Chapter 16

Zsolt Boda
Corvinus University of Budapest

The Ethics of Working with Civil Society Organizations

Responsible companies must deal with the disparate expectations of increasing numbers of stakeholders. Foremost among these are civil society organizations (CSOs), which represent a wide range of values, interests and legitimate claims; these include human rights and labor rights concerns, environmental sensibilities, consumer rights, and the interests and worries of local communities. Responsible management requires the cooperation and inclusion of these different actors in the realm of decision making. However, working with CSOs is not necessarily an easy task, since they may each have different cultures and particular approaches to business-related social issues that can conflict with typical business objectives.

The cooperation of different social actors—such as businesses, governments and CSOs—is also called governance. Obviously, governance offers great opportunities for decision making to cope with the growing social, technological and environmental complexity that characterizes today’s societies. At the same time it raises a number of questions about the legitimacy and effectiveness of such institutional structures, as well as about the required behavior of the cooperating parties.

This paper suggests that Habermasian communicative ethics and its implications could serve as normative underpinnings to the legitimacy of governance. Businesses could develop forums resembling as nearly as possible the “ideal communication situation”—gatherings free of domination and argumentative inequality where participants do not act in a strategic way but perform a real communicative action. However, deliberative practices cannot offer well-defined blueprints to problem solving: deliberation is a process that we can model neither the course nor the outcome. Moral improvisation is needed, and it is only a matter of choice whether we
consider this as an inherent weakness or an opportunity for deliberative stakeholder relations.

The Governance Problématique

The word governance/gouvernance is an old English/French term (already in use by the 15th century), but it has practically disappeared from public usage in the past several centuries. It made a comeback some twenty years ago (e.g., the academic journal Governance was founded at the end of the 1980s), but with a slightly altered meaning. Now it has less to do with governmental control than autonomous control by different social actors. The oft-quoted definition of governance developed by the Brandt Commission on Global Governance goes as follows:

Governance is the sum of the many ways individuals and institutions, public and private, manage their common affairs. It is a continuing process through which conflicting or diverse interests may be accommodated and co-operative action may be taken. It includes formal institutions and regimes empowered to enforce compliance, as well as informal arrangements that people and institutions either have agreed to or perceive to be in their interest (Commission on Global Governance, 1995).

Although this definition concerns global governance, it still contains the main elements of the governance model: the relevance to formal as well as informal institutions, the voluntary character of the interactions, the roles of different social actors, the importance of communication and consent in setting norms, and the interface between the public and the private domains.

The concept of governance has undeniably acquired a great significance in today’s political as well as social science discourse. It makes its appearances in different contexts. We can talk about local, global and multilevel governance. It is associated with the concepts of policy networks, participation, self-regulation, decentralization, value pluralism, risk society, and postinternational systems.
One may even ask whether the use of the term governance in very different social and institutional contexts is justifiable or not. Can we talk about a new model of governing or is it arbitrary to put the different uses of the term under the same conceptual umbrella? My hypothesis is that it is legitimate to talk about governance as a more or less unitary model of governing. The different governance phenomena are linked to each other not only by their structural resemblance, but also by the fact that they are triggered by either legitimacy problems or/and institutional inadequacies—imperfections in the ability to govern and regulate (Calame, 2005). Note that the structural and foundational resemblances, however, do not mean that every governance scheme will exhibit the same operational logic, rules or results.

Where do these legitimacy problems and governance imperfections come from? The question is easy to answer when it comes to global governance: there is no global government, but the functions of one are needed in an ever-more-complex, globalized world. This institutional gap is being filled by the cooperative efforts of states, international organizations, companies and civil society organizations.

The answer is also straightforward in the case of European or multilevel governance, which is also an oft-used term. The imperfections in government functions do not need lengthy explanations in the case of the EU. The European Union published a White Paper on European Governance in 2001 stressing the two basic problems mentioned above: lack of legitimacy and problems of effectiveness. In the context of the EU the term governance is also justified by the fact that although the EU imitates, it does not exactly reproduce the structure and operations of a democratic government. In the EU it is indeed about governance: a unique mixture of formal institutions and informal procedures.

