

Chapter

Bribery Practices of Three MNCs in the Host Countries: An Examination of the Issue from HRM Perspective

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Abstract

This chapter examines three bribery cases of three different Multinational Corporations in three different countries from human resource management (HRM) perspective. The first case is about the bribery of Halliburton Energy Services of the USA in Nigeria, the second one is about the bribery of Scancem International ANS of Norway in Ghana and the third one is about the bribery of Niko Resources Ltd. of Canada in Bangladesh. The MNCs were involved in the bribery through their subsidiaries in the host countries. The top management of the MNCs and subsidiaries were involved in the bribery case. The cases show that the bribes were paid for protecting the interests of the subsidiaries in the host countries. The bribes were paid through some intermediaries and disguised in some ways. In examining the cases from HRM perspective, I looked at the relevant facts about the country and its government, the relevant facts about the MNCs and involved personnel(s), the relevant information about the case, the enablers of unethical behaviour and the HR lacunae in the case.

Keywords: bribery practices, MNCs, host countries, HRM, ethics, HR lacunae, HR actions

1. Introduction

Is ethics a matter of conscience or a matter of management? The answer to this question may be found in the old adage that teaches us that prevention is better than cure. You will hardly find an organisation saying that they do not bother about ethics or corporate social responsibility. Still, you will see that the repetitions of unethical practices have not stopped. Rather, we frequently come to know about the unethical practices of organisations involving a fairly large amount of money. When these unethical practices are committed by the employees or management of Multinational Corporations (MNCs), it is definitely an issue of concern because MNCs are believed to shape global values and culture in the business world as they are the 'primary agents of justice' (Wettstein, cited in [1], p. 193). It is very interesting to note that most of the unethical practices of the MNCs so far unearthed occurred in

either emerging or developing economies and were committed by the MNCs of the rich countries [2]. In this chapter, I try to examine one facet of unethical practices, that is, bribery practices of three MNCs from the viewpoint of Human Resource Management (HRM). It is necessary to think about the issue from an HRM perspective because it is not the organisations themselves that commit unethical practices but the people of the organisation who are the perpetrators.

2. Linking HRM with the concept of ethics

Before proceeding further, let us try to clarify the role of HRM in this field by defining the boundary of bribery as an unethical practice. In defining the boundary of bribery as an issue of ethics, we should consider another related concept and its counterpart—law. The basic difference between law and ethics is that if you violate the law, you will definitely be prosecuted. However, if you commit an unethical practice, you may not be prosecuted. So far, the initiatives taken by the organisations and the governments to curb the unethical practices of the people in the organisations have been proved absolutely futile. The reason is that people are not learning from the exemplary and condign punishments of the people convicted and sentenced for committing unethical activities. Law and other similar mechanisms that are in practice are like negative reinforcements and act as *preventive checks* by punishing people for committing unethical or unlawful activities. These mechanisms could not stop the repetitions of unethical activities. So, we need to find a more effective way that would curb unethical practices and would stop repetitions of unethical practices. I propose that HRM can play the first fiddle in this regard by the means of positive checks. By the term *positive check*, I propose to mean the proactive designing of HR activities, such as recruitment, job design, position description, performance management systems, and training which would change the mindset of the people in the organisation with the help of the mediating forces, such as camaraderie, collective conscience, collective voice, collective resistance, fear of ostracism, fear of obloquy, fear of public disgrace, and fear of succumbing to Dilbert principle (Adams, cited in [3], p. 8) in such a way that they would not dare to involve in the unethical practices anymore.

In this chapter, the role of HRM is examined in devising the instruments for positive checks for curbing unethical practices like bribery. This is done by examining three different cases. With the help of available secondary data, we show how appropriate HR actions could prevent the occurrence of unethical practices. In each of the cases, the following points are addressed to facilitate the understanding of the role of HRM in curbing the unethical practices:

- Relevant facts about the country and its government;
- Relevant facts about the MNCs and involved personnel(s);
- Relevant information about the case;
- Enablers of unethical behaviour;
- HR lacunae in the case.

We conclude the chapter by identifying the particular and appropriate HR actions that could prevent the people involved from committing unethical activities. We also recommend how these HR activities can be implemented in the MNCs.

3. Case 1: bribery of Halliburton Energy Services of the USA in Nigeria

3.1 Relevant facts about the country and its government

- The official name of the country is the Federal Republic of Nigeria [4].
- It has a population of 170,123,740 [5].
- The total literacy rate of the population is 68% [5].
- The country spends 0.9% of its GDP on education [6].
- Seventy percent of the population of the country lives below the poverty line [5].
- The most important natural resources of the country include natural gas, petroleum, tin, iron ore, coal, limestone, niobium, lead, zinc, and arable land [5].
- The country was ranked 156th on Human Development Index in 2011 [7].
- The country was ranked 143rd in the Corruption Perceptions Index in 2011 (Transparency International, cited in [8]).
- The country has a federal republic type of government [5].
- Major political parties in the country include Peoples Democratic Party (PDP), the All Nigeria Peoples Party (ANPP), and Action Congress (AC) [5].
- The president is both the chief of state and head of government. The president is elected by popular vote for a 4-year term. The cabinet is called the Federal Executive Council [5].
- The country has a bicameral National Assembly. The members are elected by popular vote to serve 4-year terms [5].
- The judicial system comprises the Supreme Court (judges recommended by the National Judicial Council and appointed by the president) and the Federal Court of Appeal (judges are appointed by the federal government from a pool of judges recommended by the National Judicial Council) [5].
- In the country, the executive branch and the office of the president retained strong federal powers. The legislature and judiciary have suffered years of neglect and they needed to be rebuilt as institutions for exercising their constitutional roles in the balance of power. For many reasons, Nigeria's security services have been unable to respond effectively to the security threat, which is both political and criminal. As Nigeria has been trying to work out representational democracy,

there have been conflicts between the executive and legislative branches over major appropriations and other proposed legislation. There is a restraint on allowing the legislative and judicial branches to operate relatively freely [4].

