

**Cultural attitudes to corruption:
A perspective on the interplay between cultural and legal norms
for Western businesses operating in China**

by

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Bachelor of Arts
University of Cambridge, 2007

Submitted to the MIT Sloan School of Management
in partial fulfillment of the requirements for the degree of

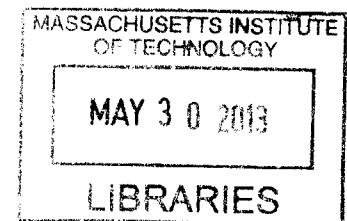
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ABSTRACT

Corruption is an important challenge facing those who wish to do business in China. Beyond the commercial context, corruption and attitudes towards it are also more broadly relevant to politics, political economics and governance. Through an introduction to some of the features of Chinese culture which differ most from Western culture, this study provides a cultural perspective to a consideration of normative anti-corruption legislation and the requirements of compliance in China. My approach is in no way based on a presumption that corruption is a more significant problem in China than in other countries, Western or otherwise. Rather, the origin of this thesis are in the simple facts, firstly, that China has recently become a significant world economic power and, secondly, that as businesses look to enter any such important foreign market, the strategic impact of cultural factors should be taken into account.

The thesis begins with an introduction to the legal framework surrounding corruption, both from a Chinese and an international point of view. It continues with a discussion of some of the salient features of Chinese culture, namely Confucianism, collectivism and the rule of law. Specific attention is given to the practices of guanxi and gift giving within this cultural framework, as well as a brief overview of the changes which Chinese culture is undergoing. The final section contains a discussion of the impacts which these aspects of China's cultural environment may have on foreign businesses operating in the country, with a particular focus on the choice between cultural imposition or adaptation and the advantages and disadvantages of both approaches.

Although the present study considers only one particular aspect of one particular culture, in doing so, it draws attention to aspects of intercultural relations which may be applied to any international business activity. In this way, it is hoped that this research may in fact be applied beyond the realms both of corruption and of China.

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1 Introduction and overview

1.1 Chinese culture through the lens of corruption

Despite the existence of culture-sensitive and subjective assessments of corruption, such as the assertion that “Corruption is not a clear-cut issue [...] it is not the deeds themselves that are solely important, but also the perceptions of those deeds based on values held by the perceiving group” (Agelasto 1996, 271), the legal context facing businesspeople today is more normative. For businesses, this can present a “tension between operating in markets in which corruption is considered a problem and accepting a clear obligation to respect the [OECD] treaty’s restrictions on bribery in foreign markets” (Søreide in Rose-Ackerman 2006, 385). From this, the need to understand the potential juxtaposition of law and culture is clear, especially given the fact that legislation such as the Foreign Corrupt Practices Act (FCPA) in the United States or the similar protocols adopted in all Organization for Economic Cooperation and Development (OECD) member states arising from the OECD’s Anti-Bribery Convention often has extra-territorial jurisdiction, applying to subjects not only in their home country but also outside it. In providing this overview of aspects of Chinese culture as they apply to corruption, my purpose matches that of Nie in his study on medical morality: “The goal is neither to discover which medical morality is better, nor to resolve all the conflicts between various moral views. Rather, the primary goal is to know oneself better and to understand the other better through on-going conversation” (Nie 2011). It is hoped that this improved understanding will facilitate better decision-making and hence support more successful business interactions with China.

1.1.1 'Culture'

The term culture is a complex one. It is used by scholars of humanities, anthropology and sociology to cover multiple concepts, ranging from the “highest moral and aesthetic achievements of civilization” to “the symbolic element of social life” (Cambridge Dictionary of Sociology 2006). An anthropological definition of culture includes “human knowledge, opinions, convictions, values, and beliefs” (Šmajs 2006, 636). From this anthropological point of view, a question arises regarding how this ‘culture’ – these opinions, convictions, values and beliefs – are carried and transmitted. As one author puts it, “Only men, not classes or organizations, think. Therefore we want to describe the way a Chinese Communist individual, thoroughly imbued with the ideology, uses its ideas” (Schurmann 1968, 20). By this, we are presented with the challenge, inherent in all study of culture, of understanding that which is individual and that which is shared. In my own study of Chinese culture, I certainly do not wish to imply that ‘all Chinese think alike’. Indeed, “In a country whose provinces are bigger than most European countries it would be foolish to generalise from any sample to characteristics of the country as a whole” (Wang and Clegg 2007, 150). Nonetheless, I do agree with Wang and Clegg when they continue to state that “All one can do is to reflect the findings of specific investigations and make theoretical connections with the flow of lived experience as it has reflected history” (2007, 150). I contend that, through consideration of my findings from a range of sources, including published studies and written material offered by both Western and Chinese scholars (although admittedly all published in the English language), as well as my own observations and interviews with individuals who have experience of doing business in China, it is possible to provide a useful introduction to some of the features of Chinese culture which most differ from Western culture and which could therefore be relevant to somebody considering business activities in China.

Just as generalizations about ‘China’ and ‘the Chinese’ must be made with the understanding that they may obscure significant regional and individual differences, it is equally necessary to be aware that the concepts of ‘the West’ and ‘Western’ cover a similarly broad range of realities. For instance, in a study of managers in the United States and Australia, two countries which in my paper are subsumed into the term ‘the West’, “findings suggest that there are common business management views as well as national differences” (Jenner 1982, 307). Although I certainly recognize these differences, I believe that the shared historical and cultural roots of many of these countries mean that these ‘common business management views’ can provide a sufficient basis for comparison. In short, for both the West and China, I rely on the assertion that my review covers ‘typical’ business practices in both regions; I leave the exceptional and atypical practices to other studies.

1.1.2 Why China?

This study is in no way based on a presumption that corruption is a more significant problem in China than in other countries, Western or otherwise. (Indeed, Greece, a member of the European Union and signatory to the OECD Anti-Bribery Convention, fell this year to 94th place in the Transparency International survey of corruption perceptions, behind China in 80th place (Transparency International 2012b)). Rather, the origin of this thesis is the simple fact that, since “Deng Xiaoping’s new ‘open door’ policy was announced in December 1978, opening the door for foreign companies to invest in China and bring technology, financing, and know-how in exchange for market entry” (Larcon 2009, xxvii), China has become a significant world economic power. The country’s population in 2011 was 1.347 billion (20% of world total) and GDP, which grew by 7.8% in 2012, stood at USD 7.3 trillion, of which exports constituted 29% (OECD 2013).

With such a profile, it is not surprising that China is of increasing interest to foreigners, as demonstrated both by the macroeconomic figures (foreign direct investment (FDI) inflows have grown rapidly, from USD 44 billion in 2001 to USD 124 billion in 2006 and USD 220 billion in 2011 (The World Bank 2013)), and also by such recent developments as the endowment of the Schwartzman Scholars program, which aims to offer a prestigious academic scholarship for Tsinghua University in Beijing, in a parallel with the Rhodes scholarship for Oxford University (The Economist 2013b).

1.1.3 Why Chinese culture?

As a business looks to enter any foreign market, “the impact of social, cultural and political factors on the corporate strategy and policies have to be dealt with actively by senior management” (Larcon 2009, ix). My personal belief is that these human factors and the quality of human interactions within businesses can be crucial for business success. Lin and Malhotra confirm: “the benefits of cultural adaptation are found in a wide range of business interactions. In a deeply globalized economy, cross-cultural alliances such as IJVs [International Joint Ventures] are widely used but managing them is difficult due to the partners’ different and sometimes conflicting cultural backgrounds” (2012, 119). Although I do not wish to fall into the trap of “thinking about Chinese and Western cultural differences in a series of dichotomous terms; treating China as ‘the radical Other’ of the West” (Nie 2011), Chinese cultural norms at times clearly do differ from those with which many Western businesspeople are familiar. The validity of my study lies in its attempt to highlight and explain these differences, in order to facilitate the adaptation which Lin and Malhotra find so beneficial.

1.1.4 Choosing corruption as a lens

My choice of the lens of corruption through which to study Chinese culture derives from the importance of the challenge which corruption currently presents, both to the country as a whole and more specifically to those wishing to do business in China. Moreno has proposed that “corruption not only is a problem of governing, but also a daily expectation among the mass publics” (2002, 496). To my mind, this ‘daily expectation’ may in part be a simple question of habit, but should also be interpreted in terms of culture. As implied by Agelasto’s comment (see 1.1 above), a cultural study of corruption is likely to find multiple nuances with which we may refine our interpretations and judgments of a given action. Rose-Ackerman reinforces this point, acknowledging that “Some claim that deep cultural, historical and social factors are the fundamental determinants of corruption” (Rose-Ackerman 2006, xx). Some of these ‘deep factors’, which I take to include Confucianism, collectivism and the importance of guanxi [关系, guānxi] and gift giving, are presented below. Although much has been written about these concepts individually, it seems more rare for them to be taken together as a basis to reconsider our understanding of corruption or, more precisely, of what in certain contexts may be considered to be corrupt activity.

1.1.5 Corruption and the wider system

Beyond the business context, corruption and attitudes towards it are also relevant to a broader consideration of politics, political economics and governance. For example, on a scale derived by Moreno based on data from the World Values Surveys, “Permissiveness toward corruption is strongly and negatively correlated with support for democracy and with interpersonal trust” (2002, 496).

Although, in the light of China's economic performance, the country might be seen to be an unusually successful example of a single-party autocracy, critics such as Pettis, from Peking University's Guanghua School of Management, refer to "the government's lack of dedication to meaningful economic reform, its continued sheltering of a select group of companies, corruption, bureaucratic inefficiency, capital flight, and emigration" (Adomanis 2013). Huang is similarly forthright, stating that "Worldwide, there is no question that autocracies as a whole are far more corrupt than democracies" (2013). Already in the case of China's recent political history, "corruption issues ranked high among the [1989] democracy movement's grievances, and in the 1990s, corruption and a consciousness of it have spread into every corner of society, threatening social and political stability" (Johnston and Hao 1995, 80). Returning to the example of Greece, a recent press report offers a range of policies to tackle corruption, including "better rules on lobbying and political financing, making public spending and contracting more transparent and making public bodies more accountable to people" (BBC 2012). For anybody interested in the development of China's political system, whether critics or those who wish to maintain the status quo, such policy tools would surely arouse considerable interest.

1.2 Outline

This paper begins with an introduction to corruption and legislation against it, both in China and in an international context. Section 2.1 discusses the definition of corruption, providing both the legalistic definition which underpins the analysis which follows, but also offering some broader alternative views, considering both the specifics of the Chinese situation and also a derivation used in modern (Western) scholarship. In Section 2.2, I offer a more detailed introduction to the effects of corruption and give further consideration to the reasons why this field is of interest, including the macroeconomic impacts as well as implications for individual firms.

I follow, in Section 2.3, with an introduction to current conditions pertaining to corruption in China, giving some information about the country on a comparative global scale as well as outlining current domestic policy to address the problem. This is complemented by an overview of China's own anti-corruption laws in Section 2.4: it is important to remember that, despite sometimes inconsistent application of these laws, China does have a relatively strong legal framework to fight corruption, with strict penalties for transgressors. This section finishes with an overview of the foreign legal context in Section 2.5, including the multi-lateral treaties from the OECD, the Council of Europe and others, as well as the domestic laws of the United Kingdom and the United States, and a presentation of the implications of these laws for companies from those countries operating in China.

In Section 3, I approach the topic of Chinese culture as it relates to the context of corruption. Section 3.1 considers the broad cultural underpinnings of Confucianism and collectivism, as well as the extent and relevance of the rule of law in China. These topics emerge consistently in the literature as being of particular relevance to an understanding both of China and, more specifically, of corruption in the country. I then proceed to a deeper look at the workings of guanxi, China's relationship networks, in Section 3.2, presenting how this deeply embedded cultural phenomenon may sometimes conflict with the letter, and even the spirit, of the anti-corruption laws presented above. Finally, Section 3.3 contains a discussion of the role of gift giving in this culture.

In recognition of the fact that no culture exists in a vacuum of time or space, Section 4 looks to the future, adding a dynamic point of view to the largely static presentation of culture given in Section 3. Specifically, Section 4.1 addresses the changes in networks in Chinese society as a result of the development of a capitalist economic system, while Section 4.2 goes on to consider the extent

to which this has been accompanied by a rise in individualist behavior in China at the expense of the collectivism, which had been at the heart of society hitherto. The Chinese government's reactions to these developments are reviewed in Section 4.3.

In the light of the preceding description of the Chinese cultural context, in which the distinction between culturally acceptable and legally contestable behavior will be seen to be imprecise, Section 5 provides a discussion of ways to approach such a complex situation. In Section 5.1, the choice between 'adaptation' to the local context and 'imposition' of foreign norms is presented. In terms of the latter, Section 5.2 demonstrates that legal requirements in fact make some level of imposition unavoidable: it is only by applying Western measures that Western legal norms can be met. However, it is asserted that, even in this context of imposition, the most successful outcomes will be achieved within a framework of cultural understanding and sensitivity. Cultural adaptation as an alternative to imposition is presented in Section 5.3, where it is suggested that there are also benefits to be gained by adapting to and even adopting certain features specific to the Chinese cultural context, although care must be taken, for which training in cross-cultural management and awareness is required.

1.3 Dimensions for further study

One of the most problematic aspects of a study of culture is the perpetually changing nature of the subject. If a culture is composed of the shared backgrounds of the members of the community in which it is represented, a culture must necessarily be in a permanent state of fluidity. Further modern surveys of Chinese values in relation to the themes I will describe would undoubtedly be of value to the field, although any such surveys, including those which already exist, would of course face the typical challenges of relying on the consciousness and self-awareness of respondents and on the willingness or freedom of respondents to provide complete answers.

These challenges are especially pertinent for a topic such as corruption, the legal and moral implications of which can influence both the readiness and ability of respondents to participate. In addition, it should be noted that many of the surveys used hitherto are “based on western cultural assumptions about trust and work-value dimensions of relevance” (Wang and Clegg 2007, 167). Additional work to create more culturally appropriate or culturally transferrable tools would surely be of value.

It is of note that relatively little of the published work I have consulted in my own research considers the nuances of regional differences, especially within China but also to some extent in the West. Further development in this domain would be of particular interest as new business opportunities in China move away from the more familiar East coast, in line with the Chinese government’s ‘Go West’ policy to develop inner Chinese provinces (Naughton 2013).

The main focus of my study has been Western businesses and their experiences of an unfamiliar and changing cultural context in China. To complete the picture, it would be interesting to compare this with an equivalent study of Chinese businesses operating outside China. Given recent developments in the West, for instance concerning the freedom of the press in the context of the Leveson Inquiry in the United Kingdom (The Leveson Inquiry 2012), or United States legislation such as the Physician Payment Sunshine Act to regulate money flows in the healthcare industry (Thacker 2013), such a study would be likely to find a similar picture of nuance and conflict about the reality of the situation in the West and the extent to which norms, values and ideals apply in every day situations.

2 Dynamics of corruption in China

2.1 Defining corruption

2.1.1 Discussion

Although the basic definition of corruption to which I refer in this thesis is a relatively legalistic one, use of the term ‘corruption’ in fact benefits from a high sensitivity to nuance.

“One of the most intractable problems in the literature on corruption has been defining the concept. One school contends that definitions based on laws and formal rules are best by virtue of their relative precision and stability. Critics reply that at times the law enjoys little legitimacy, that legalistic conceptions of corruption miss the question of its social and political significance, and that cultural standards constitute a source of more realistic and subtle definitions. Still others contend that both approaches, by focusing on the classification of behavior, ignore fundamental issues of morality and justice in society at large” (Johnston and Hao 1995, 80).

William English states that “The accusation of corruption always implies a deviation from some normative ideal. Moreover, corruption generally suggests a normative ideal that depends on some systematic social relationships, betrayal of which leads to corruption” (English 2012). I build on this and claim that both the detailed specification of that ‘ideal’ and the ways in which it is possible to ‘betray’ a given set of ‘systematic social relationships’ can differ across time or geography. Furthermore, the range of situations to which the ideal might potentially apply is also broad. For instance, corruption may refer to venal corruption – individuals abusing their power in their own self-interest – and this might take place in the context of administrative corruption “surrounding implementation of the laws” or “surrounding the very formation of the laws and regulations, the capture of the state by concentrated economic interests” (Anderson et al. 2001, 2).

Another possibility, which emerges in part from the notion of state or regulatory capture, is that of ‘institutional corruption’, as proposed by Lessig. This institutional corruption does not necessarily consist of illegal behavior. Instead, it is “the consequence of an influence within an economy of influence that illegitimately weakens the effectiveness of an institution especially by weakening the public trust of the institution” (Lessig 2013, 1).

For the purposes of policy discussion, the OECD provides a selection of definitions of the term corruption, including that of Transparency International, a civil society organization which works “with partners in government, business and civil society to put effective measures in place to tackle corruption” with the vision of achieving “a world in which government, business, civil society and the daily lives of people are free of corruption” (Transparency International 2012c). The organization’s definition states that “Corruption involves behaviour on the part of officials in the public sector, whether politicians or civil servants, in which they improperly and unlawfully enrich themselves, or those close to them, by the misuse of the public power entrusted to them” (OECD 2008, 23). Another frequently used definition is that provided by Song and Chen, for whom corruption is “the abuse of public power by officials and employees of party and government agencies, public institutions, and state-owned enterprises for private gain” (2012, 211-221).

