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Author

Breakey, H

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Harnessing Multi-Dimensional Legitimacy for Codes of Ethics: A Staged Approach

Hugh Breakey[1]

Abstract

How can codes of ethics acquire legitimacy—that is, how can they lay down obligations that will be seen by their subjects as morally binding? There are many answers to this question, reflecting the fact that moral agents have a host of different bases on which they may acknowledge code duties as ethically binding—or, alternatively, may reject those duties as morally irrelevant or actively corrupt. Drawing on a wide literature on legitimacy in other practical fields, this paper develops a multidimensional legitimacy framework, describing ten distinct sources of legitimacy. It illustrates how these sources can be seized, not only by the code's content, but by opportunities presented in the main stages of code development, adoption and implementation. In so doing, it aims to provide practical resources for code-developers and ethics reformers in organizations and industries to avoid critical missteps, and to maximise the impact and efficacy of their work.

Introduction

At first glance, it can seem a mystery how codes of ethics are supposed to work. After all, ethical practitioners can be expected to behave conscientiously, irrespective of any formal

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guidance. And unethical practitioners are hardly likely to respond to official declarations and exhortations about moral principle.

In fact, there are many ethical resources that code-developers can draw upon to enhance their code's moral significance, providing new reasons for ethical action, capable of appealing to different types of moral agents. Drawing on a wide literature on legitimacy from the fields of law, politics, human rights, safety factors, environment, and global governance, this paper shows how insights from these fields may be applied to codes of ethics, and employed practically by code developers to enhance their code's moral allures.

The argument proceeds as follows. Section 1 outlines the first part of the multidimensional legitimacy framework — its ten distinct sources of legitimacy, or ten ways in which codes of ethics may come to be viewed by duty-bearers as morally authoritative. Section 2 then moves through the Framework's second part: the six stages of code development and implementation, and shows how the different sources of legitimacy can attach — or catastrophically fail to attach — at each stage. It also considers an important (seventh) area: the code content itself.
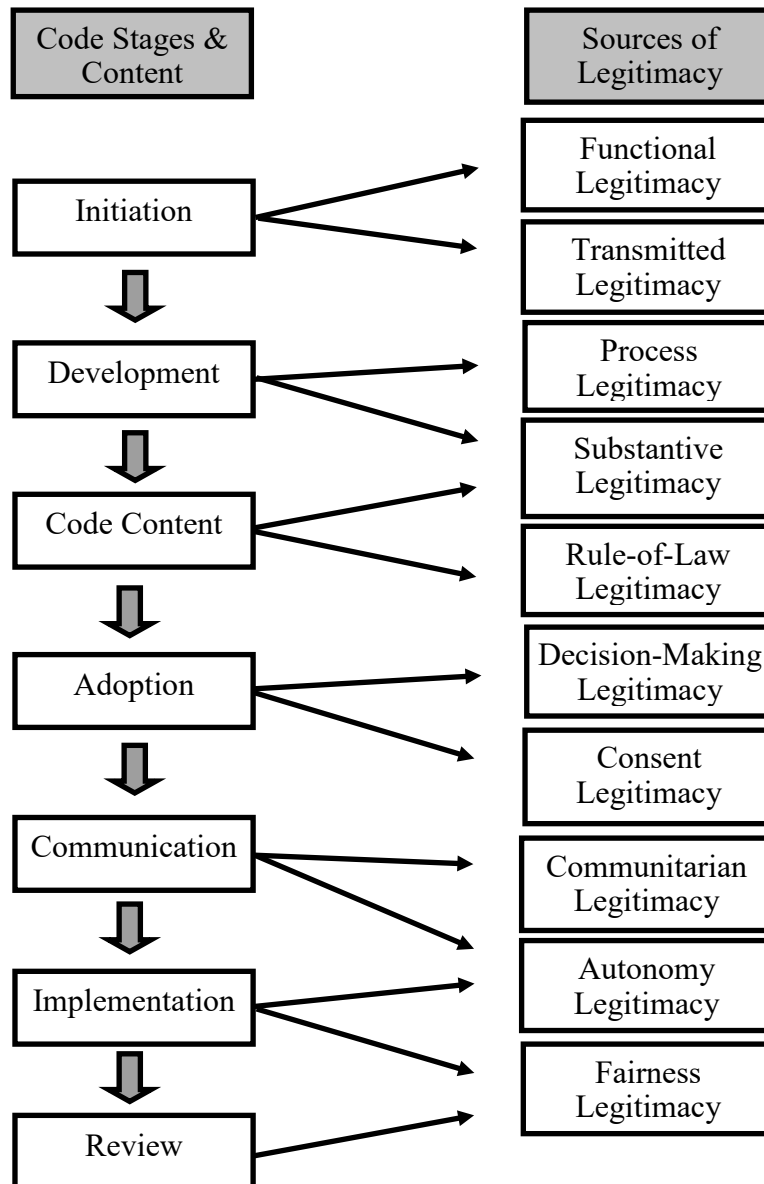
Figure 1: The Multidimensional Legitimacy Framework:
Code Development Stages & Legitimacy Sources
(Arrows show main linkages.)

Figure 1 provides a graphic overview of the multidimensional legitimacy framework. Six

stages of code development (initiation; development; adoption; education; implementation

and review), and one quality of the code (its content) each provide opportunities for capturing

one or more of the ten sources of legitimacy. For simplicity, Figure 1 only illustrates the main

links (the black arrows) between the specific stages (on the left) and the resulting legitimacy

sources (on the right). As we will see in Section 2, the actual situation is more complex and opportunistic, with most stages offering multiple avenues for securing (or losing) specific legitimacy sources.

In developing the framework, the paper's methodology involved surveying the philosophical and governance literature on legitimacy in other fields where authoritative rules, protocols, entitlements and policies are laid down to guide practical action. The framework draws upon scholarly work on the legitimacy of law, political regimes, safety industries, global governance (including environmental and climate governance) and human rights. The aim was to be as inclusive as possible, drawing together *all* the noted sources of legitimacy that could potentially bear on codes of ethics. These findings were then combined with the existing literature on the development, implementation and efficacy of ethical codes in order to tease out how specific types of legitimacy could be gained or lost at different stages of the process.

The paper aims to broaden the existing understanding of legitimacy in general, and to provide a systematic framework for exploring the legitimacy of codes of ethics in particular. A further, more practical, aim is to empower code-developers with an understanding of how their activities at each stage can impact upon the code's resulting legitimacy. Rather than recommending, 'At stage X, do Y to achieve Z', the multidimensional legitimacy framework empowers code developers at each stage to pro-actively think through the legitimacy opportunities and risks provided by their own unique context: 'At stage X, how can our actions and decisions potentially impact on each of the ten sources of legitimacy?'

Before beginning, a few terminological issues. First, when I speak of "codes of ethics," I include all public prescriptive instruments that declare and apply broad moral principles and values to practical realms, with the aim of providing ethical reasons and guidance to applied

moral decision-making for individual practitioners (Schwartz, 2005). Ethical codes differ from purely 'disciplinary' codes of conduct or practice that set down fine-grained regulation of minimum standards of behaviour, primarily imposed through monitoring and enforcement regimes (Higgs-Kleyn & Kapelianis, 1999). While codes of ethics will often have disciplinary regimes attached, their primary focus is on developing high ethical standards and laying down aspirational principles and virtues (Paine, 1994; Trevino, Weaver, Gibson, & Toffler, 1999).