- The bribery took place from the period 1995 to 2004 during the regimes of General Sani Abacha, Abdulsalami Abubakar, and Olusegun Obasanjo.
- The legal system is mixed and composed of English common law, Islamic law (in 12 northern states), and traditional law [5]. The legal system is highly corrupted [4].

3.2 Relevant facts about the MNCs and involved personnel(s)

Four MNCs were involved in the bribery case in the form of a consortium named TSKJ. The MNCs are Technip of France, Snamprogetti of Italy, Kellogg Brown and Roots (KBR), a subsidiary of Halliburton Energy Services, and Japan Gas Corporation ([9], p. 20).

Halliburton Energy Services is a multinational corporation with operations in over 120 countries. This company started as Halliburton Oil Well Cementing Company in 1920, became incorporated in 1924, and became listed on the New York Stock Exchange in 1948 [10].

The following two paragraphs have been excerpted from the complaint lodged by the Securities and Exchange Commission to the US District Court Southern District of Texas Houston Division. They describe the basic information about the company:

“In September 1998, Halliburton Company (“Halliburton”) acquired Dresser Industries, Inc. (“Dresser”), including Dresser’s subsidiary, The M.W. Kellogg Company (“Kellogg”). After the acquisition, Kellogg was combined with Halliburton’s subsidiary, Brown & Root, Inc., to form Kellogg, Brown & Root, Inc., which later became Kellogg, Brown & Root, LLC, now a wholly-owned subsidiary of KBR, Inc.” ([11] at 1).

“KBR, Inc. is a Delaware engineering, construction and government services corporation headquartered in Houston, Texas. KBR, Inc. was formed in March 2006 and was a wholly-owned subsidiary of Halliburton until November 2006, when it became a separate publicly-traded company. KBR, Inc.’s common stock is registered under Section 12(b) of the Exchange Act and trades on the New York Stock Exchange.” ([11] at 3).

KBR owned 25% share in the TSKJ ([12], p. 20). Analysis of the following excerpts from the complaint lodged by the Securities and Exchange Commission to the US District Court Southern District of Texas Houston Division leads to the conclusion that executives of KBR played the first fiddle in devising and implementing the bribery scheme. In other words, they were the mastermind.

“Officers and employees at the highest level of KBR, including its former CEO, Albert Jackson Stanley (“Stanley”), were closely involved in the joint venture and its business in Nigeria from the joint venture’s inception. Each member of the joint venture had one or more representatives on a steering committee that ran the joint venture. Stanley was a member of that steering committee at all relevant times. Other high-ranking personnel of KBR were also closely involved in the joint venture; these included sales, legal and operational personnel.” ([11] at 4).

The company's 'Code of Business Conduct' states that the company policy requires directors, employees and agents to observe high standards of business ([12], p. 19).

Halliburton Energy Services knew about the schemes of bribery and had indulgence in the matter because the CEO of KBR, Inc. used to report directly to the Chief Operating Officer of Halliburton Energy Services [13].

Four people from Halliburton's subsidiary and one person from Technip were mainly involved in the bribery practices. Their profiles are described below:

- Mr. Dick Cheney was Halliburton's CEO for 5 years before becoming vice-president to Mr. George W. Bush in 2001 [14]. While Mr. Dick Cheney was the CEO of Halliburton, the company thrived. As a politician, he is highly spoken of in regards to his political endeavours [10].
- Mr. Albert Jack Stanley was the former CEO of KBR. He was said to have met with three former holders of a top-level office in the executive branch of the Nigerian government on different occasions, luring them into designating representatives with whom they could embark on the joint venture, under the shadow of which transactions relating to the bribes to be paid to government officials could safely be conducted [15]. He was with KBR for years. He served there as chairman and then a consultant. He acted as the representative of the TSKJ consortium ([16], p. 506). One Halliburton spokesperson said that during the years Mr. Albert Jack Stanley ran KBR, Mr. Albert Jack Stanley reported to Mr. David Lesar, Halliburton's chief operating officer at the time and later CEO. Mr. David Lesar reported to Mr. Dick Cheney when Mr. Dick Cheney was the CEO [13].
- Mr. Jeffrey Tesler, a U.K lawyer, was the person who acted as the go-between in the payment of bribes [17]. He was the main facilitator and monitor of all the bribe disbursements [15]. This was done through his firm. Mr. Jeffrey Tesler set up a firm called Tri Star Investment to facilitate the fund transfer [15].
- Mr. Wojciech Chodan, a citizen of the UK with Polish roots and a former executive at M.W. Kellogg Company and later a consultant for KBR kept detailed diaries of the bribery transaction and worked for TSKJ in the capacity of a bribe conduit [15]. M.W. Kellogg Company employed him as Sales Vice-President from 1988 until December 1998, after which he became a Consultant to M.W. Kellogg Company until June 2004. Both as sales Vice-President and as Consultant, he reported to Mr. Albert Jack Stanley and other KBR employees [18]. He was also the former manager of the London office of M. W. Kellogg Company ([16], p. 506).
- Mr. Georges Krammer, former Director of Technip—a member of the TSKJ Consortium [15]. He was the person who leaked the involvement of Mr. Jeffrey Tesler and others in the bribery scheme [13].

3.3 Relevant information about the case

- The bribery case came into the limelight when a French magistrate initiated the investigation of suspicious payments made by TSKJ after Mr. Georges Krammer said Mr. Jeffrey Tesler is 'directly linked to corruption in Nigeria'. [13].

