


The United Nations Global Compact as a Facilitator of the Lockean Social Contract

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Abstract The United Nations Global Compact (UNGC) has difficulties in attracting new voluntary members and inciting them to implement its ten principles. The present article analyzes this implementation deficit from the perspective of Lockean social contract theory and derives new strategies for reducing it. On this view, the UNGC presents itself as the attempt to realize a set of moral norms, typically enforced by an impartial minimal state, protecting its citizens from violations of their natural rights, negative externalities and discrimination by bribed officials. It will only succeed in facilitating the realization of those norms on a strictly voluntary basis, if it manages to overcome the underlying n -person prisoner's dilemma. This requires the existence of a critical mass $k < N$ of conditionally moral firms, which are willing to observe the UNGC principles and to resist the temptation to free ride on their observance by others, if it does not disadvantage them in comparison to their situation in a state of universal non-observance. Four contracting problems can impede the conclusion of this Lockean social contract. The UNGC has a slim chance of overcoming its implementation deficit on a non-coercive basis by cultivating four institutional capabilities assisting conditionally moral firms in surmounting those four problems of voluntary norm compliance.

Keywords Business and society · Contractualist Business Ethics · Internal morality of contracting · John Locke · Robert Nozick · Social contract theory · United Nations Global Compact

Abbreviations

CBE	Contractualist Business Ethics
ICCA	International Center for Corporate Accountability
ILO	International Labor Organization
UN	United Nations
UNEP	United Nations Environment Programme
UNGC	United Nations Global Compact
UNODC	United Nations Office on Drugs and Crime

Introduction

The United Nations Global Compact (UNGC) is a corporate sustainability initiative that aims at diffusing the core values of the United Nations (UN) into corporate strategies and operations across the world (Kell 2012). Voluntary membership entails a public commitment to ten principles obliging companies to protect human and basic labor rights and to take steps against environmental degradation and corruption. Since its launch in 1999, the initiative has gradually grown into the world's largest corporate sustainability initiative (UNGC 2017).¹

Its normative goals enjoy broad support, even by those criticizing it as a misguided approach to their pursuit (Williams 2014, p. 245). There is comparably widespread agreement that the UNGC has an implementation deficit: Its membership base is still rather small and geographically unbalanced (Bremer 2008; Rasche et al. 2013, p. 10; Williams 2014, p. 250). Many members are reluctant to fulfill the modest membership requirement of submitting an annual progress report (Knudsen 2011; Sethi and Schepers 2014,

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¹ <https://www.unglobalcompact.org/what-is-gc> (2 July 2017).

p. 207). Furthermore, many participants are uneager to give helpful advice to their peers in reports (Sethi and Schepers 2014, p. 204 citing ICCA 2010) or to get involved in local networks respectively (Rasche and Waddock 2014), thereby compromising the quality of the envisaged learning processes on UN values.

This article addresses the research question whether and how the UNGC can become more effective in reaching its normative goal of diffusing the ten principles in business communities. More specifically, it enquires by which institutional adjustments to the initiative more members can be attracted, how they can be motivated to gradually implement the ten principles and actively share their lessons in reports and local networks, and how they can be obliged to maintain the UNGC's reputation by undertaking sincere efforts to improve their UNGC record.

The article addresses those issues from the theoretical perspective of Lockean social contract theory (Locke 2009[1689]; Nozick 1974; Tuckness 2016). This view reveals the UNGC as an attempt to establish the basic functions of an impartial minimal state in areas of weak governance. The main obstacle to its success lies in the lack of coercive means to enforce its ten principles, designed to protect citizens against violations of their natural rights to life, liberty, health and property. Exhibiting the structure of an n -person prisoner's dilemma, those moral norms are constantly at risk of disintegration, as each firm permanently faces the temptation to gain a competitive advantage by leaving the observance of the ten principles to all others while saving on the costs of compliance. The UNGC can only prevent the inevitable deterioration of the Lockean into a Hobbesian state of nature (Hobbes 1651[1968]), marked by human and labor rights violations, hazardous pollution and corrupt bureaucracies, if it finds a non-coercive way of overcoming the Nash equilibrium of general defection in the underlying n -person prisoner's dilemma. As a self-regulation initiative, its only chance of inducing widespread norm compliance consists in uniting and binding a critical mass of conditionally moral companies, prepared to accept the moral restrictions of the ten principles despite a few opportunistic free riders, if it does not make them worse off compared to their situation in case of universal non-observance (including their own) (Schelling 1973; Drummond Nauck 2016; Müller 2017).

It may succeed in facilitating this Lockean social contract among the conditionally moral, if it cultivates four institutional capabilities for overcoming four obstacles to its conclusion and continuation, owed to the cognitive limitations and opportunistic inclinations of contractors (adapted from Heugens et al. 2004; van Oosterhout et al. 2006). Those capabilities must aim at informing conditionally moral companies of each other's existence, assuring them of their mutual sincere commitment to the UNGC principles,

assisting them in agreeing on a shared interpretation of the associated obligations and ensuring their strict fulfillment.

The article's *first* contribution consists in an insightful problem analysis based on the n -person prisoner's dilemma. In addition to the insights on the UNGC's implementation problems, this analytical tool can explain the moderate successes and weaknesses of both the learning-oriented (e.g., Kell and Levin 2003; Palazzo and Scherer 2010; Haack and Scherer 2014) and compliance-oriented (e.g., Berliner and Prakash 2012, 2014, 2015; Sethi and Schepers 2014) solution approaches. The article's *second* contribution consists in pointing to the UNGC's limited prospects as a self-regulation approach to the establishment of the minimal state. Such an exploration of its conditions of possibility leads to a more reliable assessment of what it can realistically achieve. The article's *third* contribution consists in exploring a promising solution approach, derived from Schelling's (1973) analysis of the n -person prisoner's dilemma and its application in Drummond Nauck (2016) and Müller (2017). It does not just reconcile core strengths of the learning- and compliance-based approaches, but offers new practical implications and/or a new rationale for old practical implications. As its *fourth* and final contribution, the article promotes theory enhancement by adapting the prominent approach to *Contractualist Business Ethics* (CBE) by van Oosterhout et al. (2006) to the context of social contracting.

The article proceeds as follows. Section 2 outlines the UNGC and analyzes its implementation deficit in terms of an n -person prisoner's dilemma. Section 3 introduces Lockean social contract theory as the adopted theoretical perspective. Section 4 applies this approach in an analysis of the UNGC's implementation problems and develops recommendations for a suitable institutional reform. Section 5 concludes the article and offers guideposts for future research.

