

Analysis of the political and identity dynamics of a dominant mode of control: the case of business ethics control and its legalization

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Analysis of the political and identity dynamics of a dominant mode of control: the case of business ethics control and its legalization

Abstract

This research studies the political and identity dynamics involved in the formation of a dominant mode of business ethics control. Through analysis of the ethical tool design process at five French multinationals, this empirical study reveals how business ethics is becoming legalized. This legalization is explained by a structure of domination that favours a legalistic approach, the diffusion of tools prepared by the legalistic designers, and a socio-cognitive identity strategy applied by the dominated group, the moralist designers. The individualization of responsibility is identified as a major risk associated with excessive legalization in business ethics.

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Key words: Ethics, Control, Power, Identity, Legalization

1. Introduction

“Many experts summarize “what happened” at Enron using two words, greed and arrogance. [...] What happened? It was a complete breakdown in moral values. But the scary part is that the breakdown was not done by outright intention but more by small steps in the wrong direction. [...] Being an ethical person is more than knowing right from wrong. It is having the fortitude to do right even when there is much at stake.” (Sherron Watkins, ex-vice-president, Enron, January 2007)¹

The swiftness and scale of the Enron affair made such an impact that twenty years on, it is still a notorious example of an ethical scandal. Nobody can explain today exactly “what happened”, not even Sherron Watkins, the woman who blew the whistle on the company’s accounting malpractice. The underlying questions are important, particularly given that in 2000 – a year before the scandal – Enron had introduced a 64-page code of conduct, accompanied by a letter from its CEO Kenneth Lay. The last few copies of this code of conduct are now sold online and make ironic reading. And yet, ethical tools such as codes of conduct have since become increasingly common in organizations (Bondy, Matten, & Moon, 2004, 2008; Chatterji & Levine, 2006; Sum & Ngai, 2005), without significantly reducing the number of ethical scandals (Fleming & Jones, 2013; Fleming, Roberts & Garsten, 2013). The Enron affair, and all the others that have followed, raise questions about the operation of business ethics, particularly how the tools intended to control those ethics are conceived and developed.

Business ethics is defined as “the study of business situations, activities, and decisions where issues of right and wrong are addressed” (Crane & Matten, 2010, p. 5). Like most definitions of business ethics, this one does not set out the characteristics of good or bad organizational behaviour. In practice, business ethics is often confused with the law, which is also about issues of right and wrong (Crane & Matten, 2010). The overlap is observed in the way organizations operationalize these ethics, for example through ethical tools, i.e. written documents, practices and procedures designed to guide employee behaviour towards what the firm considers ethical (Kaptein, 2015; Weaver, Trevino, & Cochran, 1999). Examples include codes of conduct, training courses, and even whistleblowing procedures. In view of their characteristics, ever since they began to proliferate these ethical tools have been considered as control systems (Weaver et al., 1999). However, the passage from a conceptual idea such as

¹ This extract is from the article by Dick Carozza: ‘Interview with Sherron Watkins. Constant Warning’. *Fraud Magazine*. January/February 2007.

business ethics to ethics control systems does not resolve the ambiguity in the concept's definition and goals (McCrudden, 2008). This ambiguous configuration is thus conducive to politicization of business ethics control, involving the coexistence of different approaches, none of which looks completely legitimate (Hofstede, 1981). This politicization can translate into a conflict between the “designers” of ethical tools, with each group trying to impose its own conception of control on others (Ben Khaled & Gond, 2020). The dominant form of ethics control will be determined by the outcome of such intergroup conflicts.

The control literature has already investigated intergroup conflicts, but not in a business ethics framework. In particular, the literature has documented how professional groups attempt to disseminate the control systems they know best, so that those systems will be used as frequently as possible to solve their organization's problems (Ezzamel & Burns, 2005). The more widely one group's preferred systems are used in the organization, the greater that group's zone of power. Some studies have reported how firms become financialized through the diffusion of financial controls (Cowton & Dopson, 2002; Scapens & Roberts, 1993). Due to its focus on the spread of control systems (or extension of the zone of power), this political approach cannot fully grasp the identity processes resulting from the actors being part of a group. Yet the fact of belonging to a group induces identification with that group, and this is likely to influence the nature of intergroup conflicts (Tajfel & Turner, 1979). To reveal these identity processes, and also their influence on the use of control systems, intergroup conflicts can be studied by reference to social identity theory (Tajfel & Turner 1979).

The control literature is implicitly founded on Sherif's (1966) “realistic conflict theory”, which posits that intergroup conflicts are triggered by an unequal distribution of resources and their aim is always to redress the balance. Tajfel and Turner (1986), however, explain that mere awareness of the existence of another group (different to one's own) is enough to trigger hostility towards it. They also observe that groups may engage in conflicts that are not about a fairer distribution of resources, but rather about achieving higher status for their social identity. Tajfel and Turner present a purely socio-cognitive strategy used for this purpose: social creativity. This identity-based approach offers a fresh angle for interpreting the use of control systems in intergroup conflicts (Sebti, Gérard & Perray-Redslob, 2015). The article by Sebti and his colleagues (2015) is an interesting attempt to bring this approach to intergroup conflicts into the control literature, but there is little research exploring the influence of identity enhancement strategies on the nature of the dominant mode of organizational control.

This study therefore aims to understand the political and identity dynamics that contribute to the formation or reproduction of a dominant mode of organizational control.

Starting from the politicization of control of business ethics (Ben Khaled & Gond, 2020), this article is grounded particularly in social identity theory (Tajfel & Turner, 1986) and sets out to understand how ethics control tools are used in intergroup conflicts, and how identity strategies shape the control of business ethics. The research presented here therefore examines the operationalization² of business ethics, i.e. the process of designing and disseminating ethical tools. The key focus of the analysis is the designers of ethical tools – “ethics designers” – and the way they make use of the control systems they produce in intergroup conflicts. To address these matters, we conducted a qualitative study of the development of ethical tools in five French multinational corporations.

This research is very much in the tradition of the francophone literature on organizational analysis (de Gaulejac, 1987; Lemaitre-Rozenzweig, 1986; Chanlat, 1994; Gendron, 2002). In seeking to advance understanding of organizational dynamics (Chanlat, 1994), the chosen perspective highlights how groups of actors driven by different interests and different rationales do battle to mould the organization into what they consider the appropriate approach for decision-making (Lemaitre-Rozenzweig, 1986; Gendron, 2002). Our work aims to understand how one approach succeeds in achieving domination, and the political and identity dynamics that make that domination possible.

This study thus underlines the political and identity dynamics that contribute to production and reproduction of a dominant mode of control in business ethics: the legalistic mode or “legalization”.³ Legalization is encouraged and reinforced when the structure of domination favours a legalistic conception of ethics, legalistic ethical tools become widespread in organizations, and the dominated group adopts a social creativity identity strategy. Finally,

² The business ethics literature frequently raises concerns about applying the term “ethics” - an individual practice – to a social group such as a firm, and the concept of business ethics has been debated (e.g. Carr, 1968; Duska, 2000). This research deliberately remains outside the debate over the possibility of operationalizing ethics. Business ethics is used here as a case for analysing the political and identity dynamics that lead to a dominant mode of control, working on the assumption that the actors studied consider it possible to operationalize ethics. Those actors are the focus of interest in this research.

³ The term is used here not in the sense of “making something legal” but, as in Sitkin & Bies (1993) to refer to “an increasing concern with assuring legal acceptability for the organization at the expense of other important criteria (economic, humanistic, etc)”. The term “legalification” is sometimes used to express the same idea.

this research identifies the risks of excessive legalization in business ethics, particularly the individualization of responsibility.

2. Business ethics: ambiguous goals and politicization of control

The characteristics of “good” organizational behaviour are ambiguous and open to interpretation. This is perceptible in the very definition of business ethics as “the study of business situations, activities, and decisions where issues of right and wrong are addressed” (Crane & Matten, 2010, p. 5). This definition relates to an essentially theoretical view of business ethics, giving little indication of how business ethics can be operationalized in organizations. Operationalization is understood here as the passage from a conceptual idea to concrete organizational practices and procedures; it is the way business ethics is usually expressed in organizations, mainly via ethical tools. Ever since they first arrived in organizations, such tools have been considered as control systems due to their goal of regulating behaviours (Weaver et al., 1999).

As a result of its inherent ambiguity, business ethics has often been confused with the law – logically, since both are about issues of right and wrong (Crane & Matten, 2010). The same overlap exists at organizational level. Some past research (Crane & Matten, 2004, 2010; Paine, 1994) shows how organizations use reference to the law (compliance) and/or values to operationalize and oversee their ethics principles. These approaches differ in their main argument, but also in their conception of ethics’ control.