- Later on, the case was investigated by the Economic and Financial Crimes Commission of Nigeria [18] and the Securities and Exchange Commission of the USA ([12], p. 20).
- The bribe was paid to the top government officials of Nigeria, including two former presidents, one minister of petroleum, and one inspector general of police [18].
- The amount of the bribe was US\$180 million ([16], p. 504 and [19]).
- Between 1995 and 2004, senior executives at KBR and others, devised and implemented a scheme to bribe Nigerian government officials to assist in obtaining multiple contracts worth over \$6 billion to build Liquefied Natural Gas ('LNG') production facilities on Bony Island, Nigeria ([11] at 2).
- The bribe money was paid into the accounts in UPB Geneva, HSBC Monaco, and Swiss bank ([11, 18] at 6).
- The bribe was transferred over a 10-year period from 1995 to 2004 ([11] at 2).
- Halliburton also investigated the matter internally [20].
- The bribe was channelled through an external consultant to the company ([11] at 2).
- The bribe was transferred in the form of a consultation fee ([11] at 2).
- KBR, Inc. acted as the lead partner in the TSKJ consortium [13].
- Mr. Tesler was reappointed by the consortium in 1999 at Halliburton's insistence [13, 21].

3.4 Enablers of unethical behaviour

From the above information of the case, we can easily deduce that the unethical behaviours were facilitated by the following forces:

- **Unethical leadership:** It is proven that Mr. Dick Cheney had indulgence and consent in the corrupt practices of Mr. Albert Jack Stanley because the latter reported directly to the former regarding major business decisions. The unethical leadership of Mr. Dick Cheney allowed Mr. Albert Jack Stanley to make unethical decisions in this case.
- **Political clout of leaders:** Mr. Dick Cheney's political clout acted as a support for Mr. Albert Jack Stanley to embark upon unethical practices in Nigeria.
- **Inaction of top management of other consortium partners from Japan, France, and Italy:** The leaders or the top management of the other partners in the TSKJ consortium remained silent on the adoption of unethical practices of the lead partner Halliburton. The lack of active involvement and voice of the partners from Japan and Italy paved the way for committing the unethical practices by Halliburton.

- **Organisational structure:** The organisational structure acted as a camouflage to hide unethical practices. The multi-layered complicated relationship between Tri Star Investment and TSKJ, between TSKJ and KBR, and between KBR and Halliburton was nebulous enough to facilitate the commitment of any unethical practice by the TSKJ Consortium.
- **Corporate governance failure:** After its acquisition of Dresser, Halliburton, KBR's parent corporation, failed to devise adequate internal controls relating to foreign sales agents and the Foreign Corrupt Practices Act, and failed to maintain and enforce those internal controls it had. Halliburton, therefore, failed to detect, deter or prevent KBR's violations ([11] at 2).

3.5 HR lacunae in the case

- **Improper way of reappointment of Mr. Tesler as a consultant:** The HR Department of the organisation or the HR manager of the TSKJ consortium should have a voice in the reappointment of Mr. Tesler. The reappointment should have been based on a careful review of the previous performance, ability, etc. of Mr. Tesler.
- **Appointment of Mr. Albert Jack Stanley and Mr. Wojciech Chodan:** Like Mr. Tesler, the appointment of Mr. Albert Jack Stanley and Mr. Wojciech Chodan should have been done with the help of input from the HR department.
- **Terms of reference and performance appraisal etc. of Mr. Stanley, Mr. Tesler, and Mr. Chodan:** Their accountability and performance could be ensured through a rigorous and thorough appraisal and appropriate terms of reference. HRM could have helped assess their eligibility for the assignments from an ethical point of view.
- **Lack of human due diligence in appointing Mr. Stanley, Mr. Tesler, and Mr. Chodan:** A thorough assessment of past track record, attitude, aptitude, qualification, and capability could be done by completing a human diligence process.
- **Training of Mr. Stanley, Mr. Tesler, and Mr. Chodan:** These people have served the company for a long time. However, it is very apparent that they could not develop an attitude of employee engagement and commitment to the firm. They could not develop an ethical mindset throughout their career. The HR department of the company in which they served could provide them training on ethics and other matters that could improve their morality.

4. Case 2: bribery of Scancem International ANS of Norway in Ghana

4.1 Relevant facts about the country and its government

- The official name is the Republic of Ghana [22].
- It has a population of 25,241,998 [23].

- The total literacy rate of the population is 57.9% [23].
- The country spends 5.4% of its GDP on education [23].
- 28.5% of the population of the country lives below the poverty line [23].
- The most important natural resources of the country include gold, timber, industrial diamonds, bauxite, manganese, fish, rubber, hydropower, petroleum, silver, salt, and limestone [23].
- The country was ranked 135th on Human Development Index in 2011 [24].
- The country was ranked 69th in the Corruption Perceptions Index in 2011 (Transparency International, cited in [25]).
- The country has a democratic type of government [23].
- Major political parties of the country include the New Patriotic Party, National Democratic Congress, Convention People's Party, and People's National Convention [22].
- The president is popularly elected for a maximum of two 4-year terms [22].
- There is a Council of State, a consultative body of 25 members appointed by the president. It is required by the constitution [22].
- There is a unicameral Parliament and the members are popularly elected for 4-year terms [22].
- There are independent Supreme Court justices nominated by the president with the approval of Parliament [22].
- The country has been politically stable since 1993. The present political party in power enjoys broad support among the Ghanaian population as it pursues the domestic political agenda entitled 'Better Ghana.' [22]
- The bribery took place in 2000 during the regime of Flt. Lt. Jerry John Rawlings, who was the president of Ghana from 1979 to 2001.
- The legal system is mixed and composed of English common law and customary law [23].

4.2 Relevant facts about the MNC and involved personnel(s)

Basic information on the company may be found in the following translated version of the full judgement given by Judge Trine Standal of the Asker and Baerum District Court:

"Scancem International ANS was incorporated on September 1st, 1986, with international cementation as its aim. The owners were Euroe and Noroem with 50% each. The Heidelberg group took over as owner in 1998. Scancem International ANS was

involved in extensive bribery and corruption in a number of countries in Africa, including Ghana. In Ghana, it owns a subsidiary named Ghana Cement Works Ltd. (GHACEM). Scancem International ANS appointed Tor Egil Kjelsaas as head of the African division. He was one of Scancem International ANS's most trusted managers. He was also the one with the local contacts. Tor Egil Kjelsaas was educated in Germany. He has worked in the Noroem system and subsequently for Scancem International ANS when it was incorporated, since the late 1960s. He was head of Scancem International ANS's African division. He worked for Scancem International ANS until 1999, and then acted as a consultant to the company over a two-year period" [26].

