Short cases in international business ethics

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This document contains a range of cases for use in class discussion. The first fourteen cases (pp. 1-5) are very short. The remainder are more substantial, but still no more than a page or two.

1. Work and family

Mary is a fast-track graduate employee and a rising star in a management consulting company. She has two children, one nearly 4 years old and the other 18 months old. Her marriage has run into difficulties and her husband has recently left her and taken a job overseas. Mary works hard and is ambitious, but she also cares deeply for her children and she has told her colleagues that she will only be available for meetings during the 'official' office hours of 8.00-16.00 and will not be online or available for conference calls between 16.00 and 20.00. Her team colleagues were initially sympathetic, but after a couple of months they are beginning to get annoyed and concerned that her lack of availability will impact on team performance and thus on their own career success. They come to you, as their manager, and request you take action.

2. The reference

You are a junior manager in a professional services firm. John, a graduate professional in your team, comes to see you to say that he is applying for a job in another company and would like you to write him a reference. You like John and would like to help him, and the move would effectively be a promotion, but the truth is that his performance is mediocre even in his present job and would struggle in the one he's applying for. It would suit you rather well, however, if he were to move on and you suspect that his other referees, who recommended him for his present position, will be positive. What should you write?

3. Recruitment

You are interviewing candidates for a sales and marketing position which will involve face-to-face meetings with customers. On paper, one of the applicants stands out as being the most able and best qualified for the position. This is confirmed at interview, but you then discover that he has a facial deformity that is visually very disturbing and also impacts on his speech. This wouldn't prevent him doing the job and you conclude that he would be very good at it, if people gave him the chance, but you are worried that some of your customers, who are not exactly enlightened, might not give him the chance.

4. The fairness of loans

Three people apply to their banks for a loan. Lee is rich and wants a loan of £400,000 to buy a classic Ferrari. The bank agree and charge him 3% interest. Cheung is a self-employed carpenter and wants to borrow £5,000 to equip a new workshop. After much discussion the bank agrees to lend him £3,000 at an interest rate of 10%. Jane is a single mother working part time at whatever short-term jobs she can find. She has been threatened with eviction from her small apartment and needs a loan of £500 to pay for a deposit on a new apartment. The bank refuse, but a local loan shark agrees to lend her the money at 40% interest.

5. Free gifts

A few years ago, British American Tobacco were reported as handing out free cigarettes at a youth athletics event in Africa. In fact this practice is quite common, and follows the example of soft drinks companies among others.

Is there anything wrong with such generosity? When is a free gift OK, and when is it not?

6. Introductory offers

Many products are marketed using introductory offers, with a large discount for the first year. For example, in the UK, most car and home breakdown services and many magazines offer 50% or more off the first year's membership, providing you pay by direct debit. If you don't want to continue after the first year you can cancel the direct debit, but the companies know that many people forget, or don't bother. Basically, the more loyal you are as a customer, the more you pay.

In recent years, this approach has been extended to home loans (mortgages), with companies advertising very low interest rates for the first two or three years, after which the rate doubles or even triples. Again you don't have to continue, but it may not be easy to re-mortgage your home, especially when house prices are falling.

7. Professional services

Amit is a self-employed with a small but steadily growing number of local clients. Preparing a tax return for his largest client, Mr Bones, he realises that Bones has been significantly under-stating his income and over-stating his expenses. Since the client only passes him selected documentation he can't be sure of the extent, but it looks like he is under-stating net income by at least £50,000 this year, and did so by at least £20,000 last year. When he raises the matter, Mr Bones reminds him that not only is he a valuable client, paying Amit good fees, but that an increasing proportion of Amit's other clients have also been recommended to him by Mr Bones. Of course, if Amit would prefer not to have the business, that is fine – he will go elsewhere.

8. Sex and the City

Ellie works in a trading room at one of the major banks. There are only 3 women in the department, and 21 men, and the culture is one of boys at play. The room is full of sexual banter and the men think nothing of making suggestive references to the women's figures. The tone is playful rather than aggressive and the other women put up with it, but Ellie finds it unpleasant. One day, the last quarter's results are announced. The team has done exceptionally well and everyone, including Ellie, who was one of the better performers, will receive big bonuses. To celebrate they decide on an evening out and the men vote for a notorious lap-dancing club. Of course, they say, the women will have to come too, but "you might have to take your clothes off and show what you've got!". At this point Ellie complains to her manager. Of course, he says, it's inappropriate, but what can you do? Boys will be boys.

