

World Bank Parliamentary Staff Training Program

LEGISLATIVE ETHICS AND CODES OF CONDUCT

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Unit 1: Ethical Reform and the Public Sector

Learning Objectives

How does citizen dissatisfaction become protest politics?

After studying this unit, you should be able to:

- Explain why citizens' satisfaction with democracy has declined;
- List some of the ways in which protest politics has manifested itself;
- Give example of protest politics;
- Explain the relationship between the establishment of ethics regimes and protest politics.

Introduction

Recently, voters' satisfaction and trust in political administrations has declined substantially in due to politicians' irresponsiveness, misconduct, and lack of accountability (Pelizzo and Stapenhurst 2004). Voters have increasingly felt that their role and power to influence the political decision-making process has been diminished and, as a result, they have lost confidence in governments. Furthermore, voters have come to believe that politicians are more motivated by personal power than civic impact (H. Mackay 1998). These negative attitudes have been reinforced in countries around the world by the discovery of corruption scandals and other forms of misconduct.

The establishment of ethics regimes and the adoption of government ethics rules are intended to reconstruct voters' trust in the functioning of political systems. This Unit will consider the impetus for reforming government ethics standards and ethics regimes, describe how ethics regimes and standards impact the way government functions, and

explain how these standards and regime changes might impact civil society. Housed in examples of ethics standards changes, the aim is to provide a complete picture of the government ethics reform process.

Impetus for Reform

Citizen satisfaction with the democratic process is helpful for the general functioning of all sectors of the government, citizen morale, and trust in the rule of law, since, in a democratic system, each citizen vote has equal influence in the political process and an equal impact on composition of the government. However, in many countries there has been a decline in citizen satisfaction with democracy.

What impacts citizen satisfaction is difficult to measure. Factors impacting citizen morale include, but are not limited to, the perceived non-responsiveness of politicians, the perceived non-accountability of politicians, and the perceived loss of voters' political efficacy. An increasing percentage of citizens believe that politicians are merely concerned with the retention or the development of power, that politicians do not care about what the people think or about making real impact, and citizens believe that they are unable to affect the political decision making process. In other words, citizen concern has been generated by a belief that the responsiveness of the political system is vanishing, along with voters' perceived political efficacy

This trend is fairly well documented in political science literature. Some scholars have argued that by discounting voters' political demands, political systems now resemble oligopolies in which the voting results are determined by only a few voters (Katz and Mair 1995). The fact that political parties and politicians are perceived to discount voters' demands not only attests to low political efficacy and limited responsiveness by the system, but it also provides a compelling explanation for the emergence of protest politics. Protest politics has manifested in many different forms, for example, leading to

the emergence of protest parties-challenging the system parties, diminishing levels of political participation, the creation of new forms of political participation, and above all else, leading to lower voter turnout during election cycles.

The erosion of voter satisfaction with politics, political parties and politicians has culminated with the discovery of major notable corruption scandals in several established democracies. The discovery of these particular scandals has had a profound impact not only on the affect, or lack, that they have had on the electoral fortunes of several political parties, but the scandals also profoundly influenced voters' perception of the effectiveness of the political system at large.

The lack of parties' responsiveness, perceived loss of voter efficacy and political corruption have eroded the credibility of democratic politics and led to widespread cynicism. A 1998 report noted that in Australia, "Esteem for politicians is so low at the present - and still declining - that voters are dealing with the problem by insulting themselves. They repeatedly talk of the need for leadership, of the mongrels in Parliament, of polities with their snouts in the trough, of the spinelessness of the Prime Minister...conversations about politics are characterized by a sense of bewilderment that things have gotten so bad; a sense of deep mistrust of politicians on both sides; a level of cynicism bordering on contempt," (Mackey 1998). The situation has not been very different in Canada, where Member of Parliament (MP) Donald H. Oliver observes, "There is little doubt that there is considerable public cynicism towards politics and politicians...the public has also become more distrustful of politicians in general. Whether we, as a group, are less ethical today than in the past is unclear and perhaps irrelevant. What is essential is that we respond to the existing climate by making more efforts than in the past to be, and to be seen to be, men and women of integrity," (Oliver 1997).

As discontent and cynicism have mounted, politicians have become increasingly aware of and sensitive to voters' dissatisfaction. Through the creation of ethics regimes

parliaments and parliamentarians have been making concrete efforts to gain voters' trust and confidence. The creation, in turn, has required both an internal and an external strategy. The external strategy requires parliaments to publicize their rules to show not only that they are genuinely committed to creating and enforcing an ethics regime, but also to clarify to the voters what behavior is appropriate and should not be criticized, and to explain what behavior is *inappropriate* and deserving of criticism and punishment. The internal strategy requires parliaments to take several steps to prevent various forms of parliamentary misconduct from occurring, to punish clear instances of misconduct, and to create guidelines that are intended to improve the behavior of parliamentarians.

Ethics Regimes & Ethics Standards

When there is a case of great public outcry to improve ethics standards and eliminate ethics violations, ethics regimes are created. A common method for addressing potential misconduct on the part of parliamentarians is through a code of conduct, which is enforced horizontally, by a specific commission acting on behalf of the public. They are created in order to generate more ethical behavior among politicians and to rebuild public trust in political institutions. These regimes have been adopted by several legislatures and generally take on one of the following two forms (NDI 1999):

1. **Ethics codes** – These are general documents that formulate broad principles of behavior, but do not define what is appropriate and what is inappropriate behavior, nor do they establish sanctions for violations of the code. For example
2. **Conduct codes** – These tend to include very specific terms with clear sanctions for those who violate the arrangements of the code.

The success of ethics regimes is dependent on whether the people that are regulated by the code actually share the same ethical standards, have a common understanding

of what is appropriate behavior, and a common understanding of what constitutes misconduct (Pelizzo and Stapenhurst 2004).

The Impact of Ethics Regimes

Unless all members of a society share the same beliefs, their understanding of what is appropriate and inappropriate in power positions, and their understanding of what constitutes democratic governance run the risk of being different. Ethics Regimes help create an equal playing field. When misconduct, corruption and other forms of unethical behavior occur, ethics regimes can help eliminate them through legislative training, sanctions, and public pressure

Relevant Internet Resources

<http://www.ipu.org/dem-e/guide/guide-5.htm>

Select Bibliography

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Chris Skelcher and Stephanie Snape, "Ethics and Local Councillors: Modernising Standards of Conduct", *Parliamentary Affairs*, 2001, pp. 72-78.

Legislative Ethics and Codes of Conduct

Richard Katz & Peter Mair, "Changing Models of Party Organization and Party Democracy: The Emergence of the Cartel Party," *Party Politics*, Vol. 1, n.1, 1995, pp. 5-28

Donald Oliver 1997 etc. (from Pelizzo)

NDI 1999 (p.6)

Unit 2: Ethical Regimes in the Private Sector

Learning objectives

How do ethics in the private sector impact parliament and the public?

After studying this unit, you should be able to:

- Explain why company reputation is an important asset in the global economy;
- List some of the more pressing ethical concerns of customers;
- Discuss how companies have responded to customers' ethical concerns;
- Illustrate in your own words the internal and the external function of the ethics reforms.

Introduction

How has globalization impacted the private sector and what role has outsourcing had in private sector ethics and the world economy? The movement by companies, to reduce labor costs has created concern among consumers that businesses are moving production to weak states with poorly enforced labor regulations and standards, and therefore operating under the feeble regulations of the host country, rather than the companies' official ethics standards. In light of consumer concerns, corporations are beginning to understand the importance of preserving their reputation. The trend towards corporate social responsibility (CSR) and the adoption and enforcement of ethics regulations is intended to protect companies' reputation and their competitiveness. This unit considers why private sector ethics violations concern the consumer, the corporate response to ethics concerns, and the internal and external function of ethics reforms.

Why Ethics belongs in the Private Sector?

Ethics regimes, ethics reforms, codes of conduct, codes of ethics, and ethics rules were not

originally developed with the private sector in mind. As the economy has become increasingly “global,” many states have lost some level of control over their compliance with ethics standards, and, often, the ability to assess and even sanction violations of labor codes and environmental standards. Globalization, nevertheless, has created new opportunities for companies, which now can shift their production to parts of the world where the cost of labor is cheaper, thereby increasing profit. Opportunities notwithstanding, companies are also facing new restrictions. As people have become better informed, customer concern has become increasingly focused on the ethical, environmental, and labor standards of companies that become global by writing and calling companies to complain about human rights violations, demonstrating against the companies, supporting company anti-sweatshop organizations, filing shareholder resolutions, and in some cases, boycotting products and companies that are allegedly not respecting basic ethical. These ethical violations involve but are not limited to issues concerning child labor, employee harassment and abuse, and solutions consisting of nondiscrimination laws, freedom of association, collective bargaining agreements, health and safety standards, and adequate wages and hours of work.

Customers’ rising ethical concerns have rapidly and radically reshaped the environment in which companies operate. Reputation has now become a precious asset-which not only dictates the economic success of a company, but its survival. Not surprisingly, companies in the past fifteen years have made conscious efforts to protect their reputation and reassure their customers of their adherence to a certain level of ethical principles.

Private sector ethics standards are created to respond to that consumer-based need. To do this, the private sector develops a list of obligations to adhere to human rights standards, and the beginning of what would become the Corporate Responsibility (CR) or Corporate Social Responsibility (CSR) movement. Corporate social responsibility is the commitment of businesses to behave ethically and to contribute to sustainable economic development by working with all relevant stakeholders to improve their lives in ways that are good for business, the sustainable development agenda, and society at large.

Determining CSR agendas requires examining the role of business and the evolution of business thinking to reflect the new responsibilities globally, the market-based, regulatory/legal and

societal pressures on business to protect and or promote human rights, and determining how companies decide what issues are relevant. Over the past decade, corporate social responsibility (CSR) has risen in global prominence and importance. Corporate governance scandals such as those at WorldCom, Enron, Parmalat, Daewoo, and Tyco profoundly affected major capital markets worldwide, and placed issues such as ethics, accountability, and transparency firmly on the business, regulation and policy agendas. Additionally, issues such as peace, sustainable development, security, poverty alleviation, environmental quality and human rights are becoming increasingly interlinked, and are having a profound effect on businesses and the business environment. Although not traditionally responsible for finding solutions to these challenges, it is in the private sector's best interest to be part of the solution rather than part of the problem.

Unfortunately, few companies, particularly in the developing world, have the skills or competencies to work in this new operating environment. Strategic capacity building is imperative in educating these businesses about CSR, so they may access new markets and improve their competitiveness on a national, regional and global scale.

To protect the company reputation companies are beginning to reassure their customers by adopting codes of ethics and codes of conduct, by establishing internal monitoring mechanisms (SUCH AS?), and by allowing independent auditors to investigate and report whether these companies manage to meet the ethical standards that they set for themselves. O'Rourke posits, "Codes and monitoring systems are viewed as a strategy to reduce reputation risks in the marketplace. One poorly supplied can significantly damage a firm's reputation and, in turn, its sales and stock value. Informed stakeholders view firms with suppliers in countries with weak enforcement systems or poor tracking records on child labor with suspicion. These firms in turn, need independent means of establishing their "good" performance. Firms may also be advancing these programs as a strategy to preempt stricter state regulation and to undermine the legitimacy of the state in regulating labor issues. Codes of conduct and monitoring systems also offer several advantages over traditional regulatory regimes in the eyes of firms. These systems build on some of the central organizational principles of contemporary globalization – outsourcing production, monitoring, and continuous improvement – and so can advance a firm

of regulation that multinational firms find compatible with business strategies” (O’Rourke, 2003:4).

Codes of conduct and monitoring systems are intended to perform both an internal and an external function. Ethics reforms are enacted to improve the ethical standards of firms (internal function), but these reforms are enacted to address the ethical concerns of the market (external function). As we will see in the following Units, ethics reforms in the public sector are similarly enacted for internal as well as external reasons.

Unit 2 Questions

Please answer each of the following questions. If you are taking this course in a group you may then meet to discuss your answers.

1. Where were ethics reforms originally introduced?
2. Why were ethics regimes created?
3. What are the internal and external functions performed by ethics regimes?
4. Why have companies stepped in?
5. What are the developing and international and domestic human rights obligations of companies?
6. Where do responsibilities of corporations begin? How should the sphere of influence be designed?
7. What is the role of states, inter-governmental organizations, non-governmental organizations?
8. What are some of the limitations to the application or enforcement of human rights standards by corporations? To corporations?
9. What is a corporate code of conduct? How do business managers construct codes of conduct? What do they try to achieve? What do they cover? What role do they play in an organization? Do they work?