However, governing imperfections can characterize states as well. They might be caused, for instance, by the tendencies of globalization and the neoliberal policies that naturally accompany them. In the 1980s the term local or urban governance gained popularity in the United Kingdom, not independently from the financial restrictions initiated by the policies of Margaret Thatcher that struck local municipalities. The challenge was to ensure the proper functioning of local municipalities under the financial constraints. The solution was to mobilize public participation, and to
cooperate with both companies and CSOs. This meant providing increased access to decision-making procedures (fostered participation) and creating an accentuated reliance on civil society organizations to offer welfare services, but at the same time municipalities became dependent on private sources of financing. Public-private partnerships gained terrain, which meant an at least partial privatization of public services. Local governance initiatives of Great Britain show the two faces of the governance idea: it may at one and the same time spur public participation and privatize the public sphere.

Now, companies have many concerns about the governance idea. First, they may take part in governance structures, typically local ones, working together with local municipalities or governmental bodies, and also civil society organizations. In the UK, where the governance model is quite widespread, national policy initiatives since 1997 have created more than 5,000 partnerships, and countless others have emerged from the activities of councils, health bodies and other public organizations committed to combining their programs to meet local needs (Smith-Mathur-Skelcher, 2006: 149). Here a basic ethical challenge is linked to the fact that companies are becoming involved in public issues using public money, and they are sometimes confronted with the very different logic and values of the political sphere (see Boda-O’Higgins-Schedler, 2009).

Second, companies are increasingly taking part in global efforts to set rules for the global economy. The growing number of multistakeholder codes of conduct (like the classical International Code of Marketing of Breast-milk Substitutes), standards (like the Global Reporting Initiative or the SA 8000) and stewardship schemes (like the Forest Stewardship Council and the Marine Stewardship Council) illustrate the point. Here companies are working with different stakeholder groups—universities, experts, and international organizations, to name a few—and the role of CSOs is also very significant. The basic ethical challenge may be formulated in terms of whether these norm-setting efforts do indeed promote the common good or have failed to do so and become a mere PR exercise. In his interesting study on the presence of basic ILO (International Labour Organisation) standards in labor rights-related codes, Jenkins

---

(2002:18) argues that “multi-stakeholder codes (…) are likely to be more demanding than either business association or individual company codes since they are the result of negotiations with other stakeholders such as trade unions or NGOs, which (…) are likely to make more stringent demands in terms of what they expect from codes.”

Third, companies must manage their own stakeholder relations, which in itself resembles a type of governance structure since different groups must be taken into consideration, and the result has an effect on the common good (as opposed to the company’s private interest).

Increased public participation and deliberative decision making are praised in the literature as means to coping with ecological and cultural complexity. John Dryzek argues that in the 1990s a deliberative (or discursive) turn occurred in developed democracies (and has continued since): people require the right to take part directly in defining the public good and to make decisions that affect it (Dryzek, 2000). Forester (1999) argues that deliberative decision making indeed may help in overcoming the problems of a complex decision-making situation characterized by many stakeholders, diverse expectations, and poorly structured problem definition, etc.

It may seem that the governance idea is indeed a good way to deal with many of today’s political and even business ethics challenges.

However, critics like Guy Hermet argue that the concept of governance carries inherent democratic risks, because the procedural rules that should govern it are not well defined and/or clash with basic democratic principles (Hermet-Kazancigil-Prud’homme, 2005). Some of the most important problems are linked to the selection procedures of the stakeholders and the procedure of decision making itself.

Governance builds upon the inclusion of stakeholders, but how are they selected and their representatives elected? New stakeholder groups can always be presented, or even created, and negotiations can be prolonged indefinitely, because new groups may present themselves as stakeholders. This is an arbitrary process of stakeholder selection, where those with greater resources have more chance to influence the policy outcome. In other cases stakeholders are somehow co-opted by the actors, but
does this not lead to a kind of corporatist model? Who can participate, and how? Upon what is the legitimacy of the participants based? Whom are they representing? Basically, the whole partnership model may result in a questionable privatization of the common good, since particular social actors, among them private organizations (corporations), are shaping the agenda.

