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GLOBAL ETHICS: BEYOND LOCAL LEADERSHIP

Roderick O'Brien
Australian Lawyer

Abstract: We have experienced the reality of globalization, both in its positive and negative attributes. A global future is unavoidable. From examples drawn from the trade in services, I suggest that we need a global ethic to deal with the ethical problems faced by modern business. Further, I suggest that we work towards developing such a global ethic by drawing on the experiences of East and West to find the best practice. Underpinning such a global ethic must be spiritualities which have one common factor: a global vision which is wide enough to include all people and their issues and their hopes. This requires leadership in business beyond simply local issues.

Keywords: global ethics, professional ethics, lawyer's ethics, best practice

The purpose of this paper is to argue that leadership is needed in creating global ethics for global business. From this perspective, *Business* is defined widely to include the global trade in services, including legal services. In order to achieve the leadership which is needed, we need to cooperate globally. This cooperation, using respectful dialogue to search for common spirituality, will enable us to go beyond national leadership and achieve global ethics for business.

Globalization has many meanings. We have enjoyed global sports in the wonderful Olympic Games. There are advantages in globalization. For example, globalization enables the rapid convening of personnel, technology, and capital from all over the world. But there are disadvantages in globalization (Fang, 2006). For example, the globalization of industry through outsourcing means that business decisions for a local area may be made far away, by people who have no understanding of the social impact of their decisions. It is not realistic to see globalization as only positive or only negative. But we recognize globalization as an irreversible fact for China, for Australia, and for the world. Global business requires global leadership, a global spirituality, and a global vision of the common good. Because globalization is an irreversible fact, we cannot rely only on the development of ethics at a national level.

A CASE STUDY: INTERNATIONAL LEGAL BUSINESS AND CONFLICTS OF INTEREST

Let us take an example of the international trade in legal services (Pyne, 1999): law firms from China opening offices in other countries and law firms from other countries opening offices in China. What are their ethical responsibilities, both at home and in their host countries? And within this case study, we will look at a particular problem faced by suppliers of legal services, the problem of conflicts of interest. The two countries that I use as examples are China and Australia. Relevant studies in this area have divided lawyers' conflicts of interest into two areas: (a) Where the interest of the client conflicts with the interest of the lawyer; (b) Where the interest of the client conflicts with the interest of another client (sometimes called 'conflict of loyalty') (Parker, & Evans, 2007).

International law firms especially can find themselves in cases of conflicts of loyalties (Etherington, & Lee, 2007). For example, firms have to know their clients in every country, to ensure that they do not find themselves acting for opposing clients. Individual lawyers may transfer from one firm to another, and find themselves acting against their old clients. These conflicts are both ethical and legal, and governments and professional associations use both legal and ethical tools to try to deal with them (Mark, 2001).

Solving Problems with Local Legal and Ethical Systems

Most countries rely on their local legal and ethical systems to try to solve global problems. For ethics of the international trade in legal services, this is regulated by local laws. We look at these examples: China's lawyers abroad are covered by China's local regulations:

> "Branch offices abroad of law firms and the lawyers assigned shall abide by the laws of the countries where they are located, abode by the relevant provisions of the countries where they are located on the administration of foreign lawyers, and abode by lawyers' professional ethics and practicing disciplines. Branch offices abroad of law firms and lawyers assigned may not engage in any activity that violates China's laws or harms China's state security or social public interests" (Ministry of Justice, 1995).

Foreign lawyers who establish branches in China are bound by a parallel provision:

> "Representative offices and their representatives shall, when undertaking legal service activities, abode by the laws, regulations, and rules of China, scrupulously observe professional ethics and practice discipline of Chinese lawyers, and shall not endanger the State security, social and public interests in China"(State Council, 2001).

In Australia, the Law Council of Australia has developed a Model Law relating to legal practice, and Model Code of Conduct for Lawyers. (Law Council of Australia, 2001) These Models are gradually being adopted in the Australian states. These Models do not include any special requirements for Australian lawyers practicing abroad. But the Model Law does include a special requirement for foreign lawyers practicing law in Australia:

> "An Australian-registered foreign lawyer must not engage in any conduct in practicing foreign law that would, if the conduct were engaged in by an Australian legal practitioner in practicing Australian law in this jurisdiction, be capable of constituting professional misconduct or unsatisfactory professional conduct."

These regulations are desirable as part of any national legal system. They protect the national "common good". But we can see that they do not attempt to protect a global "common good." The local ethical provisions are contained in the Codes of Conduct for lawyers. The Lawyers Professional Conduct Standards (Provisional) for China (All China Lawyers Association, 2004), and the Model Rules of Professional Conduct and Practice, for Australia (Law Council of Australia, 2002) will serve as examples of local ethical provisions.

In a parallel way, leaders place emphasis on the development of local ethical systems. There has been good national work developing ethical codes for lawyers. But there is almost no effort to work towards global standards. The groundbreaking work of the Global Ethic Foundation, inspired by Hans Kung (Kung, 1997; Kung, & Kuschel, 1993; Kim, 1999) has yet to flourish. Most of the initiative has come from private

individuals and organizations (International Bar Association, 1988). There are now a number of institutes for global ethics, but as far as I know none is working on professional legal ethics.