2.1.2 Chinese perspective

From the Chinese point of view, although there is a “wide range of unethical behaviours which the Chinese categorize as ‘corruption’” (Boisot and Child 1999, 246), definitions seem largely to parallel those defined given. Johnston and Hao give the following overview, the continued accuracy of which in contemporary China I have confirmed in correspondence with a Chinese acquaintance:

“in the late 1970s official corruption generally still meant three things: tanwu, shouhui, and tequan [贪污, tānwū; 受贿, shòuhùi; 特权, tèquán]. Tanwu (malpractice) was the misappropriation of public property by state officials through embezzlement, theft, or swindling. Shouhui referred to the use of official positions to take in bribes. Tequan (privileges) encompassed a range of privilege-seeking activities by officials. By the early 1990s, however, ‘corruption’ had broadened to include fubai [腐败, fǔbài] (a generic term, meaning ‘decay and putrefaction,’ that is used as a metaphor for corruption) and guandao [官倒, guāndǎo] (official speculation or profiteering)” (Johnston and Hao 1995, 87).

2.1.3 The legal point of view

Despite the interest of investigating and contemplating the various concepts outlined above, it is not the primary purpose of this thesis to attempt a definitive definition of ‘corruption’. Indeed, the basic premise is that the most relevant definition for foreign businesspeople is that imposed by the legal frameworks to which those individuals and their companies are subject. Looking to these frameworks then, it is notable that “The OECD, the Council of Europe and the UN Conventions do not define ‘corruption’. Instead they establish the offences for a range of corrupt behaviour” (OECD 2008, 22). These offences include “bribery of foreign public officials”, “trading in influence” and “bribing domestic and foreign public officials”; the UN Convention also includes “embezzlement, misappropriation or other diversion of property by a public official and obstruction of justice” (OECD 2008, 22). Thus, it is these key aspects of corruption, with a particular focus on bribery, which will be the baseline for the case which follows. In case of any further doubt, readers are encouraged to refer to the legislation most relevant to their own situations, such as the United States’ Foreign Corrupt Practices Act or the United Kingdom’s Bribery Act, as discussed in Section 2.5.2 below.

2.2 The rationale for a study of corruption

The preamble to the Council of Europe Criminal Law Convention on Corruption states that “corruption threatens the rule of law, democracy and human rights, undermines good governance, fairness and social justice, distorts competition, hinders economic development and endangers the stability of democratic institutions and the moral foundations of society” (Council of Europe 1999). Meanwhile, the foreword to the United Nations Convention Against Corruption proclaims that “by removing one of the biggest obstacles to development [the Treaty] can help us achieve the Millennium Development Goals” (United Nations 2004, iv). Although these may well be admirable goals, the cultural specificity of many of these concepts (rule of law, democracy, good governance etc.) should not be ignored. English provides an insightful comment on such matters, reminding us, for example, that “Democracy is best understood as instrumental for achieving normatively desirable social outcomes rather than as a substantive normative ideal in itself” (English 2012).

In a paper reviewing a number of studies into the potential effects of corruption, including impact on GDP, levels of FDI and inequality (in terms of income, education and land distribution), among others, Graf Lambsdorff does find frequent correlations (although causality is, unsurprisingly given the nature of the investigations, more ambiguous) (2005). In a World Bank publication on governance, Kaufmann et al give one example of the mechanism by which corruption can undermine a governance system, highlighting that “perceptions matter because agents base their actions on their perceptions, impression, and views. If citizens believe that the courts are inefficient or the police are corrupt, they are unlikely to avail themselves of their services” (2009, 4). An alternative point of view suggests that, although there is a prevailing view that a good governance environment including “an independent judiciary and legislation, fair and transparent laws with impartial enforcement, reliable public financial information, and high public trust” is “conducive to economic activities such as investment”, this view is in fact “incomplete” (Li 2005, 298).

Instead, according to Li, “When laws are opaque and unfair and the government cannot enforce public rules impartially, people and firms predominantly rely on private relationships to govern social and economic transactions” (2005, 298). It will be argued below that Li’s description gives some insight into the situation in China today.

As the preceding overview has demonstrated, normative views about the systemic impacts of corruption can be difficult to apply universally. In the context of this thesis, it is therefore more useful to refer to the specific challenges faced by businesses operating in an environment where the level of corruption is high. Here again, it would be naïve to state that businesses cannot ever derive benefits from engaging in corrupt practices: “Some companies seek to illicitly influence political decision-making in their favour. Others skirt tax laws, construct cartels or abuse legal loopholes” (Transparency International 2012a, 24). However, the market distortion and unfair competition which necessarily result from this may be expected to have a negative impact on businesses in the aggregate, causing inefficiency as well as additional expense (Transparency International 2012a, 24; Anderson et al. 2001), as seen, for instance, in a study which links the “level of corruption with the time managers waste with bureaucrats” (Kaufmann and Wei 1999 in Graf Lambsdorff 2005). Even less ambiguous is the fact that convictions for corruption can lead to “Hefty fines, damaged reputations and jail sentences” (Transparency International 2012a, 24). Again, Graf Lambsdorff gives an example, which “shows that US investors differed from others in preferring to locate their FDI in less corrupt countries after 1977. Hines relates this to the imposition of the Foreign Corruption Practices Act” (2005).

2.3 Current situation of corruption in China

In Transparency International's 2012 survey of corruption perceptions, China ranked 80th out of 176 countries. To put this into perspective, the top (i.e. least corrupt) countries were Denmark, Finland and New Zealand; the United Kingdom and the United States ranked 17th and 19th respectively; and China shared 80th position with Serbia and Trinidad and Tobago. Brazil ranked 69th, India 94th and Russia 133rd; Afghanistan, North Korea and Somalia shared the final 174th place (Transparency International 2012b). It may be noted that there is scholarly debate over the precision of measures such as that applied by Transparency International, which are based on survey respondents' perceptions of corruption in the given countries. For instance, Olken highlights that perceptions and real corruption may not be the same (2009), while Song and Cheng assert that "no single data source or tool will offer a definitive measurement" (2012, 220). Nonetheless, Song and Cheng also admit that, because of the inherently covert nature of corruption, "Perception surveys remain an important tool to measure corruption" (2012, 211). On this basis, I find that the widely cited Transparency International report remains useful in providing a global context for the discussion which follows.

From a financial point of view, research presented by Huang found that corruption in China has led to some USD 120 billion (equivalent to China's entire education budget between 1978 and 1998) being funneled out of the country by corrupt Chinese officials (2013). Newspaper China Daily reported that "Between July 2005 and last December [2011], anti-graft agencies cracked more than 100,000 bribery cases involving 26 billion yuan (\$4.13 billion)" (China Daily 2012). In a Reuters report on money illegally leaving China, it is claimed that "the outflow – much of it from corruption, crime or tax evasion – is accelerating. China lost \$472 billion in 2011, equivalent to 8.3 percent of

its gross domestic product, up from \$204.7 billion in 2000” (Dawson 2012).¹ Although these figures are large in absolute terms, Andvig finds the underground economy to be “surprisingly small – only 13.1 percent in 2000, compared with 46.1 percent in Russia” (Andvig in Rose-Ackerman 2006, 303). Huang’s article also highlights the non-financial impact of corruption, stating that “corruption has also led to extremely poor food-safety records, since officials are paid to not enforce regulations”, with the result that some “300 million people in China suffer from food-borne diseases every year” (2013). Other recent public scandals such as the July 2011 high-speed train crash in Wenzhou have similarly been linked to the activity of corrupt officials (LaFraniere 2011).

A study by Song and Cheng of corruption perceptions in various Chinese cities gives additional depth to the picture. They remind us that aggregate figures mask “great regional disparity in terms of corruption perception in the country”, finding that, with the exception of Chengdu, “the Top 10 [i.e. least corrupt] cities are all located in Eastern China, which is the most developed part of the country”; Shanghai had “the highest perceived level of integrity” (Song and Cheng 2012, 215). Beijing, the capital, is notable by its absence from this Top 10 list, leading one to posit that the seat of the national government is seen as a center for corrupt activity. In terms of industries, Song and Cheng find that “the top 5 selections [i.e. most corrupt] are Construction, Organizational and Personnel Management, Police, Public Finance & Taxation, and Courts” (2012, 216).

¹ The report clarifies that “Trade mispricing was the major method of smuggling money out of China, accounting for 86.2 percent of lost funds [...] This scheme involves importers reporting inflated prices for goods or services purchased. The payments are transferred out and the excess amounts are deposited into overseas bank accounts” (Dawson 2012).

A selection of recent stories demonstrates that corruption scandals involving foreign companies in China are also not uncommon. These stories highlight some of the different dimensions of corruption and the way in which investigations may be carried out either by the host country (China) or, in the context of a possible breach of foreign legislation (in these cases, the FCPA), either by the company itself or by the government in the parent company's home jurisdiction (here, the United States). Examples include allegations made by the Chinese government that Wall Street Journal employees had been using bribes to obtain information from Chinese officials (McCrum 2013), internal investigations carried out by Walmart in the wake of a broader investigation by the company into its global operations regarding potential FCPA violations in relation to real-estate deals (Clifford and Barstow 2012), and an investigation by US authorities into alleged bribery after a tip-off by a whistleblowing former employee (Wingfield 2013). In any cases where a state investigates a foreign company, but perhaps particularly with China, where the ideological debate continues, one must also be aware that press reports can be "part of a larger struggle in which allegations of corruption are political weapons" (Johnston and Hao 1995, 86). (A complementary example from the reverse point of view could be the US government's recent investigation into Huawei, over allegations of cybercrime and corruption (Engleman and Robertson 2012).)

In a recent newspaper article about the new leadership of China, corruption was cited as top of the list of challenges facing the country's new Prime Minister, Li Keqiang. (The other challenges were "environmental damage; widening gaps between rich and poor, cities and countryside; and growth that is overly reliant on investment and credit flowing to state-owned enterprises" (The Economist 2013d).) The Chinese authorities are clearly aware of this, as evidenced by the fact that "both the new president, Xi Jinping, and the new prime minister, Li Keqiang, ask to be measured by how they rein in official corruption" (The Economist 2013c).

In this context, Transparency International reports that “Within 100 days of Xi Jinping and Li Keqiang coming to power [...], 27 high ranking officials were disciplined as a new anti-corruption effort began” (2013). In another recent story, China Daily reported the opening of “special webpages to solicit public tips that may help to combat corruption. They include websites associated with the Xinhua News Agency, the People’s Daily and the Guangming Daily, as well as news sites operated by Internet portals Sina, Sohu and Netease” (China Daily 2013). This is particularly interesting given that attempts in 2011 to create similar sites following the model of the Indian site, ipaidabribe.com, had been hindered by expectations of a negative reaction on the part of Chinese authorities (Lu and Zhang 2011). The Chinese government’s latest efforts against corruption are not limited to operations of companies in China: the country is also establishing “an effective supervision system to regulate the behavior of Chinese companies when they invest abroad and push them to strictly abide by laws, regulations and business codes at home and abroad” (China Daily 2012).

There are reports that this newly announced government crackdown on corruption was felt during the 2013 spring festival. Apparently, this traditional time of gift giving was “subdued”, in “an acknowledgment that, at least for the time being, it is better to be discreet. Fewer officials are on the list of recipients and the amounts spent have become more modest” (Sender 2013). However, the same article reports that “those who do business in China remain sceptical. To many, the anti-corruption drive is merely a form of score-settling” (Sender 2013).

These reports of skepticism (and even outright cynicism, in the case of websites “offering thoughts on how to win friends and influence leaders, without the use of a debit card” (Waldemeir 2013)) are in one sense unsurprising: “In the last three decades, both the ruling party and the Chinese Government have issued hundreds of anti-corruption decrees in order to govern the exercise of public powers” (Ren in Song and Cheng 2012, 217). This has been true from the highest levels:

the then General Secretary of the Communist Party, Jiang Zemin, “made anti-corruption one of the central themes of his important speech on the 80th anniversary of the founding of the Party in July 2001” (Yang 2002, 465). Given that corruption has apparently continued despite these proclamations, one wonders if the newfound zeal for anti-corruption measures really will demonstrate the required longevity. One reason to believe that ‘this time will be different’ is found in Huang’s intimation that at least part of the motivation for the most recent interest in corruption could be political, rather than being based on a purely ideological antipathy to corrupt activity. Huang states that “both Hu Jintao, the outgoing president, and Xi Jinping, the incoming one, have recently issued dire warnings that corruption could lead to the collapse of the party and the state. They are right, especially in light of China’s ongoing economic slowdown” (2013). The reality of these risks are seen in claims that “Social media postings suggest that corruption is a source of widespread anger and resentment in China” (Bradsher 2012) and that “new leaders face the widespread belief that corruption has become much worse in recent years. The ostentatious cars and exploits of leaders’ children elicit particular scorn” (The Economist 2013c). Thus, it may be that the Party views the new anti-corruption drive as being part of a required course of action to maintain the stability of its position, and, as such, something which must be taken seriously.

Despite this, some question whether even a renewed anti-corruption policy will be sufficient to resolve the issue. One article states that “[Corruption] thrives in a system that shields officials and their offspring from scrutiny” (The Economist 2013c) and Huang confirms that “The problem is not that China is lenient on corruption. [...] The problem is the absence of any checks and balances on [officials’] power and the lack of the best breaks on corruption of all, transparency and a free press” (2013). Furthermore, as Andvig points out, “In any bureaucracy the major monitors of corrupt transactions are other members of the same bureaucracy” (Andvig in Rose-Ackerman 2006).

With this in mind, it seems typical and yet ironic that, in a recent court case concerning CNY 3 billion (approximately USD 490 million) of illegal business operations linked to the former Railway Minister, Liu Zhijun, “Details were not available [shortly after the beginning of the trial], as the media were banned from the courtroom” (Yin 2013).

In face of such ambiguity as presented above, it is perhaps important to conclude with one additional remark from the local surveys carried out by Song and Cheng, who found that “more than half of the respondents thought situations in their respective cities had improved, despite the fact that China still faces a serious corruption problem. About 1/3 of the respondents believed situations remained roughly unchanged” (2012, 215).

2.4 Chinese legal context

It should not be ignored that China does in fact have a relatively strong domestic legislative framework for the prosecution of corruption activities:

“China’s active and passive domestic bribery offences are found under Articles 385, 387, 388, 391, 392 and 393 of the Criminal Law of the People’s Republic of China 1979 (amended 1997) (CLPRC). Articles 394 and 395 respectively cover the separate but related offences of the taking of gifts and illicit enrichment” (ADB/OECD Anti-Corruption Initiative for Asia and the Pacific 2010, 141).

The Chinese law prohibits the payment of bribes to “State functionaries, State organs, State-owned companies, enterprises, institutions and people’s organizations” and also “includes the State functionary’s ‘relatives, lovers or other persons who have common interest with the State functionary’” (ADB/OECD Anti-Corruption Initiative for Asia and the Pacific 2010, 142-143).

Given that a 2008 economic census showed that some 30% of China's industrial and service sector assets were held by State-Owned Enterprises (Xu 2010), it should be noted that anti-bribery legislation in China may be more complex than in countries with a smaller state-owned sector.

Chinese law allows legal persons (i.e. legal entities, as opposed to human individuals) to be prosecuted for a crime (including bribery) under Article 30 of the CLPRC, which states that “any company, enterprise, institution, State organ, or organization that commits an act that endangers society, which is prescribed by law as a crime committed by a unit, shall bear criminal responsibility” (ADB/OECD Anti-Corruption Initiative for Asia and the Pacific 2010, 145). In contrast with the provisions of the FCPA, however, which could render the organization responsible for any corrupt activity perpetrated by its employees, the ‘unit crime’ provision of the CLPRC “is confined to the acts of *senior and relatively senior management*, such as the chairman of the board, general manager, or factory director” (ADB/OECD Anti-Corruption Initiative for Asia and the Pacific 2010, 145, emphasis added).

Prescribed sanctions for bribery range from “a minimum term of imprisonment of one year or criminal detention, to the death penalty” (ADB/OECD Anti-Corruption Initiative for Asia and the Pacific 2010, 146). Property obtained through illicit means may also be confiscated. The applicable sanction depends on the seriousness of the offense, with categories (in USD equivalent) of bribes ‘under USD 730’, ‘USD 730-7000’, ‘USD 7000-14600’ and ‘over USD 14600’; in the latter case, the required sanction is “Not less than ten years or life imprisonment; death penalty if circumstances are especially serious” (ADB/OECD Anti-Corruption Initiative for Asia and the Pacific 2010, 147).

Although responsibility for investigation lies with the General Bureau Against Corruption within the Supreme People's Procuratorate, additional severe penalties could be imposed by the Communist Party of China's Central Commission for Discipline Inspection on state-owned and controlled companies for commercial bribery (ADB/OECD Anti-Corruption Initiative for Asia and the Pacific 2010, 149).