Indeed, some studies suggest that governance structures may represent important democratic deficiencies. The researchers from the University of Birmingham assessed 26 local governance schemes against basic democratic standards, such as external accountability. They found that there is a great diversity in the practical operations of the different local government-business-CSO partnerships, and there are indeed “best practice” cases. However, the majority of the studied governance structures did not comply with even the basic notions of democratic accountability (Smith-Mathur-Skelcher, 2006).

Another problem is that the partnership concept is based on negotiation, but who is the final decision maker? Negotiations can last for years if nobody is in a position to make decisions and the needed consensus cannot be reached for one or another reason. This might be an especially hard challenge to face in situations where piecemeal improvements are not viable, and when basic cultural values conflict with or prevent the parties from reaching an agreement. Schwarz and Thompson (1990) argue that different social actors may represent different policy cultures between which reaching a compromise may not be possible.

In the following I will focus on a particular social actor—the civil society organization—and the challenges raised by CSO-corporate partnerships. The last section will outline the discourse ethics framework, which may offer help in overcoming the ethical problems of governance.

**Businesses and Civil Society Organizations**

---

2 This section draws on my contribution in Boda – O’Higgins – Schedler, 2009.
CSOs have gained importance in public life. They increasingly influence politics, the regulation of business, and the provision of social services. This outcome is confirmed by research. At the beginning of the 1990s, CSOs of the developed countries, and especially the US, have increased their resources due to the substantial donations they receive (Princen-Finger, 1994). CSOs trade at least USD 1.1 trillion worldwide, provide more aid than the World Bank, and employ more than 19 million people (Bendell, 2000: 16). Sociological research has demonstrated that while trust in politics and business has been slowly but steadily eroding, confidence in CSOs jumped significantly in the 1990s (Inglehart, 1997). Analysts say that the phenomenon of “global civil society” has emerged from its beginnings in the mid-1990s (Anheier – Kaldor, 2001).

A possible explanation for this development was offered by Ulrich Beck in his seminal book about “risk society” (Beck, 1986). Beck argued that growing technological and institutional complexity triggers a perception among people that quality of life is threatened by the risks inherent in the complicated systems used to organize our society. He predicted that issues related to “sub-politics” (policies concerning food, energy, environment, etc.), which had previously been considered highly technical, would gain in political importance. He also predicted the growing importance of CSOs in “problematizing,” or dealing with, these “sub-political” issues. We can see that his predictions have certainly materialized in the early part of the twenty-first century.

Two aspects of the flourishing of civil society deserve attention here: 1) the values-driven nature of CSOs, and 2) their increasing criticism, expectations and demands of business, which sometimes include offers.

First, theorists argue that in the postmodern era the civil movements are more and more motivated by inherently ethical values. According to the well-known postmaterialization thesis of Ronald Inglehart (Inglehart, 1997), developed societies have moved from the so-called materialistic values (economic welfare and physical security) toward postmaterialistic ones (quality of life, valuable human relations, self-expression, self-realization, responsibility towards the world, etc.). Inglehart also argues that CSOs are paradigmatically representing those postmaterialistic
orientations. This has an effect on CSOs as well: while the NGOs of the “modern society” might have represented the interests of a given social group, the CSOs of today’s “postmodern society” are typically organized around ethical values.

For instance Eder (1996) argues that the green movement is more and more values-driven and fuels a discourse about the “good society.” Another relevant example of the transition to values-driven CSOs is the consumer protection movement, which has traditionally represented the interests of consumers. Lately, it has moved toward ethical consumerism, embracing fair trade, ethical supply chain management, and environmentally sustainable products, etc. This shift is apparent even in the case of classical consumer protection organizations like the Consumers International (Boda – Gulyás, 2006).

Second, CSOs are increasingly turning towards business. This approach is largely explained by the power shift that occurred from governments to companies, as CSOs discovered that it might be easier and more fruitful to approach businesses with their criticisms and demands (Newell, 2000). For instance, the traditional way for an advocacy group to change business practices is to lobby the government for a new regulation. However, it may turn out that approaching companies themselves could be a much simpler and more successful strategy (Harrison et al., 2005). The ethical consumerism movement is a powerful representation of this approach; boycotts, media campaigns, and similar means of protest are perceived as a real threat by companies. At the same time, other CSOs aim at developing cooperative relations with companies, partly because they need businesses’ resources (money, knowledge) in order to operate effectively.