9. Cheque-points

Driving a truck across many countries in the developing world you will come across numerous check-points, some manned by police, some by customs officials, some by vehicle safety officials. Their job is to check the driver's ID, to check for illegally imported goods, or to check for unsafe or unregistered vehicles. The "check" takes the form of banknotes passed from the driver to the official. Each man has his price, which may depend on whether or not you're legal but probably won't. Time is money: to get on with your journey, you pay.

10, Local customs

When you import goods from one country to another you have to go through Customs. The ship docks, the plane lands, or the lorry arrives at the border, and there is a long queue. In many countries, if you don't get the procedure right, you can wait for weeks – which is always costly, but it can be disastrous if you are importing perishable goods, or components or raw materials needed by a factory. In the countries of French West Africa (and, probably, in many others), the procedure is something like this. First, if you don't already have one, you have to find a customs agent. The agent then negotiates an agreement with one of the customs officers and asks for a payment made up of the following components: the customs duty; a payment for the officer; a payment to cover the officer's payments to his staff; a payment to the person who got the customs officer his job (and who needs regular payments or the officer will be posted to a desk job where there's no scope for additional income); and, of course, a payment for the agent. Apart from the person at the top of the chain, no-one makes a lot of money out of this, but it helps to keep the family.

11. Local authority contracting

In most countries of the world, large public works contracts are supposed to be subject to competitive tender and public oversight. This is how it works in Africa. When a project comes up, the details are sent to the chosen contractor, who may be a real contractor, or just an agent, and is almost certainly related to the person currently holding political office in the region. Where possible, the contract is then broken down into subcontracts small enough to escape the rules for public tender. The chosen subcontractors then bid for these smaller contracts, including in their prices an amount for the main contractor or agent, an amount for the political leader, and smaller amounts for a variety of government officials involved in the process. If this can't be done, a competitive tender is announced as obscurely as possible with a very short deadline, and a high fee for a copy of the specifications. Unlike the specifications already sent to the preferred contractor, these are written so as to be almost impossible to understand and price. The preferred contractor or agent then makes a bid at a pre-agreed price sufficient to cover the payments to government officials already noted, and uses other companies as fronts to put in bids at a higher price.

This is how it works in France. Here there are a number of major contractors, large companies working in competition with each other, but there are also very close social links between these firms and between the firms and the local or regional politicians. They dine together, they play tennis together. When a contract comes up, the contractors decide between themselves who will get it (they effectively take turns) and put in their bids accordingly. The price includes a few gifts to the local politicians, and some consultancy fees, which are channelled to their political parties. It's a civilised system, so opposition parties get something too. Unlike in Africa, where they amount to a large proportion of the contract price, these additional costs are relatively modest – no more than 5% of the total cost, and on large projects less. The contractor's net price is also in line with that earned for commercial projects, but without the uncertainty. And for that small cost, everybody is happy.

In America, they play golf not tennis.

12. Planning permission

Following a policy of international expansion, a large retail group seeks planning permission for new stores in England, America, Italy, Nigeria and elsewhere. Discussions with planning consultants in each country reveals that the 'rules of the game' are slightly different.

In England, it is helpful to include in the proposal some investment in local authority projects dear to the hearts of the local politicians, even if they are unconnected to the store. Failing to do this will not prevent the proposal going ahead, but it might delay it significantly and lead to the local authority taking a strict line on minor points of detail. Some generous entertaining of the politicians also helps.

In America, it helps to contribute to the campaign funds of local politicians, helping them to get re-elected next time round. It is not clear whether planning permission could be secured without this or not – it is a long time since anyone was foolish enough to try.

In Italy, a contribution to local party funds is virtually compulsory, and you are expected to demonstrate your goodwill also through personal gifts.

In Nigeria (and most other African countries), planning permission can only be secured with substantial personal gifts to local and regional government officials.