The UNGC and Its Implementation Deficit

Former UN secretary general Kofi Annan founded the UNGC in 1999, conceiving it as a voluntary global governance initiative for the diffusion of the UN's overarching policy goals into the business community (Kell 2012). When signing up to the UNGC companies commit to ten principles reflecting the wider UN agenda. Principles 1 and 2 "require companies to support and respect the protection of internationally proclaimed human rights" and "to make sure that they are not complicit in human rights abuses" (UNGC 2017).² Principles 3, 4, 5 and 6 ask firms to put core conventions of the *International Labor Organization* (ILO)

² <https://www.unglobalcompact.org/what-is-gc/mission/principles> (2 July 2017).

		PLAYER j	
		Comply	Defect
PLAYER i	Comply	R_i / R_j	S_i / T_j
	Defect	T_i / S_j	P_i / P_j

Fig. 1 Prisoner's dilemma of voluntary moral norms in competitive markets. *Source:* own presentation

into practice by recognizing their employees' freedom of association and right to collective bargaining, by refraining from all forms of forced, compulsory and child labor and by eliminating all employment- and occupation-related discrimination in their spheres of influence (ILO 2017).³ Principles 7, 8 and 9 require firms to adopt a precautionary approach to environmental risks, to show initiative in fostering environmental responsibility and to promote the invention and diffusion of environmental technologies. They reflect core concerns in the *Rio Declaration on Environment and Development* (UNEP 2017).⁴ Principle 10 has been added later and refers to the *UN Convention Against Corruption* (UNODC 2017).⁵ It requires that "businesses should work against corruption in all its forms, including extortion and bribery" (UNGC 2017).⁶ The principles translate the underlying UN conventions, designed as normative constraints on governmental discretion, into corresponding restrictions on firms' discretion.

In the context of market competition, their implementation follows the logic of a prisoner's dilemma (for a detailed discussion of the 2-person case see e.g. Homann and Blome-Drees 1992). As depicted in Fig. 1, each company can choose between compliance with the ten principles and defection. If both choose to comply, they get the reward payoff r , for being able to conduct their business without the risks that come with corruption, pollution and a discontented workforce. However, each of them is tempted to leave the observance of the costly restrictions to the other player, while obtaining a competitive advantage from saving

on the costs of norm compliance, for example by violating fundamental labor standards, polluting the environment or bribing public officials. The temptation payoff $t > r$ exemplifies this competitive advantage of unilateral defection. The sucker payoff $s < r < t$ captures the corresponding competitive disadvantage of unilateral compliance with the UNGC principles. Succumbing to this temptation t (the *exploitation motive* in Homann and Blome-Drees 1992) or trying to avoid the sucker payoff s (the *protection motive* in Müller 2017), both players will be inclined to defect. Because defection is the mutual best response to all possible decisions of the other player, they will end up in the Nash equilibrium of non-compliance with the ten principles, despite the fact that they might both support the underlying values.

This dynamic translates directly to the n -person scenario (for detailed early accounts see Schelling 1973 and Hamburger 1973). Every company in a competitive market has an interest in the general observance of the ten principles by all other companies, but an even stronger incentive to save on the costly restrictions associated with their fulfillment. Again, the possibility to free ride on the moral sacrifices of others (*exploitation motive*) or the worry that others might exploit one's own moral commitment to their own advantage (*protection motive*) will typically lead to general non-compliance with moral norms.⁷

The challenge of the UNGC and the key to solving its implementation problems lie in disrupting this collectively

³ <http://www.ilo.org/global/standards/lang--en/index.htm> (2 July 2017).

⁴ <http://staging.unep.org/Documents.Multilingual/Default.asp?documentid=78&articleid=1163> (1 November 2017).

⁵ <http://www.unodc.org/unodc/en/treaties/CAC/index.html> (2 July 2017).

⁶ <https://www.unglobalcompact.org/what-is-gc/mission/principles> (2 July 2017).

⁷ This analysis provides a powerful explanation for the implementation deficit of the UNGC, which, in 14 years, merely attracted 8000 companies and 4200 NGOs (Williams 2014, p. 243) out of target populations of millions of companies and thousands of NGOs respectively. Only a subset of those UNGC members has been actively involved in the local UNGC networks of their host countries (Rasche and Waddock 2014, p. 215). Moreover, the lax policy on the submission of voluntary progress reports, permitting up to 4 years of non-compliance (Berliner and Prakash 2015, p. 121), could not prevent the delisting of more than 4000 companies by the end of May 2014 (Williams 2014, p. 244).

self-damaging dynamic and inducing widespread compliance. Currently, there are two seemingly irreconcilable approaches to this task.

The first approach ascribes the possible non-compliance with the ten UNGC principles to the moral ignorance and weakness of companies. It wants to solve the prisoner's dilemma of UNGC compliance by morally educating as many firms as possible and by strengthening their moral resilience. Believing in their moral learning capabilities and the binding force of moral convictions, it assumes that, once companies recognize UNGC compliance as the right thing to do, they will adamantly resist the temptation of unilateral defection and always act morally, even if it comes with negative consequences in terms of the "sucker" payoff "s".

This approach is in line with the original construction of the UNGC as a platform for building consensus on the moral guidelines for international business (Ruggie and Kell 1999; Rasche 2009; Williams 2014). Its adherents conceive the initiative as a network for continuous dialogue and mutual learning among representatives of business, government and civil society on the best ways of gradually improving the social and environmental performance of companies (Rasche 2009, pp. 513–515; Voegtlin and Pless 2014, p. 181). They do not see the need for a radical reform of the UNGC's current institutional design and insist on low entry-barriers, with self-reported progress on the ten principles as the only condition for membership, in order to keep the initiative accessible to all interested parties. Their skepticism of mechanisms for the verification of progress reports and the punishment of violations of membership duties underscores their reliance on the motivation and integrity of its members.

The second approach is less optimistic about the binding force of moral argument and consensus. It attributes the non-compliance with the ten principles to the inevitable opportunism of profit-maximizing companies, incapable of resisting the temptation of getting rich at the expense of others by free riding on their compliance with moral norms. Skeptical of companies' capacity for morally motivated self-restraint its adherents want to overcome the prisoner's dilemma of UNGC compliance by eliminating the incentives for unilateral defection. To this effect, they want to offer exclusive benefits to compliant UNGC members, making cooperation the dominant strategy for them and general cooperation the new Nash equilibrium.

