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A moderate position in the debate on the possibility and moral utility of the ethical standards codification[*]

Abstract

The popularisation of drawing up codes that are addressed to various social groups is one of the features of the modern world. However, researchers of the phenomenon have not yet reached a consensus about the moral validity and utility of this activity. The article thoroughly reviews the Polish literature on the subject with regard to the reasons for taking a moderate stance on the codification of ethical standards. The essay describes the main concepts of ethical codes as well as arguments for their approval and rejection. Attention is drawn to the ways of improving the effectiveness of codes and to the ethical decision-making procedure that reconciles the positions of the supporters and opponents of codification.

Keywords: professional ethics, codification, social responsibility, regulation of behavior, standardization, situationism

JEL Classification: M14

1. Introduction

The literature on the subjects looks at the issue of codifying ethical standards from two main perspectives. On the one hand, it calls for full recognition of its validity; on the other hand, its premises are being rejected, pointing to its limitations and

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distortions. Thus far, researchers have not developed a position which would end the dispute. The aim of this study is to present a moderate position on the codification of ethical standards, which would make it possible to reconcile the two parties in the argument. First, the basic issues related to defining, enforcing, and supervising the sets or systems of standards and principles of professional ethics will be described. Once the basic concepts and ethical positions are illustrated, the author will discuss the possibility of working out the moderate position on the matter by deploying the arguments of both the supporters and opponents of codification.

2. The concept of ethical code and its transformation

Let us begin by discussing the basic definitions associated with the codification of norms, selected ethical positions and their transformations along with socio-economic development. According to Zdybel (1999, p. 131), an ethical code is:

> a consistent set (system) of standards that regulate the moral sphere and determine an individual's relation to other people, to the group, to himself and, in the case of a religious and ethical code (e.g., the Ten Commandments), chiefly to God.

Similarly, according to Grendecka (2004, pp. 680–681), an ethical code is a system of "norms regulating the moral sphere of human life." Both researchers indicate that codes can have a written form or be orally transmitted, but in each case, the binding force is the same. Codes may apply to large groups, such as followers of a particular religion or small groups, for example, vocational ones. We distinguish the following codes: a code of social ethics, a code of honor and a code of professional ethics, including ethics in medicine, journalism, business life as well as politics and science (Grendecka, 2004, pp. 681–685).

The literature on the subject speak of at least three approaches to the formalization of ethical principles: (1) ethics of virtues and role models, (2) ethics of codes and rules, and (3) situationism. In the first case, they are ethics that promote "a set of desirable virtues and role models that are worth imitating and who embody these virtues" (Zdybel, 1999, p. 74). This approach, similar to ethics of codes, puts emphasis on standards and principles, but of a lower level of formalization, for example, the institutionalization of morality through, for instance, taking an oath and making vows, with a simultaneous tacit adherence to the unwritten rules of a given group (Pogonowska, 2009, p. 153). The ethics of codes is more about drawing up the moral requirements, which generally do not have the character of, for example, legal obligations. In the case of some professions, society expects the codes to be laid down so as to eliminate any irregularities that may occur within this professional group (Konstańczak, 2000, p. 70).

Situational ethics does not bother with formulating general principles of conduct—hence, it is referred to as "ethics without a code." This view questions the need for top-down instructions for the people regarding the rules of behavior and their dissemination. It recommends

> [...] basing moral decisions on reason, facts, and conscience, because each situation is different in practice, and due to its uniqueness, codified norms prove to be redundant, and sometimes may even absolve somebody from moral responsibility. (Klimowicz, 1999, pp. 257–258)

Despite a certain degree of repeatability, events in which, for example, members of a given profession participate are characterized by diversity which written codes cannot capture (Grendecka, 2004, p. 685). Owing to the uniqueness of particular events, each ethical decision requires separate consideration. In line with situationalism, moral duty results from, for example, intuition, moral sense, sympathy, and conscience, or from a very generally formulated principle, such as act-utilitarianism or anomie (Zdybel, 2002, pp. 454–455).