Relevant Internet Resources

Business and Human Rights Resource Center
<http://www.business-humanrights.org/Home>

Business for Social Responsibility
www.bsr.org

International Labor Organization
<http://www.ilo.org/>

The World Bank Institute's Business Competitiveness and Development Program
www.csrwbi.org

Select Bibliography

Ann Fiorini, "Business and Global Governance: The Growing Role of Corporate Codes of Conduct", *Brookings Review*, vol. 2, 2003, pp. 4-8.

Dara O' Rourke, "Outsourcing Regulations: Analyzing Nongovernmental Systems of Labor Standards and Monitoring", *The Policy Studies Journal*, vol. 31, n. 1, 2003, pp. 1-29.

Gay W. Seidman, "Monitoring Multinationals: Lessons from the Anti-Apartheid Era", *Politics and Society*, vol. 31, n. 3, 2003, pp. 381-406.

Unit 3: Ethical Reform and the Public Sector

Learning Objectives What is the role of ethics in the public sector?

After studying this unit you should be able to:

- Explain why ethics reforms were introduced in the governments of several countries;
- Discuss the objectives that ethics reforms were meant to achieve;
- Assess whether and to what extent ethics reforms have been effective in achieving those objectives.

Introduction

Ethics reforms were introduced to perform both an internal and an external function in the public sector. Specifically, they are intended to not only induce higher standards of behavior among politicians and bureaucrats but also, and more importantly, to reconstruct voters' trust in the political system. This unit discusses the objectives of ethics reforms in the public sector, and briefly assesses to what extent ethics reforms are effective.

Why Ethics Reforms?

In the past decade, the public has become increasingly sensitive to ethics violations with regard to both the private and public sectors. In several democracies the public has become increasingly displeased by what it considers patent ethics violations, for example corruption, and misconduct. Citizens' dissatisfaction with the functioning of political regimes has quickly translated into falling levels of satisfaction with democracy, levels of trust in government, and, in some cases, increasing popularity in protest parties and protest politics.

In an attempt to stymie these trends and to reconstruct citizens' trust in the performance of the political system and the public sector, legislators, administrators and bureaucrats understand the need for the adoption of ethics reforms to serve both an internal and external function. Internally, the enforcement of an ethics regime is intended to improve the ethical standards and performance of public officials. Externally, it is intended to build and regain public confidence.

Ethics Reforms and the Public

The enactment of ethics reforms is intended to regain the confidence of the public by clarifying legitimate from illegitimate behavior. The following two case studies highlight interesting case examples that reflect the fine and complex lines in legitimate and illegitimate behavior.

CASE 1:

A local newspaper reported adversely on a government council member. During the next council meeting, the member noticed the reporter at the press desk and made highly offensive and contentious comments towards the writer. The reporter subsequently lodged a complaint with the standard committee: the facts were not in dispute and the only task for the standard committee was to agree to a sanction, which was that the councilor should apologize.

Source: Skelcher and Snape (2001)

CASE 2:

In a separate case, the allegations of misconduct were more complex. After the City Council had applied for a restrictive covenant preventing the development of new homes or commercial real estate on a piece of land, a member of the public bought the same land from the local property authority. A few years later the citizen was elected to the Council and soon applied for permission to begin planning the building of a garage. He started construction once this was granted even though he was in breach of the covenant. He then negotiated with the local authority to change the covenant. The local press alleged that he had used his financial position to buy-off the council to grant this change in exchange for £ 5,000. The local authority responded with an internal audit investigation, which concluded that the reports were not factually correct and that the councilor had followed the normal procedure for members of the public. Another councilor then complained to the standards committee with the same accusation as the earlier press report. The committee decided that even though the accused councilor had followed the normal procedure used by members of the public, since he had applied before he was elected, he had breached the Code of Conduct since he had placed himself in a position, which could lead some members of the public to believe that he had received preferential treatment. As a result, he was censured and victim to disciplinary measures.

(Skecher and Snape, 2001:80-81)

Assessment Standards

The enactment of these reforms is in many ways geared towards restoring public confidence and establishing standards by which the behavior of elected officials can be assessed. Is there evidence available to gauge the positive affects of reform? One such study was conducted in 1993 by which a questionnaire was sent to 1,286 members of the International Institute of Municipal Clerks and more than 40% of them responded. The results found that public officials from the cities in which a code of conduct had been enacted were perceived to be more ethical than those employed in cities without an adopted code. About 94 % of the respondents thought that employees in their city were generally ethical, while only 88 % of the respondents would make a similar statement in cities without a code of conduct. The perception of unethical acts was more widespread in cities without a code of conduct (43% of the respondents) than in cities with a code of conduct (29% of the respondents). The percentage of respondents who believes that ethics violations are reported was higher in the cities with the code (84%) than in the cities without a code (72%).

These findings sustain the claim that as ethics reforms are enacted, a larger percentage of the population perceives that the behavior of public officials is consistent with ethical standards. Ethics regimes are created by adopting codes of conduct, codes of ethics, ethics rules or all of the above.

Unit 3 Questions

Please answer each of the following questions. If you are taking this course in a group you may then meet to discuss your answers.

1. When did the public sector become sensitive to ethics concerns?
2. Why has the public sector become more sensitive to ethics violations?
3. What is the purpose of ethics reforms in the public sector?
4. Does the adoption of ethics reforms influence the ways in which public officials' behavior is perceived?

Select Bibliography

Willa Bruce, "Ethical People are Productive People" , *Public Productivity Review*, vol. 17, n. 3, 1994, pp. 241-252.

Willa Bruce, "Controlling Corruption in Municipal Governments around the Globe", in Uri Berlinsky, Aaron Friedberg and Simka B. Werner (eds.), *Corruption in a Changing World, Comparisons, Theories, and Controlling Strategies*, Jerusalem, Chen Press, 1994.

Willa Bruce, " Codes of Ethics and Codes of Conduct: Perceived Contribution to the Practice of Ethics in Local Government, *Public Integrity Annual*, CSG & ASPA, 1996, pp. 23-29.

Unit 4: Terminology: Ethics vs. Conduct

Unit 4 Learning Objectives How do Ethics and Conduct differ?

After studying this unit you should be able to:

- Recognize that the debate concerning ethics regimes, ethics reforms, codes of conduct and codes of ethics are characterized by great terminological confusion.
- List the peculiar characteristics of both conduct codes and ethics codes.
- Give examples of each.
- Explain why conduct codes can also be called ethical laws.
- Identify the main objectives of adopting a code of conduct and a code of ethics.

Introduction

Because of the similarities of purpose between codes of ethics and codes of conduct, the terminology is often mistakenly used interchangeably. The purpose of this unit is to highlight some of the current debates concerning the differences between them. While the difference between them is often obscure, codes of ethics are actually quite different from codes of conduct (also called conduct codes or ethical laws). Ethics codes are fairly general documents, that identify and state the principles and the values of the people to whom they apply and do not establish sanctions and punishments for violations of the code itself. Conduct codes, on the other hand, are more specific documents that denote in some detail what types of behavior are acceptable in specific circumstances. Conduct codes are intended to provide guidance and establish sanctions and punishments for violations of the dispositions of the code (Willa Bruce).

The Definition Debate

Several organizations have made an attempt to develop the defining description of the difference between codes of ethics and codes of conduct. The debate concerning ethics regimes, codes of conduct and codes of ethics is characterized by tremendous terminological confusion.

The National Democratic Institute & Ethics versus Conduct

According to the National Democratic Institute (NDI), the major difference between the two is represented by the fact that the content of the codes of conduct is fairly general, while the content of ethics rules is fairly specific. They posit that codes of conduct aim to outline the overall principles of proper conduct and include detailed and specific ethics rules that provide the details necessary to fulfill the goals set forth. The NDI argument states that unlike ethics rules that dictate expected behavior in great detail, codes of conduct are basic documents written in easy-to-understand language that sets forth broad goals and objectives that legislators seek to achieve. In sum, the content of a code of conduct is general and its nature is descriptive, while the content of ethics rules is specific and their nature is prescriptive.

Andrew Brien & Ethics versus Conduct

The counter argument is made by Andrew Brien of the Australian Parliament, who provides quite a different characterization of a code of conduct. According to Brien codes of ethics and codes of conduct are often used interchangeably. However, an important distinction must be made between a code of ethics, which he says identifies the ethical principles and values at the foundation of an organization, and codes of conduct, which specify certain behavioral rules or standards to which a person's behavior must comply. Codes of conduct are more specific and leave less to discretion than codes of ethics (Brien 1989).

Ann Florini & the Ethics versus Conduct Debate

For Ann Florini, who's argument refers principally to the private sector, codes of conduct can be either aspirational or detailed. The aspirational code of conduct is a statement of a company's aims stating general principles and does not require confirmation that firms are meeting their commitments. Detailed codes of conduct are more demanding and state the specific commitments requiring independent confirmation of whether these commitments are met or not.

Willa Bruce Solves the Debate

Willa Bruce addressed this terminological confusion and provides the most useful clarification of the concepts under discussion. She argues that neither legislators nor the general public understand what a code of ethics really is but that there is great confusion about the three possible meanings. According to Bruce, ethics codes can be defined as legal systems, moral systems, or symbolic means of communicating. It is when codes of ethics include some of the defining components of codes of conduct that the differences between them blur. For example, if codes of ethics contain sanctions for violations of their provisions they are incorrectly labeled and should be called codes of conduct. Codes of ethics are usually products of professional associations. They serve as a quality assurance statement to society and also provide a set of standards for appropriate conduct for members of the profession that issues the code. Codes of ethics, challenge employees to identify with shared professional values that describe appropriate actions about acting in the service of the public good. Indeed, "the central function of an ethics code is to prevent, rather than punish- unethical conduct, "(Carol Lewis). Ethics codes that function as intended must be known by the persons subject to them, reflect that group's values, support individual values, focus on appropriate behaviors and be responsive to day-to-day conditions...Three generally accepted characteristics of a successful code of ethics are: it provides behavioral guidance; it is applicable to a variety of occupations within the same profession; and it has an effective mechanism to ensure compliance."

Conclusion

This unit talked about the difference between ethics codes and codes of conduct. When academics are arguing about the difference between each it should be assumed that the definitions become even more blurred in practice by member organizations, private sector companies and across government agencies and national governments. Might you be able to recognize the difference between the two? Try the exercise below, then consider: does your parliament have both a code of conduct and a code of ethics? Are they appropriately named?

In this unit we talked about Codes of Ethics and Codes of Conduct. In the next unit, which focuses on *misconduct*, examines what each code helps to avoid within its constituents.

Unit 4 Questions

Please answer each of the following questions. If you are taking this course in a group you may then meet to discuss your answers.

1. What is a code of conduct and how does it differ from an ethics code?
2. What are the key functions of ethics codes?
3. Are codes of conduct also called ethics laws?

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National Democratic Institute, Legislative Ethics: A Comparative Analysis, Legislative Research Paper #4, 1999.

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Joseph Zimmerman, *Curbing Unethical Behavior in Government*, Westport, Greenwood, 1994.

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Unit 5: Misconduct

Unit 5 Learning Objectives What does misconduct in the legislature look like?

After studying this unit you should be able to:

- Provide a definition of misconduct.
- Explain the concept of conflicts of interest.
- List the main provisions of conflict-of-interest statutes.
- Discuss circumstances, which may be seen as corruption, bribery or extortion.

Introduction

In the last unit you considered how institutions like Parliament aim to avoid misconduct, or deliberate wrongdoing, through codes of conduct and ethics. But what is meant by misconduct? How is it realized for parliamentarians? This unit considers what is meant by misconduct, with particular attention paid towards the most common forms, conflicts of interest. We argue that the notion of conflict of interest was developed in the English tradition of common law. In this tradition the behavior of public officials is regulated by the rules of trust, which establish that government officials cannot have either direct or indirect interests in government decisions and must always act exclusively in the interest of the public. Hence, under this tradition, if a government official has a direct or indirect interest in a government decision, they are not permitted to participate in the decision-making process. Today, the severity varies from country to country. But overall, conflict of interest rules intend to prevent parliamentary misconduct, and to some degree, this rule is applied in almost all government regimes. Some attention in this unit will be paid to those circumstances that may facilitate the emergence of conflicts of interests, to the steps that may be taken to prevent conflicts of interests from emerging, and, finally, which solutions should be adopted to solve conflicts of interests.

