One Fell Off the Roof

TEACHING NOTE

Critical Incident Overview

This critical incident describes a type of industrial accident (worker falling off of a roof) that has occurred frequently both in France and in the U. S. The key issue is the cultural and legal differences between France and the U. S. The accident is a situation that any firm could be in which needed roof repair. The dilemma in this incident is the revelation that a person working on the roof has fallen to his death and were there grounds for reparations to have been made to the family based on which of three companies might have been responsible. This incident can be used as an example of a company that may not be aware of the legal liability requirements for employees, independent contractors and what might be construed by the media as an ethical lapse. The incident can also be used to illustrate the differences in perceptions and actions in business procedures within a legal situation between different countries and the expectations which have evolved from ethical universals. It is intended for use with an international marketing class. The decision point is what standards an international company should use in their business practices – local legal standards or ethical universals.

Research Methods

This incident was written based on newspaper articles from French as well as U. S. federal government information and research articles.

Learning Objectives

The learning objectives for this critical incident are for students to:

1. Analyze the differences between performing to the letter of the law in each country versus using an ethical universal to provide standards for business practices.

2. Apply the importance of learning and documenting the differences in the firm’s responsibilities in varying locations and countries.

3. Assess when the firm and its partners/managers should use legal standards or ethical universals to come to their understanding of the issue

4. Assess what would be appropriate management? behavior for France and what would be an appropriate response in the U. S.

5. Research best practices that would cover that type of incident, evaluate those best practices and make possible improvements where possible.

Questions

After reading about the firm’s history and the critical incident, the instructor can have the students research legal and ethical issues that involve independent contractors and employees in that locale and in the U.S. as well as define what the best practices for that type of incident would be.

In an international marketing class, the choice of plant location and the assessment of the local culture are important considerations in choosing a foreign target market and manufacturing site. Understanding that there are higher standards than laws to base business practices on and using that knowledge to formulate best business practices would help the class to formulate a good strategic business plan.

In a class on ethics, it would be informational for the students to reflect on how they would handle the situation if someone was critically injured at their company. The students could be asked to write what their first response was to the reading of the incident, what they imagine their first response would be and what should the company’s response be.

1.What standard should an U. S. company use to set business practices when expanding into a new country overseas and France in particular? I could answer this question without reading the CI… so, maybe it needs reworking… Are you including Learning Objective 1 & 2 in this DQ?

2. What information do you think a company should use to assess whether they should use business practices that are not yet part of the local standard of business practices? LO2 & 3? I could also answer this DQ without reading the CI. Foxus on France?

3. The worker was partially at fault since he did not follow safety procedures. What responsibility should a firm have in trying to make sure that safety procedures are being followed in France and in the U. S.? LO 4? & 5

4. What do you think would be an adequate response to the incident in France by a U. S. company taking into consideration the effects of globalization on expectations?

Answers to Questions

1. **What standard should an U. S. company use to set business practices when expanding into a new country overseas?**

According to French law, it is important to know if the worker was acting as an employee of the plant or as an independent contractor. If the worker was being supervised by an employee of the firm, then the worker who fell was legally an employee and therefore a responsibility of SB. If the worker was under no supervision by any employee and was independently determining the best methodology for assessing the work necessary and performing that work according to his own work procedures; then he was acting as an independent contractor and would be responsible for his own actions. If the worker was acting in accordance with instructions from independent contractor, then he would be the responsibility of the independent contractor and that contractor would be responsible for the legal liabilities resulting from the fall.

Your answer doesn’t address the question. Also, each answer should come out of a theoretical base (or practice framework) so it is 1) an answer students can reproduce, and 2) instructors can see what your CI is trying. to teach

2. **What information do you think a company should use to assess whether they should use business practices that are not yet part of the local standard of business practices?**

There may be several points of view for an answer to this question. Good! Now, who supports each type of view point? What are the theories/authors/or frameworks that students can look to to help them answer the question? At any point in time, a firm may decide to perform more humanitarian actions than legally required as long as the performance of those actions does not then require the firm to continue in a more responsible role. In this case, SB is a startup company which has barely made a profit one year, lost money the second year and was breaking even by bottling the beverages of other manufacturers. They did not have any extra money to add to the benefits that the worker might get from the French state or from any insurance that might be covering him. Students should be encouraged to think about what actions could be taken by SB that could help the family of the worker that might not cost much money, but would be of some help or comfort to the family. A company that is able to find humanitarian activities to perform is a better community member and is likely to foster a better brand identity with its consumers.

