

Master thesis

Ethical Employment in Developing Countries

By

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The master thesis is carried out as a part of the education at the University of Agder and is therefore approved as such. However, this does not imply that the University answers for the methods that are used or the conclusions that are drawn.

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Summary

The topic of this paper is ethical employment in developing countries, and how multinational companies should conduct business in less developed countries.

First three theories within ethics will be covered; utilitarianism, justice and human rights. Those are used to judge whether a case is unethical or not. Thereafter are the employees rights covered, and two international conventions that protects these rights are described; the International Labour Organizations and the UN Global Compact. The first is based on the country's participation, while the latter demands the individual company to sign up. The next part in the theory chapter is code of ethics; how they should be written and implemented. Two examples of companies are given; in order to show how a code of ethics can be written and applied. The theory is wrapped up by showing the differences between developed and developing countries, with focus on cultural differences.

As methodology; case studies have been chosen. Four cases are studied to show different unethical situation within employment in developing countries:

- The dark secret of chocolate; which describes the extent of child labour at cocoa plantations in the Ivory Coast, and the chocolate producer: Kraft Foods handling of this.
- Gap's labour problem in Saipan, and the abuse of immigrant workers.
- Hydro Agri Trinidad, and their absent safety measures, which resulted in fatalities.
- Rimi Baltic who avoided paying a living wage, and were uncooperative in the unionization process.

All the cases were unethical to a certain extent, violated the human rights and abused the employees in several ways. The international conventions were not followed, and all the companies broke their own codes of ethics. However, the quality of the codes varied, as well as the actions of the companies. Responsibility was not admitted by all, and therefore justice is not seen for all employees. Nevertheless the major part of the companies tried to solve the problems; however a solution was not always easy to discover, or implement because of inadequate institutions. Conduction business on an international arena is challenging, and doing it ethically is not always possible. The company's intensions and transparency against social responsibility is of importance.

1.1 Table of content

1.1	TABLE OF CONTENT	III
1.2	LIST OF TABLES	VI
1.3	LIST OF FIGURES	VI
2	INTRODUCTION	1
2.1	PROBLEM DEFINITION	2
3	LITERATURE REVIEW.....	3
3.1	ETHICS.....	3
3.1.1	<i>Utilitarianism</i>	3
3.1.2	<i>Justice</i>	6
3.1.2.1	Distributive Justice	7
3.1.2.2	Retributive Justice	8
3.1.2.3	Compensatory Justice	8
3.1.3	<i>Human Rights</i>	9
3.1.3.1	Civil and political rights.....	10
3.1.3.2	Minority & group rights.....	10
3.1.3.3	Environmental rights.....	10
3.1.3.4	Social rights.....	10
3.2	EMPLOYMENT RIGHTS AND DUTIES	13
3.2.1	<i>A fair wage</i>	14
3.2.2	<i>Health and safety</i>	14
3.2.3	<i>The International Labour Organization</i>	15
3.2.4	<i>The UN Global Compact convention</i>	18
3.3	ETHICAL CODE.....	20
3.3.1	<i>How to write a code of ethics</i>	20
3.3.2	<i>Applying the ethical code</i>	21
3.3.3	<i>Ethically successful multinational enterprises</i>	22
3.3.3.1	The Body Shop.....	22
3.3.3.1.1	<i>Human Rights principles</i>	23
3.3.3.1.2	<i>Community Trade Principles</i>	24
3.3.3.1.3	<i>Ethical Trading Initiative base code</i>	24
3.3.3.2	Dole Food Company Inc. (Dole).....	25
3.3.3.2.1	<i>Code of Conduct</i>	26
3.4	DISTINCTIONS OF A DEVELOPING COUNTRY	28
3.4.1	<i>Values</i>	28
3.4.2	<i>Culture</i>	28
3.4.3	<i>Values across borders</i>	29
4	METHOD AND RESEARCH	32
4.1	CASE ANALYSIS	32

4.2	RESEARCH QUESTIONS	33
5	EMPIRICAL RESEARCH	34
5.1	THE DARK SIDE OF CHOCOLATE	34
5.1.1	Case review	34
5.1.2	According to utilitarian ethics; how will the action be judged?	36
5.1.3	How is the justice distributed, are the justice of the employee violated?	38
5.1.4	If the justice is violated, did the employee receive compensation, and is the wrong-doer punished according to retributive justice?	39
5.1.5	Are any of the human rights of the employee violated, if so which one?	40
5.1.6	Does the Ivory Coast have a history of violating these human rights?	41
5.1.7	Does the Ivory Coast have jurisdiction regarding these issues?	41
5.1.8	Was the ILO conventions followed, and has the Ivory Coast ratified these?	42
5.1.9	Does the case conflict with the UN Global Compact?	42
5.1.10	Did Kraft Foods have an ethical code?	42
5.1.11	If yes, was the code violated?	43
5.1.12	Was the ethical code set up in accordance with the guidelines?	43
5.1.13	Which actions have been taken by Kraft Foods to correct the allegedly unethical action?	44
5.1.14	Which actions could have been taken by Kraft Foods and the other stakeholders?	45
5.1.15	Can the cultural difference between the countries be an explanatory factor? ...	47
5.2	GAP'S LABOUR PROBLEMS	48
5.2.1	Case review	48
5.2.2	According to utilitarian ethics; how will the action be judged?	49
5.2.3	How is the justice distributed, are the justice of the employee violated?	51
5.2.4	If the justice is violated, did the employee receive compensation, and is the wrong-doer punished according to retributive justice?	51
5.2.5	Are any of the human rights of the employee violated, if so which one?	52
5.2.6	Does CNMI have a history of violating these human rights?	52
5.2.7	Does the U.S. have jurisdiction regarding the issue?	52
5.2.8	Was the ILO conventions followed, and does the U.S. agree to these conventions?	53
5.2.9	Does the case conflict with the UN Global Compact?	53
5.2.10	Does Gap Inc, have an ethical code?	53
5.2.11	If yes, was the code violated?	54
5.2.12	Was the ethical code set up in accordance with the guidelines?	55
5.2.13	Which actions have been taken by Gap to correct the allegedly unethical action?	55
5.2.14	Which actions could have been taken by Gap and the other stakeholders?	56
5.2.15	Can the cultural difference be an explanatory factor?	57
5.3	HYDRO AGRI TRINIDAD - AN UNSAFE WORKING SITE	58
5.3.1	Case review	58

5.3.2	<i>How will the case be judged according to utilitarian ethics?</i>	60
5.3.3	<i>How is the justice distributed, are the justice of the employee violated?</i>	61
5.3.4	<i>If the justice is violated, did the employee receive compensation, and is the wrong-doer punished according to retributive justice?</i>	62
5.3.5	<i>Are the human rights violated, if so which one?</i>	62
5.3.6	<i>Has Trinidad a history of violating this human right?</i>	63
5.3.7	<i>Has Trinidad jurisdiction regarding the issue?</i>	63
5.3.8	<i>Was the ILO conventions followed, and has Trinidad ratified these?</i>	64
5.3.9	<i>Does the case conflict with the UN Global Compact?</i>	64
5.3.10	<i>Does HAT have an ethical code?</i>	64
5.3.11	<i>If yes, was the code violated?</i>	65
5.3.12	<i>Was the ethical code set up in accordance with the guidelines?</i>	65
5.3.13	<i>Which actions have been taken by HAT to correct the allegedly unethical action?</i>	66
5.3.14	<i>Which actions could have been taken by HAT and the other stakeholders?</i>	67
5.3.15	<i>Can the cultural difference be an explanatory factor?</i>	68
5.4	RIMI IN LITHUANIA; A LIVING WAGE?	69
5.4.1	<i>Case review</i>	69
5.4.2	<i>According to utilitarian ethics; how will the action be judged?</i>	70
5.4.3	<i>How is the justice distributed, are the justice of the employee violated?</i>	71
5.4.4	<i>If the justice is violated, did the employee receive compensation, and is the wrong-doer punished according to retributive justice?</i>	72
5.4.5	<i>Are any of the human rights of the employee violated, if so which one?</i>	73
5.4.6	<i>Does Lithuania have a history of violating these human rights?</i>	74
5.4.7	<i>Has Lithuania jurisdiction regarding the issue?</i>	75
5.4.8	<i>Was the ILO conventions followed, and has Lithuania ratified these?</i>	75
5.4.9	<i>Does the case conflict with the UN Global Compact?</i>	76
5.4.10	<i>Does Rimi have an ethical code?</i>	76
5.4.11	<i>If yes, was the code violated?</i>	77
5.4.12	<i>Was the ethical code set up in accordance with the guidelines?</i>	77
5.4.13	<i>Which actions have been taken by Rimi to correct the allegedly unethical action?</i>	77
5.4.14	<i>Which actions could have been taken by Rimi Baltic and the other stakeholders?</i>	78
5.4.15	<i>Can the cultural difference be an explanatory factor?</i>	79
5.5	CASE COMPARISON	80
5.5.1	<i>Case summary</i>	80
5.5.2	<i>Case comparison</i>	81
6	CONCLUSION	86
7	SOURCES	87

1.2 List of tables

TABLE 2-1: HOW TO JUDGE ACCORDING TO UTILITARIANISM	6
TABLE 4-1: UTILITARIAN JUDGEMENT OF THE DARK SECRET OF CHOCOLATE.	38
TABLE 4-2: UTILITARIAN JUDGEMENT OF GAP'S LABOUR PROBLEMS.	50
TABLE 4-3: UTILITARIAN JUDGEMENT OF HAT- AN UNSAFE WORKING SITE.	61
TABLE 4-4: RIMI IN LITHUANIA; A LIVING WAGE?	71
TABLE 4-5: CASE SUMMARIES	80

1.3 List of figures

FIGURE 2-1.1: LEVELS OF "MENTAL PROGRAMMING"	29
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2 Introduction

Conducting business ethically is a challenge for most firms. Globalization and development have opened up the world and created more interaction between developed and developing countries. Multinational companies have started to take advantage of the lower costs in developing countries and established subsidiaries or outsourced the production. The lower costs entail lower wages for the workers, and usually poorer working conditions (Egels-Zandén & Hyllman, 2007). There is an economical divide between developed and developing countries which implies different standards and practises (Donaldson, 1996). Competing on an international arena with subsidiaries, suppliers and customers spread all over the world within different cultures, and with different perspectives of what is ethical does not make this easier. When there are few shared attitudes, familiar laws or judicial procedures to define what is correct, there exist no certainties in business. Practices used in the home country have a chance of failing when exercised in a country with a different standard of right and wrong (Donaldson, 1996). As Michael Walzer once expressed; “*there is no Esperanto of global ethics*” (Donaldson, 1996). However there are some universal rights, such as the human rights, but they too are sometimes violated.

How should a multinational company handle ethical differences when it comes to employment in developing countries? What are the responsibilities of the parent company towards the host country when it comes to the workers’ rights? Should they have one global code of ethics, that gives guidelines for the whole company, or should it be adjusted according to the cultures? Are there global agreements that set standards for how the company should act? The conflicting standards are difficult to grasp for stakeholders in the parent country. Individuals have a tendency of judging its own practices as superior. Adjusting to local standards in the subsidiary’s country can lead to negative media attention in the home country; which is where the customers are. It is not only the subsidiaries that the company is held responsible for, but also their choice of suppliers. Since the suppliers are far away can the monitoring be difficult. How does the company react to ethical dilemmas?

This thesis will look at dilemmas covered in the media, in the developed world, and analyse the cases from the employee’s point of view. Ethical employment practices in

developing countries need more discussion. It is time for the developing countries to be taken into account; the decision for what to do in their country, should be based on what provides them with the highest utility. Not according to the consciousness of the consumer in the home country.

2.1 Problem definition

In order to see the ethics around employment from the employee's point of view is the problem definition formulated as:

How can ethical employment be achieved in developing countries?

What is considered unethical in the developed part of the world might not be unethical in developing countries. How do multinational enterprises approach the dilemma of unethical business conduction? And how do they act when unethical actions are detected?

3 Literature review

The theory part will start by covering ethics and ethical thinking. According to Donaldson (1996) are there three principles that shall guide a company into ethical behaviour. Those are:

- Respect for core human values, which will be covered in 3.1.
- Respect for local traditions, which will be covered in chapter 3.4.
- The principle that the context matters when deciding what is right and wrong, which to a large extent will be shown in the chapter of case analysis; 5.

In addition, employment standards will be covered, including the employer's obligations towards the employees, and the establishment and use of an ethical code. Thereafter, two international conventions will be explained, and two successful multinational enterprises within ethics. The last part of this chapter will cover developing countries, and what makes them different from developed ones.

3.1 Ethics

Business ethics is a specialised study of moral right and wrong, that concentrates on moral standards as they apply to business institutions, organizations, and behaviour (Velasquez, 2006, p12). The theories of ethics come from philosophical theories and have to be studied in order to be applied (Fisher and Lovell, 2009). Although the conclusion of what is ethical varies across the world, the theories are universally accepted. There are several theories concerning ethics, and what is ethically correct. Here the focus will be on three theories; the utilitarian perspective, which focuses on the consequences of an action. It gives a perspective of what benefits the society, and is the theory that takes all parties into account in an objective way. The second theory will be justice, and how the benefits and burdens are distributed between the individuals in the society. Last but not least human rights, with emphasize on social rights are explored (Velasquez, 2006).

3.1.1 Utilitarianism

Utilitarian ethics is based on the consequences of an action; the action itself is not of importance. If the consequences bring more good than pain, the action is just. The utilitarian theory, as known today, was established by John Stuart Mill in the nineteenth

century (Jimenez, 2008), but it built on the work of Bentham who explained it as following:

“Nature has placed mankind under the governance of two sovereign masters, pain and pleasure. It is for them alone to point out what we ought to do, as well as to determine what we shall do. On the one hand the standard of right and wrong, on the other the chain of causes and effects, are fastened to their throne. They govern us in all we do, in all we say, in all we think: every effort we can make to throw off our subjection, will serve but to demonstrate and confirm it” (Bentham, 1996[1780], p11).

In order to measure the pleasure and pain, Bentham established the following features that should be considered and measured when quantifying happiness (Fisher and Lovell, 2009):

- Intensity
- Duration
- Certainty – the probability that happiness or pain will occur.
- Extent – the number of people affected
- Closeness – pleasure or pain now or postponed in time.
- Richness – will the act lead to further pleasure?
- Purity – is the pleasure unalloyed or is it mixed with pain?

Utilitarianism assumes that both quantity and quality of happiness can be weighted, and therefore compared. In contrast to Bentham, Mill emphasized the quality of the happiness, and not simply the amount of it. As he put it himself: *“Better Socrates dissatisfied than a pig satisfied”* (Wilson, 2009), meaning that sometimes being dissatisfied can give you a higher pleasure and quality of life, compared to not being yourself at a higher level (Wilson, 2009). Utilitarianism seeks the greatest total happiness for the whole sentient creation (Fisher and Lovell, 2009). For this to happen, every individual must have the society in mind when taking decisions; which doubtfully does happen. Long-term consequences are difficult to take into account for the individual. And although everybody tries to seek their best, it will not always be possible to estimate all the consequences. Mill could not find a solution to these problems. He failed to take into consideration our predetermined values; although we are all individuals with own opinions and self-interest, we interact with others. This

leads to that when we make a decision; we automatically take into consideration the people we care for. Our choice is often what is in the best interest for the majority of our group. Assumably, the individual's utility maximization leads to the best utility for the group or society (Wilson, 2009).

Utilitarianism is a good tool when it comes to deciding within business ethics, because it provides a foundation that helps to formulate and test policies within a company. This is of use when it comes to stating what ethical employment is. Further; utilitarianism resolves the problem of self-interest in an objective way (Jimenez, 2008), which allows for the correct ethical decision to be found without interference from the analyzer. When judging according to utilitarianism, all stakeholders' opinions and how they will be affected by the action will be taken into account, and not just the company's interests. The four main groups that usually are affected by an enterprise's ethical decision are: owners, employees, customers and the society (Hollingsworth & Hall, 1991).

A problem with utilitarian ethics is how to value the consequences of an action, such as the value of a human life. Usually a cost-benefit analysis is conducted in order to weight the benefits against the negative impact of the action. It could also be a difficulty to forecast the consequences of an action, and especially the impact of them. Complications can arise when measuring the happiness and pain, or when the consequences are so numerous that the calculations get too complex. Despite these problems, utilitarian ethics is a widely used and accepted tool when deciding on an ethical dilemma (Fisher and Lovell, 2009).

When judging ethically from a utilitarian point of view, one should start by identifying the people or groups that will be involved and affected by the action. The second step is to estimate how large part of the groups will be affected; does it involve a whole organization, or just one department? Thereafter the probability of the parties being affected must be considered (Fisher and Lovell, 2009). Is it certain that the department will be shut down and the employees therefore losing their jobs? Or is it just one of the alternatives that might happen? It could also be helpful to take into consideration the points Bentham made about quantifying happiness; given above. Subsequently, the measure of pain or pleasure; or utility as it is often referred to have to be determined.

This can be a difficult step in some cases, because it involves deciding consequences from another person's point of view, which can be difficult to do objectively (Jimenez, 2008). The comparison of the different consequences can be a challenge, therefore using a relative scale, for instance between minus ten and plus ten can provide a clearer perspective. The last step is to multiply the utility by the impact of the group, and balance the impact of pleasure against the impact of the pain and get the net utility of the consequences (Fisher and Lovell, 2009).

Who is affected	Percentage of the group	Utility (positive or negative on a scale (-10, 10))	Percentage * Utility
Group 1	85 %	-2	- 1.7
Group 2	15 %	8	+ 1.2
Group 3	55 %	-5	- 2.75
Net Utility			- 3.25

Table 3-1: How to judge according to utilitarianism

The net utility is negative in table 3-1; implying that the action gives the society a negative impact and is therefore unethical from the utilitarian point of view.

Two problems with utilitarianism, and its assumptions are that it solely relies on the accurate measurement of the costs and benefits. This measurement is especially difficult in cases related to social benefits and costs, which to a large extent is covered by employment. The second problem is that the rights and needs of minority groups might be ignored, because the aggregate costs and benefits is what decides whether an action is ethical or not according to utilitarianism (Banai & Sama, 2000).

3.1.2 Justice

Human beings are born equal, and therefore every individual should have an equal part of what the world has to offer. However; this is seldom the reality. Justice is the tool that seeks to smooth out the inequalities in the society (Velasquez, 2006). In business it is often related to disputes between employees' rights and employers' responsibilities. Justice is often considered as more important for the society than utilitarian considerations. If an action is unjust it is usually condemned, although it might give a higher utility compared to other options. This is because justice is generally more accepted universally than utilitarian thinking; the fact that all individuals are equal is a

fundamental value. Nevertheless within several cultures are discrimination accepted, especially are women unequally treated. The moral right of the individual is normally not overridden by standards of justice since just standards partly build on our moral rights (Velasquez, 2006). There are three main areas concerning justice; distributive, retributive and compensatory, which all will be presented below.

