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Ethics in International Management

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Ethics in International Management

Edited by
Brij Nino Kumar
Horst Steinmann

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Editors

Prof. Dr. *Brij Nino Kumar* Department of Business and International Management, Friedrich-Alexander-Universität, Erlangen-Nuremberg, Germany.

Prof. Dr. Dr. h. c. *Horst Steinmann* Department of Business and Management, Friedrich-Alexander-Universität, Erlangen-Nuremberg, Germany.

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Preface

The idea of this volume cropped up at a conference in 1995 on Ethics in International Management which was jointly organized by the editors: *Brij Nino Kumar*, then *Chairman* of the Scientific Commission of International Management, German Association of Professors of Business Economics and Management and *Horst Steinmann* as Chairman of the German Business Ethics Network. The joint conference was attended all together by about 150 academicians and practitioners, and in the two and a half days of paper presentations and panel discussions it became apparent that internationalization and globalization both pose a challenge to the moral foundations of the activities of multinational corporations. For one, the diversity of environments in which multinational corporations operate raises the question of cultural relativity and ethical differences. Secondly, it seemed important to look at the increasing moral responsibility of these firms in the face of expanding globalization and diminishing government control. Both aspects offer a plethoria of problems and issues which in a volume like this can only be covered to a limited extent.

Several papers included in the volume were presented at the conference; others were invited. In both cases we express gratitude to the authors for agreeing to participate and making this volume possible. We would also like to thank Christoph Schirmer, de Gruyter, for his helpful support all through the project and our team of assistants under the competent and untiring guidance of Frank Schmidt for putting the manuscript together.

Nuremberg, Spring 1998

Brij Kumar
Horst Steinmann

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Introduction to the Volume: Ethics in Multinational Corporations

Brij Nino Kumar and Horst Steinmann

1 An Arising Problem in International Business Practice

It is an established fact today that globalization and the spread of Multinational Corporations (MNCs) are strongly interrelated. To the extent, however, that globalization gains importance in world economy there is an increasing need for the MNCs not only to act as *economic* agents but to more and more take over the role as *moral* actors.

The main reason for this proposition lies in the decline of the sovereignty of national states with respect to laying down and controlling the normative foundations of economic activity. The economics of globalization based on world-wide integrated-spread of corporate activity have led to the phenomenon that scope and possibilities of national jurisdiction on one hand and the economic reach of private enterprise on the other are more and more drifting apart.

MNCs are increasingly locally decentralizing on a global base their managerial and operational functions. They set up – in their endeavor to maximize return on investments – their activities world-wide in locations wherever they can expect and are offered best business environmental conditions, e.g. with respect to labor laws and labor cost, taxation, pollution laws etc. Subsequently the traditional assumption of the MNC as a centralized hub and locus of power that could be made responsible for complying to the national laws loses more and more its original validity.

In this situation the problem becomes pertinent that and how international harmonization of the normative base of business conduct be established. The contribution of the supranational institutions such as ILO, UNCTAD, OECD, WTO (GATT) and others in achieving this objective has been – as is well known – rather disappointing in the past (Thurow 1996: 131). Even where multi- and bilateral agreements exist, they have in most cases proven to be ineffective because of divergence of interests of the national states. For instance, harmonization is difficult in the area of social work norms because of implacability and intransigence of values and interests of the developed nations as on one hand and developing countries on the other (UNCTAD 1994: 247). Issues that are classified by the former as moral standards in connection with humane work places (e.g. banning child labor) are seen by the latter na-

tions in the frame of comparative competitive advantage. Here moral and economic categories often stand in conflict with one another. Indeed, this divergence provides the very base of rivalry between international locations which in competition with each other bid for foreign investment and MNCs. Considering that such differences between locations are often deeply rooted in diverging cultural traditions and also emanate from economic constraints of developing countries, it is evident that supranational organizations have little scope for entailing harmonization, especially since they also hold no political power and are dependent on the jurisdiction of national states for enforcement of rules and regulations.

With the sovereignty of national states at bay – as Raymond Vernon put it as a far back as in the 1970s (Vernon 1971) – and the futile efforts of the supranational organizations, it appears that in the next future world economy will have to cope without a political solution of the harmonization problem.

There seems to be no institution at hand which could take over this task. To suggest a "world-government" or "world-police" seems to be a remote idea at this point of time, though some proposals for reform point in this direction (Group of Lisbon 1995).

In this situation characterized by a "normative vacuum" in the political arena, the responsibility of achieving harmony between economic efficiency and moral standards will inevitability rest to a large extent with the MNCs as the original source and locus of decision-making. Its management must realize that this will become an important task of the future. Depending on how well this responsibility of MNCs will be executed within its autonomous decision making discretion, will it be possible at all to further legitimize the capitalistic system and market economy on a world-wide basis. It is still very vague how MNCs could and should handle this problem. The traditional perception that MNCs should behave as "good corporate" citizens is not sufficient any more. This is so because *national* laws and regulations as such do not (necessarily) reflect *universally* valid norms according to which corporate management should act. It is the management itself which – in reflecting on its world-wide responsibility – has to strive for universalizable norms, developed in consensus with the groups affected by (intended) corporate strategy (see R. Haas in this volume). Also the expectation does not seem to be realistic that in economic perspective the "win-win situation" could become the prevailing frame of action for MNCs, so that conflicts of interest could be solved by the common surplus of cooperation. Thus, the MNC will be challenged in the future with the important role of a moral actor; it must become an important locus of autonomous moral reflexion. In this endeavor it must and will, of course, be flanked by other institutions such as the supranational organizations mentioned above or the NGOs. On the other hand, one has to keep in mind that basically the MNC is an economic institution that has to bear up with and op-

erate within the context of international competition. This means that the extent to which the MNC individually takes up moral responsibility will be inevitably limited according to the specific circumstances of the individual case. But even then the responsibility of contributing to the worldwide harmonization of (relevant) norms underlying its economic activities remains a central task to which the MNC must devote itself in an active way by promoting institutional solutions outside the system of market competition, for example, on the level of industry associations, NGOs, or supranational organizations. As is well known one such initiative has been taken up by the International Federation of Chemical Industries in the form of the so called *Responsible Care Program* (see chapter Meister/Banthien in this volume).

2 Ethics in MNCs: Aspects of the Conceptual Framework of the Volume

Because of this development in contemporary international business it seems important to also theoretically reflect on the possibilities and the concrete role which corporate ethics has to play within the context of the MNC. Such reflexions must relate to three general problem areas which are treated in the three parts of this volume.

Theoretical reflexions on possible improvements of status quo in morals in international business must begin with the *foundations* and *objectives* of a reform (Part 1). The central issue to be treated here is how foreign cultures could interact to set up common orientations for peacefully living together. What is – methodologically speaking – the right approach in achieving this objective? As we all know, in this context "relativism" and "universalism" are philosophical positions which stand in strong conflict with one another today. Is there a solution to this conflict and what are the consequences for action of corporations and federations of industry (e.g. with respect to the need of integrating the universal goal of sustainable development into the corporate objective function).

