What Does the UN Convention Against Corruption Teach About Regulatory Convergence?

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What Does the UN Convention on Corruption Teach Us About International Institutional Regulatory Harmonisation?

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Caveat Emptor

Three types of research:

Exploratory

Descriptive

Causal
Motivation

- International organisations are increasing their role in national government?
- What should be the role of such intervention?

Figure 1: International Government Organisation Membership

Source: Data reported in Held et al. (2001)
Contingency Based View

State of the World

**Convergence**
- \( Y^* \) → \( R^* \)

**Divergence**
- \( Y_1 \)
- \( Y_2 \)
- \( Y_3 \)

**Ambivalence**
- \( Y^* \) → ? → \( R^* \)

**Regulation**
- \( R_1 \)
- \( R_2 \)
- \( R_3 \)
## Economic Convergence

<table>
<thead>
<tr>
<th>Effect</th>
<th>Regulatory Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Globalisation bring economic growth and innovation (Ohmae, 1990).</td>
<td>Globally harmonised regulation for globally harmonised standard business</td>
</tr>
<tr>
<td>Globalisation represents US hegemony (Gilpin, 1987)</td>
<td>Global harmonisation set by hegemon</td>
</tr>
<tr>
<td>Regions will integrate into a system – even if it is “divergent”</td>
<td>Loose global harmonisation encompassing divergence</td>
</tr>
<tr>
<td>(Berger and Dore, 1996; Hall and Soskice (2001).)</td>
<td></td>
</tr>
<tr>
<td>Globalisation is the next stage of economic evolution – for better or</td>
<td>Global harmonisation as organic outgrowth of economic evolution</td>
</tr>
<tr>
<td>worse (Friedman, 2000; Greider, 2001).</td>
<td></td>
</tr>
</tbody>
</table>
# Economic Divergence

<table>
<thead>
<tr>
<th>Globalisation brings outsourcing requires exploitation (Klein, 2000).</th>
<th>Global harmonisation needed to guarantee a universal minimum standards</th>
</tr>
</thead>
<tbody>
<tr>
<td>No real globalisation, regions reign (Hirst and Graham, 2001).</td>
<td>Minimalist global harmonisation based on regional compromise or bargaining power</td>
</tr>
<tr>
<td>State as executive committee of the bourgeoisie (Pilger, 2002).</td>
<td>Global harmonisation based on interests of national capitalist classes</td>
</tr>
<tr>
<td>MNEs foster natural differentiation in the “world system” (Strange, 1997).</td>
<td>Global harmonisation promoting such differentiation</td>
</tr>
</tbody>
</table>
## Ambivalent

<table>
<thead>
<tr>
<th>Globalisation requires MNEs to organise for competitive advantage (Bartlett and Ghoshal, 2001; Hedlund, 1994)</th>
<th>Global harmonisation sets incentives for organisational strategy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Globalisation occurring with networks in global governance (Braithwaite and Drahos, 2000).</td>
<td>Global harmonisation dictated by powerful MNEs</td>
</tr>
<tr>
<td>Variety of MNEs (Stopford, 1998)</td>
<td>Global harmonisation as result of powerful MNEs or compromise</td>
</tr>
<tr>
<td>MNEs are another layer in multi-layered governance (Held et al., 1999).</td>
<td>Global harmonisation codifying and legitimising multi-layered government</td>
</tr>
</tbody>
</table>
Implications of Globalisation on Harmonisation

<table>
<thead>
<tr>
<th></th>
<th>Y</th>
<th>R</th>
<th>relation of Y and R</th>
</tr>
</thead>
<tbody>
<tr>
<td>convergence</td>
<td>$y \rightarrow y^*$</td>
<td>$r \rightarrow r^*$</td>
<td>unique</td>
</tr>
<tr>
<td>divergence</td>
<td>$y \rightarrow Y$</td>
<td>$r \rightarrow R$</td>
<td>unique</td>
</tr>
<tr>
<td>ambiguous</td>
<td>Y</td>
<td>R</td>
<td>non-unique</td>
</tr>
</tbody>
</table>
UN Convention Against Corruption

- Successfully negotiated in October 2003
- Adopted in early November
- 130 governments participating
- "Vienna Declaration" in April 2000

- criminalising bribery
- improving accounting standards
- preventing money laundering
- reducing bank secrecy
- return of illegally obtained assets
- promoting govt/ business co-operation
How “tight” is the Convention?

The Convention has differing degrees of “tightness”
How Relevant is the Convention?

The Convention has differing degrees of “relevance”
Distance from the Ideal

Distance from Stated "Ideal"

Distance measure (-5 is maximum distance)

Article
Figure 9: Comparing Rule of Law

Is the ideal the optimal?
Relative “Tightnesses”

- **Actual**: 1 \(\longrightarrow\) \(r\) \(\longrightarrow\) 5
- **Ideal**: 1 \(\longrightarrow\) \(r'\) \(\longrightarrow\) 5
- **Optimal**: 1 \(\longrightarrow\) \(r^*\) \(\longrightarrow\) 5
The Regulator’s Dilemma

Figure 10: Comparing the ideal, the optimal and the actual

<table>
<thead>
<tr>
<th>$r' &gt; r^*$</th>
<th>$r^* &gt; r'$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Panglossian world</td>
<td>Machiavellian world</td>
</tr>
</tbody>
</table>

- **$r > r'$**
  - Nominal over-regulation
  - Effective over-regulated
  - Uncertainty (is $r <$ or $> r^*$)?

- **$r < r'$**
  - Nominal under-regulation
  - Uncertainty ($r$ could be less than $r'$ and $r^*$)
  - Effective under-regulation
Choosing a regulatory regime

Figure 11: The regulator’s problem
A non-contingency based view of regulation?

Figure 12: Regulation and Income

Source: Dasgupta, Roy and Wheeler (1995)
The dynamic evolution of “clubs”

Figure 12: International Governance Structures

Adopted from: Eden and Hampson (1997)
Regulation’s Consequences?

Perceptions of Corruption in Western Europe

<table>
<thead>
<tr>
<th>Country</th>
<th>TI Index</th>
</tr>
</thead>
<tbody>
<tr>
<td>Finland</td>
<td>9</td>
</tr>
<tr>
<td>Sweden</td>
<td>8</td>
</tr>
<tr>
<td>Norway</td>
<td>7</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>6</td>
</tr>
<tr>
<td>Austria</td>
<td>8</td>
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</tr>
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<td>France</td>
<td>6</td>
</tr>
<tr>
<td>Portugal</td>
<td>4</td>
</tr>
</tbody>
</table>
The Consequences of Regulation part 2

TI Rating and Months since OECD Convention adoption

Months since Ratification

TI Ranking
Conclusions

- The regulatory ideal is rarely strived for (and should be)!
- The regulatory optimum is strived for (but rarely attained).
- The actual degree of regulation may or may not depend on attempts at regulatory harmonisation
  - Institutional assimilation
  - Politicisation
  - Cultural interpretation