Second, I will refer generically to "code developers" as a catch-all term covering all those role-holders aiming to enhance and strengthen the functioning of the code of ethics. As well as those actually involved in drafting the code, this category includes ethics officers, ethics educators and trainers, ethics hotline/helpline operators, and all those providing input and feedback (including managers, consultants and policy makers) into code development, review, education and implementation.

Third, I will speak as if the code of ethics is being constructed for an "organization." This term should be construed broadly, and my discussion aims to be relevant to industry, public service, professional, corporate and organizational codes — though I will occasionally highlight areas where one source of legitimacy, or stage in code development, will be especially relevant for a particular type of code. It goes without saying that, just as each organization has different ethical challenges, purposes and priorities (Benson, 1989; Fuller, 1955), these differences will shape their pursuit of code legitimacy. So too, different organizations will have different resources and capabilities. Well-resourced organizations may be able to take on board many of the tools and mechanisms for achieving legitimacy described in Section 2. Smaller organizations with fewer resources might focus only on avoiding common legitimacy pitfalls.

Finally, I will employ the term "integrity system" as a shorthand for the overall organizational structure that works to implement the code — that is, to move it from thin paper to thick action (Sampford, Smith, & Brown, 2005). The code's integrity system thus comprises all communication and education activities, as well as all governance and compliance practices (see Sect. 2 below), and includes all relevant contributions and impacts from risk-management officers, auditors, promotion committees, executive decision-makers and so on.

1. Multidimensional Legitimacy

Definitions and Ontological considerations

The term 'legitimacy' can be used in several different ways (Long & Driscoll, 2008; Mele & Schepers, 2013). In this paper, the focus is on the presence of factors that provide good ethical reasons for subjects to respect and implement an instrument's obligations and values, and to being held accountable for doing so. This is a common usage of the term, both in everyday usage, in governance and international studies (Bodansky, 1999; Buchanan & Keohane, 2006; Cadman, 2011), and in normative philosophy (Peter, 2017; Ripstein, 2004)). In what follows, the ten sources of legitimacy I enumerate (functional legitimacy, process legitimacy, and so on) are all put forward as contributors to legitimacy, so understood.

Throughout, I focus on legitimacy *to the target duty-bearers*—that is, those practitioners who will be subject to the code and who are expected to shoulder its obligations. Naturally, other moral subjects and agents (customers, clients, shareholders, institutional employers and community stakeholders) may also have views on the code's legitimacy. While I will not engage directly with these cohorts, a code that abjectly fails in the eyes of key stakeholders will usually also struggle to achieve legitimacy (specifically, substantive and functional legitimacy) for the duty-bearers themselves.

This understanding of legitimacy (as ethical reasons to respect an instrument's obligations and values) can be applicable across an array of ontological and meta-ethical positions. A perspective that holds that claims of moral value are *objectively* true can view the ten sources of legitimacy as contributing to the code's overall objective moral legitimacy. On this footing, each source provides universally valid moral reasons for the duty-bearer to acknowledge the duties as ethically authoritative. Indeed, many of the below-noted ten sources of legitimacy have been defended on just these grounds. For example, moral realists have defended the substantive legitimacy of human rights on the grounds of their inherent universal validity (Morsink, 1999).

In contrast, consider a perspective that views moral values as socially constructed, with their claims of truth and justification relative to specific traditions and cultures. From this perspective, the ten sources of legitimacy can be understood not as universally and timelessly true sources of moral authority, but instead as locally constructed norms specific to particular communities and worldviews. Human rights once again provide an example, with several scholars, such as Richard Rorty (1993) and Michael Ignatieff (2001), favouring functional and/or deliberative legitimacy approaches because of explicit concerns with invoking universalist moral claims.

This claim about the applicability of the multidimensional legitimacy framework to different ontological positions[1] may give rise to a further philosophical worry — namely, a query whether a given moral theory (whether objectivist or social constructivist in nature) can plausibly accommodate *all ten* legitimacy sources. This is a valid concern. Specific moral theories may well vindicate the importance of some sources of legitimacy even as they explicitly reject the significance of others (as noted above with respect to the human rights theorising of Rorty and Ignatieff).

In response to this concern, I want to make three brief points to support the philosophical validity of the multidimensional approach to legitimacy. First, many major moral theories are inherently multidimensional. To take just one example, John Locke's (1690/1947) influential social contract theory of political legitimacy initially focused on the substance of natural rights and duties (substantive legitimacy). Yet because the unilateral protection of these rights created grave risks of coercive injustice, Locke appealed to implicit and explicit consent mechanisms to drive his social contract theory (employing rule of law, fairness and consent legitimacy), and went on to recommend democratic and deliberative legislative bodies (implicating process and decision-making legitimacy).

Second, some scholars argue that ostensibly narrowly focused theories of legitimacy contain elements that actually demand the incorporation of other legitimacy sources. This contention has been raised directly against the human rights theories noted above, with commentators arguing that deliberative and functional accounts of human rights should be open to aspects of substantive legitimacy (Gilabert, 2011; Hollinger, 2001).

Third, an alternative way of viewing moral theories eschews holding one to be categorically right and all the others wrong, but suggests instead that each are built around central *insights* that capture something important about ethics and the human condition (Sampford, 1994). On this footing, different moral theories rightly draw our attention to different sources of legitimacy, each with their own importance.

Summing up, there are philosophically respectable reasons for considering the potential of multidimensional legitimacy.

Practical considerations

Turning from philosophical theory to everyday reality, there are strong practical reasons for attending to multiple sources of legitimacy. Even if a code developer personally prioritises

only a narrow selection of legitimacy sources, it is likely that the cohort of duty-bearers will include members with different perspectives. As such, each source of legitimacy successfully captured by the code will widen the potential cohort of duty-bearers who will accept and support it (Hollinger, 2001). For example, even if a duty-bearer doesn't believe the obligations laid down by the code's substantive content are intrinsically right, she might nevertheless be persuaded to accept their legitimacy on some other basis — such as if she agrees that the democratic, deliberative procedure that created the code was morally respectable. In this way, the code can possess "normative redundancy" (Breakey, 2018, p. 21). Even if it fails to garner support on one basis, it may nevertheless achieve legitimacy through the others. Similarly, each source can provide additional reasons for respect and compliance. The more reasons a duty-bearer has to comply or speak up, the more sources of moral motivation they will possess, and the more modes of argument they will be able to employ (Gentile, 2010). Ultimately, as Mark Frankel (1989, p. 114) observes, "Moral authority does not inhere in a paper document, but rather in the weight of reason that accompanies arguments for or against certain actions."

Furthermore, addressing each source will remove potentially fatal flaws in the code's pursuit of legitimacy. Each source of legitimacy is not only a positive opportunity for enhancing uptake, but a source of risk. A failure to address one area might strip the code of all legitimacy in the eyes of a given duty-bearer. For example, even if a duty-bearer agrees that certain duties are morally justifiable in the abstract, if she thinks that those duties are unfairly or unworkably imposed, she will not respect them.

