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Financial Transparency and Disclosure: China Progress on Corporate Governance

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Abstract: Recent negative publicity regarding fraud in Chinese public companies that entered the U.S. markets via reverse mergers has tended to paint all Chinese companies with the same toxic brush. Such capital markets' cynicism regarding Chinese listed companies is overblown and counterproductive. A recent study has shown that the performance of Chinese companies, when compared to their peers in the U.S. reverse merger market, was actually superior to their Western company counterparts. Notwithstanding, much can be done to improve important aspects of corporate transparency and disclosure in China. The authors examine corporate governance issues particularly endemic to China and offer observations to ameliorate perceived market dysfunction while building a bridge towards greater global capital market efficiency.

Keywords: reverse merger; corporate governance; company transparency; insider trading; related party conflicts

Recent negative publicity regarding alleged fraud, supposedly perpetrated by Chinese public companies listed in the U.S., primarily Chinese companies that entered the U.S. markets via reverse mergers,[1] has tended to paint all Chinese companies with the same toxic brush. Market perception of Chinese companies has suffered, and the pricing of many U.S. listed Chinese companies has been impacted. Since 2011, negative market perception has largely curtailed Chinese listings in the U.S. marketplace. Following a plethora of accounting scandals, depressed valuations, and perceived governance issues, many listed Chinese companies retreated from U.S. exchanges[2] and sought to "delist" through "privatization" transactions. Chinese fraud rhetoric has, at times, taken on strident tones, but such sentiments appear overblown when viewed through an empirical lens.

Recent empirical data demonstrates much performance-based criticism of Chinese companies listed in the U.S. is unsubstantiated and exaggerated, if not outright false. China's unique cultural and political underpinnings may compromise important aspects of financial reporting and transparency metrics, but China's integration into global capital markets is inevitable. A candid assessment of obstacles to more complete integration is timely, particularly given the efforts China has made and is making to address corporate governance issues.

This paper asserts that, while China's participation in international (particularly U.S.) capital markets has presented some challenges, many of the related criticisms have been overblown. To that end, we will first discuss several controversial issues, including negative publicity surrounding Chinese reverse mergers, accounting issues and the tension between full disclosure and the legitimate need to protect state secrets, the discovery standoff between the Chinese government and the U.S. regulators, and the interplay between China's state capitalism and shareholder protections. Next, we will explore some of the evolving statutory and practical aspects of corporate governance in China as they relate to, among other things, shareholder rights, director independence, related party transactions, and insider information.

Challenges to China's Integration into International Capital Markets

While there are challenging issues confronting Chinese companies integrating into international capital markets, such issues appear to have pragmatic and attainable solutions. In this section, we will discuss some of these issues and explore how they can be effectively managed to facilitate international cooperation.

China Reverse Merger Companies – An Empirical Assessment

During the past decade, outside investment interests have taken aim at China, hoping to participate in its robust economy. Concern exists, however, regarding highly publicized corporate governance issues that may inhibit transparency and distort or obscure financial metrics upon which market analysts outside China rely. International markets remain cautious regarding Chinese investment and, in the U.S., securities fraud class suits and SEC enforcement actions proliferate against Chinese companies that went public through the reverse merger process.

The Sarbanes-Oxley Act was enacted in 2002 ("SOX"),[3] and was intended to, among other things, ensure the quality and transparency of company disclosures and the reliability of accounting information for U.S. listed companies. Gaps in SOX, which was designed to protect against accounting fraud and inaccurate or inflated stock prices, and in the U.S. securities laws and regulations,[4] have rendered judicial enforcement of claims against Chinese listed companies problematic. Lack of judgment reciprocity between China and the U.S. and the absence of a bilateral extradition treaty for criminal conduct have exacerbated problems in enforcing investor claims.[5]

A recent study undertaken jointly by professors from Stanford, Toronto, and Peking universities (the "Study") provides helpful information regarding the extent of alleged fraud by Chinese reverse merger ("CRM") companies. The Study compares CRM financial profiles to their U.S. counterparts, matched reverse merger peers and a group of exchange-industry-size matched firms. The Study concludes that, despite a virtual avalanche of negative publicity, much of which comes from self-interested short sellers,[6] there is little evidence that the U.S. capital markets have been harmed by admission of CRMs.[7]

Specifically, the Study addresses head-on the issue of whether CRMs are "toxic," including whether or not CRMs, as a separate asset class, substantially underperform comparable U.S. companies trading on the same U.S. exchanges. The Study examines a number of metrics to compare CRM performance, as an asset class, with non-Chinese peers, including post-listing stock returns, survival rates, changes in bid/ask spread, upward/downward exchange mobility, percentage of going concern qualified audit opinions, operating performance, and financial risk parameters.[8]

The Study points out that while corporate governance issues may exist with Chinese companies, positive economic factors apply to Chinese companies entering the U.S. markets via reverse merger that mitigate corporate governance detriments and enhance CRM performance, vis-à-vis U.S. reverse merger peers. The Study explains that companies seeking reverse merger treatment in the U.S. generally exhibit a less desirable financial profile than IPO-eligible companies.[9] Painting with a broad brush, reverse merger companies ("RMs") are typically early stage companies that trade over-the-counter. CRMs, in contrast, are more often established companies, further on in their lifecycle, less speculative in nature, and more economically sound, than their U.S. RM counterparts. Relative to U.S. peers, the Study found the typical CRM economic profile more robust than U.S. counterparts and that a majority of RM firms were never eligible for more stringent IPO treatment.[10]

The Study found that through the end of 2011, CRM companies outperformed their U.S. counterparts in terms of profitability, current ratio, book leverage, operating cash flows, upward mobility in exchange tiers, percentage of firms with qualified audit opinions, survival rate, market liquidity, and percentage stock return. Despite negative publicity, empirical evidence does not show CRMs systemically more problematic than their U.S. peers, trading on the same exchanges.[11] Market characteristics of Chinese companies do, however, present analytical challenges for investors outside China.

Accounting Issues and State Autonomy and Secrecy

Before turning to Chinese corporate governance and what can reasonably be done to enhance transparency, we discuss a current impasse between forces in the U.S. seeking to protect investors and Chinese forces wishing to ensure, among other things, appropriate PRC economic autonomy. In response to perceptions of widespread fraud by China companies, the Securities and Exchange Commission ("SEC") initiated a broad investigation of Chinese firms accused of fraud, particularly those having gone public in the U.S. via reverse merger. The SEC demanded access to audit work papers of foreign public accounting firms, primarily the "Big Four," [12] which provided audit opinions on many Chinese listed firms accused of fraud. The SEC was seeking to test the quality of the underlying audits.[13] The Big Four operate as separate entities in China and are subject to sometimes conflicting U.S. and Chinese legal rules.

In the U.S., for example, any foreign public accounting firm that prepares or furnishes an audit report with respect to any issuer is subject to the Sarbanes-Oxley (SOX) Act and the rules of the Public Company Accounting Oversight Board ("PCAOB"), [14] in addition to the related SEC rules issued under SOX.[15] Any foreign public accounting firm that plays a substantial role in the audit of the U.S. listed company is, likewise, subject to U.S. rules.[16]

Under U.S. interpretation, audit firms that participate in the audit of a foreign company listed on a U.S. exchange must produce related work papers upon SEC or PCAOB demand. Under Chinese law, audit work papers subpoenaed by U.S. authorities may not be produced if the documents contain information deemed a "state secret." China's State Secrets Law[17] can be problematic in that it may effectively preclude production of the private Chinese accounting and financial documents necessary for a securities fraud claim to be proven in the U.S., particularly where the operations of state-owned enterprises ("SOEs") are involved. The law provides severe penalties of five years in prison to death, and contains a broad and uncertain description of what constitutes a "state secret." All related proceedings are closed to the public. Because of this, the Big Four Chinese accounting firms have withheld financial records demanded by the SEC and/or PCAOB relating to their respective inquiries into alleged fraud by Chinese companies listed in the U.S.

What is Really at Stake in the Discovery Standoff Between China and the U.S.?

China is plainly entitled to domestic prerogatives and the U.S. to defend investor rights. At issue is whether Chinese companies will be afforded access to the substantial liquidity provided by U.S. markets or whether China companies will look inward to mainland China or Hong Kong for capital and, conversely, whether the U.S. may lose the benefit of adding world-class enterprise activity to its markets. A corollary issue is whether China private companies, in non-sensitive sectors, will be allowed to raise capital abroad, subjecting them to foreign regulation. If China SOEs possess information they deem too sensitive to endure foreign regulatory scrutiny, they may not be permitted to raise capital abroad. Chinese and U.S. regulators have sought to negotiate a solution.

The SEC, the PCAOB, the China Securities Regulatory Commission ("CSRC"), and the Chinese Ministry of Finance have held ongoing discussions regarding cross-border accounting practices. However, on January 23, 2014, an SEC Administrative Law judge, Cameron Elliott, fired a shot across the bow by suspending the Chinese Big Four from practicing before the SEC for six months, during which the Big Four cannot audit China companies listed in the U.S.[18] This decision, which raises the stakes between the U.S. and China, seems to empower the PCAOB to revoke Chinese audit firm registrations to practice in the U.S. if they do not provide work papers subpoenaed for inspection. Such a ruling could lead to a delisting from the U.S. of SOEs and other enterprises that may possess information China's state secrets law protects. Currently, any Chinese auditing firm resisting a request for work papers relating to a Chinese company listed in the U.S. may arguably be banned from auditing U.S. listed companies. If such Chinese auditors were banned, all U.S. listed Chinese companies could, arguably, be removed from U.S. exchanges. The implications for U.S. based multinational companies ("MNCs") are serious because if an auditor plays a material role in the audit of an MNC, e.g., relating to Chinese operations, such auditors must be PCAOB registered. Thus, MNCs could encounter serious problems getting their Chinese operations audited.

China's State Capitalism and its Information Environment

China's information regulatory environment for its companies is on par with Western financial community requirements, generally. Pursuant to the China Securities Regulatory Commission ("CSRC") 2008 Annual Report, one of the primary objectives of the CSRC is to "give priority to protecting the legitimate rights and interests of investors... and maintain the principles of an 'open, fair and just' market." [19] Transparency is the foundation of such protection, as disclosure and accurate financial reporting provide the market with information on which to make informed decisions. Although the CSRC has recently adopted Western-style regulations and standards promoting transparency and strong corporate governance,[20] significant issues remain, and systemic weaknesses still need to be addressed.

According to the National Bureau of Economic Research ("NBER") project "Capitalizing China" (the "Project"), Chinese listed company reporting remains opaque, despite regulatory action designed to foster transparency.[21] Per the Project, such opacity appears to be a function of local institutions and arrangements that create adverse financial reporting incentives. The Project also concluded there are four key areas where China's financial information environment is significantly impacted by state controlling ownership of listed firms, including the government's control of capital markets, limited legal protection of property rights, lack of local auditor independence, and the importance placed on social networks and political connections.[22]

China is often thought to represent a new breed of capitalism – "State capitalism." As such, the mechanisms and infrastructure of Chinese capitalism, as well as their concomitant influence on corporate governance practices and financial transparency, present challenges to financial observers outside of China. The State's central role has given rise to approximately one hundred mammoth SOEs controlled, directly and indirectly, by national government organs.[23] Controlling interests in these firms are held by a central holding company known as the State-Owned Assets Supervision and Administration Commission of the State Council ("SASAC").[24]

The role of the State as majority shareholder in China's dominant companies remains a subject of debate. How does this shareholder structure, separate and distinct from a traditional Western model, influence and/or fundamentally transmute corporate governance principles relating to such issues as minority shareholder rights, board of director independence, related party transactions, and insider information?

All of these challenges to China's participation in international capital markets, and others that will undoubtedly arise in the future, appear to be solvable through thoughtful cooperation among the interested parties. China's remarkable evolution in economics and governance sets the stage for its appropriate ascendancy to a responsible role among global corporate citizens. The successful evolution of Chinese corporate governance statutes, as discussed below, will facilitate this transition.

Corporate Governance in China

Shareholder Rights in China

China has made great progress in establishing and developing its securities market in recent years, but its protection of shareholder rights remains a subject of continuing criticism. SOEs are subject to substantial government ownership and individual shareholders frequently lack meaningful influence over entity decision-making. Shareholders often have limited access to corporate information and, where they do have access, they often lack sufficient knowledge or expertise to effectively evaluate corporate performance. Opportunities for related-party transactions abound, and, in many cases, outright misappropriation of corporate assets threatens shareholder wealth maximization.

Reconciling the twin goals of shareholder wealth maximization and maintaining the interests of the State is a challenge. China's 1998 Securities Law prohibited some forms of market misconduct, e.g., insider trading, market manipulation, and inaccurate disclosure, and a 2005 revision set stringent requirements regarding information disclosure and provided for increased legal responsibilities on shareholders and officers that control listed companies.[25] Such legal provisions have improved the integrity of shareholder rights, but in the view of some, current law continues to over-emphasize the government's role in companies and markets, to the detriment of shareholder rights. The CSRC is charged with ensuring the orderly, lawful operation of the market, but its enforcement efforts have been hampered by resource constraints and conflicts arising from its roles as China's primary market regulator and promoter of listed corporations.

In principle, shareholder rights are guarded by China's courts. However, China's legal system has not had significant historical experience adjudicating the complex legal issues that frequently arise in securities litigation. Some courts have refused to hear investor securities fraud cases, nominally, because courts lack operational-procedural rules on how private securities suits can be brought.[26] Lack of financial incentives in bringing securities suits, substantial filing fees, underdeveloped group litigation rules, and a lack of judicial infrastructure, have substantially impaired private enforcement and, in fact, are widely understood to be a disincentive for public investors to prosecute frauds which would otherwise protect shareholder rights. [27]

Current law, for example, restricts the scope of cases for which civil compensation may be sought. Relief can be sought in misrepresentation cases, which include cases involving false or misleading statements, material omissions, or improper disclosures, but other forms of abuse, e.g., insider trading and market manipulation, are not well-defined and have been thought, for that reason, to have deprived defrauded investors of compensation even where the CSRC has determined liability and/or imposed administrative penalties against the wrongdoers in issue.[28]

Contingency fee arrangements to compensate attorneys are generally prohibited in China, and if an action fails, investors must reimburse the expenses of prevailing defendants. If an action is successful, investors may not be able to recover lawyers' fees from the losing party and, coupled with an absence of litigation funding in China, shareholders are widely thought to have been dissuaded from even trying to sue when plainly meritorious claims exist. In addition, fearful that listed companies could become targets of public anger over widespread fraud, and, in light of apprehension that floodgates may be opened to many securities cases, the Supreme People's Court ("SPC") has effectively denied would-be plaintiffs from using Article 55 litigation rules used to bring civil compensation claims that are generally regarded as robust.[29] In a mature economic and legal environment, aggressive shareholder action is seen as protective of shareholder rights and serves as an impediment to most forms of corporate governance abuse, including insider trading, officer conflicts of interest, and forms of related-party abuse. [30]

According to one recent Study, only about 15% of suit-eligible companies have been sued – a company is suit-eligible where the CSRC or another Chinese administrative authority has already sanctioned it for misrepresentation in disclosure documents.[31] Because the finding of wrongdoing has already been made in such cases, one would think they would be attractive as securities suit targets. Nevertheless, more than 80% of these companies have not been sued, and only a handful have been the subject of legal liability findings.[32] One authority estimates claimed damages represent less than 5% of the losses public investors incurred due to securities fraud.[33] Yet, even if Chinese regulators punished some securities market offenders, lack of wide, effective enforcement would continue to encourage misappropriation and fraud. The risk of being caught and penalized is so slight as to be negligible -- whereas the potential gain from engaging in such abuse can be great.

China's laws and regulations are evolving to meet the challenges of China's expanding commercial environment, an environment that spawns complex legal issues.

Director Independence in China

China's securities regulators have established formal requirements for director independence. Exchange listed companies are required to be operated "in an independent manner" with directors "independent from the listed company that employs them and the company's major shareholders."[34] The law mandates that directors "diligently perform their duties for the best interests of the company and all the shareholders."[35] The Code of Corporate Governance for Listed Companies sets forth rules governing independent directors, as well as financial regulators, including the CSRC, and related party transactions.

China's companies must consider the PRC's general welfare, not just public shareholder interests, and for this reason, director independence in China does not mean independence from government involvement in governance matters.[36] This is unsurprising, as the State is, itself, a controlling shareholder in a majority of listed companies. SOEs are, for good reason, often viewed as vehicles for the implementation of State policies, and this includes control over certain industries. As such, they are not solely committed to maximizing shareholders' wealth. In this respect, China's corporate directors have been criticized for not prioritizing investor returns and many, in fact, are bureaucrats and politicians who must balance their fiduciary duties towards the State with their obligation to public shareholders. There is little question that, on occasion, China's directors have advanced State interests by, for example, maintaining depressed prices for essential products, enforcing state birth control policies among employees, or pursuing urban full-employment policies.[37] Where politically connected chief executives are concerned, the Board faces challenges in monitoring and disciplining company management.

If international involvement and requisite capital is to find its way into China's SOEs, the influence of the State with respect to the particular corporate entity should be disclosed. State ownership, *per se*, is not necessarily adverse to shareholder rights. Relevant information regarding controlling interests should be provided and should be sufficient to inform shareholders regarding the effect of State interests on shareholder profit maximization. Any attendant conflicts should be disclosed under appropriate corporate governance principles. Assuming adequate transparency and disclosure, the market may determine related risk factors, if any, and incorporate such risk into pricing. If individual corporate State control involves "state secrets," the materiality (both qualitative and quantitative) of the withheld state secret information (as opposed to the precise "content" of the information) regarding the financial statements of the corporation should be disclosed so investors can make informed decisions and entertain appropriate value adjustments for any perceived attendant risk.

Another problem is that where Chinese non-State owned companies are involved, they are frequently controlled by family members or small groups where that control may negatively impact other shareholders through increased agency costs. A common criticism is that majority stakeholders place their own directors on boards, circumventing independence requirements by, for example, having non-relative family representatives (who are really committed to family, not shareholder, interests), serve.[38] Even institutional shareholders often lack sufficient shares to place members on boards that are truly independent and, for that reason, cannot prevent self-dealing transactions by controlling shareholders and/or their allies. Increases in board size and numbers of directors have helped the situation, but State primacy over shareholder rights and low institutional investor board presence is a continuing challenge. Director loyalty to the State, according to many, trumps fiduciary obligations to shareholders.[39]

Related Party Transactions

Related party transactions, which often divert funds from shareholders to controlling persons or entities, is widely perceived to be a serious problem, undermining the capacity of China companies to optimize shareholder profits.[40] Even where the State is not the largest shareholder because directors, as discussed, often owe their Board positions to another large stakeholder to whom primary allegiance is owed, director independence may be undermined.