The ethics of codes is an ethical stance that requires a broader description. Its proponents believe that ethical systems should be devised and they should be used as ethical codes. The extreme approach supports traditional codes, arbitrarily imposed in a given group, of casuistic nature—unambiguously and unfailingly resolving disputable issues (Zdybel, 1999, p. 132). Advocates of moderate ethics of code, on the other hand, assume that codes should be more open, constantly updated, adapting to changes in the world of values. This way, they are intended to solve typical situations (Zdybel, 1999).

This study addresses primarily the issues of professional ethics (also referred to as deontology) and codes of professional ethics (deontological) (cf. Zdybel, 2002, p. 139, 145; Klimowicz, 1999, pp. 51–52). What is important from this perspective are actions which concern not so much values as obligations, or the legitimacy of actions in the light of orders and prohibitions of an external authority (e.g., God, a monarch, an outstanding individual, a community—social class or group) or the internal authority (e.g., the free will of the subject, moral sense, practical reason) (Dębowski, 1999, pp. 52). There are many ways to define professional ethics. At this point, let us simply mention that it can be understood in a narrow and broad sense. In the first case, it is a set of special standards and commitments required from people performing specific professional functions; it is the contents of the codes of particular professions (Sułek & Świniarski, 2001, p. 63). At the same time, these guidelines are to be clearly distinguished from professional morality—the actual behavior of the members of a profession and their beliefs (Bogucka & Pietrzykowski, 2009, p. 94). The broad approach concerns the recommended principles of behavior, the moral convictions of members of a given profession as well as the ethical evaluation of their behavior (Bogucka & Pietrzykowski, 2009, p. 93). In respect of a given profession, it also includes its metaethics (the justification of the specificity and requirements), ethology (the social role of the members) and normative ethics (codes, oaths, vows and commitments) (Sułek & Świniarski, 2001, p. 64).

The literature on the subject assumes that professional ethics refers mainly to legalized professions, for example, of positive social value (Zdybel, 2002, p. 145), and that ethical codes have application to professions that involve taking responsibility for another person and the common good (Grendecka, 2004, p. 682). As stated by Pogonowska (2004, p. 41), professional ethics is a branch of economic ethics reflecting on the moral system followed by the members of specific occupations or professions that are connected with the business sphere—directly (bankers, insurance agents, brokers, statutory auditors, workers of an advertising agency, tax advisors, etc.), indirectly (people involved in public relations, journalists), or completely unrelated to this sphere (teachers, legal professions, doctors, police officers, soldiers). It could be argued that the literature on the subject focuses mainly on the last group of professions. According to Klimowicz (1999, p. 82), codes are characteristic of professions related to especially appreciated values. They include the health and life of a person (medical code of ethics), freedom (ethics of an advocate or a judge), or the way somebody's personality is shaped (the ethics of teaching). Alternatively, these are occupations which require not only technical knowledge and skills but also ethical qualifications (e.g., the honesty of the seller, the reliability of the artisan). Zdybel (2002, pp. 144–145) points out that the need for codes arises when a profession represents the following values: property (employees of public administration), truth (teachers), knowledge (engineers), courage (uniformed services), and impartiality (lawyers).

As Grendecka (2004, p. 685) maintains, the introduction of ethical codes "does not equal creating a 'new morality' for particular professions," but rather specifying the features of morality that include members of a given cultural circle. Professional codes of ethics should be established on the basis of the following principles: the weakness of human nature in the pursuit of good; the need to specify the moral obligation to act; a reference to general moral principles, common to all people; respect for human dignity; and care for positive interpersonal relationships (Grendecka, 2004, p. 681). Regarding the arrangement of contents, it usually includes a preamble with the main concept of the organization or professional group to which it is addressed; a reference of general ethics to the duties and tasks of a given profession; moral norms applicable in a given environment; a reminder about the essence of the business activity and the code of conduct in conflict situations; and then sets of technical, praxeological and moral imperatives, which are characterized by a varying degree and manner of argumentation in particular codes (cf. Grendecka, 2004, pp. 681–682). Subsequent chapters might contain, for example, general rules; general duties and professional duties; the relation of a given profession to other entities and institutions; relations with clients; obligations towards co-workers and other members of the profession, relations within the profession; imposing penalties, settling disputes and sanctions; relations with the employee council and relevant authorities; and final provisions (Filutowska, 2009, p. 101).