Subsequently one must think about the consequences which result from the fundamental considerations for *corporate policy* and *operations* of the MNC (Part 2). In this connection the volume deals, first, with two central issues of corporate policy today, namely sustainable development and corruption. Then some major managerial functions are investigated with respect to implementation of corporate ethics.

To avoid utopian solutions here one has simultaneously to take into account the *historical contingencies* for action. Of importance are here on a general

level the societies' value systems which stem from religious and national traditions. Part 3 contains a selection of papers which deals with some of such issues.

These three areas are covered in this volume in 20 chapters. The diversity of problems and approaches applied gives the volume a strong interdisciplinary character ranging from philosophy and religion to economics and management.

3 Summary of Contributions

Part one, *Theoretical Foundations of Corporate and Management Ethics in the Context of Multinational Enterprise and Globalization*, consists of six papers. In chapter 1, "Corporate Ethics and Global Business. Philosophical Considerations on Intercultural Management", *H. Steinmann* and *A. Scherer* argue that under the current conditions of globalization international firms are facing more cultural conflicts without suitable means of national or international law available for dealing with these conflicts. Therefore, it is necessary that global firms determine their own policy and behave as moral actors, as is for example suggested by the US-Model Business Principles. Firms should formulate codes of conduct for operating in different cultural environments or adopt the codes of conduct suggested by the US-Model Business Principles. However, the justification of such policies and efforts is at issue. Are they just another example of western world's cultural imperialism as it is claimed by Asian politicians or can such efforts be ethically justified. Both in philosophy and in political sciences scholars discuss whether and how it is possible to interculturally justify norms in order to find a reasonable position between universalism and relativism. The authors exemplify these discussions explaining two different schools of thought in recent German philosophy and their contribution to intercultural conflict resolution: transcendental pragmatics and philosophical constructivism. From these considerations important implications for the interpretation of the US-Model Business Principles and the management of international firms are drawn.

In chapter 2 *H. Wohlrapp* addresses the question of how cultural integration and individuality of different cultures can both be possible. In his paper "Constructivist Anthropology as the Basis for a Concept of Cultural Pluralism?" he develops the answer based on the approach of the political philosophy of Paul Lorenzen and the so called Erlanger-School (Lorenzen 1987; Bults/Brown 1989). Cultural difference is defined as difference of forms of life. Cultural integration is then the overcoming of cultural difference in a process in which increasing understanding of the other and one own's culture go hand in hand.

P. Sethi and *L. Sama* discuss in chapter 3 "The Competitive Context of Ethical Decision-Making in Business". The authors argue that in the real world corporate actions are influenced to a great extent by external market-based conditions. Therefore, a more comprehensive explanation of ethical business conduct must include both corporate, i.e. internal considerations, and competitive, industry structure-based, i.e. external conditions. A framework is presented that provides a systematic analysis of the interactive effect between different types of external market-based competitive conditions, institutional opportunities to engage in ethical behavior and the likelihood that corporations would do so. The relevance for multinational corporations' ethical conduct can be derived considering the varying of market-based competitive conditions in connection with different countries and cultures.

In chapter 4 *H.P. Meister* and *H. Banthien* address "The Role of Industry Associations in the Development and Implementation of Corporate Ethics: The Case of the Chemical Industry and Responsible Care". Their point of departure is that the demands of sustainability and of a globally expanding economy force companies as well as society to confront various challenges on a social, political, and economic level. The authors argue that solutions to these challenges have to be considered from an ethical view-point. The principle of dialogue is a key means for developing ethically sound judgements in the face of complex modernity. Furthermore, it is a suitable instrument for the cooperative implementation of responsible actions. In order to be able to act ethically under the conditions of market competition, companies have to focus on the development and implementation of a socio-economic-political framework that allows for moral entrepreneurship. However, the creation of this framework cannot be solely achieved by individual companies. For this, the specific knowledge-, initiating-, and steering-competencies of industry associations are essential. The authors propose that industry associations are able to establish a discourse on ethics in the market economy beneficial to all sides. In participating in this discourse, companies can fulfill their responsibility for setting rules of the framework. The case of the chemical industry and the Responsible Care program shows the practicability of these conceptual thoughts.

The point of departure for *A. Habisch* in his article "Social Capital Investments, Property Rights and Ethics of Win-Win" in chapter 5 is that recent social science has identified the crucial role of social capitalism for sustainable socio-economic development. His argument is that in the globalized economy of the 21st century, more than ever before multinational enterprises will form part of their host country's society. In this new context constitutional order with stable property rights, predictable political patterns and rational economic policy can no longer be taken for granted. With economic success depending on a sustainable political environment, multinational enterprises will have to invest in local social capital. Overcoming dilemmas of distrust and

lack of cooperation may create 'win-win' scenarios and transform the relationship between business and civil society.

B.N. Kumar and *I. Graf* reason in their article "Globalization, Development and Ethics: Moral Responsibility and Strategies of Multinational Management in the Perspective of Sustainable Development" in chapter 6 about developing a normative frame of corporate action which addresses the major conflicts accruing from the characteristics of the globalization process as it emerges from the modus vivendi of multinational corporations. They argue that the multinational corporation in lieu of governmental institutions must voluntarily shoulder the moral responsibility for the consequences of globalization. The conflicts resulting out of globalization are shown, and their relationship to Sustainable Development offering a frame for normative guidelines of ethical behaviour and legitimacy of multinational corporations is identified. The authors go on to show the processual procedure of integrating these guidelines with the operations of multinational corporation with the help of the strategic management process. From these considerations important inferences are drawn for the policies and strategies of multinational corporations.

Part two of the volume addresses *Ethics in International Strategies and Management Functions* in six chapters. The article by *K. Leisinger*, "Global Responsibility for Sustainable Development: The Role of Multinational Corporations" in chapter 7, makes for a good transition from part 1 which closed with reflections on Sustainable Development as a normative foundation for mutinational strategy. It is clear that commercial success is normally the supreme objective of any business. However, in well-managed national and multinational companies the environmental compatibility of that success has an importance comparable with that given social compatibility. The author argues that environmentally consonant corporate behavior is a matter of both ethics and of business prudence and correctly perceived self-interest. Opportunities exist for forward-looking companies to play an active part in shaping the environment policy. Progressive and hence environmentally responsible businesses not only help to bequeath a world worth living in to future generations; they also garner credibility and public acceptance. Double standards that lead to the infliction of avoidable or even irreversible harm on humans and nature are ethically indefensible.

In chapter 8 *M. Wiehen* deals with "Corruption (Bribery and Extortion) in International Business Relations" which can be seen as global cancer leading to massive misallocation and wastage of resources and erosion of democracy and the social and moral fabric of many societies. Although condemed in public option almost everywhere in the world, in most industrial countries bribery is still not a criminal act, and bribes paid are generously tax deductible.