The compliance approach to business ethics control essentially translates into respect of laws, rules and norms, generally as described in detail in written documents. Among other things this involves explicitly or more implicitly banning or reprimanding certain behaviours, but it also drives attempts to create rules for ethical behaviour (Weber & Wasieleski, 2013). In such cases, business ethics is similar to the law, soft or hard,⁴ or a transcription of the law for an organizational context. Control is exercised through rules and procedures. This is comparable to technocratic control (Alvesson & Kärreman, 2004) which often takes the form of a system of boundaries stipulating what is not allowed and proscribed behaviours (corruption, fraud,

⁴ “Soft law” refers to all non-legally binding rules, often in the form of recommendations and guidelines, while “hard law” is all legally binding rules enshrined in law.

conflict of interests, bullying and harassment, etc) (Simons, 1995; Widener, 2007). For example, some corporate ethics documents quote the law on falsification of accounting records, or the rules governing conflicts of interest. Several studies analyse the impact of these formal tools on decisions regarding ethical issues, and conclude that they are insufficient or too vague (Endenich & Trapp, 2020; Musbah, Cowton & Tyfa, 2016; Shafer, 2002).

An alternative approach to business ethics control is based on values such as integrity or respect, its main aim being to bring employees to internalize the organizational values (Barker, 1993; Crane & Matten, 2010). Although this approach accepts the existence of a legal dimension and the need for formal tools, the idea is to “make use of” individual ethics by raising actors’ awareness and developing their sense of responsibility, and thus turn ethics into a social control mechanism (Laufer & Robertson, 1997; Musbah et al, 2016). This approach considers that the complexity of organizations generates high uncertainty that formal systems cannot fully address. Formal control tools such as codes of conduct must therefore be complemented by communication, training, a corporate culture and a whole set of practices that give employees autonomy for dealing with ethical dilemmas (Goebel & Weißenberger, 2017; Musbah et al., 2016; Roberts, 2015).

This social mode of control has proved appropriate when results are ambiguous and hard to measure, as is the case of ethics. Although business ethics may be partly addressed by adapting the law into organizational norms, significant ambiguity remains over what is ethical and what is unethical, beyond what is legal. This grey area of business ethics (Crane & Matten, 2010) is hard to transpose into formal, explicit rules. An example is given by McCrudden (2008), who shows that there are many possible interpretations of the concept of human dignity, and none of them is particularly erroneous. As interpretation of ethical behaviour is less clear-cut in this grey area, organizations are drawn to value-based modes of control such as socio-ideological control (Alvesson & Kärreman, 2004). Socio-ideological control covers everything that aims to control mentalities (in the broadest sense), through efforts “to persuade people to adapt to certain values, norms and ideas about what is good, important, praiseworthy, and so on, in terms of work and organizational life. Ideologies justify certain principles, actions and feelings, and discourage others” (Alvesson & Kärreman, 2004, p. 426). From this perspective, experience and symbols are vectors for the organizational learning of behavioural norms, particularly when the rules are unable to deal with the complexity of the organizational setting (Flyvbjerg, 2001).

Several articles have underlined the predominance of compliance-focused programmes in businesses (Chen, 2001; Chua & Rahman, 2011; Weaver, 2001; Weber & Wasieleski, 2013). Some of them attribute this to the US' influence on the worldwide economic market. Critics point out how that influence affects the operationalization of business ethics in European firms adopting – replicating – ethical tools that are potentially ill suited to their context (Ben Khaled & Gond, 2020; Helin & Sandström, 2008, 2010; Weaver, 2001). Helin and Sandström (2010), for example, analyse how the Swedish subsidiary of a US multinational resisted automatically signing a code of ethics sent from the head office without any explanation. The Swedish employees felt they did not share the same conception of business ethics, particularly the view of human rights advanced in the code, and they wanted to discuss it before they signed it. Ambiguity in the goals of business ethics thus leaves room for a broader, alternative view to the one contained in existing ethical tools. The study by Helin and Sandström (2010) stresses the potential for conflict between the American approach, using compliance to regulate ethics, and other approaches that prefer regulation by values and discussion (Ben Khaled & Gond, 2020; Helin & Sandström, 2010; Weaver, 2001; Weber & Wasieleski, 2013), with neither type of approach achieving complete consensus.

In matters of business ethics, there is high ambiguity about the object of control and the ultimately desired behaviour. This means the members of an organization have free rein to interpret the issues and their potential solutions, and as a result, different approaches to control coexist and can form an arena for intergroup conflicts inside organizations. Since no form of control has established itself as fully legitimate for ethical issues, politicization of control is likely to arise (Ben Khaled & Gond, 2020; Hofstede, 1981; Mintzberg, 1979).

3. Intergroup conflicts, domination and control

The control literature has already studied intergroup conflicts. Many authors have examined how certain professional groups seek to disseminate their control mechanisms in organizations so as to extend their zone of power and thus achieve domination (Armstrong, 1985; Briers & Chua 2001; Channuntapipat, Samsonova & Turley, 2020; Ezzamel & Burns 2005; Farjaudon & Morales, 2013). Occasionally inspired by Foucault (1975, 1980), this stream of research highlights the political dynamics inside organizations, and the way those dynamics shape control tools. One of their main focuses is explaining how professional groups succeed in increasing their power by spreading their knowledge.

A professional group can be considered as a social subset of the firm, characterized by its own specific language, values and interpretive schemes (Dent, 1991; Goretzki & Messner, 2019; Sebti et al. 2015). It is also associated with a specific area of expertise, corresponding to the knowledge possessed by the members of the group, for which they are acknowledged as experts (Ezzamel & Burns 2005; Farjaudon & Morales, 2013). In the control literature, the specific knowledge relates to the differing conceptions of control held by the professional groups present. For example, Ezzamel and Burns (2005) document a situation in which finance managers are associated with a financial control tool, Economic Value Added, and buyers and merchandisers are associated with informal experience-based control. The social hierarchy of professional groups thus depends on a group's ability to spread its specific knowledge such that its recognized expertise is called on as frequently as possible to solve the organization's problems (Ezzamel & Burns, 2005). The more widely one group's specific knowledge is used in the organization, the more extensive that group's zone of power. The point of interprofessional competition is protecting or extending a group's zone of power, or "professional jurisdiction", via knowledge specific to the group (Abbott 1988; Goretzki & Messner, 2019; Hughes 1958).

Taking this perspective, some studies have highlighted cases of conflict between management controllers and other professional groups (Armstrong, 1985; Bessire, 1995; Dent, 1991; Ezzamel & Burns, 2005; Morales & Lambert, 2013). Most of these cases concern professional groups considered financial in nature, including management controllers, trying to financialize their firm and seeking to extend their professional jurisdiction by introducing financial tools (Cowton & Dopson, 2002; Ezzamel & Burns, 2005; Morales & Pezet, 2010, 2012). With few exceptions (one being Ezzamel & Burns, 2005), these studies report a victory by the finance professionals over the other professional groups (Ezzamel, 1994; Scapens & Roberts, 1993). The study by Briers and Chua (2001), for instance, shows how management controllers reinforced their power by successfully getting the Activity Based Costing method adopted.

The political structure of organizations has a particular influence on the outcome of these conflicts. For example, the financialization of organizational structures, which is itself a result of the financialization of the economy (Froud, Johal, Papazian & Williams, 2004; Zhang & Andrew, 2014), tends to shape the control systems that will be rolled out (Cowton & Dopson,

2002; Macintosh & Scapens, 1990, 1991; Morales & Pezet, 2010, 2012). Drawing inspiration from the work of Giddens (1984),⁵ Macintosh and Scapens (1991) show how the spread of financial language at General Motors via the use of a return-on-investment chart ensues from the extent of coherence between that language and the dimensions of the organizational structure (signification, domination, legitimation). They observe that this shift in language may be explained by a favourable structure of domination in which many of the authoritative resources (allowing agents to control people) and allocative resources (allowing agents to control material objects) are in the hands of finance professionals. In other words, the finance professionals have numerous “systems of influence” (Mintzberg, 2003) inside the firm. The structure of domination thus affects the diffusion (or non-diffusion) of a particular – financial - conception of control.

Analysis of intergroup conflicts in this body of research is founded on the structure of domination and groups’ ability to modify or reinforce that structure by disseminating the control tools they possess. With its focus on the distribution of power, however, this political approach is unable to grasp the identity processes resulting from the actors being part of a group. Yet the fact of belonging to a group induces identification with that group, and this is likely to influence the nature of intergroup conflicts (Tajfel & Turner, 1979). To reveal these identity processes, and also their influence on the use of control systems, intergroup conflicts can be studied by reference to social identity theory (Tajfel & Turner 1979).