How does it work in your country, and where do we draw the line between what is acceptable and what is not?

13. Marks & Spencer's Plan A

When the struggling UK retailer Marks & Spencer hired star retailer Stuart Rose as their CEO in 2004, they were expecting re-vamped stores and clothing ranges. What they got was 'Plan A', a comprehensive programme of ethical and environmental initiatives designed to turn M&S into the world's most environmentally friendly and ethically responsible retailer, at a projected cost of about $70 million a year. It was called 'Plan A', said Rose, because there was no Plan B.

In the event, Plan A made M&S employees feel good about the company they were working for, and that in turn made customers feel good about shopping there. And rather than costing money, as predicted, the changes actually made money, saving the company about $50 million a year.

14. Kazuo Ishiguro, Never let me go (novel and movie)

In Ishiguro's fictional novel, set in the 1950's, a government has decided to respond to a shortage of donor organs (livers, kidneys, etc.) by farming humans. The children, bred by artificial insemination, are brought up in a loving environment, given the best possible education and chances for growth and self-expression. Then once they grow up their organs are harvested. They are (very humanely) killed. But they have wonderful lives, they know their fate from an early age, and without the programme, from which hundreds of critically ill patients benefit, they would not have existed at all. From a utilitarian perspective, the programme has only benefits.

15. Dragon Foods

It had not been a good afternoon for Tom Kao. Tom was the Managing Director of the Bahrain subsidiary of Dragon Foods (Taiwan). At 3.00 he had heard from the local police that one of the company cars, a new Mercedes clearly identified by the large "Dragon Foods" logos on each door, had been involved in a traffic accident. At 3.30 he had been informed that the driver was his junior manager Li Zhu (Lizzie). At 5.00 he had been informed that Lizzie had been arrested, following a blood test, for drunken driving. No-one had been hurt in the accident and she had not drunk much – two glasses of wine in celebration of a new deal – but this was well over the legal limit.

Although Bahrain is an Islamic state, foreigners are allowed to consume alcohol and women are allowed to drive – indeed many Saudi Arabians use it as a local pleasure ground, where they can escape the much stricter laws of that country. Drunken driving is, however, considered a very serious offence. Dragon Foods' code of conduct explicitly prohibits both working while under the influence of alcohol and acting in any way that would damage the reputation of the company. In the past two years two junior members of staff had been fired, one for drinking in public and the other, following an accident in the warehouse, for being drunk at work. Li Zhu, however, was one of the company's most promising young managers and the only woman to have been promoted to her level. She was also the daughter of one of Tom's close friends – she was almost 'family'.

Reflecting on the situation, Tom realised that he had to make two decisions: whether or not to pay the chief of police the sum of money necessary to have the charges dropped; and whether or not to fire Li Zhu, as the company code required.

16. Gender equity

As general manager of the Mumbai office of the international McCoy-Nitin advertising agency, Divya Burman had an urgent decision to make. The head of a large project team had been taken seriously ill, and with a major pitch due for a potentially large client in just 6 weeks she needed to appoint a replacement at once. There were three potential candidates. In terms of ability and management potential , Rahel was clearly the strongest. Here performance to date had been outstanding, and while this would a significant step up, Divya was fully confident that she could make it, put together a very strong pitch and, in the process, make a case for permanent promotion when a vacancy next arose. The only difficulty was that this would mean making Rahel senior to and more highly paid than her husband, Sanjay. Currently they were at the same level, but Sanjay, having been with the company for longer, was on the higher salary, and was generally seen as the senior partner. Promoting Rahel, even temporarily, would be difficult for him, and very difficult for her – indeed when Divya raised the possibility in casual conversation, Rahel pleased with her <u>not</u> to be promoted.

The second candidate was Sanjay himself. He was the most experienced person on the team, a safe pair of hands and would be seen by colleagues as an obvious choice, but Divya strongly doubted his potential to lead the team, and worried that the pitch would fall flat.

The third candidate was David, the son of the firm’s chief executive, who was in the middle of a six month stint in Mumbai as part of a programme of gaining exposure to the firm world-wide, before taking up a head-office position. David had less experience than either of the other two candidates, and less natural ability than Rahel, and from the point of view of the pitch would be a very high risk choice. The advantage, though, was that even if he failed, as Divya thought likely, the experience would ultimately be of value to the firm.

