Deliberative Business Ethics

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ABSTRACT. Social norms are an important input for ethical decisions in any business context. However, the cross-cultural discovery of extant social norms presents a special challenge to international management because norms may be inscrutable to outsiders. This article considers the contribution of Integrative Social Contracts Theory (ISCT) to the analysis of social norms in business ethics. It questions the origins and dynamics of norms from a sociological perspective, and identifies a tension between prescriptive efforts to make norms obligatory and positivist accounts that describe norms as evolving and unstable. In the presence of dynamic and incomplete norms, managers can either deliberate with stakeholders to make norms flexible or codify norms to make them rigid. This essay argues that deliberation is the only reliable method for anticipating emergent norms.

KEY WORDS: business ethics, social norms, ISCT, deliberation, stakeholders

Introduction

The expansion of international business calls for a sophisticated means of moral decision making when different communities express conflicting norms. Integrative Social Contracts Theory (ISCT) provides such a means by offering an innovative process for managers to understand and balance the competing norms that they encounter in the communities where they do business (Donaldson and Dunfee, 1994, 1999). The theory is especially adept at helping managers to recognize the importance of other cultural values without losing sight of fundamental moral commitments.

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Though international in scope, ISCT depends upon an extremely local conception of ethics within business. The basic unit of analysis in the ISCT decision-making process is the norm, and ISCT requires managers to assess the validity of norms at the community level before recommending a course of action. However, despite the theory's emphasis on social norms, there is considerable uncertainty about how best to detect a community's moral rules.

Dunfee (2006) critically reviews the applications of ISCT in the field of business ethics and finds that social norms, which ISCT calls "authentic norms," are ignored (Hartman et al., 2003), underutilized (Hisrich et al., 2003), or inappropriately aggregated (Spicer et al., 2004). Dunfee compares the application of ISCT without social norms to "swinging a golf club with one hand," and argues that, "in most cases, authentic norms will provide the essential meat for the ethical analysis" (2006, p. 306). Since Dunfee himself was second author on one of the articles that he criticized (Spicer et al., 2004), it seems unlikely that these omissions result from a poor understanding of the theory. I suggest instead that the use of social norms in applications of ISCT has been stymied by the challenge of detecting social norms and rendering them concrete, a challenge that also hinders the use of ISCT in the offices and boardrooms of business practice.

Research and managerial applications of ISCT depend upon a reliable method for discovering norms. This article attempts to develop such a method. Here, I discuss Donaldson and Dunfee's conception of social ("authentic") norms as distinguished from universal norms ("hypernorms"). The overall ISCT framework provides a rich background for prescriptive and descriptive analysis. However, the technique by which Donaldson and Dunfee suggest that norms be identified is insufficient for the task. Donaldson and Dunfee look to corporate codes as sources of normative insight, but these are only

the weak shadows of the actual normative cultures that exist within business communities. The full detail of a moral community cannot be observed externally nor can it be codified internally. In fact, considering the observational detail necessary to understand and describe norms successfully, I will argue that no external surveillance is sufficient to detect norms conclusively. Only active deliberation with affected communities offers sufficient opportunity for a community's normative self-discovery and external expression.

Recent scholarship (Phillips and Johnson-Cramer, 2006) has suggested that ISCT would benefit from a more dynamic conception of norms, one that recognizes their circumstantial nature. Based on this line of reasoning, I caution managers against using codified rules as proof of authentic norms. This article argues that proxies for authentic norms, particularly codes of conduct and statements of responsibility, are often signs of a devolved state of ethical practice, which will be described here as *mechanical business ethics*. Conversely, deliberation subjects managers to external restraint even when normative cultures are weak and divided. Deliberation also affirms the role that managers play in the genesis of new norms. Deliberative business ethics chooses process over product, recognizing the importance of local norms without ascribing a false concreteness to the norms that are most easily discovered.

The structure of ISCT

ISCT is a prescriptive theory that instructs managers on what they ought to do. However, the prescriptive theory is grounded in empirical reality; the theory uses descriptive observations of norms as the basis for analysis. As a focal phenomenon, ISCT considers the problem of international management where corporations operate in multiple countries with widely differing moral rules. For example, a gift in one culture may be a bribe in another, and even within cultures there can be normative disagreements. A practice of gift giving that may be deemed acceptable by a bureaucrat may be wholly objectionable to citizens who lack institutional power (Dunfee and Warren, 2001). In comparing and responding to differing moral communities, ISCT

relies upon three principal types of norms: authentic norms, hypernorms, and legitimate norms.

Authentic norms are established through the attitudinal and behavioral agreement of a community. If a supermajority of the members of a community agrees to the rule, "one should not bribe a public official to win a contract," then an authentic norm against bribery exists within that community. Authentic norms are the focus of this article. For an authentic norm to exist, members of a community must have a right to freely exit the community and to voice their concerns about its norms.

Pragmatically, it is important for managers to identify the authentic norms that define their contexts, but this does not lead directly to the view that managers should follow every norm that they identify. Authentic norms alone have no specified moral valence. As Donaldson and Dunfee acknowledge, it is entirely possible for authentic norms within a given organization to support harmful or unethical practices like discrimination (1999, p. 149).

Many norms within organizations have complex and conflicting audiences. For instance, Homans (1961) uses the example of norms that limit production within industrial settings. These norms benefit workers by weakening managers' ability to demand piece rate increases, but they also reduce overall productivity and limit the agency of individuals to choose how hard to work. Many norms have a similar complexity in their application, benefiting some individuals at the expense of others. Norms of executive compensation, for instance, may benefit CEOs at the expense of other corporate stakeholders (Bebchuk and Fried, 2004).

Donaldson and Dunfee address the mixed bag of authentic norms using hypernorms to determine which authentic norms are legitimate. Hypernorms are established through a convergence of moral thought. Hypernorms are universal statements that bind the actions of managers in all contexts, irrespective of local culture. For instance, there may be a hypernorm against murder for profit. Even in a community of contract killers whose consensus view is in support of their trade, Donaldson and Dunfee would assert that a manager is nonetheless obliged to avoid killing for profit.

ISCT's ethical pluralism is thus safeguarded by two countervailing ideas: hypernorms, which are meant to be cross-culturally relevant and nearly

universal in scope, and authentic norms, which are meant to be narrowly circumscribed by individual communities. Authentic norms permit pluralism and hypernorms constrain it. However, the supportive function also runs in the opposite direction. Hypernorms support pluralism by protecting individuals. Without a set of meaningful, nearly universal protections, every community would wish for its local norms to become universal.[1]

Legitimate norms are authentic norms that pass a hypernormative test. When an authentic norm does not violate a hypernorm, it is said to be ''legitimate'' and therefore obligatory. A legitimate norm exists if four conditions are met: the supermajority of a community believes in the norm, the supermajority of a community behaves consistently with the norm, the norm does not violate a hypernorm, and the members of the community are free to exit and to express their concerns publically. ISCT makes the prescriptive claim that legitimate norms should be followed by all managers.