The author shows that many countries have started strengthening their integrity systems. The OECD member states are close to agreement on a con-

vention that will criminalize corruption and end tax deductibility. The European institutions are preparing parallel legislative action. The International Chamber of Commerce has prepared a model Code of Conduct for business. Civil Society is becoming active in many countries. The author also addresses Transparency International, an international NGO dedicated to fighting corruption globally through coalition building among governments, business and civil society, which has developed an Integrity Pact concept that is about to be tested in several countries for public procurement under major investment projects financed by international and national financing agencies.

The article "Ethics - A Global Business Challenge" by *R.D. Haas* in chapter 9 is one of the very few papers available which reports the practical experience of corporate ethics in an international environment. The contribution is based on a speech given by *Haas* as CEO of Levi Strauss before the Conference Board. The author reflects thoughtfully on the practice of ethics management in his multinational firm. The article discusses the approaches to the problem: (1) neglect it; (2) compliance based programs, and (3) value-oriented programs (integrity approach). He makes clear why the first two are inadequate and why the company commits itself to the integrity model. It is symptomatic for *Haas'* approach and thinking that he concludes with the statement "ethics must trump all other considerations".

In chapter 10 *G. Iyer* in his article "Ethical Issues in International Marketing" rejects the notion that ethical responsibilities for international marketing decisions can be readily extended either from a set of multinational corporate responsibilities or from ethical theories. Arguing that the crucial element of international marketing is exchange, he develops a set of universal ethical principles for international exchanges. These principles are then extended to various strategic decisions within international marketing. His framework contests relativist or culturalist approaches to international marketing ethics and underscores the need for understanding cross-cultural contexts and the ways in which a variety of organizational, market and non market considerations may influence ethical evaluations and conduct.

M. Brown's essay "Concepts and Experince of the Valuing Diversity and Ethics" in chapter 11 explores the relationship between ethics and diversity by reflecting on the development of Levi Strauss and Company's "Valuing Diversity and Ethics" training program. Instead of seeing diversity as a problem for ethics, *Brown* shows how valuing diversity enriches ethical reflections. In his examination of the concepts and methods of the Levi program, he highlights three different ways that ethics and diversity are related: through ethical principles, at the level of cultural assumptions, and through dialogue.

In chapter 12 *D.J. Clackworthy* addresses the issue "Orientation for Globally Competent Human Resource Function in Preventing and Resolving Cross-cultural Conflicts". He suggests that a competent global HR function

should master three competencies: cultural awareness, in order to understand the real intentions of the parties; cultural deftness, in order to translate this knowledge to the parties themselves in an understandable way, and cultural wisdom, in order to advise the parties on culturally and ethical acceptable strategies for overcoming the conflict. He suggests a universal "shorthand" to support the first two competencies, and two principles as a basis of the third. The principles are a new version of the age-old dichotomy between task/goal and relationships orientation, or typically masculine and feminine approaches: generating a common purpose and integrating different human resources work he goes on to illustrate the application of these principles in global HR policymaking.

Part three of the volume deals with *Morals in Religion and National Traditions: Cultures as Points of Departure for Foundations of Corporate Ethics in International Business*. The first four chapters address Eastern and Oriental religion and thought, the following three chapters religion and specific institutional contingencies in the Western and European world. The final chapter closes the volume with a cross-cultural approach.

This part is opened by chapter 13 where *S.K. Chakraborty* reflects on "Ethics for Business and Management: Explorations in Hindu Thought". In this the author attempts a metaphysical-psychological survey of theoretical principles of ethics and morals from mainstream Indian ethos. The focus is on individual endeavor and transformation towards higher levels of consciousness. Ethical choice and behavior then tend to become integral and spontaneous at the being level in the individual. Enabling organizational structures, systems, rules, codes and all that then rest on a spontaneous and secure foundation. The five vignettes in the chapter illustrate how according to Chakraborty formal structures have miserably failed to sustain ethicality because of the intrinsic consciousness gap.

K.H. Lee in his article "Business Ethics in China" in chapter 14 expresses a genuine concern on the prevalence of corruption in China business. The Chinese convention of ethical emphasis is one's way to properly relate to one another. This convention, while effective up to 1985, proves to be inadequate as China becomes more integrated with the world economy. The present challenge for China is to continue to adopt the open door policy, to fight against corruption with different measures, and to develop a legal framework and nurture a commensurate culture in order to create an environment for handling effectively impersonal business transaction.

I. Taka addresses in chapter 15 "Contextualism in Business and Ethical Issues in Japan". Contextualism, deeply rooted in Japanese culture, is an individual tendency to take social context into consideration and decide a course of action from the viewpoint of the context. The author shows that although this tendency has brought a number of competitive edges to Japanese corpo-

rations, it also has been a main source of business scandals in Japan. In order to rectify the problematic aspects of contextualism, the necessity to introduce business ethics to Japanese corporate culture is described.

M. Saeed and Z. Ahmed take the stand that international marketing activities can contribute positively in satisfying human needs and elevating the standard of living of the people around the world provided the ethical foundation of international marketing system is sound. In this joint paper in chapter 16 they endeavor to identify the salient features of "Islamic Framework of International Marketing Ethics". In it they highlight the capability and strength of Islam for creating and sustaining a strong culture of ethical international marketing. The authors examine the dimensions of international marketing ethics from an Islamic perspective and take the view-point that wholehearted adherance to them will lead to a value - loaded ethical marketing system that is capable of establishing harmony and meaningful cooperation between international marketers and consumers in Muslim target markets worldwide.

G. Enderle in chapter 17 deals with "Business and Corporate Ethics in the USA." which has considerably developed in the last 25-plus years and covers now a wide range of activities in business and academia. First, in order to put his survey in the international context, some thoughts about international comparisons in business ethics and the particular role of the USA in the 1990s and beyond are presented. The main part of the article explores a number of factors contributing to the development of business ethics in the USA and takes stock of both theoretical approaches and practical business initiatives. The concluding remarks offer several lessons to be learned from the "American experience" and suggest some directions in which business and corporate ethics might be developed further.

In chapter 18 *A. Cortina* describes "Business Ethics in the Catholic Value System: The Spanish Case". The author makes clear that the companies that wish to survive and to assume their responsibility in building a lasting peace must incorporate a *dialogical intercultural ethics* as a management tool and a way to comply with a principle of responsibility. For this purpose they will have to make an attempt to understand better the values and customs of different societies. Given that different people's ways of life are often ultimately guided by the majority's religion the author attempts to set out what the values and customs guiding Spanish companies are, with special emphasis on the way the Catholic values affect these ways of life, as Catholicism has for centuries been the majority religion in Spain.