In 2003, the CSRC, along with the State-owned Assets Supervision and Administration Commission ("SASAC"), a government department governing state-affiliated controlling shareholders,) issued a notice addressing funds transfers by listed companies to their controlling shareholders, as well as those shareholders' affiliates, and listed company guarantees of the financial obligations of controlling shareholders or those shareholders' affiliates.[41] The notice prohibited certain funds transfers from the listed company to the controlling shareholders or their affiliates and set forth provisions related to external guarantees by the listed company for the benefit of its controlling shareholder or any 50% or more such shareholder-owned subsidiaries.[42]

The 2003 notice limits the aggregate amount of listed company external guarantees to less than 50% of net assets in the most recent fiscal year and forbids guarantees for any debtor carrying excess leverage.[43] The notice institutes supermajority/direct shareholder approval requirements for external guarantees, two-thirds of the board *or* mandatory general shareholders' meeting approval.[44] These provisions, though helpful, are widely perceived as insufficient to constrain related-party transactions. This is because the controlling shareholder in a PRC listed firm is likely to control all or most of the directors,[45] and a required supermajority at the board level is not a serious impediment. Controlling shareholders are likely to simply use majority voting power in the general shareholders' meeting to assure required approval is obtained.

In 2005, another CSRC notice was issued together with the newly established China Banking Regulatory Commission that reasserted value limits on guarantees and required company articles of association to set forth the board's approval authority with respect to external guarantees. The notice requires a supermajority (two-thirds) board approval for guarantees within approval authority or for external guarantees that must be submitted to the shareholders' meeting, board approval and then shareholder majority approval, but with the proviso that both the controlling shareholder and its affiliates not be permitted to vote. The 2003 and 2005 notices provide for controlling shareholder joint and several liabilities on non-conforming external guarantees. These CSRC notices suggest a recognition that controlling shareholders have a duty to their firms and/or minority holders of the public float consistent with a long CSRC campaign to articulate fiduciary duties for controlling shareholders.

Insider Information Regulation

Inside information refers to information that concerns a company's business or finance or undisclosed information that might have a substantial effect on the market price of company securities. Trading on inside information is both unlawful and widespread in China, as it is in many countries, and the problem has been recognized and frequently discussed.[46] China has addressed insider trading through a combination of laws, regulations, and guidance promulgated by regulators and its law is fast evolving. The following is a quick overview of China's insider trading law, beginning in the 2005-2006 period, running through the present.

The 2006 PRC Securities Law ("Securities Law") addresses insider trading in eight articles.[47] Article 73 prohibits persons with knowledge of inside information from using it to trade securities.[48] Persons "with knowledge" include statutory insiders, including corporate directors and officers, as well as supervisors, managers, deputy managers, and other corporate and/or holding corporate senior managers.

Lower-level employees may be "insiders" if they obtain employment-related inside information, and large shareholders and outsiders who participate in trading pursuant statutory duties or private contracts, may also become "insiders."[49] Securities Law Article 75 defines "inside information" as information that is not made public because, in the course of securities trading, it concerns the company's business or financial affairs or may have a "major effect" on the market price of the company's securities."

Article 75 non-exhaustively sets forth types of facts regarded as inside information, including the major events listed in Article 62, examples of which include company plans concerning distribution of dividends or increase of registered capital, major changes in the company's equity structure, security for the company's debts, and, also, the "major events" listed in Article 67, which includes its own catch-all -- "other information" -- in Article 67(12).

Such "major events" include significant changes in business guidelines or the scope of business in which a company engages, decisions regarding large investment or asset purchases, or the entering into or loss of contracts material to company business. It might also include undertaking or becoming subject to a large debt or a default on same, suffering a large loss (e.g., exceeding 10% company NAV) or a significant change in business conditions, e.g., a change in company management or replacement of board members. It may include a decision to reduce registered capital, merge, dissolve, or file bankruptcy, or to file a large litigation or cancel an important shareholder resolution.

Securities Law Article 76 provides that a person who has *illegally* obtained material non-public information has an insider's duty and is, thus, prohibited from trading on the basis of that information.[50] A person *illegally* obtains inside information if the inside information is obtained where, for example, theft, cheating, tapping, spying, or bribery is involved, where close relatives of primary insiders, or people with other types of close relationships with primary insiders or from people who have contact with primary insiders during sensitive periods. Under Securities Law Article 202, administrative liability can be imposed with the following consequences:

> [The inside trader] shall be ordered to dispose of the illegally obtained securities according to law, his illegal gains shall be confiscated and, in addition, he shall be imposed a fine of not less than the amount of but not more than five times the illegal gains, or a fine of not more than the value of the securities illegally purchased or sold.

If an insider trading case is serious enough to constitute a crime, criminal liability, under Criminal Law, Article 180 provides that insider traders:

> shall be sentenced to not more than five years in prison or criminal detention, provided the circumstances are serious. They shall be fined, additionally or exclusively, a sum not less than 100 per cent and not more than 500 per cent as high as their illegal proceeds. If the circumstances are especially serious, they shall be sentenced to not less than five years and not more than 10 years in prison. In addition, they shall be fined a sum not less than 100 per cent and not more than 500 per cent as high as their illegal proceeds.

"Serious circumstances" and "very serious circumstances" are defined terms for Criminal Law Article 180 purposes.[51] In 2007, the CSRC largely restructured its insider trading framework though its "Insider Trading Guidance Provisions ("2007 Guidance"), Article 12:

> Article 12. Securities trading activity that conforms to the following conditions shall constitute insider trading: (1) the person undertaking the behavior is an insider; (2) the information involved is inside information; and (3) the subject person buys or sells related securities during the price sensitive period of the inside information, or suggests that other persons buy or sell related securities, or [publicly] reveals the [inside] information.

Article 12 of the 2007 Guidance introduces a new term – “insider” – which did not appear in the 2006 Securities Law. The definition of “insider” was expanded in the 2007 Guidance Articles 6(2)-(5) to include the securities issuer or listed company, the controlling shareholder of the issuer or listed company and their directors, supervisory board members and senior management, any party involved in a listed company’s merger, acquisition or reorganization and their relevant personnel, people who gain inside information in the performance their work, the partners and spouses of natural persons included in Article 74(i)-(vi) of the 2006 PRC Securities Law, parents or children or other relatives of natural persons in the above-mentioned categories who come into possession of inside information, those who employ illegal methods such as “trickery,” as well as eavesdropping, coaxing, monitoring, and secret trading to gain inside information and those gaining inside information through “other channels.”

The 2007 Guidance provides insiders may be “legal” as well as natural persons,[52] and makes trading in *possession* of inside information (during a price sensitive period) a basis for insider liability, which but for the requirement of intentional/reckless conduct, is akin to a strict liability standard for a class of persons who would not have been liable under the 2006 Securities Law.[53] On June 1, 2012, CSRC issued a Judicial Interpretation on Insider Trading Law in Criminal Cases was issued which reversed the normal burden of proof in insider trading criminal prosecutions (“the 2012 Interpretation”).[54] Under the 2012 Interpretation, Article 1, insiders listed in the 2006 Securities Law Article 74, e.g., directors and senior managers, are *presumed* to possess inside information, and that presumption exists for close relatives of primary insiders, or persons with other types of close relationships with primary insiders, or even those who have contact with primary insiders during the sensitive periods, if their transactions appear “obviously abnormal.” To determine if a transaction is “obviously abnormal,” the totality of circumstances is considered, including, among other things, when the trading in issue occurred (relative to when the insider information was obtained) and how different the trading in issue was from the defendant’s prior/normal trading. The presumption of insider information possession can be rebutted if defendant shows a lawful reason for having the information.

The 2006 Securities Law contains a provision prioritizing private civil liabilities for securities violations. Securities Law Article 232 states: “If the property of a person, who violates the provisions of this Law and who therefore bears civil liability for damages and is required to pay a fine, is insufficient to pay both the damages and the fine, such person shall first bear the civil liability for damages.” Article 232, however, lacks detailed procedures for civil damages, and Chinese courts, for that reason, have not been enthusiastic about adjudicating such cases. China's regulators have strengthened insider trading laws and they are strengthening enforcement efforts to assure China markets are fair and perceived to be fair.[55] Private parties have started bringing civil actions, a development which will play a role in deterring those who would abuse positions to gain an unfair trading advantage in China’s securities markets.

Conclusion

If China seeks to benefit from participation in international capital markets, it must play by rules consistent with those markets, and this requires real transparency and disclosure. There is every indication that China is willing to do this. Modern notions of corporate social responsibility, universally embraced as desirable in developed and undeveloped countries alike, are arguably analogous to the PRC concept of state responsibility to its citizens. China should be encouraged to smooth the rough patches in its evolving legal system, as noted, to accommodate and protect the interests of individual shareholders in China companies.

China's president, Xi Jinping, and the Chinese government, have targeted the fight against party corruption and conflicts of interest, as a major priority. President Xi has made pervasive graft a central theme since becoming president in March of 2013, and he has urged the government to improve channels for people to report on graft while strengthening supervision and transparency.[56] Certainly, in the relative infancy of its remarkable economic boom, China should be encouraged and supported to enhance and refine mechanisms for strengthening corporate governance and financial transparency in its markets.

Western capital markets, including the U.S., should join hands in this effort by contributing rational dialogue and good faith negotiation regarding areas of common interest. Such negotiation and dialogue must not, however, compromise the need for maintenance of international standards regarding transparency and financial disclosure. A balanced global capital market that welcomes China as a solid, contributing, and valued citizen, will ensure the benefit of an integrated, optimal global society.

Notes:

[1]The phrase "reverse merger" refers to a process where a private company seeking to be listed on U.S. publicly traded stock market, buys control of a public "shell" company and the private company's management assumes control over that shell. If the public shell is SEC-registered, the formerly private acquiring company need not undertake the expensive and time-consuming review with state and federal regulators required to "go public," since this process was completed by the acquired public company. Reverse merger is a way to become publicly traded without jumping through the hoops an initial public offering ("IPO") would otherwise require. Since the negative publicity relating to alleged fraud in certain China companies that entered the U.S. markets through reverse merger ("CRMs"), the SEC has tightened reverse merger requirements.

[2]This is in direct contrast to the large number of China companies that entered the U.S. markets over the past decade. Indeed, numerous mainland China companies were gobbled up by private equity funds during that period of time. Subsequently many of these companies employed private equity "exit" strategies that involved cashing out through U.S. stock offerings. Such exit strategies are largely no longer viable because of market pushback, leaving a number of "stranded" private equity interests in China. Market resistances to China company listings in the U.S. have been matched contemporaneously by regulatory initiatives in China designed to increase scrutiny of China companies that seek to go public in China. Notably, a moratorium by the CSRC against IPOs, beginning in October 2012, has only recently been lifted, albeit subject to stricter guidelines promulgated by the regulators.

[3]Sarbanes-Oxley Act of 2002, Pub. L. No.107-204, 116 Stat.745.

[4]The U.S. Congress enacted the Securities Act of 1933 (the 1933 Act, the Securities Act, the Truth in Securities Act, the Federal Securities Act, or the '33 Act, Pub. L. 73-22, 48 Stat. 74, enacted 1933-05-27, *codified at 15 U.S.C. § 77a*, the Securities Exchange Act of 1934 (the "Exchange Act") (Pub.L. 73–291, 48 Stat. 881, enacted June 6, 1934, codified at 15 U.S.C. § 78a et seq.) governs secondary trading of securities (stocks, bonds, and debentures). The Exchange Act established the Securities and Exchange Commission (SEC), the agency primarily responsible for enforcement of United States federal securities law.

[5]*See* Jonathan P. Schmidt, Inequities in Corporate and Securities Law: Disabling the Exploitation of Chinese Corporation and Charting a Path to International Commercial Accountability, 14 San Diego Int'l L. J. 384 (Spring, 2013).

[6]Short-sellers claim to undertake investigations of China companies. They publish their "findings" on blogs which drive the price of the stock downward. Short-sellers make money when the price declines and have been accused of market manipulation through the dissemination of unfounded negative information.

[7]Charles M.C. Lee, Kevin K. Li, & Ran Zhang (2013), Shell Games: Are China Reverse Merger Firms Inherently Toxic? ("Shell Games"), *Current Draft: September 11, 2013.*

[8]*Id.* at 3.

[9]In the U.S., an initial public offering ("IPO") takes place when shares of stock in a company are sold for the first time to the general public on a stock exchange. Most companies going public use the services of an investment banker, which may act as an underwriter and costs are higher than a reverse merger.

[10]*See* Shell Games, *supra* n.7, at 4.

[11]*Id.* at 6.

[12]The phrase "Big Four" refers to the China-based affiliates of the international accounting firms, Deloitte & Touche, Ernst & Young, KPMG and Price Waterhouse Coopers. In China they are known as Deloitte & Touche Tohmatsu, Ernst & Young Hua Ming, KPMG Huaxhen and Price Waterhouse Coopers Zhong Tian.

[13]In a separate lawsuit, the SEC subpoenaed work papers of Deloitte & Touche Tohmatsu in a federal court action dealing with Long Top Financial Technologies, which was a Deloitte client accused of accounting fraud. *See In the Matter of Long Top Fin. Tech. Ltd.*, SEC Administrative Proceeding No.3-14622.

[14]The Public Accounting Oversight Board ("PCAOB") is a private sector, nonprofit corporation created by the Sarbanes-Oxley Act of 2002 to supervise audits of public companies and protect the interests of investors.

[15]15 USC §7216(a)(1).

[16]PCAOB Rule 1001(p)(ii) and SEC Release No. 34-48180, among others.

[17]*See generally* Sigrid, Ursula, Jernudd, China, State Secrets, and the Case of Xue Feng: The Implication for International Trade, 12 Chi. J. Int'l L. 309 (2011).

[18]The Initial Decision Release No. 553, United States of America before the Securities and Exchange Commission, *In the Matter of BDO China Dahua*, *et*. *al*., Jan. 22, 2014.

[19]*See* Joseph D. Piotroski and T.J. Wong, Institutions and Information Environment of Chinese Listed Firms, prepared for the NBER project "Capitalizing China" (October 2011) (herein after "Piotroski").

[20]*See* Chapter 3, § 3 of the Securities Law of the People's Republic of China (as amended August 29, 2004) and Chapter VI of the Rules Governing the Listing of Stocks on the Shanghai Stock Exchange.

[21]*See generally* Piotroski and Wong, *supra* n. 20.

[22]*Id*.

[23] Eighty-nine of these China SOES are listed in the 2013 Fortune Global 500 list of the world's largest corporations, giving China the second largest country representation in that list. The number of China companies on the Fortune Global list has increased at the annual rate of approximately 20% since 2005. Source: World 500 Largest Corporations in 2013; the Chinese Are Rising, Forbes, July, 2013. http://www.forbes.com/sites/panosmourdoukoutas/2013/07/17/worlds-500-largest-corporations-in-2013-the-chinese-are-rising/

[24]Li-Wen, Curtis J. Milhaupt, We Are the (National) Champions: Understanding the Mechanisms of State Capitalism in China, 65 Stanford L. Rev. 700 (April, 2013).

[25]Gu Weixia, Securities Arbitration in China: a Better Alternative to Retail Shareholder Protection, 33 Nw. J. Int'l L. & Bus. 283, 288 (Winter, 2013).

[26]*Id*. at 291-92.

[27]*Id.* 292.

[28]*Id*. at 293-94.

[29]*Id*. at 293-96.

[30]Judges, in China, often come from non-legal careers and lack legal training prior to bench assignment. Coupled with limited experience with securities regulation and securities law complexities, judges may feel they lack competence to properly adjudicate securities fraud cases even when plaintiffs bring them. *Id*. at 297.

[31]*Id*. at 297-98 (discussing study prepared by Benjamin L. Liebman & Curtis J. Milhaupt, Reputational Sanctions in China's Securities Market, 108 Colum. L. Rev. 929, 943 (2008).

[32]*See* 33 Nw. J. Int'l L. & Bus. at 298.

[33]*Id*.

[34]*See* Roberta S. Karmel, Is the Independent Director Model Broken?, 37 Seattle U. L. Rev. 775, 806-07, text at n. 199 (2014) (hereinafter "Karmel") (citing *inter alia* Kan Zhang, Corporate Governance in China: How Does the State Influence Its Own Enterprises?, 9 B.Y.U. Int'l L. & Mgmt. Rev. 111, 1115

(2013) and Code of Corporate Governance for Listed Companies in China (issued by the Chinese Securities Regulatory Commission, ch.2(3), ch.3(5), effective Jan. 7, 2007), reviewed March 25, downloaded http://www.csrc.gov.cn/pub/csrc_ en/newsfacts/release/200708/t20070810_69223.htm.).

[35]*See* Karmel, at 806-07 (text at note 200, citing and quoting Code of Corporate Governance for Listed Companies in China (issued by the Chinese Securities Regulatory Commission, ch.2(3), ch.3(5), effective Jan. 7, 2007), *available* at http://www.csrc.gov.cn/pub/csrc_ en/newsfacts/release/200708/t20070810_69223.htm.).

[36]*See* Karmel, at 807 (text at n. 205).

[37]*Id.*, at 808 (text at n. 209).

[38]*Id.*, at 808-09 (text at n. 213-14).

[39]*Id.*, at 808-09 (text at n. 207-18).

[40]*See infra* Part I, Section C.

[41]*See* Nicholas Calcina Howson, Quack Corporate Governance" As Traditional Chinese Medicine – The Securities Regulation Cannibalization of China's Corporate Law and a State Regulator's Battle against Party's State Political Economic Power, 37 Seattle U. L. Rev. 667, 681, text at n. 32 (2014) ("Howson') (citing "Guanyu Guifan Shangshi Gongsi Yü Guanlianfang Zijin Wanglai Ji Shangshi Gongsi Duiwai Danbao Ruogan Wenti De Tongzhi [Notice Regarding Several Issues Relating to the Regulation of Listed Company-Related Party Funds Flows and Listed Company External Guarantees], Aug. 28, 2003, zhengjianhui [2003] 56, CSRC Laws and Regulations, at 981-83.").

[42]*See* Howson, *supra*, n.42, 37 Seattle U. L. Rev. at 681, n. 33.

[43]*Id.* (text at ns. 34-35).

[44]*Id.* (text at n. 36).

[45]*Id.* at 681-82, text at ns. 37-40.