Donaldson and Dunfee justify their prescriptive assertions by using a social contract framework. They conceive of two forms of social contracts: ''hypothetical social contracts,'' used to examine the normative arrangements that would be agreeable to all rational persons assuming conditions of pluralism, and ''extant social contracts,'' which are said to actually hold communities of people together. Donaldson and Dunfee argue that in a hypothetical social contract nearly everyone (all reasonable persons) would choose for their social environment to be constructed in a way that allows for individual moral communities to establish and maintain their own norms, provided that those norms adhere to reasonable boundaries.

For those who are willing to imagine how a rational person would respond to a hypothetical situation and believe that such an imagined response constitutes a moral baseline for how individuals ought to behave, ISCT may be deemed acceptable and useful with relatively little reinterpretation.[2] Important moral theories have been constructed in these terms (Kant, 2002; Rawls, 1999). However, ISCT's audience should not be limited to social contract enthusiasts. As ISCT offers careful consideration to the local norms of business, and because it offers an extremely open architecture for relating prescriptive and descriptive analyses of norms, the theory is also likely to earn enduring influence among empiricists. Nonetheless, some translation may be necessary to make sense of ISCT in social science terms.

Authentic norms as social norms

One reason why ISCT fits so well with empirical research is that its depiction of authentic norms is broadly consistent with the conception of norms endemic to social science research (''social norms''). This section identifies two social science conceptions of norms that are consistent with authentic norms: ''norms as ought rules'' and ''norms as recurrent patterns of action.''

Norms in ISCT are closely related to norms in social science, especially sociology. For example, Homans defines a norm as, ''a statement made by a number of members of a group, not necessarily by all of them, that the members ought to behave in a certain way in certain circumstances'' (1961, p. 46).[3] Donaldson and Dunfee's authentic norms, hypernorms and legitimate norms prescribe or proscribe a possible course of action in a way that is broadly consistent with Homans' sociological definition. However, as a matter of usage, only authentic norms are deployed descriptively in a way that mimics the methodological orientations of the social scientist.

Social science offers a second view of norms, one that may be somewhat more compatible with ISCT. On this view, norms are recurrent patterns of action, or, ''what people do.'' Prudence, convention, fashion, and tradition guide many actions for which there is no clear rule, yet behavioral isomorphism is nonetheless observed. Though many social scientists view such behaviors as sufficient conditions for the identification of ''norms,'' ISCT views the presence of such behaviors as necessary, but not sufficient. In Donaldson and Dunfee's view, individual attitudes must explicitly value the ''normal'' behaviors in order to identify a ''norm'' (see 1999, p. 39). While ISCT norms are consistent with ''ought rules'' and ''recurrent patterns of action,'' other more global[4] and adaptive[5] conceptions of norms are less consistent with Donaldson and Dunfee's use of the term.

Describing norms and prescribing norms

I use the words "descriptive" and "prescriptive" to distinguish between empirical observations about what *is* and normative claims about what *ought* to be. The is/ought distinction has been the subject of an ongoing discussion in business ethics (Donaldson and Preston, 1995; Freeman, 1994; Weaver and Trevino, 1994), and a much older conversation in philosophy. Here, I intend to distinguish between two methodological orientations that are strongly reinforced by disciplinary boundaries.

Despite the similarities between social norms and authentic norms, the eventual prescriptive use of authentic norms in ISCT shapes and distorts the concept.[6] Social science rarely intends to select which norm should be followed, but ISCT expressly uses authentic norms in pursuit of a prescriptive approach to business ethics. As a matter of research practice and technical writing standards, social scientists avoid prescriptions about how individuals and groups ought to behave. Explicitly prescriptive claims are unacceptable in many social science publications, and many researchers intentionally assume a relativist's perspective in an effort to avoid polluting observations with value judgments. For example, when Bourgois and his colleague (2009) conducted ethnographic research in the "shooting holes" frequented by San Francisco's heroin addicts, they assumed an explicitly non-judgmental perspective. As Bourgois and Schonberg describe it:

> Our approach… is premised on anthropology's tenet of cultural relativism, which strategically suspends moral judgment in order to understand and appreciate the diverse logics of social and cultural practices that, at first sight, often evoke righteous responses and prevent analytical self-reflection. Historically, cultural relativism has been anthropology's foundation for combating ethnocentrism. For us, it has also been a practical way to gain access to the difficult or shocking realities of drugs, sex, crime and violence (2009, p. 7).

This passage illustrates the tension, from the empiricist's perspective, in attempting to simultaneously describe and prescribe. However, this is precisely what ISCT asks researchers and managers to do. The responsible manager faces a difficult task if she is to simultaneously judge and explore, and she may find that her judgment excludes her from the community that she wishes to understand.

However, the relationship between prescriptive and descriptive orientations is more problematic than the tension between research methodologies. The real problem in ISCT results from establishing moral imperatives based upon prevailing social norms. ISCT suffers from a fallacy of evolutionary inference. The existence of a norm is not particularly good evidence that it should be followed, even if the norm was selected. Norms, as functions of group life, may support communities. We can presume that the existence and predominance of a norm indicates its usefulness,[7] but we cannot directly infer that a norm "works" just because it exists. Trivially, most norms work for someone, but this should not be taken as an indication that the norm is functionally superior to other alternatives. We also cannot infer function from acceptance at a community level because individuals' levels of acceptance of and submission to a norm may range from begrudging acquiescence to ardent assent.

ISCT recognizes that norms are a property of communities, and that communities, not philosophers, generate most norms. However, social norms may or may not motivate action. Should a manager, as a new entrant into a community, accept all of its norms that do not profoundly offend her sensibilities? ISCT would suggest that she should. Though this may be appropriate while the manager gets her bearings, eventually we should hope that the manager would share her own background with the community that she visits. Perhaps she could impose some of her own norms if she thought that they might displace dysfunctional norms within her new community.

The sections below consider the distortion of the concept of a "norm" in its prescriptive use. Unlike social science treatments of norms, authentic norms are either on or off. They mix behavior with attitudes and ignore the origins of norms. Authentic norms are largely static, leaving little room for compromises between situations. Authentic norms exist whether they are enforced or not. And the best or "right" norms are presumed to have already emerged. In each of these ways, authentic norms are in disagreement with social norms as social science describes them.

If authentic norms were entirely synthetic constructs, then the variance would be of less concern, but authentic norms are intended to describe a real world phenomenon. Where norms are misunderstood,

the analyses based upon them may reach incorrect conclusions as well.