S. Puffer and *D. McCarthy* analyse "Business Ethics in a Transforming Economy" with respect to Russia in chapter 19. Russia's economic transition from a centrally-planned to a market-oriented economy has occurred within a changing political, social, and cultural context. The authors discuss three major forces shaping ethical principles and business practices in Russia: the cul-

ture, history, and religion of Russia, Communist ideology and the centrally-planned economy, and the country's current business practices are analyzed using Donaldson and Dunfee's Integrative Social Contract Theory. These practices are extortion, managerial buy-outs, breaking contracts, ignoring senseless laws, personal favoritism (*blat*), and layoffs.

Finally, in chapter 20, *S. Webley* investigates "The Interfaith Declaration: Context, Issues and Problems of Application of a Code of Ethics for International Business among Three Major Religions". Point of departure is that boards of international companies are having to address the question of how non-commercial factors, including ethics, have to be considered in international business decisions. Driven by rising public awareness of moral issues and readily available information, companies are looking for guidance on how best to respond to the need to enhance their reputations for integrity in the market place.

The author analyzes "The Interfaith Declaration of International Business Ethics" as an example of practical code of ethics based on values of Christian, Muslim and Jewish Faiths.

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Part One

Theoretical Foundation of Corporate and Management Ethics in the Context of Multinational Enterprise and Globalization

Corporate Ethics and Global Business: Philosophical Considerations on Intercultural Management*

Horst Steinmann and Andreas Georg Scherer

1 The Point of Departure: The Multinational Enterprise in the Tense Area of Structural Globalization and Cultural Fragmentation

In the course of the globalization of the economy and the resulting internationalization of the activities of business, the management of multinational companies is faced with new tasks and challenges (see for example Bartlett/Ghoshal 1989; Ohmae 1989; Porter 1986, 1990; Yip 1992). On the one hand, management must adjust itself to the new structures of a global economy, on the other hand it must learn to deal with increasing cultural diversity (cf. for example Burke 1997; Dülfer 1995; Harris/Moran 1996). There are especial difficulties in dealing with *cultural conflicts* which can arise in the course of the diverse international activities of companies. This potential conflict affects all activities and areas of company business: beginning with obtaining the raw resources and materials via the production of goods and services right up to the marketing and sales. Within *nation states* there are suitable means of peacefully dealing with conflicts, using valid laws and company ethics (cf. for example Steinmann/Löhr 1994, 1996). In this case the necessary foundation for dealing with conflicts is offered by the legislative and law-enforcing institutions as well as the common cultural basis with a practical (at least in part) successfully applied concept of "good and just life" (cf. Gergen 1995: 520 ff.).

However, through the increasing globalization of business activities, this control mechanism is losing its foundation more and more. The mobility of

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capital and of information causes the activities of multinational enterprises to spread like a network over more and more countries and cultures and therefore to be removed increasingly from the control of individual states and their legislation (Drucker 1993; Ohmae 1995; Reich 1991; Thurow 1996). Capital follows the logic of the market economy and looks for the most reasonable supplier of workforce, know-how and material resources. This process is supported in a sustainable manner by the improvement of information processing and the cheapening of transportation.

All these developments cause the role and importance of the *nation state* as a control location for setting the guidelines for economic activity to be questioned persistently (Drucker 1993; Ohmae 1995; Reich 1991), without a suitable, functioning substitute being formed as yet (Thurow 1996). *Multinational organizations* such as the United Nations (UN), the Organization for Economic Cooperation and Development (OECD), the World Trade Organization (WTO) and other institutions have been working for decades on a new solid basis for control, without, however, coming to a satisfactory solution as of yet (cf. Gergen 1995: 522; Orts 1995; Thurow 1996: 131 ff.). The negotiations within these organizations are rather often characterized by national egoisms which do not sufficiently take into account the new conditions of the global economy (cf. Ohmae 1995: 117 ff.).

It is known for a long time that the ability of *governments* to successfully influence market relationships via legislation and administration is principally limited. However, under conditions of globalization nation states compete with each other for business investments and jobs which even lead to a downward spiral of social standards: they rather tend to lower welfare regulations, social standards and taxation in order to lure or hold businesses (Deetz 1995; Greider 1997).

The free flow of money, goods, technologies and information results in – and this has been known for some time (cf. for example Levitt 1983; Ohmae 1989) – the consumer behavior of different peoples becoming similar at least in parts. Ohmae (Ohmae 1995: 28 ff.) puts forward the theory in his latest book that in the course of this development the cultural values and ways of life also converge. If this were the case, then cultural integration on the basis of values about good and just life that are shared *everywhere* could replace nation state integration. It may remain open whether this status will in fact occur at the end of a long process of development and whether this should be desirable at all. In the current interregnum, however, a *contrary effect* can in fact be observed. At the moment the structural globalization in the area of the economy, communication and transport is namely accompanied by a *cultural fragmentation* and this all the more, the stronger the importance and effectiveness of the nation state as an instrument of integration is reduced (cf. Huntington 1993, 1996; Thurow 1996: 232 ff.; Tibi 1992: 16 ff., 1995: 67 ff.) The na-

tion state is replaced by the awareness of the people that they belong to a culture that separates them from other cultures.

> In our day and age, people become closer to one another because of globalization, but the new awareness of one's own civilization creates barriers at the same time and separates them again. With this, the unifying tendencies of globalization are culturally impeded because people from different civilizations reject each other. (Tibi 1995: 41, transl. by the authors)

This conflict, according to Tibi (1992, 1995) exists in particular between Islam and the West, since both represent their own values with the claim to universality which fundamentally question the other's values (see also Huntington 1996).

The economic imperative of globalization forces, on the one hand, more and more companies to expand their activities world-wide. On the other hand, companies are more and more exposed to cultural differences and their conflict-prone consequences without there being sufficient nation state or multinational mechanisms of control available. Rather the companies often see themselves as needing to explore the cultural terrain themselves and to create norms which make possible a peaceful business activity in foreign cultures. The multinational enterprise must therefore function as a *moral actor*. The companies help themselves (as for example Levi Strauss & Co., Reebok, Nike and others) with own codes of conduct (cf. Beaver 1995; Engelhard 1989; Haas 1995; Rosenzweig 1995) or orient themselves explicitly to guidelines on international activities of companies such as those – as explained later in this paper – which were suggested by the current US administration. These guidelines give a behavior orientation on avoiding conflicts or dealing with conflicts with foreign cultures. Therefore, they support the firm on its search for ethically justified actions. When misunderstood, in our opinion, these guidelines become a new source of conflicts, namely when they conflict with fundamental values of foreign cultures (cf. Steinmann/Scherer 1998): "the problem is that of multiple and competing constructions of the good" (Gergen 1995: 521). We suggest that a solution of these problems can no longer take place via the simple use of formal or material norms, but the solution must rather be sought and attempted in concrete actions.

We will explain this theory using the example of the "US Model Business Principles" (Section 2) and will discuss this further in the following remarks. We will mark out a fundamental problem of reasoning and, after casting a short glance at management theories (section 3), we will show with two philosophical positions how this problem is discussed in modern German philosophy (section 4). Finally the consequences for the role of multinational enterprises will be briefly sketched out (section 5).

