

Cultural Codes: An Economic Analysis

Peter T. Leeson

Department of Economics
George Mason University

1 Introduction

In her article “Cultural Codes and Military Ethics—Israel’s Leadership and POWs from the 1973 Yom Kippur War,” Dalia Gavriely-Nuri (2012) presents a simple but important hypothesis: “When an official code of military ethics has yet to be institutionalized, cultural codes tend to substitute as guides to conduct.”

To investigate this hypothesis Gavriely-Nuri examines what she calls the “Cultural Code of Captivity.” That code offered to fill a void created by the absence of formal rules stipulating how Israeli political and military leaders were to behave toward Israeli POWs captured during in the 1973 Yom Kippur War. Gavriely-Nuri finds that Israeli leaders generally failed to comply with Cultural Code of Captivity. On the basis of this failure she warns of “the danger posed by the absence of official . . . codes of conduct” that “allows . . . culture to fill the vacuum.”

I’ve been asked to write a commentary article that engages Gavriely-Nuri’s thought-provoking piece. As an economist, the most sensible way I can do so is by bringing economic analysis to the discussion. My commentary therefore uses rational choice theory to consider the basic themes Gavriely-Nuri’s article raises. By highlighting the role that individuals’ incentives play in determining their behavior, the economic approach makes it possible to understand why some cultural codes are effective while others aren’t, and to predict the contexts in which cultural codes are likely to succeed or fail.

My argument is straightforward. Gavriely-Nuri’s hypothesis is surely right. In the absence of formal codes of military conduct, informal codes that regulate such conduct emerge in their place. Indeed, it’s not only in military contexts that cultural codes substitute for missing formal ones. They do so in *any* context where persons require rules to cooperate.

But a crucial element is missing from Gavriely-Nuri's discussion—one that illuminates why Israeli political and military leaders largely failed to comply with the informal code that emerged in their context and why, in general, cultural codes that share the Cultural Code of Captivity's basic features are destined to be ineffective. That element is enforcement.

Like formal codes, cultural codes without mechanisms for enforcing their regulations have no teeth. Rational, self-interested persons will only comply with such codes when they would have done so without them. This is a problem since the very purpose of codes is to cause individuals to behave in ways they wouldn't behave otherwise.

Thus we have laws against theft—enforced through the threat of fines and imprisonment—because without such rules and punishment too many people would steal. Similarly, we have norms against being obnoxious in social settings—enforced through the threat of negative gossip—because without such rules and punishment too many people would be rude.

Individuals' private interests and the public interests of the societies they live in commonly diverge. To align these interests we require enforceable codes. The punishments with which enforceable codes threaten code breakers raise the private cost of code breaking above its private benefit. The result is code compliance and socially desirable behavior.

Israeli leaders' failure to comply with the Cultural Code of Captivity reflects the fact that an exceptionally weak mechanism of enforcement lied behind it. It's therefore unsurprising, and indeed entirely predictable, that such leaders—whose private interests, which were best served by, for instance, not providing ex-POWs costly support in the years following their release, diverged from public interests, which were best served by complying with the code that required them to provide such support—largely ignored the code.

The lesson learned from the Cultural Code of Captivity's failure is not, as Gavriely-Nuri contends, "the danger posed by the absence of official . . . codes of conduct," which "allows . . . culture to fill the vacuum." The lesson learned is that codes without enforcement are bound to fail. It's therefore important to consider the factors that make code enforcement more likely.

In the following discussion I do three things. First, I provide modest evidence for a dramatically broader rendition of Gavriely-Nuri's hypothesis—one that goes far beyond military conduct and suggests that in *any* context lacking formal codes of conduct where persons demand rules, informal codes develop. The economics literature is rife with illustrations of this—from "cultural codes of conduct" that regulate persons engaged in warfare to those that regulate interactions among primitive farmers and much in between (see, for instance, Leeson 2007a, 2008, 2009a; Leeson & Nowrasteh 2011). My discussion in this commentary considers a cultural code of conduct in a still different context: that of 18th-century Caribbean pirates (Leeson 2007b, 2009b, 2009c). Pirates' cultural code provides a striking example of informal rule emergence in the absence of formal rules—quite apart from the military—and highlights the issue of enforcement I want to focus on.