Its adherents propose to conceive the UNGC as a club good offering reputational benefits to club members willing to pay their membership fee in terms of implementing the ten principles (Sethi and Schepers 2014; Berliner and Prakash 2014).

In order to prevent free riding on the positive reputation of the UN by members feigning a commitment to the UNGC without making the necessary sacrifices ("bluewashing"), they plead for extending the monitoring of UNGC

compliance and for applying stricter sanctions in case of non-compliance.

The possibility for (a weak form of) coercion arises from the exclusion of non-compliant members from membership benefits such as the withdrawal of the right to use the UNGC logo.

As both camps seem to have a point, concerning their preferred behavioral assumption and the mutual criticism of it, the present article sets itself to the task of exploring the middle ground. Questioning both the learning camp's strong confidence in the binding force of moral insights and the compliance camp's generalization of opportunistic inclinations, it assumes that most companies would not succumb to opportunism, if they could be sure that most of their fellow companies resisted it for the sake of a shared moral goal. This basic thought is one of the cornerstones of Lockean social contract theory, also assuming that most individuals are conditionally moral, in being prepared to respect the moral constraints of the law of nature, if others do the same (Locke 2009[1689]). Aware of the fragility of moral norms Locke argues that only a few opportunistic or ignorant violators can throw back a predominantly moral population into a non-cooperative (Hobbesian) state of affairs (Hobbes 1651[1968]). He argues that in order to avoid this (the majority of) decent individuals would support the establishment of an impartial institution, the minimal state, watching over the observance of the law of nature and protecting them against transgressors (Nozick 1974). The next section introduces this theoretical perspective before applying it in an analysis of the UNGC's implementation deficit in Sect. 4.

Lockean Social Contract Theory

Social contract theory in the tradition of John Locke considers human beings as bearers of natural rights including the rights to life, health, liberty, and property. It conceives those rights as universal and non-negotiable side constraints to individual action, which are neither subject to utilitarian calculus nor conventional in nature. Like human rights or basic labor rights, they are inalienable. Persons possess them in virtue of their endowment with reason and other typically human traits (Tuckness 2016).

Against this backdrop, Locke imagines a state of nature, where individuals enjoy "perfect freedom to order their actions and dispose of their possessions and persons as they think fit, within the bounds of the law of nature, without asking leave or dependency upon the will of any other man" (Locke 2009[1689], section 4). In case of theft, injury, or any other violation of their natural rights, they may legitimately seek retribution as long as it remains limited to the rectification of the infringement and the exaction of a proportionate compensation.

The moral norms governing this Lockean state of nature are fragile. Each citizen must contribute to their realization by keeping contractual promises, respecting the physical integrity and personality of others and leaving their property untouched. He must resist the temptation of exploiting the good faith of all those observing the constraints of the law of nature to his own advantage by cheating, robbing or bullying them. At the same time, everybody must trust in the rights-respecting behavior of business partners.

However, in a state of anarchy, transgressions of the law of nature seem inevitable due to cognitive shortcomings and a lack of self-restraint in certain situations (by some). Some individuals might simply not respect the law of nature and deceive, rob or enslave their unsuspecting, negligent or weaker contemporaries. Others, blind with rage or overestimating the damage they suffered, might make excessive demands for retribution and compensation from those who wronged them. Accumulated, those transgressions of the law of nature can lead to the oppression of the weak or “an endless series of acts of retaliation and exactions of compensation” (Nozick 1974, pp. 11–12).

In view of those (potential) violations of their natural rights, individuals might be inclined to join forces and assist each other—maybe out of friendship, public-spiritedness or pure self-interest—in fending off unjustified aggression or enforcing their rightful claims to retribution. Such protective associations must operate on suitable rules for settling possible disputes between their members and for preventing the overuse of the association by a few particularly quarrelsome members in their disputes with non-members. Moreover, protective associations might exhibit a division of labor leaving the supply of protective services to particularly strong and the settlement of disputes to particularly prudent and wise members (Nozick 1974).

Initially, there might be a multitude of small protective associations in a given territory, but over time, one dominant protective association will emerge, either as the victor in violent clashes with other protective associations or as a federal body for the settlement of disputes between comparably strong protective associations. This might lead to a situation where “almost all the persons in a geographical area are under some common system that judges between their competing claims and enforces their rights. Out of anarchy, pressed by spontaneous groupings, mutual-protection associations, division of labor, market pressures, economies of scale and rational self-interest there arises something very much resembling a minimal state or a group of geographically distinct minimal states.” (Nozick 1974, pp. 16–17)

This Lockean account of the social contract reveals the minimal state as an important institutional mechanism for stabilizing the inherently fragile moral norms of the law of nature. In virtue of its ability to punish fraud, violations of fiduciary duties and breaches of contract it serves as an

important facilitator of mutually beneficial and effective cooperation among naturally free individuals. This perspective holds great promise for an analysis of the UNGC, which seems to strive for a comparable role as the facilitator of the cooperation-enhancing Lockean social contract.

The UNGC and the Lockean Social Contract

From a Lockean perspective, the UNGC presents itself as an attempt to establish the basic functions of a protective minimal state in areas of weak governance. The main obstacle to its successful implementation lies in its lack of coercive means to protect local citizens against powerful and ruthless violators of their fundamental natural rights, including governmental and corporate players. As a self-regulation approach, it must pursue its morally motivated goals by means of moral persuasion and membership benefits. While the prospects of such a voluntary approach to establishing the minimal state appear slim, from a Lockean point of view, the UNGC can, in principle, succeed. For this purpose, it must bring together a sufficiently large number of conditionally moral companies that are prepared to comply with its ten moral principles and grudgingly accept a certain number of free riders as long as this does not disadvantage them in comparison to a situation of general non-compliance (including their own). Four contracting problems, owed to the cognitive limitations and opportunistic inclinations of contractors, can impede the conclusion or continuation of such a Lockean social contract. The UNGC is most likely to succeed in promoting its agenda if it cultivates four institutional capabilities assisting conditionally moral companies in overcoming those problems.

The UNGC as a Surrogate of the Minimal State

Just like the Lockean minimal state, the UNGC aims at stabilizing a set of moral norms protecting naturally free and voluntarily cooperating individuals against coercive oppression and negative externalities. Its ten principles bear resemblance to the Lockean law of nature with its focus on guaranteeing the natural rights of individuals to life, liberty, property and security (Locke 2009[1689]; Nozick 1974). This finds expression in their emphasis on the observance (UNGC principle 1) and promotion (UNGC principle 2) of human rights, which are traditionally justified in terms of natural law (Nickel 2017) and designed as inviolable constraints on the natural freedom and rights of individuals (Griffin 2008).