4. Intergroup conflicts: from Sherif (1966) to Tajfel and Turner (1979; 1986)

The control literature on intergroup conflicts (Ezzamel & Burns 2005; Farjaudon & Morales, 2013) is implicitly founded on an approach developed in Sherif’s (1966) “realistic conflict theory”. According to this theory, intergroup conflicts arise from a conflict of interests between groups that is caused by unequal distribution of resources. In the control research, resource allocation is considered as the distribution of power based on the degree of diffusion of the (knowledge) control systems specific to each group (Cowton & Dopson, 2002, Ezzamel & Burns, 2005). In this approach, conflicts are only triggered by unequal resource distribution: they are initiated by the groups that lose out in this distribution, and always aim

⁵ Concerning the structuration theory of Giddens (1984), Conrad (2014) and Roberts (2014) discuss its application, its potential and its limitations in accounting research. Englund, Gerdin and Burns (2020) also propose a recent application of Giddens’s theory to the interaction between strategy and accounting.

to redress the balance. Tajfel and Turner (1986) highlight a number of issues in this approach to intergroup conflicts, and propose an alternative developed from social identity theory.

Tajfel and Turner (1979, 1986) begin by showing that awareness of the existence of another group (an “out-group”) is enough in itself to trigger hostility towards members of the other group, and that competition for resources is not necessary for intergroup conflicts to arise. Tajfel and Turner (1979, 1986) argue that the source of intergroup conflicts lies less in unequal distribution of resources than in the actors’ identification with the group to which they belong. Social identification is made possible by the environment’s fragmentation into separate groups (Tajfel and Turner call this “social categorization”), and occurs at the point when the individual’s self-image derives from the social category to which he/she belongs. In other words, when this point of identification is reached, individual differences inside the group fade, and uniformity grows. As Tajfel and Turner (1979, 1986) observe, this uniformity concerns the group members’ attitudes to people outside their group. Driven by a desire to raise the status of their own group (the “in-group”), the members of a group will thus tend to start intergroup conflicts.

However, in another difference from the approach to intergroup conflicts used in the control literature, Tajfel and Turner (1979, 1986) explain that these conflicts are not necessarily about changing the resource distribution between groups. They argue that intergroup conflicts concern all actions taken by a group to enhance its social identity. In Tajfel and Turner (1986) they discuss one method for assessing (and ranking) the social identity of groups: social comparison. Social comparison is used by the members of a group to assess the social status they derive from belonging to the in-group. That status comes from the group’s relative position on dimensions of comparison (Tajfel & Turner, 1986). Tajfel and Turner consider resource distribution as one dimension of comparison among others: the members of a group can acquire social status from other dimensions. For example, members of a firm with a small market share can still derive social status from their firm by association with its social and charity commitments. By assessing and ranking groups on a basis that does not consist solely of resource distribution, social comparison provides a way to analyse intergroup conflicts that concern the status of a group’s social identity. To quote the definition given by Tajfel (1972), *“an individual’s social identity is bound up with the knowledge of belonging to certain social groups and the emotional and evaluative meaning resulting from that belonging”* (p. 292, authors’ own translation).

In keeping with this view, Tajfel and Turner (1979, 1986) present the social creativity strategy,⁶ an identity strategy in which in-group members distinguish themselves positively from the out-group by redefining or modifying elements of the social comparison process. This identity (re)enhancement strategy is purely socio-cognitive. It does not induce any modification of the resource distribution between groups. Tajfel and Turner (1979, 1986) give three examples:

- (a) comparing the in-group to the out-group on new dimensions of comparison that are favourable to the in-group: for example, comparing groups on their social and charity commitments rather than their market share;
- (b) changing the connotation of a group attribute or attributes so that the comparison with the out-group is perceived as more favourable. Tajfel and Turner (1986) use the example of the 1960s *Black is beautiful* movement, in which the attribute (skin colour) was still the same, but the connotation generally associated with Afro-Americans was reversed;
- (c) selecting the groups to which the in-group will be compared, to exclude groups whose social status is too high. In a firm where marketing carries high status, buyers can compare themselves to a different group with lower social status, such as management controllers (Sebti et al, 2015).

This approach, based on social identity theory (Tajfel & Turner 1979, 1986), can be used to analyse use of control systems in intergroup conflicts from a fresh angle (Sebti et al, 2015). Based on the theory developed by Tajfel and Turner (1986), Sebti et al. (2015) illustrate one use of control systems in a social creativity strategy. They show how the members of a professional group try to raise the status of their group by assigning a connotation considered positive in their environment to the control systems they use. In particular, they explain that buyers consider use of costing techniques (a low-status job in their environment) as work that is creative (a valued attribute in the same environment). In this example, the actors are trying to change the connotations of their control systems in order to enhance their social identity.

⁶ The research by Tajfel and Turner (1979, 1986) presents three identity strategies: individual mobility, social competition, and social creativity. Individual mobility consists of an individual leaving his/her group to join a higher-status group. This strategy is not discussed here since it does not appear to have a direct influence on control systems. Social competition consists of group members seeking to change the social hierarchy through direct competition with members of an out-group. The control literature on intergroup conflicts discussed earlier implicitly documents this strategy. Social creativity is presented in detail in the main body of this article.

Although the work done by Sebti et al. (2015) is an interesting attempt to bring this approach to intergroup conflicts into the control literature, the use of control systems in identity conflicts is still a neglected phenomenon. More importantly, while the literature explains how the use of control systems in conflicts can extend their zone of application and increase their importance, little is known about the influence of identity strategies on the dominant mode of organizational control. This study therefore aims to understand how business ethics control tools are used in intergroup conflicts, and how identity strategies shape the control of business ethics.

5. Methodology

To understand how control of business ethics is shaped by intergroup conflicts, our analysis focuses on the development process for ethical tools, and particularly on the “ethics designers” who make them. This study uses qualitative research conducted in five French multinational corporations (MNCs). We first present the setting of this research, then describe our data collection process, and finally the methodological approach adopted to analyse the data.

5.1. Research setting

Data collection took place in five MNCs,⁷ which are known to be the main producers and consumers of ethical tools (Bondy et al, 2004, 2008). Data were gathered in France between 2012 and 2015 in these MNCs’ head offices, which is where the ethics departments are located and ethical tools are developed. The MNCs were selected for the study on the basis of their ethics programme’s stage of development (see Table 1). MNC 1 and MNC 3 had addressed questions of ethics for several years (around 10 years), MNC 4 and MNC 5 were only just beginning to consider them when data collection took place, and MNC 2 had had an ethics programme for 3 years. Thanks to these different levels of development, we were able to identify similarities that are specific to the ethical tool development process, independently of the maturity of the MNCs’ consideration of ethics.

⁷ MNC 4 is a holding company. In addition to its holding activities, it has founded an international energy sector firm with similar characteristics to the other MNCs selected for this study. In practice, the holding company’s decisions about business ethics concerned both the holding company itself and the operational firm, and this is why we included MNC 4 in this research.

Work on business ethics in these MNCs is led by a two-entity structure consisting of an ethics committee and an ethics department. The ethics committee meets twice a year on average to discuss and approve proposed ethical tools before they are implemented. The task of developing such tools is mainly assigned to the ethics department.

The ethics committee is the highest-ranking entity dealing with matters of ethics in these MNCs. It usually reports directly to the executive committee, which itself reports to the CEO. At MNC 4, the ethics committee reports to the management committee, which reports to the CEO of the holding company. MNC 5 has no ethics committee, as it is only just beginning to address the ethics question. Until an ethics committee can be set up, operationalization of ethics is directly handled by the executive committee (see Table 1). However, the ethics-related characteristics and roles of the management and executive committees at MNC 4 and MNC 5 were comparable to those of the other MNCs' ethics committees. At the time of our data collection, these committees principally consisted of the heads of ethics, representatives of the legal, control and/or internal audit, and human resources departments, and sometimes managers of operational branches or independent directors. The number of members in the ethics committee is stated in Table 1. The composition of the ethics committee is chosen by the executive committee (at MNC 2 and MNC 3) or the board of directors (MNC 1 and MNC 4).

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Three of the five MNCs studied set up an ethics department after they were involved in a scandal. These departments are very small relatively to the total workforce of the MNC (see Table 1). The profiles of their members are fairly varied, as training and formal qualifications in business ethics only came into existence recently. The heads of ethics are appointed by the ethics committee: in all five of our cases they are former operational managers in the older age bracket, some of them nearing retirement. The other members are former operational managers (of a region or branch), former HR managers, and employee representatives (interviews 1, 2, 4, 8, 11, 25; observation at MNC 5). Most ethics department members already worked at the MNC before joining this department. They were promoted internally to a position in the ethics department (where the work is mostly done at the head office and

requires little travel, and staff are in contact with the firm’s top management, such as the executive committee and sometimes the CEO him/herself).