Commentary

Misconduct, the failure to comply with codified standards of behavior, does not necessarily demonstrate a criminal offense or corruption (Skelcher and Snape 2001). Misconduct is a form of unethical, though not always criminal, activity. The most common form of misconduct occurs when there is a conflict of interests.

The concept of conflict of interest originated in the English common law tradition, believed to be the rules of trust, is original source of conflict-of-interest provisions leading the behavior of government officials. These rules of trust establish that a government officer has an obligation and must not have a direct or indirect interest in a governmental transaction, since it is the parliamentarian's job to act solely in the public interest (Zimmerman, 1994).

With the expansion and the growth of government activities, the common-law arrangement concerning conflict of interest has no longer been adequate. These arrangements have become integrated into conflict of interest statutes, which were primarily intended to provide guidance to public officers and private citizens dealing with the government, but they also established criminal penalties.

How conflict-of-interest statutes are defined from country to country concern what subjects they cover, how interest is defined, the rules for dual office-holding, contracts, and the extent to which bribes, gifts, disclosure of confidential information are regulated, and outside employment, and post-employment restrictions. All statutes provide penalties for violations (Zimmerman, 1994).

Definition of Interest

An officer defines interest as a right, claim, or legal share of something direct or indirect interest in a transaction. It is also considered as part of the officer's interest if certain family members have pecuniary interests in a pending governmental matter. The interest can be direct, if the public officer is the owner, partner or major share-holder of a firm that is entering

into a transaction with the government and if the officer will be the beneficiary of the profits of the firm under the contract, and *indirect* if the government representative has a company, employer, partner or similar entity with a financial interest in the issue at stake (Zimmerman, 1994).

In order to avoid conflicts of interest among public officers and their employee's statutes are created. These laws or rules require the public officers to disclose whether they have a financial interest that would benefit from a proposed government action. If a public servant has such an interest, the official is often required to abstain or limit participation in the decision-making process.

Dual Office-Holding

Dual office holding, when a private company also employs a public official is sometimes permitted if there is not a conflict of interest between the private company and the government. If the offices are incompatible, the individual must resign from the first office in order to accept the second position. This legal structure was set up to avoid a situation in which an officer must choose between loyalties of one office over the other (Zimmerman, 1994).

Contracts

Constitutions will often forbid public officers from entering into a contract with the government on the grounds of conflict of interest. In these cases, a member of the contract awarding board must void the contract and criminally penalize the officer even if the officer was not a participant in the award-giving process (Zimmerman, 1994).

Gifts, Bribes, and Extortion

Traditionally, conflict-of-interest statutes view gifts as bribery and extortion. Statutes typically prohibit the soliciting or accepting of items of value in exchange for:

1. Influence in any official act or official responsibilities, or
2. Influence to commit, collude, or allow for fraud, directly or indirectly, on government agencies
3. Influence to do or omit to do any acts in violation of the official duty.

To convict a public officer or employee of conflict of interest violations, corrupt intent must be proven. This can be done when a private party and a public officer agree that the bribe or gift will result in a specific course of action by the officer (Zimmerman, 1994:31).

Disclosure of Confidential Information

Public officials are prohibited from disclosing confidential information. When private information is disclosed, it runs the risk of damaging the reputation and the interest of the individual, and more importantly, goes against the public interest. Because it is difficult to enforce an all-encompassing ban on confidential information disclosures, codes of conduct have been adopted and boards of ethics have issued recommendations on how confidential information should be defined (Zimmerman, 1994).

Outside Employment

Public officers are also not permitted to work, seek compensation, receive compensation or represent anything other than the government when the government is involved or has an interest in the outcome (Zimmerman, 1994:35). For example the 1957 New York City Charter forbade public officers or employees from representing a client in a legal case if the city was

involved in the case (Zimmerman, 1994:35). Conflict of interest statutes also often have post-employment restrictions for public officers.

Conclusion

In Unit 5 we discussed the various events that constitute misconduct in countries with conflict of interest statutes. How these are played out on a country-to-country basis, and how they specifically impact the legislature is discussed in Unit 6.

Unit 5 questions

Please answer each of the following questions. If you are taking this course in a group you may then meet to discuss your answers.

- What is misconduct?
- What is the most common form of misconduct?
- What is a conflict of interest?
- What are the key differences between direct and indirect interests?
- What activities may have to be regulated and/or restricted to prevent conflicts of interest from emerging?
- Does dual office holding necessarily create a conflict of interests?

Select Bibliography

Joseph Zimmerman, *Curbing Unethical Behavior in Government*, Westport, Greenwood, 1994, chapters 2, 3 and 9.

Unit 6: Regulation and Conflicts of Interest

Learning Objectives

How do legislators avoid conflicts of interest?

After studying this unit, you should be able to:

- Explain why legislators are particularly vulnerable to encountering conflicts of interest;
- What can legislatures do to prevent their members from encountering conflicts of interest;
- List activities that constitute conflicts of interests that legislators must disclose to comply with the codes of conduct;
- Give examples of activities and interests that may be restricted or regulated to prevent conflicts of interest.

The Fine Line

Legislators are charged with walking a fine a line between the freedom of simple citizenship and compliance through the guidelines of complex government representation. As a result, they are often vulnerable to conflicts between their personal interests and those of the government. This unit considers why legislators are particularly prone to conflicts of interest, and explains the steps that can be taken to prevent the ethical violations in conflicting personal and professional interests. This unit will also suggest some of the more successful prevention methods, such as legal codes of conducts, regulations concerning the disclosure of interests, gifts, travel restrictions, employment and post-tenure employment.

The Vulnerable Legislature

The mere nature of his or her position makes the legislator likely to fall victim to conflicts of interest since, in any given week, most legislators will have several issues brought before her

for voting. If the parliamentarian has a personal interest in any of the issues of the resolution, the parliamentarian has a conflict of interest. For example, let us assume that a hypothetical parliamentarian invested incubation funds to start her neighbor's transportation company and, in exchange, makes a percent of the profit earned by the company. If the country's government wishes to hire the transportation company to transport the goods for an agricultural project the parliamentarian is faced with a conflict of interest. But conflicts of interests are often quite nebulous. Some other common examples of conflicts of interests include the following: use of public position to obtain personal benefit, providing benefits to influence official actions, use of confidential government information, post-governmental employment for 2-years, receipt of gifts by officials or employees above a certain value, receipt of fees or honoraria by public officials or employees, representation of private clients by public officials or employees, financial conflicts of interest, nepotism, political activity by employees, competitive bidding, outside employment or business activities by public officials or employees, travel payments from non government services, and more. While there are trends for what defines a conflict of interest, they are defined differently in different governments.

Preventing Conflicts of Interest

In an increasing number of governments, legislation exists to ensure that the spheres of legislators' private activities do not present a conflict of interest with their potential influence over officers' and agencies' responsibilities to promote the public interest (Zimmerman, 1994). Among the most important steps that legislatures have taken to prevent conflicts of interest from occurring is the adoption of codes of conduct. Codes of conduct which are updated regularly, are a simplified version of the law meant to guide behavior and decisions.

The disclosure of all economic and financial interests including both assets and income, by MPs is a practice that is found in 23 percent of the countries in the world for which the Inter-Parliamentary Union (IPU) data are available. In fact, 41 countries out of 181 require that members declare their personal assets (See box 2).

Box 1:
List of disclosure

Codes of conduct usually require members of the parliament or state legislature to disclose their interests concerning:

Tax returns	Ownership interest in a business
Sources of patrimonial income	Real estate interests
Investments	Offices and/or directorships held
Sources of income of business of a partner or shareholder	Creditor indebtedness
Leases and other contacts with public entities	Retainers
Compensated representation before public entities	Fees and honoraria
Professional or occupational licenses held	Reimbursement of travel expenses from private sources
Deposits in financial institutions	Cash surrender value of insurance
Private employer or nature of private employment	Professional services rendered
Identification of trusts by trustee	Identification of trusts by beneficiary
Names of immediate family members	Financial interests of spouse

Depending on the country, the disclosure of interests either requires or suggests that parliamentarians declare their present interests before debating an issue related to those interests. This disclosure of interests is a relatively common protection against conflicts of interest. This practice is included in the ethics rules of several countries, including Australia, Canada, Czech Republic, France, Germany, Ireland, Korea, Mexico, Poland, South Africa, Spain, Sweden, Taiwan, the United Kingdom and the USA. The countries have conflict of interest restrictions that aim to prevent personal gains through this public mandate. There is, however, considerable variation in how stringently these regulations are followed. For example, in Germany, Ireland, and the United Kingdom members must disclose their interests and potential for conflicts of interest but they are nonetheless allowed to participate in the deliberations. By contrast, in Australia, Canada and South Africa members of the parliament are not allowed to vote on issues that may generate a conflict of interest. Similarly, the Swedish Parliament in 1996 ruled that a Member might not participate in the deliberations of the Chamber or be present at a meeting of a committee on a matter concerning this member or a close relative.

Deeper Disclosure

In addition to asking legislators to disclose their interests, codes of conduct may impose some additional restrictions. Some of the restrictions apply while the legislator is in office, for example the gifts a legislator is entitled to receive while he/she serves in office, or remuneration for travel expenses. Some restrictions even apply after the legislator's tenure in office has ended, for example in the case of employment opportunities.

The gift and travel restrictions mentioned above are often encompassed in the ethics rules of various countries. For example, in Argentina the Criminal Code directly regulates that MPs are not allowed to accept gifts that are given because of the members' post. In Australia, members *are* allowed to receive gifts as long as they do not generate a conflict of interest. The Australian parliament ruled with the 1984 House resolutions and the subsequent modifications (in 1986, 1988 and 1994) that gifts must be disclosed on a Registry of Members' Interests if valued more than AUS \$500 (US \$379 in 2006) for gifts received from official sources and more than AUS \$200 if received from unofficial sources. Gifts received from relatives and personal friends are exempt from disclosure. In the Czech Republic and France, MPs can also receive gifts but in France gifts must be declared and in the Czech republic MPs have to disclose the value of the gifts in their financial report. In Germany, there are no restrictions on the types of gifts parliamentarians can receive, but all gifts valued more than DM 10,000 (US \$5,425 in 1999) must be disclosed. In the UK gifts and benefits not related to the membership in the House are exempted from disclosure. By contrast, all gifts valued more than UK £125 and benefits valued more than .5% of the member's or spouse's salary must be disclosed. The strictest regulations are found in the United States where all gifts must be disclosed and gifts valued more than US \$50 or an annual cumulative value of US \$100 cannot be accepted. The US is also different because these regulations are set separately in addition to the code of conduct.

In addition to restrictions on gifts, the ethics rules of several parliaments also establish travel restrictions. In Australia, for example, all sponsored travels must be declared. In Canada only foreign trips financed by foreign donors must be disclosed. In France, there is no restriction on members' travels, provided that they declare whether another party paid for the travel. German and Irish parliamentarians only disclose travel expenses if they exceed US \$5,425 and US \$660, respectively. In Italy, all contributions and services exceeding US \$5,500 must be disclosed along with the name of the donor. In the US, members and staff are allowed to travel at the expense of private sources and may accept payment for travel expenses of the spouse or one child. However, national travel cannot last more than 4 days and international travel cannot last longer than 7 days. Travel can be paid by foreign sources only if travel is part of a mutual cultural exchange.

Conclusion

From travel expenses and gifts to personal investments with government-contracted private companies, legislators all over the world are often required to follow certain ethical standards. Codes of conduct can establish restrictions and regulations with regard to several ethical matters affecting parliamentarians.

Unit 6 Questions

Please answer each of the following questions. If you are taking this course in a group you may then meet to discuss your answers.

1. Why are legislators particularly exposed to having conflicts of interest?
2. What can legislatures do to prevent their members from having conflicts of interest?
3. What activities may be regulated or restricted by codes of conduct?
4. Does the disclosure of interests represent a protection against conflicts of interest?

Relevant Internet Resources

Inter-Parliamentary Union
www.ipu.org

Select Bibliography

National Democratic Institute, *Legislative Ethics: A Comparative Analysis*, Legislative Research Paper #4, 1999.

