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Application of two under-researched typologies in crisis communication: Ethics of justice vs. care and public relations vs. legal strategies

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ABSTRACT

This study investigates organizations' crisis responses by adopting two extant, under-researched typologies—public relations vs. legal strategies and ethics of justice vs. care approaches. Through content-analyzing organizational responses to three well-known crises, the study observes that the public relations strategy is used more often than the legal strategy. It also finds that when the examined organizations respond to their crises, they tend not to emphasize ethical approaches, though when they do it is more often the ethics of justice approach than that of the ethics of care. Therefore, this study urges organizations to reflect on whether their crisis communication and management decisions lack sufficient emphasis on ethical approaches, especially on the interpersonal and situational aspects of involved publics in crises. If such deficiency exists, it would be problematic because these interpersonal and situational aspects, when addressed strategically, can help an organization to rebuild post-crisis reputation and maintain positive relationships with its publics in the long run.

Given the crucial importance of selecting appropriate crisis responses in times of crisis, public relations researchers in the field of crisis communication and management have dedicated decades-long efforts to the provision of useful crisis response typologies (Benoit, 1995, 1997; Coombs, 2007). Two dominant typologies come from image restoration (Benoit, 1995, 1997) and situational crisis communication (SCCT; Coombs, 2007) theories (Avery, Lariscy, Kim, & Hocke, 2010). Through case studies, image restoration theory provides a descriptive system of crisis responses including denial, evading of responsibility, reducing offensiveness of event, corrective action, and mortification (Benoit, 1995, 1997). SCCT polishes such a system by proposing ten crisis response strategies and grouping them into four response postures on a defensive-accommodative continuum (Coombs, 2007). Although such studies (e.g., SCCT and image restoration theory) differ in the specifics of the crisis response typologies proposed, they are all motivated by the belief that a convenient, parsimonious, yet reasonably comprehensive classification of crisis responses could facilitate our understanding of the richness of crisis responses available to an organization.

However, as the typologies from image restoration theory and SCCT have reached a paradigmatic status in crisis communication scholarship, some concern follows. That is, perspectives differing from the dominant paradigms received relatively limited attention from public relations scholars and practitioners (Avery et al., 2010; Millar & Heath, 2004; Waymer & Heath, 2007). Considering this situation, Avery et al. (2010), in their seminal review of 18-year crisis communication research, called for more diverse approaches to analyzing crisis responses. They contended that an influx of different and fresh perspectives in understanding crisis responses would

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enrich the field both theoretically and pragmatically. Echoing their view, many other scholars have also emphasized the necessity to broaden crisis communication research. Especially, they have argued for a focus-shift from a corporate-centric to public-oriented perspective (Millar & Heath, 2004; Waymer & Heath, 2007) and called for “a variety of methodological, theoretical, hierarchical, and structural stances” (Sellnow, Seeger, & Ulmer, 2002, p. 273) in crisis communication research.

This study represents an attempt to join these calls by introducing two extant, underutilized yet meaningful typologies to analyze crisis communication, which focus on the underlying process of organizational decision-making. The first typology classifies crisis responses on the basis of their strategic orientations, which reflect conflicting perspectives from different counselors (public relations and legal) in crisis communication (Fitzpatrick & Rubin, 1995). Specifically, the typology of public relations-legal-diversionary strategies is used to examine organizational crisis responses (Fitzpatrick & Rubin, 1995). The second typology categorizes crisis responses in terms of their ethical orientations—the ethic of care and the ethic of justice (Simola, 2003). These two typologies differ in their specific orientations: 1) the PR-legal-diversionary typology reveals the strategic orientations of organizational crisis responses, while 2) the ethics-of-care-and-justice typology unveils the ethical orientations of organizational crisis responses. However, these two typologies are similar in terms of reflecting aspects of an organization’s decision-making process when handling a crisis (Martinelli & Briggs, 1998; Sandin, 2009).