The ethics departments answer directly to the ethics committees. The role of ethics department staff involves reflecting on ethical values for their group, and developing specific tools for implementation and oversight of business ethics according to those values. As our aim was to understand the ethics operationalization process, the data collection focused on the ethics department. But as explained below, our first few interviews and periods of observation indicated that it was important to extend the collection to cover part of the legal department which also takes part in designing ethical tools. In general, we use the term “designers” to refer to members of the ethics department and members of the legal department who are involved in the ethical tools’ design.

5.2. Data collection and presentation

The analysis is based on data from four sources (interviews, observations, internal documents, archives) documenting the design processes for twenty-eight ethical tools in the five MNCs studied.⁸ Table 2 shows all the necessary details of the data collected. They provided information about the organizational environments and the operation of ethics programmes, and were sufficient for data triangulation as recommended by Patton (2014).

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Twenty-six semi-structured interviews lasting between 25 and 180 minutes were conducted in four of the five MNCs studied. The interviewees were recruited by email or through personal contact at a business ethics-related event. A snowball effect (Biernacki & Waldorf, 1981)

⁸ The qualitative data, particularly the interviews, were rich enough to be analysed from several different theoretical angles (Patton, 2015). Another paper using the same data analyses the effects of external regulation on the design processes for ethical tools (Ben Khaled & Gond, 2020). Drawing on the sociology of law (Edelman, 1990; 1991; Edelman & Talesh, 2011) and recent research on organizations, such as the ‘open polity’ perspective (Weber & Waeger, 2017), that study highlights the stages of the design process for ethical tools, from their importation to their rollout across the whole organization, and underlines how it is influenced by external regulations. Although the data used here is the same, this article analyses the design process for ethical tools from a distinct theoretical angle, applying a different level of analysis from the previous study.

occurred as some of our contacts introduced us to others. As mentioned earlier, we interviewed people with direct involvement in the design process for ethical tools. Some of them were interviewed several times, in order to track the whole process, but also to complement and expand on some subjects that were not covered in enough detail during the first interview. A semi-structured interview guide was drawn up using the following themes: the interviewee's roles and duties, his/her relations with the other designers, his/her conception of ethics, the design and validation process for ethical tools, his/her opinion of the existing tools and any potential way(s) to improve the ethics programme. Most of the interviews were recorded, then transcribed; otherwise, notes were taken directly during the interview.

In parallel, in four of the five MNCs we conducted phases of observation of the design process of ethical tools. This observation mainly covered meetings, formal and informal discussions, brainstorming sessions and presentations (cf. Table 2). During the observation periods, we were able to chat informally with the main actors when interviews were impossible (principally due to schedule incompatibilities). We kept one journal for each MNC, using it to record verbatim statements and details of the discussions and meetings, notably listing the people present. We also included extracts from secondary data such as meeting agendas and minutes to illustrate or complement the notes made. This journal comprised around a hundred pages in total (typed and handwritten), some fifty of which related solely to MNC 5 where the observation period was longest. The rest were distributed as follows: 14 pages on MNC 2; 16 pages on MNC 3; 22 pages on MNC 4. These observation periods were a chance to cross-compare the discourses from the interviews, reinforcing our knowledge about the design process for ethical tools.

Secondary data such as actual ethical tools and internal documents were collected and analysed to complement the data derived from interviews and observation. Finally, we also had access to a certain number of archives such as audio and video recordings of shareholders' meetings held by the MNCs specifically to address the operationalization of ethics.

5.3. Data analysis

The data were analysed using a method inspired by Corbin and Strauss (2008). First, open coding was conducted to identify the first-order codes based on the recurrent ideas expressed

by the interviewees (Van Maanen, 1979). NVivo software was used for this coding. Our objective in this phase was to understand and track the design process for ethical tools while remaining close to the terms and meaning of our interviewees and the events observed. We therefore grouped these codes when they repeated each other or expressed the same idea. Next, for the purposes of our analysis we selected the codes that related to our research object. This initial phase of analysis brought out patterns and close similarities between the MNCs – although each one had a few specificities of its own – and this led us to opt for a comprehensive rather than a comparative analysis. We considered this the best response to the empirical reality of this research, in a setting marked by globalization of the economy and firms (Rouleau, de Rond & Musca, 2014; Watson, 2011).

Second, we began an axial analysis to highlight connections between the first-order codes, and step up the level of theoretical abstraction. Following the funnel approach, we grouped first-order codes into second-order themes relating to our theoretical knowledge. For example, we identified several approaches to ethics control. While the first phase of analysis aims to stay close to the data, this second phase of analysis aims for a theoretical interpretation of the codes by linking and aggregating them to make them meaningful (Corbin & Strauss, 2008). Three principal themes emerged from the analysis: the distinction between different categories of designers; the influence of the ethics committee on the ethical tools; and intergroup conflicts fought through control systems.

Third, we used these themes to meaningfully track the development of our analysis, and also to present a narrative that shows how professional groups use control systems to raise the status of their identities and shape the control of business ethics. We soon realized during our data collection that there were different conceptions of business ethics. The analysis fine-tuned and specified the differences, underlining the ethics committee's crucial role in the diffusion of one approach to ethics rather than another. Building on our knowledge about intergroup conflicts, the analysis led to identification of an identity strategy used to promote the social status of ethics designers. The results are presented in the following section.

6. Results

To understand how intergroup conflicts shape the dominant mode of ethics control, it is useful to analyse the development process for ethical tools, the groups of designers involved, and the different approaches to ethics they champion. Once these have been presented, we consider the political and identity dynamics that shape the dominant mode of business ethics control.

6.1. Two groups of designers, two approaches to control

The analysis reveals a process of development and validation for ethical tools that is comparable across all our MNCs. As well as the ethics department, we observe that the legal department also plays a major role in ethical tool design. Belonging to the ethics department or the legal department has an influence on the way the designers view business ethics, and two categories of designers can be distinguished: the “legalists” (members of the legal department) and the “moralists” (members of the ethics department). This categorization is also reflected in their preferred mode of business ethics control.

6.1.1. Processes and approaches in ethical tool development

In principle, the development process for ethical tools involves the ethics department and the ethics committee. The members of the ethics department are in charge of designing ethical tools, then it is up to the ethics committee to approve them (observation note). However, our analysis reveals that members of the legal department also intervene in the design process.

Legal department staff contribute to the design of ethical tools in various ways. According to our data (observation and interviews), the ethics committee may decide to send a proposal from the ethics department to the legal department for review. This can happen with or without the cooperation of the ethics department members who submitted the proposal. It is also possible for members of the legal department to submit ethical tools directly to the ethics committee, even though that is not officially within their remit (observation note). Finally, members of the ethics department sometimes ask the legal department for pre-validation before they submit a proposal to the committee, to increase their chances of approval.

In addition to the ethics committee, the development process for ethical tools thus involves designers from two separate departments: the ethics department and the legal department. The department of origin affects the way these designers view ethics and its operationalization, such that two categories of designers emerge.

The first category is members of the ethics department. Although they acknowledge a link with the law, they consider that the primary goal of business ethics is “*having responsible employees [because] you can’t have the ethics police behind every employee*” (Bernard, head of ethics, MNC 1, interview 2). In the opinion of these designers, actors develop responsibility through adhesion to moral values, and this means they will behave in accordance with those values. The idea is to inspire certain behaviours by spreading values.

*My objective is to make sure that when they [i.e., the employees] are in the firm, **they carry the corporate values, and they act in line with the corporate values.** That’s all. (Hélène, Vice President for Ethics, MNC 3, interview 8)*

Conversely, designers from the legal department see business ethics primarily as a matter of incorporating a set of external regulations into internal procedures. These designers focus on making sure the group scrupulously respects the legal obligations emanating from external stakeholders (e.g. the state, international standard-setters, and other international bodies). Their approach to ethics thus focuses on compliance with the laws and rules governing business ethics. As Martin said, these designers often consider that ethics is simply a question of making rules that must be followed like any other rule.

*Once you say **the rule has changed**, you say **this is the rule now** and everyone’s supposed to follow it, **no questions asked.** (Martin, Compliance project manager, MNC 3, Interview 12)*

The idea behind this view of ethics is achieving maximum protection for the group in the event of a lawsuit, and keeping the head office and top management out of any legal, social or economic trouble. In ensuring compliance with external regulations, this approach indirectly aims at “covering” the group in the event of an ethical failure. As one of the lawyers said, “*if the parent company is too proactive in the orders it gives, a judge might follow the trail upwards. So the idea is to keep it away from the parent company*” (Valentine, ethics lawyer, Interview 3).