What ethical consideration might Divya take into account in making this decision? Would these be different if the office were in New York? Or in Shanghai?

17. Human resource management in Russia: an American's dilemma

Jack Daly arrived in Novgorod, in north-west Russia, in Spring 2003. He worked for Starline Inc., a major US food manufacturer, and had been posted to head up its wholly owned Russian subsidiary. Starline Russia was a medium-sized manufacturing plant with 280 employees. It had been set up in 1994 and had a functional organization with the top tier staffed by American expatriates, and with locally recruited middle management.

The Americans were typically on short-term postings: two to four years for the president (Daly) and six to twelve months for three vice-presidents, of production, marketing and sales. All had international experience, but none had worked in Russia or Eastern Europe before. Before moving to Novgorod they received short cultural briefings and a three week crash course in Russian.

The Russian managers were mainly in their late twenties, well-educated but with little management experience and no experience beyond the region. The blue-collar employees came from various backgrounds but most had experienced serious financial difficulties before joining Starline. A third had been unemployed; the rest had been employed but had received no wages for months on end. Their average wage at Starline was around US$200 a month, about 30% more than the average wage then in Russia.

The new company had quickly run into problems of pilfering, theft and production stoppages. By late 1999, when Daly's predecessor Tom Stark had arrived, theft was a major problem, with about 30% 0f production workers thought to be involved. Although absenteeism was rare, lateness and unscheduled breaks were common. Productivity was a long way below that of other Starline factories in the Asia and the West. There were also problems with the Russian managers, who showed little initiative, ignored instructions, and failed to address problems down the line.

Tom Stark had initially responded in two ways. He had introduced tighter control systems, including security checks and bag searches carried out by the local managers. And he had created an informal reward system based on those traditionally used in Russian firms, and those used by Starline in some developing countries. Each month the best performing manager and supervisor were awarded special badges, received thank-you letters from Stark, and had their photographs mounted on the wall. The initiatives had little effect, however, and in 2002 Stark had hired a senior Russian manager to oversee the Russian management team. Nikolai Rubkoff was in his mid-fifties and had previously been managing director of a large tractor plant, and he brought in a completely new management style. He believed that little could be achieved unless people feared punishment, he shouted and abused the Russian managers, and he intimidated the production workers. To combat theft he simply selected a group of workers and demanded that they prove their innocence. When they could not (how could they?) he fired them. That, he told Stark, would teach them a lesson.

By the time Daly arrived, theft was down significantly, discipline had improved, and productivity, though still low, had also improved. The managers were still not showing initiative, but deadlines were met and problems sorted out quickly. Rubkoff's methods were not applauded by everyone, however. On consulting his American colleagues, Daly found one arguing that Rubkoff had turned the company round and clearly knew how to manage in a Russian context, and another arguing that his methods were a disgrace and should not be tolerated. The third was torn between the two views.

Jack Daly's performance would be measured in terms of how Starline Russia performed over the next two to three years. His gut reaction was that Rubkoff's methods were immoral – but they were producing results.

Source*: This is an adaptation of a case written from direct observation by Ali Aliev. The names of the company and staff and some other details have been changed.*

18. The Siemens scandals

The Germany engineering company Siemens was founded in 1847. By 2008 it had about 430,000 employees in 190 countries worldwide with revenues of $116 billion and profits of around $9 billion. Siemens manufactures a range of products from power stations to dishwashers, from mobile telephones to medical equipment, and from security systems to high speed trains. Much of its business in areas like power generation, communication, medical equipment, trains and transport infrastructure is with governments, government agencies and government-controlled companies. From 2007 it faced a number of legal and regulatory actions in respect of bribes paid as part of its international sales.

In order to secure contracts, Siemens made payments to politicians, government officials or the friends and families of ruling dictators in Argentina, Bangladesh, China, Greece, Iraq, Israel, Italy, Nigeria, Russia, Venezuela, Vietnam, and other countries. The largest of these payments was in excess of $50 million, and a US investigation identified a total of over 4,000 payments amounting to about $1.4 billion in early 2000s. Other estimates put the total for 1990s and 2000s at about $2.3 billion.