The above points may be complemented by a description of how the role of ethical codes has changed throughout the socioeconomic development, which also involves historical and cultural volatility in the codification of ethical standards.

Kot proposes three interrelated typologies. If we consider them as a whole, it can be concluded that, at present, numerous models of codification of ethical norms are in use. Such an approach presupposes that in modern Western societies, this phenomenon results from their development and contact with other cultures (2004c, p. 32). The typologies defined by Kot refer to the competing:

(1) types of philosophical reflection on worldview values, such as reality, truth, goodness, and beauty (2004a, pp. 17–19);

(2) concepts of social philosophy related to determining the place of supreme values, including moral and ethical ones, in the reproduction and development of the whole set of material and symbolic conditions of social life (2004b, pp. 21–25);

(3) contemporary moralities—sets of standards and principles (of ethical systems), which are enforced to the extent and within the scope necessary to reproduce the cooperation links of a given community (2004c, p. 34).

The first stage of codifying ethical standards involves classical reasoning in which the idea of "natural law" is the codification of values. It is assumed that values exist objectively, out of and beyond the reality that can be sensed. It is where the pre-modern (conservative, traditional) social philosophy presupposes that worldview values are extrasensory, ideal, universal, non-human, eternal and constant. What applies is the morality of mores (tribal, ethnic), which does not allow any form of individual autonomy. It is presumed that one public regulation applies to all members of a community, and the entirety of interpersonal relations is "watched over" by a supernatural sanction (e.g., monotheistic, institutionalized religious regulations) or a state (mainly authoritarian, but also a democratic state that does not respect "minority rights").

The second stage of codification development encompasses the modernist reasoning—striving to create a full set of worldview norms grounded in research on the nature of human existence. These norms would express individuals' predispositions and expectations that are universal to the human species, as well as fixed and supra-local mechanisms of social life that enable them to carry out their individual and group activities. Modernist social philosophy assumes that supreme values were made objective, and it avoids cultural relativism and nihilism. Standards and principles are to follow from the knowledge of the natural and social reality. However, at the same time, constant research, leading to the emergence of new concepts, makes it difficult to agree on a set of values and rules for holding onto them. Thus, social philosophy also encompasses, for example, disputes about whether building a future, "rational" social order is reasonable. This stage is characterized by philosophically codified (secular) morality, which, regardless of the number of standards and principles it establishes or different definitions of nature, also proposes the introduction of universal regulations in the sphere of the private life of individuals (e.g., Kant's ethics of the categorical imperative).

Kot explains that post-modern philosophy fits the third stage of the codification of ethical standards. It recognizes that cooperation standards in the sphere of cultural diversity, the hierarchy of values, doctrines, religion, and ethics, should be set in a democratic, consensual, procedural, and liberal manner. The way to recon-

cile discrepancies is the assumption that the spheres of public and private values should remain separate. In the former, a common ethical minimum should be maintained and accepted voluntarily by the participants of this sphere, whereas in private life, advocated and held worldview values should be subject to the spontaneity and preferences of individuals. The post-modern, post-modernist social philosophy advocates the manifestation of the changeable character of lived moral values, the recognition of cultural pluralism and the rights of cultural minorities as well as the search for "morality without a code." The moral standard of intellectual autonomy becomes an overriding worldview value—each individual, respecting the standards and principles of cooperation in the matters of common interest, is free to privately cherish his or her worldview values and exercise control over ideas proposed by others. In contrast to the previous stage of codification, post-modern morality recommends doing without ethical codes. Instead, it appeals to the sense of common fate, the responsibility of conscience, the sensitivity to the suffering of all sentient beings, at the same time pointing to the organic sense of group solidarity and the need for public cooperation. Moreover, individual psychosocial creativity and aesthetic preferences are also recommended, as they encourage ethical reflection more effectively than formalisms, conventions, regulations, orders, and supervision.

The presented concept of Kot allows us to notice that the views on the codification of ethical standards from the beginning of the 21st century were the accumulation of the effects of their historical development. On the one hand, we are dealing with distinct traditional and modern codes; on the other hand, we can observe their rejection as, to some degree, the desired direction of the future social and economic development. Hence, contradictory approaches to the issue of ethical standards codification occur frequently within particular social groups, in local and wider communities, which leads to disputes regarding the evaluation of both implemented and recommended measures.