Dr. Andrew Brien (Consultant), *A Code of Conduct for Parliamentarians?* Research Paper 2, 1998-99, Department of the Parliamentary Library, Parliament of Australia.

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Unit 7: Sanctioning

Unit 7 Learning Objectives

After studying this unit you should be able to:

- List some of the sanctions that may be adopted to punish violations of the code's dispositions
- Identify what institutions have the power to sanction MPs under ethics violations

Introduction

What would happen if a legislator violated a code of conduct? Would it simply tarnish his reputation? Or do codes of conduct violations happen so frequently that no one would take notice? Would he be arrested? Fired? Wear a Scarlet Letter? When there is an official consequence to behaviors of misconduct that is called a sanction.

This unit discusses how violations of the arrangement of the codes of conduct are penalized or sanctioned by the codes themselves. You will learn about what types of sanctions that may be imposed to punish violations of the codes, and the variation in the severity of sanctions. You'll also learn about the great inconsistency in the institutions that sanction violations of the codes'. According to the Inter-Parliamentary Union (IPU), the job of punishing MPs' misconduct is usually reserved for Independent Commissions, Parliamentary Committees, Parliaments, Speakers of the Parliament, and Courts in different countries of the world.

What is Sanctioning?

One of the main differences between codes of conduct and ethics codes is that conduct codes establish sanctions for violations of the code itself. (Bruce, 1996). But what is Sanctioning? As a response to misconduct, sanctioning penalizes lawmakers for violating a moral principle or international law or national guideline.

Sanctioning Around the World

There is some variation in the severity of the sanctions established for the violation of a Code of Conduct. In the Fiji Islands the violation of the codes of conduct may be punished by the loss of mandate, or the authorization to represent the political electorate. In Grenada a warning, a reprimand, an order to withdraw, a suspension, or even a loss of the mandate can punish the violation of the codes of conduct. In India, violations can be punished with reprimand or admonition, imprisonment, suspension, expulsion, or even the loss of membership to the legislature on the grounds of defection. In Japan, violations to the code of conduct are punished with admonition to abide by the standards of conduct, admonition to refrain from presenting oneself at the House for a certain period, or admonition to resign from the Chairmanship of a Committee. In the UK, a violation of the code of conduct is punished through custody, reprimand or admonition, suspension from the house, and in extreme cases, expulsion. In the USA, violations to the code of conduct are punished with censure, reprimand, fines, loss of seniority or expulsion depending on the severity of the case.

Who Sanctions?

We already know that the severity of sanctions differs from country to country, but countries have also adopted different approaches to carry out these punishments which are often determined by who leads the indictment process (explain indictment).

Sanctioning by independent Authoritative Body

One approach which occurs in countries such as Canada and possibly parts of Australia, have established an independent, authoritative body that administers the code, oversees the legislative conduct (What does this mean?), and assembles reports for the legislature or a relevant, legislative committee. In New South Wales, the code is adopted more rigorously, through which a breach of the code constitutes a breach of law and requires no legislative

body. In Canada the Independent Commission Against Corruption, and not the Parliament or a Committee does enforcement. (Andrew Brien)

Sanctioning within the Legislature

While, some countries establish independent bodies to sanction code of conduct violations, other countries establish a body *within* the legislature that oversees the conduct of members. For example, in Japan, a parliamentary committee is formed, or, in the case of the United Kingdom and proposed in Canada, an independent parliamentary commissioner may be established under a House resolution reporting to the legislature or a legislative committee.

Sanctioning as Part of the Legislature

In the third approach, which is applied in the United States Congress, discipline follows a detailed set of rules and guidelines and is an internal part of the legislature. Each House creates codes of Conduct for Members and staff, by an independently run ethics committee. Each committee provides interpretative and advisory rulings, has jurisdiction over the members and officers of each House, and can impose sanctions and investigate allegations of improper conduct (Brien, 1999).

There are two additional repercussions for severe code of conduct violations. Cases that may result in punishment through extremely severe sanctions, such as the loss of mandate, are decided by a High Court, as in the case of Grenada. The other repercussion suggests that the Speaker of the House, as in the Indian case, may impose sanctions.

These five bodies, Independent Commission, Parliamentary Committee, Parliament, Speaker of the Parliament, Court, that sanction the violations of the codes of conduct in those countries in which a code of conduct has been enacted, are also in charge of punishing legislators' misconduct against existing ethics rules. For example, parliamentary committees sanction the behavior of parliamentarians in Belarus, Ethiopia and Egypt. In Egypt the Ethics Committee, the

General Committee or the Joint Committee have the authority to reprimand, ban the parliament from taking part in the work of the Assembly in up to ten sessions.

Parliaments have the power to punish the misconduct of their members in Argentina, Bolivia, Cameroon, Chad, Hungary, Italy, Paraguay, Slovakia, Turkey and Ecuador. The Haitian Speaker of the House has the power to call members to order, while the Spanish Speaker of the House has the power to punish parliamentarians with the temporary suspension from the status of deputy. High Courts, Supreme Courts, or Constitutional Courts have the power to punish parliamentarians' misconduct in Austria, Botswana, Bulgaria, Chile, Greece, Jamaica and Thailand.

Whether parliamentarians themselves, independent bodies, within or unassociated with the legislative sanction misconduct, most countries now have a system for punishing noncompliance to a country's code of conduct standards. The severity of the punishment is often different, but in all cases this action represents a part of a country's political and ethical culture. The next unit discusses how political and ethical culture builds an environment for allowing or preventing a more ethical political climate.

Unit 6 Questions

Please answer each of the following questions. If you are taking this course in a group you may then meet to discuss your answers.

1. Do parliaments punish members' misconduct?
2. What are the most common sanctions established to punish violations of the dispositions of a code of conduct?
3. What institutions are generally in charge of administering these sanctions?

Relevant Internet Resources

Inter-Parliamentary Union
www.ipu.org

Select Bibliography

Dr. Andrew Brien (Consultant), A Code of Conduct for Parliamentarians? Research Paper 2, 1998-99, Department of the Parliamentary Library, Parliament of Australia.

Willa Bruce, "Codes of Ethics and Codes of Conduct: Perceived Contribution To the Practice of Ethics in Local Government ", in *Public Integrity Annual*, 1996, pp. 23-30.

Unit 8: Political Culture and Ethics I

Unit 7 Learning Objectives How does political culture influence the legislature?

After studying this unit you should be able to:

- Define political culture.
- Explain why political culture may influence the functioning of a given political regime.
- Discuss some instances in which the performance of political institutions was actually influenced by political-cultural factors.
- Assess whether it is correct to argue that the adoption of ethics rules, ethics codes, ethics reforms are facilitated by specific types of political cultures.
- Explain why the proper functioning of an ethics regime requires the existence of a homogeneous political culture among the individuals to whom it applies.
- Discuss whether it is true that MPs actually have a homogenous set of political attitudes, orientation, principles and values.

Introduction

What is meant by political culture? Do certain types of political cultures encourage greater compliance with ethics reforms, or even prevent the occurrence of ethics violations entirely? This unit will un-package the concept of political culture in order to investigate whether the effectiveness of ethics reforms are influenced by specific types of political culture. Political culture will be defined as the pattern of individual attitudes and cognitive, affective and evaluative orientations toward politics among the members of a given political system (Gabriel Almond and Sydeny Verba). The Political Culture and Ethics unit considers why these orientations might influence how a political system functions and, taking it a bit further, what kind of analysis has already been done and what are the results? (Robert Putnam in his *Making Democracy Work* (1993).

Political Culture Defined

Political culture is the pattern of individual attitudes and orientations toward politics among members of a political system (Almond and Verba, 1963). It is the subjective realm that underlies and gives meaning to political actions. Several components influence individual political orientations such as beliefs, and affective orientations like feelings of attachment about political objects, and evaluative orientations like judgments and opinions about political objects. These three dimensions are interrelated and can be combined in a variety of ways.

These orientations can significantly influence the way a political system works. In fact, the demands made upon a system, the responses to laws and to appeals for support, and the conduct of individuals in their political role, are shaped and conditioned by an orientation pattern. Cognitive, affective and evaluative orientations form the latent political tendencies and propensities for political behavior.

Robert Putnam (1993) revisited the concept of political culture. According to Putnam, the differences in performance are due to the interaction of two sets of factors: one is socio-economic modernity, and the other is civic community or political culture. Putnam explains the inconsistency of regional governments' success through the Italian example, in which the institutional performance in Northern Italian regions is more efficient and productive than in the Southern regions. He defends a correlation between institutional performance and development, but he suggests that this correlation may be spurious. In fact "what our simple analysis cannot reveal is whether modernity is a cause of performance ...whether performance is perhaps in some way a cause of modernity, whether both are influenced by a third factor...or whether the link between modernity and performance is even more complex" (p.86).

After developing an interesting measure of "civic-mindedness", Putnam finds that institutional performance is highly correlated with such a characteristic, and that this conclusion should be considered as a determinant of performance.

The Relationship between Political Culture and Ethics Regimes

What is the relationship between political culture and ethics regimes? This question has two possible meanings. First, it may suggest that political culture is conducive to ethics reforms and the adoption of codes of conduct and ethics regimes. Second, it may indicate that the proper functioning of an ethics regime requires the existence of a homogenous political culture, which is of a common set of attitudes and values.

When do the relationships develop? What are the positive and negative impacts of such a relationship? Some scholarly work suggests that the adoption of ethics reforms is not caused by specific political and cultural conditions, but rather represents a response to media investigations, to the disclosure of corruption and other forms of misconduct, and thus falling levels of public trust and to the need to reconstruct voters' confidence in political institutions. This does not however mean that ethics reforms are totally unrelated to political culture.

Some scholars suggest that the success of codes of conduct and other types of ethics reforms depend, to a large extent, on whether the individual to which it applies actually has a common set of political attitudes and values (Skelcher and Snape). A code of conduct works only if the individuals it is intended to govern have a common understanding of what is appropriate and inappropriate what represents an ethics violation, what should be done to prevent ethics violations, and so on. Interestingly, empirical evidence collected among British MPs reveals that MPs are far from sharing a homogenous political culture (Mancuso).

For example some posit that a code of conduct assumes a certain level of principle among the individuals to which it applies and a level of transparency in the decision-making process to avoid violations to the code. (Skelcher and Snape, 2001).

Likewise, an assertion is made that MPs can be relieved on for uniform principles of good judgment and thus the House of Commons grants a great deal of discretion among MPs to avoid ethical dilemmas, without consideration for the variety of views represented by the MPs, representing another reason for no correlation between political and cultural ethics. On many important issues there is stark disparity among MPs as to what constitutes acceptable behavior,

and many are engaging in activities that others find reprehensible (p.1). (Maureen Mancuso 1993)

Mancuso conducted a study of the ethical world of British MPs in which they were asked questions pertaining to constituency service while conflict of interest. Computing a tolerance score for constituency service and conflict of interest of the participating MPs. By combining the two dimensions from the results, a typology was formed in which Puritans have low tolerance on both dimensions, Servants have tolerance for constituency service and low tolerance for the conflict of interest, Muddlers have high tolerance for the conflict of interest and low tolerance for constituency service, and the Entrepreneurs have high tolerance on both dimensions. When MPs fall under a different category they disagree on changes to ethics provisions reform possibilities (p.8). One of the most interesting findings, which emerged from the study, is that all British MPs condemn corruption and criminal behavior including condemned activities such as bribery and blatant misappropriation of public funds and but in the more nebulous problematic grey areas of constituency service and conflict of interest it is harder to reach even though these are the areas that MPs are most likely to face personal dilemmas.

The fact that there are quite different ethical standards creates important implications. It proves that there is not a lot of consensus among MPs about what constitutes improper behavior, about the nature of the ethics problems, and about what changes should be made to make the ethics regime work. This also means that to make ethics reforms and ethics regimes work it is vital to promote a common set of civic attitudes and ethical values among MPs.

The question than remains, does this mean that cultural factors and civic attitudes are the main determinants of ethics reforms? As Marshall R. Goodman, Timothy J. Holp and Karen M. Ludwig (1996) show in their study ethics reforms generally respond to media investigations or falling levels of trust among the public rather than to cultural factors. Nevertheless, cultural conditions are important to make ethics systems work.

Unit 7 Questions

Please answer each of the following questions. If you are taking this course in a group you may then meet to discuss your answers.