According to the records, as of 1991, the Government of Ghana's (GoG's) share in Ghacem, was 75%. The rest 25% was held by Scancem of Oslo, Norway (24.5%) together with Dr. J.A. Addison (0.5%) [27]. Sounding critical of Scancem's activities in Ghana since 1992, when the Government of Ghana began selling its 75% stake in it to the Norwegians, the journalists who could not see any ethical examples worth emulating from that Norwegian company, demanded from the country's minister of international development what his government intends doing about the social impact of the imbalances that Ghacem's unfair industrial practices have had on Ghana [28].

4.3 Relevant information about the case

- The news of the bribery was published simultaneously in several newspapers, namely, Dagens Naeringsliv Magasinet, Det Norske Magazine, and Crusading Guide. However, it was first reported by two Norwegian journalists who jointly authorized the story entitled 'Grey Cement, Black Money' in the April 21, 2007 edition of their newspaper, 'Dagens Naeringsliv Magasinet' [29].
- The bribe was intended to be paid to former President of Ghana Flt. Lt. Jerry John Rawlings, his wife Mrs. Nana Konadu Agyeman-Rawlings, and his special advisor Mr. PV Obeng [30].
- The amount of bribe was at least US\$4.1 million and maybe double as part of the money was actually paid to the government officials [30].
- The bribe money was paid into two foreign accounts in Switzerland and Luxembourg [31].
- The bribe was transferred 2 months before the general election in Ghana in 2000 [32].
- The bribe was paid to the three political leaders to secure Scancem's monopoly in the cement industries in Ghana [31].
- The alleged multi-million-dollar bribery came to light when ownership of Scancem changed hands in 2000, from Aker RGI of Norway to German Heidelberger Cement through the process of an internal audit [33].
- The whole bribe was not paid to the politicians. A part of the money was embezzled by Mr. Tor Egil Kjelsaas amounting to US\$4.1 million [30].
- The Asker And Baerum District Court maintains in its judgment: "It is part of the nature of the culture of bribes that it will not be possible to trace this, either by

the tax authorities or by those for whom those receiving the money are acting or working. As such, it is impossible to provide proof by the party handing over the money in cash that the money actually has been handed over” [26].

- The bribe was transferred in the form of a consultation fee [33].

4.4 Enablers of unethical behaviour

- **Dysfunctional code of ethics:** This is evident from the following observation of Judge Trine Standal of the Asker and Baerum District Court:

“Scancem itself established a system of bribery and corruption. The system required payments to be untraceable. The system can only be based on trust, and producing evidence in retrospect can be difficult. Kjelsaas finds it hard to prove he is innocent, and Scancem has a problem proving him guilty. Any doubt as to the evidence must go against Scancem” [26].

- **Dysfunctional Control System:** This is evident from the following observation of Judge Trine Standal of the Asker and Baerum District Court:

“The company failed to establish any kind of control system, accepting on the contrary, a system which meant that cashflows were hard to trace, partly because the money was handed over in cash and partly because it was transferred to bank accounts which could neither be traced nor controlled. Seen in this light, there was no way of documenting who handed the money over in cash or that money was actually handed over” [26].

- **Dysfunctional Culture:** It became a culture of Scancem International ANS to pay bribery in the countries it operated [26].
- **Ambiguity in Law:** The judge, Trine Standal, held that ‘the two parties’ in the case ‘agree that the bribery had not been contrary to Norwegian, Ghana or Nigerian law’. [26]. However, The Statesman newspaper stated that the criminal laws in both Ghana and Nigeria have since the 1960s been clear against corruption [34]. This clearly smacks of the ambiguity of law that made different interpretations and lacunae and paved the way for committing unethical practices.

4.5 HR lacunae in the case

- **Failure of expatriate management including selection and performance management:** Basing the selection of Mr. Tor Egil Kjelsaas simply on trust is never an HR approach. Every selection of expatriates must base on a thorough selection procedure and due diligence. The performance management of senior people with greater autonomy should have been done more carefully and rigorously.
- **Lack of adequate measures to appraise the performance of senior managers:** The performance appraisal system was replaced with trust. This is true that the performance appraisal of senior expatriates is a challenging task. However, HR could devise some tactful mechanism in doing so.

- Lack of control of expatriates through position description: The position description or the terms of reference could have curbed the unethical behaviour of Mr. Tor Egil Kjelsaas.
- Training of Mr. Tor Egil Kjelsaas: If the company had provided training to Mr. Tor Egil Kjelsaas on ethics and other matters like culture, he would have applied his judgement, conscience, and cultural intelligence in performing his job.

5. Case 3: bribery of Niko Resources Ltd. of Canada in Bangladesh

5.1 Relevant facts about the country and its government

- The official name is the People's Republic of Bangladesh [35].
- It has a population of 161,083,804 [36].
- The total literacy rate of the population is 47.9% [36].
- The country spends 2.4% of its GDP on education [36].
- 31.5% of the population of the country lives below the poverty line [36].
- The most important natural resources of the country include natural gas, arable land, timber, and coal [36].
- The country was ranked 146th on Human Development Index in 2011 [37].
- The country was ranked 120th in the Corruption Perceptions Index in 2011 (Transparency International, cited in [38]).
- The country has a democratic type of government (parliamentary democracy) [36].
- Major political parties in the country include the Bangladesh Nationalist Party (BNP), the Awami League (AL), the Jatiya Party, and the Jamaat-e-Islami Party [35].
- The president is the chief of state. The president is elected by National Parliament for a 5-year term [35].
- The Prime minister is the head of government [35].
- The cabinet is selected by the prime minister and appointed by the president [35].
- There is a unicameral Parliament (345 members) [35].
- Each Member of Parliament is elected by popular vote for 5-year terms from single territorial constituencies [35].
- The civil court system is based on the British model [35].