3.1.2.1 Distributive Justice

This part, as the name indicates, is about the fair distribution of the benefits and burdens within the society (Banai & Sama, 2000). There are several branches within distributive justice with different definitions. Strict egalitarianism for instance says that each individual should have the exact same amount of material goods and services. A problem is the measurement of the benefits, in a similar way to the measurement within utilitarianism. Another branch; desert-based principles takes the individual's contribution into account; and distribute thereafter. As long as the individual sees that their effort pays off through a larger reward, this will yield a higher productivity in the society and lead to a greater over-all level (Lamont et.al, 2008).

For a long time was the distribution between individuals seen as fixed by higher powers. However after the realisation of that the government could have an effect on the distribution; justice became a topic among people. Today, the government affects the distribution through laws and tax-rules; therefore countries with different laws also have different distribution (Lamont et.al, 2008). A major part of the issues are regarding the benefits; such as jobs, income and medical care. But there are also disputes concerning substandard housing, unpleasant or risky work and drudgery. If it would have been enough benefits to please everyone, distributive justice would not be an issue. Yet the obvious ability to inspect others life; seeing differences in housing, clothing and other material benefits nourishes feelings like envy and jealousy. It makes individuals aware of and able to compare quality of life. Considering other life's superior makes one feel unfavourable and wrongly treated. The fundamental rule of distributive justice is that equals should be treated equally and unequal unequally (Velasquez, 2006).

A dilemma within distributive justice is international justice and whether developed countries have a responsibility towards developing countries. Originally distributive

justice only took into account what was within each border, however the globalization of the world have lead to questions about this. There is an inequality in the world that can be said to be in violation with distributive justice. This it is due to several reasons such as climatically differences, natural resource allocation, and how the countries are governed. The French philosopher Jean-Jacques Rousseau put it this way “*Beware of listening to this charlatan. You are lost if you forget that the fruits of the earth belongs to all and that the earth belongs to no one!*” (Rousseau, 1994[1755], p54). All people on the earth should get their share of the benefits, because the world does not actually belong to anyone. Most developed countries try to help developing countries through humanitarian aid, but if the governance is not democratic or the institutions inadequate; the help might not reach where it is needed. The area of international justice is not clear, and whether the inequalities in the world can be seen as injustices are debated, nonetheless, there are inequalities in the world that need more attention (Blake, 2008).

3.1.2.2 Retributive Justice

Retributive justice is about the imposition of punishment and penalties to those that have treated others unjust. It is a reaction from the society that those doing mischief shall be punished for it, in order for justice to be seen (Darley & Pittman, 2003). A person shall only be blamed if s/he can be held morally responsible (Velasquez, 2006). If the neighbour crashes into your car, it must be considered whether he did it on purpose? Could he avoided it by being more careful, or was the situation out of his control (Darley & Pittman, 2003)? The rules of thumb to be held morally responsible are that the individual must have caused, or failed to prevent the injury, it must have been done knowingly, and s/he did so freely. It is important to have strong evidence that the individual actually have done something wrong before blaming and punishing. In serious matters this is where the court of law comes into the picture in order to decide the question of guilt. The consequences of the wrong-doing should be considered in order to punish consistently. If several people cause injustice, then they should all be penalized equally, and it should not cause more harm to them than what the victim received in the first place, unless the punishment is set to deter others from doing the same (Velasquez, 2006).

3.1.2.3 Compensatory Justice

This category regards how to compensate those that have experienced injustice, to restore them to the state they wore at before the incidence occurred. Usually it is the

wrong-doer that compensates, as seen under retributive justice (Velasquez, 2006). For instance if the neighbour crashes into your car; he either compensate you by using an insurance that he have already paid a premium for, or by fixing your car (Darley & Pittman, 2003). Sometimes it is difficult to measure the consequences of injustice, and therefore complicated to decide a penalty. Some losses are even impossible to make up for, such as damage to reputation or loss of life. The rules of thumb whether the injurer is to be held morally responsible are the same as under retributive justice. As far as it is possible, should the individual or group experiencing injustice be compensated to the same level as they would have been if the wrongdoing had not occurred (Velasquez, 2006). There are of course several actions that are difficult to compensate in monetary terms. For instance the loss of a job; it leads to a monetary loss of income, additionally psychological damages can harm the employee. Another example can be exposure to toxics, which lead to injury. The consequences can be complicated and difficult to estimate, however usually an amount will be decided based on similar cases, and the extent of the damage.

3.1.3 Human Rights

Rights are an individual's entitlement to something. Rights are divided into legal rights, and moral rights. Legal rights are limited by jurisdiction, while moral rights are based on moral norms and not limited by jurisdiction, such as human rights (Velasquez, 2006). Even though human rights are considered to be moral rights, they are in several countries also protected by law. Human rights are political norms dealing mainly with how people should be treated by their governments and institutions. Human rights are the minimal standard; they seek to avoid terrible actions and consequences rather than achieving the best. They are the lower limit of how human beings should be protected and treated, and not the ideal states. This leaves several matters within law and policy open to the democratic state to decide, which again allow for cultural and institutional variation (Nickel, 2009).

The United Nations made human rights universal and thereby applicable to all human beings on the planet. The development of human rights is an on-going process, and several new legislations have been added in recent times, and debates about them are continuously going. The Universal Declaration Human Rights covers four main areas (Nickel 2009); the main focus here will be on the social rights;

3.1.3.1 Civil and political rights

These are the general ideas of human rights. They cover areas such as freedom of thought and expression, the right to form and join political parties, and the right to freedom of movement (Nickel 2009).

3.1.3.2 Minority & group rights

These rights emphasize that all individuals have the same rights; despite of gender, religion or minority ethnic group they belong to. Everyone have the same right to be protected against violence and abuse, and that special protection should be given in order to not exterminate the minorities (Nickel 2009).

3.1.3.3 Environmental rights

Includes the right to a healthy and safe environment, but it can also be seen as the rights of the animals and nature in itself. Nonetheless, the focus here is on the rights of the humans. These rights impose responsibility on governments and international organizations to regulate, in order to ensure environmental safety for the humans (Nickel 2009).

3.1.3.4 Social rights

These rights are the most important rights when it comes to employment. They include equality and non-discrimination, access to employment opportunities, fair pay and equal pay for equal job. Employees should have safe and healthy working conditions, the right to form trade unions and bargain collectively. Everyone has a right to leisure and rest, reasonable limitation of working hours and paid holidays, social security and an adequate standard of living, in addition to basic health care. Education is also an important part of the social rights; it should be free of charge and compulsory at an elementary level. In addition further education should be made generally available (The Universal Declaration of Human Rights, 2009). Education is one of the best ways to develop an economy, and it is therefore especially important for developing countries to educate its children in order to improve the living standards. Social rights are defined as positive rights, which connotes that they necessitate active intervention from the state. The state is responsible for providing the social rights. This makes a problem for several developing countries which are unable to provide the rights that its inhabitants are entitled to; this dilemma is discussed further below. In order to support and enforce the implementation of the human rights, there are several transnational regulations regarding employment and social standards, such as the International Labour

Organization, clauses in trade agreements and codes of conduct within a company (Faist, 2009).

It is disputed whether social rights should be a part of the human rights, or just goals of an ideal state. The arguments for why they should be goals are; they are not true fundamental interests, they put a large burden on the government and tax payers, in addition to not being feasible in less developed countries (Nickel, 2009). The other party claims they are human rights because rights, such as an adequate standard of living and the right to free public education require governmental work in order to solve well-known and serious problems such as hunger and unawareness. These are essential needs for individuals to live, function, and flourish, which all are human rights (Kannan & Pillai, 2007). Without sufficient access to these goods, interests in life, health, and liberty are endangered and serious illness and death are probable.

A different way to show the importance of social rights as a part of human rights is to illustrate their importance to the complete implementation of civil and political rights. If a state succeeds in eliminating hunger and manages to have education to everyone, this promotes the inhabitants abilities to know, use and enjoy their liberties (Nickel, 2009). To educate the people, learn them their rights; what they can achieve, and how they can use, and defend them is important for a democratic state to function optimally. The claim that social rights are a burden to the tax payers is disputed: the government has chosen to put this cost on the inhabitants. If all the tax payers contribute after capability, the result is that all inhabitants receive a minimum social security; which creates a greater equality. Social rights have existed much longer than taxes, the burden or cost of social rights has rather been moved from the local society to the government and tax-payers. This is seen in less developed countries with lower social well-fare, here the local community, families or friends take care of the sick and disabled, by contributing a little each instead of having a governmental organized well-fare. The decision is not whether to implement social rights; because they are already there, but whether the responsibility should be on a governmental system, or left to the local community.

The last objection to social rights being human rights is the reality that many developing countries do not have the possibility to protect their inhabitants. Developing countries lack the means to provide necessary health care, free public education or other minimum guarantees of subsistence (Kannan & Pillai, 2007). Therefore it could be an

advantage to consider the demanding social rights as goals, in order for the country to have something to work towards, instead of constant failure by breaking the human rights. Goals are more flexible than rights which give more space for movement for struggling countries. The goals can also be formulated in a demanding way, which will make it sound more like rights, in order to enforce the strengths of them (Nickel, 2009). Despite of these arguments, social rights are considered rights for all human beings, and not goals (Kannan & Pillai, 2007). This is also shown in that organizations increasingly use the human rights as a basis for their employment standards; nevertheless these are not legally binding, and therefore easier to violate (Faist, 2009). If a country support and respect the human rights, it is also responsible for encouraging others to implement, and respect them. An additional solution as a way to implement social rights in developing countries is to focus on ability enhancement, instead of burden reduction. This can be done through increased aid to boost the resources available, provide education to officials, or offer assistance in technical matters regarding the implementation of rights and work against corruption (Nickel, 2009).

3.2 Employment rights and duties

Egels-Zandén and Hyllman (2007) have defined that the right of a worker can be fulfilled by reaching workplace democracy. According to them are there six components in this (Egels-Zandén and Hyllman, 2007):

- Shared Sovereignty; the employee's right to be a part of the decision-making.
- Participation; to be able to represent oneself; both individually and collectively through an organised interest group.
- Access to information and education; be able to gain knowledge of the corporation, and learn new skills in order to apply the information.
- Guaranteed individual rights; as defined by the Universal Declaration of Human Rights.
- Minimum standards; in order to guarantee economic and social security, and protection from arbitrary use of authority.
- Right to "fair share of value"; the employee shall have the right to claim a part of the value they create, comparable to what the owner does.

This section explores the employees' rights, and conventions by non-governmental organizations; defining the workers' rights. Global agreements and codes of conduct, the latter will be explored in the next chapter, seek to enhance a wider responsibility of the multinational company regarding workers' rights. According to Egels-Zandén and Hyllman (2007); global agreements seem to support the workers' rights better than codes of conduct, because they cover the first five points of reaching workplace democracy. However there are only a handful of companies that have adopted the global agreements. For example, in 2006 there were only 2800 participating companies in the UN Global Compact out of approximately 60.000 existing transnational enterprises, nevertheless this was a rapid increase from 717 in 2003 (Faist, 2009). This paper focuses on two global conventions, those rights defined by the International Labour organization and The UN Global Compact. An employee shall receive compensation as an exchange for the services they provide to the company. This compensation should be freely and knowingly agreed to by the employee. This compensation consist of two factors; fairness of wage and working conditions (Velasquez, 2006).

3.2.1 A fair wage

There are two conflicting parties in the determination of a fair wage; the employer wants to keep the costs down, whereas the employees need a sufficient amount of money to provide a decent living standard for themselves and their family. In developed nations there are social welfare systems that provide benefits for the individual, rules regarding minimum wage, and what social benefits the company must provide. In developing countries these systems are insufficient, there is a lack of information about wages being paid, and there are few regulations. Therefore multinational companies must use their own determination when setting the wage in a developing country, and the following issues should be considered (Velasquez, 2006):

- The wage in the industry, and the area.
- The company's resources, a fair amount of the profit should go to the employees' compensation.
- The impact of the job on the employee, such as risk exposure.
- The laws regarding minimum wage, if they exist. They should be respected even though other does not.
- The wage should be seen in relation to others in the company, employees doing more or less the same job should receive the same salary.
- The existence of wage negotiations and their fairness.
- The local cost of living, the wage should be sufficient to cover the basic needs of a family of four, but it should also be taken into account if it is usual that one or two in the household works.

3.2.2 Health and safety

There are many risks that employees are exposed to during their working hours, such as diseases due to exposure to chemicals. Often are the consequences of the exposure not discovered until several years later, and it could therefore be difficult for an employer to protect its employees. But an employer should be obligated to study the damaging effects of materials used, and try to eliminate the risks. If the risks cannot be abolished, the employees should be made aware of the dangers, and compensated through a higher salary that reflects the risk-exposure. The employer should in addition provide insurance for the employee against unknown hazards in the future. The employer is morally

responsible for damages against the employee if s/he could and should have improved the conditions, knew about them not being sufficient, and was not prevented from making the conditions better for the employees (Velasquez, 2006).

3.2.3 The International Labour Organization

In 1919, the International Labour Organization (ILO) was established by the signatory nations to the Treaty of Versailles. The reason was the recognition of the deprived conditions within labour; injustice, hardship and privation to a large number of people. This led to an unrest, so enormous that the peace and harmony of the world was at stake. To tackle these problems a system of international labour standards, international conventions and recommendations was written down by representatives of governments, employers and workers from all over the world. ILO saw that the global economy, which at that time had only started to evolve, needed clear rules in order to ensure sustainable economic progress, to prevent larger social gaps, and to create greater equality (The International Labour Organization).

An international legal framework on social standards such as labour standards ensures a wider equality in the global economy. It provides governments and employers a mean to steer clear of the temptation of imposing subordinate labour standards, in the belief that this could be a comparative advantage in international trade. Such actions do not benefit anyone in the long run. Instead it could lead to larger difficulties; such as more employees not earning a living wage, higher turn-over of workers, and worst of all prevent developing countries from developing a more stable employment situation, and hence a securer economy. Lacking working standards could again make it more difficult for a country to trade with others, which makes both trading parties worse off. Since international labour standards are the minimum standards adopted by governments and the social partners, it will benefit everyone to have them all over the world. There will always be someone not complying with the standards, someone that sees a chance to earn a quick profit, someone that does not care about the long-term effects or the social consequences, someone not thinking ethically. Although the international labour standards can be perceived as an unnecessary cost, and an interference with the free market, several studies have shown that they lead to improvements in productivity and economic performance, so it is not a sole burden for the employer (The International

Labour Organization). Increased wages and reduced working hours usually leads to more satisfied and faithful workers, who are willing to give more.

Implementing safety standards can reduce costly accidents and health-care fees.

Allowing collective bargaining through trade unions can front better labour - management consultation and cooperation, thereby avoiding costly labour conflicts and enhance social stability (The International Labour Organization).

It is proven that having international labour standards that includes; social protection, freedom of association, occupational safety and health, vocational training, and other measures is an effective strategy in order to decrease poverty, and bringing workers into the formal economy. Additionally does international labour standards encourage establishment of institutions and mechanisms which enforces labour rights. The combination of defined rights and rules, and functioning legal institutions can lead to a formalization of the economy and build a climate of trust and order, which is crucial for economic growth and development (The International Labour Organization).

The Governing Body of ILO has identified four fundamental principles and rights at work (The International Labour Organization):

- Freedom of association, and the recognition of the right to collective bargaining. Both employer and employee shall have the right to join in groups to defend their rights, and achieve what is best for them. Coming together, and let both parties express their needs, lead to a compromise that usually gives the highest benefit for both parties in the long-run.
- Elimination of all forms of forced or compulsory labour. Forced or compulsory labour is recognised by the power and willingness to threaten employees with severe deprivations, such as holding back food, land or wages, using physical violence or sexual abuse, limit peoples' movements or even locking them up. A variation of forced labour is to bond the employee by debt. It is quite usual in developing countries, and the target is the utterly poorest people. The debt is taken on when there were no other solution, and it can take generations to pay it off. The labour service that is requested to pay off the debt is rarely defined, and is often manipulated so that is does not pay off the debt, but rather exploits the

whole family. Another version is labour trafficking including sexual trafficking, where a person provides transport to a better country with a promise of a decent job, but in return take the victims paper, and denies to give them back before the victim have paid of its debt. The problem is that without papers it is impossible to get a decent job, so the person is forced to work where their courier tells them to, often at a low salary, and under poor conditions.

- Effective abolition of child labour. This principle means to ensure that all children have the chance to develop physically and mentally to her or his full potential. It aims to prevent all work by children that sets their education and development at stake. Remark that this does not mean stopping all work done by children. International labour standards see the need for a distinction between what represents acceptable and unacceptable types of work for children at different ages and stages of development. The general minimum age is 15 years, and obligatory education should be provided until the minimum age. However in some developing countries where the educational system is not developed it is accepted to finish the education at age 14. Light work may be performed by children that are two years younger than the minimum age. Some work, such as pornography, hazardous jobs and military activities are however banned for all children under 18. In order to abolish child labour the most important factor is the provision of relevant and accessible basic education. It is a problem in several developing countries that the importance of education is not communicated to the population, and the education lacks quality in order to offer the children a better chance than working, and therefore does child labour still exist.
- Elimination of discrimination in respect of employment and occupation. It can happen to men and women on the basis of their sex, skin colour, religion, disabilities, or differing political opinions. No one should lose their opportunities in the labour market because of their differences, and equal pay should be provided for equal job (The International Labour Organization).

ILO's power of sanctioning is limited. Nonetheless; ILO's monitoring system is considered to be the relatively best in the world (Wisskirchen, 2005). All the participating agrees to that ILO can decide on any unspecified action in order to ensure

compliance with the conventions. ILO works close with the countries violating the conventions, however so far no dramatic action have been taken; ILO prefers peaceful negotiations (Wisskirchen, 2005)

3.2.4 The UN Global Compact convention

This convention has ten universally accepted principles for businesses that cover the following four areas:

- Human rights; the protection of internationally accepted human rights, and the responsibility to react if they are violated.
- Labour standards; the freedom of association, elimination of forced labour, preventing child labour, and no discrimination in employment.
- Environmental: having a protective approach to environmental challenges, promote environmental responsibility, and encourage the development of environmentally friendly technologies.
- Anti-corruption; Corruption of all forms should be worked against (The UN Global Compact).