Second, I analyze cultural code enforcement by contrasting pirates' code and the Cultural Code of Captivity. Pirates' cultural code contained a remarkably strong system of its enforcement, rendering that code effective. The Cultural Code of Captivity had a remarkably weak system of potential enforcement, leading that code to fail.

To conclude my commentary I consider a few specific features of the contexts in which cultural codes operate that can be used to predict those codes' enforceability and thus effectiveness.

2 Pirates' Cultural Code of Conduct

Early 18th-century pirates made a living by plundering merchant ships that plied important trade routes in the Caribbean and elsewhere. At sea they lived and worked together on pirate ships, which constituted miniature “floating societies.” The average such society was populated by 80 pirates.

Pirates, of course, were criminals. They lived outside the formal codes and mechanisms of those codes' enforcement afforded legitimate citizens by their governments. Pirates' inability to rely on formal apparatuses to so much as protect themselves from one another's theft and violence created a “rule vacuum” in their societies.

Confronted with this vacuum pirates developed an informal, or cultural, code. Pirates called this system of rules their “articles.” Popularly this system is known as the “pirate code.”

Pirates' cultural code embodied the rules and regulations sea dogs deemed necessary to support cooperation and prevent socially destructive behavior on their ships. Consider the following articles from aboard pirate Captain Bartholomew Roberts' ship the *Royal Fortune* (Johnson 1726-1728: 211-212):

I. Every Man has a Vote in the Affairs of Moment; has equal Title to the fresh Provisions, or strong Liquors, at any Time seized, and may use them at Pleasure, unless a Scarcity make it necessary, for the Good of all, to vote a Retrenchment.

II. Every Man to be called fairly in Turn, by List, on board of Prizes, because, (over and above their proper Share) they were on these Occasions allowed a Shift of Cloaths: But if they defrauded the Company to the Value of a Dollar, in Plate, Jewels, or Money,

Marooning was their Punishment. If the Robbery was only betwixt one another, they contented themselves with slitting the Ears and Nose of him that was Guilty, and set him on Shore, not in an uninhabited Place, but somewhere, where he was sure to encounter Hardships.

III. No person to Game at Cards or Dice for Money.

IV. The Lights and Candles to be put out at eight a-Clock at Night: If any of the Crew, after that Hour, still remained enclined for Drinking, they were to do it on the open Deck.

V. To keep their Piece, Pistols, and Cutlash clean, and fit for Service.

VI. No Boy or Woman to be allowed amongst them. If any Man were found seducing any of the latter Sex, and carry'd her to Sea, disguised, he was to suffer Death.

VII. To Desert the Ship, or their Quarters in Battle, was punished with Death or Marooning.

VIII. No striking one another on board, but every Man's Quarrels to be ended on Shore, at Sword and Pistol.

IX. No Man to talk of breaking up their Way of Living, till each shared a 1000 l. If in order to this, any Man should lose a Limb, or become a Cripple in their Service, he was to have 800 Dollars, out of the publick Stock, and for lesser Hurts, proportionately.

X. The Captain and Quarter-Master to receive two Shares of a Prize; the Master, Boatswain, and Gunner, one Share and a half, and other Officers one and a Quarter [everyone else to receive one share].

XI. The Musicians to have Rest on the Sabbath Day, but the other six Days and Nights, none without special Favour.

The basic features of pirates' cultural code are clear: they prohibited theft and violence, and regulated activities, such as drinking, sex, and gambling, which left unregulated were likely to generate conflict that could tear pirates' floating society apart. Pirates' cultural code also established a system of democracy. Under that system pirate crewmembers popularly elected and deposed their captains and other important officers. I discuss the significance of this feature for pirates' cultural code below where I consider the critical issue of code enforcement.