The Chinese legislation is relatively complete and covers the giving, introducing and offering of bribes, although not each method is covered by every article. However, it is also of interest to highlight some of the situations in which Chinese law is less clear. For instance, it is unclear both "whether [the CLPRC] covers indirect forms of active and passive bribery through the use of intermediaries" and "whether the bribery offences extend to persons employed on a temporary basis, companies receiving State aid or persons who are not assigned by the State but who are performing a public service for a privately held company" (ADB/OECD Anti-Corruption Initiative for Asia and the Pacific 2010, 142-3). Although some may be tempted to see this as a license to make use of an intermediary, a practice often adopted by foreign companies in China, or to use temporary employees to gain special access to state-owned enterprises, the lack of clarity might be better taken as a warning of situations to eschew in order to avoid unintentional liability.

A further instance where the CLPRC lacks some clarity is in its use of terms such as "serious circumstances" or "relatively large" when referring to the degrees of corruption. According to the ADB/OECD, "To meet international standards, the definition of a bribe should cover any undue advantage of a pecuniary or non-pecuniary nature, *irrespective of the value of the advantage*, its results, perception of local custom, the tolerance of such payments by local authorities or the alleged necessity of the payment" (2010, 144, emphasis added).

It is of particular interest here, given the nature of this thesis, that ‘perception of local custom’ is expressly rejected as a possible defense against an accusation of corruption in the ADB/OECD’s international standards, whereas in Chinese law the ‘circumstances’ and ‘relativity’ are indeed included in an assessment of an allegation.

With regards to corrupt activities pursued by Chinese nationals outside of China, it should be noted that, contrary to the requirements of the United Nations Convention Against Corruption (UNCAC), to which China is a signatory, “China has not criminalized the bribery of officials of foreign countries” (ADB/OECD Anti-Corruption Initiative for Asia and the Pacific 2010, 144). In contrast, Article 394 specifically prohibits a Chinese functionary from accepting gifts “in his contacts with foreigners” and then not handing them over to the state (Congressional-Executive Commission on China 1997). This said, the CLPRC is in fact applicable to “any citizen of P.R. China who commits a prescribed crime outside of P.R. China”, meaning that bribery of foreign officials might be punishable by this route, although “if the maximum punishment to be imposed is a fixed-term imprisonment of not more than three years, he/she may be exempted from investigation for criminal responsibility”, thus excluding smaller bribery offenses (ADB/OECD Anti-Corruption Initiative for Asia and the Pacific 2010, 146).

This description of the legal framework against bribery in China must be combined with an acknowledgement of the distinction between theory and practice. Although not speaking about China specifically, Kaufmann et al document “sharp divergences between de jure and de facto measures of business entry regulation and find that corruption explains a good deal of the extent to which the former are subverted in practice” (Kaufmann et al. 2009, 4). Thus, although “China now has a formal, functioning legal system [...] Party domination of the legal system is [...] institutional and systemic” (Cohen 2012). This is corroborated by the findings of Song and Cheng, who state that

“Only 23.5% of the respondents thought rule implementation in their respective cities was good or very good; more than half (54.9%) thought implementation was merely average; and 21.6% thought rule implementation was poor or very poor” (Song and Cheng 2012, 218). Nonetheless, “Chinese authorities are increasingly enforcing laws punishing corruption”, with some 120,000 convictions in the five years to 2008 (Warin, Diamant, and Pfenning 2010, 38). Furthermore, calls for enforcement are coming not only from the authorities but from Chinese companies, such as Sinopec, which recently “called upon the Chinese government to crack down on multinational corporations paying bribes in China” (Warin, Diamant, and Pfenning 2010, 43).

2.5 Foreign legal context

2.5.1 International conventions

Multi-lateral conventions, such as the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1997), the Council of Europe Criminal Law Convention on Corruption (1999) or the United Nations Convention Against Corruption (UNCAC, 2003), facilitate agreement on the ways in which signatory countries should enact legislation against corrupt activities and on how signatories will cooperate in the aim of eradicating corruption. Although, of the three conventions mentioned, only the UNCAC has been signed by China, their significance for Western businesspeople is that the United States and almost all member states of the European Union (some of the more recent members are absent from the OECD treaty) are party to all three.² Given that the treaties generally specify that legislation enacted by the parties

² Lists of signatories can be found at:

Council of Europe:

<http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=173&CM=&DF=&CL=ENG>

OECD: <http://www.oecd.org/daf/anti-bribery/antibriberyconventionratification.pdf>

UN: <http://www.unodc.org/unodc/en/treaties/CAC/signatories.html>

should have extraterritorial jurisdiction, it follows that a citizen of a signatory state is legally prohibited from engaging in corrupt activity, such as bribery, anywhere in the world.

In the Foreword to its Glossary on Corruption, the OECD states that “The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions is the foremost global legal instrument to fight foreign bribery” (OECD 2008, 3). This convention also has the narrowest scope, as it “covers only the liability of bribers (active bribery), not foreign officials who solicit or receive a bribe (passive bribery)” (OECD 2008, 12). The UNCAC is somewhat broader in scope, covering:

- Bribery of national public officials (Article 15);
- Bribery of foreign public officials and officials of public international organizations (Article 16);
- Embezzlement, misappropriation or other diversion of property by a public official (Article 17);
- Trading in influence (Article 18);
- Abuse of functions (Article 19);
- Illicit enrichment (Article 20);
- Bribery in the private sector (Article 21);
- Embezzlement of property in the private sector (Article 22);
- Laundering of proceeds of crime (Article 23); and
- Concealment (Article 24).

It is to be noted that, in contrast with the OECD convention, both the UNCAC (Article 21) and the Council of Europe Convention (Articles 7 and 8) cover active and passive bribery in the private sector is covered by (United Nations 2004; Council of Europe 1999).

2.5.2 National legislation

The conventions outlined above serve only to provide a framework for anti-corruption legislation: they achieve their legal force through the corresponding national legislation which is enacted by each signatory country. This legislation is designed primarily to “concentrate on the supply side by targeting Western companies that offer bribes to government officials” (Warin, Diamant, and Pfenning 2010, 41). I give here two examples of such legislation. The first, the United States Foreign Corruption Practices Act of 1977, in fact predates the above conventions, but was amended in 1998 to meet the requirements of the OECD Convention. The United Kingdom’s Bribery Act is more recent, having received Royal Assent only in 2010.

2.5.2.1 United States: Foreign Corrupt Practices Act (1977)

The FCPA is the centerpiece of the United States’ legal framework against international corruption. The Act is “jointly enforced by the US Department of Justice (DOJ) and the US Securities and Exchange Commission (SEC)” (Koehler 2008, 1). However, the Act is “unusual” because the accused company typically conducts its own investigation, which is then presented to the justice department” (McCrum 2013). Despite this peculiarity, “Since 2005 [the FCPA] has been enforced with increasing vigor and mounting criminal penalties” (Murphy 2012). The Act is of particular interest in China, “because the DOJ’s aggressive positions apply with special force in China” (Chow 2012).

Enacted in 1977 as an amendment to the Securities Exchange Act of 1934 (Koehler 2008, 1), the FCPA “prohibits, among other things, corruptly providing money, gifts, or anything else of value to foreign officials for the purpose of obtaining or retaining business” (Warin, Diamant, and Pfenning 2010, 43). The scope of the act is wide, with regard both to the actions which it prohibits and to the people to whom it applies. For instance, the use of the term “anything of value”, with “no exception for items of de minimis value”, means that even “A box of moon cakes given to a police officer, therefore, would fall under the statute’s broad reach” (Warin, Diamant, and Pfenning 2010, 62). Furthermore, given the Act’s position as part of Securities Exchange regulations, “the FCPA contains accounting provisions to ensure that companies keep accurate books and records, and maintain a system of internal controls designed to prevent improper payments” (Warin, Diamant, and Pfenning 2010, 45). Under these provisions, simply recording a bribe payment as a ‘consulting fee’ could potentially lead to prosecution under the FCPA.

It is particularly important in the context of China to note that “US enforcement agencies view Chinese state-owned or state-controlled enterprises (SOEs) as being an ‘instrumentality’ of the Chinese government and employees of SOEs as being ‘foreign officials’ under the FCPA” (Koehler 2008, 2). On this basis, the Act covers not only civil servants, but also people working at Chinese hospitals and universities, as well as employees of companies such as Sinopec and the State Grid Corporation of China. In terms of the perpetrators of an act of corruption, the prohibition of bribery applies to individuals as well as “to all U.S. companies, as well as non-U.S. companies that have securities registered on U.S. exchanges” (Warin, Diamant, and Pfenning 2010, 43). In addition, “if a bribery scheme has any nexus to the US (such as use of a US bank, use of US computer servers, etc.), the company could be subject to US prosecution” (Koehler 2008, 2).

In a further extension of its scope, the Act may be applied to the agents of a US company, such that “a Chinese subsidiary may nevertheless be directly subject to FCPA prosecution if US enforcement agencies conclude that the subsidiary acted as an agent of the US company and took action in the US in furtherance of an improper payment” (Koehler 2008, 3).

For an indication of the importance of compliance with the FCPA, one can look to some examples of recent prosecutions. Perhaps the best known is the landmark case involving Siemens AG in 2008, which led to a fine of USD 800 million (U.S. Securities and Exchange Commission 2008). Since then, “many international enterprises have increased their focus on FCPA compliance and now promptly disclose potential violations voluntarily” (Warin, Diamant, and Pfenning 2010, 56). It is of note that one of the accusations made with relation to Siemens was that “Siemens was a corporate culture in which bribery was tolerated and even rewarded at the highest levels of the company” (Warin, Diamant, and Pfenning 2010, 56). (The relevance of corporate culture is explored further in Section 5 below.) Another example concerns a case brought against an individual, a director at Faro Technologies, which resulted in a fine of USD 57,000. This case is particularly interesting because the individual who was fined did not himself pay the bribes; instead, he was convicted of “permitting the payment of bribes”, because he “authorized a Faro sales manager to ‘do business [on behalf of Faro] the Chinese Way’” (Warin, Diamant, and Pfenning 2010, 58).

Another notable feature of the FCPA is that it contains an exception for ‘facilitating’ or ‘expediting’ payments, “which are payments to induce officials to perform routine functions they are otherwise obligated to perform” (UK Ministry of Justice 2012b, 7). Despite this, companies should be aware that “the facilitating payments exception has been narrowly construed and, for a number of reasons, may not be a viable safe harbor for multinational businesses in China to engage in the practices necessary to build guanxi” (Warin, Diamant, and Pfenning 2010, 63).

This aspect of the FCPA is not in line with recent guidelines of the OECD, which in 2009 “called for a ban on facilitating payments” (Warin, Diamant, and Pfenning 2010, 65), and is also in divergence with the legislation of many other countries (including the UK Bribery Act described below). In fact, the number of countries which do allow such payments is limited, although they include Australia, Canada, New Zealand, South Korea, and the United States; “Chinese anti-bribery law does not carve out an exception for facilitating payments” (Warin, Diamant, and Pfenning 2010, 64). Therefore, companies making such payments, even if they were able to defend themselves under US law, would be liable to prosecution in China.

Although the FCPA is a significant component of US anti-corruption law, it is not the only one. In a guide to the FCPA, the DOJ and the SEC list other relevant laws, including: the Travel Act (which “makes it unlawful to travel in interstate or foreign commerce or use the mails with the intent to promote or facilitate unlawful activity” (Warin, Diamant, and Pfenning 2010, 47)); money laundering statutes; mail and wire fraud statutes; certification and reporting requirements (for example, “manufacturers, exporters, and brokers of certain defense articles and services are subject to registration, licensing, and reporting requirements under the Arms Export Control Act”); and tax law (U.S. Department of Justice and U.S. Securities and Exchange Commission 2012, 48-49). In addition, “The Sarbanes-Oxley Act of 2002 and the Dodd-Frank Act of 2010 both contain provisions affecting whistleblowers who report FCPA violations” (U.S. Department of Justice and U.S. Securities and Exchange Commission 2012, 82).

2.5.2.2 United Kingdom: Bribery Act (2010)

The Bribery Act of 2010, which came into effect in July 2011, was designed to modernize the United Kingdom's law on bribery (UK Ministry of Justice 2012b, 1). Aside from being recent, the British law is of interest also because it is "seen as being stricter than elsewhere" (The Economist 2011). (One example is the ban in the UK of facilitation payments, as described above, which are considered by the UK legislation as bribes).

Alongside the standard provisions against active and passive bribery (in Sections 1 and 2), which are similar to those outlined above, "The Act creates a new offence under section 7 which can be committed by commercial organisations which fail to prevent persons associated with them from committing bribery on their behalf" (UK Ministry of Justice 2012a, 6). This has important implications for the development of extended compliance policies. The international reach of the Act is also broad: most provisions cover offences committed both in the UK and also those committed outside the country by someone with "a close connection with the UK by virtue of being a British national or ordinarily resident in the UK, a body incorporated in the UK or a Scottish partnership" (UK Ministry of Justice 2012a, 9). Furthermore, for the Section 7 offense, even this 'close connection' is not required and provided that "the organisation carries on a business or part of a business in the UK (wherever in the world it may be incorporated or formed) then UK courts will have jurisdiction" (UK Ministry of Justice 2012a, 9). As with the FCPA, of special relevance to business in China is the fact that the charge of 'Bribery of a foreign official' (Section 6) includes "professionals working for public health agencies and officers exercising public functions in state-owned enterprises" (UK Ministry of Justice 2012a, 11).

3 Cultural features and corruption

3.1 Confucianism, collectivism and the rule of law

It is clear that the history, culture and traditions of a society affect the ways that its members conduct their day-to-day affairs: “Cultural differences across countries (measured by dimensions such as long term orientation, uncertainty avoidance, masculinity, individualism, power distance³, Hofstede, 1980) determine the willingness of managers to take risk, impact the development of financial markets and the propensity of firms to enter contracts” (Georgieva, Jandik, and Lee 2012, 776). Taking a historical perspective, Nie applies this to medical ethics and describes “five major traditions [...] with three having their origins in other lands: Confucianism, Daoism, Buddhism, socialism and Christianity” (2011). More recently, China’s Communist political system has mixed with these traditions and created a structure of society “in which public and private concerns, individual and collective interests, politics and administration, and state and society themselves intermingle” (Johnston and Hao 1995, 91). As such, “China’s culture provides fertile ground for investigating institutional pressure, with its characteristics of collectivism, high power distance, an emphasis on ‘guanxi’ (relationship) and ‘mianzi’ (face) [面子, miànzi]” (Huo et al. 2013, 2). Finally, Wang and Clegg, in their study of private sector management in China, bring this cultural theory into the business context as they explain that “[Chinese enterprise leaders] are attempting to build enterprise using a population whose habits of thought and work, in the recent past, were formed in a very different environment, one dominated by the state, the party and its local manifestations” (2007, 150).

³ “Power Distance – that is, the extent to which the less powerful members of organizations and institutions (like the family) accept and expect that power is distributed unequally” (Hofstede and Bond 1988, 10)

From the above, we may discern some of the threads of modern Chinese culture. As Nie's list of five traditions reminds us, this culture is not an isolated 'Asian' phenomenon: it is something which has been and continues to be influenced by foreign thought and foreign actions (the very title, "The Western Influence in China", of a paper by Edward Capen published in *The Journal of Race Development* in 1913, testifies to the longevity of this intercultural relationship, which applies across domains as diverse as industry, education and law (Capen 1913)). Nonetheless, there do remain significant differences between China and the West. For instance, "The prevalence of the Yin and Yang approach to life among Chinese people means that they are comfortable with the notion that extreme and opposite outcomes can exist simultaneously. [...] In contrast, American society has a tradition which pursues specificity and decisiveness" (Fang 2003 and Northrop 1959 in Lin and Malhotra 2012, 121). An alternative example, from Wang and Clegg, is that "significant differences have been found between Chinese and Australian managers in their national values for power distance" (2002, 33). Given such differences as these, a deeper understanding of Chinese culture is clearly vital for foreigners wishing to do business in this context. With a view to facilitating such understanding, there follows an introduction to a selection of those cultural characteristics with the most immediate relationship to corruption.

3.1.1 Confucianism

The role of Confucianism in Chinese society is frequently referred to, both in the literature and in the press, to which Wang and Clegg bear witness with their claim that "Chinese managers are influenced by Confucian values both in organizational and in personal life" (2002, 34). It is to be noted that this assessment was based on a selection of sources from the late 1990s; in Section 4 below, I analyze some of the more recent social trends. Nonetheless, even in one of my own interviews,

the interviewee, an ethnic Chinese person who has previously worked in large multi-national enterprises in China, raised the subject of Confucianism and its role in creating a society in which position is seen as a way to achieve power and, hence, financial reward (Interview 6).

From a Confucian point of view, “individuals are part of a system of interdependent relationships, not isolated entities”; whereas in the West “the primary influence on human behavior is self-interest” (Yeung and Tung 1996, 55). Although the distinction painted here may lack some subtlety, it serves as an informative snapshot of the respective social structures. Another account of Confucianism explains that there are “five fundamental relationships (wu lun [无论, wǔlún]) emphasized in Confucianism”, all of which “prescribe role behaviors for all those within the network” (Hui, Lee, and Rousseau 2004, 233). Lee details these follows:

“The Five Relations stipulate the presence of 1) trust and faith between king and subject, 2) filial-parental affection between father and son, 3) a distinction between husband and wife, 4) an order between the older and the younger, and 5) loyalty between friends. As shown, the first four relations hold hierarchical structures and the last [a] non-hierarchical one” (Lee 2012, 6, Chinese and Korean translations omitted).

