the rich and poor (Embassy of the PRC, 1993; Cao, 1996; Kristoff, 1993; Brauchli, 1993a; Barnathan, 1994).

In recent years, according to Chinese sources, the burden of the peasantry has grown to be intolerable and, comparatively speaking, their living standards have declined. A number of issues are involved: rigged prices for agricultural inputs and outputs, corruption of local officials, lack of investment and jobs in the rural sector, and farmers being paid in government "I.O.U.'s" rather than currency (Xinhua Domestic Service, 1993; Brauchli, 1993b; Barnathan, 1993). There are numerous appeals for

reform, some from official circles (Xinhua Domestic Service, 1995), some from dissidents (Barme and Jaivin, 1992).

Moral analysis of reciprocity

How is reciprocity, as a general type of moral action, to be analyzed? To call what is empirically a transfer of resources between parties 1) giving a gratuity or 2) bribery, or 3) a commission involves interpreting the meaning of the empirically observed event. Such interpretation draws upon core human values, respect for local traditions, and an appreciation of context (Donaldson, 1996).

To label it “bribery” is already to make a moral judgment. For in ordinary English (or Chinese) the word bribery itself (*huilu*) connotes a wrongful transfer of resources between parties. Wrongful because the gift giver and receiver apparently strike a deal, which puts their own interests above other parties, who have legitimate prior claims in the transaction and on whose behalf the agents are acting. It not only breaks down trust between people and their agents (d’Andrade, 1985) but also undermines the legitimacy of social institutions (Turow, 1985) It is just this action which I wish to scrutinize before we characterize it with a label. In Table II I outline the elements of analysis of reciprocity in resource transfers. The moral analysis of such a resource transfer can be exceedingly difficult to carry out. The resource transfer itself can be termed the “empirical part” of the action. It is empirically descriptive of what takes place and, in this sense, is morally neutral. Moral judgment about the action, however, is not neutral.

Analysis of reciprocity as a “type of moral action”

In objective categories moral understanding of an existential kind of action demands clarification of values as well as concrete knowledge of ends, means and consequences. Moral judgment then seeks to decide:

1. whether as a type of action “X” is right or wrong
2. whether as a specific instance a particular action “x” is good or bad, and
3. whether the parties (agents) involved are to be praised or blamed

The paying of a commission is ostensibly the least troublesome resource transfer. Morally, it is embedded in a freely undertaken and fair contract framework and represents remuneration in a transaction of mutually beneficial exchange. As a type of action the ends sought, means taken and consequences which ensue are usually justified in terms of instrumental values (efficiency, utility) and self-interest. Such an action is only morally correct if it is consistent with fundamental values of justice and basic moral virtues. Furthermore, the intentions of the parties must be honorable and neither their consciences nor freedom are impaired. However, all of this can be easily suborned. Values of self-interest can be transformed into raw selfishness and expediency replace justice. Some would argue that commissions have become the favorite form of bribery in the United States, because they offer the cloak of legality (Jacoby et al., 1977; Clinard, 1995).

Giving a gratuity, such as a tip, is a bit more difficult to analyze (Philips, 1984; Udoidem, 1987). If it altruistically expresses gratitude — a bonus for a job well done and performance exceeding expectations — it is a sign of generosity and esteem for the other. But if the tippee somehow indirectly communicates that such remuneration is a precondition for good service, then it becomes coercive and a form of extortion. The problem is not with a 15% service charge announced as a matter of policy, but with coercive behavior. Such coercive behavior, in fact, is a partial breach of the contract which is implied when one buys a meal, takes a cab, or gets a haircut: the service promised for a certain price will not, in fact be delivered for that rate. In giving

gratuities, people may respond immediately that there is both a commonly known socio-cultural expectation and approval of tipping in general. The “gratuity portion” of the tip is then reserved to the rate: whether 12% or 20%. In fact, tipping is usually considered part of the tippee’s ordinary income. In that sense it represents a suitable means to a good end with beneficial consequences. It may be considered both a “right” type of action as well as a “good” action in the context of a particular tip. The latter judgment could be altered, however, depending upon the subjective intentions of those involved and the degree of coercion.

