

# Ethics in the Brazilian Real Estate Market

Hamilton de França Leite Jr.  
[www.hamiltonleite.com.br](http://www.hamiltonleite.com.br)

Do Brazilian real estate professionals behave according to **Brazilian ethical principles**?

Before answering this question, there is a long path that must be covered.

First of all, the meaning of Ethics<sup>1</sup>: Moral principles that govern a person's behavior or the conducting of an activity. The term comes from *ethikos*, a Greek word meaning, "character"; and Moral<sup>2</sup>: principles of right and wrong behavior. The term comes from *moralis*, a Latin word concerned with which actions are right and which are wrong, rather than the character of the person.

When that concept is applied to companies, ethical behavior accords with accepted principles of right or good conduct. Such behavior<sup>3</sup>:

- Contributes to sustainable development, including health and the welfare of society;
- Takes into account the expectations of *stakeholders*<sup>4</sup>;
- Is in compliance with applicable law and consistent with *international norms of behavior*<sup>5</sup>; and
- Is integrated throughout the organization and practiced within its *sphere of influence*<sup>6</sup>.

Do not be tempted to answer the opening question yet. There is still quite a way to go.

Would it make any difference if the word "Brazilian" was not in that question? Are Ethics universal, for all the peoples on the planet, with different cultures, religions, political regimes, and even for people with different genders and ages that exist in the same community? Do they change as the decades pass by?

Duignan (2011) states that humanity's fascination with this issue goes back a long way. As the historian Herodotus narrates, the king of Persia, Darius, called Greeks before him and asked them how much he would have to pay them to eat their fathers' dead bodies. They refused to do it at any price. Then, the king brought in some Indians who by custom ate the bodies of their parents and asked them what would make them willing to burn their fathers' bodies. The Indians cried out that he should not mention so horrid an act. Herodotus drew the obvious moral: each nation thinks its own customs best.

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<sup>1</sup> According to the Oxford Dictionary. Available at: <http://www.oxforddictionaries.com/>

<sup>2</sup> According to the Oxford Dictionary. Available at: <http://www.oxforddictionaries.com/>

<sup>3</sup> According to the ISO 26.000:2010 definition

<sup>4</sup> Individual or group that has an interest in any decision or activity of an organization

<sup>5</sup> Expectations of socially responsible organizational behavior derived from customary international law, generally accepted principles of international law, or intergovernmental agreements that are universally or nearly universally recognized  
Note 1: Intergovernmental agreements include treaties and conventions.

Note 2: Although customary international law, generally accepted principles of international law and intergovernmental agreements are directed primarily at states, they express goals and principles to which all organizations can aspire.

Note 3: International norms of behavior evolve over time.

<sup>6</sup> Extent of political, contractual, economic or other relationships through which an organization has the ability to affect the decisions or activities of individuals or organizations

According to Bowie and Bowie (2004), moral relativism explains the different values that people hold and is a flexible ethical system that can accommodate the wide diversity of lifestyles. There are several ethical relativists. Aristotle believed that forms were not absolute. Differing human circumstances mean that it is not possible to have a general rule for all situations. Protagoras stated: "Man is the measure of all things". "The right way is the way which the ancestors used and which has been handed down", believed William Graham Sumner and J.L. Mackie affirmed: "there are no objective values."

The relativism of Ethics was not scientifically studied until the 19<sup>th</sup> century, and in 1906 Edward Westermarck published *The Origin and Development of the Moral Ideas*. He compared the differences among societies, like the wrongness of killing; the forms of sexual relationship permitted; the status of women; the right to property and what constitutes theft; the holding of slaves; the duty to tell the truth; dietary restrictions; concern for animals; duties to the dead; and duties to the gods (Duignan, 2011).

However, Bowie and Bowie (2004) argue that relativism has some weaknesses. They observe that, as different value systems exist, there cannot be **one** moral truth. This is clear when we consider the Nazi Reich. For the majority of the population of that society, the extermination of millions of innocent people was "right for them", but most people today consider it morally corrupt and utterly wrong. Relativists are unable to criticize a different culture and cannot condemn any practices that are acceptable to a society, because there is no objective measure by which those practices can be judged. Ultimately, cultural relativism reduces the meaning of "good" to "what is socially approved". If a culture endorses wife-beating, then it is acceptable. Ethical absolutes overcome some of these problems.