1. Literature review

1.1. Crisis response strategies: public relations, legal, and diversionary

Public relations practitioners and lawyers, described as an “oil and water team” (Lee, Jares, & Heath, 1999, p. 244), have been in a historically difficult relationship. Legal encroachment into public relations function during organizational decision-making in crisis situations has been well documented, despite that collaboration between these two forces are considered feasible and desirable (Fitzpatrick, 1995; Lee et al., 1999; Reber, Cropp, & Cameron, 2001). The turf conflict between public relations and legal functions becomes particularly evident when it comes to advising organizational management on what and how to communicate with the media and publics in crisis (Reber et al., 2001). Public relations practitioners advocate open and transparent communication as well as fast and proactive action (Fitzpatrick & Rubin, 1995). They believe that candid and direct communication can help protect the organization’s credibility and reputation, demonstrate its social responsibility, and restore its relationships with publics (Hoger & Swem, 2000). Nevertheless, it seems that their intention to win applause in the court of public opinion goes against lawyers’ attempt at avoiding or mitigating legal liability (Reber et al., 2001). The primary reason for lawyers’ opposition to openness and transparency is that any communication can be used against the organization (Reber et al., 2001). This especially applies to admission of guilt and apology, both of which may bring devastating financial consequences to the organization (Fitzpatrick & Rubin, 1995). Hence, lawyers tend to recommend management to say little, deny guilt, or even stonewall the media (Martinelli & Briggs, 1998). As the public relations and legal perspectives are often adversarial, an organization’s decision on prioritizing one perspective over the other seems to be influenced by the power dynamics between these two functions inside the organization (Huang & Su, 2009b; Lee et al., 1999). For example, when the public relations function gains greater decision-making autonomy and managerial influence, the public relations perspective becomes more likely to dominate organizational crisis communication (Kim & Wertz, 2013).

Fitzpatrick and Rubin (1995) pioneered work that conceptualized and contrasted public relations and legal perspectives in crisis communication through identifying observable indicators of each perspective. An organization can be considered to have used a traditional public relations strategy in crisis responses when it 1) states appropriate organizational policy on the event in question, 2) investigates the accusations, 3) stays candid and open, 4) voluntarily admits a problem if it truly exists, or 5) promptly proclaims and performs corrective measures. It is thought to have employed a traditional legal strategy when it 1) offers no comments on the issue, 2) releases information as quietly as possible, 3) says as little as possible, citing organizational policy, legal sensitivity, or privacy concerns, 4) denies guilt or acts indignant for the charges, or 5) shifts or shares the blame with the plaintiff (Fitzpatrick & Rubin, 1995). Given the nature of these indicators, public relations and legal strategies seem to be located at opposite ends of a continuum from accommodative to defensive (Huang & Su, 2009a). Their central difference lies in that the legal strategy emphasizes closed communication with limited disclosure of information whereas the PR strategy supports open, candid, and direct communication with full or more disclosure of information (Fitzpatrick & Rubin, 1995; Kim & Wertz, 2013).

Incompatible as they appear, public relations and legal strategies may coexist. That is, an organization can adopt both strategies in its crisis communication. Fitzpatrick and Rubin (1995) referred to such a course of action as a mixed strategy. Furthermore, they indicated that both public relations and legal counselors might recommend a diversionary strategy to management. This diversionary strategy refers to organizational attempts to 1) distract people’s attention from the allegations, or 2) to tell the media that the organization is shocked and infuriated at the situation, yet at the same time avoiding any meaningful action. It also includes organizational tactics to claim 3) that the issue is solved or 4) that the person responsible for the crisis is leaving the organization for irrelevant, personal reasons, or 5) to end relationships with that person. All these attempts to distance the organization from the crisis are ethically questionable, as noted by Fitzpatrick and Rubin (1995).

Analyzing 39 news articles on a variety of sexual harassment charges against different organizations following the Clarence Thomas-Anita Hill hearings, Fitzpatrick and Rubin (1995) identified the dominance of legal strategy (24 out of the 39 cases) in organizations’ crisis responses over public relations (only seven cases), diversionary, and mixed strategies. Moreover, the most used indicator of the legal strategy was denying guilt or acting indignant. Within the limited seven cases, the PR strategy indicator—stating appropriate organization policy and announcing investigations would ensue—was frequently used. Based on these results, the

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