Values-driven, company-focused CSOs are also very active in the field of global business regulation. Indeed, a growing literature about “private authorities” (Hall and Biersteket, 2002, Haufler, 2001), “governance structures and international regimes” (Petschow-Rosenau-Weizsäcker, 2005), “partnerships” (Bendell, 2000), and “global business regulation” (Braithwaite-Drahos, 2000) suggests that globalization is not void of multifaceted regulatory efforts coming from different sectors. Besides international organizations, business and CSOs are also active in setting and promoting norms.
In sum, the altered perception of risks, value shifts in postmodern societies, and legitimacy crises of the traditional sources of authority (science, business, politics) explain the growing significance of CSOs. Meanwhile, the growing power of business, the perceived weakness of governments, and the lack of global regulatory institutions make them turn increasingly towards companies. Businesses must acknowledge CSOs as part of a new social reality.

Obviously, this reality offers both opportunities and threats to the different social actors. Opportunities include learning and benefiting from each other, developing win-win situations for themselves and the larger society, and promoting values and norms. CSOs may learn practical and management skills from their business partners, while companies may strengthen their organizational culture and values thanks to CSOs. Businesses may build social and reputational capital from this kind of cooperation and they may reduce risks posed to their operations. Companies may provide substantial resources to CSOs, but CSOs have their own resources as well: specific knowledge and sensibilities. Ideally, CSO-business cooperation should yield benefits in terms of win-win situations, in which larger social, environmental, and related aspects are harmonized with profit interest. Finally, CSOs and companies, possibly in combination with other social partners such as international organizations (for example, International Financial and Trade Institutions [IFTIs] like the World Bank), may develop governance schemes and best practices which can influence and regulate other businesses as well. CSOs can promote the transparency and accountability of the firms.

Many instances of CSO-corporate partnerships exist, and they provide many benefits to all parties and to the wider community and society as well. However, we should not forget about the possible risks and threats inherent in such collaborations. Some of them are more general concerns about the legitimacy and feasibility of such cooperative relationships (see the previous section); however, some others relate directly to the CSO-corporate nexus.

- **Organizational interests.** Businesses’ final aim is to create value for their shareholders, and this limits their ability and willingness to build effective
partnerships with CSOs for a more general social or environmental objective. Thus, CSOs may suspect businesses are merely engaging in opportunistic behavior—led by PR benefits rather than true commitment. In a parallel way, CSOs are concerned with their own public images and may be wary of working with companies that might potentially generate conflicts with their membership or fundraising bases (Elkington – Fenell, 2000: 152).

- **Cultural conflicts.** Businesses may experience difficulties in addressing the broadening sustainability agenda of CSOs, and they may find it hard to accept or tolerate the language and attitudes of CSOs. Crane (2000: 170) suggests that in a corporate-CSO cultural conflict, companies are not generally very willing to make an effort to move closer to the CSO’s standpoint. The attitude appears to be that if cultural differences exist, then it is the pressure group that must adapt, not businesses.

- **Particular interests.** Obviously, civil society and its organizations are not necessarily the ultimate guardians of ethical truth. CSOs as well as companies represent their own organizational interests and agendas. Moreover, they are obviously driven by the worldviews, commitments, and visions of their members and leaders, which are, by definition, partial worldviews and commitments—even if they aspire to represent higher, or even universal, values. The two cases described by Ali (2000) illustrate the point: in both cases a conflict emerged between environmental CSOs, which opposed uranium mining projects, and indigenous people who did not necessarily reject the projects as such and were interested in job creation. It is difficult to declare that the environmental values propagated by the greens automatically have higher ethical legitimacy than the social problems of local people. More generally speaking, why should we accept, and recognize as legitimate, agreements made by private companies and nonelected social activists? Do they represent the common good or just a contingent harmonization of particular interests?
Discourse Ethics and Deliberative Practice

We have seen that both governance schemes in general and corporate-civil partnerships in particular share some common features:

- they are based on the cooperation of different social actors
- who have different value commitments, interests, and languages, but also different resources and power
- but try to deal with sometimes very complex cultural, social, ethical, ecological and other issues
- without having clear procedural norms governing and regulating the interactions and decision making itself.