For the present study, it is relevant to note that, in order to achieve the Confucian ideal of *renyi* (benevolence, 仁义, rényi), it is an expected behavior that “a person must repay favors and increase the value of the favor given”, as demonstrated by the Chinese saying “If someone pays you an honor of a linear foot, you should reciprocate by honoring the giver with ten linear foot [sic]” (Yeung and Tung 1996, 55). Already, from this the implications for the creation, use and

maintenance of networks begin to emerge, as will be examined further in Sections 3.2 and 3.3 below, on *guanxi* and gift giving, respectively.

Another feature of Confucian values which may be unusual for those with origins in a Western liberal democratic political system is that “neither government nor political institutions are part of these five fundamental relationships” (Hui, Lee, and Rousseau 2004, 233). Therefore, rather than relating to an abstract institutional entity, as one might in the West, the “Chinese are expected to relate to an organization through the particular relationships that exist between individuals and their superiors” (Hui, Lee, and Rousseau 2004, 233). This points to the importance of personal relationships within an institutional setting, and may also have an impact on the possibilities, or at least the methods, of developing the corporate culture and loyalty which might be expected in a Western firm. As a corollary to this, the fact that Confucian values also emphasize hierarchical relationships can result in a situation where, “In China, people feel comfortable following decisions made by more powerful people” (Randolph and Sashkin in Huo et al. 2013, 4). Huo et al. interpret this as implying that “Chinese companies are easily influenced by coercive pressures” (Huo et al. 2013, 4). Although this hypothesis is plausible, it is important, especially for those who come from outside of the circle of influence in question, to demonstrate sensitivity when attempting to interpret or make use of any such notion of ‘coercion’ within these hierarchies.

In some examples, the real role of Confucian morality in society might be doubted. For instance, traditionally, “the Chinese state provided few social services in return for its demands, despite the injunctions of Confucius concerning the obligations of the paternalistic Emperor” (Boisot and Child 1999, 244). Even today, despite the Communist nomenclature of the current government, social security cover remains relatively basic. (According to UNICEF China, this is related to the fact that

“in China’s current public finance system, the availability of funds for public services depends in part on the locality’s level of economic strength”, meaning that “Poor areas consequently have less money for public services” (UNICEF China.)

Yeung and Tung give a valuable insight into the evolution of Confucian values in China. They state that during the cultural revolution from the late 1960s until the 1970s, “Confucian social relationships came under attack because they ran contrary to the ideology of comradeship, which stresses equality among individuals. Comradeship called for an abolition of the in-group and out-group distinctions” (1996, 58). However, as the profound uncertainty which characterized this period meant that “individuals could no longer trust family or friends, they began to see social relations as the means to advance personal interests. Thus, an extreme form of instrumentalism began to emerge in guanxi relations during the Cultural Revolution” (Yeung and Tung 1996, 59). Although many scholars claim that Confucian values remain deeply embedded in Chinese society, both this case and the example of social welfare above demonstrate situations in which the original principles of Confucianism seem themselves to have been perverted. As such, it is not difficult to conceive that the theoretically selfless Confucian principle of reciprocal relationships could also be transformed and applied differently in new situations, from which accusations of corruption might arise.

3.1.2 Collectivism

In contrast with the West, the collectivist dynamic of Confucianism is an important influence on Chinese social and business activities. One feature of Collectivism is that it can be seen to encourage cooperation, whereas individualism is more focused on competition. In Chen and Tjosvold’s theory of cooperation, competition and independence, “In cooperation, goals are considered positively related. People pursue a common vision and shared rewards, so that the success of one helps others succeed” (2005, 420). This cooperation can translate into mutual dependency: according to Hsu,

“Compared to autonomy and independence in Western societies, research has shown mutual dependency is a fundamental element in Chinese traditions” (Hsu in Lin and Malhotra 2012, 120). Describing another facet of Chinese culture, Michailova and Worm state that “As a result of the strong collectivism [...] harmony is particularly important for Chinese people in their relation to people they know, while it is of much less importance in relation to strangers” (2003, 515). One aspect of this harmony (which might also be understood as stability or balance) is the avoidance of confrontation, which can explain why “the collectivist Chinese are often thought to be conforming and submissive [...] while individualistic Westerners are characterized as favoring direct give-and-take collaboration” (Chen and Tjosvold 2005, 420). The reality of this collectivism in a business context may be seen in an example from Huo et al., who state that “when a firm is making a decision on an action, it may conform to institutional pressure from the business environment [...] to maintain its social legitimacy, instead of only pursuing economic efficiency” (Huo et al. 2013, 1).

It is interesting to note that, according to Michailova and Worm, traditional Chinese sociologists do not apply the ‘collectivist’ label to China; instead they “label the USA an individualistic society and Europe a collectivist society, especially bearing in mind that most European countries have strong labour unions. Conversely, they refer to China as a relationship-based society” (2003, 510). This demonstrates the subjectivity of any classification of societies according to a typological framework. My own interpretation is that societies can be viewed along a continuum, from more individualist to more collectivist: China’s social structure might then be placed at the highly collective end of the continuum, at the point where collectivism loses its European institutionalized form and transitions into a more organic structure based on interpersonal relationships.

In a further example, Chen and Tjosvold demonstrate the practical impact which the strength of collectivism and role of relationships can have in a cross-cultural leadership context, stating that “despite the history of rivalry and hostility, when Japanese leaders and Chinese employees developed collectivist values in their relationships, they were able to collaborate open-mindedly and build a trusting relationship” (2005, 420). According to a survey by Yeung and Tung, this issue of trust is especially important in the Chinese context, precisely because China “is a relation-based society” (1996, 63). However, for Westerners in China, it is necessary to be aware that the Chinese understanding of trust is different from that in the West. Michailova and Worm highlight one such difference, which they conclude is probably the case for most collectivist societies, stating that “It is usually posited in the literature that a certain level of cognitively-based trust is a condition for the development of friendship-based trust (McAllister, 1995). This sequence seems to be reversed in the [...] Chinese context: friendship-based trust is more likely to occur first and it may develop eventually into cognitively-based trust” (2003, 512). As will be seen below, the practices of *guanxi* are one of the methods used to build these required friendships.

Despite the evident importance of Confucianism and collectivism in Chinese culture, it cannot be ignored that “while there may be *renqing* [human feelings, 人情, *rénqíng*] between business managers, often very little is practiced when it comes to the extraction of surplus value from workers” (Yang 2002, 468). This may be an example of the Chinese acceptance of yin and yang, described in Section 3.1 above, under which contradictory situations can exist simultaneously, alternatively summarized by Lin and Malhotra’s statement that, “in certain cultures, both individualism and collectivism can coexist” (2012, 121). For the Western businessperson, what seems most important to remember is that the collectivist substrate of the Chinese cultural system (with its associated concepts such as conforming, submission, coercion, hierarchy, face)

exists initially in the context of the complex network of Chinese collective groups, and as such may not be applied equally to out-of-group parties (whether those parties be Chinese or foreign). From this, it is clear that foreigners wishing to do business in China would benefit from achieving in-group status with their Chinese business partners if they are to develop harmonious and successful business relationships.

3.1.3 Rule of law

“In societies where government and markets coexist in relatively orderly fashion, the decision not to engage in corruption rests not just on cost-benefit calculations, but also on an acceptance that certain behavior violates important rules. [In China, it] is clear to many that something is wrong, but there is much less consensus as to what rules apply” (Johnston and Hao 1995, 90). Although this statement should primarily be understood in the context of uncertainty introduced by the economic reforms which were sweeping China at that time, it is useful more broadly for its introduction of the notion of ‘what rules apply’. This concept must be understood differently in China compared with how it applies in the legalistic Western society which “relies primarily on institutional law to ensure smooth and orderly progress” (Yeung and Tung 1996, 56). A case in point is the UK Bribery Act, which explicitly states that “any local custom or practice is to be disregarded unless it is permitted or required by the written law applicable to the country or territory concerned” (UK Ministry of Justice 2010, Article 5).

In order to understand the functioning of ‘rules’ in the Chinese context, it is necessary to return to the Confucian foundation of the culture: “Under Confucianism, governance by ethics (li zhi [礼治, lǐzhì]) is preferred over governance by law (fa zhi [法治, fàzhì]). This accounts for the general aversion to law and litigation in Confucian societies” (Yeung and Tung 1996, 56).

Perhaps this may in turn explain why, “Historically, the Chinese have not been protected by a legal system that was independent of the state and supreme in its own right” (Boisot and Child 1999, 245). Instead, a study on Chinese transnational businesses found that “Chinese capitalism is shown to differ qualitatively from Western capitalism in that it emerges from a Chinese cultural tradition of small family firms based on paternal authority and personal trust rather than a legal system, and the importance of interpersonal and kinship relations rather than individual rights” (Hamilton and Redding in Yang 2002, 467). On a societal level, this is corroborated by a study which found that China is fifth from the top of a list of the most particularistic countries, where “Particularism refers to the claim that a certain event is outside the scope of any rules and is unique” (Hampden-Turner and Trompenaars in Michailova and Worm 2003, 515). Given this, it is understandable that one of my Chinese acquaintances should claim that “In China we all know that every rule has some space to move”. Li gives a similar view, declaring that “In a relation-based society, laws, financial regulations, or accounting rules are merely ink on paper” (2005, 299).

Although potentially unfamiliar to those who are used to the Western conception of the rule of law, one should not automatically assume that the Chinese particularistic system is necessarily ‘worse’ than the Western alternative. In Boisot and Child’s review, it is asserted that, when faced with complex situations, societies may choose to adopt strategies either of “complexity reduction” (removing the source of complexity “through formal structures and standard procedures”) or of “complexity absorption” (removing the impact of complexity “through more intense systems of relationships”) (1999, 250). In fact, both of these approaches have the capacity to resolve the complexity of a given situation. Other scholars are even more clear: “given the cumbersome legal system, expensive legal fees and litigious society of the contemporary United States, there is no reason to assume that a guanxi society is more inefficient” (Smart and Smart in Yang 2002, 471).

In addition to this, what Romer describes as “Myron’s law” (that “asymptotically, any finite tax code collects zero revenue”) implies that any fixed system of rules will eventually become outdated and thus require change (Romer 2011). The advantages of a contextual system, then, are easily surmised.

One of the key features of the Chinese context “with very little capitalist legal system in place” is that it “favours business relationships of kinship and guanxi networks and personal trust” (Dirlik 1996 in Yang 2002, 475). Agelasto expands on this, providing an explicit link with corruption, in that:

“According to Gardiner the importance of the legal definition of corruption is diminished because ‘under certain circumstances, citizens may reasonably feel that an act which is legally defined as corruption is nevertheless a necessary tool to survive.’ [...] Given China’s underdeveloped legal system where the rule of relationships is often as important as (or more important than) the rule of law, the validity of Gardiner’s view is obvious” (Agelasto 1996, 266-271).

As will be discussed further below, in a relationship-based society, “The primary deterrent against immoral or illegal behaviour is shame and a loss of face” (Ledeneva 2003, 11). A recent newspaper article warns of a problem with this approach, in that “to believe virtue always floats to the top in a system such as China’s is fantasy. [...] The Confucian ideal of self-cultivation is admirable, but it neglects the crucial detail known as human nature” (The Economist 2012a). If this is the case, one cannot help but wonder if the extent of corruption in China suggests that the Confucian approach may today be reaching its limits.

3.2 Guanxi

3.2.1 Relationships in society

The term ‘guanxi’, comes from the Chinese word for ‘connections’ or ‘relationships’ (关系, guānxi). It may also encapsulate the Western concept of ‘networking’, but a version which is subject to different rules and different interpretations from those which the English term conveys. Michailova and Worm give the following overview:

“The term guanxi refers to relationships between people but [...] it does not have a precise English equivalent. It implies dyadic relationships between individuals in which each can make unlimited demands on the other. Guanxi is composed of interpersonal linkages with the implication of a continued exchange of favours; it differs from friendship and simple interpersonal relationships by including reciprocal obligations to respond to requests for assistance (Luo, 2000). This reciprocity is socially binding and without time specification. Guanxi networks are transferable, reciprocal, intangible, and utilitarian (Luo, 2000)” (Michailova and Worm 2003, 510).

Although Yeung and Tung assert that “Westerners often regard guanxi as a sordid form of favoritism and nepotism” (1996, 54), my own view is aligned with that of Agelasto, who suggests that “guanxi in and of itself is not a negative aspect of culture but is rather a cultural element that can be put into service across a whole range of morality. Certain conditions may encourage its use in ways which are perceived as ‘corrupt’” (1996, 265).

In Chinese, “The term originated from a rural gift economy, in particular in relation to family affairs such as marriage, funerals, etc. The concept’s original connotations of family affairs have made it a positive word closely associated with Chinese family businesses” (Redding in Michailova and Worm 2003, 514). More recently, however, these guanxi networks have “increased in scope and carried more ‘traffic’ than networks based on pure friendship-family feelings” (Andvig in Rose-Ackerman 2006, 292). Ledeneva links these two comments, claiming that although the modern use of guanxi has extended beyond the family setting, its cultural and historical grounding explains the continued significance of the term in contemporary China (2003).

In Song and Cheng’s recent study on corruption in various cities across China, “the majority of the respondents (83.7%) believed that, in their respective cities, it was necessary to use connections in everyday life” (2012, 219). This is consistent with earlier research by Yeung and Tung, where “guanxi was the only item [from a list of various choices] which was consistently chosen as a key success factor”, a finding which relates to the discussion of the rule of law in Section 3.1.3 above, as “respondents attributed the importance of guanxi to the ambiguity of Chinese legislation” (1996, 59).

Faced with the complexity of the system of guanxi, it is important to remember that its basic premise is one of relationships for mutual benefit over the long term. Western businesspeople must understand that, in traditional Chinese guanxi, the exchange of favors is not intended to guarantee a specific return by a specific deadline; instead it forms part of a moral and cultural concept of relationship building. For Yang, this “emphasis on renqing and the long-term obligations” is fundamental, and constitutes the “difference between guanxi and corruption or bribery” (2002, 465).

Thus, the nature of expatriates' shorter time horizons led respondents in one survey to express "frustration at the fact that foreign expatriates come and go, often only staying in [...] China for two years or less. This prevents them from engaging in multiple and long-term projects, which would offer the opportunity of establishing good personal relationships" (Michailova and Worm 2003, 512). From a legal point of view, the extended nature of the time horizon may also be a relevant factor in assessing the applicability of Western law: the UK Bribery Act clearly states that the prosecution in a case must "show that there is a sufficient connection between the advantage [bribe] and the intention to influence" (UK Ministry of Justice 2012a, 13), whereas within a 'genuine' guanxi relationship, the 'influence' could result well after the offering of any gift.

3.2.2 Trust and social sanctions

In order to conceive how a system of mutually supportive relationships can operate without a legal framework, it is helpful to have a deeper understanding of trust in a Chinese context: Li explains that "Relation-based societies usually lack public trust; instead, they put great emphasis on personal loyalty" (2005, 298). In Boisot and Child's account, in the absence of stability, personal relationships (either family or the network) have increased importance and trust in these relationships is derived from the principles of guanxi (Boisot and Child 1999, 246). Chua makes a similar claim but reverses the order, stating that "if you want to create guanxi, it begins with trust" (2012, 29). Analyzing these principles, Ledeneva explains how "renqing (the observance of proper social form), yiqi (loyalty [义气, yìqì]) and ganqing (emotional feelings [感情, gǎnqíng]) carry a pronounced ethical dimension" (2003, 10). It is this inherent ethical dimension which provides the social sanction mechanism required in order to ensure respect of the guanxi obligations of each of the network's participants and also constitutes one of the most significant differences between Chinese and Western networks. For Westerners operating in China, properly understanding this feature is important

not only in order to use guanxi correctly, but also because of its implications for managing multicultural teams.

The reliance on collective cultural, rather than legal, sanction mechanisms is applied by Boisot and Child to the system of business relations, when they write that “To an important extent, transactions within the Chinese business system are governed by the relatively tacit norms and expectations which accompany these trust-based relationships” (1999, 247). Ledeneva is more explicit, stating that “The moral force of reciprocity is so strong that it is very difficult for a person to decline the request of a friend or ‘fail to repay a debt of renqing’ because such a behaviour would mean that this person lacks ‘human feelings’ and does not know how to conduct oneself. The failure to help close relatives is even worse” (2003, 10).

Yeung and Tung give additional clarity on the functioning of this sanction mechanism by explaining that, aside from the legal framework, the primary social sanction in the West is guilt, which is an individually focused approach, whereas in China, the collective concept of face is applied (1996, 57). Thus, as Michailova and Worm demonstrate:

“in an informal guanxi network one has to honour one’s obligations to avoid losing face, which is something the Chinese are most afraid of as it means a loss of prestige for the interdependent self. In that sense guanxi and face reinforce one another. People with many personal connections have more face or prestige, which in turn makes it easier for them to establish more guanxi” (Michailova and Worm 2003, 515).