Tipping may, in fact, mask either bribery or extortion. In coercive tipping, the tippee extorts extra payments for a service. In bribery, the tipper may seek special consideration — the best table without having to either make reservations or wait. In the end, the overall analytical framework of *values-end-means-consequences* remains ambiguous. As with commissions, the phenomenon of giving gratuities can either be morally uplifting or an expression of corruption.

Bribery itself emerges as extremely complex. Defined as a *type of action* it is clearly wrong. However, as noted above, to say bribery is wrong is to utter a tautology. That is, bribery (*huilu*) defines a wrongful type of action. To use an example from Kant, we describe a type of action and its conditions (end, means, values, consequences), name it bribery, and then ask: would one want to make this action universal? The answer is “no.” The previous discussion of epistemology and worldview are very important here. For if we asked the question in terms of Mill’s utilitarianism (does it produce the greatest happiness for the greatest number?) the answer may well be quite different, whether considering bribery as an individual act or as a rule of behavior. To say that bribery is always wrong can only be established in the context of a specific worldview and a specific value set that one takes as universal and absolute.

Subjectively, it is necessarily relative.

Analysis of reciprocity in terms of moral agents

It is important to move from the analysis of bribery as a *type of action* to a concrete situation. When one asks whether a particular instance of bribery may be good or bad or whether the parties involved may be praiseworthy or blameworthy, the analysis becomes considerably more nuanced because of the complexity of the concrete situation. In this context, the analyst must be particularly careful of ethnocentrism. To the point, to what degree does what appears to be bribery fulfill the conditions set forth in the abstract definition of bribery as a *type of action*? This is further complicated when, in addition to grasping all the details of a situation, one tries to understand the moral agent him/herself subjective factors of conscience, intention and degrees of freedom are factored in. In actions of reciprocity, where resources are exchanged between parties, the level of development of each party’s conscience may enter in to mitigate circumstances. Bribery in the face of intractably corrupt officials and the certain closing of a plant due to a lost contract, differs from bribery to enrich oneself so as to build a third villa estate. Indeed, officials involved in the Lockheed case, argued the former case and that, in the end, they chose the lesser of two evils. In such cases one may arrive at different judgments of the agents being praiseworthy or blameworthy.

Attention must be paid to the social situation and context. I am not at this point arguing a situational ethics where a *type of action* is right or wrong according to the particular circumstances. Rather, the very concrete definition of the action taking place (i.e. of what is actually happening) derives from the socio-historical context in the first place. That is, the question is not whether “bribery” is all right in Shanghai but not in Kansas City. Rather, is this manner of reciprocity and resource transfer in Shanghai a bribe? This point is crucial to

understanding the social purpose and consequences of the transaction and to judging whether this instance is good or bad and whether and to what degree the agents are morally blameworthy or praiseworthy. In many parts of the developing world what a Western observer would call a bribe is, in fact, closer to a tip or the socially expected form of the tippee's remuneration (Tsalakis, 1991; Tsalakis and LaTour, 1995). That does not mean that "anything goes." The former Lockheed scandal and the recent "Recruit scandal" in Japan as well as many instances of corruption cited in the Chinese press have clearly exceeded such bounds (Rosett, 1989; Weisman, 1990).

Even if the *end* or purpose of the transaction is good — the firm is engaged in selling a product very good for the people — the analyst must also ask whether the *means* adopted are suitable and whether the *intentions* of the parties are honorable. Phenomenologically, it is difficult to distinguish a bribe from a tip or a commission or consulting fee. In the end, moral judgment depends upon the social understanding of the meaning of the action as derived from analysis of ends and means, consequences and intentions.

Provided the end or purpose is good, the key difference seems to reside not in the phenomenology of the transaction itself in terms of *means* and *consequences*, but in the *intention* of those who are involved, conditioned by *conscience* and *effective freedom*. The essence of bribery is conflict of interest between self and one's publicly accepted fiduciary duties. Secondly, it affects the *means* a person employs to fulfill his or her fiduciary duty. The appropriateness of the resource transfer in a particular case and the praiseworthiness or blameworthiness of the parties depends upon the overall social consequences of the action and the intentions of the agents. What if the intentions of the briber are actually good with reference to the project and fulfilling his or her fiduciary duties but those of the bribee are greed? Even then, the action may not be completely

bad. Enter the *principle of double effect*: one may make the judgment that the success of the project is impossible without the bribe *and* the good consequences of the project clearly outweigh the evils of the bribe.