3. Arguments for the moderate codification of ethical standards

In the following chapter, we will discuss the conclusions that support the formulation and use of codes, taking into account the arguments of their opponents related to the changing nature of expectations and situations of individuals and groups.

According to some opponents of ethical codes, codification can serve exclusively culture-related and educational purposes (Kot, 2004d, p. 244). They claim that ethical codes are not too constructive since the people who devise them limit themselves to a declared or verbal acceptance of the given set of rules, instead of actually applying them in different social contexts. What also points to the cognitive and educational purposes is the claim that codes provide an opportunity to see what are the most important premises of ethical business activity in a particular country and organization—what issues and problems are deemed important considering their needs (Rybak, 2012, p. 141). Furthermore, opponents of codes main-

tain that codes are justified only in the case of a few professions, namely, those to which the following play an important role: trust, special and long-lasting preparations, high level of competence, risk, discretion, faith in the good will and professionalism of the specialist, and not the sole want of profit. Such occupations and professions (Kot, 2004d, p. 242):

(1) are related to the protection of human life, health, safety as well as individual and collective freedoms;

(2) are entrusted with somebody's dignity and the right to introduce new generations to particular fields of culture;

(3) consist of carrying out operations on the entrusted property.

When it comes to other professions, codification can be perceived as an attempt to enhance or protect their prestige, which is not always amply justified and consistently implemented (Łabieniec, 2002, p. 24). Bogucka and Pietrzykowski (2009, pp. 121–123) argue that the higher the level of social responsibility of a given profession is, the greater limitation of the worker's autonomy in matters involving moral choices should be in order to protect the interests of clients. This limitation should make a client form expectations regarding the conduct of the professional with whom he or she is dealing and asses the worker's professional expertise. This way, the predictability of behaviors is increased, and a minimum standard is set. The abovementioned researchers assume that codified ethical principles should cover typical and repetitive situations, leading to the development of habits and the internalization of norms. This automatism of behaviors should make it easier for learners aspiring to perform a given profession to do their job and make decisions, as well as get to know the expectations and limitations. At the same time, it should be remembered that specific people may perform numerous professional and social roles, which may result in conflicts between their roles, necessitating a "calculation of the values" that take the highest positions in the ethical hierarchies of these roles (Kot, 2004d, p. 242).

In view of the disadvantages of ethical codes, additional conditions are proposed according to which they should be drawn up and applied. Michalik (2003, pp. 77–79, 81) calls for the term "code" [Polish: *kodeks* – translator's note] to be abandoned as it is a source of misunderstandings. The term, without the necessary differentiation, is used in at least three different meanings:

(1) as a term for a certain type of ethic and attitudes;

(2) as a system of norms, moral recommendations;

(3) as an organized set of rules, orders, and moral warnings.

In addition, the term is sometimes used interchangeably with the notion of "professional ethics", which narrows down the range of issues it applies to. It also evokes negative associations with the penal code and negative sanctions. Bogucka and Pietrzykowski (2009, pp. 121–123) infer that, in this context, the objection to the codification of moral principles is associated with general ethics rather than with professional ethics, which does not set such high requirements regarding the necessity of predicting all possible conflicts and how they might be resolved. According to the researchers, it is possible to replace the term "code" with the phrase "set of ethical principles". Then, a given system does not need to meet such requirements as completeness, non-contradiction, or exclusivity.