This situation may possibly lead to arbitrary selection of stakeholders or arbitrary self-selection of self-appointed stakeholders, and in both cases particular approaches may rule over the common good;

1. power abuses;
2. an impossibility of understanding among the partners due to cultural and discursive conflicts;
3. long, ineffective, and time-consuming negotiations;
4. an impossibility of decision making.

In the following I will address the above problems using the principles of discourse ethics (Apel, 1990, Habermas, 1990), deliberative democratic theory (Dryzek, 2000) and deliberative practice (Forester, 1999).

Stakeholder selection

The principles of discourse ethics imply that the actors should enter into fair negotiations with each other and involve all concerned parties; or if physically impossible, they should make a conscious effort to consider their interests as well. Inclusion in practice could mean that companies should bear some costs of organizing the necessary stakeholder dialogues. This is not an unrealistic requirement. For instance, the Aarhus Convention on public participation in environmental decision making also prescribes the duty of “the empowerment of the stakeholders.” Crediting
the formal right to participate might not be enough, because resource-poor stakeholders might not be able to participate.

That is, when a company seeks to develop forums, it should make efforts to reach and involve all the relevant stakeholders. Of course, important stakeholder groups tend to show up later in the negotiation process, and this sometimes creates complications (e.g., they may wish to start the whole negotiation from the beginning). In a deliberative setting the basic legitimacy comes from the deliberation itself: if the given stakeholder group is able to convincingly argue its systemic significance and the necessity of beginning some parts of the negotiation anew, this may be accepted by the other parties, despite the practical difficulties this may cause.

Openness is a basic value that makes external accountability possible. That is, any partnership should be based on a fair negotiation among the participants—that plus an open communication with the external world: a small and a large circle. The larger circle, the public opinion, should serve as a final check for the agreement made by the parties, so that the “what” they define indeed represents an acceptable interpretation of the common good. In this way the lack of political legitimacy of the civil organizations and the companies will be replaced by an ethical legitimacy.

**Power abuses**

According to Karl-Otto Apel (1990), discourse ethics implies that only those norms that meet (or could be reasonably presumed to meet) with the approval of all concerned in a real, rational debate can claim to be valid. The debate should be as close as possible to the “ideal communication situation,” which is free of domination and argumentative inequality, and in which participants do not act in a strategic way but perform a real communicative action. Whereas in strategic action one actor seeks to *influence* the behavior of another by means of threatening sanctions or offering carrots, in communicative action one actor seeks to *motivate* another *rationally* by relying on the persuasive power of the arguments (Habermas, 1990: 63).

Power abuses are difficult to avoid because they may happen “by accident,” given the inherent power differences of the social actors. Avoiding power abuses may
necessitate deliberate actions that result in the empowerment of the resource-poor partners. Note that resources include not only material but immaterial goods as well, like knowledge or the capacity to communicate. But ethical commitment to self-discipline and an openness to the concerns of the other are also necessary. As Forester (1999: 239) puts it, “[Practitioners]… must be perceptive, probing, engaged, attentive to the blinders of power and the suppression of voice; they must have enough moral imagination to be able to listen, to recognize and respect difference (…).”

Limits of mutual understanding

Discourse ethics is based on the presumption of the possibility of a rational dialogue between the partners. Ideally, the validity of speech lies in its intelligibility (valid meaning), truthfulness (subjective authenticity), factual truth and correctness (normative justifiability). If partners follow these norms, as well as the basic rules of rational discourse (e.g., logic), mutual understanding and even agreement should come.

These communicative norms are indeed very important and provide practical guidance to stakeholder management. Obviously, companies should communicate what they really believe in (subjective authenticity) and what is factually true. They must communicate in a way that is intelligible to the stakeholders, using proper language and proper communicative means.3

However, the reliance of discourse ethics on rationality has been widely criticized by communitarian philosophers, among others. According to Charles Taylor, “strong evaluations” are an essential part of personal identity, and those strong evaluations are rooted in the common meanings a community has about what is good and bad (Taylor, 1985). Alasdair MacIntyre (1981) stresses the role of “practices” in constituting communal as well as personal identity, and although those practices can obviously be reflected upon by discourse, they cannot be fully understood and described by language. These ideas suggest that important parts of our commitments

3 During a public hearing in Hungary, a foreign company employed very bad and slow translations, which in itself impeded real and effective communication. Note that this public hearing was mandated by law, and the company in question apparently had no inherent motivation to hold a fair stakeholder forum.
and identity cannot be problematized in a rational manner and cannot be drawn under
critical reflection without the danger of losing them – which is an obvious limitation
of intercultural dialogue.