Some guidelines for "doing business right" in China

The guidelines I suggest below are based upon two sets of beliefs: 1) the moral ambiguity one experiences in differentiating bribes from gratuities and commissions and 2) the present situation in China with respect to political and business corruption.

From the above sections, it is clear that it is impossible to clearly distinguish gratuities, bribes and commissions on an empirical basis. Bribes can easily be dressed in the garb of "legitimate commissions" or gratuitous expressions of esteem. Furthermore, in analyzing whether a transaction is morally right or wrong and whether the agents are praiseworthy or blameworthy pivotal elements such as conscience, effective freedom, the determinative dynamics of the situation, and cumulative consequences are often beyond measurement. In the end, these facts attest to the reality that moral probity is ever a matter of discernment of what, in the Socratic tradition, is called wisdom: figuring out how to be excellent at being human.

From Chinese voices themselves, we know the following:

1. corruption is endemic, especially since the reforms of the last decades
2. corruption reaches the highest levels of the ruling elite
3. corruption flies in the face of Chinese (as well as Marxist) tenets and traditions of public morality and the moral dimensions of a public official's responsibility
4. the "corruption debate" among the Chinese also functions as cover for a power struggle or, perhaps more accurately, for multiple power struggles between factions in the

post- Deng Xiaoping era

5. Chinese “rules of the game” lack transparency as well as universality across both a) regions and b) factions — leaving local officials with tremendous discretionary power

If the above observations regarding both ethical judgments, in general, and the Chinese social milieu, in particular, are substantially correct, what is a company doing business in China to do? In part, the answer depends upon the company’s intentions: does it wish to behave ethically? or merely legally? or to do “whatever it takes” to make money without getting caught?

The answer to the last of the above questions is simply try to implement “applied Machiavellianism,” realizing, however, that the Chinese have developed traditions that in many ways outdo Machiavelli’s *The Prince*! At present, the atmosphere is ambiguous and opportunistic situations abound.

Simply aiming for legal compliance can be more difficult but, still it is not too formidable. For a U.S. multinational, the rules of the game from the American side are fairly clear, as expressed in numerous regulations, ranging from the FCPA in 1977, the Omnibus Trade and Competitiveness Act of 1988, government agency directives and legal rulings. At the same time, strategies to circumvent them through third parties and holding companies have been developing at a rapid rate. The main problem for foreign multinationals is found on the Chinese side, where, they claim, there is no real *transparency* in the applicable laws and regulations. Regulations vary across ministries and are interpreted differently in different regions. People can be caught and held liable without even knowing their transgressions. As a simple example, it is very dangerous to pay a “commission” to someone whose power base is eroding and who is about to be deposed. The main strategy a foreign company should adopt in order to achieve simple legal and regulatory

compliance is to be sure to have the right set of Chinese patrons on one’s side at all levels and regions and to have them, as partners, become the guarantors of legitimacy. There are, indeed, such a sufficient number of official Chinese denouncements of corruption that they provide a foreign company with cover. The foreign company should use this material as part of a stated policy to be a “worthy guest” in China, while shifting the burden of assuring that they are in full compliance to their Chinese partner. Frequently, foreign companies are at a disadvantage because they are ignorant of the many powerful official Chinese statements regarding their history of international dealings and their policies regarding corruption. I know only of Chinese policies condemning corruption, not advocating it. It makes strategic sense to use this material as the motivating force for avoiding corruption in China, rather than simply appealing to the FCPA as the motivation for one’s actions.

For those companies truly desiring to be ethical, the problem is more complex, not the least is being “closed out” of deals, which are then snapped up by competitors willing to play the game.

As a general rule of thumb, a U.S. intelligence consultant, Kroll Associates (Asia) have suggested the following guidelines in choosing a local partner (Miles, 1995):

1. Investigate the backgrounds of local executives you place in charge of company matters. Did they do a good job for their previous company? Or did they leave after two years, taking the entire team with them? A common occurrence.
2. Ensure no one individual has total control over company matters.
3. Treat remarks such as “China is different” and “You shouldn’t get involved” as a red light.
4. Establish regular and detailed auditing systems to ensure transparency.

