

Chapter 40

Can Codes of Ethical Conduct Work?

Evaluating the Effectiveness of Privatised Corporate Governance in a World of Political and Economic Convergence

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ABSTRACT

Most recently, the world has witnessed a spectacular increase in the size and number of Transnational Corporations (TNCs); an explosion that has resulted in the overseas practices of such companies coming under intense scrutiny, and in the realisation that governments often lack the resources necessary to ensure TNC compliance to international standards in key areas such as labour rights, environmental pollution, and social justice. Against the backdrop of significant failure in national- and international-level attempts to administer Transnational Corporations, this research chapter will examine the effectiveness of codes of ethical corporate conduct devised to enhance the regulation of corporate behaviour. The research presented herein focuses on the conceptualisation of such regulatory mechanisms, and their relationship to the larger corpus of corporate social, commercial, and ethical strategic interactions; evaluating their effectiveness as instruments of privatised governance through the particular examination of corporate stakeholder behaviour and recent examples of global best practice.

INTRODUCTION

The 1980s were marked by a dramatic shift in political ideology that involved a move away from the Keynesian interventionism that had dominated post-World War 2 economics in the North, and towards a growing disillusionment with import substitution in some Southern nations. This move saw the state beginning to withdraw from the over-regulation of the economy, and marked the beginning of an era of rapid economic integration (Carroll & Shabana, 2010; Held, 2013; Jenkins, 2013). The closing

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years of the 1980s witnessed a tremendous outpouring of foreign direct investment from developed to developing countries, and a simultaneous increase in the size and number of transnational corporations (TNCs) worldwide. The past three decades in particular have seen a progressive removal of restrictions on international flows of capital and goods, policies that have speeded up the expansion of TNCs in the developing world. Historically, national governments have only been able to regulate the activities of foreign-owned firms within their borders; all attempts at international regulation having been largely unsuccessful. To add to this, the policy shifts of the '80s left states even more ill-equipped and unable to regulate the sheer speed and volume of TNC expansion.

In recent years, the growing recognition that the current form of globalisation has provided Transnational Corporations with a distinct advantage in extracting greater gains from productivity and efficiency from international trade has prompted the spotlight to be turned onto the overall impact of transnational corporate activity in the Third World (Bondy, Matten & Moon, 2008). Increasingly integrated supply chains have left transnational more vulnerable to potentially adverse publicity, particularly with regard to the behaviour of their subcontractors and suppliers (Carroll & Buchholtz, 2014). This coupled with the advent of greater pressure from Non-Governmental Organisations and consumers has brought into sharp focus the need for Transnational Corporations to adopt some kind of privatised voluntary or semi-formalised self-regulation in order to minimise the extent of their vulnerability to legal wrangles and to adverse publicity (Grace & Cohen, 2013).

Over the last couple of decades, the world has witnessed a spectacular increase in the size and number of Transnational Corporations (TNCs), an explosion that has resulted in the overseas practices of such companies coming under intense scrutiny, and that has highlighted the propensity for some national governments, mainly those of the developing world, to find it difficult to muster the resources necessary to ensure TNC compliance to international standards in key areas such as labour rights, societal health, environmental pollution, and social justice. In some cases, governments have been found to deliberately lower standards in order to entice foreign investment into the country. This has left Transnational Corporations with a virtual *carte blanche* from which to operate, and has resulted in them coming under intense scrutiny and becoming targets of intense criticism from communities and advocacy groups concerned with the negative impacts of corporate activity on the global community.

As a direct result of the failure of local, national, and international level attempts to regulate corporate and other private forms of behaviour, recent years have witnessed an increased focus on idea of *corporate social responsibility* (CSR) as a panacea to the ills of society, and a mushrooming in terms of the breadth and depth of the conceptualisation and the development of both voluntary and formalised codes of corporate ethical conduct (Rodriguez-Dominguez, Gallego-Alvarez & Garcia-Sanchez, 2009). In this context, the basic structure of such codified regulatory frameworks has been drawn from the base CSR concept that local, national, and international communities may be dealt with in a fair, ethical, and socially responsible manner for both profit and for human development by commercial entities. This book chapter will attempt to evaluate the effectiveness of codes of ethical corporate conduct as instruments of privatised regulation and corporate governance in the light of available evidence. Through a discussion of the evolution of the ideal, the potential benefits and limitations of codes of ethical corporate conduct will be examined, together with the modes of proliferation and implementation available to transnational entities, and other related controversies.

There is little doubt that corporate codes of ethical conduct represent an important new development in the regulation of the transnational corporation. The chapter seeks to study the effectiveness of such structures of informal regulation as an innovative attempt at privatised governance in a globalising age,

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