Before doing so, however, it bears emphasis that pirates' cultural code illustrates the ubiquitous emergence of such codes where social rules are important and formal codes of conduct are absent. Even amidst societies of lawless criminals, there are laws. I suggested the reason for this above. Because pirates had no recourse to government's formal code to regulate their behavior, without a cultural code for this purpose they would have been unable to secure

social order. And without social order, pirates would have been unable to achieve their ultimate purpose: ill-gotten gain.

3 Cultural Code Enforcement

Pirates' cultural code was highly effective (Leeson 2007b, 2009c). Pirates complied with its regulations, enabling them to make large illicit profits. The contrasts sharply with the ineffectiveness of the Cultural Code of Captivity which, as Gavriely-Nuri documents, Israeli leaders generally failed to comply with.

What explains this pronounced difference in these cultural codes' effectiveness? And how is it that pirates' cultural code—*developed by and for violent criminals*—could work so well, while the Cultural Code of Captivity—which sought to regulate *upstanding and high-ranking public officials*—could fail so miserably?

The answer to both questions lies in the differences in these codes' enforcement. Pirates' cultural code of conduct included strong mechanisms of its enforcement. Consider the articles aboard Captain Roberts' pirate ship adduced above. Here one finds not only rules regulating conduct. Equally important, one finds mechanisms of credibly enforcing those rules through various punishments for persons who violate them.

Pirates' cultural code punished code breakers primarily with physical punishments, such as lashings and execution. But one can also find other punishments, such as marooning, which was something between ostracism and corporeal punishment. Marooning involved stranding a code breaker in an uninhabited place—with a bottle of water and a pistol with a single shot.

One can also find piratical cultural code enforcement in that code's system of democracy. A pirate captain who exceeded his authority, abused his crew, stole from his colleagues, or

otherwise violated pirates' code, could be, and was, democratically deposed from his position of authority and another crewmember elected in his place. Pirates used same mechanism of enforcement to ensure their other officers' compliance with the code—most significantly the quartermaster. The pirate quartermaster was in charge of administering punishments for many code violations. Thus he doled out lashes or executed code breakers. But the quartermaster was also himself subject to cultural code-enshrined enforcement on pirate ships. Like the captain he could be democratically deposed from his position of authority, or even marooned, if he lost the popular support of his crew.

These enforcement mechanisms in pirates' cultural code gave that code teeth. Code breakers faced high costs for their violations. Those costs incentivized pirates to comply with the code. Through their enforcement mechanisms, pirates aligned the private interests of individual crewmembers with the collective interest of the crew.

In contrast to pirates' cultural code, consider the potential mechanisms for enforcing the Cultural Code of Captivity that Israeli leaders confronted. I'm not an expert on Israeli leaders or Yom Kippur POWs, but it seems to me that there but one potential mechanism for enforcing that cultural code. And that enforcement mechanism was extremely weak: the threat of lost political support, ultimately in the form of lost votes.

Military leaders could be excused from their positions by political leaders. But this merely pushes the enforcement problem back a level to political leaders whose only punishment prospect was through unhappy citizens' ire at the voting booth.

The reason for the weakness of this enforcement mechanism in the context Israeli political leaders faced is two-fold. First, in large democratic elections, such as those in Israel, losing the votes of even a considerable number of people has a minimal effect on the probability

that a political leader (or rather his party) who faces reelection will be reelected. The threat of democratic deposition for violating the Cultural Code of Captivity was therefore minimal. Political leaders whose private interests diverged from the public interest were unlikely to be checked by this threat.