To which I would add:

5. Be aware of the political standing of your counterparts and do not get caught in the cross fire of Chinese power struggles (*Economist*, 1995c).
6. Explain your difficulties to the Chinese side (deriving from the U.S. government, stockholders, competitors, . . .) and offer alternatives that are legitimate — especially something that addresses key Chinese policy objectives (e.g. technology transfer), the attainment of which will give leverage. As much as possible use Chinese sources themselves as the basis for your unwillingness to do corrupt deals.

Rather than becoming entangled in a specific minor bribe, place the whole matter in a broader context of negotiation. Rather than reactively saying “yes” or “no” to a specific bribe, proactively build up negotiating leverage and a viable set of alternatives at the outset.

This last point of building negotiating leverage is highly important. I conclude this article with a sketch of its basic elements. In the end, if one’s objective is to attain “A”, he/she should a) devise simultaneous and multiple means of doing so as well as b) build up negotiating leverage. This not only allows one’s Chinese counterpart to save face by having a menu to consider, it secures effective freedom in negotiations.

It is difficult for a company to walk the moral path on its own. There are simply too many competitors willing to play the game and take the business away. Numerous attempts have been made to forge a common approach among OECD nations (Earle, 1996; Simons, 1966). Further, the U.S. government has urged American corporations to embrace a common code of conduct. On the one hand, this involves the Foreign Corrupt Practices Act (Givant, 1994) as well as Codes that go further in terms of human rights, intellectual property and other concerns. U.S. business people tend to reject such an approach

(Gargan, 1994) for it would put them at a disadvantage with the multinationals from other countries. They feel that already too much business is lost due to side-stepping bribery and corruption (Greenberger, 1995; *Economist*, 1994).

Negotiation is an important part of strategy. Few things are “take it or leave it” and it is important to build and maintain latitude for creative imagination. Some important considerations are:

1. let the other side know your constraints (for example, an American company threatened by FCPA) and indicate what your “feasibility area” is;
2. offer alternatives that have a “legitimate business reason” (for example, explain that you cannot give cash but can provide training);
3. indicate that you are actively pursuing various partners; the competition within China between different companies, government ministries, and geographic regions is intense; let them know you have alternatives so as not to become boxed in or dependent;
4. let them know you are aware of their own official regulations and hint that exposure would be embarrassing for everyone everyone fears their own potential enemies

There are no hard and fast rules for such negotiations. However, it is clear that companies that have a product, technology or service critical to China have far more leverage than those companies for whom China can find easy substitutes. Further, a company that has other viable partners and alternatives also gains negotiating leverage.

Overall, it makes sense for a company to primarily attend to three things: First, to diversify its Chinese partners as well as Asia Pacific partners so that it does not become boxed in by a single deal. Regionally, China is very diverse and it is possible to have a

number of partners. At the same time it is important to form partnerships from the outside. In this way a particular deal becomes part of a China strategy but not the only viable option.

Second, it is important to offer one's Chinese counterparts alternatives that are both legitimate and that address important needs in Chinese development. Rather than simply paying a bribe, one can offer a local official help in marketing local products or special training (as Japanese trading companies are prone to do) and other consulting services.

Third, a company can gain leverage by presenting their approach in China's own terms. It should become familiar with China's internal documentation and processes regarding corruption and economic development. Rather than preaching from a Western pulpit — which Chinese find easy to counter — they should arm themselves with the ideals and procedures embedded in China's own development policies. China ardently desires to be an integral part of world commerce. The case should be made that standard international fair business practices are in its own economic interests.

Negotiating is not to be a frontal attack, but rather a strategy of creative imagination. Diversification of both partners and alternative courses of action brings (moral) freedom and reduces risk. Such a diversified negotiating context will set the stage for more creative solutions that are both morally right and strategically sound. In many ways the most difficult part of ethics is not denouncing what is wrong but the creative imagination and courage to craft something new. Diversified negotiation helps create the effective freedom to do just that.

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