2 The US-Model Business Principles – A Recent Suggestion and its Problems

2.1 The US-Model Business Principles

The United States Department of Commerce published the so-called *Model Business Principles* at the beginning of 1995 and asked the American corporations to actively participate in the world-wide implementation of these principles (see United States Department of Commerce 1995, for preceding initiatives see Orentlicher/Gelatt 1993). With this initiative, American companies should be convinced to abide voluntarily by a number of principles which serve the upkeep and promotion of human rights, both in a national and an international context. In five statements, the codex calls upon the American companies to create safe and healthy jobs, to deal responsibly with the environment, to refrain from all types of discrimination, child labor and forced labor and to respect the right to form trade union organizations. The companies are, in addition, called upon to take suitable steps to ensure that the laws are complied with, that every sort of corruption and the payment of bribes is refrained from and that fair competition rules are adhered to. Companies are also asked to develop a corporate culture which does not handicap freedom of speech, which avoids political pressure at the workplace, which promotes good corporate citizenship and which contributes in a positive way to supporting the municipalities in which the company operates. Such a corporate culture should make provisions to ensure that ethical behavior is perceived as such, and valued and adhered to by the employees. In our context, it must be emphasized that the *Model Business Principles* stress the positive role of the USA. enterprises in leading the way.

> Recognizing the positive role of US business in upholding and promoting adherence to universal standards of human rights, the Administration encourages all business to adopt and implement voluntary codes of conduct for doing business around the world [...]. (United States Department of Commerce 1995)

Apart from these principles, the *United States Department of Commerce* has commenced certain organizational measures which should promote acceptance and implementation of these principles in the American economy (see e.g. the *US Sentencing Commission Guidelines*, cf. Dalton/Metzger/Hill 1994; Nagel/Swenson 1993). The American government will also take steps to encourage other countries to take such political action. This underlines in all clarity that an important initiative is being dealt with: the maintenance and world-wide promotion of universal standards of human rights (Orentlicher/ Gelatt 1993).

2.2 The US-Initiative Seen From the Situation of Global Cultural and Economic Conflict

This initiative of US politics can be seen as an attempt to speed up the political efforts to unify the normative bases of the international economy which have been going on for years. For the areas of conflict mentioned in the *Model Business Principles* (as for many other conflict areas), no binding and sufficiently effective rules have been created on a political level as yet. The initiatives which have been going on for so long have been supported mainly by intergovernmental organizations such as the *International Labor Organization* (ILO), *the United Nations Commission on Transnational Corporations* (CTC), the *United Nations Conference on Trade and Development* (UNCTAD) and in the future the *World Trade Organization* (WTO) (cf. here in overview for example W.C. Frederick 1991; Getz 1995). Despite in part the decades of attempts, it has not been possible to build a sufficiently stable net of generally recognized standards (Orts 1995). It is true that a whole range of principles have been formulated and passed, but so far a number of states have withdrawn their agreement to some of the regulations. Furthermore, the concrete implementation of the principles and the control that they are being observed is lacking (cf. Gergen 1995: 522; Thurow 1996: 130 ff.; UNCTAD 1994).

This situation becomes increasingly dramatic the more – in the course of the globalization of the economy – the different values of nation states and cultures collide. In particular, it is the conflict between the old highly developed industrial states, on the one hand, and the emergent nations and developing countries, on the other hand, that characterize the current problem. In the course of globalization, different ideals of morals and values meet, which are directly relevant for competition via costs and proceeds. Suggestions from the western industrial states aim at reducing this dramatic conflict situation by developing and implementing *general rules* which should be recognized by all countries. The initiative of the US Department of Commerce can be seen as an attempt to further the process of world-wide unifying of normative business standards on the level of multinational enterprises, i.e., on the "private business level". Because, on the one hand, the industrial states cannot directly influence the legislative practice in the emergent nations and developing countries and, on the other hand, the attempts of the non-governmental organizations do not (yet) reach far enough, the relationship and power potential of world-wide operating companies should be used to create validity for humane principles (Deetz 1995).

In particular, two arguments are used against the universalizing attempts of the western industrial nations by the emergent nations and developing countries. The *economic* argument affects the comparative competitive advantages which arise from the different normative standards (on the protection of work,

environment, consumers etc.). These countries interpret such attempts of the developed industrial nations as protectionist measures which are used to close the entry to the large world markets to them for as long as they do not bend down to the explicitly moral demands of the industrial nations (cf. UNCTAD 1994: 245 ff.; International Labor Conference 1994; Rodrik 1997: 46). Furthermore, the emergent nations and developing countries put forward with their *cultural* argument that the developed countries are trying to impose their western cultural ideas by developing and implementing general principles. In this way, local cultures would be harmed in their independence and undermined (cf. Lee 1994; Mahathir 1995; Rodrik 1997: 46, 52, note 36, and for a critical overview Tibi 1991, 1995).

In contrast to this the developed countries point to the *moral impetus* of their initiative with the argument that it is not here a matter of trade protectionism, but it is a matter of the protection of the people. They declare that it is not their intention to establish world-wide minimum wages (cf. UNCTAD 1994: 247). Explicitly moral points of view are therefore being claimed to justify one's own point and are given precedence over economic considerations.

It may have been the aggravation of the conflict situation at the political level which gave the motivation for the US-initiative. To the extent that the conflicts are increased at the political level and have no real chance of being solved in the short-term, the *multinational company* should be brought in as a *moral actor*. Multinational firms are linked in diverse ways with the countries in which they operate. They are therefore confronted directly with the conflicts mentioned and must cope with these in one way or another. On this new level of action, the basic question must be posed as to whether universalistically inspired strategies such as in the sense of the US-initiative are at all legitimate and if so, whether they are a suitable way to success. In order to answer this question, an intimate understanding of the problem itself must be developed.

Is it right to understand the moral claim to the multinational firms that is formulated here as the task of implementing values that have already been once and for all legitimated? This would be a simple *technological understanding* of the task. Or is the achievement of legitimization itself inseparably linked to the question of the implementation of values, so that the moral mission to the multinational companies must be at the same time seen as a demand to get involved in a *process of substantiation* with the particular cultures in question? In this case the legitimization of the US-initiative should be questioned itself at first. The intention of the US-initiative is in our opinion to be understood as the first alternative. It seems to assume implicitly that there are universally valid standards whose realization can rightly be demanded by all cultures. The initiative would then be seen as *emancipatory anticipation*, as

an attempt with strategic means to help the Western idea of good and just life succeed (cf. Apel 1988: 247 ff., 1992: 35 ff.; Böhler 1995: 242 ff.). Seen in this way, however, an idea is expressed in the *Model Business Principles* which is in dispute at the moment not only in discussion of world politics but also in philosophical reflection on basic principles (cf. Gergen 1995: 521; Habermas 1992; Kambartel 1989a; Nemetz/Christensen 1996).