The UNGC principles 3–6 apply those protective restrictions to the employer-employee relationship. Principle 3 promotes workers’ freedom of association and their right to collective bargaining with the intent of strengthening

their bargaining position against more powerful employers. Principles 4 and 5 oblige employers to abolish all forms of forced, compulsory and child labor in their sphere of influence and principle 6 prohibits labor-related discrimination underscoring the equal status of citizens as bearers of natural rights.

UNGC principles 7–9 aim at protecting individuals against negative side effects from the cooperative relationships of others. To this effect, principle 7 obliges UNGC members to take a precautionary stance with regard to environmental risks. Principle 8 incites them to avoid environmental damage and the harm it brings for the affected residents. Principle 9 requires them to develop and share technologies for protecting the environment and those depending on its conservation.

The UNGC's anti-corruption agenda underscores its support for the universality of natural rights and the associated claim (by everyone) on having them respected. In striving for a corruption-free business environment, principle 10 aims at curbing possible attempts of appropriating the state apparatus for personal gain and at the cost of others. Human rights can fulfill a comparable function, especially when considered as limits to the political authority of the state (Rawls 1999; Raz 2010). They underwrite the UNGC's purpose as a protective organization for everybody and not just for a well-organized autocratic or mafia-like clique profiting from the, possibly violent, oppression of the rest of the population.

In promoting those ten moral norms, the UNGC reflects the minimal state's purpose of correcting the gravest forms of market failure. Just like the minimal state, it aims at institutionally backing the moral preconditions for mutually beneficial and effective bilateral cooperation. However, in contrast to the minimal state it has a decisive deficiency: It lacks coercive power and does not have a monopoly on the use of force (Nozick 1974, Chap. 5). That is why the fundamental question arises whether it can succeed at all.

The UNGC as a Self-Regulation Approach to the Minimal State

Due to the seductions of free riding, the ten UNGC principles are constantly at risk of self-decomposition. Even when most companies desire their general observance, every single one of them is tempted to obtain the competitive advantage in connection with unilaterally omitting moral obligations. In particular, myopic and opportunistic companies will be inclined to free ride on the morality of their virtuous peers by undermining basic environmental, labor and accountability standards in order to save costs in relation to their compliant competitors (*exploitation motive*). In view of widespread non-compliance with those standards, even virtuous companies might eventually violate them in

order to avoid the increasing competitive disadvantage of their own compliance (*protection motive*). The n -person prisoner's dilemma captures this fragility of the norms at heart of the UNGC.

It reflects the interdependence of companies' norm compliance decisions, meaning that an individual company's decision to comply or defect affects the value of the ten principles to all other companies and thus their own decision to comply or defect. Accordingly, any non-compliance with the UNGC principles produces a negative externality on compliant firms. It may arise in terms of a competitive disadvantage towards those who are omitting costly measures to protect the environment. It may take the form of a politicization of the workforce showing solidarity with the mistreated workers in other companies. Moreover, it may consist in the exclusion from public contracts because a bribed official gives them to the highest corruptive bidder. In an n -company environment, those negative externalities of unilateral defection may accumulate. From the perspective of the marginal company, each new defector will increase the cost of sustained moral behavior and strengthen the *protection motive* for defecting as well.

A comparable logic applies to the compliance with the ten UNGC principles. On the one hand, each new complier produces a positive externality on other compliant firms, for instance, in terms of a contribution to fair rules for winning public contracts, to a cooperative workforce in an industry or to the preservation of natural resources as an important basis for economic activity. Accordingly, the marginal company's inclination to comply with the ten principles might increase with the number of other compliant companies as each additional contributor reinforces its confidence in the effectiveness of its own contribution to moral goals. On the other hand, each new complier strengthens the *exploitation motive* for violators by increasing the rewards of unilateral non-compliance.

Figure 2 depicts those different types of externalities in connection with the decision to comply or defect from the perspective of the marginal UNGC member (Schelling 1973). The horizontal axis represents the population of all potential UNGC members and the vertical axis captures the payoffs of joining or not joining the initiative (analogously complying with or defecting from the ten principles) as a function of the number of members (compliers).

The graph $C(n)$ represents the payoff of joining the initiative as a function of the number n of other cooperating members. Its linear increase (rise toward the right) implies that the decision to become a member is more attractive the more other firms are making the same decision, due to the described positive externalities amongst UNGC members. $D(n)$ captures the payoff of not joining (i.e. not contributing to) the initiative, which also increases with the number of cooperating firms. The more firms support the

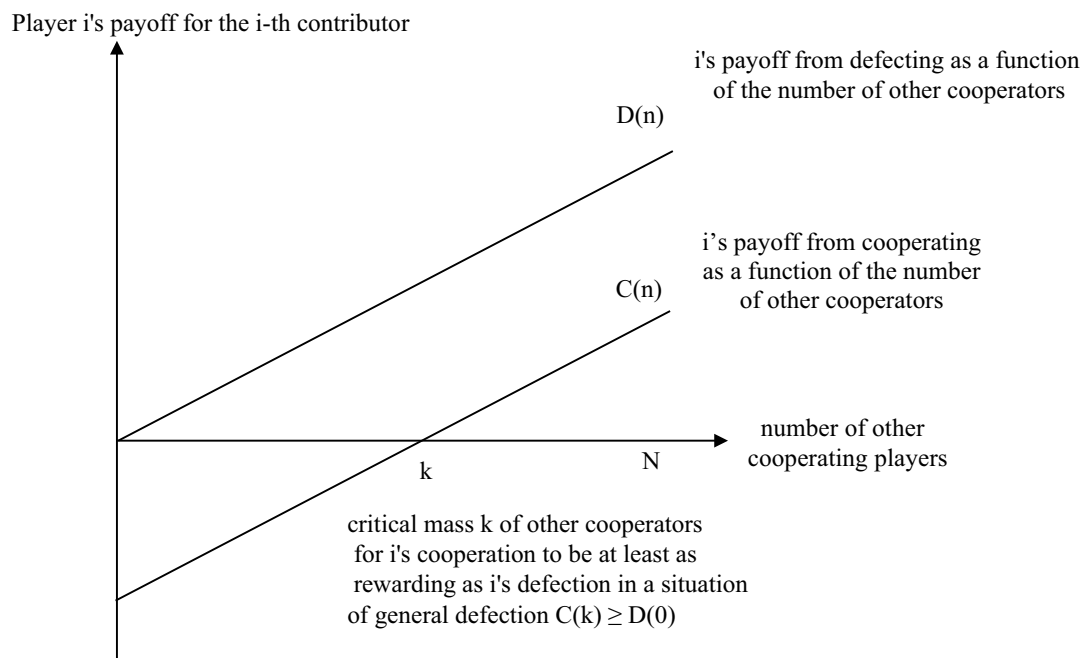


Fig. 2 Critical mass k of cooperating firms in the n -person prisoner's dilemma. Source: Adapted from Schelling (1973, p. 388) and Drummond Nauck (2016, p. 51)