1. What is political culture?
2. Why is political culture considered to be so important in the functioning of a political system?
3. Given the importance of (specific forms of) political culture, is it possible to say that political culture may be a determinant of institutional success?
4. Are some political cultures more likely to be conducive to the establishment of ethics regimes?
5. In what ways can political culture influence the functioning of an ethics regime?
6. Why is it so important for the success of an ethics reform that MPs have a uniform political culture?
7. According to Mancuso, do MPs have a uniform political culture?

Select Bibliography

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Self-Test

For Course on Legislative Ethics and Codes of Conduct

Unit 1

Question 1. Ethics reforms were originally adopted:

- a) By the public sector;
- b) By the NGOs;
- c) By the companies operating in countries where the labor market is regulated;
- d) By the companies operating in countries in which the labor market is unregulated.

Question 2. Ethics reforms were introduced because:

- a) Workers were always on strike and companies were often under-performing;
- b) Trade unions were always antagonizing management;
- c) Governments forced companies to do so;
- d) Companies thought that this was the best way to protect their reputation and preserve their competitiveness on the global markets.

Question 3. The establishment of ethics regimes requires:

- a) Lowering the costs of labor to preserve companies' competitiveness on the markets;
- b) Governments' support in the form of state subsidies for the unemployed and the underemployed;
- c) Monitoring agencies that certify whether companies the standards that they had set for themselves;
- d) Monitoring agencies that establish the standards by which companies should be evaluated.

Unit 3

Question 1. The public sector became sensitive to ethics concerns because:

- a) The economy had gone global;
- b) The public sector wants to be as efficient as private sector;
- c) Government officials are naturally inclined to increase bureaucratic rules and regulations;
- d) The public's trust in the government had dramatically declined.

Question 2. The public has become more sensitive to ethics concerns because:

- a) Many ethics violations have been uncovered;
- b) Civil society is also and necessarily a civic society that values ethical behavior;
- c) The public is naturally inclined to value practices that are consistent with the principles of civic-ness and honesty;
- d) The ethical standards of the public are generally higher than those of the government officials.

Question 3. The perception of ethical violations:

- a) Is not really affected by the adoption of a code of conduct;
- b) Is less widespread in those cities where codes of conduct have been adopted;
- c) Is totally unrelated to whether the conduct of public officials is appropriate or not;
- d) Changes from city to city because some cities have more criminals than others.

Unit 4

Question 1. The main difference between codes of conduct and codes of ethics is:

- a) Codes of conduct are just aspirational, while ethics codes specify what types of behavior is acceptable or not;
- b) Codes of conduct establish specific sanctions for violations of the code, while codes of ethics simply state general principles;
- c) Codes of ethics apply to both the private and the public sector, while codes of conduct are adopted only in the public sector;
- d) There is really no difference; these expressions can legitimately be used interchangeably.

Question 2. The most important function of a code of conduct is:

- a) To punish ethics violations;
- b) To prevent misconduct and other forms of ethics violation;
- c) To both prevent and punish ethics violations;
- d) To prevent ethics violations and restore the publics trust in public officials and institutions.

Unit 5

Question 1. Rules of Trust establish that:

- a) Government officers must always act in the public interest even if they have a personal interest in a government action;

- b) Government officers may not have either direct or indirect interests in a government transaction and must act solely in the public interest;
- c) Government officers' personal interests must always be consistent with the public interest;
- d) Government officers may have personal interests in government transactions as long as they do not violate the public trust.

Question 2. If a public official has a pecuniary interest in a proposed government action:

- a) The government action has to be changed;
- b) The public official is arrested;
- c) The public official is forced either to resign the public post or to give up the private interests;
- d) The public official is required to abstain from participating in the decision making process.

Question 3. Gifts are viewed as bribes and extortion if:

- a) The gift modifies the course of action of a public official;
- b) Public officials do not modify their course of action after receiving the gift;
- c) The value of the gift exceeds specific limits;
- d) They are not exchanged among family members.

Unit 6

Question 1. Of all public officers, the legislator is:

- a) The one least likely to encounter conflicts of interest;
- b) The one most likely to encounter conflicts of interest;
- c) Likely to encounter conflicts of interest only if the legislator's party is in power;
- d) Is not particularly prone to encountering conflicts of interest as long as the legislator opposes the government.

Question 2. To prevent conflicts of interest, legislators can take several steps such as:

- a) Delegating all decision making power to the executive;
- b) Banning political parties and interest groups;
- c) Adopting codes of conduct;
- d) Dissolving the legislature and calling new elections.

Question 3. Codes of Conduct may require MPs to disclose:

- a) Their personal interests as well as those of their friends and family members;

- b) Their personal interests as well as those of their friends;
- c) Their personal interests as well as those of their family members;
- d) The interests of the parliamentarians' friends and family members.

Unit 7

Question 1. Violations of the dispositions of the Codes of Conduct are punishable:

- a) By the death penalty;
- b) By life detention;
- c) Only if the provisions of the code had not been explained to the members of the parliament;
- d) By a variety of measures such as reprimand, loss of seniority, suspension and expulsion.

Question 2. Sanctions for the violations of the code:

- a) Are always administered by the Legislature or by the Speaker of the House;
- b) Are administered by the executive branch of the government;
- c) Are administered by the executive, the legislative or the judiciary in the name of the separation of power;
- d) Are administered by different institutions in different countries. Generally sanctions are administered by one of the following institutions: Independent Commissions, Parliamentary Committees, Parliaments, Speakers of the Parliament, and Courts.

Units 8 and 9

Question 1. Political Culture:

- a) Is a pattern of individual attitudes and orientations towards politics among the members of a political system;
- b) Exists only when politicians behave morally;
- c) Reflects politicians' ability to run the government;
- d) Is not related to ethical dilemmas.

Question 2. Political Culture is:

- a) Conducive to establishing ethics regimes;
- b) A threat to the establishment of ethics regimes;
- c) A solution for ethical dilemmas;
- d) A possible determinant of whether ethics reforms succeed.

Question 3. Most MPs:

- a) Have the same political attitudes and orientations;
- b) Are driven by ideological concerns;
- c) Do whatever is in their power to secure their re-election;
- d) Have different ethical standards.

Glossary

Aspirational code of conduct – A statement of a company's aims that offer general principles that do not require confirmation that firms are meeting their commitments.

Conduct codes – Specific documents that denote in detail what types of behavior are acceptable in specific circumstances.

Conflict of interest statutes – Statutes intended to provide guidance to public officers and private citizens dealing with the government.

Disclosure of interests – A relatively common protection against conflicts of interest that is included in the ethics rules of several countries.

Ethics codes – General documents that identify and state the principles and the values of the people to whom they apply and do not establish sanctions and punishments for violations of the code itself.

Sanctions – Punishments for violations of the dispositions of the code.

Sanctioning – A response to misconduct that penalizes lawmakers for violating a moral principle or international law or national guideline.

Appendix

Legislative Ethics and Codes of Conduct

Introduction

During the past decade, citizens' satisfaction with democracy in developed countries has markedly declined. This decline has been generated by the interaction of several factors, including the non-responsiveness of politicians, the non-accountability of politicians, and voters' perceived loss of political efficacy. Indeed, an increasing percentage of citizens have developed the beliefs, that politicians are principally concerned with power, that politicians do not care about what people think, and that normal citizens are unable to affect the political decision making process. In other words, what citizens were worried about was that the responsiveness of the political system was vanishing and that this trend was coupled with voters' perception of their diminishing efficacy in the political arena.

These phenomena are fairly well known and well documented in political science literature. Some scholars have even argued that political systems, by discounting voters' political demands, had come to resemble oligopolistic markets¹. The fact that parties and politicians are perceived to discount voters' demands not only explains the sense of low political efficacy or the sense of limited responsiveness of the system, but also provides a compelling explanation for the emergence of protest politics².

Voters' dissatisfaction with parties, politics and politicians, indeed, how democracy functions, increased even further when major corruption scandals were discovered in several established democracies. The discovery of corruption practices, of corrupt officials and corrupt politicians has had a profound impact on the political system of several countries, not only because it has significantly affected the electoral fortunes of several parties, but also - and more importantly - because it has changed voters' perception of the political system. Indeed, the fact that parties and politicians were not particularly accountable and responsive could be interpreted as a sign of the fact that democracy was not working very well.

The lack of parties' responsiveness, voters' perceived loss of political efficacy and political corruption eroded the credibility of democratic politics and led to a widespread and mounting cynicism. A 1998 report noted that in Australia "esteem for politicians is so low at the present - and still declining - that voters are dealing with the problem by insulating themselves from it.

¹ The notion of a cartel of party was originally developed by Richard S. Katz and Peter Mair, "Changing Models of Party Organization and Party Democracy: The Emergence of the Cartel Party", *Party Politics*, vol. 1, n. 1, 1995, pp. 5-28. See also Mark Blyth and Richard S. Katz, "From Catch-all-icism to Reformation: The Political Economy of the Cartel Party", European Consortium for Political Research Joint Sessions of Workshops, Grenoble, March 2001; Mark Blyth, "The Political Economy of Political Parties: Beyond the Catch-all-ic Church?" paper prepared for the 2002 Meeting of the Council for European Studies, Chicago, 14-17 March; Richard S. Katz, "Whose Agent? Principles, Principals and Party Politics", paper prepared for the 2002 Meeting of the Council for European Studies, Chicago, 14-17 March. The most comprehensive discussion of these and similar issues can be found in Riccardo Pelizzo, *Cartel Parties and Cartel Party Systems*, Dissertation submitted to Johns Hopkins University in conformity with the requirements for the Degree of Doctor of Philosophy, Baltimore, MD, 2003.

² Russell J. Dalton, *Citizen Politics. Public Opinion and Political Parties in Advanced Western Democracies*, Chatam, NJ, Chatam House Publishers, 1996, pp. 67-85.

They repeatedly talk of the need for leadership, of the mongrels in Parliament, of polities with their snouts in the through, of the spinelessness of the Prime Minister...conversations about politics were characterized by a sense of bewilderment that things have got so bad; a sense of deep mistrust of politicians on both sides; a level of cynicism bordering on contempt"³. The situation was not very different in Canada, where Donald H. Oliver observed, " there is little doubt that there is considerable public cynicism towards politics and politicians...the public has also become more distrustful of politicians in general. Whether we as a group are in fact less ethical today than in the past is unclear and perhaps irrelevant. What is essential is that we respond to the existing climate by making more efforts than in the past to be, and to be seen to be, men and women of integrity"⁴.

As discontent and cynicism mounted, politicians have become increasingly aware of and sensitive to voters' dissatisfaction. Some legislatures and legislators made concrete efforts to regain voters' trust and confidence, principally by making concrete efforts to create ethics regimes. The creation of ethics regimes, in turn, required a double strategy, namely an internal and an external strategy. With regard to the external strategy, legislatures needed to publicize their rules not only to show the public that they were genuinely committed to creating and enforcing an ethics regime, but also to clarify to the voters what behavior was appropriate (and should not be criticized) and what behavior was inappropriate (and should be criticized and punished). With regard to the internal strategy, legislatures needed to take several steps to prevent various forms of legislative misconduct (and, above all, corruption) from occurring, to punish clear instances of misconduct, and to improve the behavior of legislators⁵.

The purpose of the present paper is to investigate how some legislatures have attempted to create an ethics regime and to show how such regimes and codes of conduct can promote good governance in developing and/or democratizing countries.

This paper is divided in four parts. The first part of the paper is devoted to the need for an effective ethics regime. The argument in this section is pretty straightforward: It will be argued that as corruption and other forms of legislative misconduct are bad for democracy, they must be eliminated and that the establishment of an ethics regime is quite helpful in doing so. This part of the paper also discusses how an ethics regime can be established (e.g. through the establishment of codes of conduct and ethics rules). In this part of the paper we argue that there is considerable confusion with regard to what is exactly a code of conduct and what is exactly a code of ethics. This terminological confusion is very important as it is the reason why the ethics rules (and sanctions) that are found in countries that have adopted a formal code of conduct are not dramatically different from those, which have not. The second part of the paper provides an in depth investigation of codes of conduct. The evidence presented in this part of the paper reveals that there is considerable variation in how specific the dispositions of a code

³ H. Mackay, *Mind and Mood*, June 1998 as quoted by Dr. Andrew Brien (Consultant), *A Code of Conduct for Parliamentarians?* Research Paper 2, 1998-99, Department of the Parliamentary Library, Parliament of Australia.