2.3 The Philosophical Fundamental Problems of the US-Initiative

The philosophical fundamental question which is being dealt with here is that of the possibility of *justifying universalistic positions* in principle. Only when such a justification is in fact possible and has succeeded can the US-initiative be legitimated; otherwise it would simply be the expression of a pure use of power, it would be the expression of the existing distribution of power, in whose service the multinational companies should be placed (cf. Steinmann/Scherer 1998). Recent discussions have shown that representatives of relativistic positions vehemently turn against the possibility of justification (cf. as an overview Harré/Krausz 1996; Hatch 1983; Krausz 1989).

Thus, in parts of anthropology, the opinion prevails that there are no absolute, culture-free values, but rather moral judgements, which were always dependent on their cultural background (cf. critically Hatch 1983: 1 ff.). Therefore, a criticism of foreign cultures would no longer be possible, it should be replaced by a total commandment of tolerance: "We ought to be completely tolerant of other ways of life." (Hatch 1983: 2) This would mean that a rational criticism of the local conditions in foreign cultures would be just as impossible as for representatives of foreign cultures rationally to criticize the activities of international companies (cf. critically Freeman/Gilbert 1988: 20 ff.). One would mutually have to accept the actors as they were. At first sight, there is nothing that can be said against such a form of real co-existence. However, where there are, in concrete situations, pragmatical conflicts between different values, the question as to how these conflicts should be solved will be posed (Freeman/Gilbert 1988: 37 ff.). For the relativist, who denies the possibility of a reasonable conflict solution right from the start, there is no choice but to accept the division of power as it is. This would lead to a solution through "assimilation", i.e., dominance of powerful cultures over minorities.

Relativistic positions are often actually implicitly practiced in international management, without the normative question as to the reasoning being raised at all. Only here and there they are also explicitly defended, as in the context of bribery, which is common in many countries (Lane/Simpson 1984; Pastin/Hooker 1990). Pastin and Hooker (1990: 553), for instance, establish

this in their critical debate on the *Foreign Corrupt Practices Act* (FCPA) which forbids companies the payment of bribes in international business: "bribes paid to foreign officials may not involve deception when they accord with recognized local practices" (For a critical response see R.E. Frederick 1990). Even in the case of human rights, their universal validity is actually disputed (see Huntington 1996). Firstly, it is argued that the UN Convention on Human Rights of 1948 is based on European and American values, which are *not shared by other cultures*, and not even understood by the latter. This concerns especially those cultures which do not recognize individual rights because in these cultures, the community and the duties imposed by the community have always been the decisive point of reference for social order from the outset. Secondly, attempts to give human rights universal validity are discredited as *cultural imperialism*, which unjustifiably disregards the local peculiarities of other cultures (see e.g., the statements of the Malayan Primeminister Mohamad Mahathir (1995) or of the former Singaporian leader Lee Kuan Yew (1994)). Now, such a complaint could, of course, simply be ignored. However, such an attitude in no way solves the problem of justifying human rights.

> The fact that something is claimed as universal does not mean that it is therefore universal in some operational or meaningful way. (Galtung 1994: 10, transl. by the authors)

3 The Reactions of Management Theory

Management research, as far as it is at all concerned explicitly with questions of corporate ethics, has up till now only seldom attempted to deal with the practical problems mentioned. The reason for this situation is, amongst other things, that in the theory of international business, the mainstream are *economic approaches* which explicitly claim to be culture-free (see critically Boddewyn 1988; Jones 1995). These approaches, therefore, disregard the problem of the importance of local cultures in the context of global corporate strategies. Nevertheless, there are approaches in *intercultural management research* which examine the differences between the various cultures and discuss their consequences for the management of international companies (e.g., Adler/Graham 1989; Hofstede 1980). These approaches are based, however, in the main on descriptive research and therefore cannot produce sufficient orientation to solve intercultural conflicts.

And *business ethics-approaches* have up till now dealt rather with the intracultural conflicts of Western economic systems and have only recently begun to include the intercultural dimension in their thoughts (Brady 1996; Car-

roll/Gannon 1997; De George 1993; Donaldson 1989; Donaldson/Dunfee 1994; Kumar/Sjurts 1991; Jöstingmeier 1994). In particular the work of Donaldson and Dunfee (1994) is relevant here. They explicitly claim to offer a general framework of reference to deal with intercultural conflicts, which however remains relatively vague and unclear as to the fundamental philosophical question.

Donaldson/Dunfee (1994) construct two stages of a social contract in their *Integrative Social Contracts Theory* in a thought experiment; the business subjects would make a *macro contract* on the one hand, which would make the rules for the contracts on the microlevel available. On the *microlevel*, the individuals would then on the other hand make contracts whose conditions would be adapted to their particular concrete situation. The substantiation problem appears in the concept of Donaldson and Dunfee where they ask for what they call *hypernorms* as part of a *macrocontract*. Hypernorms must have a higher validity than simple local (so-called "authentic") norms, they should enable the creation of microcontracts within and between all cultures. In order to correctly make this claim, the hypernorms must naturally be justified themselves in an way in which intercultural consensus is possible.

But exactly this problem of reasoning is not discussed in sufficient detail by the authors. On the contrary, they explicitly turn against ways of proceeding which assume fundamental epistemological questions, the answer to which would need a particular philosophical reflection (cf. Donaldson/Dunfee 1994: 265). First clues for the crystallization of hypernorms can rather be won from the *existence* of the convergence of religious, cultural and philosophical opinions in respect of certain core principles (Donaldson/Dunfee 1994: 265):

> For even if hypernorms could be certified solely through the light of reason, we should expect to encounter patterns of the acceptance of hypernorms among people around the world. Hence, patterns of religious, cultural, and philosophical belief can serve as a clue, even if not as total validation, for the identification of hypernorms.

The authors truly believe that they can recognize a certain consensus already on such core principles in the area of anthropology, political science, law and economics. They especially hold true today, where fundamental principles for human co-existence have been formulated in "legal terms", candidates for hypernorms are supposed to be present. The authors lead on from the discussion on basic rights, point to the *Declaration of Human Rights* of 1948 or the suggestion of the UN (1990) in Code of Conduct for Transnational Companies which states in § 14:

> Transnational companies shall respect human rights and fundamental freedoms in the countries in which they operate. In their social and industrial relations, transnational corporations shall not discriminate on the basis of race, color, sex, religion etc.