Capturing different sources of legitimacy also allows the code to be used in different ways. For example, for a code to be used as a basis for a compliance regime that issues punishments for rule-breaches, its minimum-standards duties will need to be known, stable, feasible and non-contradictory (and thus possess rule-of-law legitimacy).

Finally, and most importantly, I hope in what follows to convince the reader that the ten legitimacy sources are by no means esoteric principles of abstruse philosophy, but real world concerns capable of being voiced in plain language. While each source ultimately possesses a sophisticated philosophical basis and foundational level theorizing, I have for each source included a 'complaint statement' that shows how we might expect a criticism of the code's legitimacy to be phrased in ordinary language.

Ten sources of legitimacy

This section lists ten sources of legitimacy, derived from scholarly work on the legitimacy of law (Colla, 2017; Fuller, 1969; Gur, 2013; Luban, 2010; Waldron, 1994), states (Locke, 1690/1947; Lottholz & Lemay-Hébert, 2016; Peter, 2017; Rawls, 2005; Weber, 1919/2007), global and transnational governance (Buchanan & Keohane, 2006; Cadman, 2011; Schmidt, 2013), environmental regulation (Bodansky, 1999), safety industries (Dekker, 2012), organisations (Díez-De-Castro & Peris-Ortiz, 2018) and human rights (Breakey, 2018; Cohen, 2004; Gilabert, 2011; Hollinger, 2001; Ignatieff, 2001; Rorty, 1993). Where applicable, I have also included insights from the existing literature on the legitimacy of ethical codes (Adelstein & Clegg, 2016; Long & Driscoll, 2008; Mele & Schepers, 2013; Verpeet, Casterle, Arend, & Gastmans, 2005),

For each source, I explain its nature and significance, describe how it can apply to ethical codes, and provide a plain language "complaint statement" that illustrates how a layperson is likely to express the concern.

I. Substantive legitimacy

Substantive legitimacy is perhaps the most obvious source of code legitimacy. It focuses on the substance of the code's duties and asks whether these align with pre-existing moral values and principles (Schwartz, 2005). The code's duties might be vindicated by being direct

instantiations of widely held moral values (e.g., values of trustworthiness or respect for human rights) or ethical theories (e.g., Kantian or Aristotelian theories). Alternatively, the code's duties may set down roles whose collective performance delivers some larger manifest social good (Emmet, 1975; Fuller, 1955).

Ideally, the code's duties will find positive support in well-established ethical principles. A more minimal condition would be that the code's content is *morally tolerable*—that is, its duties are at least consistent with widely held moral values (Schwartz, 2005, p. 39), or only clash with these values when there is a manifestly important goal being thereby pursued. For example, defence attorneys in an adversarial criminal justice system may be required by their roles to perform robust cross-examinations of victims of an alleged crime, in order to secure the larger goal of a functional justice system.

A duty-bearer objecting to the code on the basis of substantive legitimacy might say: "This obligation doesn't follow from any common-sense moral principle, and it doesn't serve any larger, socially important purpose. It's not the right thing to do."

II. Fairness legitimacy

Even if, in terms of its content, a code-based obligation achieves substantive legitimacy, it may nevertheless be unfair to impose it. Concerns with fairness consider the proper distribution of burdens and benefits, and of being accorded equal treatment (such as being entitled to 'natural justice' in legal procedures).

Fairness legitimacy for ethical codes can be achieved in two ways. First, the overall package of entitlements and obligations should deliver a *quid pro quo*: a fair imposition of burdensome duties, given the reciprocal supports and other recompense provided to the duty-bearers. This source of legitimacy is familiar from 'contractualist' justifications of professional codes (Frankel, 1989; Veatch, 1979), where the special obligations of

professionals are deemed a fair recompense for the unique legal protections (of autonomy, self-regulation, "title" and "function") they enjoy. More generally, an employing organization that handsomely remunerates its employees is entitled to ask more of them in return.

Second, fairness legitimacy tracks whether the code is one-sided — that is, whether it imposes burdensome duties on certain moral agents, while paying little attention to duties owed *to* those agents. Or the code may prioritize just one beneficiary of the duties (usually an employing organization), rather than moral subjects generally (Adelstein & Clegg, 2016, pp. 57, 64; Benson, 1989, p. 318; Long & Driscoll, 2008, pp. 183, 186).

Ethical codes that fail fairness legitimacy will be criticised as self-serving. A commonly heard complaint might go: "It's not that these aren't useful and worthwhile standards. It's just that it's unfair to impose them on us without us getting anything in return. Why should we be singled out in this way?"

III. Process legitimacy

Process legitimacy refers to the many moral qualities of the activities that led to the development of the code's content. This source includes *deliberative* justice, which refers to the inclusivity and participatory qualities of the dialogue — the argument, negotiation, bargaining and information-sharing that informed the code drafting. The more that many different stakeholders were able to contribute, had their views seriously considered, and had the process and the results justified and explained to them, the more strongly deliberative justice will legitimize the result (Cohen, 2004; Rawls, 2005).

Yet process legitimacy does not only apply to deliberations. It pays heed to morally relevant qualities from *all* possible process mechanisms. These include having a comprehensive engagement with evidence and research (including examining other relevant codes), drawing on expert input, the involvement of a blue-ribbon committee, ensuring an impartial

chairperson, neutral mediator or respected official with oversight of the process, and more. Anything that can make a practitioner morally respect the development process can heighten their reasons for respecting the resulting product.

A complaint against failed process legitimacy would lament: "There was no meaningful dialogue. The management just brought in some consultant who produced an 'off the shelf' product that we all had to sign up to. It's a real missed opportunity."

IV. Decision-making legitimacy

For a code to be adopted, someone, somewhere, must decide upon its adoption. The nature of how this decision-making process occurs has significance for the code's legitimacy. The most obvious decision-making process for garnering legitimacy is a democratic one, either by the direct voting of duty-bearers (such as may occur when members of a professional or industry-wide organization decide on a new code), or by their representatives or managers (such as if the organization's executive vote on the code). Depending on context, the requirement may be for a simple majority, a super-majority or even consensus. Voting may be done on the code as a whole, or on each of its provisions severally. In either case, decision-making legitimacy requires that voters are given enough time and resources (such as guidance on intended interpretations) to make an informed decision.

That said, democracy is not the only mechanism for acquiring decision-making legitimacy. If the decision is made by an impartial judge, an expert panel, or a respected leader, then this can also contribute to its legitimacy.

A typical challenge to codes, based on decision-making legitimacy, would assert: "We were presented with the code and given a 'take it or leave it' ultimatum. With little time to read it or have our questions answered, we were railroaded into accepting it."

V. Consent legitimacy

Duty-bearers can acquire a promissory- or authenticity-based reason for shouldering duties through their explicit, formal and public declaration that they will do so. By making such a commitment, the duties attach to the agent's honesty and personal integrity. If she does not perform them, she is a liar and hypocrite.