Second, and closely related, punishing code-breaking political leaders (or rather their parties) at the voting booth presents a classic “free-rider problem” that bleeds the threat of democratic deposition of its potential enforcement power. The probability that any single voter’s vote will affect the outcome of an election in an electorate the size of Israel’s is vanishingly small. The cost of becoming informed about whether or not a political leader has in fact violated an aspect of the cultural code and then voting is much larger. Thus, although each individual voter may desire to punish a code-breaking political leader, his incentive is to let others do so—to free ride on their voting behavior. But if every voter reasons this way, the code-breaking political leader (or rather his party) won’t be held accountable for his behavior. Knowing that they faced very small costs of code breaking, political leaders were incentivized to break the Cultural Code of Captivity.

As I discussed above, pirates used the threat of democratic deposition as one of several mechanisms for enforcing aspects of their cultural code. Why was this mechanism of code enforcement effective in pirates’ context but not in Israeli leaders’?

Pirate electorates were small. The average such electorate consisted of 80 voters. In an electorate this size, the cost that a pirate leader who violated the cultural code faced in the form of losing even a small number of crewmembers’ votes was significant. Such an officer confronted a measuredly reduced probability of being deposed if his code violation disgruntled

even ten pirates. Because of this, in pirates' context, the threat of democratic deposition was much more effective in assisting the enforcement of the cultural code.

Pirate electorates' smallness also greatly ameliorated the free-rider problem of using the threat of democratic deposition as a mechanism of code enforcement. Because of this smallness, free riding on other crewmembers' votes was much more costly. Even a single vote in this context had a measurable probability of affecting whether a code-breaking pirate officer retained his position. As a result, pirate voters had much stronger incentives to democratically punish such officers. This in turn raised pirate leaders' cost of code breaking, incentivizing them again to comply with the code.

The smallness of pirates' electorates facilitated cultural code enforcement in their context in at least one other way: by facilitating communication and discourse between those electorates' members.¹ When community wide communication/discourse is cheaper, as it is in small communities, it's easier for persons to coordinate their responses to others' behavior, such as among a pirate crew's members seeking to coordinate rewards or punishments for code breakers. Contrast this situation again with that which prevails in the context of large democracies, such as Israel's. Circa the early 1970s, at least, the comparative vastness of this electorate's size precluded low-cost communication between electorate members that could coordinate more than a small fraction of citizens' responses to Israeli leaders' code violations.

4 Concluding Comments

My economic analysis of cultural codes can help us predict in which contexts cultural codes are likely to be effective—i.e., to produce the behaviors they prescribe—and in which contexts such codes are likely to fail.

At the broadest level my analysis suggests that cultural codes will be effective when mechanisms of strong enforcement lie behind them. They will fail when such mechanisms do not. More specifically, my discussion points to a few, key, context-specific factors that influence the strength of cultural code enforcement and thus are likely to influence cultural code effectiveness. I discuss two of these factors below.

The first such factor is the presence or absence of incentives for persons who are to be governed by cultural codes to enforce those codes. Consider, for example, prison gangs, which, similar to Caribbean pirates, must rely on cultural codes of conduct to govern their members' behavior since, as outlaws, they can't rely on their government's formal code for this purpose (see, for instance, Skarbek 2008). Also similar to pirates, prison gang members have strong incentives to enforce compliance with their cultural codes. The reason for this is simple: their ability to cooperate for criminal profit depends on it. Because of this strong connection between gang members' material interest and the enforcement of their cultural codes, prison gangs are likely to develop the enforcement mechanisms required to make their codes effective. And they do (Leeson & Skarbek 2010).

Contrast the incentives these private persons have for enforcing compliance with their cultural codes of conduct with the incentives public actors have for enforcing compliance with the cultural codes they confront. Unlike private actors, public actors often have weak incentives to enforce compliance with the cultural codes that are supposed to govern aspects of their behavior. This is because their material interests often don't depend strongly on whether or not those codes are enforced. Indeed, in many cases public actors' private incentives directly contradict the sorts of behavior the cultural codes they confront aim to elicit.

Consider, for instance, a bureaucrat charged with hiring an underling in his agency. A formal code—enforced by the threat of state-imposed punishment—may require him to consider only persons for the job that satisfy certain educational qualifications. However, this code is unlikely to explicitly prohibit selecting an employee from the pool of superficially equal-quality candidates who is, say, more attractive, but in fact lower quality, than another candidate because such a formal code’s designers can’t observe individual candidates’ quality themselves.