One of my interviewees, a Western finance expert, described one application of face encountered during his own experience working in China, stating that “There is a huge amount of energy placed into the surface, ‘face’, and the construction of one’s external identity. What matters most is what people see. Therefore, for example, office buildings can be under-heated because nobody outside the office can see that: the same capital can be used to consume more conspicuously elsewhere” (Interview 4). Despite this, Chua offers a helpful caveat that, “While it is generally true that face-saving is critical in China, the manifestation and degree to which it is practiced might vary” (Chua 2012, 32), making awareness vital.

3.2.3 Functioning of the relationships

Although “In its broadest sense, guanxi is defined simply as ‘interaction between people’” (Agelasto 1996, 278) and so may sound little different from the Western concept of networking, the specific nature of guanxi is such that “the favours rendered are usually of a more personal nature than those performed in Western networking” (Michailova and Worm 2003, 510). Examples include “taking care of the children of people who belong to the network, giving a position in a company, gaining access to a good dentist, borrowing money, etc.” (Michailova and Worm 2003, 510). In one study (admittedly now a little dated), it is stated that “Using a family member to obtain a business licence at that time was a typical application of guanxi” (Kipnis 1994 in Michailova and Worm 2003, 514). Particularly interesting in this example, which concerns of a rural shop owner, is the fact that “her uncle, a prefect, had helped her to obtain the license to trade, but being a member of the family she did not perceive this transaction as guanxi” (Michailova and Worm 2003, 514). This example demonstrates the need for a nuanced perception of guanxi relationships, which, as Agelasto suggests, “must be viewed differently according to context” (1996, 278). In another example of how guanxi can support a business transaction, Yeung and Tung cite the chairman of a Hong Kong investment bank as saying: “If you are being considered for a new partnership, a personal reference from

a respected member of the Chinese business community is worth more than any amount of money you could throw on the table” (Yeung and Tung 1996, 62). In this case, one could surely recognize a parallel with similar Western practices of reference giving, but the underlying cultural implication of a moral debt between the reference giver and the recipient remains distinct. One might conclude from this that the difference between guanxi and Western relationships is at times more philosophical than substantive.

Some studies have shown that the use of guanxi for business takes a particular relevance in certain specific contexts. For instance, Yeung and Tung found that “guanxi is of paramount importance in the initial stages of entering the China market” whereas “Once the operation is established, other conditions must be met to sustain success, and of these conditions, technical competence is most important” (1996, 60). Another case is the dichotomy between larger and smaller businesses, as seen in Yang’s reference to work which “showed that managers of smaller enterprises, joint-venture enterprises and enterprises positioned lower in the administrative ladder tended to assert guanxixue’s⁴ continued or increasing importance” (2002, 469). More recently, Transparency International has confirmed that “small companies are far more vulnerable to corruption since they often do not have the connections to bypass individual officials” (The Economist 2011).

For the present study, it is of particular interest that Yang also makes reference to the position of foreign companies, claiming that, “without bureaucratic institutional power, overseas investors must also rely on guanxi to make their way in China’s maze of bureaucratic power” (2002, 471).

⁴ guanxixue (关系学, guānxixué) is a term used by some scholars to describe ‘the culture of guanxi’

This differs slightly from my own findings during discussions with two former employees of two large Western companies operating in China, who explained that their companies were in fact able to use their established reputations in order to avoid exposure to corrupt activity. Both of these interviewees asserted that, by instigating a strict and well-implemented anti-corruption policy, the firms ensured that their clients and employees knew that corrupt activity would not be countenanced, thus reducing the incidence of both requests for and offering of bribes (Interview 2 and Interview 6). It may be that the positions of both these companies can be explained by Yeung and Tung's theory above, on the basis that, having entered the market up to thirty years ago, they are now able to focus on other factors to maintain their success. Otherwise, if Yang's assertion is true, one must assume that these companies have somehow found a balance between their ban on bribery and the need to maintain long-term relationships. One of the interviewees, whose company was involved in a large transportation infrastructure project, explained that good relationships were maintained with local government officials by virtue of the economic benefits which his company was able to bring to the region. In concordance with Yang's findings, my interviewee continued by saying that "If you are a small company, then you need to convince the government: in this case the relationship with you is different" (Interview 2).

3.2.4 From guanxi into corruption

The ongoing significance of Michailova and Worm's example (in 3.2.3 above), where the interviewee acknowledged receiving help from her uncle to obtain a business license but did not consider this to be use of guanxi, is demonstrated by Yang's statement that "As most Chinese are aware, guanxixue is something that most people practise, to varying degrees of effectiveness and artistry, but few people would admit to publicly" (2002, 461). This is the result of "guanxixue's association in public discourse with the grey areas between proper and improper behaviour and with getting around rules and regulations" (Yang 2002, 461). Indeed, with regard to a situation such as outlined above,

Li reminds us explicitly that “giving a gift to an official in exchange for a business license, bribery, is [in Chinese law] considered a crime in China” (Li 2005, 301). With her description of a change over time, Ledeneva gives some further insight into this situation: “Whereas in the Maoist years and 1980s, *guanxixue* was often beneficial to ordinary people in allowing them more manoeuvring room in ordering their own lives, *guanxixue*’s shift into corruption now benefits the official-business classes and hurts the bulk of society as a small social segment quietly amasses public wealth” (Ledeneva 2003, 16-17). The extent of this effect today is seen in a recent press article, which notes that “Even official media report about cadres gaining promotion through connections, not merit, and despite the occasional execution of corrupt officials, the government can do little about it” (The Economist 2012a). This state of affairs, with *guanxi* taking a complicated position between legitimate and illegitimate activity, is of especial relevance to the Western businessperson, who, benefitting neither from a Chinese cultural heritage to provide understanding, nor the concomitant network to provide guidance and support, must be especially careful to avoid doing things in the name of traditional *guanxi* which, in fact, may simply be a cover for modern corruption.

3.3 Gift giving

The above discussion of *guanxi* has demonstrated the importance of long-term relationships in Chinese culture. Yeung and Tung describe the link between *guanxi* and gift giving, explaining that “Since *guanxi* is a gate that can be open or shut, it needs to be propped wide once opened”, in the interests of which they therefore outline “four strategies for maintaining *guanxi* relationships: tendering favours, nurturing long-term mutual benefits, cultivating personal relationships, and cultivating trust” (1996, 62). The giving of gifts can act as a facilitating mechanism across a number of these categories, with the result that “Gift-giving, entertainment at lavish banquets, questionable payments, overseas trips, and sponsoring and supporting the children of Chinese officials at universities abroad are common” (Yeung and Tung 1996, 62). In a handbook on Chinese culture

for foreigners, Chai and Chai suggest that “For business travelers [...] the best time to give a gift is at the beginning because it shows a relationship of friendship is being established, commemorated by the gift” (2007). Sounding a note of caution though, Yeung and Tung’s survey did find that “the use of questionable payments connotes a sense of cheating” (1996, 62) and a more recent article continues to urge caution on the part of Westerners, on the basis that “growing numbers of Chinese companies frown upon gift giving” (Chua 2012, 28). Despite this, the manager of a small Western education services provider in China confirmed in one of my interviews that his company had received requests for both overseas trips and support for the offspring of business contacts to obtain places in foreign universities. He explained how his company had refused to acquiesce to what he described as brazenly overt demands by Chinese government employees for overseas travel (the potential recipients were not interested even in maintaining the appearance of business travel by combining their sightseeing with some light business meetings, although in fact even the cover of “factory inspections” or “training” visits was dismissed in an FCPA bribery case brought against Lucent Technologies in 2007, which resulted in a USD 2.5 million fine (Warin, Diamant, and Pfenning 2010, 51)), but he did acknowledge that personal advice sessions on applications to Western universities were a welcome offering (Interview 5).

Another of my interviewees, who works for a London-based China think tank, used the example of last year’s scandals regarding the accrued personal wealth of family members of Wen Jiabao and Xi Jinping to demonstrate the nuances of gift giving. Reports claimed that “the family of outgoing Prime Minister Wen Jiabao controlled assets worth at least \$2.7 billion” (Wan 2012). As my source said “These riches had been garnered through connections: nobody really proved that the money came from ‘blunt corruption’ as we might perceive it, but the fact that people had connections to the family meant that they got jobs more frequently” (Interview 3), the implication being that the development and maintenance of these ‘connections’ was, at least in part, supported by gifts.

The dynamic of the exchange is summarized by Ledeneva, who states that “Both participants believe this exchange to be part of their tradition and culture and do not recognise the economic aspect of it” (2003, 12). The fact that, at least to a Western mind, this assertion may seem strikingly implausible provides a clear example of what Chua describes as “the tensions between the traditional norms of guanxi and new global expectations” (2012, 28).

The relationship between gift giving and the ‘traditional norms’ to which Chua refers is presented by Chai and Chai:

“In Chinese culture, it is very important to give gifts on far more occasions than is usual in the West. For example, when you visit an institution, company, or school, it is normal to give a gift to the highest-ranking person you met as well as smaller gifts to your guides, interpreter and anyone else who may be helping you. If you are starting a business, you should expect to give out symbolic gifts to any officials who may be helping you as well as company executives that you meet. Gifts do not have to be expensive lest they be viewed as bribes” (Chai and Chai 2007).

The final warning, ‘lest they be viewed as bribes’, is developed in the guidelines to the UK Bribery Act: they begin “Rest assured – no one wants to stop firms getting to know their clients by taking them to events like Wimbledon or the Grand Prix” but, they conclude, “It is, however, clear that hospitality and promotional or other similar business expenditure can be employed as bribes” (UK Ministry of Justice 2012a, 2 & 12). The distinction between these two possibilities appears to be a fine one. Nonetheless, the ramifications of these tensions can be serious: “nearly one-half of all China-related corporate prosecutions under the FCPA since 2002 involved the provision of gifts, meals, travel, or entertainment” (Warin, Diamant, and Pfenning 2010, 59).

Further evidence of the degree to which gift giving is integral to Chinese society, the economy and also the arena of political influence may be found in a Financial Times article which reported that “the ‘gifting’ culture in mainland China is expected to give sales a boost after the party congress is over [...] as ‘customers will know whom they should be sending their gifts to when things are settled’” (Tsui 2012). Outside such political events, some of the key periods for gift giving are the Chinese traditional festivals such as the mid-autumn festival, at which the mooncake is the customary gift. “Though mooncakes are rarely eaten by the buyer – they are generally destined as gifts for friends, employees or business contacts – they say a lot about the purchaser” and as such they are available in basic and more lavish versions. One source describes the mooncake as “one of China’s most popular tools of conspicuous consumption (consider Haagen-Daaz’s [sic] opulent \$80 offering, or mooncakes coupled with bottles of wine, digital cameras, or even homes)” (Pasternack 2008). Recently, Chinese authorities have introduced regulations to “outlaw unnecessarily lavish packaging and the inclusion of expensive bonus gifts, such as high-priced alcohol, in the boxes.” This was “partly because of corruption, but also it was just a waste of resources” (according to an official at Beijing Association of Roasted Foods and Sweets) (Branigan 2012b).

The providing of entertainment is another central feature of Chinese gift giving. One of my interviewees explained the difference between Western and Chinese perceptions of such hospitality: “The average Westerner is happy to enjoy a dinner, but it’s not a large perceived benefit when done under duress with colleagues [...] But in China, food culture is way more important. Somebody having a plate of a delicacy placed in front of them will think they’re getting a really good deal” (Interview 5). Chai and Chai add that “The banquet is a formality, a requirement of being a gracious host. It’s not the place where decisions are made. However, your behavior will be observed, and your trustworthiness as a human being also judged” (2007). From this description, one may infer that the banquet is in theory of benefit not only to the recipient, who is enjoying a good meal, but also to

the giver, who gains an opportunity to better understand a new counterparty. Nonetheless, the new government is aiming to cut back on extravagant hospitality as part of its anti-corruption drive: “First the lavish government banquets were cut, then government officials’ red-carpet receptions” (Wan 2013), with the result that “the country’s top disciplinary body dismissed six functionaries, including a neighborhood party chief who spent \$63,000 to entertain 80 colleagues at a seaside resort, and a county official who marked the opening of new administrative offices by throwing a feast for 290 people” (Jacobs 2013). The long-term impact of such moves remains to be seen: while some report that the new policy is “proving so effective that it risks helping end the nation’s economic rebound after one quarter” (Bloomberg News 2013), other sources claim that “the drive has simply pushed lavish official banquets and venal gift-giving underground” (Kaiman 2013).

4 Culture changing: the course for the future

4.1 Systemic changes

With regard to whether the use of guanxi is increasing or decreasing, the literature is somewhat unclear. This is perhaps not surprising, given the complex nature of this (or any other) cultural feature. Michailova and Worm, in 2003, state that “Our Chinese respondents consistently maintained that guanxi has been increasingly exercised over the last twenty years” (2003, 517), which they relate in part to “the influence of Confucianism on Chinese societies, where people are socialised to think in terms of personal relations” (2003, 516). However, in a study reported by Yang, Guthrie finds that “industrial managers of large state enterprises positioned at higher administrative levels [...] do not need to resort as much to the time and energy-consuming personal and gift strategies such as guanxixue” (2002, 470). Yang herself takes issue with Guthrie’s conclusion, claiming that the specific group studied was not representative of the situation in China as a whole. She proffers a more nuanced view, recognizing “both the decline as well as new deployments of guanxixue in novel sites of operation in the reform period” (Yang 2002, 463).

Yang’s argument specifically links the changing role of guanxi with the expansion of capitalism in China. She states that “guanxi must be treated historically as a repertoire of cultural patterns and resources which are continuously transformed in their adaptation to, as well as shaping of, new social institutions and structures, and by the particular Chinese experience with globalisation” (2002, 459). This resonates with Ledeneva’s description of a system which, although it originated in a gift economy, grounded in “societies where money played only little role” (2003, 8) has now found a new place “in the marriage between the developmental state with capitalism” and has also “given rise to increased corruption in business-government realms” (2003, 19).

Of course, the potential for economic reform to engender social change is described in a long academic tradition of political economics, of which Schumpeter's discussion of creative destruction is but one example: "[capitalism's] very success undermines the social institutions which protect it, and 'inevitably' creates conditions in which it will not be able to live" (Schumpeter in Elliott 1980, 45). Andvig might be said to be working from this theoretical base as he explains that, "when analyzing countries undergoing drastic changes, one should be aware that the set of transactions defined as corrupt will undergo changes as well" (Andvig in Rose-Ackerman 2006, 311). For Andvig, a value system is based on combinations of norms which, during periods of change, may become 'misaligned'. In his example, the original (socialist) system contained the norm combination "close cooperation between government regulators and enterprises" and "enterprises earn soft-budget income" (meaning that the market plays little role and balance is achieved by the state). In the new (capitalist) system, these norms need to be replaced by the combination of "arm's length relations between government regulators and enterprises" and "enterprises face hard-budget constraints" (such that fair competition, based on impartial regulation, allows enterprises to overcome their budget constraints through success in the market). If, however, the old norm combination is replaced with a hybrid of "close cooperation between government regulators and enterprises" and "enterprises face hard-budget constraints", then this misalignment can give rise to the phenomenon of corruption, where budget-constrained enterprises find the need to use their close cooperation with government in order to ease their situation (adapted from Andvig in Rose-Ackerman 2006, 287).

In the following additional example of the mechanism which can apply when a system undergoes change, Andvig also explains that:

“More complex interactions between old and new norm systems may exist. For example, suppose that action patterns a, b and c were labeled by the old norm structure as inappropriate market transactions, but that a and b, but not c, are accepted in the new system. The former unacceptability of all three action patterns may lead agents to consider c to be appropriate as well, because c is seen as normatively equal to a and b” (Andvig in Rose-Ackerman 2006, 287).

4.2 A move towards individualism?

As China transitions from a socialist command economy to a market-based system, the economic dimension of gift giving presents additional interest: the practices of long-term relationship building can appear better suited to a traditional collective mindset, rather than to modern capitalism. According to Yang, “In the new market economy, even when guanxi is deployed to gain money, it can only do so by resorting to practices which go against the very grain of the principles of rational capital accumulation, that is, by being generous in giving of one’s wealth and other resources” (2002, 475). However, describing one community where acts of generosity have translated into positive social impacts, Yang explains how “Large donations are made to the building of deity temples [...] and the funding of their community ritual activities, comprising a lively ritual economy” (2002, 476). Such examples as these lead Yang to posit the need for further consideration of whether “guanxi principles of generosity inform not only acts of corruption, but also donations in support of civil society” (2002, 476).