[46]*See generally* Hui Huang, The Regulation of Insider Trading in China: Law and Enforcement (2014) (and slides), reviewed April 9, 2014, downloaded http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2378842; Nicholas C. Howson, Enforcement Without Foundation? Insider Trading and China's Administrative Law Crisis, 60 *The American Journal of Comparative Law,* 955 (2012) (insider trading "is an acknowledged fact of the Chinese domestic capital markets") (hereinafter "Enforcement"); Greg Tzu Jan Yang, Insider Trading in China: Compared with Cases in the United States, Contemporary Asian Studies Series (2012), reviewed April 3, 2014, downloaded http://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=1212&context=mscas.

[47]The 2006 Securities Law was promulgated in October, 2005, but was not effective until January, 2006 and is, therefore, referred to herein as the "2006 Securities Law."

[48]Article 73 states: "It is prohibited for those with knowledge of securities trading [related] inside information or those who have illegally procured inside information to use inside information in undertaking securities trading activities."

[49] Article 74 states: "Persons with knowledge of securities trading [related] inside information include (i) directors, supervisory board members, and senior managers of the issuer; (ii) 5% or more shareholders of the company and its/their directors, supervisory board members and senior managers, and the actual controlling shareholders of the company and its/their directors, supervisory board members and senior managers; (iii) directors, supervisory board members and senior manager of companies controlled by the issuer; (iv) people whose executive or staff position in the company provides access to inside information; (v) Securities Regulatory Organ [CSRS] staff and others who pursuant to their legally stipulated duties administer or regulate securities issuance and trading; (vi) relevant securities sponsors, underwriters, securities exchange personnel securities registration and settlement personnel, and securities service institution personnel; and (vii) other persons, stipulated in regulation by the State Council Securities Regulatory Organ [the CSRC]."

[50]Article 76 states "Persons possessing inside information relating to securities trading and persons obtaining inside information unlawfully shall not, prior to the publication of such inside information, purchase or sell the securities of the company concerned, or disclose such information, or suggest other persons trade in such securities.
Where, with respect to the acquisition of the shares of a listed company by a natural person, a legal person or other organization that holds 5% or more of the shares of the company individually or jointly with others through agreements or other arrangements, there are other provisions under this law, such other provisions shall govern.
Where insider trading causes losses to investors, the traders shall be held liable for the losses pursuant to law."

[51] "Serious circumstances" include cases where (1) the accumulative trading amount of securities is more than 500,000 yuan; (2) the accumulative amount of used margin for futures trading is more than 300,000 yuan; (3) the accumulative amount of profits gained or losses avoided is more than 150,000 yuan; (4) insider trading is conducted or insider information is leaked more than three times; or (5) any other serious circumstance. "Very serious circumstances" include (1) the accumulative trading amount of securities is more than 2,500,000 yuan; (2) the accumulative amount of used margin for futures trading is more than 1,500,000 yuan; (3) the accumulative amount of profits gained or losses avoided is more than 750,000 yuan; or (4) any other very serious circumstance.

[52]Enforcement, 60 Am. J. Comp. L. at 970.

[53]*Id.* at 970-71. Criminal conviction for insider trading requires proof of either intentional or reckless conduct, whereas non-criminal (administrative) liability may be based on negligence and can subject a defendant to administrative penalties. The prosecutor or administrative plaintiff must demonstrate scienter, i.e., that the insider knew or should have known the information about the issue would be deemed "inside information" when trading occurred.

[54]*See generally* Legal Guidelines on Insider Trading Set for June Launch, Caijing.com, reviewed April 10, 2014, downloaded, http://english.caijing.com.cn/2012-06-05/111876698.html (new guidelines clarify definition of insider trading in several laws and regulations, e.g., Securities Law, Criminal Law and the Regulation on Administration of Futures Trading, identifying what is not considered insider trading and

identifying sensitive periods for obtaining insider information -- China insider trading tends to have the "characteristics of high secrecy and wide social impact," making it difficult for regulators to enforce -- CSRS has been cracking down on such trading since 2009 but due to difficulties identifying the crime and gathering evidence, cases going to trial are far fewer than the number of cases).

[55]*See generally* Hui Huang, The Regulation of Insider Trading in China: Law and Enforcement (2014), reviewed April 2, 2014, downloaded http//papers.ssrn.com/so13/papers.cfm?abstract_id=2378842. ("According to CSRC statistics, from early 2008 to the end of 2011, the CSRC gained clues to 426 cases of insider trading, but only initiated investigations on 153 cases. Due to the difficulties in applying the law, few insider trading cases end up going to trial. As of the end of 2011, Chinese courts tried a total of 22 criminal cases involving insider trading and disclosure of secret data, including one in 2007, one in 2008, 4 in 2009, 5 in 2010 and 11 in 2011.").

[56]According to Andrew Wedeman, a political science professor at Georgia State University and the author of "Double Paradox: Rapid Growth and Rising Corruption in China," This is the most sustained drive against high-level corruption since the advent of economic reforms in the early 1980s. Source: Shari Oster, President Xi's Anticorruption Campaign Biggest since Mao, Bloomberg, March 4, 2014, reviewed April 9, 2014, downloaded http://www.bloomberg.com/news/2014-03-03/china-s-xi-broadens-graft-crackdown-to-boost-influence.html

Reasoning and Differences between CSR Theory and Practice in China, the United States and Europe

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Abstract: The modern CSR theory was originated in the United States. As a result of the evolution of history, culture, and business development, both the theoretical study and the application of CSR differ in terms of approaches and roadmap. This paper tries to discuss the differences in the process of CSR development between China, Europe, and the United States. Furthermore, the root reasons accounting for the differences from the viewpoint of history, economics, and development of corporations are also explored. The discussion will contribute to the promotion of the theoretical study and practice of CSR in China.

Keywords: CSR; comparative studies; China; US; Europe

Introduction

Efforts to integrate ethics and management have a long history. At the beginning of the 20th century, the emergence of modern companies in Western countries and the failure of free economy made economists examine the operations of enterprises from ethics point of view, and they made an early exploration towards the way of increasing the welfare of employees and investing into public works constructions. The application of ethics in business has gradually developed into business ethics (also called management ethics, enterprise ethics and economic ethics). During the development of business ethics, CSR became one of its important branches. CSR first came into being in Western countries, raised in 1916 by J. Maurice Clark, an American scholar who pointed out that people had not realized CSR is the most important part of social responsibility (Clark, p. 229) In 1923, Oliver Sheldon from England came up with the concept of CSR and illustrated it in *The Philosophy of Management,* published in 1924. From the 1950s, CSR gradually became the hot topic of economics, management, and ethics in Western countries. In China, it is in recent years that CSR became a research proposition and a hot topic that is being discussed in commercial and theoretical circles. A series of accidents caused by bad operations led the public to think deeply about CSR in China. Chinese corporations began to think highly of CSR and started inculcating it into the practice of strategic decisions.

Regardless of the differences in economy, education, culture, and environment, ethics, which are the basis for social and economic development, share some similarities. Hence, we can say that theoretical and practical development of CSR was a continuous process in which it was spread from the west to the east, from developed countries to developing countries, and during which it assimilates all sorts of philosophy, thoughts, theories, and opinions from different cultures, different countries, and different enterprises.

The development of CSR in theory and practice obviously showed two obvious features. First, it lasts for a long time. After one hundred years of development, it still maintains its vigor. Second, it has a very wide scope and is popular all over the world. In the development of CSR, the acceleration of the globalization of the world economy and the development of transnational companies had facilitated the spread of CSR. As a concept or as a kind of operating strategy, CSR got popular support worldwide. As CSR differs from the fields of history, culture, economics, social systems, and development stages, different fields carried out different ways to promote their research and practice of CSR. Thus, there are obvious differences among them. These differences will surely influence the direction of its future development. It is of great importance to realize these differences and their causes for further research and application of CSR in enterprises. Especially for a developing country like China, it is of great importance to lead the enterprises to realize sustainable development and to shoulder their social responsibilities, as well as developing quickly.

As typical representatives of Eastern and Western countries, China and Europe differ greatly in the development of CSR. Will the stages of socioeconomic development, levels of social culture, art, history or even natural environment affect the development of CSR? What factors are strongly associated with the development of CSR? What are the differences in detail? What are the reasons for these differences? Literature reviews show that little research has been done to classify these questions systematically. This paper will make a systematic conclusion of the differences of the research aspects of CSR among China, the United States, and Europe and, also, the reasons for these differences in order to help relevant researches.

Analysis on the Differences in Research and Practice of CSR Among China, the United States, and Europe

Comparison on the Origin and the Development of CSR Theory

Comparison on the Origin of CSR Theory. In the West, the origin of CSR can be traced back to ancient Greece, about 2000 years ago, but modern CSR theory came into existence in the United States at the beginning of20th century. Maurice Clark, an American scholar, was the first to come up with the idea of CSR. In 1923, Oliver Sheldon, an English scholar proposed the concept of CSR clearly for the first time. In 1953, H. Bowen put forward his opinion in his work, *Social Responsibility of Businessmen,* that corporations and their owners must undertake social responsibilities. Since then, research and practices of CSR started officially in various fields.

It was in the 1970s that CSR spread from Europe to the United States. At the beginning, it was thought of as a trend that would fade away soon. Hence, it didn’t get enough attention. Many people doubted it, but soon these skeptics were proved to be wrong. In 1995, Jacques Delors, the former president of the European Commission, issued *Manifesto of Enterprise against Social Exclusion* to call on enterprises to promote employment and reduce poverty in line with the spirit of strengthening social solidarity, claiming justice, and shouldering responsibility [1]. On this basis, as voluntary devotions, corporations keep making and carrying out policies concerning corporate social responsibility. Since then，the CSR movement in Europe represented by EU countries developed rapidly and had a tendency towards substituting the United States as the leader of CSR movements.

Chinese culture is a kind of culture based on ethics. Ethics and virtues, which form the core of Chinese civilization, play an important role in traditional Chinese culture. In ancient Chinese society, there were many religious beliefs and classical works involving unique ethical thoughts and theories. Since the founding of the PRC, especially after the reform and opening policy, Chinese companies trying hard to ensure the quality of the products and operated in good faith for the purpose of carrying out the policies of the government. The CSR system that became popular in recent years was imported from the West. It is in the 1990s that Chinese scholars started to introduce the concept of CSR and started the theoretical research on CSR extensively.

Comparison of the Developing Process. The concept of CSR originated in the United States, and the developing process experienced roughly three phases after Maurice Clark first came up with the idea of CSR. The first phase was from the beginning of the 20th century to the 1960s as the emergence of CSR. The second phase was from the 1960s to the 1980s, and it was the developmental stage of CSR. The third phase was from the 1980s to this day; it is the prosperous stage of CSR.

After CSR was introduced to Europe in the 1970s from the United States, it experienced two phases. The first phase was from the 1970s to the 1990s during which CSR was discussed and queried. It did not take much of a shape. The second stage was from the 1990s to this day, and CSR is developing prosperously.

CSR was introduced to China quite late, but it also experienced three phases. First, it was at the breeding stage from 1978 to the early 1990s. During this stage, China was transforming into a market economy system, and there weren't many roles for the corporations in society. The laws and regulations weren't perfect, either. At that time, CSR hadn't been introduced to China. Corporations lacked the consciousness of CSR, which resulted in the problem of poor quality products, poor service, and poor working conditions.

These problems made way for the introduction CSR in China. Then CSR was introduced to China between the period of the mid-1990's and 2004. During this period, CSR was officially introduced into China, and it got positive response. From 2005 to the present, it is thought to be the third stage of CSR's rapid development. Research on CSR came tardy, but its applications developed rapidly.

Through analyses of the developmental process of CSR in China, Europe, and the United States, it was found that despite the differences in the periods during which CSR was initiated, they shared many similarities in the developmental process. They all experienced the breeding stage. At this stage, economies expanded rapidly, such as in the industrial revolution in America; the reforms and opening up of the economy in China boosted the economy. But at the same time, as corporations only paid attention to economic profits and ignored social responsibility, it resulted in sweatshops in America and low-quality products. These are the scandals which attracted the attention of the public and promoted the rapid development of CSR.

Definition of the Concept and Content of CSR

Although there were many contributions to CSR definition, strictly speaking, there does not exist a global agreed definition of the concept. In fact, arguments about definitions of the concepts and contents of CSR haven't stopped since Sheldon first came up with the concept of CSR in 1923, and it seems the argument will continue.

In 1953, Howard R. Bowen, one of the early contributors to the CSR, raised a question in the academic literature, “What responsibilities to society may businessmen reasonably be expected to assume?” (Bowen, 1953, p.31). Bowen (1953) makes an initial definition of the social responsibilities of businessmen: "It refers to the obligations of businessmen to pursue those policies, to make those decisions, or to follow those lines of action which are desirable in terms of the objectives and values of our society" (p. 6).

In 1960, Keith Davis defined social responsibility by arguing that it refers to businessmen’s decisions and actions taken for reasons at least partially beyond the firm’s direct economic or technical interest, (Davis, 1960, pp. 70-76).

William C. Frederick (1960) another influential contributor to the early definitions of social responsibility, suggests: [Social responsibilities] mean that businessmen should oversee the operation of an economic system that fulfils the expectations of the public. And this means in turn that the economy’s means of production should be employed in such a way that production and distribution should enhance total socio-economic welfare (Frederick, 1960, pp. 54-61.

In 1961, Eells and Walton further developed the views on corporate social responsibilities. They argued: When people talk about corporate social responsibilities they are thinking in terms of the problems that arise when corporate enterprise casts its shadow on the social scene and of the ethical principles that ought to govern the relationships between the corporation and society (pp. 457 – 458).

In 1967, Clarence Walton offered his fundamental definition of social responsibility as follows: “In short, the new concept of social responsibility recognizes the intimacy of the relationships between the corporation and society and realizes that such relationships must be kept in mind by top managers as the corporation and the related groups pursue their respective goals” (p. 18).

In 1970, Milton Friedman, a Noble Prize economist, defines CSR from a different angle: There is one and only one social responsibility of business – to use its resources and engage in activities designed to increase its profits so long as it stays within the rules of the game, which is to say, engages in open and free competition without deception or fraud. Obviously，CSR is a rather complicated concept, which raises a range of arguments and discussions of scholars and experts. It was during the argument of pros and cons of CSR that the concept gradually became clear.

In 1979, the famous scholar Carroll gave his comprehensive definition, which seemed to summarize the arguments on the concept of CSR. He suggests that CSR is meant to be the total sum of the expectations of the society in terms of economics, legalities, ethics, and clemency, from the corporations. This concept was widely accepted. The social responsibility of business encompasses the economic, legal, ethical, and discretionary expectations that society has of organizations at a given point in time (Carroll, 1979, pp. 497-505).

Freeman (1984), a scholar known for the stakeholders’ theory, offers a new perspective of the definition of CSR. According to him, stakeholders include customers, competitors, trade associations, media, environmentalists, suppliers, government, consumer advocates, local communities, and the business community, who need active participation for successful CSR implementation. In recent years, many Chinese scholars came up with their own views based on the specific context in China. Weng Wanghui (1987) thinks that CSR is the four expectations of the society from the corporations are economic, legal, ethical and spontaneous responsibilities at a certain period of time. Corporate social responsibilities are generally divided into two groups: the first group includes compulsory responsibilities, such as economic and legal obligations; the second group is about voluntary responsibilities, which are ethnic and spontaneous responsibilities. Zhao Qiong (2004) claimed that: CSR is an integral concept. It includes basic social responsibility and superior social responsibility. The most basic social responsibility of corporations is the legal obligation that includes complying with all kinds of national laws without violating commercial morality. Superior social responsibility is the support and endowment, such as environment protection and social welfare establishments that corporations offer to the community. The author of this article thinks that the biggest social responsibility of corporations is to realize sustainable development which requires corporations to consider the satisfaction of other stakeholders as well as to be responsible to their shareholders. They should pursue maximization of common benefits of stakeholders or it can be also called as integral benefits maximization.

Through the analysis, we find those Chinese scholars and those of the United States and Europe share common views regarding the definitions of CSR, but they differ in the points they emphasize. Most scholars of the two groups take legal obligations into consideration while defining CSR, but among the European and American scholars, only a few emphasize the legal obligations, while many Chinese scholars think that corporations should first perform legal obligations and then promote social and public welfare. In European and American versions of the CSR concept, there is more emphasis on the participation of corporations in public welfare activities. In recent years, they emphasized sustainability. As to why they differ in the points they emphasize, it should be related to the different phases of development.

Studies show that Chinese scholars do not tend to highlight the important aspects of CSR while defining the contents of CSR as broadly and systematically as the Western scholars do. Earlier, the U.S. Committee of Economic Development offered the concept of CSR, which clearly and structurally incorporates the content of CSR into production manufacturing, employment, economic growth enhancement, environment protection, labor relations, customers' higher informed expectation satisfaction, fair treatment, and safety protection. In the EU, it is advocated that CSR should be incorporated into the corporate operations and into their interactions with stakeholders.

The Recognition and Practice of CSR in Business Practice

In the early 20th century, CSR began to be academically studied in Western countries. With growing importance attached to it, it has developed through various practices. In the latter part of 20th century, CSR set foot in China and has attracted both academic and entrepreneurs' attention.

When talking about the differences of Chinese and Western companies, Guo Peiyuan (2009), a Chinese consultant dedicated to CSR research and promotion, believes most Chinese companies are in the obedience stage, while the Western ones mostly are in the strategy or citizenship stage of Simon Zadek's five-stage framework of CSR implementation (defense, obedience, management, strategy and citizenship).

In the understanding of CSR, there are also discrepancies between Chinese and Western companies. A CSR motivation investigation of over 4000 entrepreneurs conducted by Chinese Entrepreneurs Investigation System in 2007 showed the top three motivations were to enhance corporate image, to contribute for social development, and to gain government recognition. While the survey of 1200 entrepreneurs all over the world by economists in the same year showed that the top three motivations were to increase revenues, to enhance corporate image, and to comply with laws and regulations. Guo Peiyuan's survey of 30 Chinese enterprises in 2007 shows that the top three motivations of CSR were to enhance the corporate image, to gain the policy support of the government, and to enhance the sense of responsibility of the leaders of the corporations. By comparison, in the survey of 250 global companies in 2005 by KPMG, the consideration of economic factors, moral factors, and creativity ranked to be the top three CSR motivations.

For a relevant CSR management evaluation system, the U.S. has established SA8000 (Social Accountability 8000). The European Committee has made agreements with the UN Global Compact in 2000, the OECD Guidelines for MNEs (1976, revised in 2000) and so on. Nevertheless, there is still no internationally recognized evaluation system.