UNGC the more beneficial it is for the marginal firm to defect, the ideal free ride being $D(N-1)$ at the highest point of $D(n)$ capturing i's defection in case of cooperation by all other firms, with N referring to 'all companies'. $D(n)$ and $C(n)$ not crossing each other and $D(n)$ always being above $C(n)$ reflects the constant temptation to free ride that is typical of the underlying n -person prisoner's dilemma. It captures the fact, that defection (i.e. not joining/not contributing) is the dominant strategy, meaning that for any given number of other compliant firms n , not joining or supporting the UNGC is clearly more beneficial to the marginal company than joining or supporting is. Accordingly, an opportunistic, strictly profit-maximizing company will never contribute to the UNGC, regardless how many other companies decided to do so, which is why $D(0)$ is the unique Nash equilibrium of general defection. As in any prisoner's dilemma, this Nash equilibrium is less beneficial than the situation of general compliance $C(N)$ on the upper right hand side of the $C(n)$ curve, which yields a higher payoff to the i'th player than $D(0)$. However, despite the fact that $C(N)$ is the Pareto-optimal situation (one of the reasons it adequately captures the morally desirable situation), where no company can improve her situation without making others worse off, it is not self-enforcing and constantly at risk of being undermined by opportunistic free riders opting for the attractive $D(N-1)$ payoff on the higher-ranking $D(n)$ curve (for more detailed accounts of the argument see Drummond Nauck 2016, pp. 50–52 and Müller 2017, pp. 264–272).

However, at the intersection of $C(n)$ with the horizontal axis, there is a number $k < N$, where an additional member/contributor derives a membership benefit $C(k)$, e.g. in terms of the accumulated positive externalities of other compliers, exceeding the defection payoff $D(0)$ in the Nash equilibrium of general defection. At this point (and for all $n > k$) a conditionally moral company would comply with the ten principles (i.e. choose cooperation) because it does not make her worse off compared to her situation in a state of general non-compliance (including her own).

It implies that there is a chance of widespread voluntary compliance with the ten UNGC principles if and only if there is a critical mass k of conditionally moral companies, joining and contributing to the initiative and accepting a certain measure of free riding under the proviso that it does not involve a net cost in comparison to a situation where no one supports the UNGC. Accordingly, the UNGC may partially succeed in establishing the basic functions of a minimal state on a purely voluntary basis, if it manages to bring and hold those conditionally moral companies together.

Like the learning- and consensus-based approach, this "non-coercive Lockean solution" relies on the morality and moral learning capacities of firms, in considering them as an indispensable precondition for the success of the UNGC as a self-regulation initiative. However, it also recognizes the merits of the (weakly) coercive approach to the UNGC, in acknowledging the detrimental effect of opportunistic free riders on decent companies' willingness to cooperate. If the UNGC wants to succeed as a facilitator of the Lockean

social contract between conditionally moral companies, it must understand the problems jeopardizing its conclusion and continuity from the perspective of those conditionally moral companies.

The Fragility of the Lockean Social Contract

The major problems in connection with the emergence and stability of a cooperative coalition of the conditionally moral, i.e., the Lockean social contract, are analyzable with the theoretical resources of *Contractualist Business Ethics* (Heugens et al. 2004, van Oosterhout et al. 2006). Similar to bilateral contracts, a successful and compelling Lockean social contract reflects the normative expectations of mutual advantage and effectiveness (van Oosterhout et al. 2006, p. 526). Mutual advantage captures the intuition that freely trading, conditionally moral companies would only accept the obligations of a Lockean social contract when the agreed cooperation does involve a (however small) net advantage, e.g., in terms of positive externalities and more tangible benefits among signatories or a satisfaction from doing the right thing. Effectiveness captures the intuition that they would only accept the contractual obligations of the Lockean social contract, when they can expect their contracting partners to fulfill their own obligations by complying with moral norms as long as it is minimally beneficial.

Two behavioral flaws of contractors may compromise the conclusion or fulfillment of the Lockean social contract. Bounded rationality, as the first flaw, refers to the cognitive limitations of individuals in finding suitable contracting partners and anticipating all future contingencies in the initial terms of a contract. It refers to the difficulties in assessing how many others are choosing the compliant strategy and how they might adapt it to changing circumstances. It means that the marginal company might not know the exact present or future location on the horizontal axis in Fig. 2. Opportunism, as the second behavioral flaw, captures the tendency of contractors to be narrowly fixated on their own self-interest and their resulting difficulties in keeping inconvenient promises. It relates to the discussed temptation to feign compliance with moral norms or to omit on a promised commitment to them. It means that the higher-ranking $D(n)$ graph hangs like a sword of Damocles over any cooperative coalition and the marginal company can never fully trust in the sincerity and reliability of other compliers.

Each of the two behavioral flaws can undermine the mutual advantage and effectiveness of the Lockean social contract, leading to four possible contracting problems (adapted from Heugens et al. 2004), two of them arising ex ante and two of them occurring ex post. Bounded rationality can give rise to the ex ante problem of *desolation* when it prevents a conditionally moral company from recognizing the existence of a critical mass of likeminded companies

for concluding a minimally beneficial Lockean social contract. It can lead to the ex post problem of *defeasance* when it keeps contractors from adapting the concrete obligations under an existing Lockean social contract to unexpected destabilizing changes. Opportunism can cause the ex ante problem of *deception* when contractors bring about a Lockean social contract involving a net cost for others under the false pretense of making a contribution to it. Moreover, it can be responsible for the ex post contracting problem of *defection* when committed contractors succumb to the temptation of defaulting on their promised contributions to the Lockean social contract, thus eroding the commitment of sincere members (adapted from van Oosterhout et al. 2006).