In Johnston and Hao's explanation, "The idea of limits on what people may do to enrich themselves rests on an accepted distinction between individual and collective interests, and raises the question of proper relationships between them" (1995, 88). Despite the continued existence of collective spirit in such cases as the community temples mentioned above, it seems that there may be an emerging trend away from collectivism in modern China. Indeed, according to one of my interviewees, the change is already well underway, as "The conception of business in China is merely an opportunity to enrich oneself" (Interview 4). In Li's findings, too, a "transition is currently taking place in both the economic and political systems in China, although unevenly, with economic transition occurring at a much more rapid pace" (2005, 301). Maurer and Li report that, "At the societal level, for instance, several authors have noted that growing competitive pressures in a world-wide economy have compelled even relational economies to develop a more Westernized (i.e. rule-based or transactional) approach to managing workers" (2006, 40). Although Søreide points out that "New rules may take many years to affect attitudes and choices, especially in an area such as corruption" (Søreide in Rose-Ackerman 2006, 381), Wang and Clegg confirm that the younger generations of Chinese are already found to be "more individualistic and less group oriented than the older generation" (2007, 157). As such, "future leaders, drawn from younger and higher level of education cohorts, are more likely to be similar to leaders in liberal economies elsewhere" (Wang and Clegg 2007, 166). Meanwhile, in Hui, Lee and Rousseau's account, "Less-traditional Chinese are oriented toward egalitarianism, self-reliance, and openness" (2004, 234), one manifestation of which may be seen in Chua's finding that "Chinese businesses and their executives are placing increasing emphasis on the value a potential partner brings and whether they can trust the reliability of that value" (2012, 31).

In summary, modern China is clearly a society undergoing changes. However, despite the examples given above, and despite the hopes expressed by the managers of one foreign enterprise in China, who “believed that WTO accession would lead to a further opening up of the domestic market and that the ‘rule of law’ may become more of a reality, thus enhancing their business operations in China” (Zhu and Warner 2004, 320), some scholars remain cautious about the real long-term direction of these changes. It is argued that China’s transformation will not necessarily lead to a simple replication of Western individualism. As Yeung and Tung explain, even if a transition does occur, “a cursory review of the situations in other economically advanced or more developed Confucian societies – Japan, South Korea and Hong Kong – will show that the establishment of institutional law will not displace the reliance on connections” (1996, 64). Yang goes further, asserting that, rather than seeing the Chinese system eventually converging with Western capitalism, China might develop a hybrid version of “guanxi capitalism of subcontracting networks that will create the contours of a capitalist world system significantly different from the present” (Yang 2002, 474).

4.3 Government actions

Given the continuing importance of the state in Chinese society, Johnston and Hao’s assertion, that “Where the state dominates society, compliance can be maintained through coercion or its credible threat. But where the forces of a civil society possess some autonomy, rules with little legitimacy will be ineffective” (1995, 89), remains relevant. For example, in a recent article about the internet, a technology which had originally been seen as a potential source of revolution, it is stated that “Not only has Chinese authoritarian rule survived the internet, but the state has shown great skill in bending the technology to its own purposes, enabling it to exercise better control of its own society and setting an example for other repressive regimes” (The Economist 2013a). Despite this assertion of continuity, one must also take note of the changes which are being seen. For instance, the same

article gives the example of an official who “was photographed smiling at the scene of a gruesome accident, the online crowd noticed he was wearing a luxury watch and quickly came up with more photographs of the same official wearing other luxury watches. ‘Brother Watch’, as he came to be known, was fired” (The Economist 2013a). This example of public protest at excesses committed by officials not only reinforces the claims of negative public perception of guanxi seen in Section 3.2.4 above, but also demonstrates the impact which public sentiment may be able to assert in the shaping of social, and indeed legal, norms in the future.

Changes in the government’s approach can already be discerned. For instance, while Michailova and Worm found, in 2003, that “Guanxi interaction between the government and enterprises is seen as facilitating the dynamism of market transaction [sic] in China” (2003, 25), at the most recent People’s Congress, in 2012, the announcements concerning the determination of the new leadership to fight corruption demonstrate a different point of view. For instance, former leader Hu Jintao made the dramatic statement that “Failing to tackle corruption ‘could prove fatal to the party and even cause the collapse of the party and the fall of the state’” (Branigan 2012a). An article in the Chinese press describes steps being taken by agencies to meet the ongoing challenges: “In addition to efforts to prevent cross-border bribery, the focus of the agencies’ future work will also be placed on investigating government officials who trade their powers for profits and non-government parties that engage in commercial bribery [...] They will also work to improve a credit reference network” (China Daily 2012). The case of the credit reference network could be particularly interesting: creating a formal structure for this core aspect of business and thereby reducing the need for private relationships in order to demonstrate creditworthiness would be a significant step away from the relationship-based system and into an individualist, rule-based system. On the other hand, taking an international perspective, Søreide sounds a note of caution: “most states wish to increase the probability of ‘their’ domestic companies getting contracts in foreign countries, and thus have few

incentives to encourage investigations of ‘their own’ firms, even if contracts are obtained in a way that appears to violate the [OECD] treaty” (Soreide in Rose-Ackerman 2006, 382). Although, in the case of the United States, the recent increase in prosecutions under the FCPA might speak against this (see 2.5.2.1 above), the assertion that “At the national level, the Communist Party is at times willing to ignore its international commitments in order to maintain power” (Aaronson 2010, 41) suggests that a degree of circumspection in this regard may perhaps be prudent.

5 Impacts and implications for Western businesses in China

5.1 Impacts

The above discussion around various aspects of Chinese culture introduces some of the complexity faced by Western businesses wishing to operate in China. It has been seen that there may at times be only a narrow line between behavior which is culturally appropriate and that which can render the actor liable to prosecution under either domestic or foreign law. Businesses may also face other challenges particular to the Chinese context, such as the Chinese government's tendency to disseminate negative information about foreign firms in the interests of boosting national sentiments (as described in 0 above, and repeated in one of my interviews (Interview 4)). Such scenarios can also apply on an inter-firm level, as described by Michailova and Worm's study, which reported business leaders saying that "the best kind [of guanxi] is attained where one has some negative information about the other party" (2003, 513). In another of my own interviews, an employee of a Western multinational in China described a further case when corruption allegations were made against his company, for reasons which he described as being related to dissatisfaction on the part of local distributors, rather than because of any illegal behavior (Interview 7). Of course, such situations could arise anywhere, but the very problem of corruption means that companies may feel less able to rely on the Chinese legal system for the impartial resolution of such disputes.

Given the current legal and cultural environment of China, it could seem that the best, if not the only, option for Western businesses operating in the country is to be 'whiter than white' and to engage in no behavior which might raise even the hint of a doubt as to their innocence. Leaving aside the probable infeasibility of such an aim, the problem with this method, given the cultural picture presented here, is that it obliges Western businesses expressly to eschew the concept of cultural adaptation and to impose their own cultural norms and associated practices in their foreign

operations. This is generally not considered to be the best method for achieving business success. For instance, Sanchez, Spector and Cooper state that, when “Examining the effectiveness of expatriates in international assignments, management scholars highlight the ability to adapt to a host culture as a key contributor to acquiring and transferring knowledge” (Lin and Malhotra 2012, 119). Even if business managers may in reality be more equivocal, in fact even “Western [Joint Venture] partners, despite their ‘general’ disapproval of adaptation, would embrace adaptation when interacting with someone of similar cognition and behaviour” (2012, 127). Meanwhile, Chua is forthright in his support of the need for cultural awareness, claiming that “the powerful mental habit of cultural metacognition – constantly testing cultural assumptions in the context of actual experiences – helps build rapport by making people feel understood rather than stereotyped” and finding that “individuals with higher cultural metacognition skills were better at establishing rapport with and getting on the same wavelength as someone from a different culture, resulting in higher affective trust” (2012, 32).

One method employed by some Western companies to avoid the question of whether to impose their own methods or to adapt to local norms is to engage intermediaries or service firms. The principle is that the intermediary will have the required understanding of local norms and can thus make up for deficiencies on the part of the foreign party, either in terms of cultural awareness or relevant connections, for purposes such as gaining market share or assisting with administrative procedures. According to one of my interviewees, “Agents are the preferred way to get around a lot of low level corruption”, offering a service on the basis of “Just give us the budget and let us take care of it” (Interview 6). Despite the popularity of this arrangement, Western firms must in fact remain vigilant in respect of these activities. In certain contexts, the employing company is legally responsible, as principle, for the actions of its intermediary, as its agent. Therefore, if, for example, the agent offers a gift to a third party in the process of developing a relationship with that party, the Western company

could be held responsible for the payment of a bribe on its behalf, by its agent. During another of my interviews, the Western manager of a small firm operating in China, who asked to remain anonymous, seemed unaware of this risk. He gave the example of a manager in his Chinese office who requested authorization to pay an additional amount to a service company in order to facilitate the delivery of some necessary documentation; my interviewee denied this request, requiring instead that the company's invoice should include a single total service fee and that no itemization was required (Interview 5). Although this may give the appearance of resolving the problem of the principle company paying a bribe, it is unlikely that this would be a sufficient defense in the eyes of the law.

5.2 Imposition: internal compliance policies

5.2.1 Imposed regulation

Although in one sense companies have a choice between imposition and cultural adaptation, in many ways the requirements of anti-bribery legislation are such that Western companies operating in China may in fact be legally required to establish policies with the aim of imposing practices to ensure compliance. For instance, the ADB and OECD recommend that laws should specifically penalize corrupt behavior which occurs “through a failure to implement adequate internal controls, ethics and compliance programmes or measures” (ADB/OECD Anti-Corruption Initiative for Asia and the Pacific 2010, 146). Correspondingly, under the UK Bribery Act, the simple fact of having established a sufficient compliance policy can act as a defense against corruption charges. The guidance to the Act explains this as follows:

“This is in recognition of the fact that no bribery prevention regime will be capable of preventing bribery at all times. However, the defence is also included in order to encourage commercial organisations to put procedures in place to prevent bribery by persons associated with them” (UK Ministry of Justice 2012a, 8).

Even where there is no specific obligation, “In light of the [FCPA’s] requirements and complexity, China’s business culture, and the prevalence of public corruption in China, prudent multinational corporations should develop strong compliance programs to mitigate these risks” (Warin, Diamant, and Pfenning 2010, 70). In essence, where Western norms are being applied through a Western legal system, Western compliance mechanisms are seemingly unavoidable.

Whatever form it may take, the basic aim of a compliance policy must presumably be for every employee to have a proper understanding (in terms relevant to and comprehensible to his or her cultural background) of the company’s stance on corruption and the ways in which unacceptable acts can be avoided. For Søreide, such compliance policies take the form of “codes of conduct” and “anti-corruption control routines” (Søreide in Rose-Ackerman 2006, 384); Li’s approach prescribes a “three-step monitoring strategy”, including “ex-ante (before the investment), interim, and ex-post (in case breaching occurs)” (2005, 301) ; one might also name these steps ‘prevention’, ‘monitoring’ and ‘punishment’. For its own relationships with third parties, the Asian Development Bank’s policy is to “take a holistic approach and focus not only on remedial actions, such as debarment, but also on awareness raising, prevention and forging partnerships with others to maximize positive outcomes” (Asian Development Bank 2012).

For those charged with devising a company's policy, Warin, Diamant and Pfenning recommend that "corporations should involve a cross-section of employees in the process [of creating the policy], including those in internal audit, legal, compliance, and finance, as well as members of the business line and company leaders" (2010, 71). This method, it is suggested, will make it possible to assess the specificities of bribery within the particular context faced by the company, including the extent of client expectations to receive bribes, and any potential internal resistance which might be found among employees (Warin, Diamant, and Pfenning 2010, 71). As Warin, Diamant, and Pfenning argue, "Arduous procedures can hurt business and incent circumvention. Lax policies will not adequately protect the organization. But working together, the business line and compliance officers should be able to craft creative solutions tailored to the company's business realities" (2010, 72). In some cases, this might take a simple and tangible form. For instance, one source reports that "The other day a client told me of how every year he gives a copy of the Foreign Corrupt Practices Act to all of his China and Vietnam employees in their native language" (Harris 2013). However, on other occasions resistance may be more complicated to overcome: one of my interviewees described a situation where a Chinese employee of the European multi-national corporation (MNC) where he worked in China was unwilling to adopt a new written procedure to record temporary movements of valuable items on the company's inventory. My interviewee explained the employee's objection in this case as resulting from the restrictions that the new procedure would place on the ability of the employee in question to lend out these items in order to develop his own personal connections (in fact, Boisot and Child suggest that a "Lack of desire to adhere to written norms" is typical in China (1999, 247)). In this particular case, only after the President had explained in person the importance of the new practice to the employee did he agree to implement it (Interview 7).

An aspect of compliance policy which was repeated in all three of my interviews with employees of large foreign MNCs in China, was the importance of strict and consistent enforcement. This echoes the findings of a study of parking violations among foreign delegates to the United Nations in New York, from which it emerged that both culture and enforcement play a role in compliance: although the number of offenses did vary according to country of origin, there was a global decline in violations when a new enforcement regime was introduced; furthermore, the role of country of origin seemed to decrease over time, suggesting that either enforcement or assimilation to new norms was playing a role (Fisman and Miguel 2007, 1020-1048). Whereas in the parking example enforcement was carried out by third party municipal officials, ensuring similarly strict enforcement of a company's own policies by internal compliance teams requires high-level commitment. If nothing else, the competition among MNCs in China for qualified employees means that a company must take compliance seriously if it is to be willing to dismiss employees who are found to be in contravention of the rules. Such cases do occur, as described to me by an interviewee, in whose company a significant portion of the public relations team was dismissed after an audit by a team from the headquarters found evidence of corruption (Interview 7).

Boisot and Child do sound a note of caution with regard to attempts to establish such policies: "The option of installing western practices is difficult because it is seen by the Chinese as being somewhat superficial and as such does not really get their full buy-in" (1999, 248). This sentiment was echoed by one of my interviewees, who claimed that "Sometimes, having a hard and fast policy may seem naïve" (Interview 6). However, given that, as outlined in Section 4 above, less-traditional Chinese appear to demonstrate more Western characteristics, it may be that this will decreasingly be a problem. For instance, in my interview with one Chinese employee of a large foreign multi-national, he showed no sign of skepticism about his company's strict anti-bribery training policies (Interview 2). (Indeed, in my own experience, much greater reticence was shown by local

employees regarding the equivalent training program of a US firm based in France.) Perhaps this might be seen as additional evidence in support of Lin and Malhotra's finding that, "Because of the different approaches toward ambiguity, the Chinese tend to have a greater ability and willingness to comprehend and accommodate behaviors that are different from their own than do Westerners" (2012, 121).

5.2.2 Cultural imposition

Although the establishment of appropriate policies is one aspect of achieving compliance with anti-corruption legislation, it may be that the sustainability of such efforts could be improved by developing a corporate culture whereby corrupt activities (as defined by the relevant legislation) are automatically not countenanced. This also reduces the risk that the existence of pervasive regulation could allow employees to offload their moral decisions and thereby lead to less, rather than greater, awareness of the acceptability of given actions. A parallel may be drawn here with research which has demonstrated that increasing an individual's self-conception of being "professional" may actually increase their unethical behavior (Kouchaki 2013). Instead, the new rules would be only a part of the culture, underpinned by shared attitudes and perceptions. A culture-based approach may even reduce the administrative burden of enforcement activities, for there would be less risk that, faced with a situation which differed from those described in training or policy manuals, employees would behave inappropriately. It might be noted that these advantages of culture-based over rules-based regulation provide an interesting link back to Confucius' preference for moral rather than legal virtue (as discussed in Section 3.1.3 above).

The value of a combined rules-based and cultural approach is highlighted by the example given by one of my interviewees, who explained that employees at his company engaged in prohibited activity despite the fact that “they knew it was not OK, but they still did it” (Interview 7). This suggests that a purely rules-based approach was not working. At this company, an emphasis is now being placed on instilling in employees a sense of the company’s corporate culture through a program whereby every employee takes a trip to the European headquarters during their first year of employment. This is designed to create a passion for the brand, improve employees’ motivation and increase their familiarity with the atmosphere and the history of the company. In the longer term, it is hoped that this approach will achieve a greater sense of identification between the employees and the company and a correspondingly improved support for the upholding of that company’s norms and values (Interview 7).

Of course, the creation of a corporate culture in the service of compliance is in effect another way of imposing Western values, with the aim of supplanting the local culture in the relevant respects. Given this, it remains important to have an understanding of the Chinese sub-stratum in order to understand better the possible interactions between the two systems. For instance, it may be useful to consider Wang and Clegg’s findings that “currently in China obedience to authority is accepted as a basic value, across all the age ranges and levels of education in the workplace” (2007, 166-7), one consequence of which is “A vicious circle of culturally authorized disempowerment” (Wang and Clegg 2002, 40). Such findings could influence the way in which managers go about instilling the desired corporate culture, for instance by following Søreide’s recommendation that “A visible and unquestionable attitude against corruption at the highest levels of a firm is important to prevent the temptation of bribery throughout the organisation” (Søreide in Rose-Ackerman 2006, 384).