Analysis of the data thus showed that two approaches to ethics exist in MNCs. As both aim for compliance (with either legal obligations or moral values), we decide to call the designers promoting legal compliance “legalists”, and the designers promoting moral compliance “moralists”. The difference between the two approaches is also found in the designers’ conceptions of ethics control.

6.1.2. To each conception of ethics its approach to control

In keeping with the ethics goals they prioritize, the legalist and moralist designers also value different approaches to ethics control. To develop actors' responsibility, the moralist designers aim to introduce socio-ideological control systems by methods including persuasion and awareness-raising of ethical issues.

*I talk to the people concerned to try and **make them aware of the need to consider the Code of Conduct** and our corporate values. That means working to **persuade people**, or even **make them understand** that the firm's future can't be assured if there's a breach of the Code of Conduct, and that applies for the whole scale of case seriousness. (Bernard, Head of ethics, MNC 1, interview 2)*

In general, the moralist designers aim to introduce a range of tools intended to create a favourable environment for discussion of potential ethical issues. The underlying idea is to make sure that actors will have no hesitation in ethically dubious situations. The more they discuss them with their peers or their superior, the more the decision-making process will reflect collective consideration of the corporate values. The moralist designers believe that each ethical dilemma is unique and requires some sharing of ideas.

To achieve this, the moralist designers at MNC 2 made several attempts to set up spaces for anonymous discussions. One of these consisted of allowing anonymous reporting of ethical concerns, so that whistleblowing could cover a wider spectrum of issues than corruption and financial fraud. The default position of the French data protection agency CNIL⁹ is that whistleblowing systems in France should not be anonymous.¹⁰ Anonymity for whistleblowers is possible, however, subject to approval by the CNIL, when the issues reported encompass a broader range of matters such as workplace harassment. Christophe, the head of ethics at MNC 2, took the view that non-anonymous reporting was a “deterrent” to using whistleblowing procedures, and at a meeting about development of his firm's whistleblowing system he suggested that its scope should include workplace harassment and distress. This meeting was attended by all designers, both the legalists and the moralists. Christophe spent more than twenty minutes of its total 1½-hour duration presenting the benefits of anonymization to create a “*space for open discussion*” (observation note).

⁹ *Commission Nationale de l'Informatique et des Libertés*

¹⁰ “The firm's whistleblowing system must be restricted in scope. It must only be used for reporting serious matters of an accounting or financial nature, to counter corruption, or concerning violations of competition law. It is important that the whistleblowing system should not be general in scope, and it must aim for compliance with all laws and regulations, and the organization's internal rules.” (<http://www.cnil.fr> – July 2016 – authors' own translation)

The legalist designers prioritize application of a common rule for all employees. This differentiates them from the moralists, who prefer a case-by-case approach. The legalists aim to use technocratic control systems through rules and procedures, generally taking the form of written documents that are available on the intranet, sent out by email or handed to employees when they join the firm. As Pascale commented, it is the legalists who “*as lawyers [...] take part in laying down norms, drafting them, reflecting on them with all the entities*” (Pascale, ethics lawyer, MNC 1, interview 19).

In keeping with their goal of legal compliance, the internally-produced rules and norms generally originate in external constraints. Valentine explained that her colleagues’ job consists of “*transposing internally, in fact bringing in compliance processes [...] relating to the requirements of the American FCPE [Foreign Corrupt Practices Act] or the UK Bribery Act, or certain international treaties*” (Valentine, ethics lawyer, MNC 1, interview 3). Yet, the legalists’ compliance-based approach goes further, as it also incorporates “soft law” elements such as the discourse and decisions of ethics-related institutional bodies.

*Even if it’s soft – you know the difference between soft and hard compliance, hard law. Well this is soft, but **soft law that is sometimes very binding**. A lot of investors say: well look, John Ruggie¹¹ has made these decisions, what are you doing to respect them? So **if we don’t respect them, well, the investors could pull out**, so it’s just as binding as hard law. (Valentine, ethics lawyer, MNC 1, interview 3)*

The designers of ethical tools thus differ in the goal pursued by their control systems. The moralists want to develop individual actors’ responsibility and use socio-ideological tools to do so (awareness-raising, persuasion, building responsibility); while the legalists want to protect the group through use of technocratic tools (rules, norms, procedures). Both groups of designers thus develop ethical tools through a process that involves interaction between the two groups, and also interaction with the ethics committee. However, the committee’s decisions draw ethics control in MNCs towards legalistic control tools, and this jeopardizes the proposals of the moralist designers.

¹¹ John Ruggie is a professor of law who specializes in human rights and international affairs. From 2005 to 2011 he was the United Nations’ Secretary-General’s Special Representative for Business and Human Rights, and he was the instigator of the Global Compact, a list of ten voluntary business ethics commitments put forward by the United Nations. John Ruggie is an influential VIP of business ethics.

6.2. Domination by the legalists and the identity enhancement response of the moralists

In principle at least, business ethics can be controlled through rules or through persuasion – or through a hybrid approach combining the two. However, our data show that ethics committees seem to favour the legalistic approach. During our data collection, twenty-eight ethical tools were approved by the ethics committees. Ten of them were submitted by the legalist designers (without consulting the moralist designers), and eighteen by the moralist designers: fourteen of these were approved after adjustment by the legalist designers, leaving only four ethics committee-approved tools that had no input from the legalists. These figures demonstrate a structure of domination that is favourable to the legalistic approach. The situation may also be explained by the profiles of ethics committee members, who due to their functions (as heads of the legal department, internal control or risk management) are strongly attached to rule keeping. To illustrate the legalists' domination, we examine how, with the help of the ethics committee, they tend to prevent or obstruct production and diffusion of ethical tools designed by the moralists. As enhancing their social identity through diffusion of their tools is unachievable, the moralists turn instead to a social creativity strategy.

6.2.1. The dominant legalists obstruct diffusion of the moralists' tools

Our analysis reveals that the legalist designers very often disrupt the development process for an ethics control system initiated by the moralist designers, thus illustrating that the organizational structure of ethics favours legalistic approaches. In this article we analyse two significant situations drawn from our observations in MNCs: the first shows how the legalists successfully impose a rival training course to the one already introduced by the moralists; the second shows how the legalists manage to appropriate an ethical tool originally proposed by the moralists.

Situation 1: Imposing a rival ethical tool (MNC 1)

At the start of our data collection, the moralist designers at MNC 1 had designed and run a 2-day training course in business ethics for managers. This course included a 3-hour module for work in small groups on real-life cases of ethical dilemmas, stimulating discussion and experience sharing between participants. One of the course leaders, Joseph, considered (in line with his view of ethics) that the significant focus on group discussions was the key feature of this training, and also the reason for its popularity with managers.

*The feedback is positive and we're going to make [the ethics training] longer and include more case studies, because people have told us "what we really like is talking about possible situations, because we know that could happen to us in our subsidiary". Or else they want to **share an experience**; they don't want too many PowerPoint presentations. They **want more discussions** of real cases that can affect the way business is done in their subsidiary. The case studies we use are real-life cases from [MNC 1] but we don't say which country, or where, which people or which subsidiaries, we adapt them, but in the end they're based on things that have really happened. (Joseph, head of ethics, MNC 1, interview 1)*

Despite the positive feedback from participants, this training module was not to the taste of legalist designers Valentine and Pascale. They considered it inadequate and decided to design a new ethical tool to put on the intranet site. They had the idea of offering training in the form of short online videos by ethics experts. Valentine, the head of this project, thought that using videos would be more effective than the training course run by the moralists, since managers "will often only listen to their peers" and "don't give a damn about what's really going on in a different branch" (interview 3). True to her conception of ethics, she considered that short videos about each applicable law or norm would be more effective than a long training course creating a space for open discussion.

[Video-based training] would be much better because it will reach a lot more people than a 3-hour seminar. For example, we do a quick 5-minute video on Human Rights [...] and that will reach more people than a small group who go to a [training course on ethics]. (Valentine, ethics lawyer, MNC 1, interview 3)

This proposed tool was approved by the ethics committee and made compulsory, just like the moralists' training module. In a few months, a whole series of training videos were made and put online on MNC 1's intranet system (interview 19). Although these videos were intended to train the same managers as the course run by the moralists, the legalists decided not to involve the moralist designers in their production. As Joseph, a moralist designer, commented during an informal chat: "They do their thing and we do ours!"

This situation clearly illustrates how ethical tools are placed in competition, at the initiative of the legalist designers. Since the training promoted by the moralist designers – based on creation of a space for discussion – did not match the legalists' strategy for regulation of ethics, they decided to create their own tool, which corresponded more closely to their approach to ethics control.