The UN Global Compact is created to ensure that the globalization, through advances in markets, commerce, technology, and finance is done in a way that benefits societies and economies all over the world. 4700 organizations have aligned; representing 130 countries (The UN Global Compact, 2008). Two objectives are in focus for the UN Global Compact:

- The ten principles are to be made mainstream all over the world regarding its business activities.
- Supporting the broader UN goals, including the Millennium Development Goals.

The result is that the UN Global Compact is a public-private alliance that addresses the most pending issues regarding business and society. It seeks to unite the moral authority and convening power from UN with the private sector's solution-finding strengths, in addition to know-how from other stakeholders. The UN Global Compact is a one of its kind; it joins companies together with governments, civil society, the United Nations, labour and more. It is a resource for the private sector when it comes to dealing with

risks and opportunities within the environmental, social and governance area (The UN Global Compact, 2008).

3.3 Ethical code

As stated above; argues the study by Egels-Zandén and Hyllman (2007) that global conventions are more effective than codes of conduct. According to them do codes of conduct only secure two of the points in the workplace democracy; the guarantee of the individual's rights and the minimum standards (point 4 and 5). But as noted is there a lack of acceptance of global agreements, in addition are there several developing countries which forbid unionization. Codes of conduct can therefore be used as a mean to making the way for global conventions (Egels-Zandén & Hyllman, 2007). Code of ethics have become of increasing importance the last decades. Large scandals regarding financial ethics within the parent company, increases in the use of outsourcing, and establishment of subsidiaries in less developed nations, are some of the reasons for this. To develop a code that is effective can be a challenge. Therefore; this section starts by giving guidelines for how the code should be written, and then examples of two successful ethical companies will be given with abstracts of their code of ethics.

3.3.1 How to write a code of ethics

Developing a code of ethics is an attempt to develop the organizational behaviour in way that leads the employee to take ethical decisions. The ethical code is also made in order to please the external stakeholders and to show its commitment towards conducting business ethically. A code of ethics also sends a message about the organizations expectations, and it gives the employees guidelines when they are in doubt (Adams et.al, 2001).

There are several issues to consider when writing a code of ethics:

- Who are the recipients – most likely are the employees the main target of the code, they are the ones that shall comply with them, therefore is it important to write in a language that all the levels in the organization will understand (Brown). In several developing countries are illiteracy common, in those case must the mode be explained in other ways, which can be a challenge.
- If the code shall be valid across cultures must aspect from both the western and non-western culture and religion be respected (Donaldson, 1996).
- What are the objectives that the code seeks to accomplish (Ethics Resource Center) – try to put away the facts, and rather focus on the values, beliefs and

expectation that the code shall represent. The best code is the unique one that represents a specific organization and not a copy of a standardized one (Brown).

- Interact with all the levels in the organization while writing the code – this will give the employees a stronger attachment to the code, and therefore respect it more (Ethics Resource Center).
- Keep the code up-to-date regarding laws and regulations (Ethics Resource Center).
- Make it as uncomplicated as possible – have user-friendliness in mind; use simple words and short sentences that are easy to understand, and make sure that the sentence will be interpreted as intended. A code fails if it is not respected (Ethics Resource Center).
- Use examples – in order to clarify the code, especially if the code is complicated, the examples can both be of accepted and unwanted behaviour (Brown).
- Offer guidance and links to further information – the employees should have someone to contact when in doubt, or if they need additional information. This should be available internally and externally (Ethics Resource Center). The employee should also know who to contact if violations are discovered.

3.3.2 Applying the ethical code

Having a code of conduct is not enough. 90 % of all fortune 500 companies has that today, however for many it is just a paper on the wall (Donaldson, 1996). This implies that the code envisions a securing of the workers' rights, as defined by ILO, but there is little research in the field of implementation (Egels-Zandèn & Hyllman, 2007). The code must be implemented into the company culture, and followed as intended. As explained above, must the code be clear, especially regarding circumstances where the temptation of acting unethically is the strongest. Nonetheless it must also give room for individual judgement in cultural sensitive matters. If not, consequences as this might turn out: a manger of a large U.S. firm operating in China caught an employee stealing, and acted according to the company's guidelines; which was to turn the employee over to the local authorities. The result was execution of the employee (Donaldson 1996)!

3.3.3 Ethically successful multinational enterprises

Conducting business ethically is a challenge. Organizations deal with problems differently, and some choose to close their eyes and ignore them. A method to ease the dilemma for the employees and suppliers is to set up a code of conduct, as presented above, in order to give guidelines. Here, two organizations that strive against being ethical are chosen. The Body Shop because of its green image, and Dole Food Company, which has been on the ranking of the World's Most Ethical Companies both in 2007 and 2008. No business however is perfect. Every multinational company gets sued or experiences misconduct. The World's Most Ethical Companies are the enterprises that respond with actions, and not words through a PR campaign. Focus is on transparency and fixing the core problem, and not deceiving the consumer (EthiSphere, 2008).

3.3.3.1 The Body Shop

The focus of the global manufacturer and retailer The Body Shop International plc is on ethically produced beauty and cosmetics products. Since 1976 the company has grown tremendously, and has today 2,400 stores in 61 countries. They are famous for their campaigns against animal testing, and were the first international cosmetics brand to be recognized under the Humane Cosmetics Standard because of their policy of being against animal testing. In addition to this, they have four other core values in order to conduct business ethically. These are: Supporting Community Trade, Defend Human Rights, Activate Self-Esteem, and Protect Our Planet (The Body Shop).

Nevertheless, their strive to conduct business ethically has not always been successful. During the 1990's several articles evolved; revealing information that were not positive for the Body Shop's image as a green company. Several examples were provided to show that the Body Shop was hypocritical. In 1992 had one of the plants two major spills of shampoo and shower-gel. However little were done to avoid this. Their environmental concern was only on the paper, what came first was the manufacturing (Black, 1994). In addition to the leaks, there were discharges of pollutant into the local water system; this was also proved by environmental-agency records. Nevertheless the Body Shop management played down these and other problems (Entine, 2002). Another hypocrite is the charitable responsibility the Body Shop always have been promoting,

however during the 11 first years of business did the Body Shop not give one penny in charitable contributions. After this revelation in 1994, the Body Shop's contribution increased drastically (Entine, 2007). There is also sometimes a gap between the Body Shop's campaigns to promote human rights, and their actions. It has been revealed that the Body Shop has had contracts with suppliers in for instance China that does violate the Human Rights. The Body Shop's defense was that they believe it is better to have the supplier sign a code of conduct with labor standards instead of boycotting a whole country (Entine, 2002). Without a monitoring system is it difficult to reveal what is actually being done at the manufacturers'; not knowing is sometimes the easiest. No one is perfect; and as an international firm, conducting business worldwide with outsourcing, it is maybe impossible to not have any bad happenings in the past. The Body Shop has refocused its social commitment, as will be explained underneath, however there might be a gap between the desired and the desirable (Hofstede, 2001). So what the Body Shop communicates to the public is the desirable state, however this is not always proven by their actions, which shows their desired state.

3.3.3.1.1 Human Rights principles

They Body Shop has written down a Human Rights Principles which states that the business they conduct addresses human rights in the issue of operations, trading relationships, in addition to the communities and societies where business is done. They emphasizes that they respect local, cultural and political differences, as long as they are in consistence with the Universal Declaration of Human Rights. The Body Shop also commit themselves to share their best practice, and encourage other international companies to join in and develop collaborate solutions. As a mean to engage their stakeholders'; campaigns regarding human rights are carried out, usually showing the bad practices of other companies. Benchmarking of employee polices against other successfully ethical companies are used in order to ensure good working conditions. All business conducted under the trademark The Body Shop must comply with the International Human Rights standards regarding working conditions, security of employee and the right to privacy. Suppliers are approved and must prove that they comply with Body Shop's Ethical Trading Initiative Base Code. Other stakeholders are encouraged to promote human rights in business relevant activities, and the Body Shop consistently work in order to improve their standards and ensure continuous development. Successful examples of the Body Shops works with human rights are the

cooperation with UN regarding to create awareness around violence against children, and assisting to integrate basic labour standards. They have actively interacted with the plantations of palm oil, in order to ensure safe working conditions and equal opportunities for women at the plantations. Before entering in to new markets, the Body Shop always conducts a mapping of the human rights situation (The Body Shop, 2006).

3.3.3.1.2 Community Trade Principles

The Body Shop has been a pioneer regarding fair trade within the cosmetic branch. They emphasize that their demand for natural ingredients are fulfilled in a fair way that maximizes the sustainable benefits for the suppliers, as well as the customer. The Body Shop strives against the establishment of predictable long-term relationships, where there is a guarantee for a living wage for all the workers, including supplier's employees. They also offer to contribute if a supplier promotes an initiative regarding a sustainable development within its community. The Body Shop ensures their commitment through certifying that their demand is stable, and assesses all the suppliers' capacity to make sure that the suppliers are not left out. Additionally they help suppliers to establish trade elsewhere in order to not be too dependent on The Body Shop. They benchmark their Community Trade Principles against other international standards to make sure that they are among the best in the world. Information is also given to the consumers, to the raise the awareness and benefits regarding Community Trade, as well as engaging in larger fair trade communities as a mean to deal with familiar issues, and share best practice (The Body Shop, 2006).

3.3.3.1.3 Ethical Trading Initiative base code

As mentioned, all suppliers of The Body Shop are obligated to comply with an Ethical Trading Initiative Base Code. Its purpose is to ensure that all the suppliers trade ethically in the spirit of The Body Shop. It contains the following points:

- Employment is freely chosen; including no forced labour, no withholding of papers or deposits, and all employees shall be free to change employer, given a reasonable notice.
- Freedom of association and the right to collective bargaining are respected.
- Working conditions are safe and hygienic; risks shall be minimized and health and safety training shall be given. There should be provided clean toilet facilities and potable water.

- Child labour shall not be used; no recruitment of children, if children already are employed they shall have the opportunity to attend a quality education. Under the age of 18, shall no night shifts or hazardous work be allowed; in addition shall the ILO standards be followed at all times.
- Living wages are paid; as a minimum shall the highest of industry standards or national legal standards be paid, it is also required to meet the basic needs of the employee. All employees should be explained their working conditions with the pay, and for which period of time the pay reflects. There should be no deduction of wages due to disciplinary sanctions; all other deductions are only allowed if national law permits it.
- Working hours are not excessive; Employees shall not work more than 48 hour per week, and have at least one day off each seventh day. Overtime shall be voluntarily, maximum 12 hours per week, and compensated. Other rules can be decided by national law or industrial standards, but these are the minimum standards.
- No discrimination is practised; either in hiring, compensation, training, promotion, retirement or termination when it comes to differences in race, caste, national origin, religion, age, disability, union membership, sexual orientation, marital status, union membership or political orientation.
- Regular employment is provided; every measure should be taken in order to have employment relationships established through national law and practise. There should be no attempts to avoid complying with labour or social security law by using subcontractors, home-working arrangement or others.
- No harsh, or inhumane treatments are allowed; No threats or actual physical/sexual abuse. Harassment in all forms including verbal shall be abolished (The Body Shop).

3.3.3.2 Dole Food Company Inc. (Dole)

At Hawaii in 1851 the foundation of Dole (Dole Food Company) took place, and it has built its reputation with focus on “quality, quality and quality”. It started with pineapples. Today, Dole Food Company has a team of growers, packers, processors, shippers and employees all over the world that is committed to provide safe, high-quality fresh fruit, vegetables and food products, at the same time as they protect the

environment where the products are grown and developed. Dole emphasizes the importance of safety for their employees as well as their responsibility for the society and environment (Dole Food Company). Dole has taken several steps in order to help their employees, among them are the creation of a community for their plantation workers in Costa Rica; providing affordable housing with access to education, health-care, potable water, shopping opportunities and nursery for the working-mothers (Dole Food Company). But as mentioned before no one is perfect, Dole has also some sins in its history; such as exploiting workers in developing countries at the banana farms, because they are among the three large producers that together control the banana market (Shah, 2002). And maybe because of the criticism has Dole improved the labour and environmental agreement in Costa Rica, while emphasising their focus on transparency, social responsibility and open communication (EIEconomista, 2007).

3.3.3.2.1 Code of Conduct

Dole has a code of conduct that gives guidelines for employees, suppliers and consultants in how to behave ethically, and create the quality that Dole stands for. Dole is famous for conducting business with integrity, and in order to maintain this reputation they have established the following points:

- Maintaining a positive workplace; no discrimination on the basis of race, sex, colour, religion, ethnic/national origin, age, disability or any other factor prohibited by law. Harassment is not accepted, and hiring, promoting etc. shall be done according to relevant qualifications. Health and safety must be considered, and safety equipment made available when required. Employees play a critical role in assuring that these measures are reached, and must give notice if faults are discovered.
- Accuracy and integrity of books, records, and public disclosures; Dole's books, records and accounts shall mirror the true transactions.
- Confidential information; regarding all actions that happen in the Dole sphere that are disclosed from the general public. Employees are responsible for reporting violations if detected among their colleagues.
- Use of Dole assets; personal activities should be limited during work hours.
- Conflict of interest; transactions with other business entities involving Dole's interests must not be influenced by personal interests of the employee.
- Fraud; prohibited to all Dole employees.

- Gifts and entertainment; employees are not allowed to seek, accept, offer or give any payment, fees, loans, services or the like as a condition for doing business with Dole.
- Anti-Boycott; No engagement are to be made in activities that intend to boycott or restrict trade with a foreign country, as long as they are U.S. friendly.
- Environmental laws; laws and regulations shall be followed at all times, and steps shall be taken to promote health, safety, and the environment.
- Responsibilities under the code of conduct; Communication is important in order to comply with the code, who to contact if there are questions is mentioned. Dole has an integrity hotline; a phone number to call where information can be given, and kept confidential. In addition they have a reporting system on the internet. Disciplinary actions for violations are given, in order to prevent disobedience (Dole Food Company).

3.4 Distinctions of a developing country

What separates a developing country from a developed is the focus of this section. An international company which is represented in developing countries could run into two main types of conflicts; cultural traditions and relative development (Donaldson 1996). The cultural one is explained in detail underneath. A conflict of relative development can however be solved by asking a simple question; “*Would the practice be acceptable at home, if my country were in a similar stage of economic development?*” (Donaldson, 1996, p.58). In addition, one should consider if it is possible to conduct business in this country without this action, and whether it conflicts with the core human rights (Donaldson, 1996).

3.4.1 Values

Values define individuals. Parents raise their children, and thereby teach a set of values to provide the child with an instinct in deciding between right and wrong. On a daily basis values are taken for granted, the fact that stealing is wrong is unquestionable, and not something that must be considered according to our values. Values are usually shared by a group, and can be defined as core ideas about how people should live, and which ends they should seek (Fisher and Lovell, 2009). As individuals develop, the values do as well; they are affected by friends, teachers, work colleagues and other people that influence us. Our values bind us together into a community which gives us a feeling of belonging. This divide between communities according to different values is what creates cultures.

3.4.2 Culture

Culture can be defined as “*the collective programming of the mind that distinguishes the members of one group or category of people from another.*” (Hofstede, 2001, p. 9). As seen, values differ between communities. Values are one of the factors that defines our culture, although not the only factor; our practices, rituals, heroes and symbols are also there, and define the culture we are a part of, and are “mentally programmed” to belong to (Hofstede, 2001).

Culture exist at several different levels, there could be similarities in, for instance Southern- Europe that involves several countries, but they could still be defined as a Mediterranean culture. It can be a country’s culture, or the culture within a company;

however if nothing else is mentioned culture refers to a country (Bjerke, 1999). The individual's "mental programming" can be broken into three levels (Bjerke, 1999):

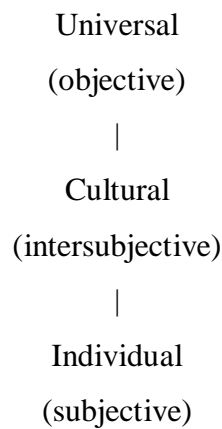


Figure 3-1.1: Levels of "Mental Programming" (Bjerke, 1999).

As the name of the first level; universal implies it is common for the whole universe and therefore applicable to nearly everyone. Within this level are features such as laughing, crying and expressing behaviour; features that most of us share, and does not distinct one from another. The individual level on the other hand is what makes us all unique. It is the level of our personality, and a part of it is inherited from our parents (Bjerke, 1999). It is at the cultural level, in the middle, that most of our mental programming is learnt. We interact with the members of the culture, learn from earlier generations, and shape new features that are shared within the community. However since the individuals within a culture have different knowledge, beliefs and assumptions there are usually what is called subcultures within a culture. These exist because of differences within social class, education, politics, religion, age and other differences in social identity (Bjerke, 1999). And because of this it is important to remember that when discussing culture, the features we recognize in a culture do not apply to every individual but the majority of them.

3.4.3 Values across borders

The individual's customs, values, beliefs, and attitudes are what influence an individual's ethical standard. This may or may not be consistent with the ethical standard of other individuals (Hollingsworth & Hall, 1991). The fact that we identify ourselves with communities according to our values is what creates different cultures,

and different perceptions of what is ethical according to our values. As shown in the study by Erdener (1996); the nationality have a significant effect when it comes to ethical reasoning. There were not enough common ground between the nationalities; Mexican, American, Chinese and Korean in order to share understanding of ethics based on moral, principles, equity or fairness or individual rights (Erdener, 1996). Operations in a foreign culture cannot happen unless the managers are aware of that culture's attitude towards business ethics, as explained by the example of the U.S. firm in China in how to apply the ethical code chapter. This does not mean that there are no universal values, there are, but there are also a lot of values that differ. Another type of values are transnational values, they are common for several cultures and countries (Fisher and Lovell, 2009). One example of this is the Universal Declaration of Human Rights published by the United Nations first time in 1948 as mentioned above. They are accepted by a major part of the countries in the world, but not by all, and violations happen, although a country has agreed to follow them. A reason for this is that even though the major part of the country agrees to the values that the Human Rights represents, some might be against them, or tries to take advantage of other people in order to fight their own case. Nevertheless countries and cultures will have differences between them because they emphasise different values; the Japanese for instance, stress the loyalty to the company. If you ask a Japanese what he is, he would say a Toyota-man. In contrast when an American is asked the answer would be engineer; his emphasis is on his right to equality and individuality (Donaldson 1996).

Larger companies have established ethical codes, as shown above, however this does not necessary mean that these standards are implemented. Hofstede (2001) points out the gap between espoused values and values in practise, as the difference between the desirable and the desired. Where the desirable is an ethical norm and the desired what is actually tried to be achieved. It might be a too large gap because there is resistance in for instance developing countries towards accepting the ethics of the western world. They desire to see their own culture and religious traditions reflected in their business ethics, and are therefore less willing to adapt a set of global business ethics which are made by westerners (Fisher and Lovell, 2009). Many companies solve this by using the maxim, "When in Rome, do as the Romans do". Adapting to the local ethics can be a solution for many, but when working in a global company this can be difficult because it might be against your own personal values or the values the company represents. It

might also conflict with the values of the customers, who then maybe will choose to not purchase products produced in a way they interpret as unethical.