An ethical absolute is a moral command or prohibition that is true in all places and in all situations. Absolutism provides a fixed ethical code with which to measure actions and a behavior guideline. An ethical absolutist can condemn the Nazis or the wife-beater. Absolutism also has its weaknesses. It cannot take into account the circumstances of the situation and is intolerant of cultural diversity. For example, an absolutist with strong beliefs about the treatment of animals might find the Islamic practice of ritually killing a lamb immoral, while a relativist can recognize the religious significance and importance of the activity to those believers. The United Nations Declaration of Human Rights suggests a set of absolutes that apply to all people, no matter where they live. Absolutism can support it, while relativism might have difficulty when the Declaration differs from a particular culture's way of doing things (Bowie and Bowie, 2004).

Maybe, as Marie-Bénédicte Dembour (Cowan et al., 2001) claims, universalism and relativism cannot be considered independently of each other. Each is untenable by itself and needs to accommodate the other to be sustainable.

Nevertheless, the two following researches provide evidence that there are more variances than similarities related to ethical behavior of professionals from Brazil interacting with professionals from other countries.

Dr. Rafik Beekun, et al. (2003), surveyed 126 Brazilian and U.S. business professionals, to explore the effect of national culture on ethical decision making within the context of business. They found out that, clearly, people from those two countries differed in their assessment of the ethical content of business decisions: "A Brazilian individual judges

whether a proposed action may be ethical or not based on the consequences of the action for the relevant in-group to which he/she belongs. Simultaneously, Americans judge actions to be ethical based on the application of common rules and standards and equity to all parties.”

These differences between Brazilian and US citizens are rather small, when countries like China, Russia and India are included in the comparison, as the research conducted by Alexandre Ardichvili et al. (2011) demonstrates. They compared the perceptions of ethical business cultures of 13,000 large business organizations’ employees from Brazil, Russia, India, China, and the U.S. “The study found significant differences among BRIC countries, with respondents from India and Brazil providing more favorable assessments of ethical cultures of their organizations than respondents from China and Russia. Overall, highest mean scores were provided by respondents from India, the US, and Brazil. There were significant similarities in ratings between the US and Brazil. The research exposes the complexities of universalizing ethical business norms and the potential business threats in an environment defined by cultural differences. One size does not fit all and [...] the results presented in that article prompt corporations to pause, reflect, and then take steps toward [...] evaluating, understanding, and implementing changes to the processes employed when institutionalizing ethical practices and behaviors, while taking into account the introduced variability in ethical perceptions [...].”

In a certain way, the results of a survey<sup>7</sup>, conducted between April, 2013 and March, 2014 in Brazil by Fundação Getulio Vargas (FGV), one of the most important universities in the country, corroborates Dr. Beekun’s findings. It revealed that 81% of the 7,176 respondents agree that it is easy to disobey the law and they have the perception that every time it is possible, Brazilians choose to bypass the law. The probable reason for this perception is that, according to the same survey, the results show that only 32% of the Brazilians trust the system of justice. And, as Easton (1975) formulates, trust in an institution is a measure of the internalization of expectations regarding the functions of the institution and its ideal meaning. It reflects the experiences of individuals with the performance of the members of the institution, compared to the expected outcome. In other words, it is based on perceptions of the effectiveness, fairness and sense of justice that institutions deliver.

Probably as a consequence of that perception, in Brazil we have an adage, called Gerson’s Law, that we use to describe people that like to take advantage of everything, and have no concern for ethics or for the legislation. Gerson<sup>8</sup> is a famous soccer player who was part of the Brazilian team that won the 1970 World Cup. He was hired to do a cigarette TV commercial<sup>9</sup> in the 70s, in which he said: “I like to take advantage of everything. Take advantage of everything too.”