5.3 Adaptation: integrating with local norms

In Boisot and Child's account, the alternative to *reducing* complexity by imposing foreign standards is to adapt and use local Chinese capabilities to *absorb* the complexity (1999, 247-248). Despite the potential benefits of adapting to local norms, the persistently changing nature of culture means that such a policy must be undertaken with both care and sincerity: failure to do so could result in perpetration of a criminal offense or commitment of cultural faux pas, either of which may in turn cause wasted expenditure and actually impoverish relations. For instance, one of my interviewees explained that, because of "squeamishness" with regard to the provisions of the FCPA, Americans can come across as looking "cheap" by offering gifts which are not culturally appropriate (Interview 6). In another example, Chua describes a company which mishandled its guanxi building activities and ended up being viewed as "a seeker of short-term transactional opportunities wrapped in expensive entertainment" (2012). It is interesting that this scenario mirrors the findings of Yeung and Tung from almost two decades earlier, which suggest that "since short and long-term gains can be duplicated by others, guanxi relations that are premised exclusively on material benefits can be fragile" (1996, 63). For those wishing to engage in guanxi, the warning is that it "cannot be used merely to benefit Western business ventures without contributing something to the Chinese side, often in terms of personal benefits" (Michailova and Worm 2003, 518). Companies, or, more specifically, their employees, wishing to use guanxi must do so correctly, forming long-term relationships based on interpersonal trust and esteem (which may in part be augmented by gift giving). As Yeung and Tung say, "trust is essential to long-term guanxi maintenance. This can only come about if there is a genuine attempt on the part of the foreign investor to understand Chinese culture" (1996, 63-64).

Making some adaptation to local culture may also be beneficial to a company as a result of the improved attitudes which such adaptation can elicit on the part of local employees. For instance, if Chinese employees can be encouraged to consider their organization as one of the ‘collectives’ to which they belong, then the increased loyalty and dedication to this collective can produce positive outcomes for the organization. Vanhonacker warns, however, that, at the baseline, an employee “regards his guanxi not as a company asset but as a personal one that must be developed, protected, and leveraged – and needn’t be fully revealed to the employer”, because of which, it is “crucial to understand and manage frontline employees personal networks before they turn into liabilities” (2004). A company which can achieve this may then reach the situation described by Michailova and Worm, who explain that, although guanxi relationships may be “anchored at the individual level, they become an important asset at the organisational level as personal relations are dedicated to and used by the organisation” (2003, 511). This is especially relevant as “many Western companies have started to recruit locally and then train Chinese hires through assignments in other parts of the company’s global enterprise” (Chua 2012, 33). For Chen and Tjosvold, given that “Long-term success in China depends on the recruitment and retention of a local workforce”, they state that “Foreign managers’ effective leadership of local employees may be quite useful for facilitating the adaptation and application of multi-national expertise to local conditions” (Chen and Tjosvold 2005, 434).

One way to retain staff is described by Vanhonacker, who makes the suggestion to “capitalize on the unique loyalty-building quality of kinship-type relationships by fostering them among and between senior managers and frontline people” (2004). However, to achieve this, foreign employees may themselves need to adapt and accept a blurring of the boundaries between professional and private life, as, for example, “an employee may *expect* the manager’s advice and help with his/her personal matters and the manager might respond by making specific inquiries into matters of personal

importance to the employee” (Maurer and Li 2006, 36). Maurer and Li are, however, explicit that this should be done with sensitivity: “Western managers ‘had better not pretend to be Chinese – they can never be’” (2006, 43). This implies an important lesson for Westerners attempting to lead teams in China: Chinese expectations of a leader are likely to be different and may thus require different leadership styles, irrespective of whether the chosen strategy is one of imposition or adaptation. For example, in a Confucian management style, “Subordinates are treated like ‘children’ who must be dependent and obedient, and not be entirely trusted, while the boss is seen as a ‘parent’ who must look after and control his/her subordinates” (Wang and Clegg 2002, 39). If a manager’s aim is to command and control, this Confucian dynamic may facilitate the task, but if the aim is to empower employees to take responsible decisions – for instance applying basic fixed rules to unexpected contexts – then this cultural feature must be given attention. In another example, Wang and Clegg found that “Australian managers were more likely to listen to subordinates’ ideas than were Chinese managers” (2002, 39). When considering whistleblowing (even outside the questions of loyalty which inevitably emerge), if employees do not expect their managers to be openly receptive to their ideas or feedback, then they may not take seriously a policy which calls for people with information to come forward. Again, these challenges may be come by either imposition or adaptation, but in both cases, both leaders and employees must be made aware of the differences in order to manage for them.

6 Conclusions on cultural sensitivity

Through the preceding discussion, I have attempted to provide a cultural perspective to a consideration of normative anti-corruption legislation and the potential challenges of compliance in China. In the words of Nie, the aim was “to clear the ground for the emergence of constructive ways of moving beyond these widespread stereotypes and intellectual barriers” (Nie 2011). In this sense, it is hoped that my research has an application beyond the realms both of corruption and of China: through my study of this particular aspect of this particular culture, I hope to have drawn attention to issues of intercultural relations which may be applied to any international business activity.

From a review of the legal framework surrounding corruption, both from a domestic and a foreign perspective, it is clear that Western businesses operating anywhere in the world have little option but to be attentive to the risks of becoming involved in corrupt activity. When this simple conclusion is applied to a cultural picture of China, however, it becomes less clear how it can be applied. Although it cannot be ignored that any theory of culture relies on generalization at some level, it seems that the differences in the fundamentals of Western and Chinese culture may indeed influence the way certain actions can be interpreted. As Moreno asserts: “Corruption may reflect cultural factors, not just the actions of government officials, and measuring the extent to which ordinary citizens are willing to justify corrupt acts complements efforts to measure perceptions of government corruption” (Moreno 2002, 495).

Faced with the need to achieve legal compliance in a foreign cultural setting, it has been seen that businesses operating in China are initially faced with an apparent choice between adaptation to the local culture or the imposition of foreign norms. In fact, this choice is not dichotomous, and the most successful strategies are likely to be those which combine elements of both approaches.

From the point of view of a potential legal defense, top-level involvement in the development of anti-corruption policy is required. Equally important for the success of the policy, however, is demonstrating an understanding of and sensitivity to local norms when imposing requirements which have originated in a foreign culture. For instance, from an understanding of the Chinese cultural unfamiliarity with written record keeping, compliance staff can ensure that appropriate training is given, rather than treating non-compliance as simple willful disobedience.

Although it may be that those engaged in the study of culture always deem their period to contain particularly important change, it is undeniable that the first decade of the twenty-first century saw a large amount of contact between China and the West, starting with China's entry to the World Trade Organization in 2001, and culminating with the Beijing Olympic Games in 2008 and the Shanghai World Expo in 2010. Anecdotes of behavioral 'adaptations' introduced by the Chinese authorities in the context of these last two events (e.g. bans on the serving of dog-meat in restaurants (BBC 2008) and education campaigns against spitting in the street (BBC 2007)) lead one to wonder to what extent rapprochement will continue in the future to alter this culture which place such value on face and public perception.

It is my assertion that cultural sensitivity is important no matter what the impact of globalization or government policy which attempts, for example, to introduce greater reliance on, and respect for, the rule of law. In the immediate, the only certainty is that the Chinese government's current campaign to reduce the prevalence of corruption necessitates enhanced efforts on the part of businesses to ensure compliance. Even if government policy were eventually to contribute to deeper changes in the domestic system, it would still be necessary for foreigners to keep up with new expectations.

From a cultural point of view, the status quo is never static and neither is it isolated: culture exists as a continuum, with centuries-old references combining with new features both developed internally and imported. Therefore, whatever the changes taking place in Chinese society, the cultural substrate remains.

It is not clear, therefore, what the future will be. Some assert that “It’s not enough to have this kind of anti-corruption storm, [...] Only by establishing institutions or policies can you guarantee real change” (Wan 2012). For proponents of this point of view, such as Chan, a former Chief Secretary for Administration of the Hong Kong Special Administrative Region, “Hong Kong, with its rule of law, independent judiciary, freedom from arbitrary arrest and imprisonment, and zero tolerance for corruption, can and should be an example for China” (Walsh 2013). The other point of view is that “the use of guanxi in business is a structural alternative to formal contract and can provide structural advantages over competitors” (Ledeneva 2003, 20). Subscribers to such a view might also heed the venture capitalist and political economist Li, who predicts that “The country’s leaders will consolidate the one party model and, in the process, challenge the West’s conventional wisdom about political development and the inevitable march toward electoral democracy” (2013). There remains ample material for future analysis.

7 References

7.1 Bibliography

- Aaronson, Susan A. 2010. "Is China Killing the WTO?" *International Economy* 24 (1): 40-67.
- ADB/OECD Anti-Corruption Initiative for Asia and the Pacific. 2010. *The Criminalisation of Bribery in Asia and the Pacific: Frameworks and Practices in 28 Asian and Pacific Jurisdictions*: Organisation for Economic Co-operation and Development & Asian Development Bank.
- Adomanis, Mark. 2013. "Just Like Russia, China is an Autocratic Country with Serious Economic Problems." *Forbes*. *Forbes*, last modified January 22, accessed April 23, 2013, <http://www.forbes.com/sites/markadomanis/2013/01/22/just-like-russia-china-is-an-autocratic-country-with-serious-economic-problems/>.
- Agelasto, Michael. 1996. "Cellularism, Guanxiwang, and Corruption: A Microcosmic View from within a Chinese Educational Danwei." *Crime, Law and Social Change* 25 (3): 265-288.
- Aguilar, Melissa. 2009. "New OECD Stance on Facilitation Payments." *Compliance Week*, last modified December 18, accessed April 29, 2013, <http://www.complianceweek.com/new-oecd-stance-on-facilitation-payments/article/187306/>.
- Anderson, James, Bogdan Cosmaciuc, Phyllis Dininio, Bert Spector, and Pablo Zoido-Lobaton. 2001. *Diagnostic Surveys of Corruption in Romania*: The World Bank.
- Arrow, Kenneth J. 1972. "Gifts and Exchanges." *Philosophy & Public Affairs*: 343-362.
- Asian Development Bank. 2012. "Development Against Corruption and Fraud in Asia." Asian Development Bank, last modified December 10, accessed April 24, 2013, <http://www.adb.org/features/development-against-corruption-and-fraud-asia>.
- Azfar, Omar and Peter Murrell. 2009. "Identifying Reticent Respondents: Assessing the Quality of Survey Data on Corruption and Values." *Economic Development & Cultural Change* 57 (2): 387-411.
- BBC. 2012. "Greece 'most Corrupt' EU Country, New Survey Reveals." *BBC News*, last modified December 5, accessed April 14, 2013, <http://www.bbc.co.uk/news/business-20605869>.
- . 2008. "China Bans Dog from Olympic Menu." *BBC News*, last modified July 11, accessed April 26, 2013, <http://news.bbc.co.uk/1/hi/7501768.stm>.
- . 2007. "Olympic Crackdown on China's Bad Habits." *BBC News*, last modified August 6, accessed April 26, 2013, <http://news.bbc.co.uk/1/hi/world/asia-pacific/6927361.stm>.
- Bloomberg News. 2013. "China Rebound at Risk as Xi Curbs Officials' Spending." *Bloomberg*, last modified April 12, accessed April 26, 2013, <http://www.bloomberg.com/news/2013-04-11/china-rebound-at-risk-as-xi-curbs-officials-spending.html>.

- Boisot, Max and John Child. 1999. "Organizations as Adaptive Systems in Complex Environments: The Case of China." *Organization Science* 10 (3): 237-252.
- Bradsher, Keith. 2012. "China's Anticorruption Commission Investigates Senior Official." *NYTimes.com*, last modified December 5, accessed May 5, 2013, <http://www.nytimes.com/2012/12/06/world/asia/early-target-of-chinas-anti-corruption-commission-identified.html>.
- Branigan, Tania. 2012a. "China's Hu Jintao Warns Congress Corruption could Cause Fall of State." *The Guardian*, last modified November 8, accessed May 2, 2013, <http://www.guardian.co.uk/world/2012/nov/08/china-hujintao-warning-congress-corruption>.
- . 2012b. "Mooncakes, China's Traditional Festive Gift, are Getting a Makeover." *The Guardian*, last modified September 27, accessed April 22, 2013, <http://www.guardian.co.uk/world/2012/sep/27/mooncakes-china-traditional-festive-gift>.
- Cambridge Dictionary of Sociology. 2006. "Culture." In *Cambridge Dictionary of Sociology*. Cambridge, United Kingdom: Cambridge University Press. <http://www.credoreference.com/entry/cupsoc/culture>.
- Capen, Edward W. 1913. "The Western Influence in China." *The Journal of Race Development* 3 (4): 412-437.
- Chai, May-lee and Winberg Chai. 2007. *China A to Z: Everything You Need to Know to Understand Chinese Customs and Culture*. New York: Penguin Group.
- Chen, Yi Feng and Dean Tjosvold. 2005. "Cross-Cultural Leadership: Goal Interdependence and Leader-member Relations in Foreign Ventures in China." *Journal of International Management* 11 (3): 417-439.
- China Daily. 2013. "Online Informant Pages Target Corruption." *China Daily*, last modified April 19, accessed April 19, 2013, http://www.chinadaily.com.cn/china/2013-04/19/content_16424255.htm.
- . 2012. "China to curb bribery by companies investing abroad." *China Daily*, last modified April 21, accessed April 19, 2013, http://www.chinadaily.com.cn/bizchina/2012-04/21/content_15106552.htm.
- Chow, Daniel. 2012. "China Under the Foreign Corrupt Practices Act." *Wisconsin Law Review*.
- Chua, Roy Y. J. 2012. "Building Effective Business Relationships in China." *MIT Sloan Management Review* 53 (4).
- Clifford, Stephanie and Barstow, David. 2012. "Wal-Mart Inquiry Reflects Alarm on Corruption." *NYTimes.com*, last modified November 15, accessed May 5, 2013, <http://www.nytimes.com/2012/11/16/business/wal-mart-expands-foreign-bribery-investigation.html>.
- Cohen, Anthony P. 1993. "Culture as Identity: An Anthropologist's View." *New Literary History* 24 (1): 195-209.

- Cohen, Jerome A. 2012. "Courts with Chinese Characteristics: Why Beijing's Flourishing Legal System Still has a Ways to Go." *Foreign Affairs*. Council on Foreign Relations, last modified October 11, accessed April 19, 2013, <http://www.foreignaffairs.com/articles/138178/jerome-alan-cohen/courts-with-chinese-characteristics>.
- Congressional-Executive Commission on China. 1997. "Criminal Law of the People's Republic of China." Congressional-Executive Commission on China, accessed April 19, 2013, <http://www.cecc.gov/pages/newLaws/criminalLawENG.php>.
- Council of Europe. 1999. "Criminal Law Convention on Corruption." Council of Europe, last modified January 27, accessed May 5, 2013, <http://conventions.coe.int/Treaty/en/Treaties/Html/173.htm>.
- Dawson, Stella. 2012. "Dirty Money Cost China \$3.8 Trillion 2000-2011." Reuters, last modified October 25, accessed April 14, 2013, <http://www.reuters.com/article/2012/10/25/us-china-dirtymoney-idUSBRE89O1RW20121025>.
- DeBacker, Jason Matthew, Bradley T. Heim, and Anh Trn. 2012. "Importing Corruption Culture from Overseas: Evidence from Corporate Tax Evasion in the United States." *Indiana University School of Public & Environmental Affairs Research Papers* 2011-10-01: May 5, 2013.
- Elliott, John E. 1980. "Marx and Schumpeter on Capitalism's Creative Destruction: A Comparative Restatement." *The Quarterly Journal of Economics* 95 (1): 45-68.
- Engleman, Eric and Robertson, Jordan. 2012. "Huawei Faces U.S. Lockout on Cyberspying Threat Citation." Bloomberg Businessweek, last modified October 9, accessed April 25, 2013, <http://www.businessweek.com/news/2012-10-08/huawei-labeled-cyberspying-threat-faces-u-dot-s-dot-phone-gear-lockout>.
- English, William. 2012. "Ten Theses on Institutional Corruption." Edmond J. Safra Center for Ethics, Lab Seminar Series on Institutional Corruption.
- Fisman, Raymond and Edward Miguel. 2007. "Corruption, Norms, and Legal Enforcement: Evidence from Diplomatic Parking Tickets." *Journal of Political Economy* 115 (6): 1020-1048.
- Georgieva, Dobrina, Tomas Jandik, and Wayne Y. Lee. 2012. "The Impact of Laws; Regulations; and Culture on Cross-Border Joint Ventures." *Journal of International Financial Markets, Institutions and Money*.
- Graf Lambsdorff, Johann. 2005. "Consequences and Causes of Corruption: What do we Know from a Cross-Section of Countries?" *Passauer Diskussionspapiere, Volkswirtschaftliche Reihe* (V-34-05).
- Harris, Dan. 2013. "The Foreign Corrupt Practices Act. In 49 Languages." China Law Blog. Harris & Moure, pllc, last modified April 16, accessed April 24, 2013, <http://www.chinalawblog.com/2013/04/the-foreign-corrupt-practices-act-in-49-languages.html>.
- Healy, Paul M. and Karthik Ramanna. 2013. "When the Crowd Fights Corruption." *Harvard Business Review* 91 (1): 122-128.

