

Can Global Companies Conform To Code?

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Corporations, it has been said, "are taller and richer than most of us, but have exceedingly narrow personalities." As ethical codes for multinational companies proliferate, one may ask whether these exceedingly narrow personalities can ever conform to ethical codes. Two issues stand out. First, can *any* kind of code be effective in guiding corporate behavior? Second, even if codes hold promise, *which* kinds of codes are most promising? I will argue that sufficient empirical evidence now exists to answer both questions. Codes *do* hold significant promise, but some are more promising than others. Surprisingly, *voluntary* corporate or industry codes show better prospects than those generated by international actors such as the United Nations and the ILO.

The pessimism about global codes is understandable since the formal goal of the for-profit corporation is the maximal return on investment for shareowners. "Most corporate codes could be written by slave owners," a management consultant once quipped, and it is no secret that some global companies hone their competitive edge through unethical behavior. Incidents such as Marcopper mining disaster where in 1996 in the Philippines the dumping of 1.5 million tons of minerals forced the evacuation of 1200 residents and silted the waterways, are painful reminders that corporate recklessness abounds.

Even business trade journals, usually cozy to business, often despair. Margaret Emmelhainz, writing in the *Journal of Supply Chain Management*, notes that while many firms in the apparel industry have global codes, only limited uniformity exists across the

codes, the codes themselves lack detail, and they are particularly lax in the area of monitoring and enforcement. For observers such as Stephen Frost, this is not surprising. "Corporate codes of conduct are not written for workers," he asserts in these pages, rather "they are written about workers, for an audience elsewhere -- in shopping malls, on university campuses, or in cyberspace."

But thoroughgoing pessimism about corporate codes is naive. The idea that corporate hands are forced at every turn by the profit motive was inspired by the economic theories of Smith and Marx, but is largely rejected today. Business theorists now agree that modern capitalism sometimes insulates managers from the all-smothering pressure of capital. Sometimes managers selfishly direct funds to themselves rather than to the shareholders they supposedly represent and, sometimes, they even do noble things. Cross-cultural studies of managers have shown for decades that the percentage of executives in countries that subscribe to the idea that the "only goal of the corporation is to make a profit" is a minority, ranging from a high in the United States of between 25 to 40 percent to a low in countries such as Japan of less than 10 percent.¹ And bigger does not always mean badder; even activists usually acknowledge that the worst offenders in industries such as apparel and sports are not the giant multinational corporations, but the smaller domestic firms in developing countries.

Even NGOs now express optimism over long-term prospects for corporate cooperation. Georges Enderle's recent study of global NGOs shows that NGOs are pessimistic about the *current* relationship between themselves and multinational

¹ Hampden-Turner, Charles, and Alfons Trompenaars. 1993. *The seven cultures of capitalism : value systems for creating wealth in the United States, Japan, Germany, France, Britain, Sweden, and the Netherlands*. New York: Currency Doubleday.

corporations, but optimistic about the *future* relationship. Approximately 10 percent of the NGOs see the current relationship with multinational corporations as "cooperative," but nearly 60 percent believe that their relationship will be cooperative in the future.²

A reason for optimism lies in the recognition that ethics or cooperation need not invariably clash with financial success. As David Bobrowsky has argued, MNCs may be viewed as engaging in certain "games" where appropriate cooperation can mitigate prisoners' dilemmas and other forms of collectively destructive interaction. "MNCs," he notes, "are involved in three related strategic "games": the "regulation game," with states and other firms at the international level; the "reputation" game," with consumers, investors, and domestic regulators at the national level; and the "management game."³ Bobrowsky's point is that cooperative rules in the form of codes of conduct can lower transaction costs in any (or all) of these three games, thus increasing the benefits of cooperation and reducing the costs of opportunistic actions by other players.

If some hope may be held for the success of codes, *which* codes hold the most promise? A 1999 study by Ans Kolk, Rob van Tulder, and Carlijn Welters of 132 codes of conduct drawn up by four different groups of actors (social interest groups, business support groups, international organizations, and firms) surprisingly suggests that *voluntary* transnational corporations codes show more potential than others—at least as long as the other actors are involved in creating, monitoring, and supporting the code. The study indicates that codes generated by transnational actors, while stricter than corporate codes on aspects such as their nature and the position of the monitoring actor,

² Enderle, Georges, and Glen Peters. 1998. "From Suspicion to Trust: What NGO's Expect from Global Companies." Unpublished Manuscript.