- The chief justices and other judges of the Supreme Court are appointed by the president [35].
- The country has been politically stable since 1990. The present political party in power enjoys broad support among the Bangladeshi population as it pursues 'Vision-2021: Digital Bangladesh'.
- The bribery took place in 2005 during the regime of Prime Minister Khaleda Zia.
- The legal system is mixed and composed of mostly English common law and Islamic law [36].

5.2 Relevant facts about the MNC and involved personnel(s)

The agreed statement of facts regarding the case *Her Majesty the Queen v. Niko Resources Ltd.* gives the following information on the company [39]:

- Niko Resources Ltd. (hereinafter referred to as Niko Canada) is a Canadian company and is headquartered in Calgary, Alberta.
- It is a publicly-traded oil and natural gas exploration and production company with international operations and is listed on Toronto Stock Exchange.
- The company was incorporated in 1987.
- Mr. Bob Ohlson was the CEO of the company till his death. After his death, Mr. Edward Sampson assumed the leadership role of the company.
- The company had no previous record of bribery practices in any other country.
- The company first became involved in Bangladesh in 1997.
- The Bangladesh operation was named Niko Bangladesh.
- Niko Bangladesh was actually owned by Niko Resources Caymans, which was a wholly-owned subsidiary of Niko Canada.
- Although Niko Bangladesh operated only in Bangladesh, it was not incorporated there. Rather, it was incorporated in Barbados. However, it maintained an office in Dhaka, the capital city of Bangladesh.
- Niko Bangladesh was funded solely by Niko Canada. However, the funds used to be transferred through a long chain. Niko Canada used to transfer funds from its Calgary bank account to the account of Niko Resources Caymans, which then transferred funds to Niko Bangladesh's account in Barbados, and finally, Niko Bangladesh's office in Barbados used to transfer funds to Niko Bangladesh's office in Dhaka.
- As a matter of corporate governance, Niko Canada closely monitored the activities of Niko Bangladesh and it is proved by the presence of the CEO of Niko

Canada on the board of Niko Bangladesh. Most transactions and even smaller ones were monitored from Canada. The subsidiary could not ask for any money from Canada without properly stating the reasons.

- Niko Bangladesh involved itself in a joint venture with Bangladesh Petroleum Exploration and Production Company Limited (BAPEX), a local company wholly owned by the government of Bangladesh.

The main person involved in the bribery case was Mr. Qasim Sharif. The agreed statement of facts regarding the case *Her Majesty the Queen v. Niko Resources Ltd.* gives the following information on him [39]:

- He was the in-country agent of the company till 2003 and later was employed as the president of the company by Niko Canada immediately after signing the joint venture with BAPEX.
- Mr. Sharif was an American citizen but was ethnically a Bengali person.
- He was employed by Niko Canada to look after the Bangladesh operation based on the expectation that his background would be such that he would have the expertise to navigate the often complex relationship between business and government officials that existed in Bangladesh at the time (Bangladesh was the most corrupt country in the world in which to do business, as per Transparency International).
- Mr. Sharif used to report directly to both Mr. Bob Ohlson and Mr. Edward Sampson till the death of Mr. Ohlson. After the death of Mr. Ohlson, Mr. Sharif used to report to Mr. Edward Sampson through Bangladesh Country Manager Brian Adolph, who in turn, reported to William Bill Hornaday.

5.3 Relevant information about the case

The agreed statement of facts regarding the case *Her Majesty the Queen v. Niko Resources Ltd.* gives the following information on the case [39]:

- The news of the bribery first came to the limelight on June 15, 2005, through an article published in *The Daily Star* (the leading English National Daily in Bangladesh) titled 'Niko gifts minister luxurious car'.
- The bribe was paid to obtain or retain an advantage in the course of Niko Bangladesh's business in Bangladesh. More particularly, the bribe was paid in order to influence the minister in dealings with Niko Bangladesh within the context of ongoing business dealings.
- The bribe was paid to the former state minister for energy and mineral resources Mr. AKM Mosharraf Hossain.
- The bribe was made in kind in the form of an expensive vehicle and defraying the expenditure of foreign tours to two countries.
- The approximate total monetary value of the bribe was 195,984 Canadian Dollars.

- The bribe was paid on or between the 1st of February, 2005 and the 30th of June, 2005.
- The company tried to disguise the bribe by giving it to the minister via BAPEX.
- The bribe was initially denied and dismissed by Niko Bangladesh as a gift and a commonplace part of doing business in Bangladesh.

5.4 Enablers of unethical behaviour

- Failure of corporate governance mechanism: The corporate governance mechanisms employed by the parent firm, particularly the board of directors and its ethics committee and internal control system failed because these mechanisms could not see through the actual purpose of buying the vehicle by its Bangladesh office and could not inform the parent firm in advance about the possible violations of code of ethics.
- Violation of corporate governance principles: The fact that the CEO of Niko Canada was a member of the board of Niko Bangladesh and that the company was not registered in Bangladesh was a clear violation of certain globally established corporate governance principles like transparency and board effectiveness ([40], p. 77 and 151).
- Misunderstanding of culture: The parent company misunderstood the culture of Bangladesh as akin to those prevailing in some of the African countries.
- Failure to distinguish between acceptable and unethical practices: The parent company could not distinguish between gift and bribe.
- Organisational structure: The complicated structure and indirect ownership led towards dysfunctional monitoring and control system. Dual reporting of Mr. Sharif to both Mr. Bob Ohlson and Mr. Edward Sampson and then indirect reporting relationship through multiple tiers caused difficulty in communication ([41], p. 331) between the top management and Mr. Sharif.

