

AN UNDERSTANDING
OF KEY CULTURAL FACTORS WILL
HELP WESTERNERS TO BETTER UNDERSTAND
THE COMMERCIAL OPERATING ENVIRONMENT
IN CHINA TODAY, AS WELL AS ASSIST IN
BUILDING LASTING RELATIONSHIPS WITH
CHINESE BUSINESS PARTNERS
AND ASSOCIATES.

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& EMMA PITT

Chinese culture and the law

Abstract Confucian ideology dominates China's history, and still has a great impact on the Chinese mentality today. Confucian traditions have shaped the development of China's judicial, political and economic systems.

Chinese people hold a strong respect for hierarchy and a weak sense of legality. In the Confucian tradition, Chinese have a great respect for their elders and for seniority in the workplace and society.¹ Chinese are unlikely to challenge their office leaders. When negotiating with Chinese associates, quick identification of the key decision maker is vital. This leader is likely to make decisions on behalf of the group, but accountability for

the decision will ultimately be shared. Ensure that the key decision maker is looked after and fully informed of all developments at the negotiation table.

This unquestioning regard for hierarchy is reflected in China's legal sphere. China's judicial system is intimately linked with the state, and China's Communist Party (CCP) leaders act as the dominant hierarchical force in the development, implementation and reform of the law. Historically, the CCP has overseen the deliberations of the courts through adjudication committees.² The courts have little or no opportunity to rule on the constitutionality of China's laws, rather the CCP, through the influence that it exerts over the legislature (the National People's Congress and its Standing

Committee), is responsible for interpreting the laws it has, itself, developed.

This State influence on the judicial system means that many Chinese individuals have limited faith in their ability to redress issues through the courts. Instead they rely on traditional mechanisms to protect their interests, such as Moral Thought and Guanxi, as will now be explored.

MORAL THOUGHT

Moral Thought (li) is a guiding force for Chinese people. Confucian ideology favours legal "regulation" based on virtue, benevolence, social rightness and morality, with harmony as a central goal.³ Moral Thought is at the core of Confucianism and permeates

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Chinese society. Confucian Moral Thought stresses the importance of maintaining harmonious relationships with one's elders, leaders and the wider community. It dictates that people should be considered fundamentally good, with a sense of integrity instilled in them by social customs, norms and education. This faith in social norming is generally favoured by Chinese people rather than highly prescriptive laws. Historically, disputes in China have generally been settled through relationship-based mediation, rather than through the courts.

The influence of Confucian ideology has meant that China's legal system remained under-utilised and unsophisticated well into the twentieth century. It was not until China adopted its opening up policy in the late 1970s, that significant reform of China's legal system commenced. Legal reform centred on China's civil and commercial laws, and aimed to provide the necessary protections to ensure an attractive operating environment for foreign investors.

Despite these reforms, the continued reliance of Chinese people on trust-based personal networks to further protect their business interests presents an ongoing challenge for Western firms and individuals operating in China.

QUANZI AND GUANXI

Quanzi and Guanxi (personal relationships) have great influence on daily life in China. With an historical absence of a strong and transparent rule of law, Chinese have come to trust and rely heavily on their personal networks. It is no secret that in China Guanxi can help companies access scarce resources, financing, talented staff and government support among other opportunities.⁴

Non-Chinese, with a short history of commercial operation in the mainland, may consider their underdeveloped networks a significant hurdle to business dealings. With local joint venture partnerships still a mandatory part of doing business in China

in certain sectors, many multinational firms have assumed they will be able to benefit from their local partner's networks. An increasing movement to hire local staff, should also be helping overseas owned firms to build their Guanxi. Multinationals must remember, however, that Guanxi is a long-term proposition, with many personal relationships taking years or generations to flourish. "Guanxi is personal, reciprocal and long-term orientated."⁵

Further complicating the picture, is the influence of Quanzi in China. Quanzi has been described as a circle of trust, separating "insiders" from "outsiders" in business dealings.⁶ While a group of managers may technically be equals in the decision making process, it is not uncommon for two or three well-connected managers, "the insiders", to hold the real power. Quanzi can explain much about the power structures that exist within many Chinese-international joint venture projects, with both the overseas and local partner being excluded from aspects of the company's operations at certain times.

Western companies should not ignore the benefits of building person-to-person relationships in China. Chinese people believe that fair play and trust are the common foundations for long-term relationships. Even without the benefit of well developed Guanxi or Quanzi, Westerners who are fair and take time to build trust with their Chinese business partners will benefit greatly.

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DOING BUSINESS

Responsibility is shared, limited accountability. Confucius promoted the stable properties of the collective and the perceived positive social outcomes that resulted from maintaining harmonious relationships with one's neighbours.⁷ Despite the flourishing market economy, China remains a society steeped in collective tradition and shared responsibility, as evidenced by China's ruling politburo standing committee, where ultimate responsibility is shared by the group. For Westerners operating in China, the sharing of responsibility can be interpreted as a lack of individual accountability, and can present one of the greatest challenges in doing business in China.

In China, all of life is negotiated. China is a very populous nation with many conflicting priorities. In daily life, Chinese are striving to "get ahead" and are accustomed to firmly standing up for themselves in all transactions. Westerners who have recently arrived in China are often surprised at the frequency of argument and debate. In contrast to the authoritarian nature of the Chinese political system, it could be argued that Chinese people's day-to-day lives are not always as heavily influenced by rules as our own in the West. Chinese are used to challenging the regulations that impact their daily lives.

Nowhere in Chinese society is negotiation more important than in the commercial

sector. In the Chinese business context, formality is expected. However Chinese are likely to "drive a hard bargain", and will expect you to do so too. Do not feel obligated to do business with a particular firm because they have taken great care of you.

For Chinese people, agreeing to cooperate is the beginning, not the end, of negotiations. When doing business in China, do not neglect your key Chinese stakeholders after agreement on a matter has been reached.

China is undergoing a period of great social, economic and legal change. Conflicts exist between traditional Confucian thoughts and contemporary social development. Since the opening up policy of the late 1970s, China has learned much about the diversities of cultures and peoples due to their interactions with the outside world. While respect for Chinese business practices is essential, Chinese people are also willing to learn from and adapt to the needs of their Western stakeholders. ●

While respect for Chinese business practices is essential, Chinese people are also willing to learn from and adapt to the needs of their Western stakeholders.

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