Using a more practical approach, Schwarz and Thompson (1990) talk about how
different policy cultures draw on different values, different assumptions about society
and nature, and different ideals and problem-solving methods. Schwarz and
Thompson describe the “egalitarian” culture of CSOs as being characterized by a
critical approach toward technical rationality, deep-rooted concerns about imperfect
knowledge, a holistic approach to social-ecological problems, a belief in grassroots
organization and long-term horizons in planning, and a fear of resource depletion. In
contrast, the “individualistic” culture, typical of businesses, is characterized by a
search for efficiency, trial and error as a problem-solving method, a belief in abundant
natural resources, and praise for individual freedom, etc. These cultures can hardly be
reconciled through rational arguments.

A solution might be that communication should not be limited to rational argument
(Dryzek, 2000). Sometimes positions, values and identities can be made intelligible
through other kinds of communication, such as testimony, storytelling and greeting.
Kaplan (1993) and Roe (1994) also stress the role of narratives in creating and
stabilizing policy approaches.

However, as Dryzek (2000:167) warns us, we should be aware of the dangers inherent
in rhetoric, testimony and storytelling: they can be used to coerce and manipulate the
audience’s emotions. Dryzek suggests that any form of communication should be
admitted only if it is both noncoercive and capable of connecting the particular to the
general.

In sum, ideally rational arguments can assure mutual understanding and the
accommodation of different approaches. However, rational discourse has its own
natural limitations, and other forms of communication may exhibit different kinds of
imperfections. Still, as Forester (1999) suggests, deliberation may become fruitful
even if we have no clear models, rules or prescriptions. Forester calls deliberation
“moral improvisation,” which does not mean “anything goes,” but rather stresses the importance of practical wisdom:

In practice settings, listening carefully enables not just some vague “better communication”, but a far more important recognition of what others really value, beyond their wants of the moment. (…) The power of recognition that comes from a listener’s, “Oh! So what you really mean is…” grows not simply from their clarification of meaning but from their fresh appreciation of value, of what matters, seen now in a new way (Forester, 1999: 234).

Problems of ineffectiveness

Lack of effectiveness is an important problem in governance, or more generally, in any deliberative setting. Inadequate effectiveness is also a problem found in civil-corporate partnerships. For instance, the UN Global Compact has been severely criticized for its allegedly poor results in bringing about change in corporate behavior. If we compare the effectiveness of the multi-stakeholder governance structure to that of a government authority operating inside the same country, we will certainly be disappointed. True, we will also be disappointed if we compare it to the effectiveness of voluntary self-regulations of the coordination type. Business is able to effectively monitor and sanction if the topic is, say, the abuse of ISO quality-management standards. Why is it not so effective in terms of ethical standards? Obviously, again, because these concern collective-action problems, where an incongruency exists between the individual incentives and the collective interest.

The effectiveness of governance structures is a complicated question and certainly needs more research (e.g., the very meaning of effectiveness in these contexts is far from being absolute). However, some theoretical arguments (see Dryzek, 2000: 173) and empirical evidences indicate that openness, inclusion and communication can also help the effectiveness of the governance structures, because they provide means for coherent integration of the variety of perspectives and create the conditions that allow the stakeholders to accept and apply the decisions.