Norms Distorted

Authentic norms are binary

The difference between social science's view of norms and ISCT's view of norms is apparent in the dichotomization that ISCT deploys. ISCT treats each norm as binary; a norm is either turned on or turned off within a given community. Social scientists generally treat each norm as continuous; a norm is more or less obligatory, more or less powerful, and more or less salient. In the United States, there are norms against murder, embezzlement, public nudity, and talking with one's mouth full of food. All of these norms exist, but at various intensities. A violation of one norm will be perceived as more serious than the next. Though Donaldson and Dunfee make room for the prioritization of conflicting norms, their attempt to capture variations finally reduces norms to a binary function. In some ways, this result is inescapable. Managers must choose to either allow a norm to guide their actions or to disregard it in favor of other concerns. Unfortunately, dichotomization obscures the measure of how strongly a community believes in a norm, a crucial factor in managerial decision making. From the perspective of the decision maker, binary norms imply false concreteness. Many norms are conditional, complex, constrained, partial, or negotiable. Some norms are even contradictory or mutually exclusive.

I do not claim that managers must quantitatively measure the intensities of normative sentiments. There are established procedures for doing so,[8] but the process is cumbersome and not likely to be practically useful. It is nonetheless worth noting that ISCT's depiction of norms ignores a very important feature of normative life. By dichotomizing norms, ISCT has simplified the normative landscape that managers inhabit and stripped one of the key indicators that a manager might use to resolve normative conflict: the extent to which norms matter to the people who enforce them.

Authentic norms are nested

Donaldson and Dunfee provide "rules of thumb" for conflicting norms, including the suggestion that authentic norms asserted by larger communities should supersede the norms of smaller communities. Thus, if a chemist is an employee of a corporation, a member of a professional group, and a citizen of the United States, norms at the national level should dominate norms of the professional group and norms of the professional group should dominate norms of the employing firm. This works fine, assuming a cosmopolitan state where larger organizational units contain fewer and less specific norms that are more generally acceptable. However, among subordinated subgroups in fractious societies this understanding would be objectionable. Kurds in Iraq and Turkey, Basques in Northern Spain, and Muslims living in Israel may all prefer the norms of their cultural communities to the norms of their political communities, and each may expect the businesses with which they deal to do the same.

As a descriptive problem, it is simply not correct to believe that the norms of larger organizational units will dominate the norms of smaller units. The Muslim historian Ibn Khaldūn articulated this property of groups with the word "Asabiya," or "group feeling" (Khaldūn, 1967). Some groups have a capacity to sustain norms that others do not. It is a strange contortion of empirical reality to imagine norm-generating communities as nested matryoshka dolls where each entity subordinates that which it encapsulates, and managers should be warned against this view. If anything, the most entrenched and revolutionary conflicts operate within a nested subset of a larger community.

Authentic norms mix behavior with attitudes

Like social scientists, ISCT looks to the predominance of a regulated behavior as an indication of a norm's existence. However, social scientists tend to distinguish between a norm's existence and the extent to which it is followed. These two aspects are merged in ISCT's attitudinal and behavioral conception of norms. It is possible, even common, for norms to exist and be generally disregarded. Most realtors and loan officers would agree that it is morally dubious to process an expensive adjustable rate mortgage on an overvalued property, but many have done so without informing the client who they believed was making a mistake.

In Donaldson and Dunfee's account, a norm does not exist if it is ignored. This is a necessary condition of deciding which norms are obligatory for managers. However, in the very early stages of a norm's emergence, attitudes may precede behaviors. Moreover, norms among small portions of a population can present a serious threat to an organization's reputation (Vogel, 2005). As such, managers who wish to anticipate scandal and to manage cultural strife must concern themselves with attitudes that are not expressed in behaviors and with attitudes that are expressed among minorities of a relevant community. These concerns receive little attention in ISCT.

The empirical task of identifying normative attitudes and behaviors is relatively complex in and of itself. It seems that researchers have found information on attitudes less accessible than information on behaviors (Dunfee, 2006, p. 316), and available data may be incompatible with the attempted analysis.

Authentic norms do not allow for compromise

In ISCT's specification, a supermajority of community members must support a norm in order for that norm to be authentic. This conception obscures the competing interests that seek alternative norms. In reality, many norms represent conditional compromises between parties whose interests do not fully align. For example, at dinner, a child may wish to eat pizza and watch television. A parent might prefer to eat salad with the TV off. Observing the child and parent eating pizza together without television might give an observer the wrong idea about the norms and habits of the family. Yet, both behaviors may reverse the next day.

With sufficient observational detail, these nuances can be recognized and addressed, but most managers lack the time and resources to actually join the communities with which they work. As far as external perceptions go, it is nearly impossible to tell the difference between an isolated norm and a norm that has emerged as a compromise with interdependencies relating to other norms. As a practical implication of this observational barrier, a manager may destabilize the norms of the environment where she is beginning to participate. The anthropology of economic development provides one example of

this. The families within a local community may have developed complex property arrangements that involve sharing resources (Scott, 1999). New economic relations alter these interdependencies and the norms that underlie them.

Authentic norms are self-reproducing

Norms are produced by management decisions so that past choices create norms for subsequent actions. The audience of Donaldson and Dunfee's *Ties That Bind* (1999), the concerned manager in search of guidance, is asked to seek direction in the norms within her business context and the general principles that are inscribed in the codes and classic tomes of her culture and others, but then she must choose. And the choice that she makes is part of a broader trajectory in her business and her community. If the manager chooses well, she may institute norms that are long overdue or affirm norms that deserve her support. If she chooses poorly, she may undermine important norms within her community or prop up harmful norms that have not yet taken root. Norms are both patterns of behavior and rules governing behavior. As such, an individual action cannot be viewed as only adhering to or violating a norm. Individual actions must also be recognized as creating new norms. This is the recursive nature of norms. Moral decision–making is also a process of norm generation.

The application of ISCT benefits from a recursive, learning-centered view of social norms, where individuals recognize that their actions will be generalized, and are made responsible for the generalization of their choices. Though others (Calton, 2004) have argued that an interactive learning process could improve upon the consent procedures specified in ISCT, an updating view of norms has yet to be elaborated for ISCT. There is substantial precedent for a learning-feedback function from Rawls' *reflective equilibrium* (1999), Bowie's ''self-defeating nature of immoral business practice'' (Bowie, 1999), and Aristotelian accounts of business ethics (Hartman, 1996; Solomon, 1993). Without learning and adjustment, managers are severely constrained from improving upon the moral climates in which they operate.

Authentic norms ignore origins

Donaldson and Dunfee downplay the importance of where norms come from. In ISCT, there is no procedural requirement for establishing a norm:

> Norms could be generated in any of a wide variety of ways. After all, moral free space implies that communities should have significant leeway in the manner in which they choose to generate their own moral rules. In some communities, norms may emerge and change through formal processes of debate and decision making…. In other business communities, norms may be formed in a distinctly informal way, evolving out of interactions among members of the community (Donaldson and Dunfee, 1999, pp. 38–39).