It is obvious that no satisfactory answer has been found with these clues in the fundamental argument between universalists and relativists. Firstly, merely empirical evidence is brought forward to secure the claims, while rejecting the philosophical ways of procedure (cf. on this point also W.C. Frederick 1991: 174; Getz 1995) whereby the arguments seem almost to be coming close to a naturalistic fallacy. Secondly, it can be argued whether Donaldson and Dunfee's claimed convergences of cultural values in fact exist here (cf. for example French/Granrose 1995: 168 f.; Huntington 1993, 1996; Tibi 1995). Our introductory sketch of the problem should have showed that the opposite is rather the case. Neither has up till now a legally codified solution for most of the disputed norm questions been found, nor have the principles which were formulated in the language of law, e.g. the ILO, the GATT or the WTO, found general recognition (cf. UNCTAD 1994; Thurow 1996: 131 ff.). And even if a common "core" of different codices of non-governmental organizations could be distinguished (cf. Getz 1995), it must still be shown that these organizations are not simply ruled by the values of the industrial countries (cf. Steinmann/Scherer 1998; Deetz 1995: 57 ff.).

As a result, the suggestions of Donaldson and Dunfee contribute little to the interesting fundamental argument between universalists and relativists. There is therefore sufficient cause to go into this question once again in an attempt to better underpin the role of the multinational enterprises as a moral actor.

4 Philosophical Perspectives: Universalism and Culturalism

4.1 The Problem Situation

The philosophical fundamental dispute between universalists and relativists is therefore the question of whether and how a *unified* opinion of reason can be found in view of the *variety* of specific norms and values (cf. Habermas 1992). This question is particularly relevant where cultures with different interpretative schemes and normative ideas meet together. Within cultures the individuals have always possessed common sources of meaning and values which have constituted via the common actions and which more or less ensure co-ordination of social actions in the family, politics and the business sphere (Giddens 1984). In view of the globalization of the economy that was described, the problem now arises that cultures with different values meet each other so that the danger is growing that the (necessary) co-ordination achievements will be seriously disrupted by misunderstandings and conflicts of values (cf. Gergen 1995: 520 f.). Norms which would enable reasonable actions are not automatically available as the actors cannot refer to a practice of interaction that has already proved successful (Wohlrapp 1995).

In order to deal with the problem, various positions are being discussed at the moment in philosophy (cf. Habermas 1992, 1995). With this brief paper, this discussion can only be outlined with the aid of two different positions of German philosophy (cf. Steinmann/Scherer 1998): transcendental pragmatics and methodic constructivism.

Transcendental pragmatics supports a universalistic position and searches for the "place of unity" in *culture-free* conditions of the possibility of understanding. In contrast to this, *methodic constructivism* develops a much stronger sensibility for the fact that language rules and values are linked to culture. At the same time methodic constructivism does not resort to cultural relativism. Rather it takes into consideration the possibility of starting attempts to universalize. However, such attempts cannot take place merely on the level of theoretical analysis, but on the level of practical actions and orientations to be achieved jointly. In contrast to transcendental pragmatics, the problem of universalization is not conceptionalized in the mode of "*discovering*" common points which were presumed on the *level of language*, but in the mode of "*creating*" (i.e., constructing) a common use of words which should take up a (potential) common practice of life, which however would yet itself need to be established.

4.2 Transcendental Pragmatics: A Universalistic Perspective

Transcendental pragmatics starts looking for a definite "instance of validity" for the justification of actions and norms and for the truth of theoretical or empirical statements respectively. The claim of validity is not limited to particular cultures or forms of life. Transcendental pragmatics instead claims universal validity and, in this respect, culture invariance for the set of rules suggested (Apel 1986). In this respect, this philosophical approach presents a promising "candidate" for reflection on the possibilities of solving intercultural conflicts.

Transcendental pragmatics is aimed at the development and reasoning of a *discourse ethics* that is oriented towards principles and which provides the *formal rules* with which theoretical and practical problems should be solved (Apel 1973, 1987a, 1988, 1992). Transcendental pragmatics asks for those rules which form a commitment for everyone who is arguing, as these formal rules *cannot be disputed by anyone in meaningful arguments*. Two principles are essentially formulated (Böhler 1991, 1995; Habermas 1990a): the discourse principle and the principle of universality.

Firstly, the *discourse principle* by which each person arguing recognizes already contra-factually "the unlimited universe of discourse in which an ideal argumentative consensus would appear" as the final resort to check the justifi-

cation of actions and norms or rather the truth of theoretical and empirical statements. This principle claims "absolute validity" (Böhler 1992: 203, transl. by the authors). It acts as a "*regulative idea*" of the "actual and definite legitimization and truth" (Böhler 1995: 251, transl. by the authors) by which the actors can assess their real statements and actions.

Secondly, discourse ethics formulates a *principle of universality* by which every speaker claims validity against *all* others with his/her arguments and is therefore committed to defending his/her arguments against *all* meaningful criticism. Consequently, the speaker must attempt to find an argumentative consensus and to create the ideal conditions, i.e., of structures and institutions which make such a consensus possible.

It can be seen already at this stage that the term "argumentation" is a central part of the conception. It is a matter of proving the lack of alternatives of rules for the practice of argumentation. The possibility of the existence of alternative concepts of argumentation is thereby decisively *excluded* (cf. Habermas 1990a: 95). It is possible, admittedly, to break these rules in communicative actions, for instance, with a strategic intent, but then it is no longer argumentative dealing in the sense of these rules anyway. Transcendental pragmatics claims to show that this set of rules of argumentation possesses validity as well over radically different cultures and incommensurable forms of life (cf. Apel 1986: 6).

With regard to our problem of solving intercultural conflicts, this would mean that the preconditions of a promising conflict solution *are already present in the necessary conditions for argumentation* (Habermas 1996). These conditions exist, as it were, behind the backs of the actors, irrespective of culture and forms of life; and they should be *enforced* by us, if necessary, via "emancipatory anticipation" upon the prevailing actual conditions (Apel 1973, 1992). Since the conditions of a universalistic ethic of principles in the social world, especially in the intercultural context, do not exist here and now, the attempt at unreserved comprehension would eventually be dysfunctional. This situation, therefore, requires a mediation procedure – appropriate to the situation – between unconditional comprehension and a "legitimate interest" in self-assertion. This mediation could be rationally enforced through "strategic" anticipation of the necessary conditions for the use of reason (cf. Apel 1988: 247 ff., 1992: 35 ff.; Böhler 1995: 242 f.). Transcendental pragmatics assumes that the problem of justification to create an "ideal community of communication" (Apel) or an "ideal speech-situation" (Habermas) is already solved. This is so because such a justification of the rules of argumentation is shown through a general reflection upon the necessary conditions of (reasonable) argumentation, which cannot be dispensed with by speakers to avoid an actual self contradiction. One would thus not need to attempt to find additional reason for the rules of argumentation itself in a conflict situation – on a meta

level – but could commence immediately with the *implementation* of these formal rules followed by the correct examination of theses and anti-theses in the dispute.