Solving Problems with Global Legal and Ethical Systems

Is it possible to protect a global "common good" with global legal and ethical systems? The development of global law has been slow and uneven, and has not kept pace with business developments. We also need global ethics for business, including legal services. Developing those ethics requires us to work co-operatively to draw on the great ethical traditions of East and West. We cannot impose these ethics, but must work patiently towards their development and acceptance.

There are some challenging examples. When preparing its Code of Ethics for counsel, the International Criminal Court consulted lawyers from East and West, North and South. After consultation, the Court prepared a Code which included the problem of conflicts of interest. The Court asks its lawyers to put their client's interests above all else (International Criminal Court, undated).

> "Counsel shall exercise all care to ensure that no conflict of interest arises. Counsel shall put the client's interests before counsel's own interests or those of any other person, organization or State, having regard to the provisions of the Statute [of the Court], the Rules of Procedure and Evidence, and this Code."

This is particularly challenging for lawyers who are accustomed to putting the interests of the State ahead of those of the client. The leadership needed for developing global ethics will not come only from national political leaders. The development of global ethics is more likely to succeed when committed business leaders, along with professionals such as lawyers, and scholars work with government leaders across national and cultural boundaries. Any co-operation must of course be respectful and based on dialogue about our common good.

THE METHOD FOR ATTAINING GLOBAL ETHICS

There are three basic methods for attaining global ethics.

1) Searching for Parallels. The ethicist searches for parallels in the ethical traditions of East and West, and develops these into a global unity. Finding the appropriate global lawyers' ethic will not be easy, because of different legal and ethical traditions. Even with the best goodwill, it is hard to come to common views. This has been shown in the difficulty of formulating a code of conduct for lawyers at the International Criminal Court (International Bar Association, undated). Those responsible for formulating the Code were unable to find parallels in some areas of legal system, and thus of legal ethics.

2) Seeking the Lowest Common Denominator. The second method is almost a caricature of the first. Here the ethicist only takes into account where there is agreement in ethical traditions, already acceptable to East and West. The advantage of such a search is that it gives a rapid, though very limited, consensus. But it ignores disagreements.

3) Seeking the Best Practice. Many international businesses examine their operations around the world to find which division has the best practice. That best practice can then be applied internationally. We can also do this in the field of ethics. Searching for the best practice is both pragmatic and respectful of the many varieties of Eastern and Western ethics.

TWO ETHICAL SYSTEMS AS EXAMPLES - GLOBAL AND BEST PRACTICE

Now, I would like to examine two ethical systems. Can they be global? And can they contribute *best practice*? There are many ethical systems, but I have chosen two examples from East and West.

Confucian Ethics

Confucian ethics provide a rich tradition of learning. But there is a special issue, and this is the relationship between Confucianism and Chinese culture. Confucian teaching is at a cross-road. Will it take the path to being truly a global teaching, or will it stay local, as only a Chinese teaching? (Bresciani, 2001) Of course, its origins are firmly in Chinese history. Chinese people can be proud of the great teacher Confucius just as Greek people are proud of the great philosopher Aristotle. But it is not necessary to become a Greek or even to speak Greek to understand Aristotle. And you will find people who are developing Aristotelian philosophy all over the world, not only in the West, but also in the Islamic world. In the same way, can Confucian ethics become truly global, and find a place beyond their original cultural locality?

The best practice of Confucianism is in the long tradition of practical application of ethics in daily life. In the particular field of conflict of interests or conflicts of loyalties, Confucianism can teach us the importance of seeking harmony in resolving these conflicts. Conflicts are rarely simple, and the teaching of harmony can assist us to balance different competing interests.

Christian Ethics

Christian Ethics, particularly as Catholic Social Doctrine, is a moral system based in a religious tradition (Wang, X. 2004). This Ethics is also at a crossroads. While the origins of the Christian (Catholic) religion are in West Asia (Semitic), the teaching has been most often expressed using Western philosophical methods. But to be fully global, this Ethics must be able to be expressed using any philosophical method. Can Catholic Social Doctrine become truly global (Wang, Z. 2004) and find a place beyond its usual expression in Western philosophy?

The best practice of this Ethics is in the balance between the individual and the community. Moreover, through the application of the principle of subsidiarity, this Ethics recognizes the complex variety of levels of community, from the smallest family to the global village (Hollenbach, 2002). In the particular field of conflicts of interest or conflicts of loyalty, this Ethics can teach us the importance of seeking to resolve conflicts at their most basic level. A respectful use of the best practice method will enable leaders to combine the best from Chinese Confucianism, from Christian Ethics, and from other ethical systems to create a truly global ethic.

CONCLUSION: GLOBAL BUSINESS NEEDS GLOBAL ETHICS

We have experienced globalization, both positive and negative. A global future is unavoidable. International legal practice will increase. Conflicts of interest faced by lawyers will increase. I suggest that we need a global ethic to deal with the ethical problems faced by modern business including international legal practice. Further, I suggest that we can work towards developing such a global ethic by drawing on the experiences of East and West to find the best practice. Underpinning a global ethic must be spiritualities which have one common factor: that is a global vision which is wide enough to include all people, their issues and their hopes. This requires global leadership in business, not just local leadership. The future is exciting. The reality of globalization encourages me to look forward to working with friends

from East and West to truly develop a global ethic.

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