This practice was long-standing and deeply engrained in the Siemens culture. Paying ‘sweeteners’ or ‘commissions’ has always been how you do business in these industries and with these customers, much as it is in the defence industry. Up until the late 1990s it was not even clearly illegal under German law, and so-called ‘useful expenses’ were even tax-deductible. But for the period covered by the US investigations it clearly was illegal, both under German and under US law, to which Siemens, listed on the New York Stock Exchange, is subject. Siemens was also far from being the only company to be guilty of this kind of offence. In the defence sector, BAe (British Aerospace Systems) has had difficulty defending its payments to the Saudi royal family. In the oil sector, the French companies Elf and Total have a long history of bribing not only African dictators but, through them, French politicians as well. Large bribes to secure transport and infrastructure projects have been made by French and Italian as well as German companies. The Siemens case nevertheless came as a shock, because Germany, unlike France or Italy, had a good reputation for ethical standards.

Despite the fact that bribery was so well established and deeply rooted in the company culture, the Siemens board denied all knowledge of it. The company is very decentralised and compartmentalised, with local managers around the world having a lot of autonomy. They know the cultures in which they work, it is argued, and are best positioned to make decisions relating to them.

Eventually two Siemens CEOs and various other top executives lost their jobs, and the company had to pay fines in various countries of several billion dollars. But many in the company still maintain that the practices are necessary if the company is to do business, especially against newly emerging Chinese competitors, who have none of the West’s scruples in this respect.

Source*: This case is abstracted from cases published in Marianne M. Jennings, 2012, Business Ethics. 7th edition (Cengage); Andrew Crane and Dirk Matten, 2010, Business Ethics. 3rd edition (Oxford University Press); and Paul Griseri and Nina Seppala, 2010, Business Ethics and Corporate Social Responsibility (Cengage).*

19. Mind drugs

From 1987 to 2007 the proportion of Americans classified as disabled due to mental disorders multiplied by two and a half, with 1.3% being so classified by 2007. Much of that increase was attributable to the identification of mental disorder disability in children, which multiplied 35 times over the period. The year 1987 is significant because that was the year Prozac cam onto the market, marking a key point in the shift from psychotherapy as the main treatment for mental disorders to psychoactive drugs, which address chemical balances in the brain. A random survey of American adults in the early 2000s found that 46% met criteria established by the American Psychiatric Association for having had at least one mental illness in their lives. About 10% of Americans over the age of 6 now take antidepressant drugs. Meanwhile antipsychotic drugs have replaced cholesterol-lowering drugs as the top selling class of the drugs in the USA.

The first generation of drugs used to treat mental illness had originally been developed for other purposes but were found to reduce disturbing mental symptoms. Investigations revealed that they seemed to affect the levels of neurotransmitter chemicals in the brain, and scientists theorised that the illness must be caused by abnormal levels of the chemicals concerned. Thus depression, on this account, is caused by too little seratonin. Prozac adjusts for this by preventing the re-absorption of seratonin by the neurons that release it. Of course, the fact that more seratonin eases the symptoms of depression doesn't necessarily mean that the absence of seratonin causes depression, any more than the absence of aspirin or paracetamol causes pain. But the medical consensus is that it works somehow, and that consensus is one that suits the pharmaceutical companies very well as they benefit from ever growing sales of an ever growing range of antidepressant, antipsychotic and anxiety-reducing drugs.

Setting aside doubts over the causation of mental illness, do these drugs in fact work? According to the standard testing procedures of the US regulators, they do. Each drug has been found to relieve symptoms more than a placebo does. The effects are relatively minor, however: the placebos have a significant effect themselves, and the additional effect of the drugs is small. Moreover some scientists claim that once allowance is made for the impact of recognised side effects (patients in tests can sometimes detect that they are taking the drug not the placebo through the presence of side effects), the effect disappears completely. And approval of a drug is based on positive results only: when trials show negative results, as they often do, they are simply not published. All things considered there is rather strong evidence, to take depression, for example, that drugs which increase, decrease or have no effect on seratonin all have the same effect on patient symptoms – and all are less effective than psychotherapy or even than simpler remedies such as taking exercise. But they are also easier or cheaper to administer. Faced with a patient displaying symptoms of mental illness, a doctor knows that the patient's health insurance will pay for the drugs. It will probably not pay for psychotherapy, which is much more expensive to deliver, and however valuable exercise may be there is a limited chance that the patient will take the treatment. Drugs exist. Patients think drugs work. Health insurance pays for drugs. So drugs are prescribed.