In accordance with the transcendental pragmatic conception, other speakers should be recognized as equal partners; however, "only arguments should be considered as valid, not points of view which are not arguments" (Böhler 1991: 161, transl. by the authors). But we know from experience that in our conversations it is a *matter of dispute* whether an argument is permissible or not and what should be valid as an argument at all. Thereby the term "argumentation" *itself* becomes an object of dispute without one being able to fall back on an unquestionable understanding of argumentation to solve the dispute. Such a situation will especially appear in an intercultural context where the actors have learnt *different understandings of argumentation*. Recently, it has been explicitly proposed that people are not born knowing argumentation but rather learn argumentation during the process of socialization (cf. Cohen/Arato 1995: 376 ff.; Kambartel 1989a: 34 ff.; Schneider 1994: 22 ff.).

Both, these transcendental-philosophical discussions of Apel and his followers and the discourse theoretical considerations of Habermas (no further details given here) have been extremely inspiring for thoughts on business ethics in management research not only in German (Steinmann/Löhr 1994; Ulrich 1987), but also in English literature (Alvesson/Deetz 1996; Cohen/Arato 1995; Deetz 1995; French/Granrose 1995; Willmott 1997). Nevertheless, there are also fundamental objections against these concepts. Considering the specific problem of intercultural conflicts within the framework of international management has, moreover, led to certain doubts about the soundness of these conceptions with regard to dealing with such conflicts. These doubts concern, in particular, the suggested concept of argumentation which is rule-oriented, and, according to some critics, a too narrow conception of pragmatics. In the following, we wish to put forward some of these *counter-arguments* which seem to us to be of utmost relevance in situations of intercultural conflicts.

(1) Transcendental pragmatics searches for the constituent rules of the linguistic game called "argumentation". This search is based on three preconditions (cf. Böhler 1991: 156 f.). Firstly, it assumes that there are not simply deductive forms of reasoning, but also other forms of argumentation which one can correctly ascribe the predicator "reasoning" to. Secondly, it assumes that the principle of fallibilism that was propagated by critical rationalism (Popper 1959) is not valid for the rules of doubting and arguing (cf. Apel 1973: 405 ff., 1987b: 172 ff.; Habermas 1990a: 79 ff.). The rules of arguing that were reconstructed by transcendental pragmatics are therefore neither deceivable nor

can they be doubted. Thirdly, transcendental philosophy finally asserts that the constitutive rules of argumentation are not to be understood as simple technical rules but as social rules with normative power.

> For whether an argument is considered worthy of being discussed or is expelled from the discussion as a failed argumentation attempt – that is whether the speaker concerned is recognized or not with his/her speech in the argumentation community – depends on one keeping to these rules. (Böhler 1991: 157, transl. by the authors)

Only one side of the coin is dealt with, however. It is assumed that human beings follow *available*, indisputable rules when arguing. The process of *constituting* these rules itself is not taken into consideration at all. But Böhler (1991) himself pointed out that a syntactic-semantic understanding of argumentation does not go far enough, since in this way, pragmatics as "primary locus of the construction of meaning" (Böhler 1991: 152, transl. by the authors) is left out. An understanding of an arrangement of signs (Syntax) with the purpose of referring to an object in a proposition (Semantics) is only possible, according to Böhler, if it is based on "the speech rules of a historical language community and its implicit *world view* or rather *unfolding* of a world" (1991: 152 f., transl. by the authors, see also Apel 1987b: 164, 184). This should be agreed with; however, this point will also be valid for the understanding of the word "argumentation" in contrast to the second preliminary decision of transcendental pragmatics that was dealt with above. With this, transcendental pragmatics immunizes itself against criticism.

In accordance with the remarks of Böhler (1991, 1995), the question as to the admissibility of an argument will always be dependent on keeping to certain (implicit or explicit) rules. However, one has to keep in mind that it is *the practice of argumentation* itself which constitutes the meaning of the word "argumentation". Viewed this way, the relation propagated by Böhler (1991, 1995) is then *turned around*. If one – together with Kambartel (1980, 1991) and H.J. Schneider (1992, cf. Kambartel/Schneider 1981), who on their own admission follow the later Wittgenstein (1952) here – thinks the pragmatic turn in linguistic philosophy consistently through to the end, then it becomes obvious that one can only meaningfully speak of the meaning of "argumentation" (just as of the meaning of the words "reason" or "rationality") when a corresponding *use* of the word has been already established in a praxis that accompanies this usage. What we call "argumentation" is not fixed by keeping to some predetermined rules which exist already before practice, but is constituted on the basis of using this word in action. Its strict meaning is therefore dependent *primarily* on the praxis behind it: the word "argumentation" receives its character from this praxis and not vice versa (cf. Kambartel 1989a: 38 ff.; Wittgenstein 1952).

(2) With this background, some authors put forward the argument that the transcendental pragmatic approach operates ultimately with a *narrow understanding of pragmatics* (cf. Gethmann 1987; Kambartel 1992; Lueken 1992: 223 ff.; Schneider 1994). Here, the differentiation between a fundamental pragmatic and a partial pragmatic approach becomes relevant (Lueken 1992). *Fundamental pragmatics* describes a method of procedure which "starting from unproblematic abilities and concrete contexts of action and keeping in mind the adequate relation to this concrete level, develops theoretical objects, descriptions and explanations step by step for the purpose of solving practical problems, whereby then the relevant or interesting aspects can be emphasized by way of abstraction" (Lueken 1992: 223, transl. by the authors). A *partial pragmatic* method of procedure understands pragmatics as a linguistic-philosophical sub-discipline which, next to syntax and semantics "concerns itself with the question of what we do when speaking or more generally, when using and understanding symbols and what rules we follow in this case. Symbols or similar objects are thereby presumed; the research interest is in the use – adhering to rules – of these objects in concrete use" (Lueken 1992: 224, transl. by the authors). Therefore, while fundamental pragmatics advances *from the bottom upwards* ("bottom-up"), from concrete usage to theoretical objects, partial pragmatics views the object to be examined from the perspective of developed theories *from the top downwards* ("top-down"). Based on this differentiation, Lueken (1992: 228) voiced his suspicion that the discourse theory of Habermas and also of Apel and their underlying formal pragmatics gives shape to actions via theoretical guidelines from linguistic philosophy (e.g. Chomsky, Morris, Searl) instead of gaining them reflexively from concrete actions. If this were so, this would obviously have consequences for the universal validity claim made by transcendental philosophy.

(3) As we saw above, Böhler (1991) himself pointed out that the understanding of a linguistic expression is very much dependent on the "rules about using words of a historical language community" (Böhler 1991: 152 f., transl. by the authors): nevertheless he neglected the validity of this sentence for the concept of argumentation. We would now like to tentatively remove this assumption and logically think this pragmatic approach to its end. According to what has been said above, the meaning of the word "argumentation" is very much dependent on the practice of life that underlies it. This point of departure has consequences for the universal validity claim which is connected with the concept of argumentation in transcendental pragmatics. This validity claim would then be dependent on the *existence of a universal historical language community*. The extent to which the transcendental concept of argumentation is universally valid then somehow becomes an empirical question. Now, we do not need to perform an empirical examination here about the make-up of our language communities. A couple of common clues will suffice to raise