4 Method and Research

4.1 Case analysis

In order to explore the topic further case studies will be used as research method. The strengths of doing the research by case study is that it allows an in-depth study conducted in the actual circumstances; there are no needs for unrealistic prerequisites (Green et al, 2006). Case studies is the most appropriate method in this thesis since it offers an explanatory focus by analysing cases that has actually happened from a new angle. The method of case study offers a flexibility that is able to increase the researchers understanding of the actual event, as well as the potential underlying causes for the event (Green et al, 2006).

There are thousands of cases that can be chosen regarding the issue of violation the employees rights. Four cases will be studied in order to strengthen the results from this research. The cases have been chosen in order to highlight different actions that have been covered in media, and regards different aspects of violations against working conditions in developing countries. The cases regard both the issue with subsidiaries and suppliers in several developing countries, and the companies in focus are placed in different countries to achieve diversity. In this way can the cases be representative for other cases as well. Each case is studied on its own, and not in order to understand other cases. However certain generalization can probably be drawn in the conclusion, but this is not the main goal of the case studies, which rather go in depth of each case through particularization (Stake, 1995).

A major part of a research is interpretation, and this is essential when it comes to qualitative research such as case studies. The interpretation done by the case researcher usually leads to some assertions, with a path that is not always apparent neither for the reader nor the researcher. Our assertions usually stem from a mix of personal experience, scholarship and statements of other researchers. While conducting a case study the researcher must be careful in order to not draw too many conclusions from a relatively small database; good case studies are reflective, patient and willing to see other views of the case (Stake, 1995).

The cases chosen are:

- The dark side of chocolate
- Gap's labour problems
- Hydro Agri (today Yara) and lacking safety standards at the production site in Trinidad.
- Rimi in Lithuania; a living wage?

4.2 Research questions

In order to be able to compare the analysis of the different cases will the following questions be discussed for each case:

1. According to utilitarian ethics; how will the action be judged?
2. How is the justice distributed, are the justice of the employee violated?
3. If the justice is violated, did the employee receive compensation, and is the wrong-doer punished according to retributive justice?
4. Are any of the human rights of the employee violated, if so which one?
5. Does the country where the case is placed have a history of violating this human right?
6. Has the country jurisdiction regarding the issue?
7. Was the ILO convention followed, and has the country ratified these principles?
8. Does the case conflict with the UN Global Compact?
9. Did the firm in the case have an ethical code?
10. If yes, was the code violated?
11. Was the ethical code set up in accordance with the guidelines?
12. Which actions have been taken by the firm to correct the allegedly unethical action?
13. Which actions could have been taken by the company in focus or the other stakeholders?
14. Can the cultural difference between the parent company's culture and the subsidiary's be an explanatory factor?

5 Empirical research

5.1 The dark side of chocolate

5.1.1 Case review

Several alarming reports were made in 2000 and 2001 revealing the situation at the cocoa farms in the Ivory Coast and Ghana, and some non-governmental organizations encouraged the consumers to stop eating chocolate as a means to solve the problem (Bartholdson & Valentin, 2006). This case focuses on the situation in the Ivory Coast and the use of child labour. Nevertheless the situation in other cocoa producing countries is just as bad, and several other violations of workers' rights occur. In the Ivory Coast child labour is the rule rather than the exception, several of them work under slavery-like conditions (Velasquez, 2006). The children use machetes like adults, and jeopardise their health by handling pesticides without any safety equipments (Bartholdson & Valentin, 2006). Because employment of children under 14 is illegal in the Ivory Coast there are few formal agreements, such as contracts, in order to protect the children's rights in disputes such as working hours, and payment. There is also a problem that what was promised as payment had often changed when the pay date came. Another difficulty, which regards all workers on the farm, is the custom of paying wages once a year in order to keep the workers; no matter what treatment they received. The main reason for the extensive use of child labour was that the price of cocoa declined drastically; enforcing the farmers to cut costs, and since cocoa is labour intensive in its production, using child labour is a simple way of cutting costs (Bartholdson & Valentin, 2006).

A report conducted by the UN organisation The International Institute of Tropical Agriculture (IITA) estimated that approximately 615,100 children under 18 years work at cocoa farms in the Ivory Coast, 140,800 of these are between six and nine years old. But only 12,000 of the 615,100 are paid wages, and of these are 5,120 full-time workers, and about 1,485 children were prohibited from leaving the farm (Wollamo, 2004). These facts show that the child labour in the Ivory Coast is not as bad as many would like to present it. Most of the children are not normal paid labour, but related to the manager of the farm in some way. And if we look back some years when

farming was larger in the western world, it was very common for the children to help out there as well. Most of the farms in the Ivory Coast are family run; there are about one million small farms, each producing about a tonne of cocoa, and only a few of the farms have a paid workforce (Bartholdson & Valentin, 2006).

Another problem is that the Ivory Coast is a country in conflict; there is an ethnic tension in the country, and the many immigrants from the neighbouring country Burkina Faso, who have worked on the cocoa farms for generations, were suddenly unwanted (Bartholdson & Valentin, 2006). Most of these people do not have legal immigrant papers, and this makes doing business even harder in a country with a high scale of corruption. The Ivory Coast has rank number 151 out of 180 at the Transparency International corruption perception from 2008, which implies a high level of corruption. Interviews done with some farmers' reveal that they cannot sell their cocoa directly to the larger firms but have to use middlemen, because they cannot afford the bribery costs they have to pay if they freight the cocoa themselves (Bartholdson & Valentin, 2006). Since the infrastructure and development of technology is very poor on the Ivory Coast, it is impossible for the farmers to know the market price for cocoa, and the middlemen can practically decide as low price as they want to, because the farmers have no other choice than to sell to them. Being an immigrant makes the case more difficult for the farmer, legal papers are seldom and the middlemen know to take advantage of this and push down the price of cocoa further.

The educational system has in many part of the country broken down, and only about 50 % of children between six and 18 attend school (Bartholdson & Valentin, 2006). The result of this is that the children do not have an option to working; therefore focusing on abandoning child labour might not be the best way of solving the problem. Children working at their family's farm are a necessary contribution to the farms economy in addition to being a part of the education and socialisation for the child (Bøås et al, 2004). There is also a long tradition for parents in the Ivory Coast to send their children away to work at relatives as a part of their upbringing and as an opportunity to create a better life. This too gives them the opportunity to develop and learn new practices as well as being able to send money home to the family (Bartholdson & Valentin, 2006). After the first media attention the chocolate manufacturers' agreed to cooperate and created a joint action plan; the Harkin-Engel protocol was established in 2001. The main

goals of this protocol were that a study of the child labour in the Ivory Coast should be conducted and a foundation working in the Ivory Coast should be formed in order to deal with the problem of child labour. Additionally was a labelling system to be established to trace the chocolate back to the farmer in order to guarantee it free of child labour. However problems with this last goal occurred, since there are numerous farms, many intermediaries and little control it is difficult to keep overview and control over the cocoas origin, and by 2009 a system is not up and running, although progress have been made (Valentin, 2009).

Chocolate producers, such as Kraft Foods work actively with its suppliers in order to eliminate child labour, but since they mostly buy processed cocoa from sub-suppliers in Europe they do not have any control over the cocoa producers. However they admit their responsibility together with the other chocolate producers and stakeholders to tackle the problems at the cocoa farms (Bartholdson & Valentin, 2006). The dilemma is how to do this. In spite of all good intentions, the work put down so far has not improved the situation in the Ivory Coast noticeably (Sandell & Bjurling, 2008). And perhaps are the solutions so far not the optimal in order to solve the problems in the Ivory Coast, or the other cocoa producing countries.

The main challenge in this case is what chocolate manufacturers (this case will focus on Kraft Foods) shall do in order for the Ivory Coast to develop, so that the farmers can earn a decent living on their cocoa crop without having to use child labour. Kraft Foods is American based, but is represented in 150 countries worldwide, and has 100,000 employees that strive against making food that the consumers can feel good about. It is the world second largest food company (Kraft Foods, 2009), and they own the Norwegian chocolate producer Freia (Kemp, 2009).

5.1.2 According to utilitarian ethics; how will the action be judged?

As mentioned in the theory chapter is it difficult to measure the utility because there are so many influencing factors. The numbers that appear later in this chapter are only an attempt to picture the situation based on the facts given in this case. However there can be other influencing factors that are not discovered, implying that the results of the following calculation are not facts only approximate illustrations.

Since the cocoa way from the farmer to the consumer consist of as many as seven intermediaries there are also many parties involved in this case. Nevertheless are not all of those intermediaries important in this case. The focus here are on the farm owners, the child labour at the cocoa farms, the families of the child workers, the government in the Ivory Coast, the intermediaries in the Ivory Coast including the agents and the cocoa processing companies which buy from the farmers, the chocolate manufacturers and to a certain extent are also the consumers of chocolate involved. The farm owners are involved in the way that they use child labour as a way to keep the costs down, either by employing children, or more usually use their own children or children of relatives. Since there are about one million farms in the Ivory Coast, and about 600.000 child workers, this leads to that on average does 60 % of the farms have a lower costs compared to the farms which does not use child labour. Several children in the Ivory Coast work, and nearly 200.000 of those work under hazardous conditions (Bartholdson & Valentin, 2006), nevertheless for many of these children are the alternative the street, or starvation, since their families are too poor to provide them food, and there are few educational opportunities. A study showed that two-third of the children in the rural areas, where most of the cocoa farms are, did not finish their compulsory education, and that one-third of the children did not attend school at all (Bartholdson & Valentin, 2006). Although working is the best option for these children at their current situation, they should be protected against risk at work and not being taken advantage of. They should also be offered the possibility to attend the compulsory education. All this information taken into account, an estimate would be that on average perhaps 70 % of the child workers experience a negative utility by working. Assumably 80 % of the children working contribute to their families, either by working at their own family's farm, or by sending money home.

The government has forbidden child labour; however the Ivory Coast is a country with a fairly high level of corruption, and several officers in the public sectors demands briberies as a payment for not enforcing the law, as a farmer expressed it: "in Ivory Coast the illegal is normal" (Parenti, 2008). When it comes to the intermediaries, they take advantage of the farmers, and press the price to the farmer down, although there is suppose to be a minimum price to the farmer, the farmer seldom knows this price. The fact that the farmer uses child labour does that he can accept a lower price than otherwise, a fact that several middlemen take advantage of. The chocolate

manufacturers gets cheaper cocoa products as long as they are grown by the help of children, and this presses down their costs. On the other side are they the ones facing the consumers, and have to deal with negative publicity, in a situation where their power is limited. The chocolate consumers, who principally live in the western world gets cheaper chocolate when the cocoa is produced with child labour, nevertheless for most westerners are the thought of children working and not being able to go to school or play and have fun appalling, and it is therefore negative for the consumers that the cocoa is produced by children.

Who was affected	Percentage of the group	Utility (positive or negative on a scale (-10, 10))	Percentage * Utility
The farm owners	60 %	+ 2	+ 1.2
The child workers	70 %	- 5	- 3.5
Families of child workers	80 %	+ 4	+ 3.2
The government	95 %	+1	+ 0.95
The intermediaries	90 %	+ 1	+ 0.9
The chocolate manufacturers	100 %	- 1.5	- 1.5
Chocolate consumers	50 %	- 1.0	-0.5
Net Utility			+ 0.75

Table 5-1: Utilitarian judgement of the dark secret of chocolate.

The calculation shows that the use of child labour in the cocoa production is not ethically wrong according to utilitarian ethics. This is because it yields a positive utility for the society.

5.1.3 How is the justice distributed, are the justice of the employee violated?

Several of the children working at the cocoa farms work under hazardous conditions which jeopardises their lives, and most of the children are not even aware of what risks they expose themselves to. This leaves more burdens on these children compared to others, in addition is it wrong for adults to leave so much responsibility, and expose the children to risks that they do not know about. There is of course a difference between the children, those that are a part of the family will assumingly be taken better care of and protected more than those that work there for a wage, and even worse off are those

that are threatened from leaving the farm. There is also a wrong distribution between contribution and compensation; many of these children work the whole day, and do the same job as the adults, however they receive a much lower salary; a child under 18 earn about SEK 700 per year, while an adult cocoa worker approximately earns SEK 1.350 (Bartholdson & Valentin, 2006). This is a large gap, and even though a child is less productive than an adult and therefore should receive less pay, is half the wage a too large difference. The children working at the cocoa farm are not being treated just. The dilemma of the distribution of benefits in the whole world comes into account here. The Ivory Coast is in bad shape. The country has experienced civil war and is still suffering under ethnic tensions. The cocoa is produced under what the western world would call terrible conditions, and the people producing it have to struggle to survive, while the consumers eating the processed chocolate get fat by eating it because they have a too good life. Nevertheless as discussed in the theory chapter are there several reasons for this askew distribution in the world. And several of them are just coincident, however the distribution of benefits and burdens are in this case very wrong for the children in the Ivory Coast.

5.1.4 If the justice is violated, did the employee receive compensation, and is the wrong-doer punished according to retributive justice?

The justices of the children workers are violated, however not only by the employer. As mentioned before are there so many intermediaries involved in the cocoa's way to the consumer. There are also other circumstances which affects the conditions at the farm; as the world price of cocoa and the fact that the Ivory Coast has an undeveloped infrastructure, something that middlemen take advantage of by paying the farmer a low price, and demand bribes. Since there are so many intermediaries it is complicated to place blame, because it is hard to decide what is cause and response, and therefore difficult to grasp the problem and solve it. It is of course the farmers which employ the children that do the actual harm against these children; however they are pushed by the middlemen which pay a too low price because of the lacking information, bureaucracy with bribes and the impossibility of the farmer to sell directly to the processing company to a higher price. Since there are so many responsible ones that do not take responsibility of these children, and the children have few options. Little have been done so far except from some certifications of some farms that do not employ children

(Bartholdson & Valentin, 2006). The justice of the children has been violated, but no punishment or compensation has been distributed.

5.1.5 Are any of the human rights of the employee violated, if so which one?

This case violates several of the human rights; here the most obvious ones will be discussed. 1,485 children are prevented from leaving the farm they work at; this implies that they are employed under slavery like conditions. This violates article 4 in the UN declaration of human rights which states that no one should be held in slavery. It also violates the freedom of movement in article 13. Article 23 regards the employment situation, the 1,485 children that are prevented from leaving do not have a free choice of employment, and it therefore violates this right. Additionally is the practice of paying wages once a year a violation; the employee is forced to stay if he wants any pay at all. The working conditions at the farms are neither ideal; there are no safety equipment, and the children are exposed to risk they do not know the consequences of. As mentioned in the last chapter, do the children earn around half the payment of an adult, which is discrimination of the children who does a similar job. Since child labour is against the law in the Ivory Coast are there few written agreements that regulates the working hours or payment. This puts the children in a weak position, and they have to obey to the farmer. This violates article 24 and the right to rest and leisure, limited working hours and paid holiday.

What many will consider as the worst violation is that so many of these children are prevented from getting an education, which is stated in article 26 (The Universal Declaration of Human Rights). This is a compound dilemma, since there are several factors that prevent the children from getting to school. The problems in the country have led to that several schools have been shut down; leading to that there is no educational offer to the children. The corruption in the country is also a contributing factor, because what is suppose to be free education is not free, and this prevent many poor parents from sending their children to school, in addition to the fact that when sending the child to school do the parents loose a worker and therefore income. Where education is given it is usually of poor quality, and there are little encouragement from officials and the government in order to send the children to school. A result is that the

parents do not see the benefit from education and especially since they only see a future for their children at the farms. This is a maleficent circle, which lead to that the Ivory Coast stays a developing country in poverty.

5.1.6 Does the Ivory Coast have a history of violating these human rights?

As discussed above is there a tradition for children working in the Ivory Coast. This is especially valid when it comes to family-run farms, where the goal is to make a living for the family, and therefore every possible help must be utilized - including the children. This is partly because of the poverty and unfortunate development in the country. However it is also due to long traditions. Sending the child away has been the way of surviving and a part of the up-bringing. The problem is that some children are taken advantage of when they work away from home. They are deprived of education which result in that they lose their opportunity to improve the situation; both for themselves and their families. The fact that child labour is illegal according to law makes them even worse off.

Therefore, yes, the Ivory Coast has a history of breaking these human rights. Nevertheless as discussed in the theory part about social rights can it be wrong to call these human rights, since so many developing countries, such as the Ivory Coast does not have the means to protect their inhabitants from violations of these human rights and provide them with what they are entitled to, such as free education.

5.1.7 Does the Ivory Coast have jurisdiction regarding these issues?

The Ivory Coast has a legislation forbidding children under the age of 14 to work, nevertheless is child labour common (Bartholdson & Valentin, 2006). As mentioned before, this legislation leaves the children working worse off, because of the lack of formal agreements. The children are often being exploited because they have few legally binding rights in an employment situation, and little power in order to decide their own future. The result is that the legislation that prohibits child labour is a disadvantage to the children working, because it deprives them of formal rights in a country where child labour is common. Nevertheless is the enforcement of the law not effective since child labour is common in the country which implies that the institutions are inadequate.

5.1.8 Was the ILO conventions followed, and has the Ivory Coast ratified these?

The ILO convention has several principles that are violated in this case. In the theory part are the four fundamental principles mentioned, and one of them is the elimination of all forms of forced labour. This is also shown through convention C29 and C105 which The Ivory Coast has ratified (ILOLEX, 2009). 1,485 of the children could not leave the farm; their employment is therefore defined as forced labour. Another of the fundamental principles is the abolition of child labour, and that general education should be provided for children below the minimum age which under some circumstances can be 14 years, as in the Ivory Coast. It also states that hazardous work should only be done by workers above 18 years of age. The Ivory Coast has ratified convention C 138 with the minimum age of 14 and C 182 which is the worst forms of child labour. So the Ivory Coast does agree to that children under the age of 14 years shall not work, and that they should be protected against hazardous work until the age of 18. However it is not implemented in the country, and therefore is the ILO convention violated.

5.1.9 Does the case conflict with the UN Global Compact?

This case conflicts with several of the principles of the UN Global Compact. As discussed above are several of the UN Human Rights violated, and the first principle in the Global Compact is the respect for these. Further are the labour standards; the abolishment of forced labour and prevention of child labour mentioned which are all not followed in this case. Although the UN Global Compact was not followed, neither Kraft Foods nor any of the larger cocoa processing companies have agreed to this (The UN Global Compact, 2009).