Situation 2: Appropriating the competitors' ethical tool (MNC 5)

When the ethics programme was in development at MNC 5, Silvia, the head of sustainable development for the Africa zone, proposed at a meeting that the group uses the ethics charter she had developed for her zone (observation note). She presented an ethics charter suitable for the whole of MNC 5, based on the group's business activities and her own experience with issues encountered in the Africa zone. This was a one-page document. It covered matters of health and safety in working conditions, access to healthcare, skill development, support for community projects promoting children's education, and stakeholder dialogue.

During this meeting, Silvia said that the charter had been submitted to the ethics committee for implementation across the whole group. She spent the next few months unaware that the committee had sent her proposed ethics charter directly to the group's CSR lawyer, Alexandra, asking her to review it and propose a new version. The first time Silvia (and we) heard of this was at a meeting in January when Alexandra presented the new ethics charter.

This new version, which became the final version of the ethics charter, bore practically no resemblance to the version proposed by the moralist designer Silvia. Instead of one page, it was now a five-page document covering questions of conflicts of interest, confidentiality in business relationships, and international standards. It was set out mainly in the form of compliance rules on every aspect, even "economic progress" (extract from the ethics charter of MNC 5). Almost nothing remained of the charter proposed by the moralist designer Silvia. For example, on the subject of relations with employees, the new charter stated that each individual was responsible for any corporate property loaned to them: this was a far cry from the original draft's recommendations of discussions with stakeholders, i.e. promoting collective responsibility.

The Group strives to give its members the tools, equipment and information they need to perform their duties. Each member is responsible for keeping and protecting the property and resources of the Group that are entrusted to him/her, and must use them strictly for the purposes of his/her work. (Extract from the ethics charter of MNC 5)

We did not initially realize what had just happened, and naively asked Silvia during a coffee break: "Did you work with [Alexandra]? I didn't see anything on the platform." To which she replied in a fairly irritable tone, "Nor did I", before moving off to talk to other people. We asked Alexandra the same question, the other way round. That was when she told us the

document “*wasn’t fit for purpose*” and she “*had to rework it*” but that it had been a “*good basic draft*”.

This situation, similar to others we observed in the other MNCs, shows how the legalist designers were able to shape and appropriate an ethical tool initiated by the moralist designers. The legalist designers took over control of the ethics charter design with the help of the ethics committee, and used this opportunity to rewrite it almost entirely, bringing it more into line with the goal they assign to ethics: protecting the group.

In these situations, the legalist designers, aided by the ethics committee, obstruct the introduction and spread of tools that carry the moralists’ conception of ethics. In fact, the legalists’ action goes further than simply hindering development of ethical tools promoted by the moralists. In adapting the moralists’ ideas or appropriating their tools, the legalist designers introduce and disseminate tools that are closer to their own conception of ethics. So, although the ethical tools that are finally approved are inspired by the upstream work of the moralist designers and thus display some hybridization, the original moralistic approach is played down and the legalistic approach is firmly asserted. The legalistic approach is thus reinforced by this hybridization, as it enables the legalists to establish and extend their zone of power, infusing the new ethical tools with their legalist conception – and frequently making that the dominant conception.

6.2.2. The moralists’ identity enhancement response: promoting their own tools to raise their status

In this setting where the structure of domination favours the legalists, the moralists are unable to enhance their social identity through the diffusion of ethical tools that carry their conception of ethics. As a result, they respond with another identity enhancement strategy: social creativity. As applied to control systems, this consists of socio-cognitively promoting the type of tools they want to introduce over other actors’ tools, in order to raise the status of their social group. During our interviews, the moralist designers spent a good deal of time positively presenting the tools they would like to use to control business ethics. They did so by comparing their own tools to those used by the legalist designers, to show that theirs were important if not superior. This identity enhancement response led them to express strong

criticism of the legalists' control systems, which is a sign they are not prepared to accept domination by the legalists.¹²

Bernard, for example, stressed the limitations of technocratic systems, which are associated with the legalists, and insisted it was necessary to combine them with communication and discussion, two principles the moralists hold dear.

*The advantage of personalizing those procedures, or adapting them, is **that you don't just have a written document sitting in a file somewhere**. The advantage is that when the rules are being defined – because rules are what they are in the end – **we discuss them**, and that's not the only time we discuss them! (Bernard, head of ethics, MNC 1, interview 2)*

Another moralist designer, Grégory, adopted Bernard's idea that the legalists' tools should be complemented by creating dialogue with employees, to encourage discussion of ethical issues. Grégory was at pains to present himself more positively than one of his legalist colleagues who in his opinion had an unrealistic view of how effective his tools are.

*I'm not at all like Martin [a legalist designer], thinking that it's perfect and so on. There's something I think is really interesting. It's that [the employees] think to themselves: "**we can talk to each other about these things!**" These are matters we can discuss. (Grégory, ethics project manager, MNC 3, interview 16)*

Similarly, the moralists criticize the use of sanctions in the ethical tools proposed by the legalists, and distance themselves from that. Like Héléne, they believe that explanations and persuasion are much more effective than sanctions to regulate ethical behaviours, and consider it counterproductive to play on people's fears.

*In my view, responsibility is more important than sanctions: **a sanction is ultimately an admission of failure and I'm convinced that when you explain not what the company rule is but why we're doing this, you have a much greater chance of achieving what you want to achieve than when you apply sanctions, that's the thing... But you need both. But I'm not – I know I'm always fighting about this with my colleagues from the legal side, well I'm not really in favour of scaring people.** (Héléne, Vice President for ethics, MNC 3, interview 7)*

And the moralist designers do not stop there. Some of them, for example, readily assert that the operational managers do not use, indeed are sometimes unaware of, the tools put in place by the legalist designers because the legalists are totally disconnected from the operational

¹² The legalists also criticized the tools recommended by the moralists and presented their own tools in a favourable light (as in Situation 1 above). But in their case the positive presentation and related criticism support and justify their ambition of extending the reach of their tools, and do not constitute a fully-fledged identity strategy.

approach. Grégory claimed that the operational staff show no interest in the legalist designers' tools because they get no benefit from them.

*It's obvious to me that you have guys out on site, **they don't know anything about [the whistleblowing mechanism, the compliance officer network] etc, and they couldn't care less [...]** Why don't they care? Because those tools don't give them any solutions, **they don't get anything out of them.** (Grégory, ethics project manager, MNC 3, interview 10)*

The supposed disconnect between the ethical tools invented by the legalist designers and the concrete concerns of operational staff is not a trivial matter to the moralists, because they consider their dialogue and responsibility-based control systems better able to respond to the specificities of situations encountered by operational managers. Joseph implied that a formal document such as a code of conduct cannot really help operational staff deal with an ethical dilemma. Clear explanation, on the other hand, should equip people to adapt to a variety of situations, and is thus a more appropriate response to operational needs.

*In our view it's very important to give a very clear explanation of what we expect of people, **a Code of Conduct is a good thing but it doesn't necessarily explain in detail how to respond to a situation** (Joseph, head of ethics, MNC 1, interview 1).*

Feeding on their refusal to accept domination by the legalists, the moralist designers' strategy here is to stress, in their discourse, the limitations of the legalist designers' tools in order to emphasize the quality, importance, and even superiority of their own. They do this by identifying three dimensions of comparison on which they believe their ethical tools are superior to the legalists': the concern for effectiveness, a refusal to play on people's fears, and adaptability of the tools to the organisational context. This provides reassurance for the moralists that what they want to do is valid, their conception of ethics is valid, and their identity as a social group is valid. In short, they restore status to their social identity by socio-cognitively promoting the ethical tools they want to introduce.

Consisting as it does of criticizing the legalist designers' tools, this social creativity strategy is a sign that the moralist designers reject and challenge domination by the legalists. Yet the socio-cognitive nature of this identity strategy is not without consequences for the dominant mode of ethics control: in enabling the moralists to raise the status of their social identity without modifying the distribution of power, it tends to reinforce the legalization of business ethics.

7. Discussion

This research seeks to understand how control systems are used in intergroup conflicts, and how identity strategies shape the dominant mode of control of business ethics. The study presented aims to contribute to the control literature on three principal themes: the influence of the structure of domination on use of control systems in intergroup conflicts, the influence of political and identity dynamics on (re)production of the dominant mode of control, and the influence of introducing (legalistic) technocratic controls on individualization of responsibility.