Those four contracting problems can trap or repulse a coalition of conditionally moral companies in the non-cooperative (Hobbesian) state of nature, even if there is a sufficiently large number of conditionally moral companies prepared to establish and maintain it. If the UNGC wants to realize its ambitious goal of evoking general compliance with its ten principles on a purely voluntary basis, it must find a way of assisting conditionally moral companies in overcoming those four contracting problems. The following section subsequently discusses four institutional capabilities that might be suitable for achieving this.

The UNGC as a Facilitator of the Lockean Social Contract

The previous analysis suggests that the Lockean social contract is possible, but will only emerge under certain conditions. It requires a critical mass of firms who are willing to do the right thing by complying with the ten UNGC principles as an expression of the Lockean law of nature. An adaptation of CBE revealed four obstacles to the successful cooperation of firms in jointly realizing them. The UNGC can fulfill the basic function of a minimal state and succeed in promoting its ten principles if it cultivates four institutional capabilities helping firms overcome those contracting problems and successfully conclude the Lockean social contract (an overview is provided in Table 1).

UNGC Membership as a Coordinating Signal Against the Problem of Desolation

The conclusion of a Lockean social contract may fail because of the problem of *desolation*. It occurs when contractors refuse to act in accordance with the ten UNGC principles because they cannot see if enough others do the same, making it minimally beneficial to contribute. This lack of mutual reassurance might follow from the bounded rationality of contractors and/or prohibitive costs of obtaining the necessary information. Without an institution like the UNGC, some firms might find it difficult, possibly due to

Table 1 Four UNGC capabilities for overcoming four obstacles to the Lockean social contract

Contracting problem	UNGC capability	Institutional changes to the UNGC	Implementation-enhancing dynamic
DESOLATION Inability to recognize the existence of a critical mass of other conditionally moral norm compliers (source: bounded rationality)	COMMITMENT Motivate (potential) contributors by signaling the existence of enough other conditionally moral firms (members)	<i>Critical mass instead of individual class</i> - Create a sense of community - Appeal to members' moral resilience - Denounce non-members' irresponsibility - Focus on proportions, not just excellence	- Conditionally moral firms will contribute if it does not disadvantage them in comparison to a state of universal non-contribution - Positive externalities among members can ensure this condition, if a critical mass is reached (Schelling 1973) - It must be known that it is reachable - Conditionally moral firms will contribute if they can be sure that there are no cheaters among them - Standardized reporting on the same issues facilitates mutual control - Independent verification of reports deters pretenders/assures contributors
DECEPTION Lack of trust in the sincerity of the commitment of declared norm compliers (source: opportunism)	CREDIBILITY Assure (potential) members of the sincere commitment of others by screening out pretenders via independent verification of self-reported progress	<i>Internal before external communication</i> - Require reports on the same, not all issues - Standardize reports for easier (peer) audits - Strictly verify (complaints on false) reports - Communicate, you screen out pretenders	- Conditionally moral firms will contribute if they can be sure that there are no cheaters among them - Standardized reporting on the same issues facilitates mutual control - Independent verification of reports deters pretenders/assures contributors
DEFEASANCE Inability to adapt the shared rules of norm compliance to unforeseen contingencies (source: bounded rationality)	CONTINUITY Stabilize the consensus and bond among contributors by taking an active role and requiring active participation in local UNGC networks	<i>Goal definition before learning progress</i> - Take an active role in local networks - Push for clear (learning) goals and consensus as mandatory network purpose - Require active participation by members - Resolve conflicts (on UNGC interpretation)	- Conditionally moral firms will continue to contribute if their shared goals and membership obligations are adapted to changing circumstances - Mandatory participation promotes tri-sectoral consensus-building (Rasche 2009) and "argumentative entrapment" (Haack and Scherer 2014) - Moderation and mediation creates necessary trust for an effective epistemic network (Gilbert and Behnam 2013)
DEFECTION Unwillingness to tolerate the opportunistic default on the promised compliance with moral norms (source: opportunism)	COMPLIANCE Maintain morale of contributors by punishing opportunistic violations of membership duties and learning goals	<i>Protecting the decent instead of disciplining the immoral</i> - (Open) rebuke of violations and missed learning goals - Downgrade of membership type - Exclusion of shirkers from the initiative - Blacklisting of persistent violators	- Conditionally moral companies will continue to contribute, if they can be sure that there are no free riders amongst them - Naming and shaming promotes "argumentative entrapment" of members (Haack and Scherer 2014) - Expulsion secures reputational benefit of membership in the club of improvers (Berliner and Prakash 2014)

a shortage of staff with the necessary expertise, to evaluate and interpret available information or to obtain information on the morality of other firms in their industry. The hidden nature of corruption, for instance, makes it difficult to assess whether another company really renounces to bribery or similar efforts of obtaining privileges from officials. It might be comparably hard to ascertain the decent treatment of employees in inaccessible production sites or the absence of underwater pipes for secretly fouling a river.

The UNGC can help firms in overcoming the problem of *desolation* in their efforts to conclude the Lockean social contract by cultivating a *commitment capability*. UNGC membership entails a public commitment to human and labor rights, environmental protection and impartial governments. It publicly signals a renunciation to business practices violating the natural rights of the affected individuals. A company subscribing to the protection of human rights and basic labor rights visibly declares that it will not enslave, degrade, mistreat or underpay employees selected from the local workforce. A firm that is committed to principles of sustainability publicly promises to refrain from imposing environmental costs and the associated health risks on the population. Hence, membership in the UNGC is an important way of demonstrating a willingness to contribute to the maintenance of basic moral norms to other conditionally moral companies. It helps them ascertain the existence of others who are willing to contribute to the fight against political oppression, exploitative forms of employment, environmental degradation and corruption.

Proposition 1 *Conditionally moral companies have a shared reason for becoming UNGC members in order to assure each other of the existence of a critical mass of other supporters of the basic moral norms reflected by the ten UNGC principles.*

The preceding analysis suggests that a company's accession to (and support for) the UNGC depends on its assessment of the membership status of other companies. Currently, the UNGC tries to attract more members by improving the quality and fine-tuning of the signal on each members' UNGC record. In 2011, it introduced a "Differentiation Programme" distinguishing several membership types (Schembera 2016). Those include a one-time 12-month learner status for new members, followed by the two successive levels of active and advanced membership for those fulfilling basic and more extensive membership duties respectively. Such measures are important as they make it possible to tell the leaders from the laggards of CSR and to distinguish genuinely committed from half-hearted contributors to the UNGC agenda.