5.1.10 Did Kraft Foods have an ethical code?

Yes, Kraft Foods have an ethical code, which states their way of doing business. Their code of conduct has ten rules in order for employees to know how to act in consistency with Kraft Food's values, where trust is the stressed value. The ten rules are:

- Make food that is safe to eat
- Market responsibility

- Treat people fairly
- Respect the free market
- Compete fairly
- Respect the environment
- Deal honestly with the government
- Keep honest books and records
- Never trade on inside information
- Give Kraft Foods your complete business loyalty

For this case is it point three that is of most importance, since it in its explanation mentions that they will not use child labour, or purchase from suppliers that does (Kraft Foods, 2009).

5.1.11 If yes, was the code violated?

As seen here is child labour used extensively at the cocoa farms in the Ivory Coast, and it therefore conflicts with the code of conduct at Kraft Foods. The problem is that because of the many intermediaries is it very difficult to trace the cocoa back to the farm, and therefore nearly impossible to prove whether child labour has been used. Kraft Foods do not have a representation in the Ivory Coast, and do therefore not check the working conditions there since they buy from sub-suppliers in Europe. However, they are aware of the problem with child labour at the cocoa farms. But since it is difficult to trace the cocoa has no contracts with suppliers been terminated because of this violation (Bartholdson & Valentin, 2006).

5.1.12 Was the ethical code set up in accordance with the guidelines?

The ethical code at Kraft Foods is a well written one. It is written with the employee in mind, and therefore words such as our and we used to make each employee committed to Kraft Foods vision and values. Trust is one of the main values, both between employer and employee, and company and stakeholders. Being open and honest is important, and the code shows that it is written for Kraft Foods especially. The code is written in an understandable way. Each rule starts with a statement (those given above), then two examples are given; one of correct action and one of an unwanted one, and the

question “which would you rather hear”. This makes the employee think more through the dilemmas. Each rule is also explained extensively in order to make sure that the employees know what is expected of them. A free help-line is set up, and employees are encouraged to take contact with this or Kraft Foods lawyers if they have questions or discover violations. The code also explains that violations of the conduct will get consequences (Kraft Foods, 2009). But the cultural aspect is not given a thorough thought in the code, despite the fact that Kraft Foods is a multinational company, the code is written with the western world and culture in mind.

5.1.13 Which actions have been taken by Kraft Foods to correct the allegedly unethical action?

As written in the case summary did the chocolate manufactures in 2001 establish the Harkin-Engel protocol, but it has so far lead to little improvements. The extent of child labour in the Ivory Coast has been discovered, but no sustainable solution has been created. The certification system that should have been up and running in 2005 was postponed until 2008, and today, in 2009 is there still no system operating, and when it will or if is a very good question (Valin, 2009).

Kraft Foods has certified parts of its coffee purchases in accordance with the criteria of the Rainforest Alliance, and in 2005 they started to do the same with their cocoa purchases that stem from West-Africa. In 2008 did Kraft Foods buy 3,000 metric tons of cocoa that were certified, and was the first manufacturer in Europe to have a brand of hot chocolate that were Rainforest Alliance certified (Kraft Foods, 2009). The Rainforest Alliance cooperate with chocolate companies, cocoa farmers, public institutions and farmer associations in order to create sustainable cocoa farming practices on the long term in addition to creating decent working conditions and maintaining a healthy environment. A project is being conducted in the Ivory Coast. Its aim is to support the farmers, train them and guide them in order to be certified by the Rainforest Alliance. About 4000 farms are participating so far, however the goal is to increase this (Rainforest Alliance, 2009). Kraft Foods has as a long-term goal to create conditions for the farmers that make them able to not be dependent on cheap child labour. Kraft Foods does also participate and cooperate with several other organizations in order to solve the situation in the Ivory Coast (Bartholdson & Valentin, 2006).

5.1.14 *Which actions could have been taken by Kraft Foods and the other stakeholders?*

The situation in the Ivory Coast is complex, and how to solve the problem in order for the children to get a better standard of life, and the cocoa farmers a sustainable living is a difficult dilemma. The Ivory Coast has legislations against child labour, and has ratified several ILO conventions regarding this, even though is child labour common. The educational system is violating the human rights by not offering education, or enforcing it as compulsorily. The Ivory Coast is a country that suffers from ethnical tensions, and immigrants from even poorer neighbouring countries do not ease the situation. But it is difficult to place responsibility and blame, and without the right allocation of resources the dilemma is nearly impossible. The government in The Ivory Coast earns large amounts on taxes from the sales of cocoa. But since the country experience a very high level of corruption and have been in civil tension, this money is used on weapons and briberies instead of helping the population towards a better life. The government uses their resources wrong; they do not promote flourishing of the economy. Nevertheless it is easier to preach about what is correct, than to change an old habit, especially when it is difficult to find a starting point.

There are some large cocoa processing firms that buy the cocoa. They have influence in some ways, partly because they are few and large. Three of the large cocoa processing firms; Archer Daniels Midland (ADM), Cargill and Nestlé was sued in 2005 by a US Labour right firm on behalf of three Malian children who were victims of trafficking, and had worked at plantations in the Ivory Coast. The firms were sued because they had received several alarming reports with proves of worst forms of child labour at the farms, nevertheless have done very little to solve the problem (Partos, 2005). These companies practically control the cocoa trade, and their power and influence is substantial. Therefore they should use it in order to better the conditions for the farmers that they purchase from, maybe by making it easier for the farmer to sell to them directly, and not through the corrupt middlemen. However it is not an easy job, the infrastructure in the Ivory Coast is a problem. But by ensuring that the cocoa farmers get a better price for their cocoa is the chance for them to improve their standard of living increased. The power could also be used towards the government of the Ivory

Coast in cooperation with other stakeholders, and perhaps use sanctions. In this way the cocoa farmers might get a larger piece of the pie that their crop yields.

The power and influence of the farm owners are marginal. They have no influence on the price of cocoa, and are bound to sell to the middlemen that come to their farms, at the price that the middlemen decide. Most of the children working do it in order to help out their family, and in addition do they have few options to this. Education is of low priority in the Ivory Coast, and the children and many parents do not see the advantage of schooling.

As seen, in the question above, is Kraft Foods involved in several projects in order to improve the conditions for the farmer and train them to utilize their resources optimally. These are all good cases, but Kraft Foods is not represented in the Ivory Coast, and their control is limited. Kraft Foods should make sure that the products they buy are traceable and that the farm of origin should be labelled on the product, even though the cocoa has been processed by others. Kraft Foods is a large company and are therefore able to demand certain standards from its suppliers. In this way they will have a better possibility to control the farmers, and actually be able to check upon the individual farms, either themselves or through cooperation partners. The result can be that they comply with their code of conduct. As the situation is today they do not respect their own code of conduct, and since they are not trying very hard to change this, their code of conduct fails. Kraft Foods should also work closer with their sub-suppliers which buy the cocoa. Cooperation should be established in order to improve the conditions for the farmer; to abolish child labour and other forms of bad labour conditions. Because it is not only child labour that is the problems at the farms, training must be given; in for instance the importance of using safety equipment while using pesticides (Bartholdson & Valentin, 2006). Kraft Foods is dependent on the other chocolate manufacturers to also work with these social issues, and experience shows the advantage of cooperation, both with the industry and other external stakeholders, such as NGO and the government (Long, 2008). Several of the articles in media encourages the consumer to boycott the chocolate manufacturer, and stop eating chocolate in order to provide a signal that the conditions which the cocoa is grown under are not acceptable. There have also been campaigns that demand the chocolate producers to provide a fair-trade

chocolate, so far no Norwegian producer have done this, but several American ones have (Lambert, 2008).

The key message is that this problem goes deep, and therefore must the solution be aimed at the root of the problem, and the stakeholders must cooperate – neither prohibiting child labour nor stop eating chocolate will solve the problem.

5.1.15 Can the cultural difference between the countries be an explanatory factor?

Kraft Foods is American owned, and has chocolate production in several countries, amongst them Norway. There is a large difference between The Ivory Coast and any western countries both when it comes to economic development and traditions. Kraft is a multinational enterprise, while the cocoa farms are mostly small family-run, and as mentioned are most of the children working there a part of the family. This was also normal in the western world before the farming was industrialised. Even though we can picture the same situation in the western world, the lack of education for these children is the largest problem, because it hinders further development for the country, and leaves the farmers in a position where they are not able to govern their resources in a sustainable way – they live from hand to mouth. When it comes to those children that are sent to the farms by their relatives with a prospect of a better future this was also common in the western world many years ago. This is done in order for the children to learn other farming techniques and get a better understanding of a farm, it has also been a part of the history in Africa for a long time, even before the colonial period (Holter, 2004). And child labour has also been a part of the culture in the Ivory Coast, however in order to develop themselves and the country, the children must be given the opportunity to go to school.

5.2 Gap's labour problems

5.2.1 Case review

Gap is a chain of retail stores that sells casual appearance and shoes. Its headquarter lies in San Francisco in the United States. Almost all their production is outsourced on contracts to supplier factories all over the world. Gap has several times drawn the media's attention because of the working conditions at their suppliers (Velasquez, 2006). This case is placed in Saipan; a U.S. protectorate in Southeast Asia. Saipan is the largest islands of those 14 that make up the Commonwealth of the Northern Mariana Islands (CNMI). CNMI and its 15,000 inhabitants became a U.S. territory in 1975, which made the population U.S. citizens. As a result does most of the U.S. labour law apply, however CNMI have been exempted from the minimum wage law and immigration law of the U.S. By 1996 the population had increased to 70,000 of whom more than 50 % were foreign workers on temporary visas. This increase was mainly due to the establishment of factories by foreign investors from Korea, China, Japan and Thailand who mostly produced for U.S. retailers. The advantage for these factories was that they could export duty free to the U.S. and were exempted from the U.S. minimum wage, but could still label the clothes "Made in the USA" (Velasquez, 2006).

In January 1999 a lawsuit was filed on behalf of the workers against Gap and 25 other retailers, accusing them of contracting with sweatshops (Velasquez, 2006). A sweatshop is a factory where the workers work long hours at a low wage under bad working conditions (Merriam-Webster, 2009). The workers at the factories were recruited by private agencies in China, Bangladesh and Korea, and they were promised "a well-paying job in the U.S.A.". The workers had to sign an agreement which made them promise to pay approximately \$5,000 in fees, which would be deducted from their pay check. They were prohibited from joining any political or religious activities including marrying. Pay increases did not exist and the contract forbade them to seek other employment or join a union. The workers had to pay about \$ 200 for living in barracks owned by the factories with poor food and dirty overcrowded rooms, which violated the U.S. labour law (Velasquez, 2006).

According to the lawsuit, the factories that Gap and the other retailers had contracts with violated the human rights of the workers; they received undignified treatment, exploitation and penalties. The factories had received more than 1,000 citations for violating U.S. health and safety laws. Five of the factories involved produced clothes for Gap. The factories were also accused of demanding too high daily production quotas of their workers, not paying for all the regular hours and demanding unpaid overtime. The consumers were also deceived, because the clothes made in Saipan was labelled “made in the U.S.A.”, and this implied that U.S. labour standards were followed, which were not the truth (Velasquez, 2006).

Gap denied the allegations at first, and said that their monitors had not discovered any of the conditions Gap was accused of, and that they had made sure that the factories followed the health and safety laws. Nevertheless in 2001 Gap altered their guidelines towards their suppliers, and added that foreign workers must be able to change their job, return home when they wanted and control their own visas. In 2002 Gap, with several of the other retailers agreed to settle the Saipan lawsuit, and contributed to a \$ 20 million fund in order to compensate workers, and pay an independent third party to monitor the factories (Velasquez, 2006).

The ethical issue in this case is the treatment the workers received in Saipan, with focus on those working for factories producing for Gap Inc.

5.2.2 According to utilitarian ethics; how will the action be judged?

The parties in this case are the workers at the factories in Saipan, the owners of the factories and their management, the management at Gap, and the society in Saipan and the U.S.

The factory workers suffered under different conditions, and probably with varying impact. Of the factory workers are 85 % immigrants or guest workers (Smith, 2004), and demanding a fee of approximately \$ 5,000 was usual in order for people to get the opportunity to work in the U.S. The fee was deducted from the wage, and the workers were prohibited from seeking other employment until the debt was paid. Since there are so many immigrants, barracks were set up by the factories, and the workers had to pay high prices for housing and food of very low quality, which also violated the U.S. law. The minimum wage at Saipan was \$3.05, 40 % less than the U.S. labour law required,

but Saipan had higher living costs. There were also several incidents of deduction of pay if quotas were not met, unpaid overtime and demanding of voluntary work if they wanted any pay at all. On average the workers got paid for working around 7 hours per day, although working 10. This gave them a monthly wage of \$555 if they had one day off per week. The cost of food and housing was \$200 per month (Smith, 2004), leaving them \$355, which again the transport fee was deducted from. Leading to that the worker had to work there at least 14 months before actually earning anything. All in all, the factory workers worked and lived under hazardous conditions for a high personal expense.

The factory owners and the management saved money because they used cheap immigrant labour; deceived them by writing contracts in other languages, or not explaining the content and demanding high fees for transportation. The Gap got cheaper clothes than if the workers had gotten a better treatment, however the bad media coverage of this case gave Gap a very bad reputation, and it is only one of several cases Gap has been involved in. The society in Saipan experienced a tremendous immigration, and several foreign investors established factories there in order to take advantage of the tax exemptions to the U.S. mainland, and the less strict labour law, but being able to label the clothes "made in the U.S." (Smith, 2004). The society of Saipan lost because of this; they were replaced by cheaper labour and an unemployment rate of 10 % (Smith, 2004). A large part of the U.S. Society encouraged others to boycott Gap after this case got revealed, they saw themselves as deceived when clothes labelled made in the U.S. was produced in Saipan and not complying with U.S. labour law.

Who was affected	Percentage of the group	Utility (positive or negative on a scale (-10, 10))	Percentage * Utility
The factory workers	90 %	- 4	- 3.6
Factory owner/management	100 %	+ 2	+ 2.0
Gap management	100 %	- 3	- 3.0
Saipan society	60 %	- 1,5	- 0.9
U.S. society	70 %	- 1.0	- 0.7
Net Utility			- 6.2

Table 5-2: Utilitarian judgement of Gap's labour problems.

According to these calculations are the treatment of the factory workers unethical from a utilitarian point of view, however do not forget that these measures are subjectively influenced but based on the facts given in this case.

5.2.3 How is the justice distributed, are the justice of the employee violated?

The distribution of burdens and benefits are not equally distributed at Saipan. The workers at the factories were exploited; they lived under terrible conditions, and were forced into working long hours, and threatened to silence. While the factory owners made profits on the production, and benefitted from the circumstances that Saipan offers. Saipan is also wrongly distributed compared to the mainland of the U.S. The minimum wage at Saipan is 40 % of what is in the U.S. and the government allows this although the living expenses are higher in Saipan than on the mainland (Smith, 2004) – this is a violation of the justice for the inhabitants of Saipan.

5.2.4 If the justice is violated, did the employee receive compensation, and is the wrong-doer punished according to retributive justice?

As mentioned before was a lawsuit filed against the retailers which contracted with the factories at Saipan, and it lead to victory for the 30,000 workers. The retailers were found morally responsible because they had contracts directly with one or more factories where only their garments where produced, and this implied that they had some control over which conditions the manufacturers kept. It is therefore seen as their responsibility to not do business with manufacturers that break the U.S. law, and they are responsible for checking up on this. Gap first reacted on the accusation by saying that they had a monitoring system at their factories, which had not revealed any of the conditions that they were accused of in the lawsuit. However, when they decided to settle they admitted that their monitoring system was not good enough, and committed to improving the conditions, and thereby admitting their responsibility.

The settlement required the retailers to pay into a \$20 million fund which was to compensate the workers for not paid hours and excessive payment for transport fees. A legally binding code of conduct with specific monitoring standards was developed, and it should be included in all contracts between factories and retailers. The final requirement of the settlement was that an outside monitoring system was to be

established in order to assure that the factories complied with the code of conduct (Smith, 2004).

5.2.5 Are any of the human rights of the employee violated, if so which one?

Several of the Human Rights are violated; the workers were denied the right to marry which breaks article 16, the employees are not provided with just and favourable conditions at work which is stated in article 23, here also the freedom of association is declared, however many of the workers had to sign agreements that prohibited them from joining an union. Further is article 24 violated, the workers were forced to work overtime, and therefore prevented from having leisure time. A number of the workers were also prohibited from leaving the barracks which also breaks the freedom of movement in article 13 (The Universal Declaration of Human Rights, 1948). These are the major violations of the human rights; however several others were also broken.

5.2.6 Does CNMI have a history of violating these human rights?

Saipan which is a part of the United States Commonwealth of the Northern Mariana Islands (CNMI) is in Political Union with The United States of America, and as mentioned before they are exempted from some of the U.S. laws. The lawsuit was against most of the retailers that operated on Saipan and the factories they had contracts with, therefore these violations of the Human Rights have become common probably because of the liberal immigration rules that allow too many people from poor countries to come and work. These immigrants have little rights, and are in a weak position that makes it easy to take advantage of them by providing them poor working conditions, because they do not know what they are entitled to. In the U.S. however violations of these Human Rights are not common, and that is probably the main reason why the publicity around this case has been so tremendous, since the consumers felt deceived.

5.2.7 Does the U.S. have jurisdiction regarding the issue?

U.S. labour laws regarding safety and conditions at work exist, and they were applicable in Saipan, nevertheless violated.

5.2.8 Was the ILO conventions followed, and does the U.S. agree to these conventions?

The United States ratified the ILO convention C105: “Abolition of Forced labour” in 1991 (ILOLEX, 2009), this has been violated at Saipan. The employees were headhunted from less developed countries, forced to accept large fees as debt in order to be transported to Saipan, and often not given a return ticket. They were prohibited from searching employment elsewhere, and sometimes not even allowed to leave the barracks during their free time. The U.S. has not ratified any of the ILO conventions regarding the right to unionize. Nevertheless are the U.S. and all the other participants of ILO obligated to comply with the non ratified conventions as well, and are subject to ILO supervision (Hilgert, 2009). The ILO convention does not give any guidelines for working conditions which is the main accusation in the case of Gap.

5.2.9 Does the case conflict with the UN Global Compact?

Gap Inc, became a participant of the UN Global Compact in 2003 (The UN Global Compact, 2009), so after this case was settled. Nevertheless, this case violates several of the principles of the UN Global Compact. As mentioned before there are several violations against the Human Rights, which is one of the principles of the UN Global Compact. Furthermore, the principles concerning labour standards are violated; the employees had to work under hazardous conditions. The employees at Saipan were also prevented from associating and some experienced forced labour, which all violate the UN Global Compact.