Consent legitimacy is most clearly seen in the oaths that are a common part of many professional ethics regimes (such as the famous Hippocratic Oath for doctors). However, the use of oaths extends beyond the professions (Kingsford-Smith, Clarke, & Rogers, 2017, pp. 433-434). Naturally, oaths and declarations are morally stronger when they are undertaken voluntarily, so the promiser does not feel like they have been forced into the declaration. But even oaths that are legally required for entry into an organization or industry provide a moral reason for a duty-bearer to respect the code.

Consent legitimacy can also arise from explicit legal contracts, including employment contracts and contracts between service providers and their customers or clients. Whenever the code's obligations constitute a formal part of a legal agreement, a duty-bearer has literally "signed up" to the obligations (Adelstein & Clegg, 2016).

An objection on consent grounds against a code would go: "I never agreed to any of this. It was all imposed on us from above."

VI. Rule-of-law legitimacy

As legal theorist Lon Fuller (1969) argued at length, the very form of a rule-based normative system (as distinct from its substantive content in any given provision) can provide goods to its subjects — goods that invite a sense of reciprocity. Fuller's rule of law principles included that rules be clear, accessible, non-contradictory, feasible, stable and prospective (not retrospective), and that there be a congruence between the laws written in the lawbooks and

the laws that are actually enforced (this requires implementing principles of procedural justice and impartiality in rules enforcement). In a rules-based system with these qualities, subjects always know the standards by which their actions will be judged, and they are able to predict (within navigable bounds) likely future changes in the rules, allowing them to plan their lives and long-term affairs (Fuller, 1969; Luban, 2010; Waldron, 1994).

Fuller argued that these rule of law advantages applied to any well-constructed system of rules, and not only to legislative and common law. A code of ethics and integrity system that possess Fuller's principles allows duty-bearers to confidently plan their actions, labours and investments, secure in their expectations. In a system without these qualities, subjects cannot conform to the existing rules (because they are inaccessible or contradictory), cannot make reasonable predictions about future rules (because they are subject to arbitrary change), and cannot be sure that compliance will immunise them against punitive action (because the enforced rules do not match the written rules). Complaints could vary on each of Fuller's principles, but a common refrain would go: "They keep changing the rules on us. No sooner have we revised our practices to conform to the code, and the guidance is changed. It's impossible to plan ahead."

VII. Communitarian legitimacy

The previously-noted types of legitimacy focus on widely held moral principles — precepts like contract, democracy, reciprocity and the type of 'thin' norms that can be expected to be shared across cultures. In contrast, communitarian legitimacy celebrates the 'thick' ethics of diverse traditions, shared practices, myths, rituals, faiths, stories and ways of life developed over time by particular communities, teams or organizations. These sources can provide duty-bearers with moral reason to conform to their roles and uphold their duties through an array of powerful mechanisms (Benson, 1989; Davis, 1991; MacIntyre, 1981; Olberding, 2016; Weber, 1919/2007). These mechanisms include: *social identity and solidarity* which provides

pride in performing tasks 'the way we do things around here', and encourages feelings of ownership, inclusion and stewardship over the community and its practices; *group loyalty* to one's colleagues and workmates, which motivates code compliance so as to not let one's peers down and bring the group into disrepute; *ritual and etiquette*, insofar as these are reflected in codes, which provide an opportunity to show special respect to clients, colleagues and mentors; *inspiring narratives and historical stories* about charismatic role-models, exemplars and trailblazers, which can infuse practitioners with desirable aspirations of character and virtue; and, *practices with demanding standards of quality* that require practitioners to play by the rules in order to achieve the excellences internal to those practices. Through all these mechanisms, local and collectively constructed moral reasons can attach to ethical codes.

Another form of communitarian legitimacy focuses not on the organisation itself, but on the type of institution it is, or wishes to be recognised as. Following what institutional theorists refer to as 'isomorphism', organisations seeking legitimacy mimic the typical structures, routines and strategies of similar or model organisations in their field (Díez-Martín, Díez-de-Castro, & Vázquez-Sánchez, 2018; Long & Driscoll, 2008). On this basis, organisations might develop a code to fulfil social expectations (of constituents, stakeholders, regulators and clients) about appropriate behaviour and conduct, and thereby render their operations secure, stable, understandable and accessible to the constructed social world around them.

A complaint based on communitarian legitimacy could bemoan that: "The existing code is years old and copied from another jurisdiction. It's not in any way reflective of who we are and what we do. We have our own special standards of excellence, and these should be reflected in our code."

VIII. Functional legitimacy

Ethical codes can be thought of as *tools* used to solve otherwise challenging or intractable problems (Frankel, 1989; Fuller, 1955). The more that an ethical code is 'fit for purpose' — meaning it solves challenges faced by practitioners, and delivers them beneficial results through feasible and sustainable means — the more reason they possess to value the code and conform to it. To be sure, sometimes this motivation will be prudential and self-interested: a pragmatic practitioner might value the code because she knows that if she adopts its principles in her actions, she will mitigate the risks of future punishment or regulatory attention (Doyle, Hughes, & Glaister, 2009; Francis & Armstrong, 2003). Equally though, an ethical agent might value the code because it delivers morally respectable solutions to otherwise difficult ethical challenges and dilemmas.

A code's functions might be *internal* or *external* to the organisation (Verpeet et al., 2005). In terms of internal functions, the code might provide "best practice" guidance by showing practitioners how dilemmas can be solved in novel ways. The code might empower ethically conscientious practitioners with the confidence to speak up and give voice to their values. It may do this by letting practitioners appeal to established organizational goals and principles (Gentile, 2010), or to confidently repel organizational pressure by being able to argue that no other practitioner would behave differently, as they are all bound by the same code (Davis, 1991). As well, the code might deliver good organisational outcomes, such as improved employee commitment and early knowledge of looming ethical and legal problems (Trevino et al., 1999).

In terms of external functions, by setting down specific standards, the code might clarify expectations across supervisors, practitioners, customers and the general community, making for more informed decision-making and mutually beneficial interactions. The code might

make explicit and publicly accessible practitioners' ethical standards, raising trustworthiness and contributing to their "social license to operate" (Mele & Armengou, 2016).

In such ways as these, the code (and its integrity system) can work effectively and efficiently to deliver socially beneficial outcomes, and be morally valued as a useful instrument in so doing. A typical function-based complaint would go: "This code is unworkable. It's expensive and time-consuming to fulfil its demands, it cramps effective action, and wipes out our profit margins. And even if we fulfil it, we're still exposed to reputational and legal risks, and our clients and customers are left unhappy."

IX. Transmitted Legitimacy

A code can be morally justified through appeal to other instruments, processes, standards, individuals, groups or organizations, such that the legitimacy or trustworthiness of these entities *transmits* through to the code itself and provides moral reasons for duty-bearers to support and respect its obligations.