However, the "Differentiation Programme" is less successful than expected (ibid), which is not surprising from

a Lockean perspective, because such a focus on the differentiation of membership types overlooks the much more important quantitative side to the signal conveyed by UNGC membership. The willingness of a company to contribute to the UNGC agenda might not predominantly follow from the "upward competition" for the financial (Sethi and Schepers 2014) and reputational rewards (Haack and Scherer 2014) of moral excellence, let alone the selfless pursuit of moral excellence. Instead, it is more likely to result from the knowledge of being part in a coalition of the decent where each member shoulders his part of the burden, thus producing positive externalities on other members offsetting the costs of individual compliance in comparison to a baseline of general non-compliance. Accordingly, the UNGC might be able to elicit a higher level of commitment among its members by appealing to their commonalities such as their respective willingness to do the right thing as long as it does not involve a systematic disadvantage. It might promote this sense of community among its members by appealing to their pride in jointly fulfilling their moral duty despite a certain number of ruthless free riders. Incorporating proportions and shares in its communication strategy could help achieve this goal. For actual and potential members alike, it might be more important to know how many other market participants contribute and not so much how they can outperform them in the race for virtuousness or on the "market for virtue" (Vogel 2006).

Verification of Standardized Self-Reports as an Assurance Against the Problem of Deception

The problem of *deception* can be another obstacle to the conclusion of the Lockean social contract. It refers to the phenomenon of "cheap talk", as the mere pretense of a commitment to the UNGC principles and a deliberately concealed unwillingness to suit the action to the word. It can occur in terms of reported progress on the ten principles that does not reflect the actual labor practices or environmental performance of a company or it can take the form of an omission of problematic areas such as the involvement in corruptive practices. A few impostors (or bluewashers) among UNGC members can already have a devastating effect on the morale of sincere members and deter potentially new members. If honest members get the impression of being the only (few) genuinely committed in a group of hypocrites, their readiness to incur the cost of doing the right thing might quickly erode. Not knowing whether others genuinely do their bit might already be enough to produce this effect.

The UNGC can assist conditionally moral companies in overcoming this contracting problem by cultivating a *credibility capability*. In this capacity, it must find a way of providing reliable assurance to compliant companies that the public commitment of their peers to human and labor rights,

environmental protection and anti-corruption is genuine. To this effect, it should aim at verifying the accuracy of self-reported progress on the implementation of the ten UNGC principles. The confirmation of such a commitment by an independent third party is imperative for winning over those potential UNGC members, hesitating to join the initiative for fear of being deceived into an unfavorable arrangement. It can also have a deterring effect on those who are considering to free ride on the genuine commitment of others.

Proposition 2 *Conditionally moral companies have a shared reason to accept the independent verification of their self-reported compliance with the UNGC principles in order to provide each other with credible assurances against deception.*

The preceding argument points to the need for the stricter monitoring of firms' UNGC performance. Currently, UNGC members are free to select the reported issues, provided they fall into one of four key areas of human rights, labor rights, environmental protection and anti-corruption. Moreover, they may develop and apply their own metrics for measuring improvement. The independent verification of their individually structured self-reports is almost absent as the initiative lacks the necessary staff resources and is reluctant to delegate this task to suitable NGOs with the necessary experience on the ground (Sethi and Schepers 2014, p. 206).

From a Lockean perspective, the formulation of *concrete reporting duties*, applying to all UNGC members (in an industry) is an important condition for the detection of deliberate attempts to feign a commitment to UNGC values. Mandatory reporting on the same thematic priorities makes it harder for deceptive companies to conceal the weak points of their UNGC record. Moreover, it strengthens the bond between sincere members, concentrating their commitment on shared goals. In this context, it is not so important to extend reporting duties to all priority areas of the UNGC, but it is crucial that all members operating in the same market report their progress on the same issues.

In addition, UNGC members should be required to report progress in a particular sequence and based on a (more) standardized system of indicators. This is an important way of translating their shared goal into concrete membership obligations and making individual contributions to it comparable. To this effect, the harmonization with existing auditing standards "such as SA 8000 or regulation by governments" (Rasche 2009, p. 512) is entirely reasonable. Such a *standardization of reports* makes it easier for UNGC members to ascertain that all of them carry their fair share of the overall burden of realizing (some of) the ten principles.

Standardized reporting on the same issues also facilitates the *independent verification* of self-reported progress and makes it easier for possible UNGC auditors, independent

NGOs and other UNGC members to detect and communicate inconsistencies between self-reports and the actual conduct of UNGC members (Sethi and Schepers 2014, p. 206). This would "reduce the information problems between participating firms and outside stakeholders" (Berliner and Prakash 2014, p. 220) and enable financiers and consumers to financially reward the actual high-performers among UNGC members. From a Lockean point of view, determining the credibility of self-reported progress is important because it motivates conditionally moral non-members to join the UNGC and maintains existing members' willingness to contribute to its goals.

The Active Management of Local UNGC Networks for Averting the Problem of Defeasance

The problem of *defeasance* is another possible source for the failure of the Lockean social contract, this time in terms of an *ex post* breakdown. It refers to the lack of clarity on the concrete implications of a UNGC commitment in light of conflicting interpretations of membership duties and/or changing circumstances in a given industry. Although two different members might share a genuine commitment to the UNGC goals, they might have different ideas of the nature of the most pressing problems in the industry and what this entails for each contributor. This can lead to the false impression that others are less committed to the UNGC or have the wrong priorities. Again, this may give rise to the fear of being the only "sucker" among UNGC members, eroding the willingness to fulfill membership duties.

The UNGC can help its cooperative members to avoid this source of an *ex post* breakdown of the Lockean social contract among the conditionally moral by cultivating a *continuity capability*. In this regard, it must offer and actively manage forums for developing a shared idea about the key moral deficits in an industry at a given point in time and the concrete ways of jointly meeting them. Such discursive processes and negotiations are not just crucial for translating the general commitment to the UNGC into concrete membership duties and adapting them to evolving circumstances. For participants, they are also an important occasion to reaffirm each other's sincere commitment to the UNGC's moral norms. In local UNGC networks, they can cultivate the trust and mutual understanding (Gilbert and Behnam 2013) that forms the basis for successfully dealing with unanticipated difficulties and cultural misunderstanding. The exchange in local UNGC networks can help them in developing a sense of community and pride in being among those contributing their fair share despite the temptation to free ride on the contributions of others.

Proposition 3 *Conditionally moral companies have a shared reason for the active participation in local UNGC*

networks in order to adapt their mutual commitment to the ten principles to changing market conditions and cultural circumstances.