Table 1. The ways to improve the effectiveness of regulating behaviors through ethical codes

According to Wisniewski	According to Bogucka & Pietrzykowski	According to De George	According to Gasparski et al.	According to Rybak
Codification of ethics is justified if: (1) it does not become similar to work regulations; (2) a professional approach is adopted in its implementation and institutionalization—with the support from specialists in ethics, and not by random persons; (3) it is being devised with the participation of the external environment of the organization and is not imposed by the management.	Conditions for the success of ethical codes: (1) the approval of a given group of the resolutions adopted in the code; (2) the external evaluation of codes, which should limit the occurrence of possible discrepancies between the interest of a particular occupational group and the interest of the general public; (3) making sure that the code guards the public interest and not the interests of members of a given profession; (4) regulating the issues relevant to a given profession instead of reproducing general norms; (5) taking into consideration general norms—definitely determined by members of a given occupational group according to the situation, as well as specific ones—making no exceptions in specific situations.	A code should: (1) normalize—thus, should not describe values and ideals that the corporation is devoted to; (2) look after the public interest first. It should not include regulations whose sole purpose is to defend the interests of members of the corporation; (3) be to the point and just, regulating the issues that are relevant and specific to a given profession, and not enforcing standards that are already present in common morality.	Conditions for the effectiveness of codes and ethical programs: (1) adequacy to and consistency with the corporate culture; (2) joint participation and openness; (3) formal correctness of the code; (4) an evolutionary character—openness to change; (5) open communication channels; (6) the recognition of ethical programs as a constant element of operations of the company.	The effectiveness in applying codes is achieved by: (1) making sure that the formulation of code is preceded by a long period of research, consultations, and discussions with the participation of all the parties to whom the code applies; (2) avoiding treating the code as if imposed by the management of a given organization, but looking at it as the property of every person that had any influence on its formulation; (3) introducing a code that is backed by an employee training and development program.

Grendecka (2004, p. 685) recommends constantly evaluating the compatibility of ethical codes with the basic principles of the natural law and of the general debate on written codes and their implementation. Rotengruber (2002, pp. 195–205) also raises arguments for the debate on codes. Without it, codes can serve to exert social and political control over weaker participants in a given exchange system. Without increasing the communicative competence and freedoms of all individuals to which the code applies, the code may bring about symbolic domination of the power elite. Such a situation can be averted by (1) developing the integration potential and the capability to express one's own opinions; (2) conducting education and mediation campaigns; and (3) creating conditions of trust and limiting the avoidance of resorting to it. Łabieniec (2008, pp. 53–55) goes even further and asserts that codes of professional ethics may serve their function only if devised with the participation of people from outside the given professional circles or the professional self-governing body. The participation of people from the outside should be accompanied by the reflection on the essence of particular professional ethics as well as the reconstruction of social roles that set requirement for the members of specific professions. This approach is completed by Bogucka and Pietrzykowski (2009, pp. 123–125), according to whom the debate on the contents and implementation of particular codes should result in exposing the discrepancies in views, and later reaching a compromise—at least for some time. Other requirements and techniques for increasing the effectiveness of ethical codes are presented in Table 1.

Rybak's analysis of the social corporate responsibility concepts reveals numerous arguments for the moderate codification of ethical principles. Ethical codes play a significant but not decisive role in several dimensions of this theory. First, in relation to personal ethics, it is noted that the use of codes constitutes only one stage of a person's moral development (the transition from heteronomy to moral autonomy according to L. Kohlberg) (Rybak, 2007, pp. 113–116). Second, individual ethical principles have many sources of influence, including organizational ethics (e.g., the moral climate and corporate culture) and the ethics institutionalization process (Rybak, 2007, pp. 117, 122–124). Third, ethical codes are just one of the instruments of institutionalizing ethics in organizations, along with, for instance, defining the vision, mission and strategy of a company; ethical training; ethical decision-making; effective communication; and mechanisms for preventing and opposing unethical behaviors (Rybak, 2007, p. 131). Fourth, ethical codes are just a part of the ethical dimension of the decision-making process (Rybak, 2007, pp. 143–149).

The last of the mentioned dimensions of Rybak's theory can serve as an example of how to reconcile arguments for and against the codification of ethical standards. It assumes that one can refer to three sources while making a decision (Rybak, 2007, pp. 146–147). These are:

(1) universal standards or professional standards;
(2) ethical directions or systems and principles (e.g., utilitarianism, Judeo-Christian tradition, Catholic personalism, Kantian ethics, the ethics of responsibility, the theory of justice and the theory of rights);
(3) ethical tests.