There are many ways in which a code of ethics can partake of transmitted legitimacy. I note two common mechanisms here. First, a code of ethics for a given industry or profession might be required by law (the relevant legislation might even lay down specific objectives for the code, such as consumer protection or fiduciary requirements). In this case, the legitimacy of the overarching democratic regime and its legislative practices transmits through to the code, such that a practitioner cannot spurn the code without also placing themselves at odds with the system of democratic rule-making (from which they no doubt elsewhere gain considerable benefits (Gur, 2013)). Second, the code might draw upon or be fully constituted by highly reputable international, cross-cultural or interfaith standards, that have gone through their own legitimacy-enhancing processes of deliberation and democratic adoption. They may also have been initiated or developed by trustworthy and admirable individuals

displaying leadership and conviction (Weber, 1919/2007). Relevant examples here include the *UN Global Compact*, the *ISO 26000*, the *Caux Principles*, the *OECD Guidelines for Multinational Enterprises*, and the *UN Guiding Principles on Business & Human Rights*. Of course, transmitted legitimacy can prove a double-edged sword — even as an organization borrows from the legitimacy of an external entity, it risks being dragged down with it if the tide turns (Mele & Schepers, 2013, p. 565).

A complaint based on transmitted legitimacy might run: "The code could have drawn upon established international standards, which I would have respected. But this code was concocted by the local industry group, which everyone knows is corrupt and self-serving."

X. Autonomy legitimacy

An ethical code can elicit support by respecting subjects' moral autonomy — that is, their capacities for moral decision-making and deliberate ethical action. Autonomy legitimacy comes from a code communicating its key moral principles to its duty-bearers, and displaying trust in those duty-bearers to conscientiously and intelligently apply those principles to their work. Such a code treats its subjects as sensible problem-solving agents, capable of complex moral reasoning, learning from their mistakes, monitoring their own performance and even — when necessary — speaking up and questioning an organisational authority. In so doing, the code gains legitimacy by respecting and empowering its subjects (Adelstein & Clegg, 2016). Such a code will not hesitate to invoke high ethical standards, and to acknowledge the discretion and even expertise its duty-bearers may need to possess to live up to those standards.

The opposite type of code tries to micro-manage duty-bearers, laying down fine-grained regulatory rules, leaving little opportunity for discretion or decision-making. Its authoritarian integrity system then polices those rules intrusively — making the duty-bearers feel like they

cannot be trusted. Such a regime would give rise to inevitable complaints: "This code treats us as idiots and criminals-in-waiting. It presumes we would exploit and mismanage our clients without big brother looking over our shoulders at every moment."

Summary

While there are many synergies between legitimacy sources (as we will see in Section 2 below), it is important to keep the ten sources of legitimacy distinct, as no source fully reduces to any of the others, meaning that code developers need to be alert to their impacts on each and every source as they work through the six stages of code development.

2. Code development stages

As Section 1 showed, legitimacy is not a straightforward or inevitable condition for a code of ethics. There are many dimensions on which a code can succeed, and provide potent moral reasons for duty-bearers to treat it with respect. Equally though, there are many risk areas where an otherwise justifiable code may have its legitimacy threatened because code-developers neglected to consider a critical source of legitimacy at a pivotal moment.

This section outlines the major stages of code development and implementation, and illustrates ways legitimacy can be enhanced at each stage. Some of what follows will be self-evident, as there are intrinsic relations between certain types of legitimacy and the period during which that type of legitimacy can be secured. For example (and as we will see), process legitimacy will be centrally implicated during the Development Stage and decision-making legitimacy in the Adoption Stage. But for most sources of legitimacy, the linkages with code development stages will be more contingent and even opportunistic. While Figure One's directional arrows illustrated some main linkages between legitimacy sources and development stages, I hope to show some less-obvious cases, where legitimacy can be protected or strengthened in surprising ways.

Many of the below-noted mechanisms used to enhance code legitimacy may also be found in the literature on making ethical codes *effective* (Frankel, 1989; Kaptein, 2011; Kipnis & Feeney, 1999; Trevino et al., 1999). This is hardly surprising. The greater the code's legitimacy, the more reasons that moral agents have to prioritize its principles, and the more effective it will be.

The following sections cover six stages of code development. The first three (Initiation; Development; Adoption) will occur in the order presented. These stages will be followed by the Communication, Implementation and Review Stages, though these are strictly speaking not distinct stages, and may occur simultaneously. I discuss the all-important issue of the Code Content after the Development Stage, which is when its content will be finalized.

For each stage, I describe the activities it typically involves, and one main practical takeaway for legitimacy that I will preface with a plain language complaint. I then list several further sources of legitimacy that often can be harnessed. The legitimacy sources discussed under each stage are illustrative, and not comprehensive. Code developers at each stage need to think through each of the ten legitimacy sources, asking themselves: "How could something we do, or avoid doing, at this stage help capture this type of legitimacy, and so provide practitioners with moral reason to use the code?"

1. Initiation Stage

The decision to develop a new ethical code, or revise and update an existing one, does not come out of nowhere. Various events and processes led to the decision, and the decision itself may be made and framed in various ways. All these factors may contribute to the resulting code's legitimacy. True, code developers may have limited control over the factors occurring at the Initiation Stage (which may occur before they even become part of the process).

However, it is important for them to be aware of legitimacy benefits or threats, as they may have opportunities to frame or highlight these.

Main Legitimacy Takeaway

A common critique of the initiation stage might go: "There was no need for us to have a code in the first place. The media just manufactured a few scandals and blew the whole thing out of all proportion. So management decided we needed to make it look like we were doing something."

The *functional* case must be made that a code is needed. Effective code development can be a lengthy and resource-intensive endeavour, and a widely felt need for authoritative guidance is crucial (Kipnis & Feeney, 1999). This will be easiest when dealing with internal functions, where the duty-bearers themselves feel the need for the code, such as to update a code whose provisions are now obsolete (Culver, 2017, pp. 477-478), or to empower individual practitioners when faced with situational pressures (Verpeet et al., 2005). Responding to external functions can be more of a challenge. Organizations often downplay proven cases of wrongdoing, believing their organization has been unfairly singled out, or that they are all being tarred with the same brush as a few "bad apples". Code developers may need to highlight that innocent parties, trusting the organization, were seriously harmed, and that a strong code, offering clear protections, would be an appropriate and problem-solving response.

Further illustrative sources of legitimacy at the Initiation Stage include:

> *Decision-making legitimacy*: If the decision to embark on code development or reform was made voluntarily at the organisation's executive level, then decision-making legitimacy considerations will apply to that decision — such as if the decision

occurred in an established and understandable way, exemplifying leadership and problem-solving acumen.

Transmitted legitimacy: If the code's development occurs on the basis of legislation or government regulation (see, e.g., (Murphy & Swenson, 2003)), then the code may draw legitimacy from that source. Code development is something that simply must be done, because the law has demanded it.

2. Development Stage

The development stage covers the many practices between the initiation of code development and the delivery of a finalized code. This lengthy stage (sometimes taking years) typically includes several steps: i) the establishment and selection of a drafting committee and perhaps an advisory committee; ii) the creation and communication of the planned process and its various steps; iii) research practices, including analysis of pre-existing codes, clarifying relevant legal issues, and information-gathering on existing practitioner challenges, values and solutions; iv) the development of an exposure draft; v) consultation and user-testing, including soliciting submissions, conducting roundtables and seminars, and piloting; and finally, vi) revising and re-drafting, until a final draft has been completed (Adelstein & Clegg, 2016; Davis, 2007; Hoffman, 1999; Kipnis & Feeney, 1999; Murphy & Swenson, 2003; Olsen, 1998).