ISCT recognizes that norms derive from diverse sources, including tradition, efficiency, agreements, and social contracts (Dunfee, 1991), and all of these can operate at micro- and macro- levels of social order. ISCT also makes room for norms generated directly by formal ethics programs (Donaldson and Dunfee, 1999, p. 98). However, these origins play no role in the question of whether a norm is obligatory. Donaldson and Dunfee take authentic norms as an exogenous factor in their broader framework. On their account, tradition, democracy, and autocracy can each generate authentic norms if the norms are deemed acceptable by the communities to which the norms pertain. And thanks to a flexible idea of community, norms exist at all levels of abstraction. Families, schools, churches, corporations, ethnic subpopulations, and nation states are all capable of generating authentic norms.

ISCT gives little consideration to how authority structures generate norms.[9] Norms are often produced by the rules imposed by individuals in power. In some cases, like surgical training, the local and idiosyncratic enforcement of norms may be well justified by experience and expertise.[10] Other managerial situations may be viewed more critically (McGregor, 1960). However, whether norms are produced by authority structures, ingrained social processes, or community ideologies, norms often require upkeep and some systems are less effective at generating and maintaining norms than others.

Normative systems are the agar in which cultures of norms grow. Social connections, trust (Rousseau et al., 1998; Williamson, 1993; Zucker, 1986) and culture (e.g., Hampden-Turner and Trompenaars, 1997; Robertson, 2002; Vitell et al., 1993), all play a role in growing and sustaining norms. In ISCT, norms are produced by characteristics of communities, their leaders, employee backgrounds, founder backgrounds, moral climate (Vidaver-Cohen, 1998), law, routinized practice, authorities, and intermediaries (Donaldson and Dunfee, 1999, pp. 94–96). However, these external factors are mentioned in passing as evidence of the normative diversity that necessitates a pluralistic approach to international business ethics rather than as a factor in assessing the validity of norms. For that task, the authors turn to the persistent silence of community members who have a right to exit and voice (Hirschman, 1970) as proof that members of a given community accept its norms. It is troubling that the dysfunctional normative systems of many corporate communities are authenticated within ISCT by the mere willingness of individuals to continue participating in the collective activity, but if the attitudes and behaviors of the community support them, ISCT would describe them as authentic.

To some business ethicists this amounts to a defect of consent because, within the contractual schema of ISCT, the reason that authentic norms are said to be obligatory is that individuals are said to have consented to them by virtue of their voluntary membership in a given community. Phillips (1997, 2003) has been critical of ISCT's reliance on implied consent in the imposition of norms, arguing that the actions of individuals as participants in communities do not constitute consent. The considerable challenges in obtaining cross-cultural consent (Husted, 1999), are justified by the cross-cultural understanding of norms that such a process would facilitate. This cross-cultural understanding is not easily achieved otherwise, and represents a crucial step in the ISCT decision process. More generally, a process of deliberation would increase the likelihood that dysfunctional norms could be recognized, criticized, and adjusted, as the members of a community see fit. Though Donaldson and Dunfee do not ignore the external factors that influence norms, they nonetheless fail to recognize that dysfunctional normative systems will generate persistently dysfunctional norms, and that deliberation is the only practical way to eliminate dysfunctional norms.

Authentic norms presume norms

Behavioral rules and recurrent patterns of action, what Donaldson and Dunfee refer to as "authentic norms," are a primary input in the ISCT framework. However, a closer consideration of the origins of norms shows that norms are not evenly distributed across all business contexts and communities; some contexts are more able to generate and sustain norms than others. Integrative Social Contracts Theory has been criticized for its treatment of normative spaces with too few norms (Eastman and Santoro, 2003) and too many (Phillips and Johnson-Cramer, 2006),[11] but the problem of the uneven distribution of norms across normative contexts has not been fully articulated.

Consider three barriers to norm generation: gross inequality, segregation, and discontinuity. These examples identify three distinct forms of social disconnection. Gross inequality generally results in a bifurcated society with relatively limited social contact across class lines. Segregation, formal or informal, is divisive by definition. Whether by race, caste, class, or gender, whether separated with job titles (Bielby and Baron, 1986; Reskin, 1993), educational attainment (Shavit and Blossfeld, 1993), or neighborhood (Cutler et al., 1999), segregation holds people apart. The third barrier, discontinuity, is perhaps the most central problem in the generation of business norms. Discontinuity is caused by the departure of important components of a social network (Dess and Shaw, 2001), short-term business presence, impermanent hiring policies (Nollen, 1996), immigration (Miles, 1982), or newness (Aldrich and Fiol, 1994). Discontinuity leads to a workplace that is divided by time and unable to stabilize to build social connections. Note that "weak normative systems" or divided social groups may actually produce more norms rather than fewer (Phillips and Johnson-Cramer, 2006; see also DiMaggio, 1991), but that these norms, which conflict with one another, will be less stable and less likely to result in social sanctions. Conflicting normative systems are factious and divided, and norms are weak in the sense that individuals incur a great personal cost to impose sanctions.

A community's social capital (Putnam, 2000) also plays a role in the generation and maintenance of norms. Social capital helps to maintain reciprocating behaviors and beneficial social norms (see Adler and Kwon, 2002; Portes, 1998).[12] When communities are more divided, they should not be expected to generate the same norms as communities that are relatively integrated. Divisions invalidate informal social sanctions that operate by crossing from professional circles to personal circles and back. Divisions that operate within formal power differentials are especially problematic. If a permanent underclass becomes sufficiently disenfranchised within a society's dominant institutions, the subordinated class will lack the sanctioning power to generate norms that include elites. Less formally, divisions reduce communication and shared understanding, the bases of moral sympathies and conflict resolution processes. The breadth and depth of this argument is beyond the scope of this article, but even a casual consideration of normative systems illustrates the power that these systems can have over the inputs of an ISCT decision.

Alas, some of the most sensitive contexts, characterized by persistent inequality, segregation, and discontinuity, will provide the least advice to a manager's ISCT decision-making process. Norms within these contexts are unformed or prejudiced by the weakened positions of individuals and the lack of social cohesion. For a manager to utilize norms, she must first create them, because the norms that she may find are likely to be largely corrupted by the underlying social organization.