5.2.10 Does Gap Inc, have an ethical code?

Gap has several ethical codes. In this case will the ethical code toward their vendors be the most relevant one. The code described here is the applicable in 2009, and not the same as when this case happened. However Gap has had a code of conduct for many years, even before the case in Saipan got revealed (Velasquez, 2006); it was the second company in the garment industry to develop a code of conduct towards it vendors when they published it in 1992. At that time the code covered areas such as labour, environment and health and safety standards for their whole supply chain (Ansett, 2007).

Today's code covers many of the same areas, and is applicable for all factories that produce for Gap and every subsidiary, divisions or agents of these. The code start by explaining Gap's understanding of differences around the world when it comes to production standards, but that those that are stated in their code is the minimum of requirement of their vendors. The code is based upon the Human Rights and the ILO convention which provide internationally accepted labour standards (Gap Inc, 2009).

The code has four main chapters;

- Compliance with law
- Environment
- Labour
- Working Conditions

The code is very detailed and gives specific requirements, probably in order to avoid misunderstandings. Focus will be on the two last chapters. Within the labour chapter are the following subjects mentioned: child labour, contract labour requirements, discrimination, forced labour, freedom of association, humane treatment, wages & benefits and working hours. The working condition regards occupational health and safety and requirements of dormitory if that is applicable (Gap Inc, 2009), as it was in the case in Saipan.

5.2.11 If yes, was the code violated?

As mentioned before, the code of conduct at Gap was altered in 2001, partly because of the situation in Saipan. The code therefore got tailored in order to avoid similar situations. Because the new code is used in this paper, the vendors in Saipan broke many of the requirements listed in the code. Firstly, the factories violated the contract labour requirements of Gap; it states that the contracts with the foreigner shall be signed in the home country of the worker and that the worker shall be given full disclosure of the whole contract; if the worker is illiterate, shall the contract be read to him. There should be no clause about return or reprisals; in addition shall the worker not be burdened with any extraordinary debt. The code does also specify what have to be mentioned in the contract, such as; duration of the contract, minimum and overtime payment, and hours per week that shall be consistent with the law. In addition others are mentioned in order to make sure that the vendors comply with Gap's standards (Gap

Inc, 2009). As brought up before, the factories did not comply with today's code, and neither with the code that was in 1999. All the violations that were discovered in 1999 are today in the code, in order for Gap to ensure that they at least try to operate ethically.

5.2.12 *Was the ethical code set up in accordance with the guidelines?*

This code separates itself from the other cases in this paper because it is addressed to a third party; the vendor. It is therefore more formally written than an internal code of conduct, and it is consequently difficult to evaluate it according to the guidelines written in the theory chapter. The vendor conduct of Gap is detailed, and it touches nearly every possible situation. As stated above it starts by giving an understanding of the cultural differences, which is important in order to succeed on the international arena. The code has a straight goal – Gap wants to conduct business ethically, and does therefore require their vendors to follow their rules. However this makes it very standardized, and it bears resemblance to the Human Rights and the ILO convention, which is probably why it sometimes fails – because it does not make the vendor attached, it is just a piece of paper. It does not give any examples and it does not seem to be tailored to Gap's needs. It does threaten with termination of contracts if violations are discovered (Gap Inc, 2009), however Gap's monitoring system did not find any violations at Saipan, while the Occupational Safety and Health Administration found more than 500 in 1997 (Smith, 2004).

5.2.13 *Which actions have been taken by Gap to correct the allegedly unethical action?*

First, Gap pledged their innocence. They were shocked by the alleged accusations, and stated that such circumstances were not tolerated at their vendors; they monitored the factories in order to ensure that the workers were treated with dignity and respect. By 2001 six of the retailers had reached a settlement, but Gap refused to follow since their monitors had not found any of the conditions described. Nevertheless in 2001 Gap revised their code of conduct for their vendors, and added requirements for foreign contract workers (Velasquez, 2006), as described above.

In 2002 Gap agreed to settle, and thereby agreed that their monitoring was not adequate in order to ensure an ethical working environment (Ansett, 2007). As mentioned before, Gap contributed to a \$20 million fund, which was to compensate the workers for lost pay, and overcharging of fees. A code of conduct was also established in addition to a monitoring system that was to be independent from the retailers and factories (Smith, 2004). It was first decided that Veritas of Amherst should do the monitoring (Velasquez, 2006), but it has also been suggested that ILO should supervise the system (Smith, 2004).

Today Gap has totally changed its approach towards social responsibility. At the time of the case in Saipan their strategy was to not reveal any information, unless it was requested, or to defend themselves. This changed in 2003 when Gap released their first social responsibility report where they described the challenges they met on the international arena, and which action they did in order to improve the situation. And for each year from then, the report has become more open, and the transparency at Gap have increased. Gap has also realised the importance of training the suppliers about international labour standards, and have therefore developed training programs for their vendors in order for them to do business according to Gap's values (Ansett, 2007).

5.2.14 *Which actions could have been taken by Gap and the other stakeholders?*

This case has been solved through a settlement and the workers at Saipan work under better conditions today. And Gap, who ten years ago was considered a company with a poor CSR program, is today a highly regarded company, which has realised the value of investing and integrating CSR into their company profile (Ansett, 2007). Of course should Gap have acted faster than they did; the situation at Saipan was revealed in 1998, but it took Gap four years to admit their mistakes (Smith, 2004).

There are also other actions that could have been done that are not in the hands of Gap. Since the living costs are higher in Saipan than the mainland of the U.S. it should be considered by the government in CNMI and the U.S. to raise the minimum wage at Saipan. This has also been proposed by a committee in the U.S., as well as enforcing a law to limit the immigration to Saipan. So far these bills has not left the committees,

probably because it will lead to close down of the factories at Saipan, and people then losing their jobs. This again could lead to that the U.S. have to contribute money to keep the sovereignty on the islands (Smith, 2004), which obviously a U.S. government would try to avoid. The U.S. consumers campaigned about boycotting the clothes from Gap when the case at Saipan was revealed, however this alone would not lead to a solution. But it did show Gap that their customers did not consider low prices acceptable on the account of mistreatment of others. And as mentioned, Gap has realised this, and does now have a policy of transparency and a responsible CSR.

5.2.15 *Can the cultural difference be an explanatory factor?*

Saipan is U.S. territory, but the geographical distance is great, in addition are the development gap between Saipan and the U.S. mainland substantial. The fact that most of the people living at Saipan were, and are immigrants from different Asian countries also made Saipan different from the mainland of the U.S. However the conditions that were revealed in Saipan would not have been accepted on the mainland, even though the development had been poorer. The immigrants were taken advantage of; they probably came from the utmost poverty, and saw a chance to earn good money in America – where every dream can come true. However they dreams turned into nightmares. So yes, there were cultural differences, but the conditions as Saipan were still not acceptable.

5.3 Hydro Agri Trinidad - an unsafe working site

5.3.1 Case review

Hydro Agri Trinidad Ltd. (HAT) is a fully owned subsidiary of Hydro Agri, today Yara International. This case was revealed in 2000 by NorWatch and the Future in our hands (Leer-Salvesen, 2000), a Norwegian organization that investigate Norwegian organizations conducting business worldwide. HAT had at the time of the case 340 employees, in addition to an extensive use of contractors. HAT had a fully owned factory, and was also responsible for the production at two other factories at the same site, of which it owned 49 % of (Leer-Salvesen, 2000). The three factories produced ammonia, which was used as an additive in Hydro Agri International's production of fertilizer. Ammonia is a colourless gas with a strong smell at a normal temperature, but is transported at a cooled down liquid state. NorWatch looked into HAT because of two recent accidents in 1995 and 1997, which had fatal consequences. HAT and Hydro Agri cooperated in the research and provided statistics of accidents at the site. NorWatch compared the statistics against the ammonia production in Porsgrunn in Norway, Europe and internationally within Hydro. HAT was one of the sites that had most accident, it had a 50 % higher frequency of accident than the average of Hydro Agri Europe, and was the third worst regarding accidents worldwide within Hydro. However, the statistics did only reveal accidents with damages to the employee, when death was the result this was not mentioned. As an employee of HAT revealed to NorWatch: "When you are dead, you are no longer an employee, and therefore not a problem" (Leer-Salvesen, 2000). During an interview with the responsible for health, environment and safety at HAT, the recent accidents with deadly outcomes was not mentioned before NorWatch brought them to attention, an hour into the meeting (Leer-Salvesen, 2000).

The accident in 1995 was due to a leak in an ammonia container in a ship while loading. The alarm went off, the container was checked, however the check up did not reveal faults in the valves, and therefore did the loading continue. After 20 minutes was the containers full, and then the disaster was a fact, a big bang and a massive leak of ammonia. One man was killed, however he was employed by a contractor, and the family received compensation from his employer. A report was written after the accident pointing out large errors in the routines (Leer-Salvesen, 2000):

- Guidelines for loading ammonia did not exist; neither a protocol for what to do when the alarm goes off, nor what must be checked before continuing the loading.
- The education of the assisting responsible at the harbour was inadequate.
- There were no reports regarding rehearsals on accident-scenarios
- In spite of several alarms, a lacking safety precaution at the loading equipment had not been discovered. A crucial bolt was missing, and it had been missing for some time before the accident.

In addition, the union was not a part of the commission investigating the accident, the employees received no information about the report or which measures that were taken or improvements in order to avoid similar accidents in the future. HAT claims that all the improvements that were required in the report were fulfilled (Leer-Salvesen, 2000). In 1997 another accident happened; a steam-turbine exploded in the factory that is 100 % owned by HAT. It was due to a mechanical failure and wrongly human handling of this. Four people were critically injured, and of them two died. Another was lighter injured, and two additional employees suffered from psychological injuries. All of them sued HAT, because of their handling of the situation; in 2000 when NorWatch wrote the report none of them received had a settlement, except for covered medical expenses, and HAT denied any compensation to the employees suffering from psychological injuries (Leer-Salvesen, 2000)..

A commission was formed to investigate the accident, and this time the union got to participate, however the report was not published to the employees or anyone else, but was available at an office for a month (Leer-Salvesen, 2000). This again also made the lawsuit more complicated, since the facts in the report are difficult to get hold of for the lawyer.

The main acquisitions in the lawsuit were:

- HAT failed to keep a safe working environment.
- The steam-turbine was old and decayed, which implies a state where the likelihood of explosion was substantial.
- There was no system for testing or maintenance of the machine park in order to avoid accidents.

- The employees were not warned of the danger that they put themselves in, and they were exposed to unnecessary risk (Leer-Salvesen, 2000).

In October 2000, 4 months after the report, the widows had settled with HAT, nevertheless not seen any of the money promised due to delays from HAT, the lawyer and official bureaucracy (Leer-Salvesen, 2000). But after a reminder the promised amount reached them. For the other injured employees, the case went slow; in July 2001 a settlement, was still out of reach (Leer-Salvesen, 2001).

The report also points out the lack of information given to the neighbourhood. Brochures with information about how to act when leaks of ammonia are discovered, and guidelines for rehearsals have been printed, but not distributed. The local society does not know what HAT does to protect them against accidents (Leer-Salvesen, 2000). To sum up; the dilemma in this case is HAT's lacking security measures, and their handling of the accidents. The main focus will be on the second accident.

5.3.2 How will the case be judged according to utilitarian ethics?

In this case there are four parties; the employees, the managers at HAT, Hydro Agri, and the local society. To start with the employees; the degree of affection varied amongst them. In the accident in 1997 two men died and five others were injured (Leer-Salvesen, 2000). Nevertheless all the employees were affected since very little information was given after the first and the second accident, leaving the employees unsure and scared, not knowing their risk exposure. Since the statistics of accidents at HAT are high compared to other factories, the probability of an injury is quite high for an employee at HAT (Leer-Salvesen, 2000). The employees must be said to be the party worst affected by the lacking security.

The managers at HAT tried to comply with the Norwegian parent company's guidelines, and adjust them to the laws, regulations and practices in Trinidad. They tried to hush down the accidents in order to avoid media attention and timely stops in the production, which again could have harmed the employees in other ways. In addition the managers probably viewed the accidents as ordinary matters, due to the higher frequency of accidents in Trinidad. Nonetheless their handlings of the situation are condemnable. Norwegian Hydro, the parent company, were in a too little extent involved in this case, except for their claim to have the same standards worldwide, little

were done to improve the situation in Trinidad after the first accident, or there are little evidence of what was actually done (Leer-Salvesen, 2000).

The local society were kept in the unknown, they lost two of their townspeople, leaving two widows behind. HAT has not provided the neighbourhood with information about their production, which harm it may cause, or which actions that were taken to prevent and protect the local society (Leer-Salvesen, 2000). The extent to which the locals were harmed does depend on the distance from the factories, the closest ones had a strong smell of ammonia about five times a year which lead to nausea and some sickness, and they never knew about these leaks in advance (Leer-Salvesen, 2000). The table underneath is set up based on the information revealed in this case, but as discussed in the theory chapter it is difficult to quantify actions, so the values must not be seen as absolutes, but as an attempt in order to be able to decide if the case is ethical, based on utilitarian thinking.

Who was affected	Percentage of the group	Utility (positive or negative on a scale (-10, 10))	Percentage * Utility
The employees	100 %	-5	- 5.0
The management at HAT	100 %	3	+ 3.0
The local society	70 %	-1.5	- 1.05
Net Utility			- 3.05

Table 5-3: Utilitarian judgement of HAT- an unsafe working site.

According to utilitarian ethics; HAT acted unethically by having lacking safety precautions and bad handling of the accidents consequences.

5.3.3 How is the justice distributed, are the justice of the employee violated?

Can HAT be held morally responsible in this case, and therefore be blamed? In the accident in 1995 there were several shortcomings in the routines, and lack of other safety measures to protect the workers. In the accident in 1997, there were still lacks in the safety measures, and no guidelines for how to act. HAT had let the equipment deteriorate, avoided maintenance and testing of it; leaving the employee at risk.

Therefore HAT failed to prevent the accident, the management knew about safety standards which should have been followed according to the parent company; Hydro Agri. It was done freely by the management; however the management did follow the standards of Trinidad. Nevertheless resulting in that HAT can be held morally responsible, and therefore obligated to compensate the injured employees.

According to the employees, seven people were injured in the accident in 1997, however HAT only recognized 5 of the employees as injured, and they did not consider psychological damage as a result of the accident (Leer-Salvesen, 2000). The employees' justice have been violated, their employer acted immorally.

5.3.4 If the justice is violated, did the employee receive compensation, and is the wrong-doer punished according to retributive justice?

HAT acknowledged their responsibility for the physical damages and the widows of the departed, but it took a long time to settle the compensation. The time was hauled out by HAT, making the situation worse for the employees, and forcing them to take legal actions against their employer. The widows reached a settlement in the autumn of 2000 (Leer-Salvesen, 2001), three years after the accident. The two severe damaged employees had in 2001 not reached an agreement with HAT. According to HAT that was because they were still under treatment for their injuries, and therefore it was difficult to decide how high the compensation should be, however they still received full salary from HAT (Leer-Salvesen, 2001). They worked a little, but with large burns, open wounds and psychological problems their future career are not prosperous at an age of 25 and 34 (Leer-Salvesen, 2000). The other three employees, one lighter wounded and the two others are not acknowledged compensation by HAT, which is a violation of the principle of justice since HAT is morally responsible. They did however sue HAT, but the results of the cases are unknown.

5.3.5 Are the human rights violated, if so which one?

Article 23.1 in the UN declaration of Human Rights says that: "Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment" (The Universal Declaration of Human Rights, 1948). HAT did not ensure a safe working environment for their employees. They had two major accidents which lead to death; the safety was lacking and the routines inadequate.

HAT also avoided maintaining, and changing old equipment (Leer-Salvesen, 2000); which made the employees at risk. The employee was also kept unknown about which conditions they worked under, and had no protection if they decided to complain about the circumstances (Leer-Salvesen, 2000). This is a clear violation of this human right.

5.3.6 Has Trinidad a history of violating this human right?

Poor safety standards have been a problem in Trinidad, and several large accidents have occurred because of it (Bureau of Democracy, Human Rights, and Labor in the U.S. Department of State, 2007). This is partly because of that the employees do not have any protection against their employer if they decide to speak out about hazardous and/or dangerous conditions (Leer-Salvesen, 2000). This implies that this human right has been violated for some time, with little being done to avoid it. However, as will be explained in the next question, the situation has improved in the recent years.

5.3.7 Has Trinidad jurisdiction regarding the issue?

Today, in 2009 there is a law that protects workers who file complaints against their employer to the labour ministry regarding illegal or hazardous working conditions. If complainants refuse to comply with an order that would place the employee at risk, and if it is determined upon inspection that hazardous conditions exist in the workplace, the complainers are absolved from blame (Bureau of Democracy, Human Rights, and Labor in the U.S. Department of State, 2009). However this law was not processed at the time of the accident, even though it was first suggested in 1975 (Leer-Salvesen, 2000). The law was put through after a large media pressure in 2007 due to several high-profile accidents in several industries (Bureau of Democracy, Human Rights, and Labor in the U.S. Department of State, 2007). In other words; the lacking security routines at HAT was not a problem just there, but in the whole country. The bright side of this is that there is now a regulation that gives the employee protection when reporting hazardous working conditions which probably encourages the employees to report. Hopefully will this lead to a safer working environment in Trinidad.

5.3.8 Was the ILO conventions followed, and has Trinidad ratified these?

The dilemma of a safe working environment is not a part of the ILO's fundamental principles, but they have several standards and work of practices which entail a safe working environment in order to protect the employee (The International Labour Organization, 2009). Trinidad has ratified several principals of the ILO conventions, however not the principles which regards occupational safety and health (ILOLEX, 2009). However by agreeing to the ILO convention is Trinidad obligated to not violate any of the principles, although they have not ratified them.

5.3.9 Does the case conflict with the UN Global Compact?

It was revealed in the theory chapter, that one of the areas covered by the UN Global Compact is the human rights, and as shown above does HAT violate the human rights of their employees. Except for this does not the UN Global Compact cover safety at work or the responsibility of the employer regarding this. Yara International joined the UN Global Compact in 2006, which is nearly ten years after the second accident (The UN Global Compact, 2009)

5.3.10 Does HAT have an ethical code?

HAT is as mentioned owned by former Hydro Agri, today Yara International, and they have a code of conduct (Yara International, 2005). This code covers their commitment to a sustainable development worldwide, their responsibility as a local citizen and the importance of making a positive contribution to the society. It points out the value of fairness at the workplace. Yara shall respect rights, cultures and dignity of all individuals; this implies no discrimination or harassment. They encourage collective bargaining and that the employees organize in unions. Agreements shall be done in communication between all levels of the hierarchy in the company. Laws, rules and regulations shall be followed in the countries they are represented. Bribery is out of the question, and they will act in adherence with antitrust and competition laws.