The development stage is critical in attaining a legitimate and effective code. As Kaptein and Wempe (1998, p. 853) put it: "*A code is nothing, coding is everything*".

Main Legitimacy Takeaway

A common critique of the development stage might go: "The whole process was rushed. There was no opportunity for meaningful participation, and no serious discussion of our

proposals. Instead of listening to the workers who will need to implement these obligations, all the input came from some out of touch 'experts'."

It is hard to over-estimate the impact on overall code legitimacy of the inclusive involvement of representatives of all types of duty-bearers and (so far as possible) stakeholders. This inclusiveness is not only critical for *process legitimacy* (see below), but also implicates many other legitimacy sources. Inclusiveness enhances *communitarian* ownership as each group, and the collective as a whole, feels they had genuine representation and input. It leads to greater *fairness*, as a balance in negotiation activities contributes to a more equitable and informed distribution of ultimate burdens. Above all, inclusive contributions are critical for achieving *functional* efficacy, as wide consultation helps gather information about practical solutions and problem-areas. Piloting and 'road testing' standards and principles by low-level decision-makers may show that some duties are unworkable, or can be interpreted in counter-productive ways (Hoffman, 1999, p. 10). Finally, inclusiveness can help reveal special challenges faced by particular cohorts, such as women, minorities or new entrants, that might otherwise go unnoticed by a blue-ribbon committee of established experts (Culver, 2017; Davis, 2007).

Further sources of legitimacy at the Development Stage include:

> *Process legitimacy*: All the factors described under process legitimacy are relevant in this stage. The quality of deliberation and communication throughout is critical, with the process not only being open to, but encouraging of, diverse views from a wide spectrum of practitioners and stakeholders. Ensuring such inclusive participation will often require finding ways of resourcing or otherwise supporting the involvement of time-poor, remote and/or low-level participants (Cadman, 2011). If practices of negotiation, compromise and bargaining occur, then efforts must be made to ensure

these are done in an equitable manner. The liberal use of expertise, evidence and thorough research will add to the code's authority, particularly if these can be incorporated in a balanced and impartial way.

Transmitted legitimacy: Throughout the entire process, integrity is critical, and inspiring words must always be backed up with visible action. This is particularly evident at the development stage, when code developers are establishing duties that others will have to accept and enact. Any hypocrisy in their own conduct creates a performative contradiction ('Do as I say, but not as I do') that transmits through to the resulting code's illegitimacy. Code development can also partake of transmitted legitimacy if code content or practices incorporate a more universal, transnational or well-established code that enjoys its own independent legitimacy.

3. Code Content

The purpose of the development stage is to deliver a code of ethics. The resulting code's content can be organized in different ways, but will often include a preamble explaining the code's importance and purpose, a set of principles or over-arching values, followed by more detailed standards, often with reference to obligations owed to specific stakeholders, including clients/customers, colleagues, employers/supervisors, and third-parties (Olsen, 1998). Codes can also include declaratory statements, interpretation guidelines, appended case studies and best practice guides, and similar resources.

Main Legitimacy Takeaway

A common critique of code content might go: "This so-called code of ethics only has one purpose, which it fulfils ruthlessly: to protect senior management from liability when something goes wrong, by shifting all blame to low-level workers who are forced to breach provisions just to fulfil the tasks assigned by their supervisor."

The multidimensional legitimacy framework straightforwardly explains the morally toxic nature of a self-interested code. Such a code's *transmitted* legitimacy is fraught because of the executive-level hypocrisy in producing a self-serving code of ethics. Its *substantive* legitimacy is undermined by its one-sided failure to attend to any stakeholders beyond the organisation's management. Its *communitarian* legitimacy falters because its provisions (often drafted by the organisation's lawyers) are completely detached from the way ordinary duty-bearers approach their work. Worse still, when combined with other job requirements (e.g., worker productivity) the code's provisions can fail *rule-of-law* requirements of feasibility, clarity and non-contradictoriness, and in exposing workers to unavoidable legal liability, the provisions fail *fairness* legitimacy (Dekker, 2012). Small wonder, then, why prior research has shown the poor outcomes delivered by such codes (Trevino et al., 1999).

For this reason, particular care must be taken with the use of in-house lawyers in drafting codes of ethics. True, lawyers' input is invaluable: code provisions and their disciplinary regimes must accord with all relevant laws and regulations. More positively, lawyers are often familiar with ethical codes from their own profession, and can have particular insight into key legitimacy sources, such as rule-of-law legitimacy (Sampford & Blencowe, 1998). There is a risk, however, that lawyers will approach code-writing as if they were drafting black-letter legislation — leading to accessibility problems noted in the Communication Stage below. Even more concerning, in aiming to fulfil their perceived ethical duties to their employer or client (the organisation or its executive), they may be tempted to minimise senior management's legal liability through drafting a one-sided code (Paine, 1994; Trevino et al., 1999). As we have just seen, such one-sidedness can totally undermine the code's legitimacy, and therefore stymie its ability to fulfil the important functions desired by the organisation.

Further sources of legitimacy for Code Content include:

Substantive legitimacy: An important quality of any code is that the duties and roles laid down are ethically correct on their own terms, and that the links between higher principles and finer-grained rules are clearly made, so that the latter can partake of the formers' substantive legitimacy (Benson, 1989). In the ideal situation, each of the provisions will follow straightforwardly from widely accepted values, principles or virtues, or directly contribute to socially desirable goals (Schwartz, 2005).

Rule of law legitimacy: Taken as a whole, code provisions must so far as possible possess the rule-of-law qualities of accessibility, clarity, feasibility, non-contradictoriness, and prospective-ness. In terms of non-contradictoriness, code provisions must not only conform with each other, but must also align with (or have established priority relations regarding) other relevant laws, regulations and codes (Higgs-Kleyn & Kapelianis, 1999).

Functional legitimacy: Code provisions need to be workable, such that they can be incorporated into everyday practice without productivity grinding to a halt or all profit margins being undercut. To be effective, code provisions need to cover all the main areas where ethical challenges and dilemmas arise: comprehensiveness is important (Kaptein, 2011).

Autonomy legitimacy: The code should treat duty-bearers as intelligent, problem-solving ethical agents. It should work by helping to guide and support — rather than to replace — their decision-making and discretion.

4. Adoption Stage

The Adoption Stage covers the processes whereby the code is accepted in its final form, and is formally adopted. This will include some form of authoritative decision-making, often occasioning a vote. The nature of the voting process will differ for necessarily hierarchical

organizations like businesses and public services, as compared with more egalitarian groupings like professionals or independent service-providers. Official decision-making is typically followed by a formal ceremony or process where the code is adopted, sometimes including signings, oaths or declarations.

Main Legitimacy Takeaway

A common critique of the adoption stage might go: "Why should we be bound by this document? None of us had any say in its adoption."