3. **The worker was partially at fault since he did not follow safety procedures. What responsibility should a firm have in trying to make sure that safety procedures are being followed in France and in the U. S.?**

In the United States, there are often more safety regulations than in many other areas of the world. While in France, if the worker was an independent contractor or working for an independent contractor, he needed to follow the safety procedures of the state and country as well as the operational procedures of the independent contractor. (<http://cooperator.com/articles/2313/1/A-Co-op-Lawyer-Discusses-Subcontractors/Page1.html).Great>! Use APA to cite. Also, find more articles to support the paragraph, and all of the below answers.

One of the reasons a firm may hire an outside contractor is to use the expertise of the outside contractor and to deflect some of the risk that may be associated with that activity. The thought is that by engaging an expert in that procedure, that job will be done according to specifications and safety standards. The fact that the worker had not followed standard safety procedures puts the liability issue into discussion. There is a question about how much training had the worker received, were their other circumstances that might have interfered with the proper use of safety procedures, and was the physical state of the building such that standard safety procedures could be followed. If the roof was in the state of repair that it had been when the estimate for the job was given, then very likely, SB did not have any responsibility or liability in the accident. It is another question as to what ethical or moral community actions might be considered. Students may be asked what limits should be applied to ethical actions in a similar incident in the U.S.

4. **What do the students think should be an adequate response to the incident in France by a U. S. company taking into consideration the effects of globalization on expectations?**

If SB decided to export their product to the U. S. the safety issues that remain would be related to the purity of the beverage and the type of packaging used for the beverage. If a glass bottle was used, then safety bottling standards would have to be followed in order to be sure that consumers would not be injured by removing the cap and drinking. If SB built a manufacturing plant in the U. S., then they would be advised to have insurance to cover possible accidents on their property and to openly publish the expected safety procedures necessary for the operation of the plant. The answer is backwards from the question… you answered the French company in the US perspective.

5. **What do the students think should be an adequate response to the incident?**

General Discussion

The critical incident is concerned with the accidental death of a construction worker who was hired by a sub-contractor to fix a roof under the contract to a general contractor for a real estate client and who bore what responsibility.

There is no prior assignment necessary, although after reading the incident some research on the definition of employee and independent contractor may be warranted in order to cover the legal aspects and consider the ethical implications on the company and its partners as well as its future plans in France and in the U. S. The attitudes of the partners would be communicated to all of the firm’s employees and would contribute to company and employee morale.

As an exercise or discussion of ethics and community responsibilities, the critical incident may be used for role play and an additional role may be created for a media representative and a role for the company lawyer. The role playing could then take on the multiple issues that are inherent in the nuances in how the worker’s death was handled in France and how a U. S. company in France might want to handle the incident.

Additional Pedagogical Method

The incident does lend itself to role play and it will be interesting for students from different regional and global locations to hear the reactions of the people acting in the different roles. A student should act in at least 2 of the 4 roles: owner, firm employee at headquarters, lawyer and media person. The students should then discuss how their perception of the accident and the company’s response remained the same or changed depending on the role that he/she played. The audience members should write their first impression of the incident and then write his/her impression after the role play to see if the impression has changed and in what way.

Epilogue

The four-way allocation of legal responsibilities in the French court based on French law was very different than what would have been decided in a U. S. court since in the U. S., employers carry more responsibility for ensuring the safety training of employees. In France, as was decided in this legal case, the inattention of the worker was sufficient to remove any financial responsibility from the employers even though working conditions were sub-par.

References

<http://cooperator.com/articles/2313/1/A-Co-op-Lawyer-Discusses-Subcontractors/Page1.html>

Legal Sources and Supplementary Readings

[http://www.houselogic.com/home-advice/contracting/contractor-liability/#](http://www.houselogic.com/home-advice/contracting/contractor-liability/).

<http://www.lni.wa.gov/IPUB/262-262-000.pdf>

<http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Small-Business-and-Self-Employed-Tax-Center-1>

<http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Independent-Contractor-%28Self-Employed%29-or-Employee>

<http://www.techinsurance.com/professional-liability-insurance/>

<http://www.sba.gov/community/blogs/community-blogs/business-law-advisor/general-business-liability-insurance-%E2%80%93-how-it-w>

<http://www.invest-in-france.org/Medias/Publications/862/doing-business-in-france-english-version-october-2012.pdf>

<http://www.whitecase.com/hrhottopic-0711/#.UmFvHhD5glQ>