If you ask anyone on the streets of the country if he or she tolerates corruption, everyone will say that they condemn this practice. However, it is considered normal to pay off highway policemen, when drivers are caught over speeding, or to buy products from

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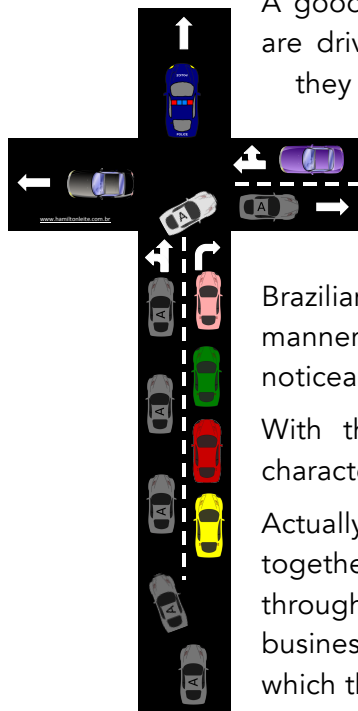
<sup>7</sup> Available at: [http://www.forumseguranca.org.br/storage/download//8o\\_anuario\\_brasileiro\\_de\\_seguranca\\_publica.pdf](http://www.forumseguranca.org.br/storage/download//8o_anuario_brasileiro_de_seguranca_publica.pdf)

<sup>8</sup> Available at: <http://en.wikipedia.org/wiki/Gérson>

<sup>9</sup> Available at: <https://www.youtube.com/watch?v=YPnxqgFrpW8> (French subtitles)

street vendors whom everyone knows do not pay taxes and are backed by corrupt authorities, or to vote for politicians who are well recognized for their corrupt actions.

In fact, we invented a new verb in Brazilian Portuguese: "to Maluf", that means, "to rob someone". This neologism is derived from the name of a Brazilian congressman, Paulo Maluf. And the people who vote for him use to say: "He steals, but does things" like roads, highways, bridges, etc. In the last election that was held in October 2014 he had more than 250,000 votes for the office of Federal Deputy, the eighth most voted in the State of Sao Paulo.



A good thermometer of civility<sup>10</sup> is how people behave when they are driving. Do they stop for pedestrians to cross the street? Do they litter? Do they honk for any reason? Do they drink and drive? Do they act like "Gerson", the driver of the car "A" in the figure on the left?

Despite the fact that 81% of the population say it is easy to disobey the law, is not fair to say that the majority of Brazilians do it, or act like Gersons, or vote for Maluf, or are bad-mannered drivers but, yes, the offenders are an inconsiderate and noticeable part of the population.

With that said, how do foreign professionals deal with those characteristics when they do business with Brazilians?

Actually, this seems to be a worldwide concern that has flourished together with the progression of globalization. In real estate markets throughout the planet, companies and professionals that do business internationally demanded a shared code of ethics, under which they could undertake their work in an ethically consistent way, regardless of where they are located.

For that reason, organizations from various countries have recently established an International Ethics Standards Coalition (IESC)<sup>11</sup> to develop and implement ethics standards that will focus on qualities like trustworthiness, integrity and respect, taking

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<sup>10</sup> According to Judy Nadler and Miriam Schulman, civility is all about virtue ethics: that is, the cultivation of those traits—such as honesty, fairness, self-control, and prudence—that help us reach our full human potential.

Civility is a good example of the difference between ethics and law. While acting civilly is the right thing to do, and government bodies should encourage it, civility cannot be legislated.

Available at: [http://www.scu.edu/ethics/practicing/focusareas/government\\_ethics/introduction/civility.html](http://www.scu.edu/ethics/practicing/focusareas/government_ethics/introduction/civility.html)

<sup>11</sup> Coalition's website: [www.ies-coalition.com](http://www.ies-coalition.com) The 32 following organizations are the Coalition founders: American Society of Appraisers (ASA); American Society of Farm Managers and Rural Appraisers (ASFMRA); Appraisal Foundation (TAF); Asia-Pacific Real Estate Association (APREA); Asian association for Investors in Non-listed Real Estate Vehicles (ANREV); Asian Real Estate Association of America (AREAA); Asociacion Profesional de Sociedades de Valoracion (ATASA); Association of International Property Professionals (AIPP); Associazione dell'Industria Immobiliare Italiana (Assoimmobiliare); China Institute of Real Estate Appraisers and Agents (CIREA); Commonwealth Association of Surveying and Land Economy (CASLE); Council of European Geodetic Surveyors (CLGE); Counselors of Real Estate (CRE); Dubai Land; European Association for Investors in Non-Listed Real Estate Vehicles (INREV); Institute of Real Estate Management (IREM); International Consortium of Real Estate Associations (ICREA); International Real Estate Federation (FIABCI); International Right of Way Association (IRWA); Japan Association of Real Estate Counselors (JAREC); Japanese Society of Independent Appraisers (JASIA); La Asociacion Espanola de Analisis de Valor (AEV) National Society of Professional Surveyors (NSPS); Real Estate Syndicate of Lebanon; Royal Architectural Institute of Canada (RAIC); Royal Institute of British Architects (RIBA); Royal Institution of Chartered Surveyors (RICS); Russian Society of Appraisers; Secovi-SP; Society of Chartered Surveyors Ireland (SCSI); South African Property Owners Association (SAPOA).