7.1. Domination, identity strategies and the use of control

Two forms of strategies in intergroup conflicts can be identified in the current literature on control. In one, implicitly based on Sherif's (1996) realistic conflict theory, the members of a group strive to disseminate the control systems they know best throughout the organization, in order to extend their zone of power (Briers & Chua, 2001; Ezzamel & Burns, 2005; Farjaudon & Morales, 2013). In the other, based on social identity theory and the social creativity strategy (Tajfel & Turner, 1979, 1986), the members of a group take socio-cognitive action to present their own control systems' features in a positive light, and thus restore status to their social group (Sebti et al, 2015). Following on from past research, our study highlights the potential influence of the structure of domination (Giddens, 1984) on use of control systems in identity enhancement strategies. In particular, we show how a structure of domination that favours the legalist designers denies the moralist designers any chance of raising their status through diffusion of their own tools, and as a result they try to enhance their social identity through socio-cognitive promotion of the ethical tools they would like to introduce.

The development process for ethical tools operates in such a way that all the tools proposed by designers (legalists and moralists alike) must be approved by the ethics committee. It so happens that in all the cases studied a clear majority of committee members seem to favour the legalistic approach. The legalists, and the people in favour of their approach, possess a large share of the MNCs' authoritative resources (Giddens, 1984). The structure of domination (Giddens, 1984) is thus favourable to the legalists. This domination influences the ethical tool design process, particularly for the moralist designers, whose proposals are generally rejected by the ethics committee, then modified to bring them into line with the legalists' approach. While the final, approved versions of these tools can display some

hybridization because they originated in work done by the moralists, they have shed the fundamental features of an ethical tool as conceived by moralists (i.e. discussion, adaptability, etc). Rejection (or modification) of their proposed tools affects the moralists' social identity, since they cannot raise their status by spreading ethical tools that carry their social group's conception of ethics.

Despite the difficulty of developing their desired tools, the moralist designers refuse to accept the legalists' domination. In parallel to vain attempts to spread their own tools, they turn to the alternative identity strategy of "social creativity" (Tajfel & Turner, 1986). The aim of that strategy is to socio-cognitively promote the nature and features of the tools they want to introduce, which correspond to their conception of ethics. To implement this identity strategy, the moralist designers compare the features of their ethical tools with those of the ethical tools recommended and introduced by the legalists. Our study brought to light three particular dimensions of comparison on which the moralists believe their tools are superior to the legalists' tools: the concern for effectiveness, the refusal to play on people's fears, and adaptability of the tools. The identity strategy of presenting their own ethical tools as superior on several dimensions of comparison reassures the moralists that their conception of ethics, and the tools they want to bring in, are valid. This comforts them regarding their social identity as a group. This type of identity strategy is thus a way for members of a dominated social group to socio-cognitively promote their control systems approach in order to restore status to their social identity. The structure of domination that favours the legalists thus influences moralists' identity strategies, while contributing to legalization of business ethics.

7.2. The legalization of business ethics control

Most of the research on use of control systems in intergroup conflicts indicates that firms are becoming financialized by the spread of financial modes of control (Cowton & Dopson, 2002; Ezzamel, 1994; Morales & Pezet, 2010, 2012; Scapens & Roberts, 1993). Drawing on the work of Giddens (1984), several studies have shown that the diffusion of financial controls in firms is supported by their structure of domination (Cowton & Dopson, 2002; Macintosh & Scapens, 1990, 1991). In some respects, our empirical study produces an analogy for these political mechanisms (of financialization) with regard to business ethics, by illustrating how

the structure of domination is conducive to diffusion of the legalists' ethical tools and thus contributes to the legalization of business ethics.

As already mentioned, our study shows that the approval process for ethical tools puts the decision-making power into the hands of committees where the majority of members favour the legalistic approach. Like the research on financialization, which finds that the power lies in the hands of finance specialists (Cowton & Dopson, 2002; Macintosh & Scapens, 1990, 1991), here, the authoritative resources (Giddens, 1984) are mainly held by pro-legalists. This domination, as we have seen, limits diffusion of the moralist designers' recommended ethical tools; conversely, it facilitates diffusion of the legalist designers' ethical tools, i.e. tools that carry the legalistic conception of ethics (protection of the group, compliance with external regulations, and so on). As well as purely legalistic tools, other ethical tools are approved by the ethics committee that were initially developed by the moralists and subsequently modified by the legalists. Such tools are largely stripped of their original moralistic features (e.g. persuasion, anonymity, open discussions), and what remains is primarily the legalists' conception. Like the financiers who extend their professional jurisdiction through diffusion of financial controls (Cowton & Dopson, 2002; Ezzamel, 1994; Morales & Pezet, 2010, 2012; Scapens & Roberts, 1993), the legalists extend their zone of power by spreading their legal and procedural knowledge through ethical tools. As a result, business ethics in these firms is chiefly approached through a legalistic conception of ethics. It mainly consists of transposing the law on ethical matters, in the broadest sense, into internal procedures and rules. The aim is to bring in technocratic controls designed to keep the group out of any legal, social and/or economic trouble. This indicates a legalization of business ethics mediated by technocratic controls (rules and procedures).

Beyond the analogy between the mechanisms of financialization and legalization, our research sheds light on the way the identity strategies of dominated groups can consolidate the dominant approach. Our empirical study suggests the legalization of business ethics is reinforced by the "social creativity" strategy (Tajfel & Turner 1986) mobilized by the moralist designers. This identity strategy has no obvious influence on the nature of the ethical tools developed and adopted. It is a socio-cognitive identity process that reassures the moralists that their conception of ethics and the tools they want to introduce, are valid. But, it cannot stem, prevent or obstruct widespread diffusion of ethical tools based on the legalist conception. Consequently, the moralists' identity strategy cannot effectively challenge the

structure of domination and the established order of the legalists. This is inherent to its nature as a socio-cognitive strategy. Worse, as Tajfel and Turner (1986) note, there is a possibility that this type of strategy may dampen the moralists' eagerness to change the structure of domination which currently favours the legalists. When they successfully enhance their social identity in an alternative – socio-cognitive – ethical tool approach, the resulting identity satisfaction may give the moralists few incentives to intensify their battles with the legalists over ethical tool development. Although they continue to propose tools to the ethics committee “just in case”, the identity dissatisfaction resulting from rejection or modification of their proposals can always be compensated by a social creativity strategy. In such a situation, the social creativity strategy applied by the moralists supports the legalization of business ethics. Could the use of social creativity by dominated groups reinforce the dominant approach in organizations?

Nonetheless, social creativity cannot be considered as a form of acceptance of the dominant approach, here the legalists'. On the contrary, it is an identity strategy that originates in and feeds on a refusal to accept domination. Using social creativity leads the moralists to criticize the legalists' conception of ethics and the tools they introduce to control ethics. In the short term, such criticism of the legalists' tools is a way for the moralists to assert the importance or superiority of the tools they would like to develop, and thus reassures them about their social identity. But more fundamentally, criticism of the tools developed by the legalists enables the moralists to invent, adjust and assert their conception of ethics and the associated tools. Inside organizations, the dominant approach pushes rival approaches to the sidelines but does not eliminate them completely, and they continue to play a role in organizational life (Gendron, 2002; Lemaitre-Rozenkweig, 1986). In their active search for a higher-status social identity, the moralists progressively elaborate a well-constructed, coherent alternative to the legalization of business ethics. Following Dizard (1970) and Tajfel and Turner (1986), this suggests that the reflection on identity prompted by social creativity could be a preliminary step in a more ambitious process to assert their claims.

Until an opportunity arises or the situation changes, social creativity is a short-term strategy for the moralists to raise the status of their social identity. It also indirectly – for the time being –has the effect of reinforcing the existing structure of domination and the legalization of business ethics.

7.3. From individual responsibility to organizational responsibility

Following the call by Flyvbjerg (2001) for “phronetic research” (p. 60) and the recommendations of Dillard and Vinnari (2017), in this section we explore the undesirability of excessive legalization of business ethics, and consider ways to break away from it.

According to our results, the legalization of business ethics leads to individualization of responsibility. Previous research has highlighted this same phenomenon in connection with accounting fraud (Cooper, Dacin, & Palmer, 2013; Free & Murphy, 2015; Morales, Gendron, Guénin-Paracini, 2014). Morales et al. (2014), for example, show that fraud is generally considered an act of dishonesty committed by an individual for motives of personal interest. Consistent with this view, introducing ever more sophisticated technocratic control systems is assumed to be the appropriate way of fighting fraud (Courtois & Gendron, 2017), to prevent employees behaving in a way that serves their personal interests. Our research shows another use of technocratic control systems: individualizing responsibility. Individualization is generally reinforced by intensification of technocratic controls, but in the case of business ethics it originates and is expressed in technocratic controls designed to clear the organization of any responsibility in such matters. As we have seen, in opting for a legalistic conception of business ethics, the MNCs are trying to protect themselves against the impact of any scandal that could lead to lawsuits. In other words, their main goal when introducing ethics control tools is not to avoid or reduce employee misconduct, but to avoid being held responsible for any breach of ethics by an employee. Firms using technocratic controls (rules, procedures) for this kind of protection are thus essentially offloading responsibility for business ethics onto their employees.