Authentic norms are unenforced

Strong normative systems require that agents have power over one another. Individuals must have some means of policing a violated norm, a process that is receiving increasing attention in business ethics (Warren and Crowe-Smith, 2008). Coleman (1990, p. 116) illustrates the importance of sanctions with the example of an investment banker who fails to disclose the copyright conflict involved in a film for which he seeks backing. The undisclosed intellectual property dispute leads to considerable loss for the investors who unwittingly enter into the controversy. There is little doubt that the investment banker has violated a norm by not disclosing the material information to his clients and peers. The question is whether the investors who suffered the

injury will ever choose to do business with the deceptive banker again. Coleman argues that the wronged investor will only punish the banker if the expected value of policing the norm is greater than the expected loss from missing a future opportunity. The expected value of this loss depends, in turn, on the substitutability of the investor's capital. If the loss of a single investor is not costly, then the single investor has no incentive to enforce a sanction because the only one losing would be the investor. Coleman asserts that in tight, small communities, policing functions may extend an additional degree: business people would not only refuse to work with the banker directly, but would also refuse to enter transactions with anyone who did business with him. This intentional isolation, if feasible, creates much stronger incentives than actions focused on one person alone. Coleman's analysis discounts the possibility of revenge taking that goes against the self interest of the avenger, which I take to be a likely outcome depending on the details of the situation. However, his approach brings us to an important system-level perspective on norms and their generation. As norms require maintenance and must be developed and nurtured by the interests of individuals, the operant norms we observe in the world are again limited by the systems in which they are embedded. Failed enforcement mechanisms are often the mechanisms that underlie disparities in norm generation between communities outlined above.

Because social scientists are often interested in how and when norms "work," they often emphasize internalization and enforcement. These mechanisms separate norms from simple rules, and keep them alive. Some theorists argue that norms need to be internalized (Durkheim, 1995) or to have individuals apply internal rewards and punishments to themselves (Coleman, 1990; Durkheim, 1997). Others are more interested in external sanctions and social enforcement (Blake and Davis, 1964; Scott, 1971). The strength of enforcement varies across norms and contexts, as does the adherence to a given norm. It is often the case that patterned behaviors are coextensive with a set of responses, enforcement mechanisms or incentives which attempt to maintain the pattern within a given social context. However, some norms are weakly enforced and broadly ignored, raising the question of whether they are in fact norms. Horne writes:

For a norm to exist there must be agreement among group members regarding the validity of the rule and the right of group members to enforce it. A rule advocated only by an individual is not a norm at all but merely a personal idiosyncrasy… some level of consensus is necessary (2001, p. 131).

Donaldson and Dunfee take a similar position, but their view differs insofar as it does not focus on the right of group members to enforce the norm.

In a brief discussion of enforcement processes, Donaldson and Dunfee do not clearly specify the relationship between norm support mechanisms and the authentication of norms,[13] but ISCT might benefit from an increased focus on actors' concern with the behavior of others. Consider the problem of distinguishing between pragmatic action and strongly held beliefs, as illustrated by Cooter, "Taking off your hat to escape the heat is different from taking off your hat to satisfy an obligation. The former is a regularity and the latter is a norm" (1996, p. 1656). ISCT offers us two means for separating regularities from norms. First, we can inquire into the attitudes of a given community to determine whether the absence of hats is an intentional prohibition, or merely a trend. Second, we can look for proxies that might indicate a norm's existence, like a sign or a written dress code. Both are reasonable proposals, especially if one wishes to get the answer right the first time, but a social scientist might propose a third, experimental option: wear the hat and see how peers respond. Check in with them to see if there are any undisclosed concerns. Responses might range from a formal admonition regarding dress, to light chiding, to subtle glances, to no response at all. On the enforcement-based view of social norms, these responses should be good insights into norms, and they will be particularly good if the workplace has the empowered protections of voice specified within ISCT.[14] Note however, that the first and third options require direct interpersonal communication, preferably between colleagues that have some degree of trust and mutual respect. Otherwise, distaste for the violation of a norm may simmer beneath the surface but never be acknowledged in public.

There is tremendous variation in how people respond to violations of norms. And these variations are important sources of insight into the persistence

of a given norm. Coleman (1990) captures variations in enforcement in the following example:

> A three-year-old child, walking with its mother on a sidewalk in Berlin, unwraps a small piece of candy and drops the cellophane on the sidewalk. An older woman who is passing by scolds the child for dropping the cellophane and admonishes the mother for not disciplining the child. A three-year-old child walking with its mother on a sidewalk in New York City, unwraps a piece of cellophane and drops the paper on the sidewalk. An older woman is passing by but says nothing, not even noticing the action of the child (p. 245).

The difference between the experiences in Berlin and New York are not reducible to the attitudes of the two older women. Both may hate littering. However, one of them is actively involved in monitoring the behavior of children and the performance of parents within her community with respect to littering behavior. Over time, we might expect the anti-littering norm in Berlin to remain stable, whereas we might expect the New York norm to degrade. Unlike Berlin, where intergenerational transmission of the norm is socially sanctioned, in New York every parent can choose for herself whether or not to inculcate a norm against littering.

Imagine that a future New York is full of litter while the streets of Berlin are clean. For a manager whose company operates in both Berlin and New York, the difference in norms would be clear. However, should a manager be any less concerned about the trash generated in New York than in Berlin? Generally, ISCT would advise a manager to obey the local norm unless it is superseded by a norm that has a broader scope. However, the manager might reasonably ask whether New York has a norm in favor of littering, or merely lacks a norm against littering. When a manager faces a normative vacuum, is she to behave as though there is a norm, or as though there ought to be a norm? We might hope that the manager would hold herself to the higher moral standard, but this seems to be precisely the sort of normative superiority complex that ISCT was designed to ward against. ISCT offers little insight into how an individual might shift a norm that she found to be ethically (or aesthetically) distasteful. Instead, it asks the manager to set aside her European distaste for trash and to embrace the shamelessly sullied streets of New York.

Authentic norms are observable in codified norms

If the manager thinks that the New York norms are retrograde, perhaps she should say so. For her personal safety, she may want to avoid lambasting the littering natives and insulting their parenting styles, but she can certainly open a dialog among her employees and within the sphere of her community. So often, the answer to complex moral situations is first to talk about them, hopefully with as many individuals and groups that are affected by a decision as possible. Alternatively, a manager can look to the written rules to define her behavior. She might find an unenforced city ordinance against littering or some other written rule that could defend her moral instincts that the firm should avoid contributing to litter.

In situations of this kind, recourse to rules may offer little or no value, especially when the norms that are written are profoundly disconnected from the norms of practice. Even so, this is precisely the practical action that ISCT would recommend. The following two sections argue against codified rules and for deliberation as a stable and effective process for detecting normative arrangements and creating norms where there are none to follow.

Deliberative business ethics

In the spirit of ISCT, deliberation between managers and stakeholders recognizes the importance of local norms. Others have suggested that ISCT can be fruitfully merged into community consultation (Van Buren, 2001) and dialogic stakeholder engagement (Reisel and Sama, 2003). However, the deliberation also conflicts with the rarefied and external contemplation of norms that ISCT seems to recommend. The contrast is highlighted in a related discussion from feminist business ethics, where it is suggested that listening is a primary task of management:

> Listening face-to-face to the least advantaged member of society is a great deal more effective than trying to

imagine oneself as the least advantaged member, particularly while one is shrouded under a veil. (Derry, 1997, p. 12).