By comparison, it is revealed that the recognition of CSR and the motivations to implement CSR by Chinese enterprises are somewhat profit-oriented. Meanwhile, the Chinese enterprises regard CSR as a supplementary means to increase earnings and as a response to social calls rather than recognize the role of CSR, and plan the implementation of CSR from the perspective of promoting social welfare. This perception results in the difficulties that arise in the establishment of a relevant CSR management evaluation system and chaos when Chinese enterprises face of emergency cases. As a result, though some companies have made contributions, they may be criticized and doubted because of their disorder. However, the Western companies, after a couple of social crisis, have fully recognized the positive effects of CSR for corporate development and have made plans for CSR from the perspective of promoting economic development and enhancing stakeholders' welfare, and we should learn from them.

The Entity to Promote CSR

Assuming responsibility means taking action. Meanwhile, the development of CSR benefits from the practice. The development process of CSR indicates that the promotion of CSR needs the efforts of every party. But the entities promoting the development of CSR in China are significantly different from those in Western countries. After doing detailed research, we discovered that even between the United States and Europe there exist differences.

Governments in both the United States and China have played active roles in the CSR development process. The United States government issued a series of laws and regulations in CSR promotion. As early as 1906, it introduced the "Pure Food and Drugs Act." In 1953, it published laws relevant to the legalization of charitable activities. In 1969, it issued the "National Environmental Policy Act."

The Chinese government has played a more important role in the CSR development. In the last five years, the Chinese government has issued "Provisional Regulations on Prohibition of Commercial Bribery," "On the Major Issues of Building a Socialist Harmonious Society," "Law of Agricultural Products Safety," "Regulations for Electronic Information Products Pollution Control," "China National Climate Change Program,", "Guidance on the Implementation of Corporate Social Responsibility in Central Enterprises," "Guidelines on Foreign-invested Enterprises to Fulfill their Corporate Social Responsibility (Draft)," "People's Republic of China Circular Economy Promotion Law," "Antimonopoly Law," and other relevant laws and regulations. At the same time, the Chinese government made corresponding amendments in the "Law of Labor Contract Law" and "Company Law." The General section of “Company Law,” that “companies are expected to bear the responsibility of safety production, environmental protection, occupational health safeguarding and to protect the legal interests of employees.” In Europe, non-governmental-organizations, such as the Cox Roundtable, play an active role in CSR research and practice, and they have connected scholars, entrepreneurs, and others from all communities to make great contributions, and some even develop into influential party organizations. NGOs in the United States have also taken an active part in this process. However, due to the factors of history, culture, and social system, NGOs in China have developed only in a short-period. Compared to developed countries, China lacks mature NGOs, and this, in turn, lead to the slow development of CSR.

Two distinct social systems based on different cultures exert great influence on CSR. So far, the development and practice of CSR in China are all led by the government through legislation and law enforcement. Though CSR has been studied for about 20 years in China, it has not been fully recognized until the Chinese government issued and amended relevant laws after China gained access to the WTO in 1995. The prominent role of the government in promoting CSR results from a lack of mature NGOs to provide the required guidelines and the powerful functions of the Chinese government system. In China, the excess intervention of the government has leads the companies to misconstrue what appears to be compulsory CSR; they do not see the voluntary principle of CSR.

While Western countries have pursued free democracy for a long time, most rights are for the citizens rather than for the government. Besides, there are a number of parties involved to develop CSR in Western countries, and they also have well matured and experienced NGOs. As a result, NGOs alleviate the burden of the government in the promotion of CSR. What’s more, the development of CSR research and practice benefits from the participation of scholars and entrepreneurs from the NGOs.

Reasons for the Differences of CSR between China and Western Countries

Social, Historical and Cultural Aspects

The Modern Social Responsibility Ideological trend came into being and was first put into practice in the United States at the beginning of 20th century. It happened not just by coincidence. By contrast, it is easily noted that there exist huge variances between China and Western countries in the natural environment, economic system, and social recognition and so on, which give rise to the development of CSR directly or indirectly. With a history of 200 years, the United States is a modern country with a short history. The American culture is characterized by openness, adventure, creativity, and individualism, which also contributes to the formation of liberalism. Liberalism is both the key to the whole nation’s recognition and the core part of American social value system.

The backbone of European culture developed in history from ancient Greece to the Renaissance. Thus, European culture is a unique culture mixed with ancient Rome, ancient Greece, and other cultures. Humanism is greatly emphasized in Europe’s culture; therefore, European enterprises are more inclined to realize personal needs and, at the same time, provide high welfare, reduce working hours, and emphasize personal satisfaction and quality of life. Moreover, the European social values tend to stand for the interests of the community and value interdependence within the communities more. China is a traditional country with a history of 5,000 years. In the long process of historical development, China has formed a unique culture characterized by the Doctrine of the Harmony. This feature evolved into a value system with socialism as its core in the planned economy period. The whole nation values patriotism, collectivism, and solidarity as parts of the core value system. Apart from the contrast in social, historical, and cultural aspects, the cultural difference lies in some details, referred to in Table 1.

Table 1. *Comparison in Natural Environment, Economic System and Culture between China and the U.S.*

Attributes	**China**	**The U.S.**
Natural Environment	Most land belongs to the interior land, with favorable climate, abundant rainfall, vast territory and rich resources, therefore is suitable for agriculture	Largely facing the ocean, infertile resources, ocean plays an important role in American economic development, territory expanding, culture exchange, and broadening horizons
Economic System	Self-sufficient agricultural economy	marine business and business system with frequent exchanges
Social Recognition	Values agriculture while neglecting other business, righteousness is highly valued, look down upon business, businessmen are called as profiteers	Endorses businesses, regard sit moral to obtain profit through proper methods
Political System	Government plays an important role in social and economic development	Government's power is limited, citizens have right to vote
Legal System	No laws to protect businessmen and manufacturers	Relevant laws to protect businessmen and manufacturers
Ethical System	Confucianism dominates, Taoism and Buddhism accompany	Protestant Ethnics

Source: Zhang & Zhu (2005).

China's collectivism stresses the sharing of profits, while liberalism in the United States values independence and individual profit. It is the influence of the freedom culture in the United States that makes a free market economy first appear in the United States and then require CSR to be introduced there for the first time. The cultural differences lead to differences in the corporate culture, and these differences in corporate culture result in the development of CSR practice in various countries. For more details, see Table 2.

Table 2. *Comparison of Corporate Cultures in Chinese, American and European Companies*

Attributes	The U.S.	China	Europe
Values of employees	Emphasis on self-freedom and realization of personal value	Collectivism, the benefit of the community is prior to the benefit of individuals	Interdependent to gain freedom
Relationship between colleagues	Acceptance of fierce competition	human-oriented way, sophisticated relationships	Mutual-benefit, win-win solution
Evaluation System	Performance evaluation, reward is reward, punishment is punishment	Qualification is highly valued, equalitarianism	A balance between performance and qualification
Corporate Values	Emphasis on profit, and efficiency	Making profit through harmonious and friendly ways	Stress on rules and credibility, respect personal rights
Corporate System	Clear responsibility, thorough implementation	Ambiguous responsibility, non-thorough implementation	Clear responsibility, beliefs in self-discipline

Level of Economic Development

The gap in the level of economic development between China and Western countries lies specifically in the economic development stage and maturity of modern corporations. In the feudal age, China held a self-sufficient economic system. Even though great progress had been made during the period dominated by Emperor Kangxi and Emperor Qianlong, China was too content to meet its own needs to trade with other countries under the influence of traditional culture. In the Ming and Qing dynasty (A.D.1368-1911), China implemented the policy of autarchy, which completely secluded the country from the outside world and nipped the development of modern economy in the bud. In the 1970s, the second industrial revolution emerged and gave a big push to the development of Western countries (including the United States and Europe). But China, on the other hand, got stuck in wars, and its economy was a total mess. It was during that time that the Western countries laid the economic foundation for large enterprises.

Chinese economic development module is different from that of America's and Europe's. After the founding of People's Republic of China, China copied the model of the Soviet Union (Russia), which is a completely planned economy. The enterprises of that time were not exactly modern. They were just affiliates of the government, which were a special form of central governance. By 1980s, China began to transform into a system of market economy. Then, the modern enterprises made their debut in China. Later, for the sake of national welfare, China attached a greater importance on economic growth by means of adopting a model of high consumption and high cost to accumulate original capital.

Western countries are mainly capitalist countries. With the model of a market economy, enterprises came into being earlier than in China. And in the 1980s, the Western countries have finished the primitive accumulation of capital. Society and enterprises began to assume responsibilities for the environment, employees, and so on. The discrepancies in the economic development resulted in the discrepancies in the ideologies, and then gave rise to the discrepancies in the development and practices of CSR.

The Social System and the Philosophy System

In the Eastern and Western social systems, the status and values of family systems are different. Some people think that they are the main cause for social and cultural variances between the West and the East. According to Liang (2006), the differences between Western and Eastern cultures result from the differences in social structure. The foundation of the Chinese society lies in families, while the foundation of Western society lies in its individuals. Chinese lack a community life but value a family life. They organize the society through ethics, which alleviate the differences between individuals and groups. So, it is called an “ethical standard” of society, while the Western people value a community life more than they value a family life. They unite individuals by religion (Christianity) and then obtain a social cohesion in order to establish the personal independence and freedom, which is called the “personal standard” of the society. Different development paths determine a sharp contrast between the Eastern and Western characteristics of the social systems.

It is the difference in the family systems and their social status that lead to the different developmental paths in the Western and Eastern societies that have resulted in different characteristics of Eastern and Western cultures. Why do Chinese people emphasize the responsibilities and obligations, while the Western people stress on what is right? Why do Chinese people speak highly of private morality, while the Westerners attach great importance in public morality? Why do the Chinese people tend to judge from the motivation, while the Western people tend to judge from the consequence? Why do Chinese people stress the rule of man, while Westerners emphasize the rule of law? Why do Chinese people develop the theory of self-cultivation, while Western people develop democracy and monocracy? And why are Chinese people good at value reasoning, while Western people are good at instrumental rationality? Explanation can be found from here. The different roles that a family plays in the construction of Western and Eastern societies and its different developmental paths lead to the differences between Chinese and Western societies in history that determine the contrast between the features of Chinese modernization and those of Western modernization. Therefore, simply applying the Western concept cannot well explain the problems in China and completely copying the Western mode cannot solve the problem of China's modernization. The same goes for business ethics and corporate social responsibility.

The ideology of CSR has long existed in Chinese and Western philosophy systems. But their existences vary from each other. What is valued in China is the theory that humans are born kind, while in Western countries, they emphasize that people are born rational, which means people are only motivated by economic interests. So, in China, the criteria for businessmen are based on morals and ethics, and people should stick to righteousness and abandon benefits when those two conflict. People believe that credibility and harmony can bring wealth.

However, the Western countries hold the view that humans are born rational and chase the maximum of their own benefit. The biggest difference between these two ideologies is that Chinese Confucianism attaches great importance to moral principles, self-cultivation, and advocates to value righteousness more than interest. As a consequence, Chinese people consider their moral principles before obtaining benefits, while the Western people believe in utilitarianism and hold the view that it is reasonable to achieve wealth through hard work and object to any non-profit work.

So, from the perspective of the philosophical system, Chinese philosophy contains many ideologies which are also contained in the philosophy of CSR that have greatly influenced China. As a result， regardless of the delayed introduction of CSR to China, CSR has progressed and is being implemented at a high pace. Comparatively, in the Western philosophy system, which values efficiency and performance more than anything, there is a higher likelihood for irresponsible things to take place under the influence of liberalism. That's why the Western countries need a new ideology to bind the corporate actions.

Conclusion and Discussion

Ethics ideology is a part of an ideology system. The formation of an ideology system is an assimilating, subletting, and dynamic process influenced by natural conditions, cultural environment, and historical development, and so on, constantly absorbing and abandoning. Objectively, due to various differences between China and Western countries, the appearance of two different ideological systems which lead to different theories of ethics is inevitable. Throughout history, any great ideology was first proposed, developed, and improved after colliding with others and learning from others. In China, there are various academic debates and people seek similarities in differences; in the Western world, there is also a famous saying "There are a thousand Hamlets in a thousand people's eyes." The East advocates theory while the West advocates practice. Consequently, the East is abundant in theories and the West is abundant in practices. So, the proper attitude towards the development of CSR is to make the most of the Western and Eastern variances to promote both the study of CSR theory and the practice of CSR.

The cultural, economic, philosophical, social, and political systems' gaps determine the differences in the theory of CSR and the practice of CSR that will continually play an important role in the development of CSR. Establishing a globally recognized whole package of CSR criteria may be a little unrealistic. But we could take some actions to enhance the development of CSR all over the world by seeking similarities in differences and tolerating different opinions.

Based on the basis of previous analyses, we suggest the following: First, under the premise of acknowledging the global convergence of CSR concepts and recognizing the gaps in corporation maturity and economic growth stage in different countries, countries should make practical CSR development strategy in accordance with their own culture and economy. Second, Western countries, especially American and European countries, should encourage their enterprises to take the lead in implementing CSR and to help developing countries to make practical CSR development strategies according to the characteristics and levels of their growth stages. Third, it is essential to enlarge the research on CSR theory and practice in various development stages and enhance the communications and exchanges to promote a worldwide, balanced development of CSR in an era of globalization.

Notes

[1] In the *Foundation of Economic Responsibility in the Change* written in 1916, Morris Clark pointed out that "Corporate social responsibility accounts for a large scale of social responsibility. And we are in need of responsible economic principle and we should improve it and root it deeply in our business ethnics."

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Business Ethics Index in China: An Empirical Study on Young Consumers

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Abstract: Based on the study of China's business ethics index (BEI) in 2009 (Tsalikis & Fu, 2010), this article intends to improve the BEI questionnaire and for this purpose analyzed 1057 questionnaires; it concluded that China's BEI is 99.3, which is much lower than that of 2009's. This means the respondents have a negative opinion of China's performance in the field of business ethics. The four sub-indicators of BEI all fell lower from those in 2009; especially, BEI $_{personal/past}$ and BEI $_{vicarious/future}$ dropped dramatically. However, the results of this study also showed that the subjects are still very optimistic about the future of the ethical behavior of Chinese enterprises, but most are concerned about the levels of vicious competition and product safety.

Keywords: business ethics index; BEI; young consumer; China

Introduction

China, the world's most populous country, has been getting considerable attention by academicians, as well as business professionals (Lu, 2008). China is now the world's second largest economy, and it is expected to overtake the United States to become the largest by 2020 (Yao et al., 2012). The success of China in the global economy is well documented (Tang et al., 2010). Over the last couple of decades, it has strategically harvested its pool of cheap labor to be a production powerhouse. However, like other countries, China also has been hit by various ethical scandals. For example, stories of baby milk tainted with melamine and toys with lead paint highlighted major business ethics problems in China (Gallagher, 2009; Lu, 2009). Thus, it is not surprising to see a negative effect on the perceptions of Chinese consumers on ethical behaviors of businesses in China (Taslikis & Fu, 2010).

A number of studies have been done recently on business ethics in China. Comegys et al. (2012) compared the attitudes ethics of future managers towards business in the United States, Finland, and China. They found that their attitudes towards business ethics differed by the students' major, class year, GPA, gender, age, and the number of ethics and religious studies courses completed. Deng (2012) , through an in-depth interview on 173 respondents, developed a generalized framework of consumers' responses on ethics that provided a number of insightful suggestions about how to motivate a consumer's support for a firm's ethical behavior and to transfer this kind of support into truly positive purchasing. Fu and Deshpande (2012) found that both caring and independent ethical climate types had a significant positive impact on organizational commitment in a survey of 144 employees working at a Chinese private construction company. Zhou et al. (2011) investigated the current status of economic and business ethics in the fields of teaching, training and research in China, Japan, and Korea through questionnaire surveys, desktop analysis, and personal observation.

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A business ethics index (BEI) was first proposed by Tsaliks and Seaton (2006) and was developed in order to systematically evaluate consumers' sentiments towards ethical practices of businesses (Tsalikis & Seaton, 2006, 2007). The success of the BEI in the USA spawned its expansion to more than 20 countries, including China in 2006. Tsakilis and Fu (2010), using the same instrument, measured the BEI of China, which showed the BEI in 2009 was 109.8, much lower than in 2006, which was a 117.8. This study will contribute to the existing research by re-examining the BEI of China with an improved questionnaire based on the methods of Tsalikis and Seaton (2006).

Study Methodology

The Instrument

The BEI questionnaire consists of 4 main questions, which are designed in two dimensions, past-future and personal-vicarious. The first two questions are the same as in the study of Tsalikis and Seaton (2006). However, the last two questions of the future dimension were improved by adding the options from 3 to 5, which are consistent with the first two questions (see Table 1).

Table 1. *Questions Comprising the BEI*

Personal / past

(1) Based on your own experiences as a consumer in the past year, businesses you dealt with generally behaved:

I. A (very unethically); B (somewhat unethically); C (neither nor); D (somewhat ethically); E (very ethically)

Vicarious/Past

(2) Based on what you heard from others or from the media in the past year, businesses behaved:

A (very unethically); B (somewhat unethically); C (neither nor); D(somewhat ethically); E (very ethically)

Personal/Future

(3) Based on your own experience as a consumer in the past, do you think ethical behavior of Chinese enterprises will become:

A (much worse); B (somewhat worse) ;C (same); D (somewhat better); E(much better)

Vicarious/Future

(4) Based on what you heard from others or from the media in the past year, do you think ethical behavior of Chinese enterprises will become:

A (much worse); B (somewhat worse) ;C (same); D (somewhat better) ;E(much better)

The responses to the above four questions will be calculated finally according to the following formula. If the result is above 100, it means that the respondents will have a positive attitude towards Chinese enterprises' ethical behavior, while they will have a negative attitude if the result is below 100.

$$(\%E - \%A) + (\%D - \%B) + 100 \qquad (1)$$

According to the above four questions and the formula, we can calculate four sub-indicators, which are BEI (personal/past), BEI (vicarious/past), BEI(personal/future), BEI(vicarious/future) The mean of these four indices is the final BEI value. In order to gather more information, an open question was added to this study, which was Question 5: Please describe one or more examples of unethical behavior that you had experienced or had heard from others or from any other media.

Sample Information

There were 1300 questionnaires sent to the four universities in Beijing, Tianjin, and Guangxi province and, finally, 1057 effective questionnaires were gathered (See Table 2). There are 517 male samples (48.9%) and 540 female samples (51.1%). More than 80% of the respondents' ages varied from 17-30, since most of the samples (about 90%) are college students.