The preceding analysis makes it clear that the UNGC has not yet exhausted the possibilities of its local networks. Currently, the organizers of the UNGC merely encourage the participation of their member companies in those networks. They facilitate it by liaising with the organizers of local networks and by notifying them about new signatories to the UNGC from the respective country (UNGC 2017).⁸ UNGC organizers could take further steps in this direction by making the active participation in local networks a basic requirement for membership in the UNGC. They might exert pressure on local networks by increasing the number of mandatory annual events and by extending existing obligations to inform the head office about their activities. In addition, they might make the eventual adoption of concrete, culture-specific learning goals for participants compulsory and support the resolution of possible disputes in the negotiation stage via mediation and adjudication services.

From a Lockean perspective, such a reorientation of local networks is important in order to promote the (continuous) development of a shared vision on the content and obligations of the Lockean social contract. In local networks, UNGC members can negotiate which moral norms to focus on and which individual contributions to exact. The cooperativeness of conditionally moral companies crucially depends on their belief in pursuing realistic goals based on a fair contribution for each of them. In addition, they will only be prepared to contribute when the compliance with UNGC principles involves positive externalities for the critical mass of contributors matching the costs. UNGC organizers can facilitate both by keeping an eye on the positive side effects of a successful readjustment of the Lockean social contract for its members. This is much more important than giving members the chance to learn from their more advanced peers, also because the role of the eager student is a formidable excuse for shirking.

Sanctions of UNGC Violations Against the Problem of Defection

The problem of *defection* is another source of the *ex post* breakdown of the Lockean social contract. It arises from the possible opportunism of contractors inciting them to selective deviations from the initial terms of the agreement in search for additional short-term gain. It undermines the willingness of others to contribute to the UNGC goals, thus

jeopardizing the effectiveness of a cooperative coalition and/or reducing the chances for future cooperation. In particular, repeated defection by members can provoke retaliation up to the point of frustrated withdrawals from the initiative.

The UNGC can prevent this problem by cultivating a *compliance capability*. It must aim at enforcing the strict fulfillment of membership duties such as the jointly determined contributions to the realization of the ten principles by strictly punishing non-compliance. It might seem counterintuitive at first, but the strict expulsion of non-contributing firms might actually strengthen the intrinsic motivation and commitment of those firms who would have contributed anyway. In addition, it might increase the attractiveness of the initiative to those conditionally moral non-members, who are reluctant to join for fear of ending up in a hypocritical community of window dressers.

Proposition 4 *Conditionally moral companies have a shared reason to accept a coercive sanction mechanism in order to prove their own commitment and to deter and exclude defecting free riders from the positive externalities of membership.*

This proposition speaks in favor of a more restrictive UNGC policy in the event of violations of its ten principles. Currently, the most severe punishment consists in the exclusion of members persistently defaulting on their duty to submit regular progress reports. Non-reporting companies can remain members for up to 4 years before official delisting. Before that, they incur successive downgrading from the status of a communicating member, to the status of an inactive and non-communicating member (Sethi and Schepers 2014, p. 207).

In a first step, the UNGC could strengthen its *compliance capability* by extending membership obligations to the actual improvement of members' UNGC performance. It could apply this obligation to self-chosen and predefined learning goals on the implementation of the ten principles. While local UNGC networks might negotiate different interpretations of the ten principles, UNGC organizers should insist on the translation of the principles into unmistakable guidelines and learning goals for the joint realization of the ten UNGC principles. In order to assert itself as a facilitator of the Lockean social contract the UNGC would have to punish the failure to achieve concrete learning goals. As of now, the sanctioning process could be initiated by a gentle reminder that compliance with the ten principles is a precondition for membership in the initiative. Subsequently, it would have to escalate the reminder into a public reprimand, possibly followed by a downgrade of the affected party's membership status in the "Differentiation Programme". Even financial penalties as an integral part of future membership agreements are conceivable. As a last resort, it should be possible

⁸ http://www.globalcompact.de/wAssets/docs/Deutsches-Netzwerk/MOU_2014_Germany-Signed.pdf (2 July 17).

to (swiftly) exclude persistent and proven violators of the ten principles from the initiative, possibly combined with their inclusion in a blacklist.

From a Lockean perspective, the enforcement of compliance should not primarily aim at changing the conduct of free riders, but rather focus on protecting genuinely committed firms from opportunistic exploitation by denying free riders the positive externalities among members. It is an important way of upholding the morale among morally motivated contributors to the realization of the ten principles and not so much a way of maintaining discipline.

Conclusion

The conducted analysis addressed the “promise-performance gap” of the UNGC (Sethi and Schepers 2014) from the perspective of Lockean social contract theory. It found that the UNGC can (only) reach its goal of establishing the basic functions of the minimal state on a purely voluntary basis, if it unites and binds a critical mass of conditionally moral companies, contributing to the realization of the ten UNGC principles under the proviso that it does not disadvantage them in comparison with unilateral defection in a situation of general defection. In order to fulfill this new role as a facilitator of the “Lockean social contract,” the UNGC must avoid the four contracting problems of *desolation*, *deception*, *defeasance* and *defection*, which can prevent (*ex ante*) or erode (*ex post*) the voluntary compliance with the ten principles, as an expression of the Lockean law of nature. To this effect, the UNGC must cultivate the four institutional capabilities of *commitment*, *credibility*, *continuity* and *compliance*. Information on the extent of the commitment to the ten principles in an industry is vital for assuring conditionally cooperative members of the existence of a *critical mass* of likeminded companies that are equally prepared to do the right thing if it does not disadvantage them. The self-reported information on progress must be *credible* because the mere impression of a faked commitment by some may erode this sense of community among the conditionally moral and with it the possibility for successful cooperation between them. A more requiring and active management of local UNGC networks, demanding active participation in discursive processes, the pursuit of a binding consensus on the jointly realized UNGC principles and individual contributions to it, will promote the *continuity* of this general compliance with moral norms. Insisting on the strict *compliance* with membership duties and reached agreements is crucial for maintaining the cooperativeness of sincerely committed participants. The UNGC can secure those functions by means of a balanced mix of benevolent encouragement, performance-based information, public (dis-)approval and tangible sanctions.

Those recommendations for a reform of the UNGC are new in focusing on critical mass instead of individual class, prioritizing internal over external communication, pushing for goal definition instead of learning progress and protecting the decent instead of disciplining the immoral.

Compliance with Ethical Standards

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Human and Animal Rights This article does not contain any studies with human participants or animals performed by any of the authors.

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