The existence of drugs has also impacted on the diagnosis of symptoms, both in the sense that doctors recognise what they think they can treat and more insidiously through the compilation of successive versions of the standard reference work that lists and classifies psychiatric disorders. As more drugs have become available the list of diagnoses has grown, bringing more and more 'symptoms' into the net. Millions of people who were considered perfectly healthy twenty years ago are now classified as ill. The classifications are made by psychiatric experts but most of these experts are also paid consultants to, or recipients of research funds from, the pharmaceuticals companies. Most are surely men and women of integrity, genuinely trying to do their best for people, but the effects are disturbing, especially where children are concerned. Thirty years ago an irritable two year old, an inattentive 10 year old, or an anxious teenager would not have been considered ill, and would certainly not have been prescribed drugs, which may well be positively harmful. Today, prescribing psychoactive drugs to children is routine. Rich children get prescribed drugs because of anxious parents. Poor children get prescribed drugs because that is one of the tick boxes to be completed to qualify for state disability payments.

Some scientists argue that while taking these drugs has little short-term effect on mental disorders, it does significant long-term damage, and while the evidence for this is less clear it is growing. The drugs interfere with the working of the brain. Short term the brain adapts by releasing more or less chemicals to compensate for the drugs' effects, but it cannot adapt endlessly: if the drugs are continued they might gradually shut down key parts of the brain; if they are withdrawn the brain re-compensates but doesn't get back to normal.

Source*: This case is based on two articles by Marcia Angell in the New York Review, June 23rd 2011 and July 14th 2011, and an exchange between Angell and her critics in the issue of August 18th 2011.*

20. Management Week

Launched in 1991, the magazine *Management Week* was the brainchild of its editor Tom Rubython, who saw a market for a different kind of business magazine, focusing on people rather than economics, with a practical 'how to manage' slant, and targeted at middle managers rather than senior executives: 'a weekly soap opera of business for managers'. The new magazine was brash and aggressive with a tabloid style.

Publishing industry insiders thought that the magazine was both under-financed (at about £2m) and ill-timed (there was a deep recession for magazine advertising). But Rubython was convinced of its potential and so was his financial backer, Paul Judge. As manager of one of the non-chocolate food divisions of Cadbury-Schweppes, Judge had been part of a team that had recommended their sell-off. With no eager trade buyers he had put together a management buy-out, following which the results had miraculously improved, and three years later he had sold his stake for a cool £40 million profit.

Six months after launch, sales of the new magazine were extremely poor, but the libel actions were mounting up: it seemed that the magazine couldn't write about anyone without libelling them. Judge tried to sell his stake but couldn't find a buyer. He tried to oust Rubython but couldn't agree terms. Eventually Rubython agreed to sell his stake and go, but by now Judge had no option but to call in the receivers. The company was wound up and its suppliers, who were owed £500,000, went unpaid.

Six months later Rubython launched another magazine, *Business Age*. Judge moved on to other ventures, which weren't much more successful, but he gave some of his money to Cambridge University for the Judge Business School and some to the conservative party for a knighthood, and settled down to a career as a non-executive director and champion of business ethics. Many of *Management Week*'s unpaid creditors thought that as the majority shareholder controlling the company he should have used a little bit of it to settle their debts, but it was a limited company, so had no legal obligation to do so. The institution of limited liability was intended to protect investors and entrepreneurs from bankruptcy, not to relieve them of obligations they could well afford, but apart from the fact that he had lost a lot of money himself, Judge took the view that market discipline should be maintained. The creditors got themselves into their relationships with the magazine, and they should bear the consequences.

Source*: This is extracted from Tom Sorrell and John Hendry, Business Ethics (Butterworth-Heinemann, 1994).*