- Hofstede, Geert and Michael Harris Bond. 1988. "The Confucius Connection: From Cultural Roots to Economic Growth." *Organizational Dynamics* 16 (4): 4-21.
- Huang, Yasheng. 2013. "Democratize Or Die: Why China's Communists Face Reform Or Revolution." *Foreign Affairs*. Council on Foreign Relations, last modified January/February, accessed April 19, 2013, <http://www.foreignaffairs.com/articles/138477/yasheng-huang/democratize-or-die>.
- Hui, Chun, Cynthia Lee, and Denise M. Rousseau. 2004. "Employment Relationships in China: Do Workers Relate to the Organization Or to People?" *Organization Science* 15 (2): 232-240.
- Huo, Baofeng, Zhaojun Han, Xiande Zhao, Honggeng Zhou, Craig H. Wood, and Xin Zhai. 2013. "The Impact of Institutional Pressures on Supplier Integration and Financial Performance: Evidence from China." *International Journal of Production Economics*.
- Jacobs, Andrew. 2013. "Elite in China Face Austerity Under Xi's Rule." *NYTimes.com*, last modified March 27, accessed April 26, 2013, http://www.nytimes.com/2013/03/28/world/asia/xi-jinping-imposes-austerity-measures-on-chinas-elite.html?pagewanted=all&_r=0.
- Jenner, Stephen R. 1982. "Analyzing Cultural Stereotypes in Multinational Business: United States and Australia." *Journal of Management Studies* 19 (3): 307-325.
- Johnston, Michael and Yufan Hao. 1995. "China's Surge of Corruption." *Journal of Democracy* 6 (4): 80-94.
- Kaiman, Jonathan. 2013. "Chinese Official Sacked After 'Citizen Journalists' Expose Extravagant Banquet." *The Guardian*, last modified April 25, accessed April 26, 2013, <http://www.guardian.co.uk/world/2013/apr/25/china-official-sacked-extravagant-banquet>.
- Kaufmann, Daniel, Aart Kraay, Massimo Mastruzzi, and World Bank. Development Research Group. Macroeconomics and Growth. 2009. *Governance Matters VIII: Aggregate and Individual Governance Indicators 1996-2008*. Washington, D.C.: The World Bank.
- Kirk, Brandon. 2007. "Managing Risks in China - Bribery, Corruption, and Little Red Packets." *China Law & Practice*: 1-12.
- Knack, Stephen and Philip Keefer. 1997. "Does Social Capital have an Economic Payoff? A Cross-Country Investigation." *Quarterly Journal of Economics* 112 (4).
- Koehler, Mike. 2008. "Why Compliance with the US Foreign Corrupt Practices Act Matters in China." *China Law & Practice*.
- Kouchaki, Maryam. 2013. "Professionalism and Moral Behavior: Does a Professional Self-Conception make One More Unethical?" *Edmond J. Safra Working Papers* 4.
- LaFraniere, Sharon. 2011. "Design Flaws Cited in Deadly Train Crash in China." *NYTimes.com*, last modified December 28, accessed May 5, 2013, <http://www.nytimes.com/2011/12/29/world/asia/design-flaws-cited-in-china-train-crash.html>.

- Larcon, Jean-Paul. 2009. *Chinese Multinationals*. Singapore: World Scientific Publishing Company Incorporated.
- Ledeneva, Alena. 2003. "Informal Practices in Changing Societies: Comparing Chinese Guanxi and Russian Blat." *SSEES/UCL Working Paper* (45).
- Lee, Marvin J. H. 2012. "Two Cautions for a Common Morality Debate: Investigating the Argument from Empirical Evidence through the Comparative Cultural Study between Western Liberal Individualist Culture and East Asian Neo-Confucian Culture." In *Contemporary Issues in Bioethics*, edited by Peter A. Clark. 2012th ed. Rijeka, Croatia: InTech.
- Lessig, Lawrence. 2013. "Institutional Corruptions." *Edmond J. Safra Working Papers* 1: 1-20.
- Li, Eric X. 2013. "The Life of the Party: The Post-Democratic Future Begins in China." *Foreign Affairs*. Council on Foreign Relations, accessed May 5, 2013, <http://www.foreignaffairs.com/articles/138476/eric-x-li/the-life-of-the-party>.
- Li, Shaomin. 2005. "Why a Poor Governance Environment does Not Deter Foreign Direct Investment: The Case of China and its Implications for Investment Protection." *Business Horizons* 48 (4): 297-302.
- Lin, Xiaohua and Shavin Malhotra. 2012. "To Adapt Or Not Adapt: The Moderating Effect of Perceived Similarity in Cross-Cultural Business Partnerships." *International Journal of Intercultural Relations* 36 (1): 118-129.
- Lu, Yanyu and Zhang, Jiawei. 2011. "China's 'I-Paid-a-Bribe' Sites Face Shutdown." *China Daily*, last modified June 17, accessed May 5, 2013, http://www.chinadaily.com.cn/china/2011-06/17/content_12723800.htm.
- Maurer, Steven D. and Shaomin Li. 2006. "Understanding Expatriate Manager Performance: Effects of Governance Environments on Work Relationships in Relation-Based Economies." *Human Resource Management Review* 16 (1): 29-46.
- McCrum, Dan. 2013. "WSJ Denies 'Foreign Corrupt Practices'." *CNN.com*, last modified March 18, accessed April 19, 2013, <http://edition.cnn.com/2013/03/18/business/wsj-denies-corrupt-practices>.
- Michailova, Snejina and Verner Worm. 2003. "Personal Networking in Russia and China: Blat and Guanxi." *European Management Journal* 21 (4): 509-519.
- Moreno, Alejandro. 2002. "Corruption and Democracy: A Cultural Assessment." *Comparative Sociology* 1: 495-508.
- Murphy, Elizabeth. 2012. "Breuer: Fight Against Corruption One of 'Main Struggles' of our Time." *Main Justice: Politics, Policy and the Law*, last modified November 5, accessed April 20, 2013, <http://www.mainjustice.com/2012/11/05/breuer-fight-against-corruption-one-of-main-struggles-of-our-time/>.

- Naughton, Keith. 2013. "Automakers Go West in China to Thin Margins, Fat Growth." Bloomberg, last modified April 22, accessed April 26, 2013, <http://www.bloomberg.com/news/2013-04-22/automakers-go-west-in-china-to-thin-margins-fat-growth.html>.
- Ni, Shawn and Pham Hoang Van. 2006. "High Corruption Income in Ming and Qing China." *Journal of Development Economics* 81 (2): 316-336.
- Nie, Jing-Bao. 2011. *Medical Ethics in China: A Transcultural Interpretation*. Biomedical Law and Ethics Library. New York: Routledge.
- OECD. 2013. *OECD Economic Surveys: China 2013*. Paris: OECD Publishing.
- . 2008. *Corruption: A Glossary of International Standards in Criminal Law*. Paris: OECD Publishing.
- Olken, Benjamin A. 2009. "Corruption Perceptions Vs. Corruption Reality." *Journal of Public Economics* 93 (7–8): 950-964.
- Pasternack, Alex. 2008. "Repackaged, "Luxury" Mooncakes Foil China's Wasteful Packaging Ban." TreeHugger, last modified September 16, accessed April 26, 2013, <http://www.treehugger.com/corporate-responsibility/repackaged-luxury-mooncakes-foil-chinas-wasteful-packaging-ban.html>.
- Romer, Paul. 2011. *Process, Responsibility, and Myron's Law*: International Monetary Fund.
- Rose-Ackerman, Susan. 2006. *International Handbook on the Economics of Corruption* Edward Elgar Publishing.
- Schurmann, Franz. 1968. *Ideology and Organization in Communist China*. Berkeley: University of California Press.
- Sender, Henny. 2013. "China Corruption Pledges Spark Scepticism." *The Financial Times*, January 3.
- Šmajs, Josef. 2006. In *Encyclopedia of Anthropology*, edited by H. James Birx. Vol. 2, 636-641. Thousand Oaks, CA: Sage Reference.
- Song, Xuguang and Wenhao Cheng. 2012. "Perception of Corruption in 36 Major Chinese Cities: Based on Survey of 1,642 Experts." *Social Indicators Research* 109 (2): 211-221.
- Thacker, Paul D. 2013. "The Slow Pace of Success in a "do Something Congress"." The Lab @ Edmond J. Safra Center for Ethics. Harvard University, last modified February, <http://www.ethics.harvard.edu/lab/blog/281-the-slow-pace-of-success-in-a-do-something-congress>.

- The Economist. 2013a. "China's Internet: A Giant Cage." The Economist, last modified April 6, accessed April 14, 2013, <http://www.economist.com/news/special-report/21574628-internet-was-expected-help-democratise-china-instead-it-has-enabled>.
- . 2013b. "Chinese Learning: Young China Hands." The Economist, last modified April 22, accessed April 23, 2013, <http://www.economist.com/blogs/analects/2013/04/chinese-learning>.
- . 2013c. "A Corruption Fighter: Calling Fire Chief Wang." The Economist, last modified March 23, accessed May 6, 2013, <http://www.economist.com/news/china/21574022-wang-qishan-has-one-crucial-advantage-fighting-corruption-calling-fire-chief-wang>.
- . 2013d. "The New Prime Minister: A Talker Or a Walker?" The Economist, last modified March 23, accessed May 6, 2013, <http://www.economist.com/news/china/21574023-despite-sounding-ebullient-li-keqiang-manages-expectations-downwards-talker-or-walker>.
- . 2012a. "Embarrassed Meritocrats: Westerners Who Laud a Chinese Meritocracy Continue to Miss the Point." The Economist, last modified October 27, accessed April 21, 2013, <http://www.economist.com/news/china/21565228-westerners-who-laud-chinese-meritocracy-continue-miss-point-embarrassed-meritocrats>.
- . 2012b. "Magnitsky: From Beyond the Grave." The Economist, last modified July 4, accessed April 24, 2013, <http://www.economist.com/blogs/easternapproaches/2012/07/magnitsky>.
- . 2011. "When a Bribe is Merely Facilitating Business." The Economist, last modified June 11, accessed May 6, 2013, <http://www.economist.com/node/21519120>.
- The Leveson Inquiry. 2012. "About the Inquiry." The Leveson Inquiry, accessed April 26, 2013, <http://www.levesoninquiry.org.uk/about/>.
- The World Bank. 2013. "Foreign Direct Investment, Net Inflows (BoP, Current US\$)." The World Bank, accessed April 23, 2013, <http://data.worldbank.org/indicator/BX.KLT.DINV.CD.WD>.
- Transparency International. 2013. "China: New Leaders, New Opportunities to Tackle Corruption." Transparency International, last modified March 5, accessed April 19, 2013, http://www.transparency.org/news/feature/china_new_leaders_new_opportunities_to_tackle_corruption.
- . 2012a. *Annual Report 2011*. Berlin: Transparency International.
- . 2012b. *Corruption Perceptions Index 2012*. Berlin: Transparency International.
- . 2012c. "Our Organisation." Transparency International, accessed April 14, 2013, <http://www.transparency.org/whoweare/organisation>.
- Tsui, Enid. 2012. "China: Too Many Malls | Beyondbrics." Financial Times, last modified November 7, accessed April 14, 2013, <http://blogs.ft.com/beyond-brics/2012/11/07/china-too-many-malls/#axzz2QTWBDGIO>.

- U.S. Department of Justice and U.S. Securities and Exchange Commission. 2012. *A Resource Guide to the U.S. Foreign Corrupt Practices Act*. U.S. Department of Justice and U.S. Securities and Exchange Commission.
- U.S. Securities and Exchange Commission. 2008. "SEC Charges Siemens AG for Engaging in Worldwide Bribery." U.S. Securities and Exchange Commission, last modified December 15, accessed April 29, 2013, <http://www.sec.gov/news/press/2008/2008-294.htm>.
- UK Ministry of Justice. 2012a. *The Bribery Act 2010: Guidance about Procedures which Relevant Commercial Organisations can Put into Place to Prevent Persons Associated with them from Bribing*. London: UK Ministry of Justice.
- . 2012b. *The Bribery Act 2010: Quick Start Guide*. London: UK Ministry of Justice.
- . 2010. *Bribery Act 2010*.
- UNICEF China. 2013. "Equitable Basic Services." UNICEF China, accessed April 29, 2013, <http://www.unicefchina.org/en/index.php?m=content&c=index&a=lists&catid=137>.
- United Nations. 2012. "International Anti-Corruption Day - 9 December." United Nations, accessed April 14, 2013, <http://www.un.org/en/events/anticorruptionday/>.
- . 2004. *United Nations Convention Against Corruption*. Austria: United Nations Office on Drugs and Crime.
- United Nations Office on Drugs and Crime. 2013. "United Nations Convention Against Corruption." United Nations Office on Drugs and Crime. United Nations Office on Drugs and Crime, accessed April 19, 2013, <http://www.unodc.org/unodc/en/treaties/CAC/>.
- Vanhonacker, Wilfried R. 2004. "When Good Guanxi Turns Bad." *Harvard Business Review* 82 (4): 18-19.
- Waldemeir, Patty. 2013. "A Guide to Gifting in the New China." *The Financial Times*, last modified March 5, accessed May 6, 2013, <http://www.ft.com/cms/s/0/09818a14-84e6-11e2-891d-00144feabdc0.html>.
- Walsh, Colleen. 2013. "The Hong Kong Model: Former Official Suggests Area may Fuel Reforms in China." *Harvard Gazette*, last modified February 25, accessed April 26, 2013, <http://news.harvard.edu/gazette/story/2013/02/the-hong-kong-model/>.
- Wan, William. 2013. "China Curbs use of Coveted Military License Plates in Latest Anti-Corruption Move." *The Washington Post*, last modified April 1, accessed April 26, 2013, http://articles.washingtonpost.com/2013-04-01/world/38173515_1_plates-luxury-cars-zhao-keshi.
- . 2012. "China's New Leaders Discuss Fight Against Corruption, but some are Skeptical of Action." *The Washington Post*, last modified December 28, accessed April 26, 2013, http://articles.washingtonpost.com/2012-12-28/world/36030371_1_anti-corruption-new-leaders-true-reform.

- Wang, Karen Yuan and Stewart Clegg. 2007. "Managing to Lead in Private Enterprises in China: Work Values, Demography and the Development of Trust." *Leadership* 3 (2): 149-172.
- . 2002. "Trust and Decision Making: Are Managers Different in the People's Republic of China and in Australia?" *Cross Cultural Management: An International Journal* 9 (1): 30-45.
- Warin, F. Joseph, Michael S. Diamant, and Jill M. Pfenning. 2010. "FCPA Compliance in China and the Gifts and Hospitality Challenge." *Virginia Law & Business Review* 5.
- White, Jon. 2012. "Risking Life and Libel Suits to Expose Fraud." *Slate*, last modified November 24, accessed April 20, 2013, http://www.slate.com/articles/health_and_science/new_scientist/2012/11/maddox_prize_2012_s_hi_min_fang_wins_award_for_exposing_scientific_fraud.html.
- Wikipedia contributors. 2013. "Collectivism." *Wikipedia, The Free Encyclopedia*, last modified April 19, accessed April 21, 2013, <http://en.wikipedia.org/w/index.php?title=Collectivism&oldid=551194428>.
- Wingfield, Nick. 2013. "U.S. Said to Look into Microsoft Bribery Allegations." *NYTimes.com*, last modified March 19, accessed May 6, 2013, <http://www.nytimes.com/2013/03/20/technology/us-said-to-look-into-microsoft-bribery-allegations.html>.
- Xu, Gao. 2010. "State-Owned Enterprises in China: How Big are they?" *The World Bank: East Asia & Pacific on the rise*, last modified January 19, accessed April 19, 2013, <http://blogs.worldbank.org/eastasiapacific/state-owned-enterprises-in-china-how-big-are-they>.
- Yang, Mayfair Mei-hui. 2002. "The Resilience of Guanxi and its New Deployments: A Critique of some New Guanxi Scholarship." *The China Quarterly* 170 (1): 459-476.
- Yeung, IY and Rosalie L. Tung. 1996. "Achieving Business Success in Confucian Societies: The Importance of Guanxi (Connections)." *Organisational Dynamics* 25 (2): 54-65.
- Yin, Cao. "3b yuan railways corruption trial held." *China Daily*, last modified April 18, accessed April 19, 2013, http://www.chinadaily.com.cn/china/2013-04/18/content_16419905.htm.
- Zhu, Ying and Malcolm Warner. 2004. "Changing Patterns of Human Resource Management in Contemporary China: WTO Accession and Enterprise Responses." *Industrial Relations Journal* 35 (4): 311-328.

7.2 Interview information

I carried out a series of unstructured interviews with individuals who either have or have had connections to China or to the topic of corruption. In order to encourage a frank exchange of ideas, I guaranteed the interviewees anonymity in my report. As such, I provide here only some general biographical information to aid with the understanding of their feedback.

Interview 1 – *March 15, 2013*

European, consultant at global advisory firm, working in Europe

Interview 2 – *April 2, 2013*

Chinese, (formerly) junior management at North American services firm, working in China

Interview 3 – *April 3, 2013*

European, researcher at China-focused think tank, working in Europe

Interview 4 – *April 4, 2013*

North American, (formerly) professional in investment management industry, working in Asia

Interview 5 – *April 4, 2013*

European, senior management at small education services firm, working in Europe

Interview 6 – *April 4, 2013*

Asian, (formerly) consultant and junior management at various North American industrial firms, working in China

Interview 7 – *April 11, 2013*

European, (formerly) junior management at European luxury firm, working in China