5.5 HR lacunae in the case

- Faulty selection of expatriate: Selection of Mr. Sharif simply on the basis of his nationality was a clear mistake from the HR point of view. This type of assignment should have reviewed the capability and experience of the expatriates to deal with similar situations in a similar type of cultural and political environment.
- Lack of adequate measures to appraise the performance of senior managers: The performance appraisal system should have followed some disciplines. The direct reporting of Mr. Sharif to Mr. Bob Ohlson and Mr. Edward Sampson and then indirect reporting through a chain of command and also multiple subordination of Mr. Sharif rendered the performance appraisal ineffective.
- Lack of control of expatriate through position description: The position description or the terms of reference could have made Mr. Sharif more careful and tactful in discharging his duties.

- Training of Mr. Qasim Sharif: If the company had provided training to Mr. Qasim Sharif on ethics and other matters like culture, he would have applied his judgement, conscience, and cultural intelligence in performing his job.

6. Appropriate HR actions to combat corruption

All the above cases involve the big people who either paid or received bribes. The HR lacunae identified in each of the cases may seemingly appear as funny and impracticable. Apparently, it seems that it is beyond the capability of HRM to streamline or direct the attitude and behaviour of those people towards an ethical orientation. The reason is that HRM is traditionally supposed to be applicable to the general employees who work in the organisations. It is not for those who make strategic decisions like the Chairman, CEO or Directors, or other senior executives.

However, I believe that HRM can play an all-encompassing role that pervades throughout the organisation from top to bottom to combat corruption. HRM can promote mediating forces that will create a culture of bottom-up pressure in the organisation and will compel the top executives to behave in an ethical way. Following is the model for understanding the role of HR in curbing corruption (**Figure 1**):

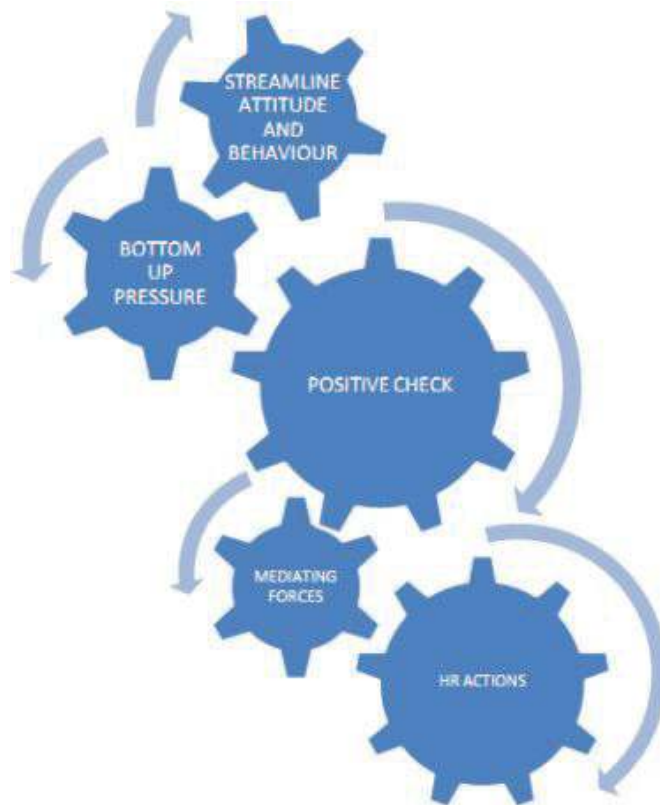


Figure 1.
Role of HR in curbing unethical behaviours.

Following are some of the HR actions that help to create the positive-mediating forces:

- Sustainable leadership ([42], p. 30): HRM can help develop sustainable leadership like the Rhineland model in companies. All the above cases were caused by Anglo/US model of leadership that is far from sustainability. Such leadership can jeopardise the very survival of the company in the long run.
- Ethical leadership ([43], p. 34, Grojean et al., cited in [44], p. 111 and [45], p. 12): HRM can help develop ethical leadership among the top management in the companies. Buller and McEvoy [46] have shown how HRM works together with transformational leadership practice and ongoing organisational learning in creating and sustaining ethical capability in the MNCs.
- Values-based leadership ([47], p. 1): The values-based leadership among the top executives will act as a moral compass for the other members of the organisation. HRM can promote values-based leadership through selection, induction, and training.
- Leadership development ([48], p. 311): HRM can help develop leaders who can become examples for the rest of the members of the organisations. PricewaterhouseCoopers have adopted this leadership development through Genesis Park Leadership Program and Project Ulysses ([49], p. 3–4, [50], p. 10 and [51], p. 61).
- Employee engagement ([52], p. 3): Employee engagement can enhance the emotional connection of people to the organisation, work, and workplace by going above and beyond the call for duty. It makes them conscientious towards their organisation through a culture of information sharing, innovation, the reputation of integrity, flexibility, and self-efficacy. HRM can promote employee engagement among the people.
- Knowledge management and learning ([53], p. 208): It helps people to think and behave ethically and to learn from mistakes. HRM can play a vital role in creating, transferring, and sharing knowledge throughout the organisation.
- Cultural intelligence ([54], p. 76): HRM can act as a source of cultural intelligence with the help of the social capital ([48], p. 220), which can be used for assessing the political, socio-cultural, and economic environment before entering into a country.
- Selection ([55], p. 39 and [56], p. 125): The selection of the right employee with relevant experience is a *sine qua non* for the success of MNCs abroad. Putting a round peg in a square hole or *vice versa* would lead towards consequences similar to that of Niko Resources Ltd.
- Expatriate agreement ([57], p. 4): Lack of expatriate agreement would lead towards consequences similar to that of Scancem and Halliburton.
- Compensation and rewards ([55], p. 36 and [58], p. 635): All the cases of bribery are about money and people. Designing the compensation and reward system

for the expatriates could minimise the frequent repetition of such unethical practices.

