

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.