There are two very different avenues to understanding and compassion. Derry suggests that imagining is less useful than interacting, an argument that is fundamentally aligned with deliberative approach to business ethics.

Deliberative business ethics requires that managers involve the communities with which they do business in their decisions and that they seek consent before acting and feedback thereafter. It requires an open and inclusive decision process that does not presume that extant norms will dominate or survive the decision process. There is no guarantee that such an ethic will always get the answer "right," but it is almost certain that the answer will be informed. And more importantly, there may not be a "right" that can be construed externally and *ex-ante*. Given the complex processes that result in the formation of norms, some norms are the result of a dilemma rather than an exogenous answer to it.

The objective of a deliberative business ethic is to develop and maintain a normative environment that supports the social and economic functions of commerce. In deliberation, the most important norms will be easily identified and weaker norms fall into line to be used or discarded as the community requires. Hence, it has always been that some norms are maintained at personal and collective cost, and others are let go when they no longer serve the interests of their communities.

What I call deliberative business ethics, and suggest as the first stage of an ethical analysis, is a radical departure from ISCT's original exposition. I do not suggest that business ethics can be easily or fruitfully pursued through a mere awareness of the relevant communities; in fact, I believe such an exercise to be practically impossible. Norms can be observed, recognized, and understood through deep engagement, but the evolving nature of business and technology requires more than that. It requires that new norms be established and agreed upon through real agreements with real consent (Phillips, 1997), and this consent must be actively maintained through an ongoing collaborative process. Managers can learn valuable lessons by studying the communities with which they do business, but the external

construal and fixation of norms is not possible, and perhaps not desirable.

Stakeholder theorists like Freeman (1994; see also Phillips et al., 2003) have a bold vision for such collaboration, one that explores new frontiers of value through better understanding and improved collaboration. Freeman hopes that corporations will truly benefit everyone they touch through the mutual advantage of voluntary collaboration. My aspirations for corporate conduct are somewhat humbler. At the least, deliberative business ethics should be honest. Even when scarce resources are being divided and important interests receive little or no compensation for the organizational burden that they bear, at least their burden will be recognized.

Mechanical business ethics

Donaldson and Dunfee seem to view corporate codes as a triumph of ethics and a motivating force for the improvement of practice. They recommend codes as one of several places where managers can seek authentic norms (1999, p. 105). They do not say that all codes are authentic, but they do suggest them as evidence to be weighed with other behavioral and attitudinal indicators. I would argue instead that managers should be cautioned against the misuse of codes, and reminded that norms are much more likely to be engendered by enforcement, incentives, and sanctions than they are to be made real by the aspiration of a code of conduct. There may be room for certain corporate codes in the process of deliberation, but as a means of clarifying to newcomers what the organizational insiders already know.[15]

At their best, codes are merely levers for internal and external stakeholders to hold organizations and organizational actors accountable by stating what is obvious to nearly everyone. At their worst, codes present an ethical façade that is only marginally related to manifest organizational norms, to be treated as the punch line of a joke about how one should behave within an organization ("Check the code of conduct!").

Many rules are sufficiently incongruous with practice to debilitate an organization if they are followed. A "work-to-rule strike" is a good example of this, where workers bring production to a standstill by the act of follow the codified norms of

their organizations. Codes that are sufficiently incongruous with prevailing norms authorize the exercise of arbitrary managerial authority through rule irregularities. If every employee could be justifiably punished for violations of the rules, then managers will be able to punish those who they wish when they wish to do so.[16] Classically, this occurs through the process of "reverse whistle blowing" (Laufer, 2002), or scapegoating.

Normative systems and their enforcement mechanisms are fundamental to business practice. Norms contextualize managerial behavior and form an interpretive frame for the judgment of organizational and individual actions. As norms are so crucial for the operations of business, managers may wish instinctually to manage norms as they do other parts of business life. One natural tendency in management is to systematize persistent problems. The dominant strategy for systematizing norms results in the mass promulgation of codes and rules specific to every community and level of analysis. However, as natural as this may seem, the promulgation of codes and rules does not necessarily achieve the desired end, especially given the dynamic, ephemeral, and conditional nature of norms. This section considers Roscoe Pound's (1908) critical thinking on how rules tend to propagate and become mechanical. The idea of a mechanical jurisprudence is used to illustrate the worst case implementation of ISCT, a mechanical business ethics. Pound writes that:

> The effect of [any] system is apt to be petrifaction of the subject systematized. Perfection of scientific system and exposition tends to cut off individual initiatives in the future, to stifle independent consideration of new problems and of new phases of old problems, and to impose the ideas of one generation upon another. This is so in all departments of learning. One of the obstacles to advance in every science is the domination of the ghosts of departed masters. Their sound methods are forgotten while their unsound conclusions are held for gospel.... It is in the nature of rules to operate mechanically. (Pound, 1908 pp. 606–607)

In a forceful critique of legal abstraction, Pound introduces the concept of *mechanical jurisprudence* (1908). In Pound's view, social systems have a general tendency to devolve into mechanistic, unthinking reproductions of prior thought until the burden of tradition becomes sufficiently onerous to

remind practitioners of the system's final cause, its value within human community. Pound urges judges toward a sociological theory of law that, by subordinating logic to its instrumental purpose, "is the true way to make rules fit cases instead of making cases fit rules" (p. 613).

Business ethics faces a similar challenge to the one that Pound outlined for law. Recent decades have seen a mass production of corporate codes, voluntary initiatives, and industry standards. The professional practice of business ethics can be characterized in one instance by the abstraction of philosophical and conceptual approaches common in academic research[17] and in a second instance as codified business principles set out by managers and consultants. Business ethics becomes mechanical when the codification of norms yields irrelevant rules, devolving into a mechanical process that disrespects the norms that naturally emerge from commerce or that acts as if rules are operant when they are not. For example, when corporate codes are used to justify harsh punishments for public violations that would have been widely accepted if kept quiet, the codified, regulatory policy of the firm is operating mechanically. It is disconnected from the norms that emerge organically. There may be some cases where codes are lived and breathed within a corporate culture, but it is unclear how any external assessment can determine a code's vitality.

Thus, far I have argued that the behavioral and attitudinal dominance of a norm should not be sufficient to make it obligatory, even if the norm passes a secondary "hypernormative" check. I have argued that the diversity of normative systems implies, not just that local norms will differ, but that many normative arrangements will be dysfunctional or underdeveloped. The final remaining possibility for the external observation of community norms attempts to locate authentic norms among codified rules. If the reader has accepted the premise that exit and voice are not sufficient conditions for obligatory community norms, then an indictment of the proxies for such norms may not be necessary. However, I will argue here that mechanical business ethics, as manifest in irrelevant codes, is a problem in and of itself.