⁴ Hon. Donald H. Oliver, *Code of Conduct. Consideration of Final Report of Special Joint Committee Debate Adjourned*, Debates of the Senate, 2nd Session, 35th Parliament, volume 136, March 20, 1997.

⁵ Scholars have pointed out that there is a difference between misconduct and corruption. Misconduct is the failure to comply with the rules and the dispositions of a code of conduct, but it is not a criminal offence. Corruption is instead a criminal offence. On this see Chris Skelcher and Stephanie Snape, "Ethics and Local Councillors: Modernising Standards of Conduct", *Parliamentary Affairs*, 2001, pp. 72-78.

of conduct might be, and how severe might the sanctions be imposed by the code of conduct and in the type of institutions that might enforce the ethics regimes. The third part of the paper makes an important point as it shows that the success of ethics reforms and ethics codes depends largely on what we call complementary factors. Specifically we discuss how the effectiveness of ethics codes relate to factors such as sanctions, political attitudes, political culture and training. The fourth, and final, part of the paper draws some tentative conclusions about the utility of such codes and rules and what factors may contribute to their success.

Part One: The Need for an Effective Ethics Regime

In a democratic system, each citizen has the right to exercise as much influence on the political process as any other citizen. In fact, in democratic regimes each citizen has the right to cast his or her vote at the elections and to influence, through the vote, the composition of the legislature as well as the selection of the government.

Yet, as soon as corruption phenomena develop, two basic problems emerge: one is that those citizens who have more financial means at their disposal, then use these financial means to corrupt elected officials and acquire additional influence over the political process. This is a violation of the spirit and the principles of democracy—that is that each citizen is meant to exercise equal power in the political process.

Corruption creates a second, and similarly menacing problem for democracy. Corrupt politicians can utilize their electoral campaigns, their illicitly obtained resources, to acquire an advantage over other candidates, and improve their chances of being elected. By doing so, corrupt candidates distort electoral competition, prevent the people's will from being properly expressed and, by doing so, they violate the spirit of democracy. And to the extent that it violates the spirit of democracy, corruption poses a direct threat to democracy.

Corruption is not however the only threat to democracy. Any form of legislative misconduct undermines the public trust in the democratic system and, by doing so; it poses an indirect, albeit not less menacing, threat to the democratic system⁶. As Martin Lipset pointed out more than four decades ago the single most condition for making democracy survive is that democratic system's legitimacy⁷.

The creation of an ethics regime represents an attempt to regulate the behavior of legislators and to rebuild the public trust in the political system. The question is: is this really true? And, if so, how can an ethics regime be established? What are the basic elements of an ethics regime?

Creating an Ethics Regime: The Companies and the Global Market

The notions of ethics regimes, ethics reforms, codes of conduct, codes of ethics, ethics rules were originally developed with regard to the private sector. As the economy and the markets

⁶ A discussion of corruption and misconduct can be found in Chris Skelcher and Stephanie Snape, "Ethics and Local Councillors: Modernising Standards of Conduct", *Parliamentary Affairs*, 2001, pp. 72-78.

⁷ Seymour Martin Lipset, "Some Social Requisites of Democracy: Economic Development and Political Legitimacy", *American Political Science Review*, vol. 53, n.1, 1959, pp. 69-108.

went global, and states were no longer able to control, assess, and possibly sanction violations of labor codes and environmental standards.

The globalization of the world economy has certainly created new opportunities for companies. For example companies can now shift their production to parts of the world where the cost of labor is cheaper, reduce their production costs and thus increase their profits. Globalization nevertheless, has also created new restrictions for companies. As the world economy becomes increasingly globalized, customers have become increasingly concerned with the ethical, environmental, labor standards of the companies that went global. Customers, for example, boycotted products and companies, which were suspected of not respecting some basic ethical standards.

Customers' rising ethical concerns have rapidly and radically reshaped the environment in which companies operate. A company's reputation has now become a precious asset which needs protection. The economic success and the company's survival may be depending on the company's reputation. Not surprisingly, companies in the past fifteen years have made conscious efforts to protect their reputation and reassure their customers.

They have done so by adopting codes of ethics, codes of conduct, by establishing internal monitoring mechanisms or even by allowing independent auditors to investigate and report whether companies manage to meet the ethical standards that they set for themselves⁸.

Creating an Ethics Regime: the Public Sector

In the past decade, the public has become increasingly sensitive to ethics violations not only with regard to the private sector but also, and more importantly, with regard to the public sector. The public in several industrialized democracies has become increasingly displeased by what it considers to be patent ethics violations (corruption, misconduct, and so on). Citizens' dissatisfaction with the functioning of various political regimes, has quickly translated into falling levels of satisfaction with democracy, into falling levels of trust, and into increasing levels of popularity of protest parties and protest politics.

To revert these trends, to reconstruct citizens' trust in the functioning of the political system and the public sector, legislators, administrators and bureaucrats understand the need for ethics reforms. The adoption of an ethics regime is intended to serve both an internal and external function. Internally, the enforcement of an ethics regime was intended to improve the ethical standards and performance of public officials⁹. Externally, it was intended to regain the confidence of the public.

⁸ Ann Fiorini, "Business and Global Governance: The Growing Role of Corporate Codes of Conduct", *Brookings Review*, vol. 2, 2003, pp. 4-8; Dara O' Rourke, "Outsourcing Regulations: Analyzing Nongovernmental Systems of Labor Standards and Monitoring", *The Policy Studies Journal*, vol. 31, n. 1, 2003, pp. 1-29; Gay W. Seidman, "Monitoring Multinationals: Lessons from the Anti-Apartheid Era", *Politics and Society*, vol. 31, n. 3, 2003, pp. 381-406.

⁹ It is a well-known fact in the literature that ethical public officials are actually productive. See Willa Bruce, "Ethical People are Productive People", *Public Productivity Review*, vol. 17, n. 3, 1994, pp. 241-252. See also Willa Bruce, "Controlling Corruption in Municipal Governments around the Globe", in Uri Berlinsky, Aaron Friedberg and Simka B. Werner (eds.), *Corruption in a Changing World, Comparisons, Theories, and Controlling Strategies*, Jerusalem, Chen Press, 1994.

The questions are "Do we have any evidence as to whether the perception of public officials' behavior is affected by the adoption of ethics reforms?" and "Do we have any evidence that officials' behavior perceived to be more ethical when ethics regimes are enforced?" The answer is yes, we do. In 1993, Willa Bruce mailed a questionnaire to 1,286 members of the International Institute of Municipal Clerks¹⁰. More than 40% of them responded. Bruce found that public officials of the cities in which a code of conduct had been enacted were perceived to be more ethical than those employed in cities without a code had been adopted. About 94 % of the respondents "would say that employees in my city are generally ethical", while only 88 % of the respondents would make a similar statement in cities without code of conduct. The perception of unethical acts was more widespread in cities with code of conduct (43% of the respondents) than in cities with a code of conduct (29% of the respondents). The percentage of respondents who believes that ethics violations are reported was higher in the cities with the code (84%) than in the cities without a code (72%).

These findings sustain the claim that as ethics reforms are enacted and ethics regimes, a larger percentage of the population perceived that the behavior of public officials is consistent with ethical standards. A further question is "How are ethics regimes created?"

Ethics Reforms, Codes of Conduct, Codes of Ethics

Ethics regimes are created by adopting codes of conduct, codes of ethics, ethics rules or all of the above. What is a code of conduct? What is a code of ethics? Do they differ from each other? If so, how?

Let us begin by stressing an important point. There is a considerable confusion concerning the meaning of these concepts. According to the National Democratic Institute (NDI)¹¹, the major difference between codes of conduct and ethics rules is represented by the fact that the content of the codes of conduct is fairly general, while the content of ethics rules is fairly specific. The NDI paper points out that the objective of the codes of conduct "is to outline the overall principles of proper conduct. Given their aspirational and general nature, codes of conduct must be accompanied by detailed and specific "ethics rules,"...these rules provide the details necessary to fulfill the goals set forth by codes of conduct"¹². The paper placed a great emphasis on the fact that what differentiates a code of conduct from ethics rules is that the former is general and the latter are specific. In fact, it underlined that " unlike ethics rules that dictate expected behavior in great detail, codes of conduct are basic documents written in easily understood language that set forth broad goals and objectives that legislators seek to

¹⁰ The results discussed in this paragraph were originally presented by Willa Bruce, " Codes of Ethics and Codes of Conduct: Perceived Contribution to the Practice of Ethics in Local Government, *Public Integrity Annual*, CSG & ASPA, 1996, pp. 23-29.

¹¹ National Democratic Institute, LEGISLATIVE ETHICS: A Comparative Analysis, Legislative Research Paper #4, 1999

¹² National Democratic Institute, LEGISLATIVE ETHICS: A Comparative Analysis, Legislative Research Paper #4, 1999, p. 5.

achieve¹³. In sum, the content of a code of conduct is general and its nature is aspirational, while the content of ethics rules is specific and their nature is prescriptive.

A very different point was made in a research paper of the Australian Parliamentary Library. According to Brien "code of ethics and code of conduct are often used interchangeably. There is, however, an important distinction. A code of ethics identifies those ethical principles and values that are regarded as the foundation of an organization...such codes are usually aspirational, rather than prescriptive"¹⁴. In contrast to the codes of ethics, "codes of conduct specify certain rules for behavior, or standards to which a person's behavior must comply. They are more specific than a code of ethics, in terms of the actions prescribed and proscribed. They leave less to discretion; they are less aspirational and more prescriptive"¹⁵.

In other words, for NDI ethics rules are prescriptive and codes of conduct are aspirational, while for Brien codes of conduct are prescriptive and codes of ethics (or ethics codes) are aspirational. A possible explanation for this terminological confusion can be found in the work of Florini¹⁶, who observed that companies create codes of conduct to protect their reputation and that there are two types of codes of conduct. One is aspirational and basically states what are the company's ethical standards, its objectives, and its general principles; this type of code does not require certification that ethical principles are respected and ethical standards are met. The other type of code is prescriptive; this code is not only quite specific as to what exactly constitutes ethical or unethical behavior, but it requires certification of whether ethical principles are respected and ethical standards are met. If Florini were correct in saying that codes of conduct can be either aspirational or prescriptive, then the terminological disagreement between the NDI document and the Research Paper of the Australian Parliamentary Library would not be particularly problematic. It would thus just indicate that both documents failed to acknowledge the double-nature of ethics rules and codes of conduct.

There is, however, a different explanation. According to Willa Bruce, there is substantial confusion concerning the meaning of codes of conduct and codes of ethics (or ethics codes). According to Bruce "neither legislators nor the general public understand what a code of ethics really is. Two different scholars describe the current approach to ethics codes as one of "confusion" (...) because of that confusion, many government entities have passed legislation that they erroneously call a "code of ethics"¹⁷. But codes of ethics should not specify, "sanctions for violations of their provisions"¹⁸.

What, then, are ethics codes and codes of conduct? Ethics codes "are usually products of professional associations. They serve as a quality assurance statement to society and provide a

¹³ National Democratic Institute, LEGISLATIVE ETHICS: A Comparative Analysis, Legislative Research Paper #4, 1999, p. 4.

¹⁴ Dr. Andrew Brien (Consultant), A Code of Conduct for Parliamentarians? Research Paper 2, 1998-99, Department of the Parliamentary Library, Parliament of Australia, p. 10.

¹⁵ Dr. Andrew Brien (Consultant), A Code of Conduct for Parliamentarians? Research Paper 2, 1998-99, Department of the Parliamentary Library, Parliament of Australia, p. 10.

¹⁶ Ann Fiorini, "Business and Global Governance: The Growing Role of Corporate Codes of Conduct", *Brookings Review*, vol. 2, 2003, pp. 4-8.

¹⁷ Willa Bruce, "Codes of Ethics and Codes of Conduct: Perceived Contribution to the Practice of Ethics in Local Government, *Public Integrity Annual*, CSG & ASPA, 1996, pp. 23.