Contributions or stands will not be taken by the company in political campaigns; however they do not limit their employees from this. They strive to have business partners that comply with their commitment. Yara see their responsibility as an international actor, and pursue high common standards and anchor best practices,

including trying to harm the environment as little as possible. They have a focus on safety, and seek to create an incident and injury free workplace. There lies a responsibility on all managers, officers and directors within Yara to lead according to the above mentioned values and ambitions both in word and action. The code wraps up by saying that managers shall promote the points in the code, that employees shall be aware of them, and be able to raise questions concerning them (Yara International, 2005).

5.3.11 If yes, was the code violated?

As mentioned above does Yara strive against an injury free and safe working environment (Yara International, 2005), this was not sufficiently carried out at HAT. There were a lack in the safety measures, and necessary actions were not taken (Leer, Salvesen, 2000). HAT also broke the next point in their code of conduct; the managers did not take responsibility or showed the code of conduct as much importance as intended by the parent company's code. This can be due to different cultures within safety laws, and that in Trinidad lacking safety was much more common than in Norway. On the other hand, there was established a committee after the first accident, that also included people from the parent company. Therefore should the faults have been solved after this, and the managers at HAT should have received better instructions on how to run the organization as safely as possible in the future. As mentioned in the theory chapter, it is not enough to have an ethical code; it must also be used, applied and committed to.

5.3.12 Was the ethical code set up in accordance with the guidelines?

The code of conduct at Yara is divided into four main parts; their responsibilities as a listed company, as being a part of the global business, their responsibility as an industry shaper and wrapped up by how to achieve their ambitions and how to act (Yara International, 2005). It is written in an understandable language, and uses pronouns such as "we" in order to create attachment and responsibility for the employees. Even so, the code does not direct itself enough against the employee, it seems to be on a higher level, and more focused against the management, or even written for the media in order to

show Yara's responsibility. According to the report from NorWatch (2000) it is not likely that the employees at HAT have read this code of conduct.

The code has a point regarding respecting the individual's rights and cultures (Yara International, 2005). But as many other codes of conduct that belong to international organizations is it on a very general level, and does not take into account the different customs and habits that for instance exists between Norway and Trinidad. The code is written in order to suit Yara's business's, and issues that might occur in the run of the company. However, as mentioned before does it show resemblance with what the media wants to hear in order to show off Yara's accountability. The code of conduct at Yara is far from perfect; it has some good aspects, but is not written according to the theoretical guidelines presented in the theory part of this paper. It seems to have been written as media coverage, and does not commit the employee, give any examples nor contact information in case of need for further information or violations of the code. Neither does it explain what the consequences for breaking the code will be, giving little incentive to follow it – a code fails if it is not respected as in the case of HAT.

5.3.13 Which actions have been taken by HAT to correct the allegedly unethical action?

After the first accident a commission was established to examine it, and several mistakes were found, the main one listed in the case review. According to HAT all the faults were corrected and erudition taken. However the employees or the local community did not know what was done in order to protect them against new accidents. The report after the second accident was available only one month for the employees, or others to look at, however according to the employees it did not answer all the questions they had. But some improvements happened; checklists and inspection routines were developed for the maintenance of the turbine, training programs were established, in addition to that the platforms were checked and repaired in order to increase the safety for the workers.

The injured ones' in the second accident had to be sent to the U.S. for treatment. Two of them had to wait a day before being sent because their condition was not stable, and therefore delaying their treatment. Hydro Agri, as a result of the accident promised economic support in order to establish a severe burns treatment unit in the closest big

town to HAT. But in 2000 when NorWatch wrote their report these plans had not become a reality. HAT have paid for all the treatments for the injured once, and continued to pay full salary to the two men that survived with heavy injuries even though they were not able to work full-time (Leer-Salvesen, 2000). In the autumn of 2000 the widows received compensation for their lost husbands, three years after the accident. However, the others have not seen any and the cases have been hauled out by HAT, the insurance company and the lawyer (Leer-Salvesen, 2001). HAT has not admitted responsibility for the psychological damages that the accident resulted in, or offered these or other employees any help, even though HAT is morally responsible.

5.3.14 Which actions could have been taken by HAT and the other stakeholders?

HAT should have improved their safety standards after the first accident, and there should have been more transparency around the investigations, and which measures that was taken. The employees and the local society should have been informed about the risk they were exposed to, and what was done in order to protect them. When the second accident happened HAT covered the medical expenses for the injured once, however no treatment were offered to those seeing the accident, in order to prevent psychological effects, and HAT did not take responsibility for these damages. HAT should have offered help to all the employees, a dramatic accident like this leaves the employees with many questions and fears. HAT should have been more open towards the employees and offered explanations and guidance. Having the investigation report in an office, and not allowing it to be published might have hushed down the accident, but it left the employees with a larger unawareness and therefore less safe. HAT also should have cooperated more with the physical injured ones, for them to get their compensation faster, and possibility to move on with their lives, instead of forcing them to go to court to get the compensation they were entitled to. HAT did also promise to give financial support in the establishment of an emergency-burn unit. But so far no contribution or initiative for the establishment has been given by HAT. Creating an emergency burn unit should have been a manageable problem for HAT, which can save lives and minimize damages if similar accidents should happen (Leer-Salvesen, 2000).

The government has, as mentioned above, taken action in order to prevent accidents from happening through enforcing new legislation, which encourages the employee to report risks at their workplace, as they now are better protected against sanctions from the employer. However the effectiveness of this legislation is still unknown. Hopefully will it help to increase the safety level! Yara International as the parent company was involved in the investigation of both the accidents. They should have demanded a higher safety level at their subsidiary and made sure that HAT complied with the code of conduct.

5.3.15 *Can the cultural difference be an explanatory factor?*

Trinidad is located far away from Norway, and the cultural differences are probably many. The main differences are possibly due to the differences in development, even though Trinidad does not lay as far behind Norway compared to many other countries, it does have a level of costs that are about half of the Norwegian one (Leer-Salvesen, 2000). This implies another standard of living, and different demands and standards expected from the employees. As mentioned in the theory chapter, the parent company should ask them self if the situation was acceptable if their country was on the same level of development. The answer in this case would most likely be no, even though accidents are more common and accepted in Trinidad at the time of the accidents would the handling done by HAT not be acceptable in Norway. Lacking safety regulation has been a problem in Trinidad for some time, although today there are laws to prevent them and protection of the worker, it was not at the time of the accidents (Bureau of Democracy, Human Rights, and Labor in the U.S. Department of State, 2007), and the catastrophe at HAT can therefore partly be blamed on this. The management at HAT saw some accidents as normal, since it occurred at the firms around them as well. Taking more precaution than other companies seemed for the management at HAT unnecessary costly, and therefore not a required measure, even though their parent company had different standards. As discussed in the questions around the ethical code, it does not seem to be enough adjusted to the cultural dilemmas that an international firm will run into, and that there is a gap between the desirable for Hydro Agri International and the desired at HAT as illustrated by Hofstede (2001).

5.4 Rimi in Lithuania; a living wage?

5.4.1 Case review

This case was revealed by NorWatch Journalist David Stenerud and freelance photographer Kristin Fagerlid in 2004 (Storrønningen, 2004). The company in focus is the grocery chain ICA AB (ICA) and the working condition of the employees in their Lithuanian subsidiary Rimi Baltic. At the time when this case was publicized, ICA's ownership was divided between three investor-groups; 30 % belonged to ICA Förbundet Invest AB in Sweden, 50 % to Royald Ahold N.V in the Netherlands, and 20 % to the Norwegian company Canica AS (Stenerud, 2004). Today Royald Ahold owns 60 %, while Hakon Invest; a Swedish company has 40 % (ICA AB, 2009). ICA's subsidiary; ICA Baltic, established Rimi Lietuva in 1999, and opened the first Rimi store in 2000. At the point of this case Rimi had 33 stores in Lithuania, and was the second largest grocery-chain in the country. In 2004 had Rimi approximately 2000 employees in Lithuania (Stenerud, 2004).

This case is based on interviews with employees at Rimi; however getting people to talk was very difficult for the case writers, since the employees were afraid of sanctions from the employer. Anna is 30 years old, and works at Rimi. She has done for nine months now. Therefore she is now longer at the minimum wage at Rimi; 500 litas per month, but earns 650 litas, which are equal to around 7 Norwegian kroner per hour (Stenerud, 2004). This does not provide her with a living wage (Bureau of Democracy, Human Rights, and Labor in the U.S. Department of State, 2005). Working hours are from seven to seven, and it is normal to work three days, and then have three days off. Seven years ago, Anna worked at EKO, which Rimi has acquired. Then she earned 100 litas more per month, in addition to receive percentages from the sales. Anna also knows that Rimi today pays less than its largest competitor; Maxima (Stenerud, 2004).

Rita is 28 years old, and until the autumn of 2003 she worked in the alcohol department of Rimi. It was a tough physical job with heavy lifts, resulting in a broken back and numbness in a leg for the young girl. She had to quit her job, and get an operation. Today she is healthy and works for a competitor of Rimi; IKI. She cannot praise the working conditions there enough; the heavy lifts are done by the men, mobile phones

are allowed, and the managers are nice. At Rimi she only earned 450 litas per month, one month she even got 50 litas less because of low sales in the store that month (Stenerud, 2004). The manager of the labour union in Lithuania; LTUCCE confirms that she has heard of similar incidents of wage deductions. Unions are rare in Lithuania; only 15 % of the employees are organized, and with these low numbers the power of the unions are modest. The union; LTUCCE contacted Rimi in 2002; seeking to establish a relationship. Rimi has not been cooperative in this matter; they have in the two year long process tried their best to haul it out. They also denied LTUCCE to meet with the employees at Rimi during their lunch-break. According to the manager of LTUCCE, is the low power of the union an encouragement for Scandinavian companies to invest in Lithuania. Companies speculate; they break the working-environment act, and pay fines for violations, rather than change in order to comply with the law. If Rimi do this is unknown, but a possibility. Norwegian, Swedish and Finish unions have also tried to interfere and influence the union-situation in Lithuania, however with little results. After the interviews an e-mail was sent to the management at Rimi with six points where feedback was requested. A replay from the parent company arrived, but no comments were given - not even denial of the situation (Stenerud, 2004). The main issue in this case is the working conditions at Rimi; their low wages and opposition against unionization.

5.4.2 According to utilitarian ethics; how will the action be judged?

The two main parties here are the employees at Rimi, and the management at Rimi Baltic. However, the case does influence the parent company and the local society in Lithuania as well. The employees at Rimi receive a wage which is lower than Rimi's competitors' offers. They experience wage-deductions that they cannot control themselves, and are hindered when trying to unionize. They work long shifts, and are scared of sanctions from their employer. This regards all the employees at Rimi, and they are all affected through not earning a living wage. The situation has been bad for several years. With an unemployment rate above 10 %, in Lithuania the employees are willing overlook the bad conditions at work, since they are better than not having a job (Stenerud, 2004). The management of Rimi Baltic have on purpose hauled out the process with the union; LTUCCE, and threatened the employees with sanctions if they talk to anyone outside the company about their working conditions. Rimi has denied LTUCCE to talk to the employees during their lunch break, and sent people handing out

flyers about the union out of the stores. They have done what they can in order to keep the working environment at a minimum and the wages as low as possible. The management sees the situation today as desirable. The parent company has to a little extent been involved in the situation, but in e-mails they do not deny the situation, promise improvements or offer other comments. They are obviously aware of the situation, but have decided not to interfere in it. The society of Lithuania suffers when grocery chains from for instance Scandinavia establish in their country, and tries to take advantage of a high unemployment rate by pushing salaries and other working conditions down. This makes the competition among the chains tougher. If Rimi succeeds with their strategy, others will follow, and a race to the bottom for the society is inevitable. However it will probably not affect the whole society, but the people working in the retail industry, estimated to be around 30 %.

The table underneath is set up based on the facts given above, but as discussed in the theory chapter is it difficult to quantify actions. The values are not absolutes, but an attempt in order to decide if the case is ethical based on utilitarian thinking.

Who was affected	Percentage of the group	Utility (positive or negative on a scale (-10, 10))	Percentage * Utility
The employees	100 %	- 4	- 8.0
The management at Rimi	100 %	+ 2	+ 4.0
The parent company	100 %	+ 1	+ 1.0
The local society	30 %	- 2.5	- 0.75
Net Utility			- 3.75

Table 5-4: Rimi in Lithuania; a living wage?

This results in that according to utilitarian ethics are Rimi Baltic's treatment of their employees not what will yield most to the society, and therefore considered unethical according to utilitarian ethics.

5.4.3 How is the justice distributed, are the justice of the employee violated?

The employees at Rimi do not get their fair distribution of what they generate for their employer. Rimi Lithuania had in 2004 a turnover of 1,192 million SEK, and had personal expenses of 64.4 million SEK. Since Rimi Lithuania had 1,913 employees in

2004, each should have earned on average 33,664 SEK (ICA AB, 2004). Anna however, only earned about 20,000 SEK a year, and since most of the employees earn the same as Anna this implies that the managers receive a much larger piece of the pie compared to the other employees.

The wages of the employees are pressed down to a lower level than their competitors and working conditions are undesirable. Rimi Lithuania makes money at the expense of the employees. The employer is taking advantage of the high unemployment rate and the less developed social system in Lithuania. They force the employees to accept lower conditions to at least earn some money, although not a living wage. The justice is not fairly distributed within Rimi. Another dilemma is the distribution between Sweden, where ICA is situated and Lithuania. Lithuania is less developed than Sweden and ICA takes advantage of this when they invest in Lithuania and press down the wages; they exploit instead of develop and in that way make the distribution even more askew.

5.4.4 If the justice is violated, did the employee receive compensation, and is the wrong-doer punished according to retributive justice?

The justice of the employees have been violated, however it is questionable whether they are to receive any compensation from their employer, although they have to work under deteriorate conditions. According to retributive justice the wrong-doer must be morally responsible in order to be held guilty of justice violations. The minimum wage in Lithuania in 2004 was 500 litas per month, however this amount is not sufficient to provide a decent standard of living, and far below the average monthly pay in the country of 1.222 litas (Bureau of Democracy, Human Rights, and Labor in the U.S. Department of State, 2005).

The management at Rimi has deliberately set wages lower than their competitors, and knows that this put their employees worse off economically. As far as the information revealed tell, they have not been influenced by any others in order to decide on their wage level, so it has been done freely. They are therefore considered to be held morally responsible for keeping the wages at an absolute minimum level. However Rimi is paying the minimum wage of Lithuania, and therefore not breaking any law. As long as the employees are not able to unionize they cannot negotiate together, which makes their case harder.

However according to the theory about how to decide on a fair wage, Rimi has done wrong ethically by paying less than the industry average, hauling out the process with the union, and not take into account the living costs in the country. Therefore Rimi should have been punished, and the employees received compensation, but as far as information tells, this has not happened.

5.4.5 Are any of the human rights of the employee violated, if so which one?

Article 23 of the UN Human rights states the following:

“(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and join trade unions for the protection of his interests” (The Universal Declaration of Human Rights, 1948).

Several of the points in article 23 are violated at Rimi. Firstly the conditions at work; the employees' needs are not being taken into consideration, as with Rita who ruined her back on lifting to heavy. This implies that Rimi breaks this human right by not protecting their employees. The unemployment in Lithuania was in 2004 at about 10 % (Stenerud, 2004), and probably higher in the big cities where Rimi is situated, and this makes the competition for jobs tougher. Lithuania is a country in development, and their social security system is not comparable to the Swedish, which mean that the unemployment benefit is probably not sufficient to live on. This again makes it easier for Rimi, as mentioned before, to push down the wages and standards at work, because the employees are willing to accept the bad conditions in order to earn a little instead of nothing. A result of this is that Rimi takes advantage of the rather high unemployment numbers and the fact that Lithuania does not have a sufficient social security system for its inhabitants.

The minimum wage of Lithuania does not provide a decent standard of living (Bureau of Democracy, Human Rights, and Labor in the U.S. Department of State, 2005). This is of course Lithuania's responsibility, so it is actually the country that breaks the human right. Nevertheless, since Rimi probably is able to pay more, it should have based its wages on the industry average and the other factors that should be taken into account when deciding on a fair wage, instead of exploiting their workers and deny them the dignity of a respectable life. The last point of right nr 23 does Rimi violate by hauling out the process of communication between the union; LTUCCE and themselves. They do not in written deny their employees to unionize, however they did all in their power to make the connection between the union and the employees as difficult as possible; such as denying the union to talk to the employees during lunch hours, and sends away people trying to spread information (Stenerud, 2004). This is a violation of the employees' human rights, but since Rimi has not directly denied the unionization, just dragged out the process, and been in contact with the union, it is very difficult to prove that this last point actually have been violated. The result is a case on the edge: Rimi are exploiting the rules, they make their violations difficult to prove, nevertheless that there are violations is a fact.

5.4.6 Does Lithuania have a history of violating these human rights?

As mentioned above was the minimum wage of Lithuania 500 litas per month in 2004, and that this does not provide a decent standard of living for the worker (Bureau of Democracy, Human Rights, and Labor in the U.S. Department of State, 2005). This means that the country breaks the human rights by having a minimum wage that is too low to ensure a worthy existence. However the minimum wage is not the normal wage in the grocery industry, since Rimi's competitors pays better than this. But the problem of companies paying this minimum wage, and even lower, is a problem that Lithuania struggles with (Bureau of Democracy, Human Rights, and Labor in the U.S. Department of State, 2005). Only about 15 % of the workforce in Lithuania is organized in unions (Stenerud, 2004). There is a problem that employers favour employees that are not unionized and there is an extensive use of short-term contracts in order to avoid having a unionized workforce (Bureau of Democracy, Human Rights, and Labor in the U.S. Department of State, 2005). This implies that it is not only Rimi that make the process with the union difficult, but that there is a culture for this in the country, and scepticism against unions amongst the employers.

5.4.7 Has Lithuania jurisdiction regarding the issue?

The labour law in Lithuania stated in 2004 a minimum wage of 500 litas per month, but as known this is not enough to provide a decent living. Resulting in that the law does not protect its inhabitants. When it comes to the right of association the law recognizes this right for the employee; both to form and join trade unions, in order to bargain collectively (Bureau of Democracy, Human Rights, and Labor in the U.S. Department of State, 2005). However, only about 15 % of the workforce exercised this right (Stenerud, 2004). Due to this weak trade union participation the employees loses their chance to bargain collectively, and thereby lessen their possibility of improving their labour standards, above the law. It also makes the opportunity to strike more difficult, and weakens the employees' possibility to participate in the decision-making processes at their workplace (Davulis & Wexels-Riser, 2004).