- Preparation and orientation ([56], p. 128): Lack of preparation and orientation would lead to similar consequences as was faced by Niko Resources Ltd. in Bangladesh.
- Pre-departure training on culture, ethics, and diversity issues ([55], p. 40 and [59], p. 657): If expatriates are not given adequate training on culture, ethics, and diversity, this would lead towards consequences similar to that of Niko Resources Ltd.
- Following the expatriates until repatriation ([60], p. 39): If expatriates are not closely monitored during their assignment period, this would lead towards a situation called 'out of sight, out of mind' attitude ([61], p. 38). This type of attitude would lead to consequences similar to that of Scancem.
- Development of a suitable and sustainable expatriation model based on the most appropriate taxonomy as suggested by Baruch and Altman [62]: As it is clear from the cases, different countries were characterised by the different political, legal, economic, and socio-cultural environment. This diversity of the host countries entails the development of different expatriation models for making the assignment successful.
- Mentoring ([63], p. 275): Mentoring would have refrained Mr. Tesler, Mr. Sharif, and Mr. Tor in the above cases to engage in unethical practices.
- Job description ([64], p. 669): It is very clear how important a job description or terms of reference is in controlling the expatriates.
- Alternative to long-term placement/assignment/Shorter Assignments ([60], p. 36): All the people in the above cases were posted in their workplace for a long time. This has enabled them to develop linkage with government officials and to find out ways to commit unethical activities because they became familiar with the environment, practices, and people to commit unethical activities.
- Psychological contract ([65], p. 15 and 21): This refers to trust, fairness, and commitment to the organisation. It also promotes employee engagement. The ethical orientation of Mr. Tesler, Mr. Albert, or Mr. Sharif in the above cases would have been different had they developed a psychological contract with their organisations.
- Employment security ([66], p. 58): Employment security would refrain the managers from committing unethical activities and from abetting the top management. If top management puts pressure on expatriates to engage in unethical business practices, then the expatriates can simply decline the request because they do not have the fear to lose their job. Rather, it may backfire upon the top management. Another way of using employment security is that if an employee protests the unethical activities of the senior management and is engaged in whistle-blowing, then the senior management will not be able to commit unethical practices. The employees will garner the courage to protest because he or she does not have the fear to lose their job.

- Selective hiring ([66], p. 58): The more the employees will know that they have been selected as the best of the best, they will have a self-dignity, which will prevent them from committing unethical activities.
- Investment in training ([67], p. 43 and [58], p. 635): A study conducted by MacKewn and VanVuren [68] confirmed that training on ethics is correlated with ethical behaviour in a statistically significant way. Training is not a cost but an investment, which will save the organisation in the future. Ethical training of the involved people in the above cases would have curbed their unethical behaviour. Training among the new employees will foster an ethical culture throughout the organisation in the long run ([69], p. 26) and will enable the creation of a bottom-up pressure for the top management to behave ethically.
- Participation in decision making ([66], p. 60): This will result in employee empowerment. Thus, their engagement would be increased. This would
- Sharing of information ([66], p. 60): Sharing of information would result in transparency and would put pressure on senior management to behave ethically.
- Reduction in status symbol ([66], p. 63): This would result in low power distance and would result in the production of moral courage to raise voice against unethical leadership and corrupt management practices.
- Comprehensive recruitment and selection procedure ([58], p. 635): Emphasising the ethical orientation of the candidates during the selection process would have resulted in the selection of honest employees. Psychological assessments including the personality type are very helpful in this regard.
- Managing performance ([70], p. 509 and [58], p. 635): Lack of managing performance would result in a situation faced by Scancem, Halliburton and Niko Resources Ltd.
- Conscience for the organisation ([71], p. 88): The HR department works as an ethics auditor for an organisation. It holds and conveys the ethical orientation that shapes the culture of the organisation.
- Formulation and implementation of organisation-wide ethics program ([72], p. 424): The HR department can formulate and implement the ethics program involving everyone in the organisation under the auspices of the leaders, board of directors, and top management.
- Ethical steward for the organisation ([73], p. 173): The HR department can act as an ethical steward for the organisation and can help direct the resources towards an ethical use. It can guide the organisation members towards ethical attitude and behaviour.
- Moral compass for the organisation [74]: The HR department can act as moral intelligence and can provide information for the organisation members as to the right or wrong practice. The example of Niko Resources Ltd. is an example of a lack of moral intelligence as the expatriate manager could not differentiate between acceptable and unethical practices.

7. Conclusions

It takes two to make a quarrel but it takes many to either commit or combat corruption. This is evident from the above cases where the involvement of different parties from different organisations bought about the unethical practices.

The HR actions are almost the same for any bribery practices. However, these HR actions need to be applied in a concerted way across different organisations to combat corruption successfully. In this chapter, the issue has been discussed mainly from the HRM perspective of MNCs. However, it should be borne in mind that MNCs represent only one party in the game. Thus, the HRM of MNCs is not self-sufficient to combat corruption.

In the above case of bribery practices, we have seen that the boundary of law begins where the boundary of ethics ends. Thus, it is the Hamletian dilemma or decision to behave ethically or not is where HRM can exert its influence in the form of a positive check.