In the first two cases, a normative approach to ethical judgment is assumed—similar to the ethics of code. The use of tests, on the other hand, is an approach closer to situationism since it presupposes the lack of a universal character of the tests, fewer requirements for reflection based on philosophical knowledge and orientation to the practical dimension.[1] The essence of the proposed procedure is to combine all three approaches, for example, reconcile the judgment founded on a normative approach with the one based on the use of ethical tests (Rybak, 2004, pp. 143–149). The next steps of the procedure are shown in Figure 1. The procedure ends with an undertaken decision or an action. Yet, if it does not adhere to certain rules and fails tests, one should refrain from making any decision or action and seek another way to resolve the situation.

4. Conclusion

The aim of the article was to draw attention to the possibility of working out a moderate position in a dispute regarding the possibility and moral utility of codifying ethical norms. The discussion was conducted with respect to the basic arguments of advocates and opponents of codification, with particular emphasis placed on the issue of codes of professional ethics. The basic theoretical concepts, as well as the stages of development of codes, were outlined. Considering the reasons for supporting or rejecting the codification of ethical standards, the author made an attempt to discuss the moderate option. The moderate approach points to the possibility of using techniques to improve the effectiveness of the implementation of ethical codes. Moreover, it allows us to put ethical codes in the broader context of other instruments of institutionalizing ethics and making ethical decisions within organizations.

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[1] They are, among others, the test of common sense—asking yourself about the real meaning of the intended action (e.g., accepting a bribe, changing a job, or dismissing an employee) and its consequences; the test of one's best side—an analysis and depiction of the best features of yourself after taking a dubious action; the test of public disclosure of an action/decision—an analysis of where the problem occurs, to whom it applies, what rules can be violated while taking action to resolve it and what will happen when others learn about the undertaken action; the ventilation test—making the proposed activity available for inspection by others; the clearance test—telling others (e.g., a lawyer or an accountant) about the problem so that they confirm the rightness of an action; and the gag test—adding witty remarks to the outline of actions—ridiculing an unethical action.
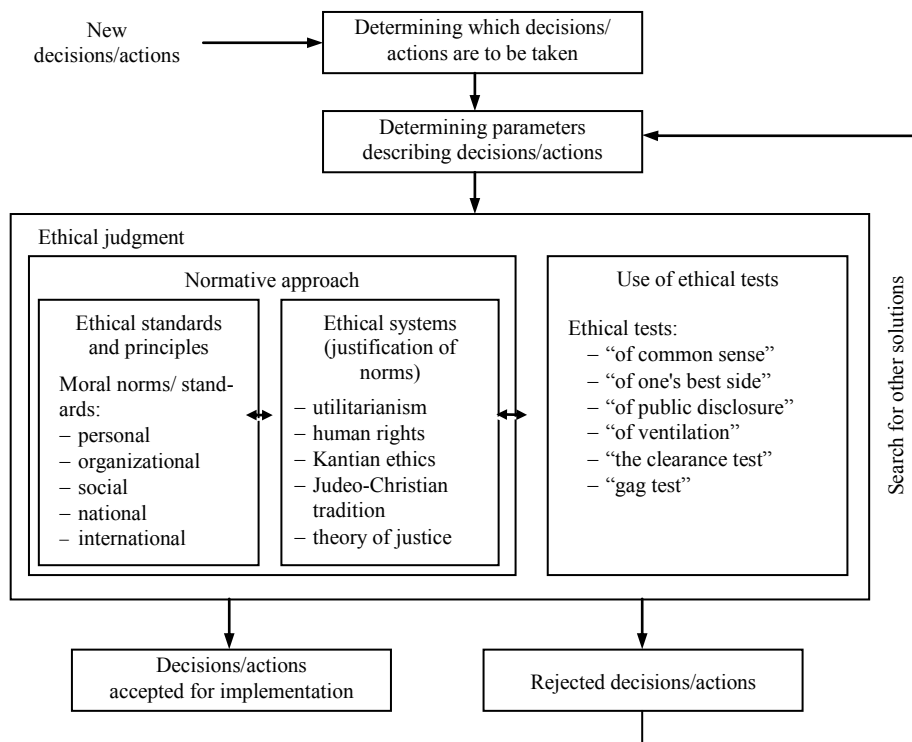
Figure 1. Ethical decision-making procedure

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