Table 2. *Sample Information*

	No.	**%**
Gender		
Male	517	48.9
Female	540	51.1
Sum	1057	100
Age		
17-19	123	11.6
20-25	901	85.2
26-30	26	2.5
Sum	1050	
Missed	7	0.7
Education		
Undergraduate	958	90.6
Masters and doctorate	73	6.9
Sum	1016	96.1
Missed	41	3.9

Results

After the analysis of 1057 questionnaires through SPSS16.0, it is shown that China's BEI is 99.3, which is below 100 and lower than 2006's BEI (Tsalikis & Seaton, 2006), and this means the consumers in China have a negative attitude on Chinese enterprises' ethical behavior. The four sub-indicators are shown in Table 3.

Table 3. *Result of BEI*

BEI	**99.3**
$\text{BEI}_{\text{personal/past}}$	81.6
$\text{BEI}_{\text{vicarious/past}}$	59.7
$\text{BEI}_{\text{personal/future}}$	133
$\text{BEI}_{\text{vicarious/future}}$	122.8

BEI personal/past. BEI personal/past mainly involves consumers' attitudes towards business ethics of Chinese enterprises form their personal experience in the past. As shown in Table 4, 59 of 1057 samples (5.6%), which included 5 females and 54 males, think that the behaviors of Chinese enterprises were unethical. Nearly half of the consumers (47.3%) think that China's enterprises are unethical, which is slightly higher than the results of 2009 (39.7%). A total of 134 consumers, accounted for 12.7% of the total, holding neutral attitudes, and it is 16% lower than the 2009's results. Of the respondents, 33.6% think that the business ethics of China's enterprises in the last year were worse, and more female consumers hold this attitude than male consumers do (211/145). Only 8 consumers, accounting for 0.8% of the total, think that China's enterprises were very ethical in the last year. Consumers who hold this attitude were the least, which is similar to 2009's results. According to Formula 1, the calculated BEI $_{personal/past}$ was 81.6, which is 15.1 points less than in 2009, and this means that the consumers hold negative attitude towards the business ethics of our country in terms of personal/past dimension.

Table 4. *Personal/past- BEI $_{personal/past}$*

BEI $_{personal/past}$=81.6						
	Male	%	Female	%	Sum	%
A. Very unethical	54	5.1	5	0.5	59	5.6
B. Somewhat unethical	240	22.7	260	24.6	500	47.3
C. Neither nor	72	6.8	62	5.9	134	12.7.0
D. Somewhat ethical	145	13.7	211	19.9	356	33.6
E. Very ethical	6	0.6	2	0.2	8	0.8
Sum	517	48.9	540	51.1	1057	100

BEI vicarious/past. The vicarious/past dimension explored consumers' attitudes towards Chinese Enterprises' Business Ethics in response to media reports or information heard from others. Statistical results are shown in Table 5. Of the 1057 respondents, 112, including 70 male samples and 42 female ones, accounting for 11.6% of the total sample, think that Chinese enterprises are very unethical. More than half of the respondents think that Chinese businesses were somewhat unethical according to the past media reports and other experiences. There were 255 males and 318 females, accounting for 24.1% and 30% of the total sample. Of the 1057 respondent samples, 114, accounting for 10.8%, kept a neutral attitude. There were 250 respondents, which is less than 2009's result (26.7%), who think Chinese businesses are ethical when their responses were measured in terms of the vicarious/past dimension. Only 8 respondents (0.8%) think Chinese businesses are ethical. According to Formula 1, it is calculated that BEI (vicarious/past) is 55.9, which is below 100 and about 7 percent lower than 2009's BEI $_{vicarious/past}$. This indicates that consumers think that Chinese businesses are unethical when the consumers come under the influence of media and other vicarious dimensions.

Table 5. *BEI* $_{vicarious/past}$

BEI $_{\text{vicarious/past}}$**=59.7**						
	Male	%	Female	%	Sum	%
A. Very unethical	70	6.7	42	4.9	112	11.6
B. Somewhat unethical	255	24.1	318	30.0	573	54.1
C. Neither nor	78	7.3	36	3.5	114	10.8
D. Somewhat ethical	110	10.4	140	13.3	250	23.7
E. Very ethical	4	0.4	4	0.4	8	0.8
Sum	517	48.9	540	51.1	1057	100

BEI (personal/future). This sub-indicator refers to consumers' views in the personal/future dimension, which aims to measure their expectations on how China's business ethics are going to be in the future according to their personal experience. Statistical results are shown in Table 6. Of the respondents, 67 (6.3%), including 46 male samples and 21 female samples, accounting for 4.4% and 1.9% respectively, think that business ethics of Chinese enterprises are much worse than the previous year according to their personal experience. Of the respondents, 196 (18.5%), including 6.2% male samples and 12.3% female samples, think that the business ethics of Chinese enterprises would be somewhat worse than last year, according to personal experience. It is shown that fewer samples hold a neutral attitude than in 2009 after the improvement of the questionnaire. In 2009's survey, nearly half of the respondents chose the neutral choice in this dimension. Five hundreds and forty-eight (548) consumers (51.8%) are optimistic about the future ethical behavior of enterprises in our country. Sixty-three respondents think that future business ethics of Chinese enterprises would be much better than in the previous years. According to Formula 1, it is calculated that BEI (personal/future) is 133, which is slightly lower than the 135.4 of 2009 but still over 100. It is indicated that consumers are still positive about the future business ethics of Chinese enterprises even though the enterprises did not show good performance in the past.

Table 6. *BEI* $_{personal/future}$

BEI $_{\text{personal/future}}$ **=133**						
	Male	%	Female	%	Sum	%
A. Much worse	46	4.4	21	1.9	67	6.3
B. Somewhat worse	66	6.2	130	12.3	196	18.5
C. Same	93	8.8	90/273	8.5	183	17.3
D. Somewhat better	272	25.7	276/-	26.1	548	51.8
E. Much better	40	3.8	23	2.3	63	6.1
Sum	517	48.9	540	51.1	1057	100

BEI (vicarious/future). The last sub-indicator is to investigate the attitudes about future ethical behavior of Chinese enterprises in terms of the vicarious/future dimension. Statistical results are shown in Table 7. Eighty-nine of 1057 respondents (8.9%), including 60 male samples and 34 female samples, think that future business ethics of Chinese enterprises would be much worse than last year. Of the respondents, 227 (21.5%), including 84 male samples and 413 female samples, accounting for 7.9% and 13.6% respectively, think that business ethics of our country's enterprises would be somewhat worse than in the previous year. It can be calculated form the first two items that 30.4% of consumers, which are much higher than 11.4% of 2009, were negative about the future business ethics development in China. Of the sample, 16.5% have a neutral attitude, and they think that in the future China's business ethics will be the same as before. Of the respondents, 46.3%, including 234 male samples and 255 female samples, thought that the future business ethics of Chinese enterprises would be somewhat better than in the previous year. There were 73 respondents (6.9%), including 3.9% of the males and 3.0% of the females, who think that the future business ethics of Chinese enterprises would be much better than before. We calculate from first two items that 53.2% of consumers are optimistic about the future business ethics in China. It can be calculated that $BEI_{vicarious/future}$ is 122.8 and is above 100, suggesting that the respondents show a positive attitude towards the development of business ethics in China in terms of the vicarious/future dimension.

Table 7. *BEI* $_{vicarious/future}$

BEI $_{vicarious/future}$=122.8						
	Male	%	Female	%	Sum	%
A. Much worse	60	5.7	34	3.2	94	8.9
B. Somewhat worse	84	7.9	143	13.6	227	21.5
C. Same	98	9.3	76	7.2	174	16.5
D. Somewhat better	234	22.1	255	24.2	489	46.3
E. Much better	41	3.9	32	3.0	73	6.9
Sum	517	48.9	540	51.1	1057	100

Overall, consumers hold a negative attitude towards the business ethics of Chinese enterprises, and the respondents also thought that the Chinese enterprises lack business ethics in these two dimensions, personal/past and vicarious/future. In contrast, BEI (personal/future) and BEI (various/future) are above 100, which mean the respondents hold a positive attitude towards future business ethics of our country's enterprises.

Unethical Behavior

Question 5 in this survey is used to gather information about the issues concerning business ethics of China's enterprises. Statistical results are shown in Table 8. Among 1057 consumers, 784 gave examples of unethical behavior from their personal or vicarious experience. These examples of unethical behavior were divided into 32 items, which are categorized under the sectors of service, product, price, advertising, selling, labor/management, and general ones.

Table 8. *Statistical enterprise unethical behavior*

	No	Percent
SERVICE		
1.Poor service/not helpful	1	0.1%
2. Rudeness/discourteousness	6	0.8%
3. Poor quality work	30	3.8%
PRODUCT		
4. Defective/low quality products	125	15.9%
5. Fake/expired products	8	1.0%
6. Did not replace defective product/warranties	1	0.1%
7. Unsafe product	55	7.0%
8. Misrepresented/lied about product	7	0.9%
9. Lack of information about product/labels/user guides	2	0.3%
PRICE		0.0%
10. Overcharging/Price gouging	29	3.7%
11. Bait & switch	29	3.7%
ADVERTISING		0.0%
12. False advertising/ exaggerated info, lying, and misinformation.	17	2.2%
13. Too many ads	2	0.3%
SELLING		
14. Sales pressure/hard sell.	1	0.1%
15. Fake sales	16	2.0%
LABOR/MANAGEMENT		
16. Bad management policies, does not honor contracts/promises	32	4.1%
17. No social contribution/responsibility	49	6.3%
18. Poor treatment of employees/low pay	33	4.2%
19. High level of profits	1	0.1%
20. Theft/embezzlement/fraud/problems with law	9	1.1%
21. Insider trading/stock market mischief	1	0.1%
22. Ask for bribe/corruption	7	0.9%
GENERAL		
23. Greed	1	0.1%
24. Dishonesty/cheating (general unspecified)	15	1.9%
25. Vicious competition	275	35.1%
26.Others	32	4.1%

It is shown from the result that about 5% of unethical behavior is in the services sector, among which poor service quality was reported the most by the respondents. In this survey, product issues were observed to be the most prominent problems reported by the consumers, since 25% of the reports of unethical behavior belonged to this dimension. Meanwhile, defective or low-quality products are the most reported unethical behaviors in this study. We can also find more than 7 percent of the unethical behavior examples were about price, almost 3 percent of the total was about advertisement, and about 2 percent were about selling issues. It is shown that labor management was another sensitive issue in this survey, as about 17 percent of the examples of unethical behavior fell into that scope and social responsibility is the most prominent one in Chinese consumers' eyes (6.3%). Meanwhile, vicious competition is, also, another unethical issue that consumers are concerned a lot about (35%).

The results of Question 5 in this study show some differences from those of 2009's survey. In 2009's survey, the most reported ethical issues by consumers are low product quality (31%), corporate social responsibility related issues (8.7%), false advertising (8.3%), expired products (7.9%), and labor contract related issues (6.6%). It is indicated that the malignant activities of some industries have a very deep impact on the consumers' attitudes, like Sanlu milk powder incident in 2009 and the vicious competition between 360 and Tencent in 2009. The results are the same as research results of Carson (2003) in which he pointed out that the Enron scandal weakened the confidence of consumers in American integrity and indirectly led to the decline of American stock during the period of 2000-2002 **(30)**. So, enterprises should try to create a good ethical impression in the minds of consumers so as to avoid the consequences of the occurrence of malignant events again.

Conclusion and Discussion

The results of this study show that China's BEI, based on young consumers, has dropped to 99.3, which indicates that most of the young consumers hold negative attitudes toward the ethical performance of Chinese enterprises. The four sub-indicators also have experienced a dramatic decrease compared to those of 2006 and 2009. BEI (personal/past) decreased from 101.6 in 2006 to 81.6, and BEI (vicarious/past) decreased from 77.9 in 2006 to 59.7 and is about 7 percent lower than that of 2009. BEI（personal/future）declined from 147.8 in 2006 to 133, which is the same as in 2009, while BEI (vicarious/future) decreased from 143.8 to 122.8, which is 21 percent less than 2009's, and this is the biggest decline among the four indices.

The authors think that the reasons Chinese consumers have more negative attitudes about business ethics of China's enterprises could be explained from two different perspectives. First, the global financial crisis of 2008 had an extremely disastrous and continuous impact on the world's economy. The Chinese economy maintained stable growth, but it was very hard for many small enterprises to recover from such a big crisis. Under this situation, it would be easier to understand why many enterprises may make some unethical decisions for their survival, and this lead to a negative attitude in their consumers. Second, consumers would be more sensitive towards unethical behavior of the enterprises and their attitudes may be influenced for a long time once they become aware of even a single incident of unethical behavior on the part these enterprises. So, it is implied that if the Chinese enterprises don't improve their ethical performances, the BEI might keep declining. So, Chinese enterprises must change at once and stop behaving unethically in order to improve consumers' attitudes if the enterprises want to acquire and retain consumers' confidence.

At present, only a few studies have been conducted on measuring business ethics of a country through empirical methods, so the future research can be carried out in terms of the following aspects: first, measuring BEI annually in order to observe and measure the changes in enterprises' ethical behaviors; second, through Tsalikis' (2011) analysis of America's BEI in the recent years, it was found that the consumers' expectations of ethical behaviors increased in 2009 when compared to the past two years. It is indicated that consumers hold a positive attitude towards the American economy in the future, or that at least the worst years have passed. So, by comparing BEI with economic development, researchers in the future can try to build some relationship between BEI and some economic indexes; and third, the research results during the recent three years show that there is a big decline in the standards of Chinese enterprises' ethical behavior, so future studies should deal with the main factors that affect corporate ethical behaviors in order to provide some suggestions for them to rebuild a good ethical impression in the minds of the consumers. Finally, the enterprise ethical index is a relatively general and macro-level index. Therefore, researchers can also try to design a set of indices from micro-level that are aimed to measure ethical behavior of a single company.

While this study helps us better understand consumers' attitudes about the ethical behaviors of enterprises in China, it has some limitations. For example, most of the samples are college students, and this may affect the final result. Therefore, the future study could examine China's BEI based on a larger sample of different ages through cooperating with some enterprises or ethics organization.

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Harmonious Society and Corporate Social Responsibility: Shaping the Factors That Drive Environment-Related CSR

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Abstract: China faces environmental problems emerging from decades of rapid environmental growth coupled with the lack of corporate responsibility in this area. China's Harmonious Society policy, introduced in 2006, provides a useful framework for promoting Corporate Social Responsibility (CSR) in the area of environmental protection. However, there is a need to better define the roles for corporations under Harmonious Society to make corporations truly responsible. This paper explores the isomorphic and economic pressures on firms to adopt corporate social responsibility (CSR) using a model that explains inter-country and inter-company variations in general levels of CSR activity. The model is based on a meta-analysis of comparative literature on CSR development to develop a framework that divides causes of CSR in a country into environmental constraints and discretionary responses. Understanding what drives the development of CSR allows us to understand what measures the Chinese government can take to influence the level of CSR. My paper further argues that in order to raise the level of CSR on environmental issues in China, Harmonious Society has to shape both environmental constraints and discretionary responses to be truly effective.

Keywords: Corporation social responsibility; environmental constraints

The Harmonious CSR Revolution

In 2006, a *China Daily* article declared that environmental damages cost China 10 percent of its GDP. While experts disagree on the exact costs of environmental degradation in China, there is consensus that these costs are large and have important repercussions for living standards, healthcare, and sustainable economic growth in China. Ensuring that corporations behave in a socially responsible manner in this area is one way of reducing these costs.

The Harmonious Society policy provides a framework for raising the level of corporate social responsibility (CSR) in China in the environmental area. The Harmonious Society policy, as discussed in this paper, refers to the policy outlined in detail at the 6th Plenum of the 16th Central Committee of the Communist Party of China. President Hu Jintao described the outcome broadly as achieving "democracy, the rule of law, equity, justice, sincerity, amity and vitality." This policy is understood in practical and conceptual terms to mean a renewed focus on addressing social and environmental challenges with a reduced priority for economic growth where it conflicts with these aims. The 6th Plenum has released details on specific objectives, although this concept can be seen as a work-in-progress that is slowly being defined according to the first principles laid down by President Hu.

The 6th Plenum lists the following disharmonious features that the new policy aims to tackle:

- An imbalance in the social and economic development between provinces and between rural-urban areas

- Population and environmental problems are worsening
- Deficiencies in employment, social safety nets, income distribution, education, medical care, housing, occupational safety, and public order
- A system of public management needs improvement
- Democracy and the rule of law are not adequately institutionalized
- The capabilities and work styles of some leaders do not meet the requirements of the new situation and tasks
- Corruption in some areas is still a major problem

The purposes of CSR strike some observers as being similar to the harmonious elements sought by the Chinese leadership. If a national policy of such overwhelming priority can be used as the underlying framework promoting corporate citizenship, China could use those established concepts to tackle its existing socio-environmental problems. There exists the potential for the unfamiliar concept of CSR to become familiar in China through the lens of the Harmonious Society policy. Such a change in mindset can be significant in helping China cope with the environmental damage from its industrial output.

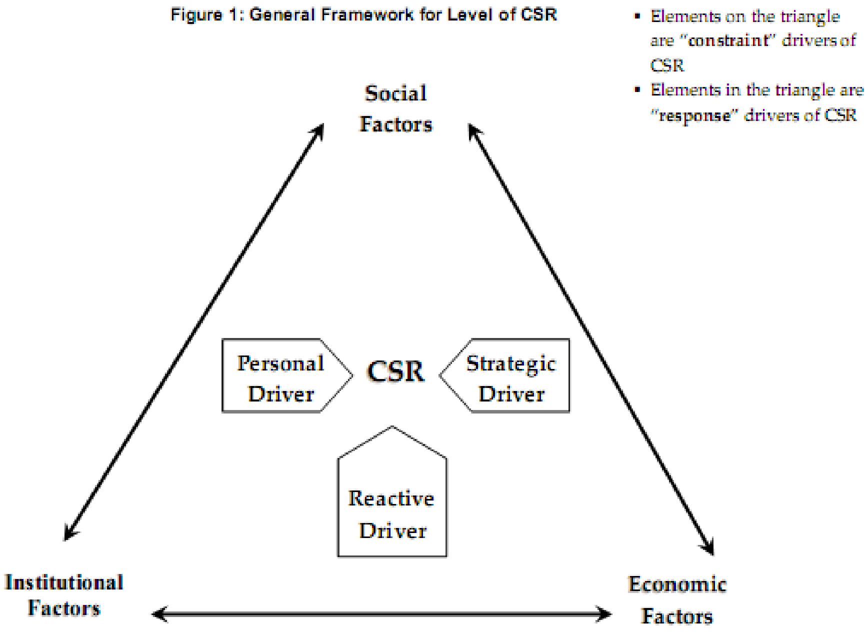
However, for the Harmonious Society policy to be an effective framework for CSR to take root in China, it needs to directly affect the underlying mechanism driving the development of environmental CSR. By understanding what this mechanism is, we can raise the level of CSR in China by strengthening this mechanism through Harmonious Society guidelines. The next section develops a model explaining the development of CSR in any country, which will be the basis for suggesting changes to existing guidelines to promote environmental CSR.