This practice reflects a specific form of individualization of responsibility in matters of business ethics. This idea of individual responsibility is embedded in market liberalization and has its critics, echoing findings in matters of fraud (Cooper et al., 2013; Free & Murphy, 2015; Guénin-Paracini & Gendron, 2010; Morales et al., 2014). When fraud is individualized, systemic, sociological and political considerations are only given superficial consideration (Guénin-Paracini & Gendron, 2010). In other words, such individualization reduces complex sociological phenomena to mere individual transgressions and thus underestimates the role played by the social context (Courtois & Gendron, 2017) or organizational structure. This emphasis on the individual prevents questioning of the social context even though that context

influences individuals' behaviour (Courtois & Gendron, 2017). As a result, all influence by the social, interactional and organizational context on individuals' ethical behaviour is disregarded, and so in effect is any form of corporate responsibility in the event of misconduct by an employee. Some authors (Chabrak & Gendron, 2015; Guénin-Paracini, Gendron & Morales, 2014) argue that individualization of responsibility can even be considered as a tactic used by neoliberal capitalism to escape criticism and protect itself. In the case of business ethics, the legalistic approach prioritized in firms does not consider the organization as a responsible whole, but as a collection of individuals who are responsible for the organization. Therefore, if there is a lapse, the capital is safe and the business will survive; all that is necessary is to designate an in-house scapegoat. Individualization of responsibility for business ethics thus enables firms to protect themselves and safeguard their interests, covering themselves by means of technocratic control systems.

To prevent firms from offloading responsibility in this way, it may be relevant to question or even completely rethink business ethics, and especially the way it is controlled. Similar to the proposals put forward by the moralist designers in our study, we could move away from an essentially legalistic and technocratic conception towards a more axiological approach to ethics. The goal would then be to use socio-ideological modes of control to shape individuals' values and beliefs so that they behave appropriately in the diverse situations encountered. Here again, comparable proposals have been made in the research on fraud (Courtois & Gendron, 2017). Studying the scandal of municipal contract awards in Montréal, Courtois and Gendron (2017) consider that this type of problem cannot be addressed exclusively by traditional controls and their intensified use. Following Free and Murphy (2015), they recommend greater consideration of "social" factors, particularly the importance of social controls. In business ethics, the use of socio-ideological control systems could be a way to de-individualize responsibility. As the moralist designers in our study say, the aim, is still to develop the actors' responsibility, but to do so through voluntary adhesion to the moral values supported by the collective group. Above all, this conception of business ethics would not remove responsibility from the firms. In this approach to business ethics control, if unethical behaviour was observed, the response would no longer be to punish only a "guilty" individual and disclaim all corporate responsibility. This approach would recognize the situation as a collective ethical failing and make use of the experience, with group discussions, to help individuals anticipate or extricate themselves from any comparable situation in the future. The firm would be responsible for its employees' ethical behaviour, and help them resolve the

ethical dilemmas they may face. Such a conception of ethics control, conveyed through socio-ideological control systems, would both acknowledge and ensure collective responsibility.

This approach to ethics control, promoted in our study by the moralists, does not appear to be considered important in organizations today. It is however alive and well, waiting in the wings for a cue from events to bring it bursting onto the scene to promote and establish policies involving greater organizational responsibility.

8. Conclusion

This paper set out to study and understand the dominant mode of control in business ethics. Due to the ambiguity surrounding the goal of ethics, no single mode emerges that has legitimacy in the eyes of all actors. This leads to politicized control, with actors trying to impose their own favoured mode of control. In such a context, the dominant mode of control is determined by intergroup conflicts. Based on an identity-focused interpretation of intergroup conflicts, we studied the operationalization process for business ethics in five French multinational corporations. The specific aim was to understand how control systems are used in identity conflicts, and how those conflicts shape business ethics control. Our empirical study indicates a potentially excessive legalization of business ethics, fostered by a structure of domination that favours the legalists and facilitated by the spread of ethics control tools created by legalist designers. Their “rivals”, the moralist designers, find themselves unable to spread their own tools and turn instead to a social creativity strategy. That strategy enables them to restore status to their identity as a social group by socio-cognitively promoting the tools they would like to see introduced, but it also supports the legalization of business ethics, since it cannot substantially obstruct the excessive diffusion of legalist tools. Finally, we note the risks of excessive legalization of ethics, particularly the individualization of responsibility.

This research is an invitation to take a broader interest in the way legalization of the design process for ethical tools is affecting their implementation and use by employees. In future research it would also be interesting to analyse the political and identity dynamics associated with employees’ use of these tools, both in the MNCs’ head offices and at lower hierarchical levels. The literature on business ethics has devoted considerable attention to the effectiveness of ethical tools, analysing how they are used by employees in their decision-making.

However, few studies have linked this effectiveness to the development process for ethical tools, despite its crucial role as revealed in this study. Future research could also analyse the internal political and identity dynamics of ethics committees.

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Appendix A. Supplementary material

The French version of this article can be found online at <https://doi.org/XXXXXX>

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Table 1: Characteristics of the MNCs

	MNC 1	MNC 2	MNC 3	MNC 4	MNC 5
Data collection period	2012–2015	2013–2015	2013–2015	2013–2015	2012–2013
Industry sector	Energy	Automobile	Energy	Energy	Transport/ Logistics
Annual sales for 2014 (k€)	236,100	41,055	24,900	17,200	10,604
Year the ethics department was formed	2000	2012	2005	2013	2012
Number of people in the ethics department	5	3	5	2	3
Number of members in the ethics committee	6	4	4	5	6
Entity to which the ethics committee reports	Executive Committee	Executive Committee	Executive Committee	Management Committee	Executive Committee *

* As the ethics committee has not yet been set up, the executive committee was in charge of its main functions at the time of our data collection.

Table 2: Characteristics of the MNCs studied (figures from 2014)

	MNC 1	MNC 2	MNC 3	MNC 4	MNC 5
Data collection period	2012 – 2015	2013 – 2015	2013 – 2015	2013 – 2015	2012 - 2013
Designers	Joseph, Head of Ethics** Bernard, Head of Ethics * Valentine, Ethics lawyer Pascale, Ethics lawyer Marie, Project manager*	Christophe, Deputy Head of Ethics * Rachel, Mediator* Farid, Mediator *	Sabine, VP Compliance Martin, Project manager Hélène, VP Ethics* Gregory, Project manager * Michel, Consultant	Robert, Project manager * Corentin, Project manager *	Dany, General Secretary** Clara, CSR lawyer Silvia, Head of sustainable development, Africa
Interviews and duration (in minutes)	1 – Joseph – 37 min 2 – Bernard – 72 min 3 – Valentine – 37 min 19 – Pascale – 56 min 25 – Joseph – 70 min 26 – Marie – 101 min	4 – Christophe – 120 min 11 – Christophe, Farid & Rachel – 112 min 23 – Christophe – 123 min	5 – Sabine & Martin – 90 min 6 – Grégory – 75 min 7 – Sabine – 56 min 8 – Hélène – 42 min 9 – Michel – 62 min 10 – Grégory – 47 min 15 – Grégory – 80 min 16 – Grégory – 76min 18 – Grégory – 25 min 22 – Grégory – 78 min	13 – Corentin – 62 min 12 – Robert – 120 min 14 – Robert – 58 min 17 – Robert – 86 min 20 – Robert – 86 min 21 – Robert – 135 min 24 – Robert – 180 min	None
Total	6 interviews – 373 min	3 interviews – 355 min	10 interviews – 631 min	7 interviews – 727 min	No interviews – 0 min
Observation	None	2 meetings 4 brainstorming sessions Discussions	4 meetings 6 brainstorming sessions Discussions Ethics club meeting	8 brainstorming sessions Working lunch	5 meetings lasting at least 4 hrs Discussions
Total	0 hours	17 hours	20 hours	40 hours	35 hours
Secondary data	Different versions of the tools Annual report	Internal emails Different versions of the tools Slideshow of materials used in training / awareness-raising seminars Annual report	E-mails Different versions of the tools Annual report	E-mails Deliverables and business proposals from consulting firms Slideshow of materials used in awareness-raising seminars Survey and associated documents Videos of meetings Audio recordings of meetings Minutes of meetings	E-mails Deliverables from consulting firms Slideshow presentation for meetings Preliminary and final versions of the tools Discussions on the dedicated intranet forum Working documents available on the intranet system Minutes of meetings

* Member of the ethics department / ** Member of the ethics committee