³ Bobrowsky, D. 1999. *Outsourcing Rights: Multinational Codes of Conduct And The Social Construction of Transaction Costs*. Unpublished Dissertation Proposal, New York University, New York, p. 5.

have terrible compliance records. "Monitoring and sanctions remain the most important test for the seriousness of the codes' implementation," the study notes, and organizations such as the ILO, the United Nations, or the Caux Roundtable notably lack the power of sanction.

But not all corporate codes are equally effective. Three success factors stand out. First, codes by themselves are worthless. Studies of domestic codes over the last two decades have failed to show a correlation between merely having a code and improved corporate behavior. The point was made starkly in the most recent survey conducted by the Ethics Resource Center. The Center's *2000 National Business Ethics Survey* revealed no correlation between the presence of a code of ethics and a lessened "pressure to compromise ethics" as experienced by business managers.

Codes, rather, become effective only in the context of certain other organizational and societal factors. Recent research by Gary Weaver and Linda Trevino shows that "integrated" programs do far better than "uncoupled" programs. Their data indicate that "uncoupled" programs (where policies and structures provided the appearance of conformity to external expectations by making it easy to insulate much of the organization from those expectations) are relatively worthless. In contrast, "integrated" structures, which "affect everyday decisions and actions, where decisions are made in light of these policies, and people occupying these specialized structures have the confidence of and regular interaction with other departments and their managers," made dramatic differences in employee attitudes about ethics. Weaver and Trevino's work supports the point frequently made in business ethics literature that senior management's personal commitment to ethics is critical for code program success.

Second, the right source or impetus for a code is necessary. Medea Benjamin argues in these pages that international codes should be preferred to those "that each company designs." I disagree. Not only has the track record of international codes been dismal, owing to the lack of sanctions (as noted earlier), but the fact that a code is, in Benjamin's words, "forced on a company" is a dramatic drawback. Experience shows that unless companies come to "own" the codes and implement them with conviction, persistent failures occur. The Conference Board recently conducted a survey of global corporate codes and divided them into a four basic kinds: "instrumental," "legal compliance," "stakeholder," and "values/mission." The first two are the product of external pressures. The "instrumental" code is inspired by profit pressures on the presumption that ethics will limit employee appropriation of corporate wealth, and the "legal compliance code" by a threat of legal sanctions. (Notably the instrumental code is most popular in the United States.) In contrast, the second two are predicated on internal values. The "stakeholder" code assumes that all constituencies who hold a "stake" in the corporation, including employees, consumers, and members of the general public, deserve to have their interests factored into corporate decision making, and the "values/mission" code construes values as part of the underlying identity of the corporation. All evidence suggests that the first two kinds of codes are less effective than the latter two, exhibiting again the importance of corporate "ownership" of the code.

I do not wish to suggest that more laws and external sanctions are not needed to promote better corporate citizenship. My argument is not that voluntary codes are to be preferred to legal regulation. Both are clearly needed. My argument is that *codes* themselves are more effective when owned by the corporations or industries themselves.

Third and finally, stakeholder involvement appears critical for the success of codes. A follow-up study of Kolk, van Tulder, and Welter's analysis of 132 codes focused on the sporting goods industry, an industry that many regard as a "best practice" industry. The study confirmed the earlier study's finding that the compliance likelihood of codes depends heavily on interaction of various stakeholders in the formulation and implementation of the code. Do employees, NGOs, and local government leaders, play a role in shaping the code?⁴ The answer may well spell a code's success or failure. And for codes that focus on employee standards, the participation by employees in the design of those standards exists not only as a success factor, but a moral mandate. Protection without voice devolves to mere paternalism.

Again, codes cannot substitute for laws and regulation. More so-called "expatriot" laws, which apply to foreign jurisdictions, are probably necessary. As difficult as it is to enforce regulatory principles such as the Foreign Corrupt Practices Act (FCPA) or the new OECD rules on bribery, the results can be encouraging. A recent survey by Mary Jane Sheffet of the head legal counsels of Fortune 500 companies indicated that many of the responding firms had made systemic changes in response to legal pressure exerted by the FCPA. Hence, although codes cannot substitute for regulation, when they are constructed through the cooperation of stakeholders and "owned" by the corporations themselves, codes hold significant promise.

⁴ Kolk, A., van Tulder, R., & van Leeuwen, M. 2000. How multinationality affects ethics: codes of conduct in the sporting goods industry, *Journal of International Business Studies*: 1-25. Rotterdam, Netherlands: Rotterdam School of Management.