into consideration the regional and cultural characteristics of the coalition members<sup>12</sup>. The Coalition hopes that the introduction of an essential and clear international ethics standard, along with the code of ethics from each specific sector, organization or country, if needed, will improve professional services and promote stable property markets around the world.

The International Ethics Standards, yet to be created, may contain some of the following principles<sup>13</sup>:

- **Promote your client's interests** and the interests of the Stakeholders associated with your professional activity, whenever possible;
- **Do not reveal facts that are confidential** without permission from the rightful

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The German Property Federation/Initiative Corporate Governance of the German Real Estate Industry

<sup>12</sup> As THE INTERNATIONAL UNION OF ARCHITECTS declares:

Article 1. (1) In all professional undertaking, it is essential to consider the system of values and culture prevailing in each country, and standards must be determined on a national basis. This is dictated by the consideration that standards, which are valid for the most advanced industrial countries, may be inappropriate or may entail unwarranted social costs for the developing countries. (2) There shall be no attempt to impose solutions of one society on other societies. Article 2. Based on the principle that the responsibility for the development of every country rests primarily upon itself, the local consultant or professional shall have the primary right to interpret the needs of his people, and his vision as to how his country's environment could be built, planned, improved or enhanced shall be entitled to respect. Available at:

[http://www.uia.archi/sites/default/files/IDC\\_eng.pdf](http://www.uia.archi/sites/default/files/IDC_eng.pdf)

<sup>13</sup> Adapted from the Codes of Ethics of the:

International Consortium of Real Estate Associations (ICREA):

<http://www.worldproperties.com/en/AboutUs/principlesofconduct.aspx>

Royal Institution of Chartered Surveyors (RICS):

<http://www.rics.org/us/the-profession/professional-and-ethical-standards/our-five-professional-and-ethical-standards>

Urban Land Institute (ULI):

<http://uli.org/membership/code-of-ethics/>

Association of International Property Professionals (AIPP):

<http://www.aipp.org.uk/industry/code-of-conduct/>

Institute of Real Estate Management (IREM):

<http://www.irem.org/File%20Library/IREM/ethicsboards/SOPCodeOfEthicsEnforcement.pdf>

European Council of Real Estate Professions (CEPI):

<http://www.cepi.eu/index.php?page=code-europeen-de-deontologie-pour-les-professionnels-immobiliers&hl=en>

European Council of Liberal Professions (CEPLIS):

[http://www.ceplis.org/ckfinder/userfiles/files/En/common\\_values.doc](http://www.ceplis.org/ckfinder/userfiles/files/En/common_values.doc)

Council of European Geodetic Surveyors (CLGE):

[http://www.clge.eu/documents/statuses/Code\\_of\\_Conduct.pdf](http://www.clge.eu/documents/statuses/Code_of_Conduct.pdf)

American Institute of Architects (IAA):

<http://www.aia.org/aiaucmp/groups/aia/documents/pdf/aiap074122.pdf>

Counselors of Real Estate (CRE):

<http://www.cre.org/aboutmembership/ethics.cfm>

International Real Estate Federation (FIABCI):

<http://www.fiabci.lv/en/hidden/ethics>

International Union of Architects (UIA):

[http://www.uia.archi/sites/default/files/IDC\\_eng.pdf](http://www.uia.archi/sites/default/files/IDC_eng.pdf)

National Association of Realtors (NAR):

<http://www.realtor.org/governance/governing-documents/the-code-of-ethics>

Uniform Standards of Professional Appraisal Practice (USPAP) – Ethics Provision:

<https://docs.legis.wisconsin.gov/code/archive/1996/486b/insert/r187appendix.pdf>

Initiative Corporate Governance der Deutschen Immobilienwirtschaft:

<http://www.immo-initiative.de/wp-content/uploads/downloads/2011/kodex/wertemanagement/leitfaden.pdf>

National Association of Social Workers (NASW):

<http://www.socialworkers.org/pubs/code/code.asp>

National Society of Professional Engineers (NSPE):

<http://www.nspe.org/resources/ethics/code-ethics>

World Federation of Engineering Organizations

[http://www.wfeo.net/wp-content/uploads/WFEO\\_MODEL\\_CODE\\_OF\\_ETHICS\\_Final.pdf](http://www.wfeo.net/wp-content/uploads/WFEO_MODEL_CODE_OF_ETHICS_Final.pdf)

party;

- Respect and **protect life and the environment** (land<sup>14</sup>, air, water, flora and fauna)
- Respect, protect and **help conserve the cultural heritage**;
- **Be knowledgeable and competent in the fields of practice in which you engage** and undertake appropriate programs of continuing professional development throughout the entire career;
- **Seek expert assistance** when providing services in a field in which you are unfamiliar;
- **Abide by local government's professional regulations, applicable laws and national codes of conduct** in all relevant business relations and transactions, including those conducted in the international arena;
- **Treat everyone with courtesy, politeness and respect** and consider cultural sensitivities and local business practices;
- **Treat people equally**, regardless of their personal religious, political, cultural and philosophical convictions, race, color, sex, familial status, national origin, age, sexual orientation, gender identity, mental or physical disability;
- **Act with integrity, be honest and straightforward** in all that you undertake and always do your utmost to fulfill what you promise;
- **Never harass anyone**, morally or sexually;
- **Never use derogatory language** in written or verbal communications when working.
- Take responsibility and **be accountable for all your actions** and don't blame others if things go wrong;
- In order to contribute to the quality of the profession, **share the experience acquired** with colleagues and with members of the organization with which you are affiliated;
- **Neither offer nor make any payment or gift to a client's employee or public official** with the intent of influencing their judgment in connection with an existing or prospective hiring or procurement<sup>15</sup>;
- **Don't represent anyone's interests conflicting with those of your client**, company or employer and don't accept any material rebates, gifts, fees, commissions, discounts, or other benefits, monetary or otherwise;
- **Don't use your job position for personal, friends' or relatives' gain** of any kind;
- **Do not promote personal interests at the expense of the company**, the collective interest or the integrity of the profession or the sector in which you work ;
- **Don't engage in conduct involving fraud, cartel or wanton disregard of the rights of others**;
- **As an employer, always pay decent and market wages**, taxes and benefits, provide a safe and good working environment and **never hire anyone under the working legal age**;
- **Be voluntarily involved in civic activities** as citizens and contribute to the sustainable development of the communities and the environment where you work

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<sup>14</sup> Each parcel of land is a precious, distinct, and irreplaceable portion of this distinct and irreplaceable planet.

<sup>15</sup> This rule does not prohibit campaign contributions made in conformity with applicable campaign financing laws.

and live;

- **Adhere to the principles of *sustainable development***<sup>16</sup> in order to protect the environment for future generations and be mindful of the economic, societal and environmental consequences of actions or projects.
- **Advocate for living conditions conducive to the fulfillment of basic human needs** and promote social, economic, political, and cultural values and institutions that are compatible with the realization of social justice.
- **Engage in discussions concerning the construction or improvement of legislation and public policies**, related or not to the sector in which you work;
- **Respect your fellow professionals** and don't unfairly publicly discredit a competitor;
- **Strive to improve the public appreciation and understanding of the functions and responsibilities of your profession** and sector and refrain from any practices detrimental to the reputation of the profession and sector where in which you work ;
- **Take adequate measures to discourage, prevent, expose, and correct the unethical conduct of colleagues;**
- **Ensure that the fees for your services and the prices of the goods you produce are fair, reasonable, and commensurate with the services performed and/or market values;**
- **Discern whether a service requires adherence to a specific organization or to any standards of practice** and act accordingly;
- **Keep money held on behalf of clients and depositors in trust in a specially designated account , entirely separated from your own funds;**
- **Keep accurate and up to date accounting records** and maintain them in accordance with the local laws;
- **Ensure that all agreements are in writing in clear and understandable language** expressing the specific terms, conditions, obligations and commitments of the parties;
- **Be honest and truthful in any project's communications** and present true information in its advertising, marketing, and other representations.