The adoption stage's primary source of legitimacy is decision-making legitimacy. Each organization will have different opportunities, resources and constraints in terms of what is possible at this stage. However, one way or another the decision-making process must demonstrate that the adoption of a code is a serious and long-term commitment. It must be done at the organization's highest level, and with awareness (if not involvement) across the organization. If voting is involved, a substantial result must be delivered, such as a supermajority, to demonstrate widespread support for the reform (Davis, 2007, p. 180).

Further key sources of legitimacy at the Adoption Stage include:

> *Consent legitimacy*: Oaths, declarations or ceremonial signings by duty-bearers may be used at the adoption ceremony. These types of explicit commitments can then become a part of induction ceremonies (such as the professional oath often given by doctors and lawyers), contract-signing or certification processes for new employees or members.

> *Functional legitimacy*: When the code needs to fulfil external functions — such as lifting the organization's standing or signalling a change in consumer protections — the adoption stage can be a strategic moment for awareness-raising across the community. Press releases, public events and media engagement can work to shift

expectations and make consumers and stakeholders aware of new guarantees of, or avenues for, protection and compensation.

Rule of law legitimacy: If the code requires substantial changes to practice or required qualifications, this can clash with duty-bearers' legitimate expectations and their capacity to plan their lives, financial arrangements and occupations. In such cases, transitional mechanisms may be appropriate, such as phase-in periods or grandfathering (Colla, 2017, p. 302).

5. Communication & Education Stage

Once the code is formally adopted, the next step is to ensure duty-bearers are aware of its content. Communication and education activities must bring the new code's requirements to the attention of practitioners, and then continue over the years to refresh and deepen code knowledge.

These objectives can be secured through many avenues, including workplace training activities and workshops; mentoring; continuing professional development courses; formal tertiary education; awareness-raising events; group emails, online resources and e-learning modules; and, seminars and presentations at conferences and conventions (Kaptein, 2011; Murphy & Swenson, 2003; Professional Accountants in Business Committee, 2007).

Main Legitimacy Takeaway

A common critique of the education stage might go: "I recently tried to print out the whole code, and to read it from cover to cover. Unless you're a lawyer with days to spare, it's impossible. The code just wasn't made for ordinary workers like us."

In the code content — and in all associated educational resources and communications — format, language, tone and framing can have surprising significance for legitimacy. Rule of

law clarity and accessibility requires that the code, and any additional guidance material, must be written in plain language understandable and applicable to duty-bearers (Benson, 1989). Ethical codes, declarations and communications should employ inclusive and non-gendered language throughout. The communitarian language of solidarity and collectivity can be employed, especially in preambles, headings and declarations (“*Our* values”, “*We* undertake to…”). Framing can also highlight key legitimacy sources, such as fairness (“*In return for* the trust the community places in us, we will…”). Finally, the code and accompanying resources should be packaged, formatted and presented in usable, accessible formats (e.g., printable in black and white for everyday use; one-page glossy summaries that can be used as posters; easy availability online), so they can become part of practitioners’ everyday work (Murphy & Swenson, 2003).

Further sources of legitimacy at the Communication and Education Stage include:

> *Communitarian legitimacy:* Communication and education activities can impact on the way that practices, decisions and actions are talked about by practitioners (Stevens, 2008). In shaping the reigning language and concepts, they come to be a lived part of the local social and working reality — of how things are done (and talked about and thought about).

> *Autonomy legitimacy:* Communication and education are critical to supporting practitioners’ moral decision-making. A strong education regime, with a focus on practices of interpreting and applying principles, and developing the capability to enact and give voice to them, can demonstrate that the code is expected to be a source of guidance for conscientious, intelligent (and even expert) decision-makers.

> *Transmitted legitimacy:* Using respected and successful practitioners — including trailblazing entrepreneurs, leaders, founders and exemplars — to communicate the

importance for their practice of ethical and value-based conduct (especially to students and entrants) can allow the admiration of such figures to attach to the code. This practice can also improve functional legitimacy by allowing practitioners to see that real world success can go together with high ethical standards (Hamilton & Monson, 2011).

6. Implementation & Governance Stage

This stage incorporates all the integrity system mechanisms and practices that govern the code's use. It includes the code's official, required or recommended use in decision-making processes at all levels; the use of promotions, awards and incentives to encourage the code's values and virtues; all sanctions, regulatory and disciplinary processes; the code's incorporation into employment and client contracts; role-modelling and target setting by local and upper-level management; and so on.

Combined with communication and education activities, the implementation and governance stage is pivotal in enhancing the lived reality of the code (Kaptein, 2011; Stevens, 2008). Ethical culture is never delivered by a 'set and forget' code, and maintenance and reinforcement of the code through continued use in responding to challenges, making decisions and resolving dilemmas ensures that subjects have reason to pay attention to code education and communication initiatives.

A code that is not implemented in everyday practice and decision-making fails the most basic legitimacy tests: it fails substantive legitimacy by not respecting stakeholders and clients' rights, it fails fairness and rule-of-law legitimacy by allowing practitioners ignoring the code to prosper, and it fails functional legitimacy by having no impact on existing standards and consumer outcomes.

Main Legitimacy Takeaway

A common critique of the implementation stage might go: "Why should we respect the institution's demands, when it treats us so badly? Why should we be bound by an ethical code, when management can do whatever it wants?"

In 1999, when Trevino and colleagues surveyed the relationship between desirable outcomes of ethical codes and employee perceptions of organisational qualities, they found a significant driver of good outcomes came from a surprising source: employee perceptions of fair treatment in general matters like layoffs, appraisals, promotions and executive perks (1999, p. 142). From a fairness and transmitted legitimacy perspective this makes sense. If employees are not treated decently, then it is unfair and hypocritical for the organisation to style itself as a moral authority, make exhortations to its members, and to imply that it supports an ethical culture.

Further legitimacy sources at the Implementation and Governance Stage include:

> *Autonomy legitimacy*: Code oversight and enforcement activities can create something of a legitimacy paradox. On the one hand, the code will fail legitimacy if it is not embedded in practice and remains a dead letter. Such embedding necessitates a constructive response to manifest failures of standards, whether through retributive or restorative justice (Dekker, 2012). On the other hand, the entire purpose of an *ethical* code is to appeal to subjects' values, and in treating them as autonomous moral agents, to empower them to undertake principle-based decisions and actions. While any response to this tension must be resolved on a case-by-case basis, it is critical to always continue encouraging, acknowledging and rewarding high standards, as much as to police low standards (Paine, 1994; Trevino et al., 1999).

> *Functional legitimacy*: Ethical codes can only fulfil their internal or external functions if they are consistently acted upon. This cannot occur if organizational promotions,

awards, bonuses, status, KPIs and incentives effectively reward those who avoid, skirt or minimize the code's demands. The integrity system's primary role in supporting the code must ensure that conscientious practitioners are never put at a systemic disadvantage, especially in matters of promotion and advancement.