¹⁸ Willa Bruce, "Codes of Ethics and Codes of Conduct: Perceived Contribution to the Practice of Ethics in Local Government, *Public Integrity Annual*, CSG & ASPA, 1996, pp. 23.

set of standards for appropriate conduct for members of the profession that issue the code. Codes of ethics for those in government service challenge employees to identify with shared professional values that describe appropriate actions about acting rightly in the service of the public good¹⁹. Codes of conduct are quite different from codes of ethics. "Codes of conduct are more concrete and practical than ethics codes for they represent executive orders or legislatively defined and enforceable behavioral standards with sanction for violation. They contain a list of the kinds of behavior required in a given set of circumstances and provide direction to those whose conduct they govern. Often called "ethics laws", they contain minimalist prohibitions to unquestionably subversive or criminal acts. They are designed to protect the government employee, the client and/or the public at large"²⁰. In sum, there is a major difference between codes of conduct and codes of ethics.

Part Two: Legislative Codes of Conduct

As it was previously noted, codes of conduct represent one way in which parliaments and parliamentarians have attempted to establish effective ethics regimes. The Fiji Islands, Germany, Grenada, Israel, Japan, Philippines, the United Kingdom and the United States of America have adopted a formal code of conduct. India has a customary code of conduct, while Chile and Poland are drafting a bill to enact a code of conduct²¹.

A legislative code of conduct is a formal document, which regulates the behavior of legislators, by establishing what is considered to be acceptable behavior and what is not. In other words, it is intended to promote a political culture, which places considerable emphasis on the propriety, correctness, transparency, and honesty on parliamentarians' behavior. The code of conduct however, is not intended to create this behavior by itself. As Skelcher and Snape point out "compliance with codes of conduct (...) encourages a decision-making environment in which fraud and corruption should be less prevalent, but they cannot stop such offences"²².

How Specific Are the Provisions of A Code of Conduct?

¹⁹ Willa Bruce, "Codes of Ethics and Codes of Conduct: Perceived Contribution to the Practice of Ethics in Local Government, *Public Integrity Annual*, CSG & ASPA, 1996, pp. 23.

²⁰ Willa Bruce, "Codes of Ethics and Codes of Conduct: Perceived Contribution to the Practice of Ethics in Local Government, *Public Integrity Annual*, CSG & ASPA, 1996, pp. 24.

²¹ On this point see the dataset of the Inter-Parliamentary Union. This dataset can be found at the following website: www.ipu.org.

²² Chris Skelcher and Stephanie Snape, "Ethics and Local Councillors: Modernising Standards of Conduct", *Parliamentary Affairs*, 2001, pp. 72-78. The quote is taken from pp. 73-74.

How specific is a code of conduct? Codes of conduct are more specific than codes of ethics. Yet, there is considerable variation in how specific their provisions can be. This point can be illustrated by the following examples. The dispositions of the American, British and South African codes of conduct are fairly general. "The United States House of Representatives provides a 12-point code of conduct for its members, who along with officers and staff, "must conduct themselves at all time in a manner which reflects creditably on the House"...the Code of Conduct for the Members of Parliament in the United Kingdom stresses that members "shall at all time conduct themselves in a manner that will tend to maintain and strengthen the public's trust and confidence in the integrity of Parliament and never undertake any action which would bring the House of Commons, or its Members generally, into disrepute"...and) the South African parliamentary codes of conduct urges members to "maintain the highest standards of propriety to ensure that their integrity and that of their political institutions in which they serve are beyond question"²³. In each of these cases, the dispositions of the code of conduct were relatively general.

This does not mean that a code of conduct must always be fairly general in its dispositions. Codes of conduct may require members of the legislature to disclose their interests concerning:

- 1) Tax returns
- 2) Sources of patrimonial income
- 3) Investments
- 4) Sources of income of business of a partner or shareholder
- 5) Ownership interest in a business
- 6) Real estate interests
- 7) Offices and/or directorships held
- 8) Creditor indebtedness
- 9) Leases and other contacts with public entities
- 10) Retainers
- 11) Compensated representation before public entities
- 12) Fees and honoraria
- 13) Professional or occupational licenses held
- 14) Reimbursement of travel expenses from private sources
- 15) Deposits in financial institutions
- 16) Cash surrender value of insurance
- 17) Private employer or nature of private employment
- 18) Professional services rendered
- 19) Identification of trusts by trustee
- 20) Identification of trusts by beneficiary
- 21) Names of immediate family members
- 22) Financial interests of spouse.

In addition to asking legislators to disclose their interests, codes of conduct may impose some additional restrictions. Some of the restrictions apply while the legislator is in office (concerning

²³ National Democratic Institute, LEGISLATIVE ETHICS: A Comparative Analysis, Legislative Research Paper #4, 1999, p. 5.

for example the gifts a legislator is entitled to receive while he/she serves in office or remuneration for travel expenses) and some of them apply even after the legislator's tenure in office (as in the case of employment opportunities). The list of restricted activities include the following items:

1. Use of public position to obtain personal benefit
2. Providing benefits to influence official actions
3. Use of confidential government information
4. Post-governmental employment for 2-years
5. Receipt of gifts by officials or employees above a certain value
6. Receipt of fees or honoraria by public officials or employees
7. Representation private clients by public officials or employees
8. Financial conflicts of interest
9. Nepotism
10. Political activity by employees
11. Competitive bidding
12. Outside employment or business activities by public officials or employees
13. Travel payments from non government services

Most of the provisions concerning financial disclosure, disclosure of interests, and employment restrictions (either during or after tenure in office) can be found in several countries. For example, the disclosure of all economic and financial interests (that is assets and income) by MPs is a practice that is found in 23 percent of the world countries for which the Inter-Parliamentary Union (IPU) data are available. In fact, 41 countries out of 181 require that members declare their personal assets. These countries are in alphabetical order: Algeria, Australia, Austria, Belarus, Belgium, Bolivia, Bulgaria, Cape Verde, the Czech Republic, Egypt, Equatorial Guinea, Estonia, the Fiji Islands, France, Hungary, Indonesia, Israel, Italy, Jamaica, Japan, Kenya, Latvia, Lesotho, Namibia, New Zealand, Paraguay, Poland, Portugal, Slovakia, Spain, Sri Lanka, Switzerland, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, the United Kingdom, the United States of America, Uruguay and Zambia.

The disclosure of interests, that is the fact that that parliamentarians should declare their present interests before debating an issue related to those interests, is also a relatively common protection against the so called 'conflict of interests'²⁴. This practice is included in the ethics rules of several countries, among which Australia, Canada, Czech Republic, France, Germany, Ireland, Korea, Mexico, Poland, South Africa, Spain, Sweden, Taiwan, the United Kingdom and the USA. In all of these countries conflict of interest restrictions try to prevent personal gains from the exercise of the public mandate. Interestingly, however, there is considerable variation in how strict these regulations are. For example, in Germany, Ireland and in the United Kingdom members must disclose their interests and possible conflicts of interest but they are allowed nonetheless to participate in the deliberations. By contrast, in Australia, Canada and

²⁴ A discussion of the conflict of interests can be found in Joseph Zimmerman, *Curbing Unethical Behavior in Government*, London, Greenwood Press, 1994, pp. 17-46.

South Africa members of the parliament are not allowed to vote on issues that may generate a conflict of interest. Similarly, the Swedish Parliament in 1996 ruled, " A Member may not participate in the deliberations of the Chamber or be present at a meeting of a committee on a matter which concerns him (or her) personally or a close relative".

Gift and travel restrictions are also fairly common as they are envisioned by the ethics rules of various countries. In Argentina, where the Criminal Code directly regulates the issue, MPs are not allowed to accept gifts, which are given because of the members' post. In Australia, members are allowed to receive gifts, unless these gifts may seem to generate a conflict of interest. Moreover, the Australian parliament ruled - with the 1984 House resolutions and the following modifications (respectively in 1986, 1988 and 1994)- that gifts must be disclosed on Registry of Members' Interests if valued more than 500 Australian \$ (329 US \$ in 1999) for gifts received from official sources and more than 200 Australian \$ if received from unofficial sources. Gifts received from relatives and personal friends are exempted from disclosure. In the Czech Republic and France, MPs can receive gifts but in France gifts must be declared and in the Czech republic MPs have to disclose the gifts' value in their financial report. In Germany, there are no restrictions on the types of gifts parliamentarians can receive, but all gifts valued more than 10,000 DM (5,425 US \$ in 1999) must be disclosed. In the UK gifts and benefits not related to the membership in the House are exempted from disclosure. By contrast, all gifts valued more than 125 Sterling Pounds and benefits valued more than .5% of the salary (or about 278 US \$ in 1998) of member or spouse must be disclosed. The strictest regulations are to be found in the USA, where all gifts must be disclosed, where no gift valued more than 50 US \$ can be accepted and where gifts from one source may not exceed an annual cumulative value of 100 US \$. Note that these regulations in the US are not set by the code of conduct, but are set in addition to the code of conduct.

Similarly, the ethics rules adopted by several Parliaments also establish some travel restrictions. In Australia all sponsored travels must be declared. In Canada only foreign trips financed by foreign donors must be disclosed. In France, there is no restriction upon members' travels, provided that they declare whether another party had paid travels. German and Irish parliamentarians must disclose travel expenses only if they exceed respectively the 5,425 US \$ and 660 US \$. In Italy, all contributions and services exceeding 5,500 US \$ must be disclosed along with the name of the donor. In the USA members (and staff) are allowed to travel at the expense of private sources and may accept payment for travel expenses of the spouse or one child. However, national travels cannot last more than 4 days and international travels cannot last longer than 7 days. Travels can be paid by foreign sources only if travels are part of a mutual cultural exchange.

In sum, codes of conduct can establish restrictions and regulations with regard to several matters. There is considerable variation in how specific these restrictions and regulations are. Another point that is worth stressing is that one the features that distinguishes codes of conduct from ethics codes is that codes of conduct (unlike ethics codes) design sanctions for those who violate the prescriptions of the code itself.

Part Three: Are There Complementary Factors That Can Contribute to the Effectiveness of Codes of Conduct?

Several factors may contribute to the effectiveness of legislative codes of conduct, including the existence of sanctions, institutionalization, cultural attitudes and training. Each of these will be considered in turn.

Sanctions

There is some variation in the severity of the sanctions established for the violation of a Code of Conduct. In the Fiji Islands the violation of the code of conduct may be punished by the loss of mandate. In Grenada the violation of the code of conduct is punished by warning, reprimand, order to withdraw, suspension and loss of mandate. In India, violations are punished with reprimand or admonition, imprisonment, suspension, expulsion, disqualification from membership on ground of defection. In Japan, violations to the code of conduct are punished with admonition to abide to the standards of conduct, admonition to refrain from presenting herself at the House for a certain period, and admonition to resign from the Chairmanship of a Committee. In the UK, a violation of the code of conduct is punished committal, reprimand or admonition, suspension from the house, and expulsion. In the USA, violations to the code of conduct are punished with censure, reprimand, fines, loss of seniority and expulsion. The data are presented in Table 1.

[Table 1 about here]

But Are Sanctions Effective?

It is generally believed that the success of an ethics regime, of an ethics reform or of a code of conduct, is a function of the severity of the sanctions that it designs for the violations of its prescriptions. In other words, the more severe the sanctions devised by a code, the more successful the code will be.

This notion is however somewhat problematic. It is not clear what is meant by success. Does success mean that the code induces a more ethical behavior among the individuals it is intended to regulate? Does it mean instead that the public is less likely to question the morality of legislators and public officials when severe sanctions are designed by the code?

Evidence in the first respect is at best anecdotal. It is in fact generally believed but rarely demonstrated that severe sanctions prevent individual from misbehaving. The interesting question is however: does the severity of sanctions affect voters' perception Table 1. Codes of Conduct and Sanctions

Country	Sanction	Competent body
Fiji Islands	Loss of mandate	Na
Grenada	Warning, Reprimand, Order to withdraw, suspension,	House of Representatives
	Loss of mandate	High Court
India	Reprimand or admonition, imprisonment, suspension, expulsion,	House of the People
	Disqualification from membership on ground of defection	Speaker of the House
Israel	Remark, warning, rebuke, severe rebuke,	The Knesset Ethics Committee
	Suspension from office,	The Knesset committee
Japan	Loss of mandate Admonition to abide the standards of conduct, admonition to refrain from presenting at the House for a certain period of time, admonition to resign from the Chairmanship of a Committee	The Knesset Deliberative Council on Political Ethics
Philippines	Imprisonment, disqualification to hold public office	Na
UK	Committal, reprimand or admonition, suspension from the House, expulsion	House
USA	Censure, reprimand, fines, loss of seniority, expulsion	House

of the morality of public officials? The survey conducted by Willa Bruce in 1993 provides some evidence in this respect²⁵. Willa Bruce found that "a clearly worded code of ethics with sanction" is the best way to curb corruption in government. On the basis of this finding, Bruce hypothesized that "employees in cities that have legislated conduct codes that contain sanctions will report greater emphasis on ethics than those in cities whose codes do not contain sanctions"²⁶. By testing this hypothesis, Bruce found "that the presence of sanctions did not affect respondent perceptions"²⁷. The study found that what affects the respondent perception of ethics in government is not whether there are sanctions or not, but whether there is a code.