The Constraint-Response Model of CSR Development

Level of CSR Determined by "Environmental Constraints" and Firm-Specific "Discretionary Responses"

The model I use in understanding the origins of CSR divides drivers of CSR into an "environmental constraint" and "discretionary response" side. The "constraint" side explains the social, economic, and institutional drivers of CSR. The "response" side explains why individual companies facing the same public pressures for CSR might respond with different levels of CSR. Figure 1 describes the complete set of factors I use in my framework. Understanding this framework and application to China will allow us to determine the mechanisms through which the Harmonious Society policy can affect CSR in China and help us suggest complementary policies that can raise the level of CSR in the area of environmental protection in China.

Figure 1: General Framework for Level of CSR



The Environmental Constraints Driving CSR Adoption

The outer elements of the triangle in Figure 1 represent the "constraint" side of CSR. There are two arguments for how these elements influence the level of CSR: isomorphism and the potential benefits of CSR. Isomorphism holds that the adoption of similar processes or structures occurs because organizations face similar environmental constraints (Di Maggio & Powell, 1983). Three forms of isomorphic pressures exist. Coercive isomorphism occurs when organizations seek to attain legitimacy in the eyes of external stakeholders by adopting forms familiar to these stakeholders. Mimetic isomorphism holds that under constraints of uncertainty, organizations adopt similar responses. Under normative isomorphism, organizations behave similarly through professionalization.

Companies also engage in CSR also based on the benefits they can extract from such behavior. Under this argument, constraints drive a company to engage in CSR by increasing or decreasing the benefits of engaging in CSR. This is based on the idea that CSR only exists in the long-run because society rewards corporations for it (Vogel, 2005). The arguments for CSR's beneficial impact on financial performance can be generalized as having three forms: CSR (a) allows for discovery of new business opportunities in response to new societal trends, (b) provides "halo" effects on a company's reputation that enhances marketing and hiring efforts by the company, and (c) limits downside risks associated with violating societal norms.

The extents to which these benefits or isomorphic pressures exist are, in turn, a function of the environment in which these corporations operate. Environmental constraints include social factors, institutional factors, and economics factors that have a causal effect on the level of CSR activity in a country. Social factors reflect the cultural norms, attitudes, and beliefs that define society's demand for CSR. Institutional factors include both informal and formal institutions, legislation, and enforcement mechanisms. These would include governmental institutions, corporate governance mechanisms, as well as the quality and quantity of the media and NGOs. Economic factors include macroeconomic variables influencing uptake of CSR, such as the general affluence and income distribution in society or its interaction with external companies through foreign trade.

These factors are connected in a triangle because they might have separate influence on the level of CSR but might be interdependent. For example, if society strongly believes that companies should engage in CSR (a social factor), this could induce the formation of NGOs that watches and shames the companies that fail to do so (an institutional factor).

Social Factors

At the most basic level, the willingness of consumers, investors, and the government to demand CSR stems from their belief in the value that CSR provides, or, conversely, the harm CSR brings in justifying expropriations of shareholder property and public attitudes toward the role that businesses should play in providing public goods.

Institutional Factors

The existence of a variety of formal and informal institutional structures has been postulated to influence the level of CSR. How society is organized influences which stakeholder views are heard, how they are prioritized, and the degree to which they can change, monitor, and enforce corporate behavior. Once certain institutional structures are in place, they create incentives for firms to meet social expectations for CSR. This differentiates institutional factors from social factors in determining the demand for CSR. Examples of formal institutions include corporate governance, legislation, and regulation. Examples of informal institutions include organized pressures exerted by the media, self-regulating industry bodies, and NGOs. Gaps in institutional structures can also result in greater demand for CSR.

Economic Factors

International economic interaction appears to increase the demand for CSR. The same authors observed that increased levels of international sales or foreign ownership of the firm is correlated with more extensive CSR reporting. Robertson (2007, p. 9) observed that economic interactions influence the domestic level of CSR through mimetic isomorphism. Fukukawa and Moon (2003) also suggested that FDI inflows are responsible for the rise of CSR in Japan. Economic interaction also leads to higher levels of CSR because of the increased presence of multinational firms in the country.

Response Drivers of CSR Adoption

The "response" side of CSR looks at how companies, especially key decision-makers such as the CEO, make decisions to supply CSR. While the level of CSR might share a relatively deterministic relationship with the constraint-related factors at the macro-level (i.e. when a large number of firms are under examination), it fails at the micro-level in explaining how two similar companies facing the same set of environmental constraints can have vastly different levels of CSR.

Personal Driver

Personal drivers include the attitude, interests, and beliefs of top management towards the use of company resources for social causes. The personal beliefs and interests of top managers have been frequently noted to determine a firm's investment in CSR. Pet interests of the top managers or of relatives or of the family of the top managers have been occasionally observed as being a driver for certain corporate social initiatives that were undertaken.

Strategic Driver

Strategic drivers include a company's assessment of its opportunities to create "shared value" with society through strategic CSR. Porter and Kramer (2006) define the principle of "shared value" as ten choices that benefit both society and corporations that arise out of the "mutual dependence of corporations and society." Firms are highly heterogeneous, and different firms could extract different values from their CSR activities based on the resources they control. Under imperfect information and facing human biases, top managers could also perceive the benefits of CSR very differently, regardless of underlying realities.

Reactive Driver

Reactive drivers include the adoption of CSR activities by companies under public pressure to head off criticism. Such initiatives could have been undertaken as a reaction to public outcry. In this scenario, the top managers need not believe in the importance or legitimacy of CSR and are not seeking opportunities to create "shared value." Instead, engaging in CSR activities is used as a reaction to deflect or reduce public pressures.

How Can Harmonious Society Boost Environmental CSR?

This constraint and response framework of CSR explains how CSR is generated. Using this framework helps us understand which drivers and factors, if changed, will increase the level of environment-related CSR in China.

How Can Harmonious Society Raise the Level of Chinese CSR?

Policy-making provides the government with tools that mainly influence the institutional factor and the response drivers of CSR. Hence, our analysis will focus exclusively on the policies the government should include under Harmonious Society policy guidelines to promote more responsible corporate behavior towards the environment. Table 4 summarizes the current status on various institutional factors and which changes would lead to an increase in the level of CSR.

Table 4. *Institutional Factors in China*

Institutional Factor	Current Situation	What Can Be Done
NGOs	Registration of non-governmental organizations (NGOs) is difficult and requires a government sponsor	Allow easier registration of NGOs Encourage NGO input into policy-making Provide NGO access to media on?
Social & Environmental Impact Reporting	New Environmental Impact Assessment (EIA) Law introduced in 2003, but suffers from narrow definition of pollution and lack of public participation Social Impact Assessment is not required by any laws in China at the moment	Mandatory disclosure of EIA findings Allow public input into process Introduce Social Impact Assessment Law
Domestic Business Associations	China Business Council for Sustainable Development (the local arm of the World Business Council for Sustainable Development) exists, but a majority of members are subsidiaries of western multinational corporations A large number of domestic business associations exist but until recently, do not appear to engage in significant self-regulation although this appears to have changed since 2006	Provide government support and encourage associations that emphasize self-regulation, CSR engagement, and sharing of CSR best practices as key items in agenda
Global Business Associations	168 businesses and business associations in China are listed under Global Compact Some Chinese companies belong to industry-specific associations	Government sponsorship and encouragement of membership in related associations

NGOs

NGOs monitor corporate behavior and advocates for change through direct action (e.g. organizing boycotts) by exposing corporate failings to the media or lobbying the government. A more active NGO sector increases the incentive for companies to engage in CSR to allay the concerns of NGO critics (Frankental, 2001).

Regulations were imposed to govern the formation of NGOs in the late 1980s. These include the Regulations on the Registration and Management of Social Organizations, the Regulations on the 12 Registration and Management of Foundations, and the Interim Provisions for the Administration of Foreign Chambers of Commerce in China (Ye, 2003). These regulations still limit NGO operations by imposing government control on their activities. NGOs have to be registered with a sponsor that is a government line agency. The sponsor supervises the NGO's day-today activities and reviews the work of affiliated NGOs. In recent years, some NGOs have formed domestically by evading such constraints through registering as commercial enterprises or by "claiming to be an offshoot of a government agency or commercial enterprise" (Ye, 2003). In addition, NGOs operating in China are increasingly registered overseas as well as in Hong Kong to overcome such problems.

While regulations have not prevented NGOs from taking root in China, they are left in a precarious situation that limits the activities they can engage in. Because of their uncertain legal status and their lack of media access, NGOs cannot play an advocacy role. They run the risk of being shut down if they attract too much attention, and this prevents them from raising issues that need to be addressed. Furthermore, since these NGOs are not recognized, they cannot be consulted by the government on policy-making. NGOs cannot act as effective checks and balances under such a situation. Given that the interests of the local government and industry are often aligned, NGOs are needed to monitor the environmental effects of companies as an independent monitoring body.

Social and Environmental Impact Reporting

China has much experience with environmental impact assessment (EIA). In the 1970s, China introduced a national policy on environmental protection. In 1989, it passed the Environmental Protection Law to control pollution. In 2003, it passed a new law requiring city governments, State Council departments, and relevant departments to conduct an EIA for plans or programs concerning agriculture, stockbreeding, forestry, energy, water management, transport, civil construction, tourism, and development of natural resources. The major change this law entails is the superimposition of environmental assessment for government plans and programs on existing project-level EIA requirements. This suggests that the government considers existing EIA requirements for individual projects effective (Wang, 2003). However, such laws are limited in inducing corporate compliance. The State Environmental Protection Administration (SEPA) in China is considered a second-rank ministry, and all levels are known to suffer from shortages of staff and financial resources (Wang, 2003). Furthermore, this is a system operated by government officials who often face intense pressures to generate economic growth, which leads to a misalignment of incentives. The lack of NGO or local input into an opaque process also leads to biased assessment and poor decision-making (Wang, 2003).

The key changes that would influence CSR levels include mandating public disclosure of EIA filed for private-sector projects. This should be coupled with a transparent process that allows public input into the assessment in order to correct for biased assessments. The EIA process required by law is already standardized, and, as such, findings should be disclosed in a similarly standardized fashion.

Domestic Business Associations

The presence of domestic business associations that self-regulate also promotes CSR (Fox & Prescott, 2004, p. 6). These associations set guidelines on social and environmental practices, anchoring the expectations of how the industry should behave. Associations also help raise CSR standards by promoting industry best practices and by encouraging mimetic isomorphism of CSR practices. Moon (2004) identifies how the growth of CSR business associations in the UK helped spread CSR practices.

Until recently, Chinese business associations were never actively involved in self-regulation or in calls for CSR. Instead, Pearson (1994) argues that rather than representing autonomous self-interest groups, Chinese business associations’ post-market reforms in the 1970s served as bridges between government and society. Many of these groups were established by the government to aid in economic reforms and to support government measures. However, there are promising signs that domestic business associations are increasingly self-regulating and disseminating best practices in CSR. Concrete steps that would increase the level of CSR concerning the environment would be for industry-wide business associations to launch codes of conduct that would be the basis of environmental self-regulation above and beyond the requirements imposed by the government.

Global Business Associations

Global business associations, such as the UN Global Compact or World Business Council for Sustainable Development (WBCSD), serve similar functions as domestic business associations with the added benefit of exposing firms to international best practices. The number of Chinese signatories to the Global Compact is relatively insignificant. A search on the Global Compact website shows that 166 Chinese companies, NGOs, and business associations have signed up to the Global Compact as of April 2008. This compares to 468 for Spain alone. Government sponsorship or incentives for companies, especially state-owned firms, to become engaged in such global organizations will induce a higher level of CSR.

Response Factors

Table 4 lists a wide range of variables that will affect the level of CSR in China. However, looking at the variety of measures that would lead to an increase in CSR, we find that many of them are bounded by other political or economic concerns that might make them hard to realize. Because of the constraints surrounding institutional factors, the most likely influence the government can exert on shaping the level of CSR would be through increasing the discretionary response factors. Because of the state's ownership of SOEs, such firms have their response factors directly derived from government policy directions. The government intervenes directly as a major shareholder of SOEs to determine the response considerations these companies and, thus, promotes CSR in these companies not as an institutional factor but as a direct agent. However, the role of state ownership is not something traditionally emphasized in comparative CSR literature.

Because the role of the state will be prominent in developing CSR in China, this will affect the specific distribution and form which CSR will take in China. Harmonious Society policy can be used to drive the development of environment-related CSR among SOEs first. Given the prominent role SOEs play in China's economy, their behavior would have an isomorphic effect on larger private companies, which seek to emulate leading SOEs. Trends in this area allow one to be optimistic. China Mobile became the first Chinese firm to issue a complete CSR report in 2007. Of the big four banks of China, the Industrial and Commercial Bank of China and the China Construction Bank both published CSR reports in 2007.

More broadly, the government can intervene to shape the response drivers of corporations in the broader private sector, resulting in a higher level of CSR. By emphasizing the importance of a cleaner environment, the government can shape the social perception of key decision makers in a firm, leading them to pursue environmentally friendly business policies. Even if one takes a cynical view of corporate executives, signaling the government's commitment to a clean environment through a combination of laws in this area and official announcements regarding policy developments in this area could lead to corporate executives pursuing more responsible actions on the basis of detecting commercial opportunities in this area.

Conclusion

By looking at the underlying mechanism for CSR development, I derive a list of action items that the government should include under the Harmonious Society policy that can effectively raise the level of corporate responsibility towards the environment. Through a stronger appreciation of the drivers of CSR and contextualizing them within China, this paper identifies specific actions that will have greater effectiveness in promoting more responsibility corporate behavior in China.

Notes:

1. I used CEO here as a generic representation of any set of key decision makers in a company.
2. Michael E. Porter argues that CSR remains "too unfocused, too shotgun, too many supporting someone's pet project with no real connection to the business" in *The Economist* Jan. 17, 2008, special on CSR.
3. Frankental notes that NGO challenges, such as Greenpeace's actions against Shell over Brent Spar, contributed to CSR involvement by the company.
4. The UN Global Compact is a framework for businesses to align their operations and strategies with ten universally accepted principles in the areas of human rights, environment, and corruption. The WBCSD works to bring business leadership to issues of sustainable development.

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On the Relationship between CSR and Profit

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Abstract: It is a genuine concern for corporations to consider whether CSR (Corporate Social Responsibility) should be given more priority than making profits. There are two kinds of opinions on this issue; one is the "burden" opinion, which means the practice of CSR is a burden on corporations and should be abandoned, and the other one is the "proliferation" opinion, which means corporations can make handsome profits by good performance of CSR. In fact, corporations' attitudes toward CSR mainly depend on the fitness of CSR with profits. Corporations will usually hold a positive attitude if their practice of CSR contributes to the increase of profits. Otherwise, they will hold a negative attitude towards CSR.

Keywords: CSR; profit; burden opinion; proliferation opinion

What is the relationship between CSR and profit? Which one should be given more priority? It is not only a realistic problem for corporations, but also a theoretical and practical subject for scholars to study systemically. Milton Friedman (1970) holds the idea that, as economic organizations, corporations should prefer profit and wealth for the sake of shareholders. In fact, the attitude of corporations towards CSR is, to a large extent, dependent on the relationship between social responsibility and profit. If the practice of CSR contributes to the increase of profit and wealth, corporations will hold a positive attitude towards CSR. Otherwise, they will hold negative attitude towards it.

Is CSR a Burden?

Some corporate leaders are not interested in CSR, because they are worried that the practice of CSR will consume resources and increase the costs of corporations. Even if CSR can help corporations to maintain corporate image or increase the visibility of corporations, it will be slow and cannot produce the desired effect in a short period of time. From the point of view of economic interests, the practice of CSR will inevitably cost profits, which could, instead, be used to develop corporations. The opinion that regards CSR a burden on corporations can be called as a burden opinion.

Why do corporate leaders have the burden opinion? One reason is that they are worried that the emphasis of CSR will lead to more duty, which should be fulfilled by the government. Government officials sometimes make it legal for corporations to take on more and more social responsibility. A second reason is that corporate leaders claim that the performance of CSR will increase operating costs, which include the costs of improving the working conditions of the staff, guaranteeing and increasing employee benefits, and replacing environmental protection equipment. All of these factors will decrease the profit margins of corporations. A third reason is that some corporate leaders identify CSR simply with a social denotation and strongly agree with the idea that corporations are not charity originations and have no obligation to solve social problems; as a result, charity is a burden on corporations. We should deal with these opinions case by case and should not neglect any of them because they are one-sided. For example, the opinion that CSR means the government shifts its social responsibility to the corporation raises the question of how to make a distinction between the responsibility of the government and that of the corporation. The purpose of this distinction is to argue that corporations have limited responsibility so that the rights of corporations can be respected and protected. The key point of eliminating the shortcomings of these kinds of Burden Opinions is to respect the basic rights and interests of corporations. The government or the public should not impose the social responsibility on corporations; especially, the government should not concoct various pretexts and levy arbitrary charges, fund-raising quotas, or fines on corporations; instead, a mechanism and a channel for corporations' defending their rights and interests should be established.

It is strongly advised to do an objective analysis of the opinion that CSR will increase the operational costs of corporations. Some corporate leaders hold a negative attitude towards CSR and avoid all related social responsibilities except the so-called responsibility of making profits. An important reason is that there really exist inherent contradictions between making profits and fulfilling other social responsibilities, just as Drucker insisted that "there is a contradiction between an endogenous ability to profit and the company's contribution to society", which was quoted by Solomon (1993) in his book Ethics and excellence: Cooperation and integrity in business. According to generally accepted opinions on CSR, the social responsibility of corporations is the obligation through which the corporation should uphold other stakeholders' rights and promote their related interests. Obviously, CSR is concerned with how to distribute the profit of corporations; that is, in the event that total amount of profit is defined, the more the other stakeholders get, the less the investors get.