Codified systems of norms have proliferated at every level of business: within firms and industries, down supply chains and between international

organizations. The growth has developed a cottage industry of ethics consultants who justify their fees through the incentives provided by federal sentencing guidelines (Hess et al., 2006; Laufer, 1999) and through the stigmatizing risk that high profile companies face in the wake of moral gaffes. Codes have not gone unnoticed in business ethics. For over 15 years, the question of what, if anything, codes achieve has been subjected to empirical analysis (see McCabe et al., 1996; Schwartz, 2001; Weaver, 1993). Most studies lack good behavioral measures and opt instead to rely upon self-reported wrongdoing, so it is difficult to determine whether inter-organizational comparisons can be meaningfully made,[18] but we can nonetheless be convinced that codes may be an indication of relevant norms if they are embedded in the organizational culture (McCabe et al., 1996). On the other hand, codes can be entirely decoupled from the ethics of the underlying organization. Enron had one of the gold-standard codes of its day (Sims and Brinkmann, 2003), and most other firms that have fallen to internal chicanery have also subscribed to carefully crafted corporate codes.

Codes, like many other external expressions of ethics that we might use as proxies, are sufficiently obvious to corporations and their insiders that these expressions are controlled in a broader exercise of reputation management. Motivated "ethical" managers may still employ codes to increase the consistency of ethical action within their organizations, but we cannot use the codes developed by responsible firms to distinguish them from irresponsible firms. For Donaldson and Dunfee, the self-presentation of corporate codes may not be a problem,[19] and it does not seem to have stopped the empirical studies of corporate codes, which can address the conditional nature of the studied phenomenon. However, if we believe Pound, the propagation of rules that are disconnected from practice is a problem in and of itself. Rules that are not followed encourage individuals to disrespect the rule-making apparatus and the very notion of rules. As Albert Einstein wrote of prohibition, "Nothing is more destructive of respect for the government and the law of the land than passing laws which cannot be enforced" (1988, p. 6). The same is arguably true in the domain of corporate codes and norms, which result in a disrespect for the community or communities for which they were written. According to Einstein, the presence of bad rules undermines the enforcement of good ones.

It would be preferable for businesses to only codify those norms that are actually followed. By Donaldson and Dunfee's admission, a norm is not a norm unless it is normal. In other words, without a manifest behavioral consistency, a manager cannot infer that a norm exists. However, if we cannot trust the proxies of norms, or the codified norms, or even the observed and operant norms, then it seems that we may need to make things up as we go along. Students and managers may be similarly frustrated in their search for quick absolutes and summary answers, but perhaps a model of participatory and inclusive deliberation is the best that we can do.

Conclusion

> The nadir of mechanical jurisprudence is reached when conceptions are used, not as premises from which to reason, but as ultimate solutions. So used, they cease to be conceptions and become empty words…. Current decisions and discussions are full of such solving words: estoppel, malice, privity, implied, intention of the testator, vested and contingent, –when we arrive at these we are assumed to be at the end of our juristic search. Like Habib in the Arabian Nights, we wave aloft our scimitar and pronounce the talismanic word (Pound, 1908, p. 621).

Business ethics has its own talismanic words: insider trading, conflict of interest, corruption, fraud, corporate social responsibility, and compliance. When used well, these words lead to better, more sensitive decision making. When used poorly, these words give a false sense of concreteness and objective truth, making decisions inflexible.

The strength of the ISCT framework rests on its ability to localize a normative inquiry to the relevant communities without losing sight of the ethical big picture. Hypernorms permit a decision maker to defend fundamental moral commitments and protect the interests of the communities where she does business.

Managers may be curious about which norm should prevail in a given situation, and for the ethical manager this information may be sufficient to reach a final decision. However, some managers may wish

to maintain a modicum of ethics, and to merely avoid career-ending misdeeds and other fatal errors. For these managers, the question is predictive; they need to know which norm will prevail, not which norm should prevail. In his classes with undergraduates, Professor Dunfee used a heuristic common to many business ethics classrooms, "the New York Times test" (see also Trevino et al., 2006). Dunfee asked his students to consider how they would look if their actions were published on the front page of the New York Times. The heuristic helped his students to shift perspectives from that of manager to that of a media audience. ISCT achieves a similar shift in perspective, encouraging managers to think beyond their own normative bubbles and to acknowledge the value of perspectives in every community touched by a decision. However, the desired end of ISCT cannot be achieved without the means of a sustained, inclusive dialog. It is only through deliberation that norms can be grown, sustained and culled until the remainder can be worthy of the term, "authentic norm."

Notes

[1]   Hypernorms have been a "lightning rod" (Dunfee, 2006, p. 305) for criticism of ISCT because the normative background for their specification is too vague (Soule, 2004), because the general norms that are easily identified do not provide specific answers (Hartman et al., 2003), because they are overly dependant on the general dictums of decontextualized philosophers (Frederick, 2000), and because they are justified based upon unjustifiable contractual assumptions (Van Oosterhout et al., 2006). Some have argued that the entire concept of a "hypernorm" should be substituted for a more general notion of human rights (Arnold, 2004); others Phillips (1997, 2003) argue that a focus on fairness and reciprocity is the missing ingredient. Whatever their specification, some broader moral framework is indispensable. It is unlikely that a suitable approach to business ethics can be sustained based on authentic norms alone.

[2]   It is perhaps overly harsh to describe the social contract metaphor, as it is used in contractualist reasoning, as imagined. Contracts are much more than a metaphor for business life, a setting where many interactions and transactions are based upon formal or informal contracts between individuals. Van Oosterhout et al. (2006) have argued that business contracting implies a set of moral commitments on its own, and that these commitments

can be used to understand and justify a relatively extensive conception of business ethics. From this perspective, the key contribution of ISCT derives from the theory's recognition of "the freedom of individuals to form and join communities and to act jointly to establish moral rules applicable to the members of the community" (Donaldson and Dunfee, 1999, p. 38). It follows that a contractualist approach to business ethics can be nested into a more general theory of liberal democratic order wherein the limited state regulatory functions are supplemented by the norms of communities that individuals choose for themselves. These norms can be justifiably more extensive than the laws of the state because individuals have a right to exit a community and select another, a choice that is unavailable to most citizens within a state.

[3]   Parsons gives a slightly more specific definition. He argues that norms must include statements "of a concrete course of action… regarded as desirable, combined with an injunction to make certain future actions conform to this course. An instance of a norm is the statement 'Soldiers should obey the orders of their commanding officers'" (Parsons, 1937, p. 75; see also Horne, 2001).

[4]   There are more global conceptions of norms that fit poorly with Donaldson and Dunfee's usage. Sociologists, psychologists and anthropologists use the term "norm" to describe a system of meaning (Fine, 2001) or a shared understanding (Durkheim, 1995). In Durkheim's view, reason itself is subordinated to the social reality of one's own context through the dominant categories of a society's religious, moral and economic institutions. These general cultural orientations are certainly important in working out a cross-cultural ethical decision because they provide the underpinnings for the interpretations of the actions of others (see Robertson, 2002). However, norms of meaning and shared understanding seem quite distinct from Donaldson and Dunfee's conception. These broad background norms would be of little use to ISCT decision makers who seek explicit rules of conduct to be objectified and weighted against each other. Nonetheless, on a process-based account of ISCT, norms of shared understanding may have as much or more weight as ought statements insofar as they facilitate the deliberation through which mutual respect is established.