Institutionalization

A further difference can then be observed between these various codes of conduct, concerning the institutionalization of the code of conduct, that is, which institution is in charge of sanctioning those members who violate the code of conduct. Three different variations were identified Andrew Brien²⁸, who noted that:

"One approach involves enshrining the code in some sort of legislative framework through, for example, establishing by legislation a body that is external to, and independent from, the legislature. Such a body administers the code, oversees the conduct of the members of the legislature and makes reports either to the legislature or a committee. This is the model that has been adopted in Alberta (70), and Ontario. (71) It is likely to be adopted in a much more stringent form in New South Wales (72), where breach of the code would constitute a breach of law. Actual enforcement may well be a duty of the Independent Commission Against Corruption, rather than the Parliament or a Committee of it, as is the case in the Canadian parliaments. (73)

The second approach is to establish within the legislature a body that oversees the conduct of members. This may take the form of a parliamentary committee (as in the Japanese case) or it may take the form of an independent parliamentary commissioner, established under standing orders or a resolution of the House (rather than independent, judicable legislation). Such a body would report to a committee of the legislature or the legislature itself. This is the approach that has been adopted in the

²⁵ As it was previously noted, in 1993 Willa Bruce conducted a survey to investigate whether the adoption of ethics codes and codes of conduct affects the perception of ethics in government. The survey questionnaire was sent to 1,286 members of the International Institute of Municipal Clerks. Willa Bruce received 522 usable responses. Further details concerning the data and the findings can be found in Willa Bruce, "Codes of Ethics and Codes of Conduct: Perceived Contribution to the Practice of Ethics in Local Government, *Public Integrity Annual*, CSG & ASPA, 1996, pp. 23-29.

²⁶ Willa Bruce, "Codes of Ethics and Codes of Conduct: Perceived Contribution to the Practice of Ethics in Local Government, *Public Integrity Annual*, CSG & ASPA, 1996, p. 27.

²⁷ Willa Bruce, "Codes of Ethics and Codes of Conduct: Perceived Contribution to the Practice of Ethics in Local Government, *Public Integrity Annual*, CSG & ASPA, 1996, p. 27.

²⁸ Op cit

United Kingdom. (74) It also has been proposed for the federal legislature in Canada. (75)

The third option is that followed in the United States Congress. In this approach, discipline is internal to the legislature and is based upon a detailed set of rules and guidelines. Each House has its own Code of Official Conduct for Members and staff. Each House has an ethics committee, which operates independently of the other. Each committee provides interpretative and advisory rulings, has jurisdiction over the members and officers of each House, and can investigate allegations of improper conduct and can impose sanctions²⁹.

In addition to the solutions identified in the Research Paper issued by the Department of the Parliamentary Library of the Parliament of Australia, the data presented in Table 1 suggest two additional options. One is that extremely severe sanctions, such as the loss of mandate, are decided by a High Court (as in the case of Grenada). The other is that sanctions may be imposed by the Speaker of the House (as in the Indian case).

These five bodies (Independent Commission, Parliamentary Committee, Parliament, Speaker of the Parliament, Court) that sanction the violations of the codes of conduct in those countries in which a code of conduct has been enacted, are also in charge of punishing legislators' misconduct in those countries in which ethics rules (but not a code of conduct) have been adopted. For example, parliamentary committees sanction the behavior of parliamentarians in Belarus, Ethiopia and Egypt³⁰. Parliaments have the power to punish the misconduct of their members in Argentina, Bolivia, Cameroon, Chad, Hungary, Italy, Paraguay, Slovakia, Turkey and Ecuador³¹. The Haitian Speaker of the House has the power to call members to order, while the Spanish Speaker of the House has the power to punish parliamentarians with the temporary suspension from the status of deputy³². High Courts, Supreme Courts, or Constitutional Courts have the power to punish parliamentarians' misconduct in Austria, Botswana, Bulgaria, Chile, Greece, Jamaica and Thailand³³.

The differences concerning how specific is the code, how severe are its sanctions, and who administers the code produce considerable variation in the family of the codes of conduct.

²⁹ Andrew Brien, "A Code of Conduct for Parliamentarians?" op. cit., p. 13.

³⁰ In Egypt the Ethics Committee, the General Committee or the Joint Committee have the authority to enact the following punishments: reprimand, ban on taking part in the work of the Assembly in a certain session, ban on taking part in the work of the Assembly for a period of two to ten sittings. Parliamentarians can appeal these sanctions in the People's Assembly. The People's Assembly has the authority to punish a parliamentarian with the loss of mandate.

³¹ The case of Ecuador is of great interest. In fact, in Ecuador the National Congress imposes the following penalties: suspension, loss of mandate, and other sanctions. Yet, parliamentarians can also be punished with the loss of the mandate, which can be revoked by the voters themselves before the end of the mandate.

³² In Spain however the Speaker of the House shares the power to punish the misconduct of parliamentarians with the Congress and with some Congressional Committees.

³³ Note that in Thailand the Senate has the power to remove parliamentarians from office, while the Supreme Court's Criminal Division punishes the violations of the penal code for Person Holding Political Positions.

Attitudes, Culture and Successful Conduct Codes

In political science literature, several political phenomena are explained on the basis of political culture, that is the values and attitudes shared by a group. The literature on parliamentary ethics is no exception in this respect as it also emphasizes the role of political culture.

What role does political culture play with regard to parliamentary ethics? This question has two distinct meanings. On the one hand, it asks whether the existence of a specific political culture is conducive to the enactment of ethics reforms, while on the other hand it asks whether the existence of a specific political culture affects whether and to what extent ethics reforms are successful.

A study conducted by Marshall R. Goodman, Timothy J. Holp and Karen M. Ludwig revealed that there is no detectable relationship between political (as well as institutional) culture and whether ethics reforms are enacted. Ethics reforms, the attempts to create ethics regimes are generally a response to forces other than political culture. According to Goodman, Holp and Ludwig ethics reforms are made to respond to media investigations, scandals, and falling levels of trust among the public³⁴.

On the other hand, scholars have pointed out that cultural factors, such as, the existence of a common political culture, a common set of political values and standards is a necessary condition for the success of ethics reforms. As Skelcher and Snape point out the success of an ethics regime requires the existence of a homogenous political culture, that is of a common set of attitudes and values³⁵. A code of conduct functions properly under three (cultural) conditions: 1) if the individuals, whom the code is intended to regulate, share the same attitudes and values; 2) if they have a shared view of what are the problems that the code is supposed to eliminate; 3) if they have a shared view of how those problems can be eliminated.

Yet, this is not always the case. A recent study of the ethical standards of the British MPs have revealed not only that there is no common set of values and attitudes, but that there are quite different ethical standards. According to Mancuso "there is a multiplicity of ethical standards operative in the House [of Commons]. The conventional view that a common standard guides the behavior of MPs is simply incorrect. On many important issues there is stark disparity among MPs as to what constitutes acceptable behavior, and many are engaging in activities that other find reprehensible"³⁶. Mancuso pushed her analysis a step further. By investigating MPs' tolerance for conflict of interests and constituency service and how the relationship between the two types of tolerance, she was able to identify four distinct ethical types.

One of the more interesting points emerging from the Mancuso study is that all British MPs condemn corruption and criminal behavior. They also "condemned activities such as bribery, blatant misappropriation of public funds and other clear statutory violations" but Mancuso went

³⁴ Marshall R. Goodman, Timothy J. Holp and Karen M. Ludwig, "Understanding State Legislative Ethics Reform: The Importance of Political and Institutional Culture", in *Public Integrity Annual*, CSG & ASPA, 1996, pp. 51-57.

³⁵ Chris Skelcher and Stephanie Snape, "Ethics and Local Councillors: Modernising Standards of Conduct", *Parliamentary Affairs*, 2001, pp. 72-78. This point is made on p. 74.

³⁶ Maureen Mancuso, "Ethical Attitudes of British MPs", *Parliamentary Affairs*, vol. 46, n. 2, (April) 1993.

on to say, "in the problematic grey areas of constituency service and conflict of interest, the ethical consensus begins to unravel. Yet it is precisely in these areas that MPs are most likely to face dilemmas in their personal conduct"³⁷.

The fact that there are quite different ethical standards has important implications and something that reformers should take into consideration before enacting ethics reforms. If there is no consensus among MPs about what constitutes improper behavior, about the nature of the ethics problems, and about what changes should be made to make the ethics regime work, any ethics reform is bound to fail. This means that to make ethics reforms and ethics regimes work it is of vital importance to promote a common set of civic attitudes and ethical values among MPs.

Training

Legislative Training, that is the training of legislators, represents one way in which a common set of civic attitudes and values can be promoted. Parliamentary Training

- by clarifying what is misconduct,
- by presenting findings of studies concerning (the roots of) misconduct,
- by showing that misconduct undermines the legitimacy of democratic regimes and may threaten their survival (in newly established democracies),
- by raising the awareness of the importance of eliminating misconduct,
- by identifying ways in which misconduct can be eliminated

can play a crucial role in making ethics reforms and ethics regimes succeed.

Part Four: Conclusions and Recommendations

Ethics reforms and the establishment of ethics regimes serve two purposes. Ethical regimes are created with the clear intention of preventing misconduct and corruption from occurring. They do so by creating incentives for parliamentarians and legislators to perform their functions in an ethical manner. This is what we have called the internal function. Ethics regimes and ethics reforms also serve an external function. Ethics regimes are created to reconstruct the public confidence in public officials and institutions.

We have also pointed out that codes of conduct are one of the key elements in the establishment of an ethics regime. In spite of the differences between the various codes of conduct, conduct codes are characterized by some common features: they all specify what types of behavior are acceptable and what types of behavior are not acceptable (misconduct) and they also establish sanctions for violations of their dispositions.

In this paper we have discussed what conditions are more likely to make ethics regimes succeed. We did so by discussing whether the effectiveness of a conduct code is affected by the presence of sanctions, by the type of institution in charge of punishing violations of the code, by

³⁷ Maureen Mancuso, "Ethical Attitudes of British MPs", *Parliamentary Affairs*, vol. 46, n. 2, (April) 1993.

the political culture of the individuals that the code is supposed to regulate, and by legislative training. Building on previous research we observed that while the presence of sanctions does not influence the effectiveness of ethics reforms, political culture may play a key role in determining whether an ethics regime succeeds or not. Specifically, we stressed that the success of conduct code is closely tied to whether the individuals that the code is supposed to regulate have a common political culture-common values and attitudes. In all of those circumstances in which this is not the case, it is of vital importance to promote a common understanding of what is appropriate conduct and of what instead represents misconduct, to promote a shared set of moral standards and values. We further suggest that a homogenous political culture can be promoted through legislative training.

What we have said so far has an obvious implication for the international community. Several international agencies, donors and organizations have long been concerned with promoting good governance as a way of consolidating newly established democratic regimes and of creating the conditions for sustainable development. If the elimination of misconduct, corruption and other forms of unethical behavior is necessary for the promotion of good governance, if misconduct can be eliminated by successful ethics reforms, and if these reforms succeed only if there are shared ethical values, and if these values can be promoted through legislative training, then the international community needs to understand the importance of training legislators. International donors need to understand the importance of allocating resources to finance legislative training, while international agencies and organizations need to understand how can best practices be best promoted. Ethics reforms and regulations are not adopted in a vacuum; people who have different beliefs instead enact them in countries with histories. The plurality of political beliefs, views and ideas is a condition without which democracy would not exist. And this plurality of political beliefs needs to be protected and preserved as a great good. But this plurality of beliefs should not be confused with a plurality of ethical standards, with confused ethical standards or, in some unfortunate circumstances, with the absence of ethical standards. It is important for legislators to have clear, and unanimously agreed, understanding of what is proper conduct and of what is not. This is ground on which successful ethics regimes can be built. And it is through training and learning that the international community can help legislators prepare this homogenous ethical ground. This is a very important task for the international community and it is not one that should be overlooked.