Talking objectively, compared to the costs traditional pattern of management that is pure producing, selling, and making a profit regardless of environmental protection and the satisfaction of employees' rights and interests, the cost of CSR does increase the operating costs. However, the point is that in a contemporary society, corporations have to survive in the business environment where the social and legal institutions, non-governmental forces, social direction of public opinion, and social public anticipation have already made CSR a necessary and a basic factor for the survival and development of corporations. To put it bluntly, gone forever are the days when corporations can purely make profits by lowering labor costs, freely use natural resources, and release pollution.

When all corporations have to perform related social responsibility, logically they have the same competitive costs because of the performance of CSR. But in the reality, there exist contradictions between CSR and profit, and this means that some corporations can make profits without performing CSR, while other corporations performing related CSR make no profits and the costs of performing CSR will increase. Furthermore, once there are no severe sanctions and punishments on the corporations who are sweatshops without any sense of humanitarianism by often extending the working time of employees, these corporations will have larger profit space. Obviously, it will increase the costs of corporations who have good performance of CSR. In some degree, it will naturally decrease the activity of their performing CSR. It is worth noting that this seldom happens in a comparatively perfect economic marketing system.

The reason that some corporate leaders regard the practice of CSR as a burden on corporations is because they do not realize that it is necessary for corporations to take on their CSR, meaning that CSR has already been an indispensable part of costs during the course of their production and operation.

Unfortunately, they still stick firmly to their traditional management concepts. If we purely consider the actual investment of corporations, CSR really increases the costs of production and operations when corporations perform CSR, such as, providing good working conditions, improving employees' benefits, and reducing industrial waste and pollution in accordance with national environmental indicators, but it is also essential for corporations to perform CSR, just the same way as it is essential for them to pay for the costs of production materials and machinery equipment.

Since both kinds of costs are necessary for corporations to pay, why are they willing to increase the second kinds of costs and not willing to perform their basic social responsibility? The reason some corporate leaders never regard the costs of production materials and machinery equipment is that in their traditional idea is that such costs are inevitable costs of their production and operations. But in the present world, it should also be a necessary part of their actions for corporations to practice their CSR. If some corporations can gain larger amounts of profits without any performance of CSR, it will be a heavy blow to those corporations who take on their CSR actively. Accordingly, the costs of CSR will be an additional part for the lawful corporations meaning that they can also save the costs of CSR without any loss. As a result, the government should take action on these kinds of unjust social phenomena.

In short, corporate leaders who have the opinion that CSR is a burden on corporations have not realized that good social environment is the macroeconomic factor for their development, and that the stability and good order of society can play an important role for their development, and that it is an inevitable trend for corporations to maintain good social public relations and image for contemporary enterprise development, and also that the performance of CSR gives a good opportunity for the development of corporations.

Is CSR Proliferation?

Focusing on the costs of CSR, some agree with the idea that CSR is a burden on corporations with the conclusion that corporations should not perform CSR for the sake of the shareholders of corporations, while others understand CSR in a completely different way. They treat CSR as an efficient way to help corporations make profits. According to this kind of opinion, there is no contradiction between the performance of CSR and making profits. On the contrary, in the long run, the relationship between these two factors is positive. From the point view of these corporations, they can do better for shareholders through good behavior, such as social denotations, and furthermore, they believe that it is not only worthwhile to perform CSR, but also corporations have to perform CSR. This kind of opinion is termed as the "Proliferation" opinion.

There are different ways to classify different kinds of CSR and one way is to differentiate between statutory CSR and voluntary CSR. Statutory CSR means that corporations must perform their CSR, and voluntary CSR means that corporations have the choice to decide whether to perform their CSR. According to Louis W. Hodges (1986), there are three kinds of responsibilities: assigned responsibility, contracted responsibility, and self-imposed responsibility. Correspondingly, we agree with the opinion that there exist three kinds of CSR's: assigned CSR, contracted CSR, and morally self-imposed CSR. By personification of capital, corporations have the nature of making profits and have no consciousness to limit their own interests. As a result, regardless of the interests and rights of other stakeholders, we need forceful laws in order to prevent and punish those corporations who maximize profits one-sidedly. The government must regulate the behaviors of corporations by law and other forceful institutions in order to define permissive behaviors of corporations during the course of maximizing their profits. There is no doubt that any corporation has the social responsibility of making a profit in a lawful way. When corporations sign legal contracts through equal consultations with other marketing subjects, the have related CSR, which means they should perform the responsibility stipulated by the contracts. Additionally, corporations have related responsibilities to perform basic social moral rules and to satisfy public expectation. The assigned CSR and contracted CSR are forceful responsibilities and moral self-imposed CSR is voluntary. Public donations can be regarded as self-imposed social responsibility of corporations within their means and not as forceful obligations.

Corporations, in fact, are willing to make public donations because such activities can produce good social effects through media's propaganda, which can not only increase corporations' reputations and market sales, but also can decrease their advertising investment to some degree. Therefore, corporations really pay for certain costs when they perform their CSR, but if we evaluate CSR from the point view of social effects, corporations will get lucrative rewards for their practices of CSR. That is why some corporations include their social donations in the strategy development of corporations, which can usually be understood as doing some good for the society for the sake of the corporations themselves.

Regardless of whether the motivation which corporations keep is to perform CSR for the self-interests of corporations or for other stakeholders, their behaviors or the consequence of their behaviors, in fact, can be understood to be a combination of self-interests and altruism. From the point of view of direct obvious effect, corporations performing CSR is a good social behavior and a contribution to social tranquility, even if the performance of CSR includes only basic lawful production and operation, which provides for good manufacturing practices and services, protecting fundamental rights and interests, and discharging of industrial wastes in accordance to national environmental standards.

Their performance of CSR doesn't add any trouble to the society, exacerbate social conflicts of interests or increase the costs of social governance, and it also shows the corporations' ability to solve the problem in the society. From the point view of the corporations themselves, on the one hand, their performance of assigned CSR can help them avoid social punishment and gain recognition of stakeholders, such as investors, customers, vendors, suppliers, employees, communities, and governments, etc.; that is to say, within the corporation, the role of human capital can be brought into full play. Outside the corporation, the practice of this kind of CSR can help corporations obtain trust from consumers and trading partner and enhance their corporate brand image. On the other side, corporations' performing of moral and charity CSR can gain social reputation for corporations and will generate a credit effect so that they can expand market share.

CSR and Corporate Development

Although the length of the corporate life cycle is affected by many factors, CSR is an important one among them and can even be related to business survival. The behaviors such as discounting on the basic rights and interests of employees and not giving them proper protection can neither mobilize the enthusiasm of the staff, nor will be able to retain talent or attract new talent. Corporations that lack good corporate human capital cannot produce good products or offer good services. As a result, corporations without brand support will have no way to survive. Once corporations deceive consumers in terms of quality and price of products and services for the sake of making profits, consumers will not only refuse to buy their products and services, but, also, corporations will lose their reputation and market share. For this reason, in an address titled as "Working together to write a new chapter in China-Us relations", former Prime Minister of China, Wen Jiabao (2008) pointed out: "An entrepreneur should flow the blood of morality. He should combine the visible enterprise technologies, product management and related concepts of morality and responsibility together, both of which can constitute the economy and corporate DNA."

We should relate the proliferation of CSR to Repeated Games, which will give us a new way to understand CSR. The proliferation of CSR is dependent on Repeated Games. According to modern economics, the market subject has already been transferred from "rational economic man" of traditional economics to "game player." As a result, the driving forces of interests of market players, their mutual relationships, and the balance of their interests become the core issues of economics. Economists have already pointed out that market players will choose "strategy game" instead of an "opportunity game" in their participation in market activities. That is to say, in the pursuit of maximizing their interests in the market activities, the players should not only consider their own interests, but also consider the behaviors and reactions of other players. They will make a corresponding choice according to other players' behavior. The game can be divided into two parts: "repeated game" and "short-term game," which are based on the persistence and transience of trading activities.

Corporations with good performance of CSR can obtain trust from each other because of their good credit record of CSR performance in terms of Repeated Game behaviors; especially, the good credit record has a saving function, which will have a reputation effect and will reduce transaction costs and maximize or balance the interests of both sides. The good performance of CSR exemplifies the original meaning of economic behavior, which is making a self-interest profit and at same time be beneficial to all the mutual players. Although corporations without good performance of CSR can make profits occasionally in a short-term game, they have great difficulty winning a repeated game. The reason is that any stakeholders are not willing to deal with corporations that lack of CSR. Even corporations without good performance of CSR are unwilling to deal with corporations who cannot be law-abiding, honest, and trustworthy in their production and operation. Therefore, it will be very difficult for these kinds of corporations to survive in the long run in the market game. As Niu Gensheng, (2006) former chairman of Mengniu Group, pointed out, virtue is the best weapon to win hearts and minds. Good intelligence is enough for market players to win three to five years. But to win a lifetime, the market player must have the perfect virtue. There is a Chinese proverb, which is: a person with a good sense of responsibility can go further.

It has already been a consensus that corporations have some kind of inescapable CSR. However, it is still an important practical problem that how CSR can convert from altruistic aspirations into self-serving demands and consciousness. Generally speaking, the opportunity of this discussion is dependent on the active effect of CSR, which is corporations with good performance of CSR increase their reputation, establish a good corporate image, enhance their intangible assets, give priority access to the consumers' preferred choice, and attract high-quality staff and business partners. Therefore, Philip Kotler (2004) has pointed out that CSR should be organically integrated into business operations and strategy, by fulfilling our social responsibility, which can help corporations obtain the following: increased sales and market share, strengthened brand positioning, enhanced corporate image and clout, increased ability to attract, motivate, and retain employees, decreased operating costs, and increased appeal to investors and financial analysts. In other words, to meet the interests of other stakeholders will have a marginal effect. However, this does not automatically happen, and needs to rely on the promotion of social reward and a mechanism of punishment. Li Ruie (2005) insists that when we review the history of "longevity" of corporations, we must acknowledge that it has core competitiveness of enterprises and unique corporate culture, which are not easy to imitate; however, all these corporations have one salient feature, which is in the long run when capital accumulation reaches a certain level, rational capital owner will consider how to contribute to the community. They actually understand the mission of capital as a rational capital holder, which means they are trying to respond to the vitality of capital by poverty alleviation through education, and investments on public welfare projects.

In the context of contemporary society, the main problem is already not about admitting the identity of stakeholders for the reason that they already exist objectively, but is how to balance the interests of shareholders and those of stakeholders in the premise of respecting property rights. That is, whose interests have priority when there are sharp conflicts between the interests of shareholders and those of other stakeholders? It is argued that, in the long run, the interests of stakeholders have priority and in the short term, the interests of shareholders should be considered first.

These kinds of principled discussions don't make practical sense, and we must set specific scenarios in order to pursue the right target. From the point of view of corporations' strategy of making a profit, if corporations do harm to the legitimate interests of legal stakeholders for the sake of interests of shareholders, they will be punished by law and receive economic damage and image damage, and, in fact are like a dog in the manger. Contrary to these corporations without good performance of CSR, other corporations make profits for the sake of shareholders with observance of basic laws and without damaging other stakeholders' interests. We can call this kind of lawful behavior pursuing self-interests without harming others. The third kind of corporate behavior is called "beneficial to all," which means this kind of corporations can fulfill the moral duty to satisfy the interests of other stakeholders. As a result, in the long run, they also maximize the interests of their shareholders.

The "burden" opinion and the "proliferation" opinions of CSR are quite different. There are at least two reasons to explain their difference. First, they use different operating cycles. The former focuses on immediate gains and losses, and the latter looks to the future. Second, they have different understanding on the relationship between morality and profit. The burden opinion means that when the profit is definite, the performance of CSR will increase the costs of operation because it occupies the profit of corporations. Without related performance of CSR, corporations will obtain larger profit margins. The "proliferation" opinion means that the performance of CSR does not conflict with making a profit and opposes unfair profit. For those corporations who perform good practice of CSR, they need a fairer market mechanism so that corporations without good practice can be excluded from the market.

The above analysis shows that the relationship between morality and profit is a complicated subject. We cannot draw the conclusion that these two are conflicting with each other, nor are they one entity. Sometimes, the performance of CSR demands that corporations should sacrifice certain profits, while sometimes corporations can make handsome profits without any performance of CSR. As a result, it should be divided into different levels of discussion on the practice of CSR. In the ought level, morality and profit can constitute a logical unity, while in the factual level, there exists possible conflict between them. Once the market lacks of effective monitoring mechanism on making a profit, corporations may pursue interests in an immoral way. Therefore, the paradox between morality and profit happens in a factual level, which has close relationship with social institutional environment, media environment, and the values of business managers.

In short, the effective way to impel corporations to perform good CSR is to help them realize that there is intimate relationship between the practice of CSR and the survival and development of corporations. Furthermore, the practice of CSR can produce positive effects on the performance of corporations. Michael E. Porter and Mark R. Kramer (2006) point out: "To advance CSR, we must root it in a broad understanding of the interrelationship between a corporation and society while at the same time anchoring it in the strategies and activities of specific companies" They further argue for the opinion that corporations should achieve the "shared value" which means" choices must benefit both sides". Once corporate leaders strongly realize that it will be difficult for corporations to survive and develop if they neglect the performance of CSR, they will change their attitude towards CSR from negative to positive. Therefore, the widespread implementation of CSR needs good market environment where the performance of CSR can lead to good results for the production and operation of corporations. In this kind of market environment, the moot point is not whether corporations should responsibility and cannot escape it.

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Discussion Forum

Probing into the Position and Perspective of Business Ethics Research

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Is the study of ethics a scientific or a practical proposition? To determine whether a study can be classified in the areas of science, a simple test is that, if it dares to ask "what" and "why" questions. The task of ethics research is to explore the origin and law of human activity, behaviors, interaction and its positive and negative effects on their objective and subjective worlds through the objective phenomenon. The purpose of research on ethics is to identify the reasons for human thought and activity, facilitating human beings to be harmonious with the objective world and feel at ease with the subjective world in the present and future as a community. As Bertrand (1910) said, "the object of ethics, by its own account, is to discover true propositions about virtuous and vicious conduct, and that these are just as much a part of truth as true propositions about oxygen or the multiplication table" (p. 3). It is obvious that ethics is a legitimate human science, exploring truth systematically. Thus, the study of ethics is not something outside science and it is one among the sciences.

For a long time, the scholars have held three distinct misconceptions in ethics. The first positions ethics along some form of ultimate question in the philosophical tradition, fearing that research on ethics will turn to secularization. The second tends to nullify the fundamental mission of ethics by blending ethics with culture, while the former requires comprehensive exploration of right and wrong, or good and evil, from the perspective of humankind, thereby providing excuses for ethical relativism and extreme subjectivism. The third is short-sighted and even dangerous; it conceives of ethics merely as a set of codes for group behavior, and chooses to ignore its scientific inquiry. Even worse, such misconception in ethics more often helps to create the basis for conspirators with intrinsic political agenda in the form of dogmatism. As a humanistic science, ethics needs to answer three questions: "what it is, "what it should be" and "how it should be". These questions lead to the production of three distinct but interrelated systems: meta-ethics, normative ethics and applied ethics.

With commercial activities increasingly penetrating and even dominating every facet of human life, business decisions exert profound impact on human values. As a branch of applied ethics, business ethics rises in response to the renewed demand of reality, with a momentum of ascending development. According to the three systems as outlined here, business ethics aims at exploring the motive and consequence of policymakers' behaviors, constructing value criteria for the business world, evaluating, analyzing, and guiding specific business practices, in order to promote the prosperity of business and harmonious development of human society and natural environment.

Two big abuses in the study of traditional ethics weaken its application to business activities. One is the Exegetical Doctrine, where researchers are usually keen to refer to Greek philosophers, Confucius and Mencius. The phenomenon, which esteems the past over the present, is particularly acute in China. For example, Confucius, who lived at the end of the spring and autumn period, advocated the rule of the crumbling Western Zhou Dynasty. Mencius, who lived in the warring States period, frequently refers back to the rules in the Yao and Shun Period. Subsequent scholars, such as Dong Zhongshu and Zhu Xi, thought the doctrine of Confucius and Mencius to be divine and transformed the same rules into mystified and dogmatized rules. Another abuse is the lack of pertinence to the business world. The main reason for this is that those who identify themselves as scholars of ethics tend to have much disdain for the business environment, possibly because they often know very little about it. Scholars who perform well in the study of commercial value tend to be associated with economics. Indeed, ancient Greece, as well as ancient Rome, Egypt, India, China, and other ancient civilizations have accumulated an abundance of life philosophy and wisdom, but the foundation upon which the civilizations grew is city-state and farming culture. Thus, these ancient civilizations have always indulged in citizen politics, clan patriarchy and cardinal guides of monarchy, refusing to go beyond the limits of their respective focus and environment. Since the 20th century, new concepts, such as industrialization, informatization, and globalization, have sprung up. On one hand, companies gathered and allocated social resources as a legal person, to promote, to deepen and to spread the new civilization's achievements. On the other hand, they completely smashed the interpersonal structure of traditional citizens and agricultural society. Especially after the emergence of stock markets, driven by informatization and globalization, public and multinational companies started to control politics, the economy, culture, etc., at all levels in society.

As a result, new substantial concepts, such as the collective rationality, limited liability, agent, transaction costs, related-party transactions, professional ethics, competition law, the value chain, and the stakeholders created severe challenges to researchers. The challenge is unprecedented. We can act as archaeologists to excavate flashy and concise wisdom from ancient sages to interpret and criticize the current business world.

The reason is understandable: ethics research cannot be separated from an era in which it is embedded and relate the same within the current era in which it is interpreted. Furthermore, ethics research cannot avoid inspecting from the vantage point of the latter. Needless to say, research that purely relies on philosophy and logical inference is tantamount to the researcher's narcissism.