[5]   Increasingly, norms are being viewed as behavioral equilibria reached by interacting agents and maintained by social sanctions (e.g., Bicchieri, 2006; see also Coleman, 1990). This last definition, a game-theoretic or rational choice treatment, is perhaps the least compatible with ISCT. For game theorists, the payout structure is often the dominant feature reinforcing a given norm,

but payout structures are left out of the direct concerns of decision makers in Donaldson and Dunfee's moral framework. If incentives are to be accounted for, their importance is a secondary consideration derived through the efficiency hypernorm. Though I will not fully develop an incentive-driven normative account for ISCT, I will take from Bicchieri and others a sense of norms as emergent, conditional, conflicting, and sometimes fragile.

6 The descriptive task of norm recognition precedes the prescriptive task of choosing the rules to govern behavior. Donaldson and Dunfee seem to have been inspired by a legal procedure in developing ISCT (Donaldson and Dunfee, 1999, p 15). Intellectual property law requires judges to interpret local norms or "local property rules" (Carter, 1992) within industries, a process that is not so different from the local normative inquiry suggested to managers by ISCT. However, in law these rules are more than norms. Carter (1992 Supra Note 32) avoids the term "norm" because local property arrangements are often binding and enforceable through the interpretation of the courts.

7 See Weber (1958, p. 55) for a discussion of how norms that lead to material success may become dominant within a capitalist order. Clearly, some norms become dominant through selection processes. However, if we take Weber's example of capitalist norms of productivity and progress, the dominance of these norms among the people who inhabit top positions within organizations derives from individual selection by wealth, not community wellbeing. Some norms, like the feeling of obligation to one's job, benefit society at large through increased skill and productivity. However, improved social welfare is not decided by the process of selection that establishes the norm. Other narrow communities establish norms that run against general welfare.

8 There are established procedures for measuring and comparing the intensities of normative sentiments. For example, criminologists study the seriousness of criminal infractions, and have developed scalar comparative metrics to understand the "crime seriousness perceptions" of a community (Rossi and Berk, 1997; Sellin and Wolfgang, 1964).

9 Donaldson and Dunfee briefly discuss coercion, and justify their attitudinal and behavioral measures as a means to detect and delegitimize coerced norms (1999, p. 90). However, the most fundamental account of bureaucratic authority (Weber, 1978) suggests that charisma, tradition, and legal rationalism can each produce legitimate impositions of authority without coercion. Seemingly voluntary adherence to authority can result in profoundly troubling behaviors insofar as communities normalize harmful actions (Arendt, 2006).

10 In his ethnographic study of one hospital that trains surgeons, Bosk (1979) develops a typology of medical error that includes "quasi-normative" mistakes. These are mistakes that derive from idiosyncrasies of an attending (superordinate) physician's norms of conduct. Though subordinates might reasonably disagree with the attending physician's approach, acting contrary to the chain of command is viewed as a form of disrespect and strongly censured. As nearly everyone respects that underlying rationale for the chain of command, the local importance of norms is respected as well.

11 It seems that Phillips and Johnson-Cramer (2006) have underestimated the stringent behavioral test for authentic norms. In ISCT conflicting norms should be relatively rare because, when norms conflict behavior is inconsistent, which means that no norm can be said to exist. Thus, Donaldson and Dunfee essentially imagine "unoccupied moral free space" into existence through a definition of terms. Definitions aside, I find Phillips and Johnson-Cramer's statement of the problem to be the right one. The real issue is more likely to be a morass of conflicting norms than a normative abyss. However, both result in a shortage of guidance for norm-seeking managers.

12 "Social capital" is also treated by some as an individual trait, but the consideration here regards the connectedness of a community as a property of interpersonal networks. Moreover, social capital can operate at different levels of analysis. Communities divided by racism may create extremely cohesive subcommunities that are united in conflict (See Simmel, 1964).

13 Donaldson and Dunfee write, "Axelrod has suggested the following list of mechanisms that appear relevant to the evolution of putative norms into 'authentic' norms under ISCT" (1999, p. 96). It is not clear what "evolution" is taking place, or how mechanisms like internalization and deterrence would relate to the authentication of norms, except, perhaps as a means to reinforce attitudes and beliefs.

14 There are obvious limits to the sorts of norms for which such an experiment can be undertaken, but for weak norms transgression is a reasonable means of detection.

15 The famous Johnson and Johnson credo is one of the most oft-cited codes in the business ethics literature. For all of that, the code is a real outlier in its structure. It reads more like a prioritization of stakeholders than a set of rules. A code of this kind is wholly compatible with a deliberative business ethic because it requires and inspires deliberation.

[16] See Laufer and Robertson (1997) for considerations of coercive consequences of corporate ethics programs.

[17] Though the risks of abstraction are not fully addressed here, the reader can take some indication of Pound's application in business ethics from the use of morally charged terms: ''conflict of interest,'' ''breach of privacy,'' ''bribe,'' ''discrimination,'' and ''insider trading'' each assume the conclusion of an ethical debate through their moralized connotations. The risk of abstraction is the risk that these words will be severed from their underlying justifications.

[18] Studies of ethics programs face a similar limitation. Perhaps the best available research on compliance oriented ''programs'' including the appointment of ethics officers, mandatory training programs and codes can be derived from recent studies of diversity programs (Dobbin and Kelly, 2007; Dobbin et al., 2007; Kalev et al., 2006). These studies enjoy two significant advantages. First, because they are derived from a sample of organizations, their representativeness (external validity) should be very good. And second, because they measured a behavioral variable, they are able to avoid the social desirability bias that burdens many equivalent studies in ethics. For research on directly pertaining to corporate ethics programs, see Weaver et al. (1999).

[19] Donaldson and Dunfee might defend codes as a basis for action on the argument that the public approval of a norm is a decent indicator of a norm's appropriateness, even if the norm is not generally followed. Certainly, the fact that I want everyone to think that I do ''X'' is a reasonable data point for the notion that I acknowledge the norm for doing ''X.'' However, oppressive norms offer important counter-examples. Dominant norms force many people to hide their sexual orientations, HIV status, disabilities, or other individual attributes. The fact that they hide does not indicate that they support the norms that drive them underground. Tragically, some of these people become the most vocal advocates of the norms that control them. Senator Larry Craig, Pastor Ted Haggard, and Representative Mark Foley are recent and very public examples of individuals who have vociferously defended norms that they privately violated.

Acknowledgements

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