Fairness legitimacy: Codes of ethics often include a role for practitioners in helping support high standards of conduct, and sustain an ethical culture, throughout the organization. These provisions can have implications for practitioners who become aware of a colleague's or superior's wrongdoing. In such cases, it is vital that organizations have appropriate channels for internal whistleblowing, or support for those who publicly raise concerns (Benson, 1989, p. 310; Frankel, 1989). Likewise, if a "duty of candour" requires duty-bearers (like medical practitioners or safety personnel) to disclose errors or near-misses, then efforts must be made to ensure they are not systematically punished for complying (Dekker, 2012; Turillazzi & Neri, 2014). It is unfair to place responsibilities on duty-bearers without providing appropriate safeguards to support them when they act.

Consent legitimacy: The embedding of the code in everyday practice can lead to a change in expectations, such that later agreements and contracts incorporate (explicitly or implicitly) the code's requirements. Once that state is achieved, then concerns with honesty and promise-keeping attach directly to the code's duties.

Rule-of-Law Legitimacy: Organizations must assure procedural justice to those accused of serious code breaches. This requires careful planning. For example, direct supervisors can seem a natural choice for making judgments about lower-level wrongdoing. Yet these very actors may have put in place systems and encouraged

practices that have contributed to lower-level corner-cutting or workarounds, providing a conflict of interest in their role as judges (Dekker, 2012).

7. Feedback & Review Stage

A code is never completely finalized. It is rare that its content will be so perfect that no unforeseen consequences occur, no ambiguities or tensions between the provisions arise, and no problem areas for third parties and stakeholders emerge. Any of these outcomes can lead to losses in substantive, functional or rule-of-law legitimacy. Even if its content avoids any such outcomes, the code and its integrity system will be subject to the dynamic nature of human institutions, and the new challenges and opportunities that changes in context and technology inevitably create.

Feedback and review activities include conducting ongoing formal review processes, involving both large-scale revisions and re-drafting, and also lower-level changes in interpretive guidance. Practices of information gathering will also be important, such as analysing complaints records to see if there is a gap between customer expectations and the code's standards, and aggregating (anonymized) data from ethics hotline enquiries to reveal the areas duty-bearers consistently find challenging. Finally, any updates must be appropriately communicated and successfully disseminated to duty-bearers.

Main Legitimacy Takeaway

A common review stage critique might go: "This was a good code, back when it was first created. But the industry and competitive environment has changed since then, and it's no longer fair to force us to shoulder these demanding obligations."

Once teething problems in a new code of ethics have been dealt with, major changes in legitimacy will normally occur through functional or fairness legitimacy sources. Functional legitimacy can change if alterations in funding, market conditions or technology mean that

existing provisions no longer work effectively in the new environment. Fairness legitimacy can change if such alterations profoundly shift the burdens and costs of compliance, such that living up to the code's standards now imposes inappropriate or unsustainable costs, risks or liabilities on practitioners.

Further sources of legitimacy at the Feedback and Review Stage include:

> *Autonomy legitimacy*: Codes of ethics aim to instil and encourage genuinely held values and virtues — traits that persist through time. Substantial changes in code values or interpretations therefore must be approached cautiously, and can never be subject to sweeping managerial discretion (Adelstein & Clegg, 2016, p. 57).

> *Transmitted legitimacy:* Even after adoption and implementation, the code can acquire legitimacy from external sources. Sometimes a government regulatory body will render an official recognition of the code, granting its content an authoritative imprimatur. Alternatively, the code might be copied or drawn upon by other organizations, or transnational bodies, signalling a wider appreciation of its quality (Benson, 1989, p. 308). Finally, the code may receive encouraging external evaluations, such as through positive reports in the popular press or scholarly research, or through awards and rankings by independent ethics organizations (Adelstein & Clegg, 2016, p. 56).

Synergies, Tensions and Cross-cutting Legitimacy Qualities

The foregoing analysis has illustrated many synergies among the ten legitimacy sources, where an activity that captures one type of legitimacy tends to also improve the quality of another legitimacy source. An excellent example of effective cross-cutting qualities can be found in companies pursuing organisational or institutional integrity (Paine, 1994). In such cases, there is genuine high-level desire to turn things around by focusing on the

organisation's core values and mission. The inclusive, dialogic method by which these values and mission are developed gives any resulting code strong process legitimacy. At the same time, such deliberations enhance the likelihood that resulting duties will be fairer and more effective — making process legitimacy instrumentally useful in delivering fairness and functional legitimacy. In general, while circumstances and opportunities for synergies will vary, code developers need to be on the lookout for any cases where one initiative promises to impact beneficially on multiple sources of legitimacy.

There are also several cross-cutting qualities that apply to many different sources of legitimacy, and many stages of code development. These qualities include perennial governance concerns like *transparency, accountability* and *objectivity* (Cadman, 2011). Transparency is critical at every stage. Stakeholders must understand what is going on, and have the information necessary to develop and deliver informed responses at each stage. After all, the legitimacy to the code's duty-bearers hinges not only on what actually occurs at each stage, but also — and pivotally — on *the duty-bearers' understanding and interpretation* of what happened at each stage. Transparency is a key resource for enhancing understanding and assisting interpretation. Similarly, accountability ensures that every agent is playing their designated role, and that appropriate oversight ensures this continues. Objectivity (and impartiality) requires that at each stage the relevant powers are being employed towards their proper objectives, and not corrupted into benefiting a role-holder's self-interest. These cross-cutting qualities of transparency, accountability and objectivity are intrinsically relevant to many sources of legitimacy (especially consent, transmitted and rule-of-law legitimacy), but they also demonstrate to stakeholders and duty-bearers that other types of legitimacy (like process and decision-making legitimacy) are being successfully captured.

Finally, it must be frankly admitted that perfection across all ten sources is rarely possible. While synergies between legitimacy sources abound, trade-offs and tensions can also arise. For example, we saw above that transmitted legitimacy can involve drawing on the legitimacy of an external entity or instrument. This can press directly against communitarian legitimacy, which prioritizes local ownership and values. As well, organizational and industry priorities will need to be met, even if these mean eschewing appeal to certain legitimacy sources. For example, a hierarchical organization may benefit from lower-level deliberation and input, but ultimately the executive might need to make an authoritative decision on the code's content (rather than a more egalitarian organization, which could help itself to inclusive democratic decision-making processes). Achieving multi-dimensional legitimacy also requires a serious investment of resources, including expertise, communication processes, logistical and technical support, and code developers' time and energy.

Conclusion

Listing all the ways that a code can achieve legitimacy can make the task seem daunting. Through six stages, and one substantive quality, code developers are called upon to be right, fair, inclusive, democratic, authentic, judicious, sensitive, effective, cosmopolitan and empowering.

However, the goal for real-world code developers is never perfection, but rather awareness of what is feasible within their current context. For every code of ethics, in every given context, there will always be some decisions code developers can make that substantially improve, or catastrophically threaten, the code's legitimacy. The multidimensional legitimacy framework allows code developers to consider and act on the critical legitimacy challenges and opportunities their unique context presents.

Compliance with Ethical Standards

Conflict of Interest: The authors declare that they have no conflict of interest.

Research involving human participants and/or animals: This article does not contain any studies with human participants or animals performed by any of the authors.

Notes

[1] Even a moral subjectivist, who holds that moral values are ultimately relative to each individual subject's feelings, commitments and convictions, could still make use of the ten sources of legitimacy, for the reasons listed in the 'Practical considerations' subsection.

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