Consider the examples of the Forest Stewardship Council and the Marine Stewardship Council (for a description and analysis, see Bendell-Murphy, 2000, and Fowler-Heap,
The FSC is about institutionalizing sustainable forestry practices, while the MSC promotes sustainable fishing. Both the FSC and the MSC have developed standards and norms to be followed by their respective industries as well as labeling schemes. Both of them were initiated by the World Wide Fund for Nature (WWF), but they each represent quite different approaches. The FSC is based on a “bottom up” approach and inclusion: the most important stakeholders have been invited to join the FSC, and its activity has been based on the deliberation and cooperation of the parties. The MSC was designed as a joint project of the WWF and Unilever, the market leader in fish products. Other companies were invited to join at the outset, but after the WWF and Unilever had already developed the MSC scheme, other potential parties could only “take it or leave it.” Now, analysts say FSC seems to be more effective, just because the members consider the initiative as their own (Fowler-Heap, 2000).

Breitmeier, Young and Zürn (2006) arrived at a similar conclusion in their analysis of international environmental regimes. They made an extensive and quantitative analysis of 172 “regime elements” of 23 international regimes, and they have been primarily interested in whether there are some institutional features (of regime design) that increase the effectiveness of international governance structures. In fact, they have not been able to identify such features. But from our point of view, an interesting result of their analysis is that there is no single decision-making rule that proves to be more effective than the others: regimes using the consensus or unanimity rule are just as effective as regimes built around the majority vote. Now, a general belief (and a general argument against discourse ethics) is that reaching a consensus is a long and difficult, and therefore ineffective, process. However, consensus creates a feeling of identification among the parties, which increases the effectiveness of the regime in question. In other words, the perceived legitimacy (normative rightness and acceptability) of a regulatory framework indeed contributes to its effectiveness.

The arguments above do not discard totally the charge that deliberative processes tend to be slow and time consuming. However, we should bear in mind that very often the governance schemes and partnerships aim at governing complex and otherwise unregulated and ungoverned issues. Any problem of effectiveness should be measured and evaluated against the complexity of the problems and the lack of other solutions.
Problems of decision making

Ideally, cooperative and deliberative procedures rely on consensus as the decision-making rule. Consensus might indeed be time consuming to reach, if it can be reached at all. Under the previous heading we relativized a bit the effectiveness problems of consensus-building processes: remember that international regimes operating under the unanimity or consensus rule are more effective than regimes using the majority rule for decision making (Breitmeier, Young and Zürn, 2006).

Another approach suggests that “in a pluralistic world, consensus is unattainable, unnecessary, and undesirable. More feasible and attractive are workable agreements in which participants agree on a course of action, but for different reasons” (Dryzek, 2000: 170). Indeed, deliberation may be only a prelude to voting or other decision-making procedures. For instance, a company may honestly and openly communicate with its stakeholders about a particular project, but at the same time reserve the right to make the final decision. In a similar vein, the Aarhus Convention, which set the right of stakeholders to get information about and participate in development projects, does not require the full consent of the parties concerned. Participation and deliberation alone can bring about better outcomes and more legitimate decisions.

Conclusion

A collaborative enterprise cannot and would not choose to avoid creating communicative arenas for its stakeholders. Moreover, the growing need for governance requires that companies not restrict their stakeholder management to dealing only with classical corporate-stakeholder problems, but that they enter into governance schemes. This means deliberating and acting directly upon the common good: setting norms, contributing to development and policy planning, or co-managing public goods. Governance also means working with political and social actors, which raises special problems about values and identities.

This paper has focused on the specific problems of working with civil society organizations (CSOs). The importance of CSOs has increased in today’s industrialized societies, and we can interpret this phenomenon as a response to the
challenges of growing technological, ecological and cultural complexities. In contrast to “classical” NGOs, the identity of CSOs is less rooted in particular interests than in specific value commitments. Their activity is, to a growing extent, centered around companies, and businesses should acknowledge this as part of a new social reality.

However, the value-laden nature of CSOs raises special problems for companies. Negotiating and collaborating with CSOs is sometimes less a bargaining process, where the parties accommodate their pre-established interests and objectives, than it is an intercultural dialogue where different worldviews, visions and discourses enter into either conflicting or fruitful interaction with each other. Discourse ethics and the practice of deliberative policymaking can provide useful normative and practical insights as to how to make corporate-CSO partnerships work for the common good and avoid possible pitfalls. However, deliberative practices cannot offer well-defined blueprints to problem solving: moral improvisation is needed, and it is only a matter of choice whether we consider this as an inherent weakness or an opportunity for deliberative stakeholder relations.

References