In situations such as this we hope that a cultural code of hiring, according to which one should hire the best candidate for the position within formally defined pool, rather than the most attractive one, will guide the bureaucrat’s behavior. But unless this aspect of such a cultural code has a credible threat of punishment behind it, it’s unlikely to be enforced.

The bureaucrat’s colleagues—the chief persons in a position to detect and carry out punishments for cultural code violations—have little incentive to enforce the code if the bureaucrat violates it. Their material positions aren’t improved by punishing the code breaker. And punishing the code breaker, for instance by ostracizing him, is costly. Knowing that would-be enforcers of the code have no incentive to punish him, the bureaucrat breaks the code. Because it goes unenforced, the code is ineffective.

The second factor that influences a cultural code’s effectiveness I want to discuss is the severity of constraints on the range of potential enforcement mechanisms that can provide punishment for code breakers. *Ceteris paribus*, where persons have at their disposal a larger variety of means of potentially enforcing their cultural code, their code is more likely to be enforced and thus effective. Pirates, for instance, who existed outside the state’s law and operated in small societies, had a wide range of potential mechanisms for enforcing their cultural code at their disposal. Such mechanisms included ostracism, a host of forms of corporeal

punishment, and democratic deposition. This variety enabled pirates to enforce different aspects of their cultural code, which required different kinds of punishments to be effective.

Contrast pirates' situation with that of political leaders who, when behavioral rules aren't formalized, we hope are governed by cultural codes that promote desired behavior instead. In large democracies, at least, there's generally only one potential mechanism of code enforcement available for such leaders: democratic deposition.² The trouble with democratic deposition in the context of large democracies is, as I described above, that the punishment it threatens code breakers with is hardly a punishment at all.

The foregoing two factors suggest that, because of superior enforceability, cultural code effectiveness is considerably more likely in contexts involving private actors than in contexts involving public ones. One conclusion that might be drawn from this is that to effectively regulate conduct in the political arena, we should rely on formal codes instead of cultural ones. But this conclusion faces an important problem. Creating formal codes that specify every possible contingency a public actor may confront is impossible. And creating formal codes that specify more than a small proportion of foreseeable contingencies is expensive. This means that even formal codes will always be incomplete, leaving scope for cultural codes to fill the resulting void.

A more drastic, but much more effective, way to produce desirable behavior in light of this difficulty may be simply to remove as many activities as possible from the political arena, where cultural codes regulating behavior are unlikely to be enforced. Of course in the private arena, too, undesired behavior is inevitable. But between two imperfect choices, the latter seems preferable.

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Notes on Contributor

Peter T. Leeson is BB&T Professor for the Study of Capitalism and Professor of Economics at George Mason University and the North American Editor of *Public Choice*. He is the author of *The Invisible Hook: The Hidden Economics of Pirates* (Princeton University Press, 2009), *Anarchy Unbound: Why Self-Governance Works Better than You Think* (Cambridge University Press, forthcoming), and more than 100 academic articles covering a wide range of topics in economics, politics, and law. Previously he was a Visiting Fellow in Political Economy and Government at Harvard University, the F.A. Hayek Fellow at the London School of Economics, and Visiting Professor of Economics at the University of Chicago. Address: Department of Economics, George Mason University, MS 3G4, Fairfax, VA 22030, USA. Email: pleeson@gmu.edu.

Notes

¹ On interplay and relationships between discourse/communication and cultural codes see, for instance, Bloomaert (2005), Carbaugh (2007, 2009), and Shi-xu (2005, 2009).

² While in extreme cases of code violations corporeal punishment might be possible, ostracism is generally not. To ostracize a political leader who breaks the cultural code would require citizens to move to another territory. Such migration is very costly, preventing ostracism from constituting an effective punishment.