At a macro level, business ethics belongs to the category of economic ideology. From the vertical perspective, it is a historical research and from the lateral view, it is research, which implicates culture, systems, and development. So far, the subject cannot be separated from the realistic society, which is dominated by business. Taking China for instance, from as early as the 1930s, Zhao Lanping, an economic thinker, comprehensively denied economic concerns in ancient China: "compared to the economic science in western countries, the economic thoughts in ancient China are worthless" (Zhao 1993, preface). After more than 30 years, a Western scholar echoed the argument: "In the ancient culture of eastern countries, there is probably nothing which is comparable to the good start in the economic analysis conducted by the medieval Western Scholastics" (Taylor, 1956). For Eastern scholars with nationalistic fervor, it seemed to imply a kind of frustration. They are eager to explore treasures from the ancestors' think tank to highlight nationalist self-confidence, then to show off the so-called unique advantages. What is unknown to them is that the doctrine of Confucius and Mencius was a mere strategy of ruling the country and behavior of people during the transitional period, from a slave society to a feudal society, and had no relationship with the mainstream business community. Purely from the perspective of wisdom and culture, of course, that is an invaluable heritage. However, some scholars risk interpretation out of context in order to pick up some universal intellectual survivors from the ancient wisdom to enlighten modern people. It is wrong if ancient wisdom is presented as the guide for modern business ethics. Furthermore, it may become a joke in relevant fields upon textual criticism, just the same as "A Study of the Reforms of Confucius (Kongzi gaizhi kao)" written by Kang Youwei who deliberately misinterpreted Confucius in order to legitimize his propositions for reform in the late Qing Dynasty. It also reminds us that the tendency to conceal one's faults goes against the scientific spirit, and the scholars have to struggle against any kind of complex. That is because scientific research requires rationality and attitudes to be rational. Only researchers aiming to be impartial can extract theory from the complicated history and reality, which can stand up to the test of the objective world and history.

Since the fertile ground of developed market economies in European and North America nourishes the idea of business ethics, does this mean that we should completely accept ideas from Western ethics? No, and the reason is obvious: although the market economy in China is on the way to prosperity, the commercial ideology and the code of ethics and behavior still bear the imprint of the traditional political system, economic system, and cultural inheritance. The Chinese spirit cannot be completely overwritten in the process a marketization despite its closer interactions with the global economy. On the contrary, in many ways, the Chinese spiritual world will be further consolidated although it continues to be a mixture blessing with curse. Therefore, the daunting task in front of Chinese business moralists is to transverse national borders and critically identify those values that provide aspirations to contemporary practices while maintain their academic integrity.

All of this has provided a broad field for the ones who focus on exploring China's business ethics at home and abroad. But there is one crucial point in Western ethics we should learn with a humble heart: consistent rationalism. To dissolve this idea in the field of economy, we must become aware that competition consciousness and the spirit of contract have already become the basic ethical principles in global business life. By contrast, although Western structuralism (together with de-constructivism) and positivism have already laid the foundation of natural science, they also dilute their imagination in the realm of human relations and in the satisfaction of Eastern aesthetic feelings. Although Eastern and Western ethics do not have the same origin, there is no evidence that they cannot merge.

In the end, if Western rationalism and Eastern idealism can learn from each other and realize an organic integration, it may form a beautiful whole of ethics. Although the reactionary voice is stirring with the propulsion of the two engines, informatization and globalization, we approach this whole with a firm attitude. After all, the moral intuition of merchants cannot be trusted, and it cannot constitute the sources of ethical knowledge. Therefore, scholars in this field ought to seize this historic opportunity and make contributions to accelerate the combination between Eastern and Western ethics.

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BOOK REVIEW

New Business Ethics

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Business ethics refers to the code of conduct and guidelines of handling business relationships among businessmen, and it be can regarded as a code of conduct and guidelines which all parties in business activities must comply with; on one hand, it refers to the attitudes which the businessmen hold towards all trade relations and, on the other hand, it also stresses how to carry out moral self-discipline in trade relations among businessmen.

This *New Business Ethics* book covers the domains of enterprise, business, ethics, etc., and describes the essential business ethics for enterprises in modern market from the perspectives of philosophy. The author gives cogent arguments for every section through his own relevant cases. I would like to discuss these sections that impressed me most in this review.

The book is highly representative and persuasive that the author describes the spirit of business ethics in Harvard's words. The phrase "The fair and equal business ethics spirit" stated by Harvard when he came out from Trinity University to create the famous Harvard University, has become a strong mental strength for Harvard students for hundreds of years. Fair competition, equality, and mutual benefit are regarded as the principles for market economy, but there is a lack of these principles now-a-days partly because enterprises are eager to grab any chance to access the market, and to get profits regardless of the fact that they might be violating those principles in doing so.

The author uses Confucian thoughts to summarize the central idea of Confucian business ethics -- "getting righteous profits, advocating frugality, being rich but courteous and average wealth." The product of Confucian business ethics and business practices is Confucian merchants. And the Confucian merchants hold these values as guidelines in commercial activities which also constitute the main content of the spirit of Confucian merchants.

If we dutifully do business in accordance with the unyielding spirit, then, benefits will be included. The biggest benefit is that we live in a buoyant mood and have a clear conscience, which has nothing to do with money. Wealth is neither something you can acquire undoubtedly nor possess perpetually. Therefore, we need not deliberately advocate the pursuit of benefit but should be promoted to do what we must do and what we can do at this moment. The idea is one of valuing thrift and temperance: On material consumption, Confucius put forward this requirement to both the rulers and the ruled--- do not to be arrogant and extravagant; never indulge in a life of pleasure and comfort.

The behavioral manner of being rich but courteous is important. Confucius spoke highly of manners, and in his opinion, only the rich with manners is eligible to consider his wealth to be justified." Wealth and rank are what every man desires, but if they can only be retained to the detriment of the way he professes, he must relinquish them. The Way is the connotation of manners, and only the wealth acquired with the Way is justified and should be respected; therefore, the rich people can be thought as mannered. On the basis of this idea, the spirit of being positive and hard-wording when one is poor and being helpful and charitable when one is rich has formed, and has a profound influence in the formation of business ethics in later generations.

Philosophy of “average wealth” in wealth distribution: Here involves the legitimacy of allocation, only the social wealth to be distributed evenly can maintain the social stable. However, “average” in Confucius thoughts means to be in accordance with manners. What calls for special attention is that the distribution is average in each class, rather than in the whole society. The thought of “Not to worry about poverty, but rather about the uneven distribution of wealth” is then deduced as the overall average wealth distribution in the whole society, and the moral requirement---able to gather, able to give away---in business ethics formed as a result.

The importance of personnel is self-evident for both the society and enterprise, and it had already turned into an important resource. Personnel are the essence of an enterprise, as they determine the enterprise’s success and failure. As long as the initiative and potential have been motivated, it will create more values and immeasurable effects. People's potential is unlimited and just needs for us to develop it. If a man is eager to do something, anything will be possible. We must insist on personnel a concept that "as long as one is willing to learn and try, he or she can become a talent”; insist on the education concept that "both morality and ability are essential"; insist on the selection concept that "morality goes first, then to be trustworthy, reliable and capable"; insist on employment concept that “whoever is capable is to be promoted”; insist on activities that "creating a learning organization, being knowledgeable employees."

Human nature contains two great forces under capitalism---one is self-interest and the other is caring for others. Capitalism has utilized the power of self-interest, and continued to be beneficial, but only served those who have the ability to pay. Those who have no money to pay for the service can only rely on government aid and philanthropy. The effectiveness of self-interest goes, without doubt, that most people are in this way to seek welfare, to seek their own interests; and some others, when at a certain stage of development, satisfy themselves through helping the ones in the negative position in order to achieve their own sense of accomplishment. The purpose of capitalism is the same whatever method they employ--- with direct profits from others or with indirect satisfaction and achievement in relevant areas.

Corporate culture coexists with its development. Corporate reputation is the ability that is formed when a corporate receives high social recognition and trust, and that can obtain great support and social status in the social network so as to obtain necessary resources and opportunities or resist a variety of uncertainty in the future. Corporate soft power runs through three aspects: the soft power of source, including the values, code of conduct, management science; the soft power of process, including organization mode, innovation, corporate culture and brand strategy; and the soft power of terminal, including social credibility degrees, corporate internal and external environmental harmony index. At the same time, enterprises should improve their core competitive power. The reputation for enterprise is as important as it is for humans and everyone. Every business is alive with dignity. In order to maintain their dignity, one may choose death before disgrace, and then it is obvious how important the reputation is for an enterprise. That is the appearance of an enterprise, and has certain relationships with an enterprise's goodwill, credits, and trademarks. The enterprise should comply with the business ethics to establish corporate reputation: integration is the eternal law of business, and the golden rule of a Century's Standing Enterprise. If your product or service can or cannot meet the customers' needs, to be honest, is the key to obtaining customer loyalty. Corporate ethics, corporate reputation, and corporate image in the era of information economy (also called the eyeball economy) are of great significance.

Enterprises should actively initiate and undertake social responsibility, and be grateful. The original resource advantages of an enterprise come from the total scale and advantages of all organizations in the state. Therefore, the role which enterprises played can be matched by no other organization in the process of building a harmonious society. There is nothing different between business ethics and corporate social responsibility, and when an enterprise has developed to a certain degree, contribution to society is quite essential. It is the obligations and responsibilities that should be taken up by the enterprise and the contributions must be sincere.

The importance of brand; it would take a long way to create an independent brand, and by creating in a way of comprehensive innovation in all processes. Any world-famous brand is the result of long-time accumulation and innovation, and the result of comprehensive innovation in all processes, including concept, technology, market, and management innovation. Only by seizing the opportunity, turning pressure into motive force, and insisting on innovation persistently can the enterprise establish world famous brand. Without innovation of ideas, other innovation is impossible. The breakthrough of core technology is the important symbol for global competition and brand competitiveness.

Enterprises can't blindly pursue money, or else what they do cannot be regarded as business but as a speculation. The real business is not as easy as we think, and it is not just a tool and means of making money. A potential enterprise is the one that is equipped with a whole set of hardware and software; is the one that sets up long-term goals in case of getting astray, then turning into failure in the end. The ultimate goal of an enterprise would be the maximization of happiness for the whole society rather than the maximization of fortune for an enterprise. Producing wealth by enterprises is just one of the factors that can bring happiness. Whether people are happy or not depends largely on some non-economic factors that are irrelevant to absolute wealth.

The spirit of the entrepreneur is of full importance to an enterprise, because it shows direction and provides motivation for it. As the entrepreneur is the commander of an enterprise, anything wrong in his/ her thoughts will get the whole company into trouble. What's more, the leadership charisma of an enterprise really matters, such as the strong will, the firm's faith and the broad mindedness, which is quite essential, and, especially, a sense of responsibility is needed when the company is in trouble. The leader must be big-hearted, for the personalities and principles varying in the staff. Person-job fit is one of the challenges to the leaders. Only when people are employed in suitable positions and inspired to achieve their potential can the enterprise develop at the same time. Morality precedes business. The style of leadership determines the style of the team, since birds of the same feather tend to flock together and the excellent always get together to achieve the common goals.

Contributing Authors

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Global Ethics News and Events

Global Ethics Forum 2014

The Global Ethics Forum Conference on 3-5 January 2014 at the Indian Institute of Management in Bangalore, India, brought together more than 150 participants and 50 speakers from all continents and called for more ‘Equality in an Unequal World'. It focused on the challenge of inequality against the background of global economic, financial, environmental, political and leadership crises.

“We live in a world of contradictions, especially so in India where we have 1 million engineers but 16 million kids who are not in school; 70 per cent of our healthcare facilities are in cities while 70 per cent of our population lives in villages and small towns. Hence inequality as a theme of the conference is very relevant. We should look at combining profits and principles to create progress,” said Mr. Shibulal, CEO and Co- Founder of Infosys and Co-Chair of the Global Ethics Forum in his opening remarks on Friday 3 January.

Ms. Kumud Srinivasan, President of Intel India, underlined the need for cooperation of the private, public and NGO sectors in addressing inequalities. In her presentation entitled 'Doing the Right Thing Right', Ms. Srinivasan explained why 'the rising tide (of growth) is not lifting all boats'.

"At best, inequality is demotivating; at worst it is dangerously destabilizing. We need to focus on inclusive growth by leveling the playing field. We can achieve this with technology in the hands of all, good governance for sustainability, innovation and social entrepreneurship for prosperity, and public private partnerships," she observed.

The Global Ethics Forum 2014 built on the success of the first (2009), second (2011) and third (2012) Global Ethics Forums and on the 2013 GEF Public Forum and Expert Meeting. The 2014 Conference also made pioneering steps beyond the established GEF conference model by introducing a number of distinct new features:

- It was the first GEF conference that took place outside of Geneva;
- The plenary sessions were webcasted live on Friday 3 January and on Saturday 4 January from the Indian Institute of Management (IIM), Bangalore, India to the whole world;
- For the first time it used the social media as part of the GEF process - the GEF 2014 social media campaign mobilized the Globethics.net and GEF constituencies globally to give their input to the GEF 2014 call for nominations ‘My Choice for Equality';
- It was the first GEF conference focused on a specific theme – inequality and equality, as a part of the on-going debate on the role of values, ethics and CSR in the transition to a more sustainable planet, society and economy.

Conference participants looked for the contribution to equality in concrete sectors such as gender equality, the sharing economy as new economic models, fair trade relations of BRICS countries especially with Africa, more transparency in religious organizations, equal access to natural resources, new ways of holistic business education, spirituality for sustainability, innovation ethics, ethical principles, the role of small and medium enterprises and of social media. Special attention was given to fair trade relations between China, India and Africa, with the presence of a Chinese delegation of entrepreneurs, academics and public officials in Bangalore. The GEF 2014 Conference Report will be available on the GEF web page by the end of April 2014 at the latest. Photos and selected video material from the Conference will be put up at the beginning of February on the GEF 2014 conference web pages.

The first GEF social media campaign received numerous testimonials from all over the world, describing the heroic efforts of ordinary individuals who have taken extraordinary actions against inequality. The GEF 2014 Conference gave recognition to each of the nominees by posting their photos and stories on the GEF 2014 Wall of Equality and a number of nominees were invited in person to share their experiences with participants at the GEF Conference in Bangalore.

Conference participants also discussed the Globethics.net draft Declaration on Principles of Equality and Inequality for a Sustainable Economy. The draft declaration presented at the GEF 2014 conference will be posted on the GEF website in mid- February 2014. During a three month long public consultation period, the Globethics.net will collect comments and input on the Declaration with the aim to finalize the Declaration for submission to the United Nations and other institutions in the autumn of 2014.

We would like to thank the sponsors of the GEF 2014 Conference; Infosys, Intel and the Fourth Wave Foundation for their invaluable support and contributions to the success of GEF 2014. We are thankful to our co-organizers, the Centre for Corporate Governance and Citizenship and IIMB and the Center for International Business Ethics (CIBE) in China for their commitment and efforts. Special thanks go to the GEF international Co-chairs: Mr. S.D. Shibulal, CEO and Co-Founder, Infosys, India; Prof. Judge Mervyn King, Chairman of the International Integrated Reporting Committee (IIRC); and Mr. Walter Fust, Swiss Ambassador and President of Globethics.net. Finally I would like to extend also my personal special thanks to the IIMB and CIBE teams, and especially to Manasa Britto, Lucy Howe Lopez and to other colleagues at Globethics.net who worked hard and non-stop during the holidays on preparations for the GEF 2014.

Teodorina Lessidrenska, Programme Executive Business Ethics
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Eco-Forum Global

The Eco-Forum Global Annual Conference Guiyang 2014 will be organized from July 10-12, 2014 in Guiyang, the capital city of Guizhou Province, China. As the co-organizer, Center for International Business Ethics conducts one of the sub forums, value-based green business, on the evening of July 11, 2014.

Founded in 2009, Eco-Forum Global (EFG) is an independent and international platform dedicated to promoting sustainable development and eco-civilization. The Forum is strongly supported by the international organizations such as UNESCO, UNDP and UNEP. It has attracted leaders from governments (former British Prime Minister Tony Blair and former German Chancellor Gerhard Schröder etc.), business (CEOs of MNCs and major Chinese corporations), academia (Presidents of Yale University and Peking University etc.), media, and NGOs both at home and abroad.

Organized around the main theme "Joining Hands, Leveraging Reforms to Bring Forth a New Era of Eco-Civilization" the Annual Conference 2014 is supported by five major themes: 1) Leverage reforms to grasp the strategic opportunities brought by green transformation of traditional industries and emergence of new industries; 2) Foster human-based green urbanization; 3) Re-safeguard ecological security through technological innovations; 4) Build pro eco-civilization value system and boost sustainable consumption based on dialogues among civilizations; 5) Cooperate to bridge post-2015 global governance frameworks for sustainable development.

The Fifth Collegiate Social Responsibility Summer Camp

To enhance university students' understanding of social responsibility and social practicability, facilitate the multilateral dialogue and communication among student unions, and thank the partner universities for their active promotion on programs related on collegiate social responsibility, as initiator of series activities on collegiate social responsibility, Center for International Business Ethics (CIBE) will co-organize the fifth Collegiate Social Responsibility Summer Camp between July 27th and August 8th, 2014, with partners like Syntao, China Foundation for Development of Financial Education, and so on.

The fifth Summer Camp will focus on the Action Learning Project of Green Entrepreneurship. Under the guidance of mentors, the campers will learn the whole process of entrepreneurship with action-driven methods - from the proposal planning to production management, from marketing to risk control. CIBE will emphasis on integrating the social responsibility appeals and positive values into the camp and a competitive selection mechanism will be introduced to the campers at the same time. The camp aims at improving the college students' teamwork ability, entrepreneurship and leadership competence, and it will provide a platform for exchange and achievements sharing as well.

The curriculum is mainly composed of three parts - relevant theory learning about green entrepreneurship, entrepreneurship experiences sharing and the eye-opening field trips. The Participating institutions will cover well-known multinational companies, state-owned enterprises, private enterprises, the media and foreign agencies in China, etc.

Partner Organizations:

Founded in 1986, the Caux Round Table advocates comprehensive global ethical principles for businesses, governments, non-profits and those who own wealth. CRT management approaches bring ethics and social responsibility into focus as praxis and not just moral theory.

China Credit Research Center，Peking University（CCRC）

The China Credit Research Center was founded in October 2002 to assess public policy towards credit markets in China and provide independent support for policymakers in the development of a China's credit system.

Globethics.net is a global network of persons and institutions interested in various fields of applied ethics. It offers access to a large number of resources on ethics, especially through its leading global digital ethics library. In addition, it facilitates collaborative web-based research, conferences, online publishing and active sharing of information. Globethics.net aims especially at increasing access to ethics perspectives from Africa, Latin America and Asia. It strengthens global common values and respect of ethical contextual diversity.

The W. Paul Stillman School of Business at Seton Hall University provides professional education geared toward the complex, practical needs of business leaders. The mission of the School is to enrich the life of each student through a nationally recognized educational experience that is inspired by innovative teaching, supported by applied research, and guided by a values-centric curriculum. The Stillman School collaborates with the Center for International Business Ethics to produce JIBE, together forming JIBE's joint editorial board, and awards scholarship to the winners of the annual CSR Essay Competition hosted by the Center for International Business Ethics.

For more information on any of these or other CIBE projects and affiliations, CIBE partners, and related sponsors, please visit us at www.cibe.org.cn