5.4.8 Was the ILO conventions followed, and has Lithuania ratified these?

The first principle of the ILO convention's main principles is the right to collective bargaining. By dragging out the process with the union, Rimi has broken this principle. However, Rimi prohibited not their employees from unionization, nevertheless did all in their power to stop the communication between the employees and the union. Rimi hindered their employees from joining their powers, in order to establish a better working environment. Lithuania agreed to the ILO convention number C87 which represents the "*Freedom of Association and Protection of the Right to Organise Convention*", and the C98: *The Right to Organise and Collective Bargaining Convention*" in 1994 (ILOLEX, 2009).

ILO also has a convention number C 131: "*The Minimum Wage Fixing Convention*" which requires the country to have a law-enforced minimum wage. The minimum standard should take into consideration the need of the workers and their families, the cost of living and other economic factors. In addition, the desire to maintain a high level of employment should be pursued. This last point is probably the reason why Lithuania has a minimum wage as low as 500 litas, although it does not give a living wage. It gives room for the employer to hire more employees, which gives more people the opportunity to work and less unemployment (ILOLEX, 2009). Lithuania therefore does

not break this convention, even though they have a wage that does not create a substantial living.

5.4.9 Does the case conflict with the UN Global Compact?

In this case are the UN Global Compact principle of respecting the human rights and the principle of upholding the freedom of association those of interest. As discussed above Rimi violated some of the human rights, and hauled out the process of unionization. This means that they also break the UN Global Compact. ICA AB joined the UN Global Compact in the spring of 2004 (The UN Global Compact, 2009), which was before this case of Rimi was revealed, and they therefore broke the convention at their subsidiary Rimi Baltic.

5.4.10 Does Rimi have an ethical code?

Neither Rimi Baltic nor ICA AB has an ethical code. However their approach towards ethics and social responsibility is through what they call “ICA’s good business” (Haugen, 2009). The seven points are replicated underneath:

- Driven by profitability and high ethical standards
- Listen to customers and always proceed from their needs
- Nurture the diversity and the development of our own staff
- Maintain an open dialogue internally and with the surrounding world
- Ensure quality and safe products
- Promote a healthy lifestyle
- Contribute to environmental improvements and sustainable development initiatives

These points are mainly targeted to the consumer and other external stakeholders, however very little towards the employees. It does not give any specific guidelines, and is therefore not a tool for the employee on how to act. It says little about the responsibility of ICA toward its subsidiaries or their treatment of employees.

5.4.11 *If yes, was the code violated?*

“ICA’s good business” principles are very general, and do not give general guidelines for the relation between employer and employee. Nevertheless their first point says that ICA should be driven by high ethical standards. Paying their employees a minimum wage and preventing them from unionizing is, as shown above, not ethically correct, and this practice does therefore violate ICA’s first good business principle. Their fourth principle is to keep an open dialogue both internally and with the surrounding world. In Lithuania there was not an open dialogue with the surrounding world, the employees were threatened in order to not speak to the media. When the case writer took contact with Rimi Baltic in order to get a comment on the working environment issue, no valuable comments were given, and there were no willingness in ICA AB to discuss the findings. This must be considered as a violation of this principle as well, meaning that neither ICA nor Rimi followed “the good business principles”.

5.4.12 *Was the ethical code set up in accordance with the guidelines?*

The principles at ICA are, as mentioned, very general, and do not give the employees any guidelines for how to act. It does not say anything about the rights of their employees, or ICA’s duties against the employees. Assumably the principles are not written for the employee’s. The principles do not state any values or beliefs that are specific for ICA, it could just as well been for any other company. It therefore fails to give the employees a feeling of responsibility and attachment. These principles do not provide examples or guidelines for how to act, or who to contact if violations are discovered. This can be the reason for why it fails.

5.4.13 *Which actions have been taken by Rimi to correct the allegedly unethical action?*

NorWatch contacted the management at Rimi Baltic after they had done their interviews, and presented their result about the working conditions, in order to get a comment. The answer received was: “ICA Baltic realise that conducting our business depends upon a strong, talented, trained, motivated and service minded team of employees”, which does not at all answer or give any comment about the situation in Lithuania. NorWatch thought that Rimi maybe had misunderstood the questions, and

therefore sent the questions again, asking for a comment about the bad working conditions. Then an answer from the parent company ICA AB arrives, saying this “if you are interested in seeing our working conditions in Estonia, Latvia and Lithuania, are you welcome to visit ICA Baltic”. Resulting in that ICA does not give any comment about the appalling working conditions, or deny them (Stenerud, 2004). They are not willing to discuss them, or say what they do to make them better, maybe because in their eyes this is not a problem, simply their way of doing business?

5.4.14 Which actions could have been taken by Rimi Baltic and the other stakeholders?

As discussed in the theory part regarding justice, it is a dilemma whether a developed country has a responsibility toward a developing one. In this case the answer would probably be yes. ICA AB is a well-run company, and when they decided to establish a subsidiary in Lithuania this should have been done, because it is a business opportunity for them. But the way Rimi Baltic has dilated the rules, paid the minimum wage although it is below the industry average and therefore taken advantage of the high unemployment rate is not a good example. The fact that the minimum wage also violates the human rights should also have been considered by Rimi. When they decided to establish in Lithuania, they should have decided their minimum wage on the basis of what other competitor paid and the other factors mentioned in the theory chapter instead of the legal minimum. ICA AB has a responsibility of not do social dumping in the country they choose to invest in, and should encourage better working conditions in order for Lithuania to develop.

Although being organized is not as usual in Lithuania as in Sweden, Rimi Baltic should not have worked against the union, or denied them to talk to the employees during lunch breaks. Being unionized could both benefit the employer and the employees, and ICA AB which have experience in this should have encouraged the process, especially since the union also contacted them.

The last point her will be that Rimi Baltic and ICA AB should have been cooperative when being accused of these violations and abuses, instead NorWatch only met a silent wall, and no explanations, or acknowledges of responsibility were given (Stenerud,

2004). Leading to that the consumers do not know what ICA AB or Rimi Baltic does to improve the situation, and assumingly therefore nothing is done. The government of Lithuania also has a responsibility in this case, since they have a minimum wage that does not provide a living wage. This is maybe done to employ more people, and keep the unemployment rate down. Nevertheless it is a violation against those working, and therefore it should be considered increased as a mean to create a better life for the inhabitants. The government can also encourage unionization in order for the employees at places like Rimi to be able to cooperate in order to create flourishing and improved working conditions.

5.4.15 *Can the cultural difference be an explanatory factor?*

Lithuania was long underneath Russia and the communism; this has in many ways shaped the country's culture. As for instance their weak unionization; during the soviet period was the system: "one enterprise – one trade union" and 95 % of the employees was organized in one trade union. After the independence in 1990, the trade union became independent and the freedom to organize was guaranteed by law. However the creation and strengthening of the new trade unions was not stimulated and this have resulted in a low membership. Another contributing factor to the low rating is that some employers discriminate the unionized workers (Davulis & Wexels-Riser, 2004). As this case with Rimi shows, did they haul out the unionization-process as much as possible to make it less attractive and difficult for the employees. This is a large difference to the parent company's traditions. In Scandinavia is the power of the unions strong and about 50% of the workforce is unionized. Therefore can the history of Lithuania when it comes to unions be an explanatory factor for why Rimi tried to avoid it. When it comes to only granting the employees the minimum salary, this has, as discussed before, a connection to the unemployment rate in Lithuania, which is rather high. Rimi exploits the situation, something their competitors do not. Nevertheless Rimi's way of doing business in Lithuania, and ICA's ignorance cannot be blamed on the cultural differences.

5.5 Case comparison

5.5.1 Case summary

	Kraft Foods	Gap Inc,	Hydro Agri Trinidad	Rimi Lithuania
Utilitarianism	Ethical	Unethical	Unethical	Unethical
Distribution of justice	Violated for the employee.	Violated for the employees.	Violated for the employees.	Violated for the employees.
Compensatory justice	No compensation or punishment so far.	Compensation and punishment is solved.	Compensation to the widows and the physical injured ones.	No compensation, no admittance of blame.
Human rights	Violation of article 4, 13, 23, 24 and 26	Violation of article 13, 16, 23 and 24.	Violation of article 23.	Violation of article 23.
Countries violation of human rights	It is a problem in the Ivory Coast.	These were common violation at Saipan, but not in the U.S.	This has been a problem in Trinidad	Lithuania violates these regularly.
Jurisdiction	Yes, there are jurisdictions, however the institutions are inadequate.	Yes, there are jurisdictions.	Today there are jurisdiction, was not at the point of the accident.	Yes, however the minimum wage does not provide a living wage.
ILO convention	The Ivory Coast has ratified the conventions, and they are violated.	Convention about forced labour has been ratified, but not the right to unionization – both was violated.	Trinidad has ratified the current conventions, and they were violated.	Lithuania has ratified the actual conventions, and they were violated.
UN Global Compact	It is in conflict, and Kraft joined in 2006.	Was violated. Gap joined in 2003, after this case was solved.	Violation of human rights. Yara joined in 2006.	ICA AB joined before this case was discovered, and violated it.
Ethical code?	Yes, Kraft Foods has an ethical code.	An ethical code for their vendors.	Yara has an ethical code.	ICA AB has "good business principles".
Violations of ethical code	The code was violated.	It was violated; today there is a new code.	The code was violated by HAT.	It was violated by Rimi.
Frame of ethical code	The code is well written, and mostly according to the guidelines.	The code cannot be compared to the guidelines.	The code was not set up according to the guidelines.	They are not written according to the guidelines.
Action by company	Attempts of action have been made, however no solution yet.	Action has been taken by the firm, the case is solved.	Investigation of accidents done by HAT, acceptance of some guilt.	No action taken, nor admittance of wrong treatment.
Cultural differences	There are differences between the cultures.	There are cultural differences.	Yes, there are cultural differences.	The cultural differences cannot explain this case.

Table 5-5: Case summaries

5.5.2 *Case comparison*

The case of Kraft outstand itself from the others when it comes to utilitarianism, because it is ethical, while the others are not. The reason why child labour in The Ivory Coast is ethically correct according to utilitarianism is mainly because of that for the children working is their best and sometimes only option. If they did not work, they would probably be on the street doing crime or starve to death. Therefore today's situation is not the worst case scenario for the children. However, it is neither the optimal one. It is unethical when it comes to justice; the children are deprived their right of education, and a worthy existence. The division of benefits and burdens are askew; these children experience a too large expense, and in addition are most of the farmers wrongly treated by getting a too low price on their cocoa. Since the case of the cocoa still has not seen any solution, there have not been given any compensation to these mistreated people, nor has blame been settled, although several chocolate producers have admitted responsibility.

A contrast is the case of Gap, where justice has been solved. The employees' justice was violated; however they have received compensation, and since Gap was morally responsible they paid. In addition; this changed Gap's way of doing business, and created the possibility of conducting business ethically in the future for Gap. Similar happened in the case of HAT; the employees' justice was violated. Although as far as the case tells, only the widows has received compensation, and the physical injured ones have been promised one. Therefore the case of justice has been solved for them. However for the psychological injured ones at HAT, the case was not as simple, they were denied compensation, which is a violation of compensatory justice, as long as HAT was morally responsible.

Rimi in Lithuania violates the justice of their employees by paying a minimum wage that is not enough to provide a decent life standard, and by hauling out the process of unionization. However it is a borderline case, since Rimi does not break the law in Lithuania, it is difficult to blame them on the basis of justice theory, at least when it comes to monetary compensation. Nevertheless should it be the parent company's responsibility to ensure that their subsidiaries does business ethically, however this failed in Lithuania.

All the four cases violate one, or more of the human rights. This is probably the reason why there are sceptics against social rights as human rights. They are frequently violated in developing countries, partly due to culture and traditions, but also lack of resources, or askew allocation of them. In all the cases are violations of the human rights common within the case's country. This makes it difficult to take corrective actions or sanction against the violator, because the problem has to be solved by attacking the root of the problem in order to create a sustainable solution. A challenge is to identify the root, which usually is not the violation of the human right. The country has to realise the actual problem, and work out a solution, because today's situation does not promote sustainable flourishing of the economy. The company in focus here does often not have the power to change the situation, and it could therefore be seen as wrong to blame them for violating the human rights. Nonetheless, the companies should make an effort, and use their power as an international organization to improve the situation.

Jurisdiction regarding the issues exists for all the cases, except for Trinidad, where HAT is situated, but they have jurisdiction today. Nevertheless the laws are violated or stretched; this implies that the institutions in the countries are inadequate since the laws are not respected. An insinuation could be that the laws have been made because of pressure from the western world, and that the context and culture of the country has been overlooked. Perhaps in order to be allowed loans from the World Bank or other international western based institutions. As seen in the case of Kraft; the jurisdiction against child labour in the Ivory Coast makes the situation worse for the children working. They lose their rights, which is wrong when a major part of the children in the country work because they have no other option. In the case of Rimi, the laws are not actually violated, however the culture in Lithuania is in opposition to unionization, and Rimi hauling out the process is partly due to this, and their fear against the unknown. In Trinidad, it was at the time of the accident, not jurisdiction that protected the workers against reporting their employer, and therefore violation of the safety standards was unknown, hopefully has the new laws changed this.

All the countries have ratified some of the ILO conventions, however they are still violated. This results in that the ILO convention loses some of its credibility. What is the point of having countries ratifying conventions if they are not respected? ILO's

power of sanctioning is limited. Nevertheless, ILO's monitoring system is considered to be the relatively best, and all the countries that participate agrees to that the ILO can decide on any unspecified action in order to ensure compliance with the conventions (Wisskirchen, 2005). ILO works close with the countries that violate the convention, but as mentioned before, the problem usually go deep, and sustainable solutions are difficult to implement. Although there are violations against the ILO conventions, and their influence seems to be limited (Wisskirchen, 2005), the situation would with very high likelihood be worse without this organization.

As shown, all the parent companies have today joined the UN Global Compact, however, only ICA AB was a member at the time of the case. Nonetheless, all the cases violate the principles of the UN Global Compact. Also here, can the meaning of joining be discussed, especially since it is based on the individual company's desire. But then as pointed out in the theory chapter; Hofstede's (2001) research shows that companies might have a gap between the desired and desirable. Companies want to appear ethical towards its stakeholders, and most human beings have a craving towards acting ethically. Therefore the wish to show ethical responsibility might sometimes overrun what is actually possible on an international business arena.

This gap is also apparitional in the companies' ethical codes; which are all violated. The companies probably intend to conduct business ethically, however, sometimes they fail. As noted before, the ethical code can also be there as a piece of paper to please the stakeholders, and to prove the company's intention of acting ethically. In the case of Gap; they altered their code, after the case at Saipan was revealed, thereby strengthening their ethical intentions. This is also shown in Gap's new policy of improved transparency. As said before is ethical business conduction not always about doing every action right, but how the company handles dilemmas. Doing it openly; admitting that there are problems and challenges yields the company trust and accountability for the truth. As opposed to ICA; not even commenting on the conditions in Lithuania, which in a way made them ignorant, and irresponsible of their own actions.

Workplace democracy as defined by Egels-Zandén & Hyllman (2007) is not reached in any of these cases; nonetheless it is inevitable that without the global conventions and

the code of ethics would these companies be even further from attaining it. There is little empirical evidence that code of ethics has an effect on perceptions and behaviour in the organization (Adams et. al, 2001). Nevertheless, Gap has with its transparency and commitment to their code solved its case, and compensated the workers at Saipan. While ICA who does not have a good code of ethics do not even acknowledge the problem at Rimi in Lithuania. There could be an influencing factor on the behaviour of the employee to know that there exists a code that gives guidelines on how to act (Adams et.al, 2001). It is important that the code is not only written, but also implemented in order for the employees to see the company's commitment towards it. A code that is not respected fails. That is probably why Gap changed their code - it failed, and by altering it they verified their good ethical intentions, and showed that their code of ethics actually does matter. While the other companies in this survey is not so committed to their code, or at least that is how they appear.

The case of Kraft is more complicated; they alone do not have the power to abolish child labour in The Ivory Coast, and that is probably not the best solution for those children either. This gives Kraft, as a western company a dilemma because western consumers see child labour as wrong. Kraft is responsible towards its stakeholders, and therefore state that they are against child labour in their code of conduct. Nevertheless, they are aware of that working is the only opportunity for these children, so in a way they accept that their code is violated, but tries to support measures in the to improve the situation.

Gap has, as mentioned before, solved the situation at Saipan, and compensated the workers, while HAT has compensated some of the victims of the accident, because they have only admitted blame to the physical injuries. Nevertheless have these two companies and Kraft tried to solve the situation, and compensated for what they have realised they did wrong, although optimal solutions have not been found in the case of HAT and Kraft. Although, better than ICA and their subsidiary in Lithuania.

The fact that cultures differ is of course a part of the reason for these ethical dilemmas. Nevertheless in all the situations, the cases would have been considered unethical to some extent in the developing country as well as the developed. And even though the developments are different this does not justify all the actions. However it can be an

explanatory factor in for instance the case of child labour in the Ivory Coast. It is important to take the cultural differences into account when business is done on an international arena; nonetheless it should not be an excuse to do business unethically.

6 Conclusion

The four cases showed different unethical situations within employment, and the companies handling of them. The world is enormous, and there are billions of individuals, that all have different agendas. This makes it difficult for multinational enterprises to control everyone they conduct business with, even their own employees. Therefore conducting business ethically in a developing country is nearly impossible in the long run for a western based company. However, doing something ethically is not always about the action, but how the company deals with the dilemmas. It is shown that transparency yields credibility, while hiding implies that there are more to the case than what is revealed.

It is a problem that although actions are considered unethical, the solution is not always straight forward. Nonetheless; companies that are based in a developed country have a responsibility towards its stakeholders, and must therefore target against best practices. Taking advantage of a developing country's inadequate institutions will not yield a sustainable competitive advantage, and it most surely does not promote flourishing of the economy. The company must be a good example, and try to support the developing country by not accepting misuse of the workforce. International conventions and the human rights should be respected. The large western companies should use their influence towards the government where they do business, and cooperate towards improved practices.

It is questionable whether codes of conduct and global conventions actually yield better practices. Nevertheless, some evidence shows that codes give guidelines for the employee within a company. It gives an example of the high-quality customs that the company wants their employees to perform. Codes of ethics are violated, as seen in this thesis, however this do not mean that they always fail, or that business would be more ethically without it. But it is important that the code is respected, and altered to a better version if it is violated, as in the case of Gap. There are differences in the allocation of resources, and cultures differ. Standards must be set with this in mind, nevertheless must they be set. High benchmarks are required in order for the world to improve, and to promote flourishing in all parts of the world.

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