8. Recommended strategies

- It is not only about the HRM of the MNCs but also the HRM of the public sector of the host countries as well as the HRM of the intermediaries that must be actively involved in designing the positive check mechanisms to combat unethical practices like bribery. It is not the democracy or dictatorship that indulges or checks bribery in the government machinery. Rather, it is the HRM in the public sector that can positively check these unethical practices. Thus, the HR actions identified above should be carried out by public sector HRM for combating corruption successfully ([75], p. 123 and [76], p. 172).
- Governments and regulatory authorities of both countries should actively and jointly monitor the activities of MNCs. They should proactively forecast the possible areas of bribery and the venal people in the MNCs and the government. Obviously, HRM has a role to play in terms of performance appraisal and employee record maintenance.
- Ice-breaking cum training sessions after every major change in the management of MNCs or government administration can be jointly organised by the governments of both countries and the MNCs. This would lead towards fostering and promoting an ethical environment and would really make it difficult to engage in bribery practices by the government or MNCs. The training session could be on ethics, culture of countries, idea exchange, and culture of the MNC, etc.
- Research has indicated that the founders and/or the heads of the organisations have a profound impact on the ethical orientation and culture of the companies. For example, the founders of IBM, Sony, Disney, Microsoft, and Hewlett-Packard ([77], p. 340) had a profound impact on shaping the ethical culture of the organisations. Similarly, the exemplary simple lifestyles of Ingmar Kamprad (founder of IKEA) and Nagawara Ramarao Narayana Murthy (founder of Infosys) have become an inspiration for the employees of the organisations and have shaped their values and culture ([48], p. 241). As such, regulatory bodies of the home and host country governments must

take into account and must assess the personal integrity, morality, etc. of the founder and/or the heads of the organisations in granting license to set up a business, to raise funds from the market or to operate overseas. This can be done through a due diligence process.

- Spirituality in the workplace, the practice of religion, and the dominance of religious mindset and orientation in day-to-day activities will help create compunction of conscience among the employees. Rendering religious rituals in everyday business activities. For example, the everyday congregation at the beginning of the day and discussion about activities to be righteous, consequences of not being righteous, etc. As is pointed out by Barrett [78], this is becoming an increasingly important issue on the board.
- Comprehensive human due diligence at every stage of an organisation's life cycle and transitional stages ([79], p. 124).

9. Implementation mechanism

The implementation of the strategy to combat corruption requires the concerted effort of different organisations.

In most of the cases of bribery practices of MNCs in the host countries, three parties are mainly involved, viz., the MNC, the host country government, and an intermediary. In the Halliburton case, UPB Geneva, HSBC Monaco, and Swiss bank acted as financial intermediaries to transfer funds from the donor to the recipient ([11, 18] at 6). In the case of Scancem, Unibank SA Luxembourg and Barclays Bank SA in Geneva, Switzerland acted as the intermediary [31].

A model may be used in combating corruption that involves the three parties working together for deploying a positive check mechanism by which HRM of those organisations can promote positive mediating forces that will create a culture of bottom-up pressure in the organisation and will compel the top executives to behave in an ethical way. Usually, banks are not actively involved in the transactions, rather they are facilitators of transactions.

Let us know about the mechanism with the help of an analogy. It is like a soccer game. The ball may be thought of as the ethics. Organisations are like teams playing with ethics with several members. The CEO of MNC or the Prime Minister of the host country acts as the captain and the Chairman or President acts as the coach. The activities of the organisations are constantly monitored by several referees, such as Banks, Transparency International (TI). Any player playing foul with ethics will be warned by the referee through institutional whistleblowing. Thus, a system of check and balance will be established through the mechanism. The model becomes effective only when the referees are granted authority and power to rule over the MNCs and governments.

The three parties can be brought together with the help of a tripartite HR alliance. The HR departments of the three organisations may develop necessary mechanisms to make the alliance effective. They will jointly carry out various HR initiatives identified above in the three organisations to promote positive mediating factors to combat corruption.

The implementation model is explained below with the help of a diagram (**Figure 2**).

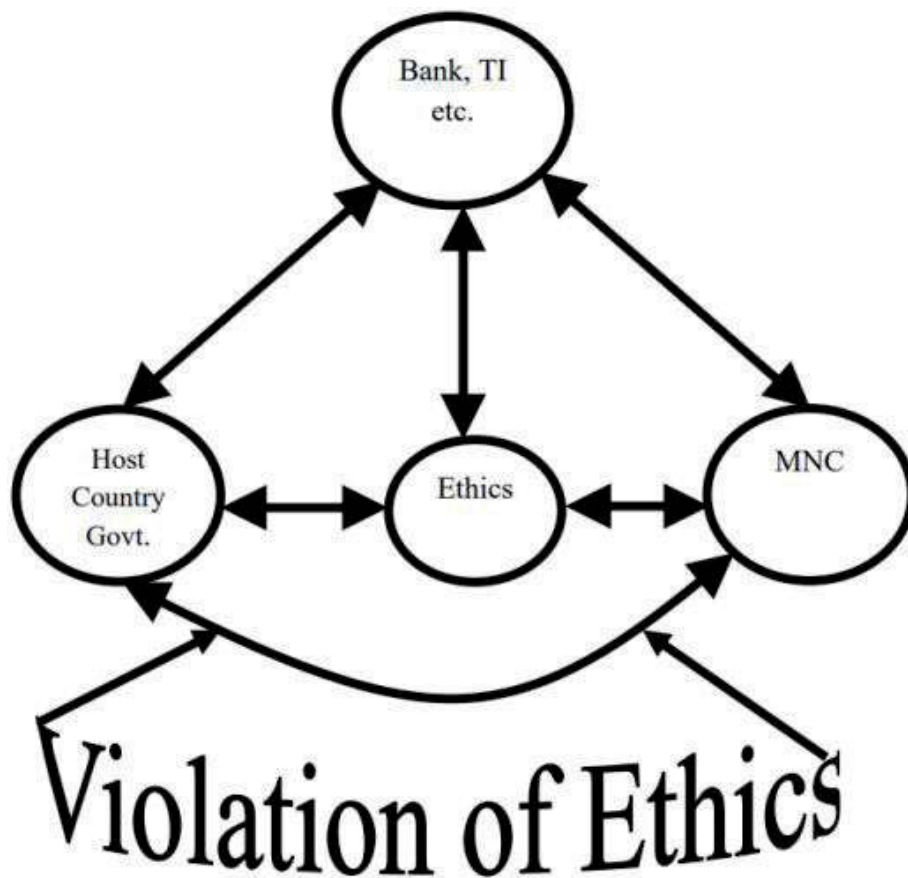


Figure 2.
Model for implementing recommended strategies.

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