It is important to state that members of the organizations are naturally required to comply not only with the provisions of the Code of Ethics, but also with legislation, codes of practice and standards related to specific professional services they provide. And it is useless to have a code of ethics if there is no implementation, communication (internally and externally), permanent education, commitment, monitoring, enforcement and appropriate disciplinary<sup>17</sup> and legal action, when any violation is proven<sup>18</sup>.

Could these principles be implemented and followed by Brazilian real estate professionals, considering the aspects described above?

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<sup>16</sup> "Sustainable development" is the challenge of meeting human needs for natural resources, industrial products, energy, food, transportation, shelter, and effective waste management while conserving and protecting environmental quality and the natural resource base essential for future development.

<sup>17</sup> Penalties that may be imposed are: admonition, censure, suspension of membership for a period of time or termination of membership

<sup>18</sup> IREM has a comprehensive and detailed procedures about this matter and it is available at:  
<http://www.irem.org/File%20Library/IREM/ethicsboards/SOPCodeOfEthicsEnforcement.pdf>

Brazil is very young, compared to most of the first world countries, so its society is still learning how to drive in a civilized manner, how to be engaged in political matters, how to vote for competent and honest candidates, etc.

There are many theories that try to explain the origins of corruption in the country. Some say that it was inherited from the paternalistic characteristic of the Portuguese colonizers that used to favor individuals with social, economical and political privileges, in exchange for anything that could interest the lords, or "merely" by the gratitude from those close to them. The Brazilian sociologist Bolivar Lamounier (Cardoso, F.H. et al., 2008) lists some reasons for the high level of transgressions in the country: 1-the persistent and generalized transgressions of the Laws by the population, 2-precarious justice system, 3-weak law enforcement system, that combined with the previous item, stimulates the impunity and feeds back the initial situation 4-the heavy taxation imposed by the government, 5-the immense growth of the government's purchase power in the second half of the twentieth century, turned into opportunities to make dishonest government officials and public suppliers of services or goods very rich and powerful, 5-the percentage of the population that is inclined to infringe the law is a lot bigger than it is in the developed countries, 6-in Brazil, groups or institutions related to traditions, family values or religion were ineffective to inhibit inappropriate behavior, 7-many citizens are not even able to identify what is wrong with certain transgressions and some others see them with indifference and complaisance, 8-compared to two centuries ago, when thieves could only steal goods like livestock, clothes or food, in the present days, goods and money in Brazil are not only abundant, but, as it is anywhere else, portable, divisible, digital, covetable and can be easily hidden. And these attributes make corruption easier.

But new laws and regulations are helping to educate people. The Law 12.846/13, known as the "Anti-corruption Law", is effective since February 2014, and it will certainly change the relations of the companies with the public sector. It can be applied against companies who corrupt public officials, submit fraudulent bids or contracts, among other irregularities. On November 1<sup>st</sup>, the fine for drivers that overtake in a dangerous maneuver, with a vehicle coming in the opposite direction, increased one thousand percent, to US\$750.00.

Consequently, Brazilians are maturing as a society. We started to vote again only in 1985, after 21 years of Military Regime. In recent years, some prominent corrupt politicians were convicted and went to jail. The rate of inflation dropped from 2,477% during the year 1993 to an average below 6.5% in the past 10 years, among other achievements.

Real estate professionals are part of this society. Most of them repudiate corruption, care for the environment and recognize the importance of economic inequality and its social effects on the country. But obviously, there is a minority of Gersons, just as there is in any other sector, that embarrass and tarnish the public image of their industry.

In the final analysis, the ultimate ethical principle to be embraced by real estate professionals is surely to meet the demands of society for housing, places of work and centers of recreation.

And when they adopt that ultimate principle, jointly with the golden rule: "Do unto others as you would have them do unto you", they will be behaving according not only to the Brazilian, but to **every** ethical code.



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